



# GREVIO

## Baseline Evaluation Report Belgium

” 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)

**Belgium**

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

GREVIO/Inf(2020)14

Adopted by GREVIO on 26 June 2020

Published on 21 September 2020

Secretariat of the monitoring mechanism of the Council of Europe Convention  
on Preventing and Combating Violence against Women and Domestic Violence  
Council of Europe  
F-67075 Strasbourg Cedex  
France

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

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## Foreword

The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) is an independent human right 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 Belgium. It covers the Istanbul Convention in its entirety<sup>1</sup> and thus assesses the level of compliance of the Belgium 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, the report proposes measures to strengthen the implementation of the convention. In proposing such measures, GREVIO has adopted the use of different verbs which correspond to different levels of urgency, noting that all of them are important. These are, in order of priority, “urges”, “strongly encourages”, “encourages” and “invites”. GREVIO uses the verb “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 comprehensive implementation of the convention. A third level of urgency is indicated by the use of the verb “encourages”, which is used for shortcomings that require attention though possibly at a later stage. Lastly, the verb “invites” points to small gaps in implementation which the party is requested to consider closing or to proposals made to provide guidance in the implementation process.

The first (baseline) evaluation procedure is made up of several steps, each of which allows GREVIO to obtain critical information upon which to base its report. It is carried out as a process of confidential dialogue with the aim of offering country-specific proposals and suggestions for improvement developed within the national context of the party under review. 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.

In addition, GREVIO also collects additional information from various other sources, including non-governmental organisations (NGOs), other members of civil society, national human rights institutions and 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

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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.

evaluation of Belgium, GREVIO received a shadow report prepared jointly by specialist associations (Coalition "Together against violence") working in various fields related to the issue of violence against women (hereinafter the "shadow report"), a report from Caw Bruxelles, a report from GAMS INTACT End FGM EU and written contributions from Médecins sans Frontières and the Belgium Disability Forum.

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 up until 31 May 2020. 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(s) and to ensure that it is widely disseminated, not only to the relevant state institutions at all levels (national, regional and local), in particular to the government, the ministries and the judiciary, but also to NGOs and other civil society organisations which work in the field of violence against women.



## Executive summary

This report provides an assessment of the measures of implementation taken by the Belgian authorities with regard to all aspects of the Istanbul Convention.

This assessment has been carried out by the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), an independent human rights monitoring body mandated to monitor the implementation of the convention. GREVIO's findings are based on the information obtained during the various steps of the first (baseline) evaluation procedure set out in Article 68 of the convention. These include written reports (a state report submitted by the Belgian authorities and additional information submitted by NGOs) and a five-day evaluation visit to Belgium. A list of the bodies and entities with which GREVIO held exchanges can be found in Appendix II.

In Belgium, the public authorities at both federal and federated entity level have for several decades regularly affirmed their commitment to securing equality between women and men and to ensuring women's safety by combating violence against the physical, sexual and psychological integrity of individuals. Since the adoption of the first national action plan in 2001, significant progress has been made by uniting the regional, Community and federal authorities around such a plan in 2006 and by extending the scope of the plan beyond intimate partner violence in 2008 to include other forms of violence committed against girls and women such as sexual violence, forced marriages, so-called honour crimes and female sexual mutilation. Evidence of the political will to act can also be seen in major policy decisions that provide a framework for judicial and law enforcement responses, such as the joint circulars issued by the Ministry of Justice and the Board of Principal Crown Prosecutors on criminal policy with respect to intimate partner violence and the policy of investigating and prosecuting honour-related violence, female genital mutilation and forced marriages and legal cohabitation.

Despite the existence of common definitions based on recognition of the gendered nature of violence against women, this report notes that gender-based violence against women is relatively invisible within Belgian policies. Gender neutrality in the titles of laws, circulars or action plans is perpetuated or even made worse by a tendency to put women and men on an equal, symmetrical footing among the victims and perpetrators of the types of violence covered by the convention. Gender-neutral policies carry the risk that interventions by professionals may not be gender-sensitive, which can lead to gaps in protection and support for women and contribute to them suffering secondary victimisation. In addition, this report notes that policies to combat violence against women have been slow to mainstream the issue of multiple discrimination and to address the full range of groups affected by violence, even though measures exist to help specific target groups such as people with disabilities.

In order to ensure the comprehensive and co-ordinated nature of the policies, several co-ordination mechanisms have been put in place by the Belgian authorities at both federal and regional level. This report observes that the choice to separate administrative (within the Interdepartmental Co-ordination Group), political (through an interministerial steering committee) and civil society (within a group of experts) co-ordination leads to fragmentation in this area and is detrimental to consistency in terms of policies and approaches. At the same time, it notes disparities in policy co-ordination between the governments of the federated entities. The report therefore underlines the need to establish a central and transversal space for co-ordination and dialogue that is sustainable and common to all stakeholders, as well as to improve co-ordination at all levels of government. With regard to the national co-ordinating body (the Institute for Equality between Women and Men, IEFH), the report notes that there is a need to increase the authority and resources which the IEFH requires to carry out its tasks and support a transversal approach at all levels of government, while at the same time providing effective monitoring and evaluation of policies through an independent multidisciplinary body. Despite the progress observed in the collection of administrative data disaggregated by sex, available data about violence are unsatisfactory in terms of both quality and

quantity, are not harmonised across the various bodies that produce them, particularly law enforcement agencies and the judiciary, and are not disseminated regularly and accessibly at federal level.

Concerns are also expressed in the report about the fact that funding for policies to combat violence against women is difficult to decipher, and about the downward trend and/or inadequacy of the resources allocated, including where co-ordination mechanisms are concerned. While the report welcomes the willingness of the public authorities to support and work in synergy with associations specialising in the prevention of violence against women, it notes disparities in the support given to such associations across the country, with a tendency for the authorities in Flanders to rely on a voluntary sector which is more generalist, and structured around the sphere of well-being, public health and family. Lastly, the report draws the attention of the authorities to the financial insecurity faced by these associations, for want of sufficiently developed structural funding, geared to their needs.

In the area of specialist victim support services, substantial efforts have been made in Belgium to promote the specialisation of structures able to receive and house women victims of gender-based violence. Shelters in Wallonia are too few in number, however, and do not cover the whole territory, especially in rural areas. In Flanders, meanwhile, there has been no reported expansion in the capacity of shelters in recent years, not least because priority is given to the non-residential approach over specialised care in a shelter. Accessibility is a problem for certain groups of women, such as mothers with boys over 12 years of age and older women, as well as for particularly vulnerable women, such as women seeking to exit prostitution or women with disabilities. A particularly problematic aspect of access to accommodation in shelters is the fact that those wishing to stay there must pay a fee, contrary to the requirement that such accommodation should be free of charge.

With regard to the issue of children who are victims of violence and exposed to violence, insufficient attention is paid to violence against women, both in terms of the courts called upon to rule on the exercise of the custody and visitation rights of perpetrators, and in terms of generalist and/or specialist services, which can introduce measures affecting the exercise of parental authority irrespective of the courts. The report finds that this is the result of practices which erroneously assume that children are no longer in danger once their parents have separated, and a tendency to equate acts of violence with disputes, and to employ mediation without taking the appropriate precautions. To remedy these shortcomings, the report advocates the urgent adoption of a number of measures, including drawing up guidelines and/or reviewing existing practices and benchmarks for agencies involved in helping children, so that any action they take is based on a recognition of the risks and harmful consequences to which child witnesses are exposed, and ensuring appropriate use of the legal provisions which allow - including as a matter of urgency and on a temporary basis - the perpetrator's custody and visitation rights to be curtailed, removed and/or subjected to safeguards whenever a situation of violence is ascertained.

While GREVIO welcomes Belgium's ratification of the Istanbul Convention, it has identified a number of priority issues requiring further action by the Belgian authorities in order to comply fully with the convention's provisions. In addition to the above considerations, these issues relate to the need to:

- strengthen risk assessment and risk management procedures, including by integrating a gender perspective;
- develop a clear and shared strategy to create appropriate conditions for the provision of compulsory initial and in-service training incorporating a gender approach, for the relevant professionals who deal with victims and/or perpetrators of all forms of violence covered by the convention;
- ensure that the programmes for the care and social and judicial follow-up of perpetrators of domestic violence and sexual violence incorporate a uniform gendered approach and deconstruction of sexist stereotypes, and determine more precisely under what

circumstances it is appropriate to encourage recourse to alternative measures/penalties for perpetrators of domestic violence;

- take appropriate steps to encourage further multi-agency co-operation and to ensure that the different forms of co-operation are firmly based on a gendered understanding of violence against women and domestic violence and focus on the human rights, safety and respect for the wishes of victims;
- provide, in co-operation with women's rights NGOs, advice, information and guidance services specifically targeting violence against women which meet the requirements of Article 24 of the Istanbul Convention;
- provide law enforcement agencies and the judiciary with the necessary resources, knowledge and means to respond promptly and adequately to all the forms of violence covered by the Istanbul Convention, with a view to revealing the extent of unreported acts of violence and ensure that criminal investigations and proceedings can be conducted effectively, while at the same time taking care to preserve the dissuasive function of penalties;
- take all necessary measures to ensure that the use of criminal mediation in cases of violence against women is based on full respect for the rights, needs and safety of victims;
- undertake an in-depth review of immigration laws and policies in order to bring them into line with the obligations under Article 59 of the Istanbul Convention;
- take measures to tackle the shortage of places in reception centres in order to give full effect to the laws aimed at identifying and supporting women asylum seekers in situations of vulnerability because of violence and to produce and implement centralised gender-sensitive guidelines, protocols and training courses for all reception centres.

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 include giving victims greater access to adequate information on available support services and legal measures; improving general victim support services, in particular as regards financial assistance, health care and social housing; increasing the use of emergency barring and protection orders and setting up centres to provide emergency assistance to victims of sexual violence across the country.

## Introduction

Belgium signed the Istanbul Convention on 11 September 2012, ratified it on 14 March 2016. The convention entered into force as regards Belgium on 1 July 2016.

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 Belgium by letter and transmission of its questionnaire on 18 September 2018. The order of reporting to GREVIO is based on a combination of regional groupings and order of ratification. The Belgian authorities subsequently submitted their state report on 15 February 2019 – the deadline set by GREVIO. Following a preliminary examination of the Belgian state report, GREVIO carried out an evaluation visit to Belgium, which took place from 7 to 11 October 2019. The delegation was composed of:

- Françoise Brié, Member of GREVIO
- Sabine Krauter-Stockton, Member of GREVIO
- Maria Moodie, expert
- Christina Olsen, Administrator at the Secretariat of the monitoring mechanism of the Istanbul Convention
- Francesca Montagna, Administrator at the Secretariat of the monitoring mechanism of the Istanbul Convention

The delegation also benefited from the expertise of Romain Sabathier. During the evaluation visit, the delegation was welcomed by high-level public figures, including the Minister for Employment, Economy and Consumer Affairs, responsible for action against poverty, equal opportunities and people with disabilities, Nathalie Muylle. In addition, the delegation met a wide range of governmental and non-governmental representatives working in the field of preventing and combating violence against women, including legal, health, education and cultural professionals, social workers and representatives of non-governmental organisations. A list of national authorities, NGOs and other entities met with is contained in annex II to this report. GREVIO is grateful for the valuable information it received from each of these bodies.

The evaluation visit was prepared in close co-operation with Nicolas Belkacemi from the Institute for Equality between Women and Men, in his capacity as contact person for the evaluation carried out by GREVIO. GREVIO wishes to extend its gratitude for the co-operation and support provided throughout the entire evaluation procedure, and for the constructive approach adopted by the Belgian authorities.

As part of this first baseline assessment, GREVIO examined the implementation measures taken by the Belgian authorities concerning all aspects of the convention, and analysed the data for the years 2017 and 2018. For the sake of brevity, this report gives priority to certain provisions over others. While it deals with all chapters of the convention (except Chapter VIII), it does not present detailed assessments and conclusions for each of the provisions of those chapters.

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

## A. General principles of the convention

1. Chapter I of the Istanbul Convention sets out general principles which apply to all the substantive articles contained in Chapters II to VII. These include, among others, that it is a fundamental human right for everyone, particularly women, to live a life free from violence in both the public and the private sphere, that the convention must be implemented without discrimination on any ground and that the potential for, and effects of, multiple forms of discrimination should be borne in mind. They also spell out that a gender perspective must be integrated into the implementation of the convention and the evaluation of its impact

## B. Scope of the convention (Article 2)

2. 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. In accordance with the definition given in Article 3, indent a, the term “violence against women”, which is used in the evaluation, refers to “all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”, whereas the expression “domestic violence” is to be understood as referring to “all 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”, in accordance with the definition given in Article 3, indent b. Chapter V of the convention specifies further the forms of violence against women that are to be criminalised (or possibly otherwise punished). These are psychological violence, harassment, physical violence, sexual violence including rape, forced marriages, female genital mutilation, forced abortion and sterilisation, and sexual harassment.

3. Belgium and its capital, Brussels, are a crossing point of social movements and ideas from all over Europe and the world. Several feminist women activists from all parts of the world assembled in Brussels from 4 to 8 March 1976 for the Court of Crimes against Women.<sup>2</sup> 1977 saw the opening in Brussels of the first public shelter for “battered women” (as they were called at the time), which was quickly turned into a non-profit-making association. In the 1980s, the violence against women sector began to be placed on an institutional footing through the award of grants to associations by the authorities, mainly at that stage to protect women who were victims of violence between partners and raise awareness about this issue in society. Very early on in Belgium the issue of male perpetrators was tackled, with the opening in the early 1990s of a service offering them social and judicial support. In 1995 the fourth World Conference on Women was held in Beijing and the same year, Belgium’s Centre for the Prevention of Intimate Partner and Family Violence (CPVCF) denounced the murder by her former husband of Paule, a woman whom it had accommodated, in the press and to the authorities. Several complaints were lodged against the man by Paule and other women, but they were all ultimately dismissed.<sup>3</sup> However, this event triggered a process which resulted in the adoption, on 24 November 1997, of a law to combat intimate partner intimate partner violence, known as the Lizin Law.

4. In 2001, Belgium systematised its policy in this area by adopting a first national action plan (NAP) for 2001-2003. Other such plans were to follow in 2004, 2008, 2010 and 2015. A new NAP is currently being drawn up. Since 2006, this has been a joint plan, applying both at federal level and

<sup>2</sup> <http://www.cpvcf.org/historique-du-centre/>

<sup>3</sup> <https://www.cvfe.be/node/157>

to the Communities and the Regions. In 2008, it was decided to extend the scope of the plan beyond intimate partner violence to include other forms of violence committed against girls and women (sexual violence, forced marriages, so-called honour-based violence and female sexual mutilation) and to address the issue of forced prostitution. The 2015-2019 NAP is entitled the “National action plan to combat all forms of gender-based violence”. The French-speaking entities (French Community, Walloon Region and COCOF) have adopted their own co-ordinated plan called the “Intra-Francophone Plan for 2015-2019 to combat gender-based and domestic violence”. This last plan, together with the measures adopted in Flanders, the Brussels-Capital Region and in the German-speaking Community, tie in with the national action plan.

5. The Law of 28 January 2003 known as the Onkelinx Law grants the right to occupy the family dwelling to spouses or legal cohabitantes who are the victims of physical violence by their partners. In 2004, the Liège Crown Prosecutor’s Office expressed concern at the number of intimate partner violence cases that were being dropped, and issued a circular which came to be known as the “zero tolerance” circular.<sup>4</sup> The issue was taken up at federal level in 2006 with the adoption of joint circular COL 4/2006 by the Minister for Justice and the Board of Principal Crown Prosecutors on criminal policy with respect to intimate partner violence (COL4/2006) (reviewed in 2009 and amended in 2015).

6. In recent years Belgium has stepped up its policy to combat violence against women through several important decisions which reflect a political desire for action. In 2014, Belgium became the first country to legislate on what is commonly referred to as “street harassment” by adopting the Law of 22 May 2014 on measures to combat sexism in public spaces. Ratification of the Istanbul Convention came in 2016. In 2017 a joint circular was issued on investigation and prosecution policies with regard to honour-related violence, FGM, and forced marriages and legal cohabitation (COL 6/2017), along with the amendment of a ministerial directive COL 4/2017 on sexual assault. Three initial sexual violence support centres (CPVSS) opened the same year as part of a pilot project. Furthermore, in the French Community, the decision to assign a government ministry responsibility for women’s rights to complement the equal opportunities remit in 2014 likewise amounted to an acknowledgment of the importance of the sector and of setting up dedicated tools to reduce violence against women and gender inequality.

7. It is clear from the foregoing – and borne out by many other information sources examined when preparing this report – that in Belgium, the authorities at both federal and federated entity level have regularly asserted for several decades now that they wish to guarantee equality between women and men and ensure women’s safety through measures to combat violence affecting persons’ physical, sexual and psychological integrity. The 2015-2019 NAP states, in accordance with the Istanbul Convention, that action against gender-based violence is a key aspect of gender equality. All the forms of violence covered by the convention are taken into account. GREVIO also welcomes the fact that the NAP is structured in the same way as the convention.

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

8. In 2006, at an interministerial conference, the Federal, Regional and Community Ministers of Belgium adopted a common definition of intimate partner violence, which acknowledged the systemic nature of such violence as a “manifestation, in the private sphere, of unequal power relationships between women and men which are still at work in our society”. GREVIO notes however that this definition is not systematically applied to all the policies and measures proposed, and that some of these downplay the gendered nature of forms of violence which disproportionately affect women. We also note that in official documents the term “gender violence”, which may be used to include violence against men, is preferred to “violence against women”. GREVIO appreciates the willingness of the authorities to pursue a policy to combat gender-based violence in a holistic manner, taking into account all victims (including those of another sex, as well as transgender and non-binary persons) without discrimination. At the same time, it underlines the importance for policies and measures to separately target gender-based violence against women. In the absence of such a

<sup>4</sup> <https://www.alterechos.be/circulaire-tolerance-zero-contre-les-violences-conjugales-un-bulletin-mitige/>

distinction, there is a risk that violence against women will become invisible and not be adequately addressed within policies as a structural phenomenon linked to the system of domination and gender stereotypes vis-à-vis women. Indeed, the realisation that structural inequalities between women and men act as both the cause and the consequence of gender-based violence against women, making it different from other forms of violence, should be central to these policies.

9. In Belgium, gender neutrality in laws, circulars and action plans is perpetuated or even made worse by a tendency to put women and men on an equal, symmetrical footing among the victims and perpetrators of the types of violence covered by the convention. For example, the risk assessment tool promoted by the authorities states that it would be “outmoded” to focus solely on violence against women when talking about domestic violence;<sup>5</sup> a recent campaign on rape run by the authorities conveyed the message “rape has no gender”;<sup>6</sup> and in the presentation of the 2015-2019 NAP on the website of the Institute for Equality between Women and Men (IEFH), it is stated that “through the national action plan to combat all forms of gender-based violence for 2015-2019, Belgium wishes to intensify its efforts to prevent and combat all forms of violence based on gender against women and men”.

10. GREVIO notes that while the convention does encourage the States Parties to apply it to all victims of domestic violence, it also includes a requirement to “pay particular attention to women victims of gender-based violence”.<sup>7</sup> This requirement reflects the general principle, set out in Article 6 of the convention, according to which the implementation of the provisions of the convention and the assessment of their impact must include a gender perspective. GREVIO points out that the States Parties can, if they so wish, introduce gender-specific provisions in the criminal law field, although all criminal law provisions of the convention should be presented in a gender-neutral manner and the sex of the victim or perpetrator should not be a constitutive element of the crime.<sup>8</sup>

11. GREVIO considers therefore that to promote a shared approach and language with regard to violence against women, measures and tools should be adopted (such as prevention and training activities), which make it possible to systematically interpret violence from the viewpoint of gender relations, and to do so jointly, involving all the stakeholders, particularly the federal state, the federated entities, associations and specialist academics. With the same aim of making public policies clear and effective, and bearing in mind that Belgium does not have a specific framework law on gender-based violence against women, the possibility might be contemplated of producing a compendium of the law and regulations on forms of violence covered by the convention. A tool of this type would help raise awareness of the convention and the related standards, particularly among professionals liable to be applying these legal rules.

**12. GREVIO urges the Belgian authorities to take appropriate steps to ensure that policies and measures for the implementation of the Istanbul Convention include a gender perspective. For this purpose, the authorities should, in particular, adopt a conceptual reference framework shared by all the authorities, and operational guidelines deriving from this, drawing on the Istanbul Convention and recognising the systemic link between violence against women and a historical organisation of society based on the domination and discrimination of women by men, which still puts women at a disproportionate disadvantage today.**

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<sup>5</sup> See the tool for the assessment of risks of violence between partners, 2016, Sarah Matkoski, Anne Groenen, Anke Van Vossole en Campinina Media cvba-vso, page 9: “two-way or mutual violence – violence which partners exact or end up exacting on one another – is attracting increasing attention”.

<sup>6</sup> See: <https://www.violencessexuelles.be/mythes-au-sujet-des-agressions-sexuelles>

<sup>7</sup> Article 2, paragraph 2, of the Convention.

<sup>8</sup> [Paragraph 53 of the Explanatory Report on the Convention.](#)



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

### **1. Equality between women and men**

13. GREVIO welcomes the fact that the Belgian Constitution has included an explicit guarantee of the fundamental principle of equality between women and men since the constitutional revision of 2002. The IEFH was set up the same year at federal level through a law of 16 December 2002. The IEFH is the national institutional reference mechanism tasked with “securing respect for gender equality, combating all forms of gender-based discrimination and inequality, and drawing up instruments and strategies based on gender mainstreaming” (Law of 16 December 2002). In Flanders, the position of gender discrimination ombudsperson (Genderkamer) within the Flemish ombudsperson’s office was created by decree in 2015.<sup>9</sup>

14. GREVIO also welcomes the adoption of the Law of 12 January 2007, known as the Gender Mainstreaming Law, whose aim is to “monitor the application of the resolutions of the World Conference on Women, which met in Beijing in September 1995, by incorporating a gender dimension into all federal policies”. This principle is enforced at the different levels of government through a number of instruments: the Decree of 10 July 2008 establishing the framework for the Flemish policy on equal opportunities and treatment, the Decree of 7 January 2016 on gender mainstreaming in all French Community policies, the Order of 29 March 2012 in the case of the Brussels-Capital Region, and in the Walloon Region through the Decree of 11 April 2014. This major regulatory framework is a key means of giving legal force to the aim of cross-sectoral integration of the fundamental principles of gender equality and non-discrimination into public policies, from the point at which they are devised to the point at which they are assessed and, in particular, when they are implemented by the authorities and their staff. National and international experience when implementing this ground-breaking, all-embracing approach shows that consistent high-level political commitment is one of the most crucial factors in its success.

### **2. Multiple discrimination**

15. Article 4, paragraph 3, of the convention requires parties to secure the implementation of their undertakings under the convention without any discrimination. This provision provides an open-ended list of grounds of discrimination which draws on that of Article 14 of the European Convention on Human Rights and the list contained in its Protocol No. 12 {§4}; it also 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 fact that discrimination against certain groups of women, for example by law enforcement agencies, the judiciary or service providers, is still widespread.<sup>10</sup>

16. In 2007 and 2008, to complement the fundamental principle of non-discrimination enshrined in Article 11 of the Belgian Constitution, several pieces of legislation were adopted at various tiers of government to combat discrimination on the grounds of gender, pregnancy, maternity, childbirth and sex change (extended since to gender identity and gender expression).

17. While the IEFH specialises in discrimination on the grounds of sex and based on gender, and hence disproportionately affecting girls and women, the task of Unia (formerly called the Interfederal Centre for Equal Opportunities) is to “promote equal opportunities, taking account of the diversity in our society, and combat all forms of discrimination, distinction, exclusion, restriction, exploitation or preference based on a supposed race, skin colour, ancestry, nationality, national or ethnic origin, sexual orientation, civil status, social background, birth, wealth, age, religious or philosophical belief, state of health, political opinion, trade union affiliation, disability or physical or genetic characteristic” and it is responsible for “equal opportunities and the fight against racism and discrimination”.<sup>11</sup>

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<sup>9</sup> Decree of 17 July 2015 amending the decree of 7 July 1998 instituting the Flemish ombudsperson’s office.

<sup>10</sup> See paragraphs 52-54 of the Explanatory Report to the Istanbul Convention.

<sup>11</sup> See Article 3 of the Order approving the Co-operation Agreement of 12 June 2013 between the Federal Authority, the Regions and the Communities for the creation of an Interfederal Centre for Equal Opportunities and Opposition to Racism and Discrimination in the form of a joint institution.



GREVIO welcomes the signature on 20 March 2019 of a memorandum of understanding on co-operation between the IEFH and Unia.

18. In Belgium, GREVIO has noted that several categories of women are still likely to face increased and/or specific obstacles in relation to the forms of violence covered by the convention and in access to services, bearing in mind their position at the intersection of several potential grounds of discrimination. Although there are still no statistics combining gender and disability (or even other grounds of discrimination such as age, specific type of disability or origin), several converging sources show that persons with disabilities are particularly vulnerable to the types of violence covered by the convention.<sup>12</sup> While GREVIO welcomes the fact that disability has been taken into account in the latest NAP through the adoption of specific measures, it is concerned nonetheless about the persistent problems faced by women with disabilities who, among other things, do not have access in their vicinity to an accessible counselling, shelter or care centre. This limits their independence and hence their protection from such violence, as is also the case with the stereotypes applied to them or the financial or professional difficulties they face.<sup>13</sup> Another group of vulnerable women is that of newly arrived and/or undocumented women migrants, who still find it difficult to acquire relevant information on their rights despite the existence of several mechanisms specially designed to protect such persons.<sup>14</sup>

19. Outside these particular groups of women, GREVIO has noted that policies on violence against women in Belgium struggle to include an analysis of intersecting forms of discrimination and cover the entire range of groups affected by violence, particularly elderly women, women in prostitution, trans, lesbian, bisexual or migrant women, women belonging to ethnic minorities such as Roma, and women using psychoactive substances.<sup>15</sup> The implementation of an approach incorporating an analysis of intersectional discrimination deserves to be stepped up as a matter of priority through the following specific measures: the adoption of guidelines on how multiple discrimination is to be taken into account in policies to prevent and combat the types of violence covered by the convention, the production of statistics combining several factors of discrimination or the implementation of information campaigns targeting various vulnerable target groups. The NAP lists various activities, particularly prevalence surveys, which are aimed at specific target groups, but there is a clear need to step up the transversal integration of this approach into the NAP, for example where it comes to training, and counselling and support for victims.

20. In order to tackle the multiple discrimination that aggravates the situation of women victims of violence, GREVIO stresses the importance of integrating measures to prevent and combat violence against women into broader strategies and policies targeting certain groups of people, and of including them in comprehensive and co-ordinated action involving all relevant actors. It follows from this that such measures must be anchored in a gender perspective which distinguishes the needs of women victims from those of other victims. To ensure that measures reflect the real circumstances of these women, it is also important that the design, implementation and monitoring of these measures be evidence-based and supported by data.

**21. To ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3, GREVIO strongly encourages the Belgian authorities to continue promoting an approach incorporating multiple discrimination in its guidelines and to do more to put this into practice, through the following measures in particular:**

**a. the collection of data and the promotion of research on violence against women which highlights the situation of women victims according to the different grounds of**

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<sup>12</sup> See the recent exploratory study on “Disability, violence and sexuality seen through the gender prism”, conducted by the French-speaking Women’s Council of Belgium with the support of the French Community as part of the Alter Egales project commission. See also the study conducted by the non-profit-making organisation Perséphone in co-operation with Caroline Tack, entitled “Violence against disabled women” (2014).

<sup>13</sup> See written contribution submitted to GREVIO by the Belgian Disability Forum.

<sup>14</sup> See page 51 of the main shadow report.

<sup>15</sup> Ibid. page 18.

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- discrimination (such as age, disability, national or social origin, migrant or refugee status, sexual orientation, gender identity);**
- b. taking into account - at each stage of the development, implementation and evaluation of policies to combat violence against women - the point of view of the target groups, so that the needs of the most vulnerable groups can be better heard;**
  - c. the integration of an approach sensitive to the reality and needs of women victims of violence belonging to groups at risk of multiple discrimination in the training standards and guidelines on the prevention of violence for the relevant professionals;**
  - d. the inclusion of prevention and action to combat violence against women in general policies, measures and programmes aimed at these groups.**

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

22. Aspects in relation to the implementation of Article 5 of the convention are covered in Chapters V and VI of this report.

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

23. Aspects in relation to the implementation of Article 6 of the convention are dealt with in relation to Article 3 of the convention.

## II. Integrated policies and data collection

24. 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)

25. As stated above, Belgium has made major efforts to move towards a comprehensive, co-ordinated response to violence against women. The adoption of five national action plans (NAPs) since 2001 and the establishment of the IEFH in 2002 are key steps in this direction, which should be consolidated and built on. 2006 saw several positive developments in terms of greater co-ordination across the federal state and the federated entities. It was in that year that the NAP became a joint activity at all levels – federal, Community and regional – and that an interministerial conference at federal, regional and Community level gave rise to a shared, gender-based definition of intimate partner violence. This definition was also adopted by the Board of Principal Crown Prosecutors.

26. In Belgium, the comprehensive, co-ordinated policy to combat violence against women must come to terms with the country's federal structure. The areas concerned by the implementation of the various provisions of the convention are a matter both for federal government and for the federated entities. Whereas justice, police and immigration fall within the remit of the federal state, early childhood, education, cultural matters such as the media, youth, lifelong education and so-called person-related matters (preventive medicine, youth support and protection, assistance for the general public) are a matter for the three Communities: Flanders (which comprises both the Community and the Region), the French Community, and the German-speaking Community. Flanders and the Walloon Region and the Brussels-Capital Regions for their part have jurisdiction in the areas of family policy, social assistance, policy on the reception and integration of immigrants, policy on persons with disabilities and the elderly, supervision of municipalities and police districts, and employment and housing policy. Lastly, at the level of the Brussels-Capital Region there are three Community Commissions to cater for the special linguistic context: the French Community Commission of the Brussels-Capital Region (COCOF), the Flemish Community Commission of the Brussels-Capital Region (VGC) and the Joint Community Commission of the Brussels-Capital Region (COCOM). The exercise of certain competences in person-related matters has been transferred from the Wallonia-Brussels Federation to the Walloon Region.

27. As a result of this apportionment of powers between federal government and the federated entities, there are various points of co-ordination between the different levels of authority. At federal level, administrative co-ordination is provided by the Interdepartmental Co-ordination Group (GID) and supervised by the IEFH. This body brings together the federal, Community and regional-level departments involved in devising, implementing and monitoring the NAP. There is also political co-ordination, which is provided by a steering committee made up of members of the offices of the ministers involved in the NAP, and co-ordination with civil society, which is provided by a group of experts made up of representatives of associations working in the field, bodies providing assistance for victims and follow-up for perpetrators, and the academic world, along with experts in specific fields (from the police, justice and psycho-medico-social sectors). There are also several forums for co-ordination at regional level, together with the associated co-ordinators: 12 co-ordinators in the Flemish provinces (forming a network which holds monthly team meetings), five co-ordinators in Wallonia running 13 local co-ordination platforms, and one in the Brussels-Capital Region. Furthermore, with regard to judicial policy, a network of experts<sup>16</sup> supervises the preparation and assessment of the follow-up on various criminal policy circulars covering violence against women (COL 4/2006 on intimate partner violence, COL 4/2017 on sexual assault, COL 12/2018 on temporary residence prohibition in the event of domestic violence, COL 6/2017 on honour-related violence, forced marriages and female genital mutilation, etc.).

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<sup>16</sup> The network of experts on "crime against persons" of the Board of Principal Crown Prosecutors is in charge of "gender-based violence".

28. In the light of the foregoing, GREVIO notes that on the issue of the governance of policies on violence against women in Belgium, the choice was made to deal separately with administrative co-ordination (GID), political co-ordination (steering group) and co-operation with civil society (group of experts). The link between these different levels is provided by the IEFH, which has the task of ensuring that there is co-operation and feedback between the recommendations, opinions and requests of the group of experts on the one hand and the interdepartmental group and ministerial representatives on the other. There does not seem therefore to be a central, transversal forum for co-ordination and dialogue, bringing together the federal and federated authorities, feminist associations, and specialist services and academics, and in GREVIO's view this is likely to hold back the development of a shared culture and cross-fertilisation in terms of common approaches and good practices. Creating such a forum would help in the short term with drawing up, assessing and supervising the next NAP, adopting a conceptual reference framework, producing a compendium of legal and regulatory rules on violence against women, harmonising and improving data, adopting a strategic training plan, estimating budgetary needs, tracing out lines of interregional co-operation between provincial co-ordinators and developing projects in co-operation with the entire voluntary sector.

29. GREVIO also takes note of the disparities in the co-ordination of policies at regional level. Whereas the French-speaking Governments (Walloon Region, French Community and COCOF) have worked together to adopt an Intra-Francophone Plan over the last two parliaments 2010-2014 and 2015-2019 modelled on the NAP, there is no such plan in Flanders, where questions of violence are included in the Flemish cross-sectoral plan on equal opportunities. There are also differences at the local levels of consultation. In the Walloon Region the link between services administered at the federal, Community, regional and local level is provided by provincial anti-violence platforms run by co-ordinators. In Flanders, since 1 January 2018, consultation has no longer been the responsibility of the provinces but of the Flemish Community's Well-Being, Public Health and Family Department, and the provincial co-ordinators have now been incorporated into its Houses of Justice.<sup>17</sup> Civil society has alerted GREVIO to the fact that these developments, which were brought about by the withdrawal of federal co-funding and the regionalisation of consultation, may result in future in even more disparities between the policies in different parts of the country and a weakening of the voluntary sector.<sup>18</sup>

**30. GREVIO strongly encourages the Belgian authorities to take measures to foster increased co-ordination and greater consistency in the policies and measures at the various levels of authority. For this purpose, the authorities should plan to remedy the current fragmentation of co-ordination and consultation bodies by setting up a forum for dialogue at federal level, which would be a long-term solution available to all the key stakeholders, whether from the political, administrative, civil society or academic spheres, and would be a means of drawing on their expertise and recommendations. GREVIO invites the authorities to consider signing a co-operation agreement<sup>19</sup> capable of enhancing co-operation between the federal and the federated authorities in the implementation of the Istanbul Convention and upholding the co-ordinating role that lies with the national co-ordinating body.**

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

31. The state report<sup>20</sup> submitted to GREVIO states that in view of the complexity of Belgium's institutional structures and the decentralised budgeting stemming from this, it is not possible to determine the total amount of financial resources allocated to policies to combat gender-based

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<sup>17</sup> Belgium has 28 Houses of Justice. These depend on the Communities and are distributed within the 12 judicial districts (14 in the Flemish Community, 13 in the French Community and 1 in the German-speaking Community). The mission of the Houses of Justice includes receiving assisting and guiding victims of crime and their relatives, at the request of the victims or the magistrate.

<sup>18</sup> See page 21 of the main shadow report.

<sup>19</sup> Based on the Co-operation Agreement of 12 June 2013 between the Federal Authority, the Regions and the Communities on the creation of an Interfederal Centre for Equal Opportunities and Opposition to Racism and Discrimination in the form of a joint institution, resulting in the establishment of Unia.

<sup>20</sup> See page 7, section II.B of the state report.

violence in Belgium. This view is corroborated by the shadow report by the coalition *Ensemble contre les violences* (Together against Violence). According to this report, it is “very difficult to obtain clear and transparent information on the financial resources allocated” to policies to combat violence against women.

32. Nonetheless, it is clear from the information brought to GREVIO’s attention during the evaluation procedure that several millions of euros of public funds are earmarked every year in Belgium for the fight against gender-based violence. These funds come from the federal government and the federated entities. In addition, it is satisfying to note that a number of specific funding lines have been established to combat and prevent violence against women, such as those in the areas of scientific research and awareness-raising campaigns,<sup>21</sup> and that there has been a trend to award grants to associations lasting several years. These two factors help to make funding more transparent and limit the financial insecurity of the associations concerned. With regard to the financing of reception facilities and centres or shelters, while Wallonia has embarked on a welcome process of quantifying the funds given over to the reception and accommodation of women victims, the situation seems somewhat more delicate in Flanders, where reception and accommodation facilities tend to be generalist, non-specialist establishments. In view of the Gender Mainstreaming Law of 2007, under which “funds for activities to promote gender equality shall be identified in each department, separately managed state service, state company or public interest body, in a gender note appended to each draft general expenditure budget”, GREVIO considers that it should be possible at least to conduct an overall consolidation at federal level of state funds given over to equality between women and men and, within these funds, to devise an information system making it possible in the medium term to identify the funds allocated to the policy to combat gender-based violence.

33. GREVIO is concerned that because of the lack of global data, it is unable to assess whether or not appropriate financial and human resources are given over to action against violence against women in Belgium, whereas civil society representatives report that resources are insufficient, whether in the public sector (justice, police, health) or in other areas, such as prevention and specialist victim support services, including those run by civil society.<sup>22</sup> This is all the more worrying given that there has been a reduction over time in available public funds, as is the case for example with the withdrawal of federal funds in support of provincial consultation.

**34. GREVIO strongly encourages the Belgian authorities to take measures enabling them to identify the overall amounts allocated to preventing and combating violence against women and the funding lines specifically given over to the various aspects of these activities so as to ensure that these amounts satisfy the requirements of Article 8 of the convention.**

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

35. As stated previously in this report, civil society has played a pioneering role as a driving force behind policies to prevent and combat violence against women since the end of the 1970s. Through direct contact with the women concerned and their needs, these associations – many of which are specialised – have developed a wide-ranging and independent body of expertise. Their work focused initially on shelter for women who had been victims of violence, and awareness raising among professionals and society. This role was very quickly given institutional support through public grants awarded at federal, regional or local level to reward these public interest activities. Furthermore, Belgium has a longstanding tradition of consulting civil society, particularly specialist associations, to draw up measures and strategies in this area. It has become clear to GREVIO through the reports submitted to it and through meetings in the field, that Belgium can currently rely on a tight-knit web of varied, committed associations, which are well versed in preventing and combating violence against women and must be supported, and that the authorities are keen to support and interact with this active community with expertise in the field.

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<sup>21</sup> Ibid.

<sup>22</sup> See pages 21 to 23 of the shadow report by the coalition “*Ensemble contre les violences*”.

36. This support for specialist associations is reflected at the level of the IEFH by structural grants awarded annually to five organisations,<sup>23</sup> regular consultation with civil society on a project-by-project basis or, in the context of this assessment by GREVIO, financial support from the French Community for two umbrella associations to help with the co-ordinated drafting of an independent evaluation report by the main associations. GREVIO welcomes this good practice, which will most certainly add to the quality of this evaluation process. By contrast, GREVIO regrets the recent discontinuation of more specific grants for more modest projects as a result of budget cuts and the disappearance of a dedicated budgetary allocation. These smaller scale projects were organised by specialist associations in the field and often focused on awareness raising and training at grassroots level.

37. In Wallonia, it is clear that there is close co-operation between the local and regional authorities – led by the Walloon Region – and the specialist associations, which are in the front line when it comes to providing support services for victims and follow-up services for perpetrators. This is reflected in particular by a number of specific, structural funding lines and the opening, in 2014, of a Support Centre for Measures to Combat Violence between Partners, which was tasked with liaising between public bodies and specialist associations. In Flanders, the situation is significantly different, with the authorities making greater use of a voluntary sector which is more generalist, and structured around and focused on the sphere of well-being, public health and family.<sup>24</sup>

38. Despite these measures, GREVIO notes that many women’s associations report major deficiencies in consultation, recognition of their specialist expertise and the financial support they may be offered by the authorities, particularly at federal level and in Flanders. The main shadow report states that to date, “there has been very little consultation of specialist associations and services during the drawing up, implementation and evaluation of National Action Plans (NAPs)”, and highlights “a lack of resources”, which places associations in a state of “permanent financial insecurity”, for want of sufficiently developed structural funding, levels of funding unsuited to needs and increasingly complex grant payment arrangements, particularly for smaller associations.<sup>25</sup>

39. **GREVIO strongly encourages the Belgian authorities to continue:**

- a. **to give increased recognition and support for the specialised expertise of specialist women’s associations and services, which should be drawn on at every stage of policy making and at all levels;**
- b. **to facilitate the work of women’s associations through access to needs-oriented financing and extended use of structural and multiannual funding.**

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

40. Since 2016, the IEFH has been the official body in charge of the co-ordination, implementation, supervision and evaluation of policies and measures taken by Belgium in connection with the convention. The IEFH is a type-B parastatal body. This means that it is not part of the government authorities, but it takes part in government activities.<sup>26</sup> The IEFH is administratively and financially independent. As to how its agenda is set, in accordance with what is called in Belgium the “power of positive injunction”, the minister responsible for equality between women and men may order the IEFH to carry out a piece of work but cannot object to a line of work that the Institute has chosen freely to pursue. These principles provide the necessary guarantees of independence.

41. The IEFH’s tasks are extremely broad as it performs all the following roles at once: an administrative service, drawing up and implementing public policies, providing financial support for associations, building knowledge and raising awareness; an adviser to the federal state and the federated entities, producing opinions, recommendations and studies; a defender of rights in the

<sup>23</sup> In 2017, the IEFH distributed €1,053,000 among five organisations: Amazone, Carhif-AVG, Sophia, Nederlandse Vrouwenraad (NVR) and the French-speaking Women’s Council of Belgium (CFFB).

<sup>24</sup> A detailed description of the associations and projects which attract public funding, broken down according to source of financing, is given on pages 8 and 9 of the state report.

<sup>25</sup> See page 23 of the main shadow report.

<sup>26</sup> See Royal Decree of 19 May 2003.

“gender equality” sphere, advising individual persons who turn to it about their rights and having the right to take legal action in disputes which may arise as a result of the application of criminal and other laws aimed specifically at guaranteeing gender equality. The IEFH also works with the Federal Public Service for Foreign Affairs to co-ordinate the “Women, Peace and Security” National Action Plan in the context of UN Resolution 1325. It currently employs 36 persons performing the equivalent of 34 full-time posts. Its financial resources mainly come from an annual federal grant, which amounted to €4,601,000 in 2018. GREVIO notes with some concern, however, that there has been a downward trend in the IEFH’s budget in recent years.<sup>27</sup>

42. Under Article 4 of the Law of 16 December 2002, the IEFH is also called upon to conduct, develop, support and co-ordinate studies and research on gender and gender equality, assess the gender impact of the policies, programmes and measures implemented, and make recommendations to the public authorities with a view to improving laws and regulations. GREVIO recognises that these tasks enable the Institute to play a co-ordinating role and takes note of the information from the authorities to the effect that the Institute maintains an objective approach vis-à-vis the shortcomings that still exist in the policy pursued in Belgium. GREVIO wishes to point out, however, that of the different functions referred to in Article 10 of the convention, the evaluation function is to be understood as implying an independent and scientific assessment, based on robust data, of whether measures taken achieve their aim and/or expose any unintended effects. It is important to highlight the value that lies in differentiating between policy making, implementation, monitoring, and evaluation and attributing these functions to separate institutions. A set-up in which close institutional ties exist between those who implement measures and bear political responsibility for them on the one hand and those who are supposed to evaluate the efficacy of those measures on the other, or even one in which the two groups are identical, might not ensure the necessary objectivity to assess and independently evaluate policies and measures taken..

43. GREVIO also notes that monitoring and evaluation will be all the more effective and thorough if the various measures in the NAP to be evaluated are subject in advance to deadlines, budgets and clear indicators. Currently, monitoring is based on a timetable and a shared methodology and on indicators drawn from the applicable international standards, including the Istanbul Convention. However, these bases are not capable of offsetting the objective difficulty in measuring changes. Furthermore, the clarity of the results obtained is undermined by the fact that similar measures are sometimes taken simultaneously at different political levels with different budgets. To avoid this division, the possibility might be considered of combining budgets and working together at several political levels on identical measures or developing joint activities, which would also help to reinforce the work and the role of the national co-ordinating body. This question also highlights the related issue of the current fragmentation of co-ordination forums and the lack of a transversal approach, dealt with above in relation to Article 7 of the convention.

44. GREVIO notes with interest the practice adopted by the authorities of submitting the progress reports produced in the process of monitoring the NAP to the national parliament and the parliaments of the federated entities, and observes that this good practice is in full keeping with the recommendations of the convention.<sup>28</sup>

45. **GREVIO strongly encourages the Belgian authorities to take measures to enhance the co-ordination, monitoring and evaluation of policies and measures with regard to violence against women. For this purpose, the authorities should:**

- a. **increase the authority and the resources which the IEFH requires to carry out its tasks and support a transversal approach at all levels of government;**
- b. **provide, through an independent multidisciplinary body including members of women’s rights associations, effective monitoring and evaluation of policies and measures designed to prevent and combat violence against women, ensuring in particular that dedicated resources and results indicators are identified for each activity.**

<sup>27</sup> See page 21 of the main shadow report.

<sup>28</sup> Article 70, paragraph 1.

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

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

46. Preventing and combating violence against women, including domestic violence, requires evidence-based policy making. The collection of systematic and comparable data from all relevant administrative sources is crucial in this regard, as is information on the prevalence of all forms of violence against women. GREVIO would like to point to the opportunities that the ratification of the Istanbul Convention presents in this regard, in particular the role assigned to the co-ordinating body in co-ordinating the collection and analysis of data and their dissemination (Article 10, paragraph 1). A number of tools exist to support governments wishing to improve data collection in the area of violence against women, suggesting a solid knowledge base to which the authorities can turn.<sup>29</sup>

47. A long time ago Belgium set itself the aim at administrative level of producing sex-disaggregated data. Under Article 4 of the Gender Mainstreaming Law of 12 June 2007, “all ministers shall ensure, in areas within their competence, that the statistics which the federal public services, the Ministry of Defence, the public planning service, state social security institutions, federal scientific establishments and public interest bodies produce, collect and commission in their areas of activity are disaggregated by sex and that gender indicators are established if appropriate”. Progress has been or is being made, particularly in the judicial sector, following the adoption of Circular COL 3/2006 on the definition and reporting of domestic violence. Ratification of the Istanbul Convention increased the requirement to collect relevant disaggregated statistical data from the various ministerial bodies which produce them (primarily in the police, justice and health sectors). Data collection was one of the priority aims of the 2015-2019 NAP on action against gender-based violence.

48. However, GREVIO has major concerns about the collection and dissemination of data in Belgium. Available data about the types of violence covered by the convention are unsatisfactory in terms of both quality and quantity, are not harmonised across the various bodies that produce them, particularly the police and the judiciary, and are not disseminated regularly and accessibly at federal level. The limited nature of data is reflected in the fact for example that the data collected on victims by the police force are not broken down according to sex or that data collected in hospitals are only broken down according to sex and age. Already, in 2014, in its Concluding Observations on Belgium, the CEDAW Committee pointed to a “lack of comprehensive statistical data on violence against women, disaggregated by age, ethnicity, nationality and relationship between the victim and the perpetrator, and on the number of women murdered by their current or former partners”.

49. In the police, data recorded in reports by local police forces and the federal police are fed into the General National Database (BNG), on which a public report is produced. This reflects reported and recorded criminal offences (and attempted offences). The data are broken down according to the sex of the attacker and the geographical location. There are still no data on the sex of victims despite the BNG Law of 18 March 2014, which provides for an expansion of these data. In February 2019, the state report highlighted the time and human resources that such a technical change would require while providing assurances that this was a priority on the agenda and that positive changes were anticipated “in forthcoming months”. However, it has not been possible yet to set out a detailed timetable for this essential step forward for full and transparent public communication, particularly on violent deaths involving current or former partners and on the gender of victims.

50. In addition to this lack of data – and of data on children who died following violence between partners or former partners –GREVIO notes the disparity between the figures of these deaths of partners or former partners communicated by the authorities and those put forward by civil society.

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<sup>29</sup> See, for example, the following Council of Europe publications: Ensuring data collection and research on violence against women and domestic violence: Article 11 of the Istanbul Convention – A collection of papers on the Istanbul Convention (2015); Administrative data collection on domestic violence in Council of Europe member states (2008).



In 2017, the Belgian police forces recorded nine manslaughters and four premeditated murders in the context of “violence between intimate partners”<sup>30</sup> including one case in which the perpetrator was a woman. In the same year and based solely on on-line press articles according to a methodology that GREVIO was not in a position to verify, the “*Stop féminicide*” collective identified 39 separate feminicides.

51. At judicial level, as a result of Circulars COL3/2006 and COL4/2006 and the updates to these, progress has been made on harmonising definitions. The data base of the Board of Principal Crown Prosecutors is made up of records from the criminal sections of the prosecution services of the courts of first instance. According to the state report, these data, which are broken down according to sex, age and relationship with the perpetrator, are “reliable, relevant statistics, complete with comments made in the light of the prosecution service’s criminal policy”. The Criminal Policy Department (SPC) has published statistics on convictions, deferred sentences and imprisonments since 1994. These statistics, which are broken down according to sex and age, are produced with the help of the Central Criminal Register database. However, differing computer encryption systems co-exist at different levels of the criminal chain, and between the police and justice sectors.

52. In the health sector, the main shadow report includes criticism of “haphazard” data collection for which no separate funding is provided. The state report<sup>31</sup> informs us that data on hospitals from the database of the Basic Hospital Summary (RHM) “relate only to persons who have resided at least one night in hospital, not to those who have just come in for an emergency or a consultation”, and that the data on hospital emergency services (UREG)<sup>32</sup> cover hospitals with a “specialised emergency care” department “or an “initial emergency response” department. In addition, only RHM and UREG data are broken down according to sex and age.

53. Laudable progress in the collection of data in the area of social welfare and health and protection of young people and infants has been made, in particular in the Walloon Region and the French Community.<sup>33</sup>

54. **GREVIO urges the Belgian authorities to take decisive steps towards improving the data available on violence covered by the Istanbul Convention and their collection, taking the following measures in particular:**

- a. **regularly publishing and circulating at federal level an accessible synoptic reference document highlighting the main statistics on violence covered by the convention, making it possible to take advantage of existing data and for them to be assimilated and compared over time by public opinion and the media;**
- b. **making it compulsory, through law if necessary, to keep, in addition to data on perpetrators, data on victims, their sex, and their relationship with the perpetrators with respect to all forms of violence covered by the Istanbul Convention, especially with regard to murders by partners or former partners;**
- c. **making it possible, pending this, for cases of murders of partners or former partners and other victims, including children, to be investigated so as to improve knowledge in Belgium about the victims (their sex, age and relationship to the perpetrator) and the circumstances of their deaths (such as the date and time, place and murder weapon);**
- d. **committing to moving gradually towards an integrated system of statistics shared between the police, justice and health sectors with a view to *inter alia*: 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**

<sup>30</sup> See Table 6 of Annex E of the state report. During the study visit, the Belgian authorities explained that the determination as to the gender-based motivation of the manslaughter or murder of a partner or former partner depended on whether or not the manslaughter or murder occurred in the context of intimate partner violence.

<sup>31</sup> Page 10.

<sup>32</sup> The authorities have also informed GREVIO that UREG registration was suspended in July 2019, and that a final report by a working group on the rationalisation of unplanned health care is expected to help decide on the future of UREG.

<sup>33</sup> See pages 11 and 12 of the state report.

**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.**

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

55. Studies on the prevalence of violence against women were conducted at national level in 1988, 1998 (extended to men) and in 2010. The latest such study on this scale was commissioned by the IEFH from the Liège Opinion Survey Centre (CLEO) of the University of Liège and the Experimental Clinical and Health Psychology Department of the University of Ghent. This “study on the experiences of women and men with regard to psychological, physical and sexual violence”, which was published in 2010, revealed that 15% of women and 10% of men said that they had been subject to violence by their partner or their former partner in the preceding twelve months. This study clearly focuses more on “interpersonal violence” in the form of isolated acts than on “gender-based violence” as a system linked to the historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men, thus denying women their full emancipation. The first definition given in the study is one of gender-neutral violence: “Violence is any act or omission by a person (or a group) which threatens the life, the bodily or psychological integrity or the freedom of a person (or a group), seriously jeopardises the development of their personality and/or undermines their financial security”. Viewed in this light, the parameters for the 2010 study do not appear to be compatible with the gender-sensitive approach advocated by the Istanbul Convention. This observation is echoed in the criticism made in the main shadow report,<sup>34</sup> in which it is stressed that in the 2010 study, there is confusion between “conflict within couples” and “gender-based violence”, which introduces *de facto* bias into the results obtained. It is problematic that these results are still being disseminated, particularly by the IEFH, and providing the basis for Belgium’s policy in this area. The 2015-2019 NAP emphasised the need to conduct fresh population-based prevalence surveys. The authorities have informed GREVIO that they are intending to participate, subject to feasibility, in the EU-wide survey on gender-based violence which Eurostat is planning to carry out in 2020.

56. Prevalence surveys focusing on certain forms of violence (sexual violence, female genital mutilation) or certain settings (school, recreation, culture and media) and/or arranged at federated entity level also have been or are being carried out. A list of these surveys is given in appendix A of the state report.

**57. In view both of the time that has passed since the last population-based survey and the parameters of the 2010 survey, GREVIO encourages the Belgian authorities to launch a joint appraisal with all the stakeholders and experts concerned of the possibility of conducting a new national population-based survey in Belgium. This survey should be clearly based on a gendered definition of violence against women and make it possible in future, as a result of regular surveys, to assess the extent of and trends in all forms of violence covered by the Istanbul Convention.**

## **3. Research**

58. GREVIO notes with satisfaction that between 2015 and 2018, quite a large number of academic studies and research projects were conducted or launched. The state report<sup>35</sup> lists 25 of these, so about four a year. Ten were initiated at federal level, eight by the French Community, three by the Walloon Region and three by the Flemish Region, while one was a joint French Community and Walloon Region activity and another an NGO project. In most cases, these studies are conducted by or involve university research teams, although it is not specified whether they specialise in, or have specialists in their ranks on, gender and, in particular, on violence against women. Nine of the 25 studies are specifically given over to “violence between partners” / “domestic violence” / “intimate partner violence”, five focus mainly on sexual violence, four on disability, four on children, three on prostitution, two on perpetrators, two on the media and one on employment.

<sup>34</sup> Pages 27 and 28 of the main shadow report.

<sup>35</sup> Appendix A to the state report.

The IEFH may have been the instigator of some of these and where it was not, it was almost systematically invited to be involved. This is a positive factor, which is likely to lead to increased co-ordination between these different studies and research projects and bring them more into line with the conceptual framework and the guidelines adopted in accordance with the Istanbul Convention and the political priorities set out in the NAP.

59. These studies provide material rich in quantitative and qualitative data and in recommendations intended to improve policy on violence against women. However, there is nothing to indicate how much resonance such studies or research projects have had among the stakeholders concerned or in the media and nor is much data provided to gauge their impact on public policies. This is probably a potential area in which the impact of these studies and projects can be increased. For example, an unprecedented study concerning the impact of violence between partners in the world of work, whose results were revealed in 2017,<sup>36</sup> includes very high figures, likely to surprise people and have an impact both on public opinion and on political and economic leaders: 72.9% of victims state that the violence they have undergone has had an impact on their work. 7.8% of these people report that their partner or former partner actually went to their workplace. These figures are liable to get employers' and employees' organisations more involved in preventing and combating intimate partner violence.

60. Specialist Belgian NGOs are also doing important research work and may receive financial support from the authorities for this purpose.<sup>37</sup> GREVIO has noted however, that there is a discrepancy between the knowledge produced by the academic world and that coming up from associations working in the field, which calls for better co-ordination. Several of the recommendations made above<sup>38</sup> could be used to improve this co-ordination and take more account of the concerns of civil society in the studies and research sphere. The NGOs consulted by GREVIO in the course of the evaluation procedure regret the lack of comparability of studies and research projects, the insufficient proportion of qualitative research and the lack of knowledge about a number of subjects (for instance, the intersection of various types of violence against women and multiple discrimination, the evaluation of primary prevention tools, the police response to intimate partner and domestic violence, and the influence of social media on violence against women).

**61. GREVIO encourages the Belgian authorities to continue their efforts to support research in areas relating to all forms of violence covered by the Istanbul Convention, while promoting links between gender studies and research on the one hand and the expertise of associations working in the field on the other and ensuring that these studies and research projects are disseminated and have an impact. For this purpose, the authorities may wish to conduct a new census of research departments or teachers and research workers specialising in gender, gender equality, and gender-based violence.**

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[https://igvm-iefh.belgium.be/fr/publications/enquete\\_nationale\\_sur\\_limpact\\_de\\_la\\_violence\\_entre\\_partenaires\\_sur\\_le\\_travail\\_les](https://igvm-iefh.belgium.be/fr/publications/enquete_nationale_sur_limpact_de_la_violence_entre_partenaires_sur_le_travail_les)

<sup>37</sup> A list of these projects is given on page 28 of the main shadow report.

<sup>38</sup> See the observations made in this report on the subject of Article 7 of the Convention.

### III. Prevention

62. 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.

63. In terms of primary prevention, Belgium has considerable experience in the field of feminist self-defence for adult women thanks to the work of associations in each of the country's regions. Some authorities in Belgium have sought to harness this experience as a structural lever for prevention, such as the Province of Antwerp, which funds training courses for female self-defence trainers. The effectiveness of such practice is increasingly recognised in violence prevention, if the feedback from associations, which are leading the way in this field, and recent studies<sup>39</sup> are anything to go by. By integrating this practice into a comprehensive awareness and prevention strategy, Belgium could become a pioneer in Europe where supporting feminist self-defence is concerned.

**64. GREVIO invites the Belgian authorities to consider adopting measures to promote the establishment of feminist self-defence groups in a balanced manner across Belgium - particularly where women from the most vulnerable populations reside (working-class neighbourhoods, rural areas, etc.), in order to empower women by restoring their confidence and informing them about their rights. One option would be to include support for this practice in the next NAP through funding for training for trainers, based on the good practice identified in the Province of Antwerp.**

65. GREVIO welcomes the preventive aspect of the Law of 22 May 2014 on sexism, defined as any gesture or conduct that, in the circumstances referred to in Article 444 of the Criminal Code, is manifestly intended to express contempt towards a person, on account of their sex, or to consider that person, for the same reason, as inferior or essentially reduced to their sexual dimension. GREVIO stresses the value of legislation on sexism because it targets behaviour which, while not reaching the threshold of severity that would allow it to be classified as violence under the Istanbul Convention, is often the precursor of violence and/or promotes its emergence or minimises it, as a manifestation of the structural inequalities that persist between women and men.

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

66. Belgium has taken numerous initiatives in the area of information and awareness raising on gender-based violence. The state report<sup>40</sup> provides a detailed list of initiatives carried out in recent years (from 2016) in this area, grouped by form of violence (sexual harassment and gender-based acts, partner violence, sexual violence, honour-related violence, forced marriage and female genital mutilation). GREVIO appreciates the efforts thus made by the authorities at different levels of government (federal, regional or Community) in terms of the quality of these awareness-raising campaigns, the diversity of the target groups and the variety of communication media used. It notes that some of these campaigns offer examples of good practice which other states might wish to draw on.<sup>41</sup>

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<sup>39</sup> Study on "Knowledge and Know-how: the Role of Self-defence in the Prevention of Violence against Women" commissioned by the European Parliament Policy Department for Citizens' Rights and Constitutional Affairs upon request by the Committee on Women's Rights and Gender Equality (FEMM Committee).

<sup>40</sup> Pages 12 to 17.

<sup>41</sup> See reference to the awareness-raising initiative on psychological intimate partner violence, "Fred et Marie / Marie et Fred", on page 22 of the Council of Europe publication "Raising awareness of violence against women: Article 13 of the Istanbul Convention", 2014.

67. At the same time, GREVIO notes that many of these campaigns focus on the dissemination of information enabling victims and witnesses to recognise and respond to violence. According to civil society, awareness-raising campaigns tend to focus on referring victims (and to a lesser extent perpetrators) to support services and are not primarily aimed at changing the values and attitudes underlying gender-based violence. They are, therefore, not primary but rather secondary or tertiary prevention campaigns.<sup>42</sup> The NGOs also point to the need to extend the scope of awareness-raising initiatives to address all aspects of violence and to succeed in reaching out to all women potentially affected.<sup>43</sup> Further efforts would be needed, moreover, to link these initiatives to scientific research and to ensure their consistency and continuity, as part of a comprehensive and co-ordinated vision. GREVIO has also noted that there is room for improvement in the evaluation of awareness-raising campaigns as regards measuring their impact in terms of changing how people living in Belgium perceive sexism, gender equality and gender-based violence.

**68. GREVIO strongly encourages the Belgian authorities to pursue their efforts to promote, on a regular basis and at all levels, awareness-raising campaigns or programmes to increase awareness and understanding among the general public of the different manifestations of all forms of violence covered by the scope of the convention, of the gendered nature of this violence as a manifestation of a historical form of social organisation based on domination and discrimination of women by men, and of the effects of violence on children. To this end, the authorities should:**

- a. **adopt, in a concerted manner and in co-operation with specialist associations, federal guidelines on awareness raising, making it possible to provide clear pointers and quality standards so as to ensure consistency in the messages conveyed;**
- b. **adapt awareness raising (media, images, language, etc.) to the needs of women victims and in particular the most vulnerable groups such as women with disabilities;**
- c. **feed data into a system for tracking and sharing the initiatives of other levels of government, enabling the authorities to monitor implementation of the priority objectives set at federal level;**
- d. **develop dissemination and impact indicators to assess the willingness to talk and listen and also the impact over time of these awareness-raising campaigns and tools on how people in Belgium perceive sexism, gender equality and gender-based violence.**

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

69. In Belgium education is a Community competence, except as regards arrangements governing the award of diplomas, which are a matter for the federal authorities.

70. Since 2012, EVRAS (education focusing on relationships and emotional and sexual matters) has been one of the mandatory tasks of the education sector in the French Community following its inclusion in the decree of 24 July 1997 defining the key functions of basic and secondary education. In 2013 the three French-speaking federated entities agreed on a protocol whose objective is to roll out EVRAS across Belgium. In 2018 this roll-out was under way. A specific arrangement has been put in place by the French Community to support the development of EVRAS in youth structures (youth movement, youth organisations, etc.). This arrangement firstly provides a framework for the accreditation of operators (87 in 2017 and 2018) to ensure that any activities carried out are of a high quality, and secondly provides financial support for accredited operators through annual calls for projects. The latter may address issues such as jealousy, dealing with sexual desire, intimacy or various types of violence between partners and sexual violence, the influence of the media, pornography and culture, etc. The programme is supported by a website (<https://www.evras.be/>) and has its own platform. A coding system - JADE software – is used to gather data on the deployment of the programme. In the French Community, furthermore, a "philosophy and citizenship" course is

<sup>42</sup> Page 31 of the main shadow report.

<sup>43</sup> Paragraph 87 of the explanatory report to the Convention points out that prevention measures must specifically address the needs of persons made vulnerable by particular circumstances.

mandatory in primary and secondary schools and affords a means to question gender stereotypes at different levels and to prevent any violence justified or trivialised by these stereotypes.

71. In Flanders, the main recent levers for a comprehensive integrity policy are the decree on guidance for pupils in primary and secondary education and pupil guidance centres (which requires preventive and remedial policies to be introduced, sets out procedures in case of incidents, and deals with punitive and restorative aspects, etc.) and the Education Inspectorate's reference framework for quality in education. A tool has been developed by the Sensoa association in line with the guidelines laid down in the Lanzarote Convention in cases of transgressive behaviour, including transgressive sexual behaviour, among children and young people. A platform for professionals advises them on how to respond to (suspected) "transgressive behaviour". The tool has been adapted to different sectors (sport, education, youth support, child welfare), and seems to have met with general approval. In Flanders, more broadly speaking, the school curriculum together with initial and in-service training is organised around the 16 key compulsory competences to be acquired by the end of secondary education. According to the Flemish authorities, this is conducive to gender mainstreaming as it cultivates children's awareness and self-control as well as respect for others, their freedom, choices and desires.

72. School-based prevention measures have likewise been adopted by the German-speaking Community.<sup>44</sup> The state report, furthermore, provides information on the prevention of gender-based acts, harassment and sexual violence in higher education institutions.<sup>45</sup>

73. GREVIO welcomes the efforts undertaken in Belgium to develop education that promotes equality between women and men, non-stereotyped gender roles, mutual respect and non-violent conflict resolution in interpersonal relationships. It notes that while commendable efforts have been made to introduce this education more widely, it would seem that it is not being provided as a matter of course. It is essential therefore to continue aiming for wider dissemination of programmes and tools that have proven effective at regional level, such as EVRAS or the tool for detecting transgressive sexual behaviour, bearing in mind the suggestions made by the associations involved in the practical implementation of these programmes and tools.<sup>46</sup>

**74. GREVIO encourages the Belgian authorities to pursue their efforts to equip pupils with knowledge and skills in relation to the issues identified in Article 14 of the convention. When making such efforts, a gender mainstreaming approach should be adopted, in keeping with Recommendation CM/Rec(2007)13 of the Committee of Ministers to member states on gender mainstreaming in education.**

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

75. The standard set by the convention in its Article 15 is that of systematic initial and in-service training of the relevant professionals who encounter victims or perpetrators of any violence against women. The training that is required must cover the prevention and detection of such violence, equality between women and men, the needs and rights of victims and the prevention of secondary victimisation. The questionnaire drawn up by GREVIO lists, in the table appended to it, the professional groups which GREVIO considers to be in need of such training. Among the quality criteria for a training policy, the convention highlights the importance of ensuring that relevant training is on-going and sustained with appropriate follow-up, regular reviews and also clear protocols and guidelines that set the standards staff are expected to follow in their respective fields. The convention also emphasises the need for professionals to be trained in multi-agency co-operation.

76. The 2015-2019 NAP clearly reaffirms that awareness raising alone is insufficient to prevent violence and that training is a "key focus". This action plan sets out clear and consistent priorities in relation to the convention, foremost among them: making a clearer distinction between disputes

<sup>44</sup> Page 19 of the state report.

<sup>45</sup> Ibid. pages 18 and 19.

<sup>46</sup> See recommendations on pages 37 and 38 of the main shadow report.

within couples and gender-based violence between partners, better detecting gender-based violence, better protecting victims, knowing how to collect medical, psychological or legal evidence, developing intercultural skills, adopting a multidisciplinary approach conducive to intersectoral co-ordination, improving training for the police and judiciary in sexual violence, and developing training for the health care sector.

77. To date, Belgium has no national inventory of the various training courses and trainers available in the field of gender-based violence. Measure 63 of the NAP, spearheaded by the IEFH in partnership with the relevant authorities (justice, police, public health, regions and Communities), is nevertheless essential in order to establish a shared strategy in the training sphere. GREVIO is pleased to note that diagnostic and co-ordination efforts are under way in the French Community - in close liaison with the ARES (Academy of Research and Higher Education). At the same time, the implementation of the convention within each sector, through formal specification of the minimum content of initial training courses, has also encountered obstacles which have so far prevented measure 66 of the NAP from being put into effect. This measure falls within the purview of the Communities. Political will and close co-ordination between universities, colleges and institutes on the one hand and specialist associations on the other are a useful means of quickly incorporating knowledge of the various forms of gender-based violence into the initial training of several categories of key professionals, as required under the convention.

78. As a result, meaningful mandatory training on violence against women remains the exception, whereas it should be the norm, especially in front-line occupations.

79. In the police, there is an initial training programme at federal level which includes a "domestic violence" module in the section on victim support. Police academies, however, are at liberty to decide their own training programmes. Aside from the lack of certainty surrounding the mandatory nature of this "domestic violence" module, the current system does not provide sufficient guarantees that any initial training police officers receive in violence against women will be consistent and based on a gender approach and deconstruction of sexist stereotypes. As regards in-service training, this is undertaken at the option of individual police officers. It also depends on what is available to them. Local exceptions aside, there is as yet, for example, no in-service training on how to deal with women victims of gender-based violence. Positive initiatives to emerge include "code 37" study days, which over the period 2016-2017 sought to raise awareness among 800 to 1,000 professionals, mainly from the police.

80. In the judicial sector, trainees at the Judicial Training Institute, as part of their initial training, are required to take a module on "Intimate partner violence" - its duration has recently been reduced - and a module on "Forced marriage, honour-related violence and genital mutilation". These modules are also available on an optional basis as part of in-service training. Serving family court judges (JAFs) are not currently required to undergo training relating to the convention, and the gender approach and types of violence mentioned in the convention are not part of the minimum theoretical and practical content required in the training of accredited mediators.

81. In the health sector, no compulsory training relating to violence covered by the convention has been brought to the attention of GREVIO. Reference was made, however, to a basic training course for 12 Belgian hospitals as part of non-compulsory in-service training. The same applies to psychologists working in hospitals. With regard to the in-service training of hospital care staff, GREVIO is particularly concerned that the handbook promoted by the authorities conveys a concept of violence that differs from that of the Istanbul Convention and may prevent the proper detection of violence and lead to secondary victimisation.<sup>47</sup>

82. GREVIO commends Belgium on the efforts undertaken with respect to female genital mutilation and honour-related violence. For example, a guide to good practice regarding excision has been produced by the Ministry of Health, in co-ordination with GAMS Belgium. Aimed at health

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<sup>47</sup> Manuel de formation de base sur la violence intrafamiliale et sexuelle destiné au personnel soignant des hôpitaux belges, International Center of Reproductive Health (ICRH), 2015. This handbook, which is also intended for support staff, promotes for example the idea that violence may be "provoked" by the victim.

professionals and published in French and Dutch, it has been distributed since 2011 in maternity wards and paediatric departments of hospitals. Another example of good practice is the “checklist” for ensuring that victims of sexual violence receive the best possible care in Belgian hospitals, and the development of model certificates for general practitioners and hospitals by the SSMG on the French-speaking side and Domus Medica on the Dutch-speaking side. Three official codes for reporting FGM, intimate partner violence and sexual violence have been drawn up and are to be incorporated into the initial training of doctors. These important guidelines are a follow-up to collaborative efforts by the IEFH and the Flemish medical association. A clinical method guide on sexual violence has recently been produced for French-speaking doctors, in addition to several other initiatives in the field of non-compulsory in-service training. Building on these efforts in the health sector, more general guidelines including on victim identification could be adopted to, for example, support health professionals in systematically inquiring about violence.<sup>48</sup>

83. In the youth support sector, while compulsory training on “violence” is provided in the French Community for all new public officials within a Youth Support or Youth Protection Service, this training is general in nature and does not lend itself to a comprehensive approach to gender-based violence since it covers all types of violence. At the early childhood level, all medical and social workers employed by the Birth and Childhood Office receive training from specialist associations on the impact of intimate partner violence on children at risk and female genital mutilation.

**84. GREVIO strongly encourages the Belgian authorities to take measures to step up initial and in-service training for the relevant professionals who deal with victims or perpetrators of all forms of violence covered by the scope of the convention, taking care to ensure that the approach followed, the training manuals used and the partnerships forged to provide training and develop teaching materials are based on a gendered understanding of violence, in keeping with the Istanbul Convention. To this end, the authorities should more specifically:**

- a. in the police, state as an objective, when renewing the national security plan, compulsory training for lead police officers in each police district and consider producing, in a collaborative manner, federal guidelines on the initial reception of women victims of violence;**
- b. in the judicial sector, step up compulsory initial training and extend it to cover sexual violence, and organise compulsory in-service training for the relevant judges and prosecutors, including, as a matter of priority, family judges and mediators;**
- c. in the health sector, including psychological care, make initial and in-service training of relevant professionals compulsory and develop general guidelines, while ensuring that the guidance given is in line with the reading of violence against women promoted by the Istanbul Convention.**

85. On a general note, GREVIO believes that there is a distinct lack of clear protocols and guidelines that set the standards staff are expected to follow in their respective fields. This may lead to competing discourses being disseminated among professionals, or even to the dissemination, among the few reference tools identified and supported at federal level, of an approach that is not gender-based and incapable of transcending negative stereotypes of victims and recognising the fact that intimate partner violence and sexual violence disproportionately affect women and girls.

86. In order to build a genuine training policy in the field of the convention, Belgium can draw on the expertise of specialist associations and on local dynamics, which should be encouraged and serve as a source of inspiration. At regional level, governments have adopted a number of resolutions stressing the importance of prevention through the training of professionals and co-operation in the field with specialist associations. In operational terms, this is mainly accomplished through resource centres specialising in intimate partner violence and violence within the family where in-service training is concerned. At the Community level, the French Community has distinguished itself with a dynamic process initiated by the Minister for Women's Rights in recent

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<sup>48</sup> See for example, with respect to good practice, the recommendation made by the French health authorities on “identifying women victims of intimate partner violence” (2 October 2019).



years. This process, in which universities and associations pool their resources, has led to the joint development of some basic content in both initial and in-service training, offering professionals a common, gender-based frame of reference covering four types of violence – sexual violence, intimate partner violence, female genital mutilation and forced marriages/honour-related violence. The process is supported and financed by the French Community and concerns the psycho-social, medical, justice and media sectors. In terms of its operation, it is managed by various higher education institutions where initial training is concerned. The quality and relevance of this scheme, which encourages a collaborative, multidisciplinary approach, are recognised both by the federal authorities and by the voluntary sector, which is calling for it be extended to other regions. Flanders, meanwhile, has developed training courses focusing on child victims of gender-based violence. In the German-speaking Community, it appears that the government has made arrangements to identify and fund a key service provider to whom it entrusts - through a multi-year agreement – certain tasks, including training for trainers on violence between partners.

87. As regards targeting, attention must be paid to making a clear distinction between long training courses (lasting between several days and several weeks) for specialised professionals able to deal with situations of violence and co-ordinate measures, and shorter compulsory training courses for all front-line professionals whose job it is to detect violence, provide primary information and refer people to specialised professionals. It is crucial to deploy a graduated training strategy tailored to the needs of the groups of professionals.

88. In terms of the issues addressed, the lack of a comprehensive strategy means there is a tendency to focus overly on the forms of violence that are highest up the political and/or media agenda and/or receive the most attention from organisations and groups. While efforts in the area of female genital mutilation should obviously be continued, it is important to be vigilant about the risk of cultural relativism, which not only can stigmatise certain populations but also removes the responsibility of society as a whole by dealing less vigorously with the majority of violence against women (intimate partner violence, sexual violence, etc.).

**89. GREVIO strongly encourages the Belgian authorities to co-ordinate themselves in order to implement, monitor and evaluate Article 15 of the convention on compulsory initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence against women. To this end, the authorities should adopt a clear and shared strategy that makes it possible, at the appropriate levels and while clarifying the chain of responsibilities:**

- a. to enshrine in law the obligations with respect to training and the minimum list of professionals concerned;
- b. to adopt and disseminate quality standards for training courses that incorporate a gender approach, deconstruction of stereotypes and vulnerability factors;
- c. to adopt and disseminate clear protocols and guidelines that set the standards professionals are expected to follow in their respective fields;
- d. to reference and disseminate good practice and tools which have proven successful in the field;
- e. to increase funding, in particular for training for trainers.

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

### **1. Programmes for perpetrators of domestic violence**

90. Two studies have been carried out,<sup>49</sup> from which it is possible to form a fairly accurate assessment of programmes for perpetrators of domestic violence in Belgium: the first focuses on the different types of therapeutic interventions for perpetrators of violence between partners and their efficacy (2016-2018) while the second study looks at the profile of perpetrators of violence between partners (2017-2018). According to the first study, 31 schemes aimed exclusively or partially at

<sup>49</sup> See page 21 of the state report.

perpetrators of domestic violence exist in Belgium and are accessible via 48 locations in Belgium, run by two types of structures on the Dutch-speaking side (the Mental Health Centres or CCGs and the Centres for General Welfare or CAWs) and one major provider on the French-speaking side (Praxis, a non-profit-making association). It appears, however, that the schemes are under-funded and unevenly accessible across the country.

91. In the judicial field, it would seem that preventive intervention and treatment programmes aimed at changing perpetrators' attitudes and behaviour in order to prevent reoffending are rarely deployed as a complement to criminal conviction, but are instead used as an alternative to conviction. This raises questions about the dissuasive nature of the criminal law response. While a criminal justice response is not the only response to be pursued in cases of violence against women and must be part of a comprehensive and integrated approach, GREVIO reiterates the importance of holding perpetrators accountable for criminal acts, in line with states' obligations under the European Convention on Human Rights to ensure effective investigation and prosecution and to impose appropriate sanctions in cases of serious violations of the victim's human rights.<sup>50</sup>

92. In the extrajudicial context, there is a strong trend towards "tandem mediation", as noted in the state report.<sup>51</sup> GREVIO wishes to reiterate the need for continued vigilance with regard to the use of mediation in cases of gender-based violence, which by definition is characterised by a relationship of domination and control. An evaluation to ensure that victims have given their free and informed consent, with attention being paid to the gender dimension of violence against women, must remain a prerequisite for mediation, otherwise there is a high risk of secondary victimisation.

## **2. Programmes for sex offenders**

93. Since the late 1990s, agreements aimed at establishing programmes for sex offenders have been concluded between the federal government and the Walloon Region, the Flemish Community and COCOF, and these agreements were evaluated in 2011 by the Federal Public Service for Justice. Three regional support centres exist in Flanders, the Walloon Region and Brussels, and work with multidisciplinary teams specialising in the "guidance and treatment of sex offenders (AICS)", mainly outside prison. At the same time, there is an extensive network of specialist psychosocial teams in prisons and "social defence" institutions or sections organised at federal level, as well as other networks of services which operate across the French Community and in Flanders.

94. While the care and follow-up of perpetrators of domestic violence and sexual violence appears to be relatively well organised in Belgium, doubts remain as to whether programmes incorporate a uniform gender-based approach and whether there is close collaboration with associations providing support for women victims.

95. **GREVIO strongly encourages the Belgian authorities to:**

- a. ensure that the programmes for the care and social and judicial follow-up of perpetrators of domestic violence and sexual violence incorporate a uniform gendered approach and deconstruction of sexist stereotypes and are based on close collaboration with support services for women victims;**
- b. determine more precisely under what circumstances it is appropriate to encourage interventions with perpetrators of domestic violence as an alternative to conviction rather than as a complement to conviction, in view of the impact on re-offending and the impact on the safety, support and fundamental rights of women and girls;**
- c. limit recourse to mediation combined with accountability training for perpetrators of violence to situations where it is possible to ensure that the victims have given their**

<sup>50</sup> See in particular *Talpis v. Italy*, *D.M.D v. Romania* and *Valiuliene v. Lithuania*.

<sup>51</sup> The state report indicates on page 23 "that other initiatives focus more on the perpetrator and often also involve the victim" and that in Flanders, the non-profit organisation Moderator "in 2017-2018 strongly focused on "tandem mediation" in domestic violence cases, the parties are immediately brought together and always work with two safety mediators".

free and informed consent, in line with the suggestions and proposals made in this report with regard to the measures taken to give effect to Article 48 of the Istanbul Convention;

- d. evaluate existing programmes to determine their impact in the short and long term, including through scientifically designed surveys and the compilation of statistics on participation rates and re-offending rates, making it possible to assess whether the programmes have served their preventive purpose;
- e. provide adequate funding to improve the accessibility of programmes for perpetrators of violence and to ensure support over a sufficiently long period to achieve the objective of non-recidivism.

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

96. The aim of Article 17 is to encourage wider involvement of private companies and the media in combating gender-based violence.

97. GREVIO welcomes the leading and pioneering role played by Belgium in the ILO's adoption on 21 June 2019 of Convention No. 190 concerning the Elimination of Violence and Harassment in the World of Work. This Convention recognises, inter alia, the responsibility of employers in relation to gender-based violence and harassment, and notes, in accordance with the Istanbul Convention, that domestic violence can have an impact on employment, productivity and health and safety at work. From as early as 2016, Belgium has played a major role in the drafting and adoption of this first international standard on the world of work and gender-based violence. In addition, the Belgian authorities, and in particular the IEFH, Belgian employers and trade unions have rallied together to raise awareness in the world of work about the issue of sexual violence at work and violence against women in general.

98. Belgian legislation on prevention of psychological and social risks in the workplace, including sexual or psychological harassment related to sex, was improved in 2014,<sup>52</sup> particularly with regard to the training of trusted persons, but also with regard to the obligations of employers and prevention counsellors. Victims' access to compensation for harm suffered has also been improved. The implementation of this legislation is supported by communication and business networking efforts promoted by the IEFH and the Federal Public Service for Employment, Labour and Social Dialogue. In view of the relatively low number of complaints and even lower number of convictions,<sup>53</sup> GREVIO is of the opinion that operational tools should be developed to enable management staff, as a matter of priority, to more effectively identify, and provide information and guidance and warn about, cases of sexual violence in the workplace, whether in the private sector or the public sector. The very low number of complaints of sexual harassment is typically less a sign of the absence of sexual violence in the workplace than a symptom of insufficiently effective and/or accessible reporting and treatment channels. GREVIO also notes that no specialist association is being funded to cater for and provide support, including legal assistance, to victims of sexual harassment at work.<sup>54</sup> With regard to the civil service at federal level, the work begun in 2016 by the IEFH to train social workers in how to deal with violence between partners is a positive initiative that should be extended to other types of key professionals and to the issue of violence against women in the workplace.

99. **GREVIO strongly encourages the Belgian authorities to pursue and step up their active efforts to involve private- and public-sector employers in combating gender-based violence against women in the workplace. To this end, the authorities should aim in particular to improve awareness and information among the general public, trade unions, employment professionals and employers in relation to violence against women at work, to expand and improve the reporting channels available to victims, and to step up the specific support and**

<sup>52</sup> See the laws of 28 February 2014 and 28 March 2014 amending the law of 4 August 1996 on the well-being of workers in the performance of their work and also the Royal Decree of 10 April 2014 on the prevention of psychosocial risks at work (inserted since then in Title 3 of Book 1 of the Code on Well-being at Work).

<sup>53</sup> By way of example, in 2016, in the civil service in Flanders, one complaint was received, out of a total of 28,000 staff.

<sup>54</sup> See page 48 of the main shadow report.

**assistance provided. The Belgian authorities might also wish to consider evaluating the legislation of 1 September 2014 on psychosocial risks from a gender perspective.**

100. With regard to the media, GREVIO notes with interest the collaboration that exists between the IEFH and the Jury for Ethical Practice in Advertising (JEP), as well as between the IEFH and the Higher Audiovisual Council (CSA) concerning the French-speaking Belgian broadcasting sector.<sup>55</sup> Pursuant to the new remit assigned to the CSA by the decree of 24 June 2016 to check that programmes and commercials do not undermine respect for equality between women and men, two court rulings have been issued, one concerning an advertisement for the Lidl brand and the other concerning a television programme called “Chasseur d'apparts”. The French-speaking Belgian broadcasting organisation, RTBF, has devised an action plan and appointed a dedicated person, and in 2017 the Conference of Editorial Boards adopted a text calling on editorial staff to exercise special vigilance when it comes to reporting on violence against women.

101. With regard to the Flemish media, Articles 39 and 55 of the Flemish Media Decree stipulate that all forms of discrimination must be excluded from programmes and commercial communication. The Flemish media regulator supervises this process. In addition, the Flemish Minister for media and various actors in the media sector in Flanders (TV and radio stations, newspapers and publishers, news media, production houses, umbrella federations, gaming companies, etc.) signed a Social Charter for the media sector on 5 June 2019. This charter includes notably agreements on combating and preventing discrimination.

102. GREVIO welcomes the efforts made in this regard and calls for further efforts to inform the general public about sexist stereotypes and representations that are detrimental to gender equality, as well as about the possibilities for referring matters to the CSA. This will help to ensure that fresh decisions can be taken, in particular concerning - beyond the question of sexist stereotypes - media coverage of violence against women, or that new protocols or codes of conduct are adopted, such as the charter on non-stereotyped communication drawn up by the CSA and the Belgian Advertisers' Association (UBA).

103. With regard to the written press, a 2018 research project<sup>56</sup> painted a critical picture of the treatment of violence against women in the French-speaking Belgian press (stigmatisation of victims, use of euphemistic language to describe violence), before concluding that editorial offices have no real editorial policies on gender issues. GREVIO notes that this makes disseminating existing recommendations on the media treatment of violence against women all the more urgent.<sup>57</sup>

**104. GREVIO invites the Belgian authorities to continue their efforts to involve the various competent regulators and large media organisations in Belgium, in order to ensure that care is taken not to undermine respect for equality between women and men, in particular by refraining from peddling gender stereotypes or degrading images of women, linking violence and gender, or by encouraging these actors to introduce ethical codes of conduct to ensure that media coverage of violence against women is human rights-based, sensitive to gender differences and avoids sensationalism. GREVIO also calls for further such action to be directed at publishers and distributors of online services.**

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<sup>55</sup> As well as the CSA mentioned on the Walloon side, the regulator on the Flemish side is the VRM (Vlaamse regulator voor). The regulator for the German-speaking Community is the Medienrat, while the IBPT (Belgian Institute of Postal Services and Telecommunications) is the regulator for the bilingual Brussels-Capital Region with respect to activities that cannot be exclusively attached to one of the Communities.

<sup>56</sup> La représentation des violences sexistes et intrafamiliales dans la presse écrite belge francophone, Study by the Catholic University of Leuven, April 2018.

<sup>57</sup> See recommendations developed by the Minister for Women's Rights of the Wallonia-Brussels Federation, feminist organisations and the Association des journalistes professionnels (AJP) for journalists (<http://www.ajp.be/violencesfemmes-recommandations/>) and public authorities ([www.alteregales.be/wp-content/uploads/2018/04/BROCHURE\\_AE\\_2017v2.pdf](http://www.alteregales.be/wp-content/uploads/2018/04/BROCHURE_AE_2017v2.pdf)).

## IV. Protection and support

105. Chapter IV of the Istanbul Convention aims at ensuring 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)

106. In line with the general multi-agency and comprehensive approach promoted by the Istanbul Convention, Article 18, paragraph 1, requires parties to take the necessary legislative or other measures to protect all victims from any further acts of violence. Paragraph 2 requires parties to ensure that there are appropriate mechanisms in place that provide for effective co-operation among the judiciary, public prosecutors, law enforcement agencies, local and regional authorities and NGOs. This would require a framework such as round tables and agreed protocols that would enable different professionals to work together in a standardised manner.

107. In Belgium, considerable strides have been made in recent years in terms of the involvement of new partners, co-operation protocols between departments, the creation of consultation structures and discussion sessions between professionals. The development of a multidisciplinary and holistic approach is one of the guidelines of the 2015-2019 NAP, which states that in any intervention with victims, regard must be had to their interests, safety and well-being. Networking has been stepped up according to various models, including periodic case consultation among the relevant actors, the case-centred chain approach, the creation of permanent teams of seconded workers and the Family Justice Centres (FJCs) which act as a one-stop shop for case co-ordination, co-support and consultation, following a referral from a professional.<sup>58</sup> At the time of its evaluation, GREVIO noted a trend towards the widespread adoption of this last model, particularly in Flanders, where a delegation from the Group was able to visit the FJC in Antwerp.

108. GREVIO notes that under Article 18 of the convention, any co-ordinated measure must comply with a series of requirements, chief of which is the need to be informed by a gendered understanding of violence against women and domestic violence and to focus on the fundamental human rights and safety of the victim. Specialist women's support services representing victims with their consent play an important role in ensuring that the rights of victims, including the right to data protection, are safeguarded in multi-agency co-operation. The representatives of these services whom GREVIO met during the evaluation visit told it, however, that in some areas of consultation, the interpretation of violence against women is sometimes unclear, making co-operation between partners who do not understand one another, or who have different objectives, problematic. There appears to be something of a disconnect between associations and services operating on the ground on the one hand and law enforcement and the judiciary on the other, due to the fact that these partners do not always frequent the same forums for dialogue and do not meet as a matter of course, with the result that they develop parallel approaches and activities which are not always consistent. The associations also spoke of shortcomings in co-operation with health and social services that hamper the provision of optimal care for victims. With regard to the FJCs, GREVIO notes that these tend to focus on child abuse and domestic violence in the broad sense of violence in relationships of dependence, thus covering a wide range of violence addressed in the Istanbul Convention. While this integrated approach is a move in the direction advocated by the convention, in that it takes into consideration the relationship between victims, perpetrators, children and their social environment, it should not detract from a gendered view of violence and women's autonomy or have the effect of making violence against women invisible and tend towards alternative dispute resolution processes which fail to take account of the unequal relationship between victims and perpetrators. The FJCs are just one of a number of mechanisms, moreover. They are no substitute for the existing specialist services (care and accommodation centres), which provide support to women while at the same time actively involving the relevant partners and which ought to be strengthened.

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<sup>58</sup> A detailed description of these different intervention models, how they operate and how they are distributed across the different regions and Communities in Belgium can be found on pages 43-5 of the state report.

109. **GREVIO strongly encourages the Belgian authorities to take appropriate steps to encourage further multi-agency co-operation and to ensure that the different forms of co-operation are firmly based on a gendered understanding of violence against women and domestic violence and focus on the human rights, safety and respect for the wishes of victims, as well as on their empowerment and economic independence. To this end, when networking, more should be done to harness and support the expertise and know-how of NGOs providing specialist services which put a gendered understanding of violence at the centre of what they do.**

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

110. Information on support services and legal measures available to victims of violence against women is provided in numerous ways. In Wallonia, victims of intimate partner violence have access to information through the Walloon social action portal<sup>59</sup> and the website [www.ecouteviolencesconjugales.be](http://www.ecouteviolencesconjugales.be), which has introduced a chat feature facilitating access for people with speech and hearing impairments. Other websites have been put online by the French Community, jointly with the Walloon Region and the COCOF.<sup>60</sup> The website for the Family Justice Center and “chain” approach in Flanders provides users and professionals with information about their regional activities. The benchmark site in Flanders is the one created around the helpline 1712<sup>61</sup> but there are also other sites more specifically geared to victims of sexual violence.<sup>62</sup> In addition, information websites for victims of any criminal offence provide guidance on the legal steps that can be taken in cases of gender-based violence.<sup>63</sup> Information on available legal remedies is also distributed to victims in the form of posters and flyers.<sup>64</sup>

111. There are also numerous initiatives aimed at familiarising migrant women victims of violence with their rights. Some of these initiatives are being undertaken at federal level, at the instigation of the IEFH and with the support of various specialist associations,<sup>65</sup> while others originate from the federated entities.<sup>66</sup> They address, inter alia, the forms of violence to which women of immigrant origin are particularly susceptible, such as female genital mutilation and forced marriage.

112. GREVIO notes with satisfaction the wealth of initiatives thus deployed to inform victims about their rights and options. It notes, however, that despite these efforts, the information is not reaching all the victims concerned, and does not seem to cover exhaustively all existing remedies and support services, such as, for example, claims for compensation from the perpetrator and the state and support services for vulnerable children.<sup>67</sup> The shadow report submitted to GREVIO indicates that many victims are still unaware of the complaints route and that the institutional actors responsible for passing on information tend to do so only to non-specialist services which do not always provide support tailored to victims. GREVIO notes in passing that this seems to be due in large part to a lack of training and awareness in the institutions concerned as well as to a failure to work in partnership with specialist support services.

113. **GREVIO strongly encourages the Belgian authorities to pursue their efforts to provide victims with adequate and timely information on available support services and legal measures, while taking care to ensure that this is undertaken as part of a solid partnership with specialist support services.**

<sup>59</sup> <http://actionsociale.wallonie.be/egalite-chances/violences-conjugales>

<sup>60</sup> [www.ainesansviolence.be](http://www.ainesansviolence.be), [www.journaldemarie.be](http://www.journaldemarie.be) and [www.arrete.be](http://www.arrete.be)

<sup>61</sup> [www.1712.be](http://www.1712.be)

<sup>62</sup> [www.violencessexuelles.be](http://www.violencessexuelles.be) and [www.ikzwijgnietmeer.be](http://www.ikzwijgnietmeer.be)

<sup>63</sup> [www.victimes.be](http://www.victimes.be) and [www.slachtofferzorg.be](http://www.slachtofferzorg.be)

<sup>64</sup> For example, the booklet “Vous êtes victime”, [https://justice.belgium.be/fr/publications/u\\_bent\\_slachtoffer](https://justice.belgium.be/fr/publications/u_bent_slachtoffer)

<sup>65</sup> See for example the collaboration between the IEFH, INTACT and GAMS which has led to travel advice on countries affected by female genital mutilation being published on the website of the Federal Public Service for Foreign Affairs.

<sup>66</sup> One example is the website [www.monmariagemappartient.be](http://www.monmariagemappartient.be) supported by the French Community.

<sup>67</sup> See pages 76 and 94 of the main shadow report.

## C. General support services (Article 20)

114. Article 20 of the convention requires that necessary measures be taken to ensure that victims of violence have access to services facilitating their recovery, such as financial assistance, housing, education, training and assistance in finding employment. This is very important if women victims of violence are to recover and become economically independent. Violence not only causes injuries but also diminishes women's life chances and possibilities. The support system must remove any barriers for victims by providing optimal services and support in a co-ordinated and non-bureaucratic way, so as to give all victims and their children a realistic chance to live a life without violence. Financial assistance, education, training, employment and housing are key factors in the support and recovery of victims of violence; these services need to be provided to all women, according to their needs, including migrant and refugee women.

### 1. Social and financial assistance

115. In Belgium, the structures responsible for providing social and financial assistance are the Public Social Welfare Centres (CPASs) in each municipality. Every person legally resident in Belgium is entitled, under certain conditions, to social assistance which aims to secure a minimum income for the entire population. As the CPASs are regularly confronted with cases of gender-based violence, a circular was issued in January 2019 inviting Walloon CPASs to set up a unit for violence between partners or to appoint lead persons in this area. The training of CPAS staff is also strongly encouraged. In Flanders, psychosocial assistance and practical and administrative support for victims are available through eleven Centres for General Welfare (Centra voor algemeen welzijnswerk or CAWs), non-profit organisations which receive grants from the Flemish Government.

116. Despite the special attention paid to issues relating to violence affecting women, it seems that the CAWs sometimes fail to consider the economic aspects of violence, and that the support provided is not always appropriate, particularly in the case of women in an already precarious situation.<sup>68</sup> Victims' rights groups also drew GREVIO's attention to the fact that many victims find it difficult to keep the marital home after the perpetrator has left, because they do not have sufficient economic resources. In the Brussels-Capital Region, a new scheme introduced in 2019 can provide help to victims in this situation via a rent allowance.

### 2. Health care

117. Despite the efforts made in terms of training,<sup>69</sup> it appears that lack of awareness about gender-based violence as a phenomenon and its consequences for health prevents victims from receiving optimal care from health professionals. By way of example, the specialist associations GREVIO spoke to mentioned the fact that certain conditions, such as fibromyalgia, pain and depression, are rarely identified as being the consequence of intimate partner violence. When violence is correctly detected, specific support from health care services for psychological suffering and/or post-traumatic stress is lacking. Another problem noted by GREVIO concerns the drawing up of medical certificates: not all doctors, including those working in hospital emergency departments, are aware of the importance of entering in the certificate the number of days of incapacity for work, even if the victim is unemployed, to support any future claim for judicial redress for damage suffered as a result of violence.

### 3. Housing

118. In order to promote victims' access to social housing, the relevant regulations in Wallonia award five priority points to individuals who leave housing because of intimate partner violence.<sup>70</sup> A victim who qualifies as homeless receives five additional priority points. While welcoming the authorities' intention to respond to one of victims' primary needs, GREVIO noted that, in practice,

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<sup>68</sup> Ibid. page 58.

<sup>69</sup> See the earlier discussion in this report in relation to Article 15 of the Convention.

<sup>70</sup> Walloon Government Decree of 8 May 2014 amending the Walloon Government Decree of 6 September 2007 on the leasing of housing managed by the Société wallonne du Logement or by public service housing companies.

the conditions governing the application of this measure may create difficulties for victims. In effect, the very short time limit for submitting the application (three months following departure from home) is insufficient for victims, who need to go through a process of empowerment before they can set up home on their own. Also, waiting lists for social housing are long and the housing offered is not always adequate.<sup>71</sup> These difficulties can be a major barrier to leaving the marital home. In Flanders, victims face similar difficulties: waiting lists for social housing force women to stay longer than necessary in shelters and the conditions governing access to the private housing market are prohibitive.

**119. GREVIO strongly encourages the Belgian authorities to take measures to:**

- a. ensure that victims of violence have access to appropriate financial assistance, while seeing to it that these measures are backed up by adequate training for the staff concerned, such as the staff of the Public Social Welfare Centres (CPASs) and the Centres for General Welfare (CAWs), regarding violence and its consequences for victims, particularly in terms of economic insecurity;**
- b. improve the care provided to victims by the health services, in particular as regards identifying violence and dealing with all its effects on overall health; the authorities should also encourage more informed use of medical certificates by health professionals, particularly in view of their impact on victims' access to compensation for the damage suffered;**
- c. make it easier for victims of violence to access housing as an essential condition for their recovery and consider reviewing existing arrangements so that they are as closely attuned as possible to the realities and needs of victims.**

**D. Specialist support services and shelters (Articles 22 and 23)**

120. In Wallonia, the main providers of specialist support services for victims and their children are the *maisons d'accueil* [shelters]. Most of these are grant-funded associations which provide reception and support for victims of intimate partner violence and their children either as their primary function or alongside a wider remit focusing on mother and child welfare. At the time of the GREVIO evaluation, there were 20 such shelters. The French Community also provides funding for dedicated out-patient services for victims of violence against women as part of victim support, one for victims of intimate partner violence and the other for victims of sexual violence. COCOF has two shelters specifically for victims of violence and three other facilities which take in mainly victims of violence and provide extra support for this group. In Flanders the CAWs operate three women's shelters and 13 centres providing residential care for women and men whose safety is seriously threatened. The state report indicates the numbers of women, men and children accommodated in these facilities from 2015 to 2017.<sup>72</sup>

121. There are also specialist support services for victims of violence other than intimate partner violence. In Flanders and Wallonia, four branches of GAMS (in Antwerp, Ghent, Namur and Liège) specialise in prevention and support for women and girls who are victims/at risk of female genital mutilation; in addition, the Walloon authorities provide funding for the platform engaged in action against forced marriage in the cities of Liège and Mons. Networks specialising in action against female genital mutilation and forced marriage also operate within COCOF. Specialist associations have, however, alerted GREVIO to the inadequacy of the existing provision, in particular for victims of forced marriage. Only a few shelters are able to meet all their needs, ranging from emergency accommodation to longer-term legal, administrative, social, financial and psychological support.

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<sup>71</sup> See page 26 of "Accès au logement, capacités et empowerment pour les femmes victimes de violences conjugales : la démarche de l'équipe "Pré-Post hébergement" du Collectif contre les violences conjugales et l'exclusion", December 2013.

<sup>72</sup> Page 34.



122. GREVIO notes with interest the efforts made by the authorities to promote the specialisation of structures able to receive and house women victims of gender-based violence. In Wallonia, a system of approval enshrined in statute<sup>73</sup> has helped to increase the number of shelters able to take in victims from four to nineteen in the space of approximately 10 years (from 2004 to 2017). GREVIO has also been informed that, in order to ensure the sustainability of non-residential services specialising in the care of victims of violence on the one hand and perpetrators on the other, the Walloon authorities have adopted a draft decree providing for an approximate increase in the total budget for this sector from €550,000 to €730,000 in 2020.

123. The specialist associations with which GREVIO held consultations have informed it, however, that shelters in Wallonia are too few in number and do not cover the whole territory, especially in rural areas. Flanders, meanwhile, operates a policy whereby priority is given to the non-residential approach over specialised care in a shelter. Individuals can still be accommodated in a shelter, safe house or reception centre if the need arises, and solutions other than collective accommodation are available too. Since 2014, there has been no reported expansion in the capacity of shelters in Flanders. Accessibility is a problem for certain groups of women, such as mothers with boys over 12 years of age and older women, as well as for particularly vulnerable women, such as women seeking to exit prostitution or women with disabilities.<sup>74</sup> It appears that the public funding methods used in Wallonia could stand to be improved in many respects: not only are they not designed to encourage the creation of additional places in shelters, but they are insufficient to provide the support activities needed to empower and help victims in the longer term, by recruiting the qualified staff required for that purpose.<sup>75</sup>

124. GREVIO points out that a minimum standard requirement for specialist support services is that they be provided to victims free of charge.<sup>76</sup> In Wallonia, while there is no charge for guidance and support provided in shelters, the same cannot be said for reception. Although less well-off victims can seek help from the CPASs, this mode of operation makes it impossible to cater for people who cannot cover their accommodation costs. That includes notably women present in the country unlawfully, who have no income and no entitlement to public assistance. Such women thus find themselves entirely dependent on the facilities that agree to take them in, with some shelters preferring to refer them to other charitable facilities. The same is true of Flanders where those wishing to stay in shelters (including crisis shelters) must pay a fee.

**125. GREVIO urges the Belgian authorities to take the necessary measures to ensure that victims of all forms of violence covered by the convention and their children, in an adequate geographical distribution, have access to specialist support services and appropriate shelters. To this end, the authorities should in particular ensure that there are sufficient places in specialised accommodation and guarantee free access to shelters for victims regardless of their condition or status, taking care to draw on existing good practice and to develop solutions which are the result of consultation with specialist associations working as closely as possible with victims and their children.**

## **E. Helplines (Article 24)**

126. On the Flemish side the helpline 17 12 (and the associated website <https://www.1712.be/>) is a central plank in the regional policy for dealing with violence and abuse, including child abuse. The focus is on violence in general rather than gender-based violence. It would seem, however, that this helpline is the only one of its kind available in Dutch. The helpline, furthermore, is only available during office hours, outside of which victims have access to a chat service (from Monday to Thursday

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<sup>73</sup> The last regulatory change was the amendment made on 26 January 2017 to the Walloon Regulatory Code for Social Action and Health.

<sup>74</sup> Page 15 of the report "Violence à l'égard des femmes handicapées", asbl Persephone, 2008.

<sup>75</sup> See report "Evaluation of policy measures to tackle domestic violence in Wallonia. Walloon Region", Engender asbl, 2016.

<sup>76</sup> See page 40, table 8.4 of Combating violence against women: minimum standards for support services, Council of Europe, 2008.

between 5 pm and 7 pm) or are redirected to the police emergency service (101) for potentially life-threatening situations, or to emergency medical assistance (112).

127. On the French-speaking side, GREVIO is pleased to note that there is an active communication policy. There are three anonymous and free helplines and associated Internet platforms, focusing on three types of violence covered by the convention: intimate partner violence - 0 800 30 030 / <https://www.ecouteviolencesconjugales.be/>- sexual violence - 0800 98 100 / <https://www.sosviol.be/>- and forced marriage - 0800 90 901 / <http://monmariagemappartient.be/index.php/fr/>. The French-language site on intimate partner violence is aimed at victims, perpetrators, witnesses and professionals. The site, which contains a wealth of information, also addresses the issue of children who are co-victims of partner violence, and is run by professionals trained in the care of victims and perpetrators of violence. Regarding its impact among the French-speaking population, according to the site, as of 22 October 2019, it had received 17,529 calls since 2012, an average of approximately 2,500 calls per year, and 7 calls per day. These figures appear relatively low in relation to the prevalence of intimate partner violence. As well as this site, there is also a useful French-language site for young couples: <http://www.imesansviolence.be/> Another dedicated site, which uses a new communication angle to boost the flow of visitors to the main site <https://www.ecouteviolencesconjugales.be/>, was also launched in 2016: <http://www.journaledemarie.be/>. As for the SOS Viol helpline, this provides victims of sexual violence with a space where they can find advice and support, free of charge. It is accessible to victims throughout the French Community and, where appropriate, individuals can be referred to the various victim support services in the French Community for help close to home. The toll-free number seems to be increasingly well known among the general public and victim support groups, probably as a result of the two campaigns to promote the helpline in 2016 and 2017 (poster campaign, ads in various media and information sites, in pharmacies, etc.).

128. As regards the key online platforms, GREVIO welcomes the creation of a dedicated website on sexual violence. A federal initiative, the site is available in Dutch, French and German and allows direct and anonymous discussion via chat sessions (albeit only during certain hours). Alternatively, users can be redirected to a sexual violence prevention centre (CPVS).<sup>77</sup> GREVIO also notes the website [www.slachtofferzorg.be](http://www.slachtofferzorg.be) which provides information and support of a practical, legal and emotional nature on the different types of gender-based violence.

**129. GREVIO strongly encourages the Belgian authorities to provide, in co-operation with women's rights NGOs, advice, information and guidance services specifically targeting violence against women which meet the requirements of Article 24 of the Istanbul Convention in terms of round-the-clock cover, seven days a week and are balanced between the country's different linguistic communities.**

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

130. In November 2017, three support centres for victims of sexual violence (CPVSS) were set up in Ghent, Brussels and Liège. The CPVSS are based on the multidisciplinary collaborative model and holistic approach recommended by the WHO: they offer victims of this type of violence immediate medical care, psychological support related to the trauma they have suffered, and a forensic examination to gather the evidence needed to bring a prosecution. After receiving in-depth care, the victim can, if they so wish, file a complaint and be interviewed by a police officer seconded to the CPVS. Based on a review of this experience, it is planned to roll out the CPVSS nationwide in the short to medium term. GREVIO welcomes this expansion as it would fill a major gap in the service provision for victims of rape and sexual violence in Belgium.

131. Pending completion of the roll-out of the CPVSS, victims of rape and sexual assault in Belgium can turn to any on-duty doctor or hospital for forensic examinations and the collection of crucial evidence. Although specific instruments, awareness campaigns and support tools are

<sup>77</sup> <https://www.violencessexuelles.be/>

available to professionals, GREVIO notes that this approach does not, as such, offer specialist services to victims and much will depend on the degree of specialisation and sensitisation of the professional concerned. It would also appear that, in places other than hospitals with CPVSSs, not all victims have access, systematically and irrespective of whether they file a complaint, to a gynaecological examination that would make it possible to gather evidence of rape for the purposes of any future legal proceedings.

**132. GREVIO strongly encourages the Belgian authorities to pursue their efforts to set up centres to provide emergency assistance to victims of sexual violence across the country.**

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

133. Supporting children who witness intimate partner violence involves work between professionals from different sectors, who may have some tasks in common (in the French Community and in Wallonia, the psycho-medico-social centres (CPMS), school health promotion services (SPSEs), Child SOS Teams, and the Encounter Spaces (ONE), youth support services (SAJs), family planning centres and youth protection services (SPJs); in Flanders, the CAWs, the local branches of Kind en Gezin, the youth support centre (OCJ) and the social service for legal aid to young people (SDJ)). Agreements have been signed, providing for cross-sectoral collaboration between these different sectors. On the French-speaking side, these include various protocols signed between the child support administration and partner sectors, as well as the Wallonia-Brussels Federation government decree of 23 November 2016 which provides for, *inter alia*, co-ordination of abuse prevention via the 3-year abuse prevention plan. Care for young people who are struggling or in danger is governed by the Decree of 18 January 2018 introducing the code on prevention, youth support and youth protection. On the Flemish side, there is the Flemish action plan for the promotion and protection of the physical, psychological and sexual integrity of minors.<sup>78</sup>

134. The shelters in Wallonia take in large numbers of children and, according to their resources, offer reception facilities and times tailored to their specific needs. Because, however, provision for children relies on the initiative of individual shelters, with no structural support from the state, the care is rather haphazard. Where children are redirected to non-residential care, the approach adopted by the relevant agencies can be problematic. This is particularly the case when agencies reduce violence to a "conflict" and rely on mediation and direct confrontation to resolve the situation.

135. Unless the child goes into a shelter, their status as a "co-victim" is not systematically recognised by front-line services.<sup>79</sup> The latter often fail to include children in their thinking, making it difficult for them to access support and protection services.<sup>80</sup> Where care is provided, additional barriers may arise from the inaccessibility of services in a crisis situation and, in some cases, long waiting times.

**136. GREVIO urges the Belgian authorities to take measures to make it easier for child witnesses to access protection and support services. To this end, the authorities should:**

- a. improve collaboration between the various agencies specialising in the care of women victims of violence on the one hand, and those responsible for the care of children on the other;**
- b. draw up clear guidelines and/or review existing practices and benchmarks for agencies which specialise in helping and supporting children, so that any action they take is based on a recognition of the risks and harmful consequences to which child witnesses are exposed as a result of violence and in connection with their safety and the safety of their mothers;**
- c. provide more help for shelters in their task of supporting child witnesses, alongside their mothers.**

<sup>78</sup> The working tools and guidelines for relevant professionals developed within these initiatives are described on pages 39 and 40 of the state report.

<sup>79</sup> See the discussion on this point in relation to Article 31 of the Convention.

<sup>80</sup> Page 94 of the shadow report.

## V. Substantive law

137. Chapter V of the Istanbul Convention covers a range of provisions related to substantive law, in the area of both 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 remedies against the state: principle of due diligence (Article 29)

138. One of the convention's major objectives is to put an end to impunity for acts of violence against women. This means not only compelling perpetrators of violence to answer for their actions by means of criminal and other measures but also providing legal procedures for reporting failures by state authorities and having them remedied. If state officials, bodies or institutions have not exercised due diligence to prevent, investigate and punish acts of violence (Article 5 of the convention), the victims and/or their relatives must be able to hold them to account.

139. In Belgium, civil and/or criminal liability of public officials for a breach of their public duties, whether committed through negligence or intentionally, is governed by general law, namely Articles 1382 et seq. of the Civil Code, for civil liability, and Article 5bis of the preliminary part of the Code of Criminal Procedure, concerning suing for damages in criminal proceedings. The authorities have also informed GREVIO that anyone who believes that their rights have been infringed by the actions of police officers can make a complaint to the police monitoring body ("P Committee"). The latter is able to conduct an inquiry into any structural or management failings but is not designed to rule on individual misconduct. Similarly, as far as judges and prosecutors are concerned, any member of the public who believes that they have not obtained justice because of a malfunction in the judicial system can apply to the High Council for Justice. It is also possible for disciplinary action to be taken against police officers or judges and prosecutors if they break their respective rules of conduct.

140. In the absence of information and/or data showing to what extent women victims of gender-based violence are using the above remedies, GREVIO has been unable to ascertain whether Belgium is effectively implementing its obligations under Article 29, paragraph 2, of the convention.

**141. GREVIO encourages the Belgian authorities to ensure that they have data for checking whether victims of all the forms of violence covered by the Istanbul Convention actually have access to 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.**

#### 2. Compensation (Article 30)

142. Under the above-mentioned provisions of general law, compensation can be obtained from the perpetrator of violence either in a civil court or in a criminal court if the victim is suing for damages. The number of women victims having claimed, and obtained, such compensation, as well as the average time granted for perpetrators to pay it, are not known for want of statistics disaggregated by sex.

143. In the alternative, where the identity of the perpetrator of the violence is not known, for example, compensation may be granted by the state. The claim for compensation must be made to the Commission for Financial Assistance to Victims of Deliberate Acts of Violence and to Ad Hoc Rescuers, which considers the following factors: non-material damage; medical and hospital expenses, including cost of prostheses; temporary or permanent disability; loss of earnings as a result of permanent or temporary incapacity to work; disfigurement; costs of proceedings up to €6,000; material costs (clothing, travel expenses, etc.) up to €1,250; and injury resulting from loss of one or more years of schooling. GREVIO appreciates the fact that the authorities have provided data on the number of victims compensated by the Commission and the amounts concerned, together with the grounds on which the compensation was granted.<sup>81</sup> It notes, however, that the average times for granting such compensation are not available, when in fact civil society has drawn GREVIO's attention to the problems encountered by victims whose compensation is delayed, despite the existence of emergency assistance that can be granted before court proceedings have been completed. It would also seem that state compensation is one of the legal measures on which more work is required to provide victims with more information about their rights.<sup>82</sup>

144. **GREVIO invites the Belgian authorities to:**

- a. **step up the collection of data on the number of women victims of violence having claimed, and obtained, state compensation, taking care to disaggregate them for all the forms of violence covered by the Istanbul Convention, and include data on the timeframes within which such compensation is paid;**
- b. **ensure that state compensation is paid within a reasonable time, as required by Article 30, paragraph 2, of the Istanbul Convention.**

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

145. When determining custody and visitation rights for a family in which abuse has been committed, it is important to give careful consideration to the different interests at stake. Article 31 of the Istanbul Convention here requires incidents of violence covered by the convention, and particularly incidents of domestic violence, to be taken into account. It also requires the Parties to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children, whilst respecting perpetrators' parental rights. In cases of domestic violence in particular, questions relating to children are often the only ties that remain between victim and perpetrator. For many victims and their children, contact orders necessitating an encounter with the perpetrator may be seen as a continuation of the violence and can even entail a serious safety risk.<sup>83</sup>

146. In Belgium, since enactment of the law of 18 July 2006,<sup>84</sup> the principle of shared custody has been the default solution for determining custody and visitation rights regarding children. This law has amended Article 374 of the Civil Code by obliging the competent court to examine as a matter of priority, at the request of at least one of the parents, the option of ordering equal residency for children. The parent objecting to equal residency is then required to prove the existence of serious contraindications. The law fails to specify the relevant grounds, but the preparatory papers<sup>85</sup> give a few examples without, however, mentioning intimate partner violence. GREVIO notes, on the other hand, that the problematic notion of parental alienation syndrome, which is frequently brought up to minimise or ignore violence, is included among these grounds<sup>86</sup> and continues to be raised in

<sup>81</sup> State report, page 48: "In 2015 and 2016, the Committee took 996 and 1088 decisions respectively, concerning total amounts of €10,195,810.42 and €11,513,482.14. Between 2011 and 2016, 17.55% concerned indecent behaviour (sexual abuse) and 5.53% violence in a relationship."

<sup>82</sup> See comments in connection with Article 19 of the Convention above.

<sup>83</sup> Explanatory report to the Istanbul Convention, paragraph 176.

<sup>84</sup> Law providing for equal residency of children whose parents are separated and governing enforcement of residency.

<sup>85</sup> Draft law of 17 March 2005, Amendment No. 51-1673/014.

<sup>86</sup> GREVIO has had occasion to voice strong reservations about this idea and the use made of it in the courts in a number of evaluation reports (see, for example, paragraph 187 of the evaluation report on measures taken by Italy to implement the provisions of the Istanbul Convention) and also upon adoption of the statement of 31 May 2019 by the platform of independent United Nations and regional expert mechanisms on violence against women and women's rights.

relevant work in progress.<sup>87</sup> Intimate partner violence is not taken into account in the earlier law of 8 April 1965 either,<sup>88</sup> which lists grounds for total or partial deprivation of parental authority. While GREVIO fully supports the child's right to maintain his or her relationship with both parents, in accordance with Article 9, paragraph 3, of the United Nations Convention on the Rights of the Child, exposure to domestic violence – as a victim or witness – requires that exceptions be made in the child's best interests.<sup>89</sup>

147. One legal instrument that does expressly relate to the issue of violence in decisions about exercise of parental authority is the joint circular from the Ministry of Justice and the Board of Principal Crown Prosecutors regarding criminal policy with respect to intimate partner violence ("COL 4/2006") in its revised version of 2015.<sup>90</sup> This circular is counting on a better flow of information as a key factor enabling family and juvenile courts to rule in the light of information held by the criminal courts and/or prosecution service. Recognising the potential or proven impact of violence on children, the circular paves the way for a constant flow of information between police officers, judges responsible for family and juvenile cases, and judges responsible for criminal cases.<sup>91</sup> GREVIO also appreciates the role performed in this context by criminologists. The latter work with the family and juvenile courts and have the task of assisting "public prosecutors in the handling of individual cases in order to find methods of intervention in the best interests of the children concerned, in particular by studying the findings of investigations and expert reports, and, where appropriate, contacting other parties involved, whilst respecting [...] confidentiality rules for staff in the psycho-medico-social sector".<sup>92</sup>

148. GREVIO welcomes the system thus introduced by COL 4/2006, which is designed to allow civil courts to rule on custody and visitation rights whilst taking account of violence even if there is no prosecution. However, GREVIO notes that, despite this system, family courts tend to disregard the situation of children who witness violence during divorce and separation proceedings. This would seem to stem from the mistaken belief that children are no longer in danger once their parents have separated,<sup>93</sup> and a failure to understand the heightened risks of violence that can arise during the post-separation period. Acts of violence seem to be equated with disputes, and use of mediation has thus become the norm, without the appropriate precautions.<sup>94</sup> Moreover, while there are ways of ensuring that exercise of visitation or custody rights does not jeopardise the rights and safety of the victim or the children, as required by Article 31, paragraph 2, of the Istanbul Convention, they tend to be few in number and not very accessible.

149. Similar concerns subsist regarding child support services, which can introduce measures affecting exercise of parental authority irrespective of the courts. In Belgium, child protection services come under the joint jurisdiction of the Communities and the federal authorities (Ministry of Justice). Services under the Communities are in the front line, offering assistance to children at risk (of abuse in the family, for example), while the juvenile courts are empowered to order assistance only if the solutions offered by the child support services have failed. In this respect, the judges and prosecutors whom GREVIO interviewed during the evaluation visit distanced themselves from the methodological approach of the child support services. The latter frequently meet parents together, without taking the time to meet the mothers on their own, thus producing flawed assessments in cases where there has been violence. GREVIO further notes that the phenomenon of violence against women and the circumstances of child witnesses are conspicuous by their absence from the

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<sup>87</sup> Parental alienation is one of the issues now being studied in connection with the current reform of mediation in family court cases (see page 52 of the state report).

<sup>88</sup> Law of 8 April 1965 on the protection of young persons and the treatment of juveniles who have committed an act classified as an offence and on compensation for damage caused by the offence.

<sup>89</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>90</sup> COL 4/2006 is also a cornerstone of Belgian criminal policy combating intimate partner violence and is considered in greater detail in Chapter VI below.

<sup>91</sup> COL 4/2006, page 27.

<sup>92</sup> Ibid.

<sup>93</sup> Page 77 of the shadow report.

<sup>94</sup> See comments below on the use of mediation (in relation to Article 42 of the Convention).

working tools and frame of reference used by the General Administration for Child Support (AGAJ) in the French Community.<sup>95</sup> Nor did GREVIO find any evidence of greater sensitivity to these issues in the relevant child protection services in Flanders.

**150. GREVIO urges the Belgian authorities to take the necessary measures to ensure that in the determination of custody and visitation rights or the introduction of measures affecting exercise of parental authority, the competent authorities are required to consider all issues relating to violence against women and assess whether this violence might warrant restricting custody and visitation rights. To this end, the authorities should:**

- a. **consider amending their legislation to recognise explicitly the need to take account of the incidents of violence covered by the Istanbul Convention in the determination of custody and visitation rights regarding children;**
- b. **incorporate risk assessment procedures in the determination of custody and visitation rights in order to determine the child's best interests in situations of violence;**
- c. **ensure appropriate use of the legal provisions which allow the perpetrator's custody and visitation rights to be curtailed, removed and/or subjected to safeguards whenever a situation of violence is ascertained and promote the determination of custody and visitation rights on a provisional basis until all reported acts of violence against women are properly assessed;**
- d. **do more to encourage appropriate training and the preparation of professional guidelines alerting the relevant professionals to the harmful effects of violence on children, including child witnesses, and familiarising them with the provisions of the Istanbul Convention on custody and visitation rights;**
- e. **improve accessibility of arrangements ensuring that exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children.**
- f. **make the relevant professionals aware of the lack of scientific basis for "parental alienation syndrome" and sensitise the public to this issue.**

**Progress in this field should be measured by means of case law data and analysis illustrating how family courts consider incidents of violence and the grounds they give for their decisions on custody and visitation rights.**

## **B. Criminal law**

151. The Belgian Criminal Code contains a number of provisions criminalising the forms of behaviour referred to in Articles 33 to 40 of the Istanbul Convention. By and large, they are general criminal provisions rather than provisions covering specific offences. Detailed information on the range of applicable offences is contained in appendix C to the state report. The following considerations concern some of the offences for which GREVIO has noted a lack of conformity with the recommendations of the convention and/or room for improvement in their implementation.

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

152. In Belgium, psychological violence is recognised as such in provisions governing criminal policy.<sup>96</sup> It is not a specific offence, but it is covered by a number of offences in the Criminal Code, including threats (Articles 329 and 330), inhuman and degrading treatment (Article 417bis), calumny and defamation (Article 443) and insults (Article 448). However, these offences are designed mainly to punish single acts in isolation and they do not all take account of the repetitive and protracted nature of violence in the form of acts that, taken separately, will not necessarily be enough to qualify as an offence. Accordingly, these provisions might be insufficient to punish the long-term coercive control typical of intimate relationships marked by domination and violence.<sup>97</sup> GREVIO further notes that the types of conduct to be criminalised under Article 33 of the convention differ from the types

<sup>95</sup> See AGAJ official website: [http://www.aidealajeunesse.cfwb.be/index.php?id=ajss\\_accueil](http://www.aidealajeunesse.cfwb.be/index.php?id=ajss_accueil).

<sup>96</sup> COL 3/2006 and COL 4/2006.

<sup>97</sup> Explanatory report to the Istanbul Convention, paragraphs 180 and 181.



of conduct referred to in Article 34 of the convention on harassment, for which a specific provision exists in the Belgian Criminal Code.<sup>98</sup>

153. GREVIO notes that one of the main complaints about criminal legislation expressed by victim support groups is that control, persistence over time, and the fact that intimate partner violence takes place against a background of economic, administrative and/or psychological domination are totally disregarded.<sup>99</sup> Nor does the scale of punishments for the above-mentioned offences seem commensurate with the seriousness of intimate partner violence – especially when the latter is repeated over time – and even when there are aggravating circumstances.<sup>100</sup> The judges consulted by GREVIO also acknowledged that they felt ill-equipped to address economic violence, although some offences made it possible to criminalise behaviour adversely affecting a partner's financial independence and/or putting that person in a vulnerable position, such as forgery (Article 193), fraud (Article 496), bankruptcy fraud (Article 490bis) and theft (Articles 463 et seq.).

**154. GREVIO encourages the Belgian authorities to take measures to investigate, prosecute and punish acts of psychological violence in an effective manner, making full use of the relevant provisions of the Criminal Code, or to consider introducing new provisions that would better meet the requirements of Article 33 of the Istanbul Convention.**

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

155. GREVIO commends Belgium for its definition of sexual violence, which rests on the victim's lack of consent, in line with Article 36 of the convention. Accordingly, the first paragraph of Article 375 of the Criminal Code defines rape as "any act of sexual penetration, of whatever nature and by whatever means, committed in respect of a person who has not given consent". Under the second paragraph of this article, violence, duress, threats and surprise can be classified as lack of consent, but these circumstances are not exhaustive and do not constitute essential elements of the offence. Furthermore, a child aged under 14 is presumed unable to consent to a sexual act, and this presumption is irrebuttable. Much the same is true of sexual violence other than rape. Such violence is punishable under the indecent assault provisions (Articles 372 to 374 of the Criminal Code), which apply to any sexual act performed under duress and/or violating a person's sexual integrity irrespective of the use of violence or threats. Criminal legislation on sexual violence also includes the offence of voyeurism (Article 371/1, paragraph 1, of the Criminal Code), which can be used to punish, among other things, non-consensual image or video sharing after a break-up. GREVIO also welcomes the recent law of 16 April 2020, which has refined the wording of Article 371/1 to include more explicitly non-consensual sharing of sexual images and recordings. This law now provides for a procedure for blocking and deleting such images, including fines for operators who fail to cooperate, and gives the IEFH the right to take legal action, with the agreement of the victim or their beneficiaries, for any of the offences referred to in Articles 371/1 and 371/2 of the Criminal Code.

156. According to the principles of international human rights law, rape and other non-consensual acts of a sexual nature should be defined as violations of an individual's bodily integrity and sexual autonomy<sup>101</sup> rather than as crimes against morality, public decency, honour, family or society. Yet, in Belgium, sexual violence is dealt with in Book 2, Part VII of the Criminal Code entitled "Crimes and offences against family order and public morality". As pointed out in a 2017 report,<sup>102</sup> legal categorisation of sexual offences according to notions of "honour" or "morality" should be avoided for various reasons. Historically, it is the consequence of beliefs and practices which perpetuate the idea that women are bearers of society's "moral standards", and it fosters an environment in which perpetrators of sexual and other violence against women are exonerated and the responsibility for the violence is transferred to its victims. In Belgium, GREVIO has noted that this categorisation is

<sup>98</sup> Article 442bis of the Criminal Code.

<sup>99</sup> Page 82 of the shadow report.

<sup>100</sup> More detailed consideration is given to aggravating circumstances below in connection with Article 46 of the Convention.

<sup>101</sup> See *Handbook for Legislation on Violence against Women*, United Nations Entity for Gender Equality and Empowerment of Women, 2012, page 24.

<sup>102</sup> Equality Now, *The World's Shame. The Global Rape Epidemic: How Laws around the World are Failing to Protect Women and Girls from Sexual Violence*, 2017, page 22.



reflected in the terms *délits de mœurs* (vice offences), *enquête mœurs* (vice investigation) and *inspecteur mœurs* (vice inspector) commonly used in occupational practice.

**157. Whilst commending the Belgian authorities for their definition of sexual violence based on the victim’s lack of free and informed consent, GREVIO invites the authorities to amend the current definition of this violence in criminal law as an offence against “family order” and “public morality” and to make it a crime against the victim’s bodily integrity and sexual autonomy.**

### **3. Forced marriage (Article 37)**

158. Under Article 391sexies of the Belgian Criminal Code, anyone forcing another individual to enter into a marriage by violence or threats is liable to a prison sentence ranging from three months to five years. Article 391octies extends this protection to victims of forced cohabitation. As regards the conduct described in the second paragraph of Article 37 of the convention, namely luring a person to the territory of a third state with the purpose of forcing this person to marry against their will, the authorities have informed GREVIO that such conduct can be dealt with through the offence of trafficking in human beings referred to in Article 433quinquies of the Belgian Criminal Code. GREVIO notes in this respect that the applicability of this provision for prosecuting the conduct referred to in the second paragraph of Article 37 of the convention has not, or has hardly, been verified in practice by the courts. In the opinion of GREVIO, it needs to be ascertained therefore whether the existing legislation is capable of being used to bring prosecutions in such cases. Depending on the results of this assessment, consideration could be given to providing greater conceptual clarity in the criminal legislation indicating the links, and at the same time the differences, between forced marriage and trafficking in human beings, for example by extending the offence mentioned in Article 391sexies of the Criminal Code to expressly include the conduct referred to in Article 37, paragraph 2 of the Convention.

**159. GREVIO strongly encourages the Belgian authorities to conduct a thorough review of the existing criminal legislation to ascertain whether it can be used for the criminal prosecution of a person who commits the intentional act of luring an adult or a child to the territory of another state with the purpose of forcing this adult or child to enter into a marriage, in accordance with Article 37, paragraph 2, of the Istanbul Convention, so that it can be determined whether there is a need to amend/incorporate the relevant legal provisions.**

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

160. In Belgium, forced abortion is criminalised under Articles 348 and 349 of the Criminal Code. As for forced sterilisation, it is covered by the offence of assault and battery with or without aggravating circumstances, provided for in Articles 398 et seq. of the Criminal Code, and the provisions relating to inhuman and degrading treatment in Articles 417bis et seq. In the medical field, there are additional safeguards under the law of 22 August 2002 on patients’ rights and Article 54 of the Medical Code of Conduct; these protect a patient’s right to consent freely to any surgery by a professional practitioner subject to prior information.

161. Despite these measures, a 2013 report by specialist NGOs<sup>103</sup> cites the risk of forced sterilisation to which women with disabilities are exposed. While it acknowledges the progress made, with the 2013 law reforming disability schemes and introducing new rules on protection in keeping with human dignity, the report notes that “this new legislation will still allow third parties, in some cases, to give consent in place of the persons concerned, and therefore to sterilisation practices”. This risk is also mentioned in the Belgian Disability Forum’s written contribution for GREVIO and in its 2019 shadow report to the CEDAW Committee, which places the risk of forced sterilisation of

<sup>103</sup> Shadow report initiated and co-ordinated by the Belgian Disability Forum for the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, drafted under the new optional procedure (CAT/BEL/Q/3), September 2013.

women with disabilities in the broader context of ignorance of their rights to sexual and reproductive health.

162. GREVIO notes that it is not the intention of Article 39 of the convention to criminalise any medical interventions or surgical procedures which are carried out, for example, with the purpose of assisting a woman who lacks capacity to consent. Rather, the aim of this provision is to emphasise the importance of respecting women's reproductive rights by allowing women to decide freely on the number and spacing of their children and by ensuring their access to appropriate information on natural reproduction and family planning.<sup>104</sup>

**163. GREVIO invites the Belgian authorities to ensure that the existing provisions on forced abortion and forced sterilisation are able to protect women with disabilities against this form of violence, as required by Article 39 of the Istanbul Convention.**

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

164. Application of sanctions and measures regarding offences covered by the Istanbul Convention are discussed below under Chapter VI in connection with Articles 49 and 50 of the convention.

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

165. GREVIO notes with satisfaction that Belgian legislation on aggravating circumstances has made several advances. By way of example, mention may be made of the aggravating circumstance of intimate partner violence (Article 410 of the Criminal Code) or violence committed out of hatred for an individual, including because of their gender (Article 405quater of the Criminal Code). It follows that most of the circumstances listed in Article 46 of the convention can be taken into consideration in the determination of sentences for offences covered by the convention. Nevertheless, GREVIO notes that further progress could be made.

166. More specifically, the circumstance of an offence being committed against a former or current spouse or partner (Article 46, lit.a of the convention) is likely to lead to a harsher sentence only for some offences, a full list of which is given, including intentional homicide and deliberate bodily harm, whereas it ought to apply to all offences covered by the convention. Nor does the Criminal Code provide for a heavier sentence when the offence is committed in the presence of a child (Article 46, lit.d) or when the perpetrator has previously been convicted of offences of a similar nature (Article 46, lit.i). The authorities have stated that the fact that these aggravating circumstances are not firmly anchored in the legal system would not prevent their being taken into account by the courts.<sup>105</sup> No details of the legal provisions whereby such an outcome could be achieved have been supplied, however.

**167. GREVIO encourages the Belgian authorities to review the applicable legislation and relevant judicial practices in order to determine to what extent they should be amended to enable the circumstances described in Article 46 of the Istanbul Convention to be taken into consideration as aggravating circumstances for sentences relating to the violence covered by the convention.**

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

168. In criminal cases, mediation is governed, firstly, by Article 216ter of the Code of Criminal Procedure and, secondly, by the provisions added by the law of 22 June 2005 concerning restorative mediation. These provisions are based on the principle of voluntary participation by the parties. As regards mediation in criminal matters (Article 216ter of the Code of Criminal Procedure), this principle is repeated in COL 4/2006 with one important distinction: criminal mediation must be considered

<sup>104</sup> Explanatory report to the Istanbul Convention, paragraph 206.

<sup>105</sup> Page 51 of the state report.

carefully in situations of intimate partner violence where one partner exerts control over the other. The decision to use criminal mediation is a prerogative of the prosecution service and is confined to acts that are not punishable by a prison sentence of over two years or by a more severe penalty. Mediation in criminal matters presupposes compensation or redress for the injury caused by the offence. Once all the conditions laid down by the prosecution service (such as doing community service, completing an accountability programme, paying the analysis and expert evaluation costs) have been met by the perpetrator, the criminal proceedings are terminated.

169. GREVIO notes the context of domination inherent in intimate partner violence, the strategies which perpetrators employ and consequently the risk that, in some cases, a victim may hesitate or feel unable to refuse mediation for fear of future violence or reprisals by the perpetrator. This risk is all the greater when the legal professionals concerned, and in particular judges, prosecutors and mediators, are not trained in the dynamics and risks of violence against women and its impact on children. GREVIO points out in this regard that unequal power relations between victims and perpetrators of violence may influence the victim's ability to consent voluntarily to mediation and put them at risk of secondary victimisation. This danger is the reason why in some countries criminal mediation is prohibited in cases of violence against women. Also, in a context where a high proportion of cases are closed without further action,<sup>106</sup> the use of mediation may help to create the impression that, in the eyes of society, violence does not constitute an offence that warrants a criminal conviction.

**170. GREVIO strongly encourages the Belgian authorities to take all necessary measures to ensure that the use of criminal mediation in cases of violence against women is based on full respect for the rights, needs and safety of victims. Such measures should have the effect of ensuring:**

- a. that women victims of violence to whom criminal mediation is offered are informed of their rights in the context of such a procedure, in particular as regards the non-mandatory nature of mediation;**
- b. that mediation is only offered/applied to women victims of violence who are in a position to decide freely to accept or refuse the procedure;**
- c. that the judges, mediators and legal professionals involved in the decision to use mediation and in its application are trained in the field of violence against women and the risks that victims may face in the context of mediation.**

171. In civil cases, mediation is widely promoted by family courts to bring about friendly settlement of personal and/or money disputes in a couple, whether to decide how rights to personal relationships with the children are exercised, how property is divided, the financial contribution of each parent to their children's education, or a spouse's maintenance allowance. Mediation is possible as soon as the decision to separate has been taken but also before or during legal proceedings, as well as after the separation or divorce, when the decisions already taken no longer match the situation. When the parties appear at the preliminary hearing, the judge hears their accounts of how they tried to resolve the dispute amicably prior to the start of proceedings, in order to determine whether an amicable settlement is possible. The registry informs the parties of the possibility of mediation, conciliation and any other amicable dispute resolution method by sending them an information brochure on the subject of mediation and a list of family mediators. Use of mediation has been further promoted with the law of 18 June 2018.<sup>107</sup> The wording of this law emphasises the mandatory aspect of this alternative dispute resolution method, and Article 1734 of the Judicial Code as amended by this law explicitly states that a judge may order mediation even if one party objects to it.<sup>108</sup>

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<sup>106</sup> See comments in this report in connection with Article 50 of the Convention.

<sup>107</sup> Law of 18 June 2018 introducing miscellaneous provisions in the field of civil law and provisions promoting alternative forms of dispute resolution.

<sup>108</sup> The relevant provision of Article 1734 of the Judicial Code reads as follows: "If he or she considers reconciliation of the parties to be possible, the judge may, ex officio or at the request of one of the parties, order mediation, after having heard the parties, at the preliminary hearing, at a hearing deferred to an early date or at a hearing scheduled no later than the last day of the month following the filing of the defendant's first pleadings. The judge shall not order mediation if both parties object."

172. In Belgium, mediation in the broad sense is very widely used outside the courts, on the initiative of assistance and support services. However, the approach is not the same throughout the country. In Wallonia, the practice is treated more cautiously, with due regard to the unequal relationship created by violence within a couple and to potential risks to the safety of the victim and the victim's children. A comparable level of caution and sensitivity to the inequalities inherent in the relationship between a victim and the perpetrator of violence is not apparent in Flanders. Here mediation not only between partners but also between parents and children and family members is a key feature of the "chain approach" taken by the Family Justice Centres (FJCs) and of the support services offered by the CAWs.<sup>109</sup>

173. In their report,<sup>110</sup> the authorities informed GREVIO that a general reform of mediation in family court cases was in progress. GREVIO notes that this reform offers an opportunity to take into consideration the comments made in this report with respect to Article 48 of the convention, together with other related comments regarding Article 26 on protection and support for child witnesses and Article 31 on custody and visitation rights.

174. **GREVIO strongly encourages the Belgian authorities to:**

- a. **bring the legislative provisions on mediation into compliance, taking into account the prohibition by Article 48 of mandatory alternative dispute resolution processes in situations where there is violence against women;**
- b. **take appropriate measures to train, raise awareness among and provide guidance for the relevant professionals, particularly judges, prosecutors, mediators and support service providers, so that they are able to identify and distinguish between intimate partner violence and situations of conflict and can assess the desirability of mediation in the light of the need to respect the victim's rights and interests.**

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<sup>109</sup> Page 52 of the state report.

<sup>110</sup> Page 52 of the state report.

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

175. 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)**

176. Improvement in the police and judicial response to violence against women in Belgium is largely owing to the recent adoption of guidelines in the field of criminal policy. Their purpose is to encourage a standard system for identification of situations of violence by the police and prosecution services, lay down minimum measures for all judicial districts and give the police and courts tools and references to support their work. For intimate partner violence, the frame of reference is the joint circular from the Minister for Justice and the Board of Principal Crown Prosecutors regarding criminal policy with respect to intimate partner violence (COL 4/2006), which was revised in 2015. Implementation of this circular, commonly known as the “zero tolerance” circular, is based on a system of appointing a lead police officer for each police district and a lead judge for each judicial district. They are responsible for publicising the circular and liaising with the different institutional and non-institutional actors concerned with violence in order to encourage interaction and ensure a co-ordinated, multidisciplinary approach. COL 4/2006 promotes preparation of local anti-violence plans for each judicial district, together with the signing of protocols of co-operation between the judicial authorities, the police, public services and private associations involved in care, referral and protection of victims and their children.

177. Sexual violence is covered by a ministerial directive on sexual assault (COL 4/2017). The purpose of this circular is to standardise and optimise evidence-gathering in cases of rape and indecent assault whilst preventing secondary victimisation of the victim. The latest revision of this directive has helped improve co-operation between hospitals and prosecution services to this end. GREVIO notes with interest that the circular includes a new section alerting doctors and police officers to the importance of bearing in mind the possibility of drugs-facilitated sexual assault. The work of the law enforcement agencies in cases of sexual violence is also governed by specific guidance and a handbook on “vice offences”.

178. So-called honour-related violence, female genital mutilation, forced marriage and forced legal cohabitation are all covered by a joint circular from the Ministry of Justice and the Board of Principal Crown Prosecutors (COL 6/2017). GREVIO commends the authorities for this dedicated policy instrument, which puts Belgium among the States Parties having produced laws and/or policies targeting these types of gender-based violence. In the same spirit as COL 4/2017, COL 6/2017 seeks to promote a better understanding of these factors on the part of those working on the ground and is based on similar methods: a network of lead police officials and lead judges, checklists to guide their decision-making, a system for coding offences, and a multidisciplinary approach involving the youth support services, family courts and victim services. The circular, which is the result of consultation with specialist NGOs, is to be assessed annually by the Principal Crown Prosecutor with the involvement of representatives of institutions and civil society organisations working in the field of so-called honour-related violence.

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

179. The civil society stakeholders interviewed by GREVIO acknowledged that the adoption of these circulars had played a key role in changing the way in which violence was treated. This trend has been underpinned by recognition of sexual violence and intimate partner violence as priority crime issues in the National Security Plan (PNS), a joint initiative of the Minister for Security and

Internal Affairs and the Minister for Justice,<sup>111</sup> and in the local security plans introduced in the country's 184 existing police districts.

180. Despite these efforts which GREVIO welcomes, a representative qualitative study carried out in the French Community<sup>112</sup> has highlighted the persistence of structural problems in the police response to violence, particularly intimate partner violence. The study found, firstly, that in some cases, law enforcement agencies are still refusing to register victims' complaints: this reluctance is explained by a failure to understand violence as a phenomenon and by its trivialisation. In some cases the minimisation of violence is linked to a suspicion that the women are responsible, in that they are to blame for the situation of violence in which they find themselves. In addition to the conditions for reporting being inadequate and uncomfortable, the study also points to cases where there has been a lack of promptness and proactiveness on the part of the police and even cases of refusal to act, with no recognition of the danger to which the victim is exposed. A third problem is the lack of co-ordination with specialist services, and inappropriate guidance and support, including in risk situations when the acts concerned do not constitute an offence. The shadow report<sup>113</sup> submitted to GREVIO provides a general illustration of the extent of law enforcement agencies' responsibility in cases where victims are given inadequate information about their rights and the options available to them.

181. GREVIO notes straight away that an answer to most of the issues mentioned is to be found in COL 4/2006. This circular advocates a knowledge of violence and its second appendix offers a framework for interpreting the different phases of the cycle of violence in order to decipher the behaviour of the perpetrator and the victim. The circular also stresses the need for firm and prompt police action based on a proper assessment of the risk of the violence being repeated. However, the circular, together with other relevant documents such as the National Security Plan, suffers from one important limitation: nowhere do they mention the unequal power relations between women and men that make the former particularly vulnerable to violence. GREVIO points out here that while the parties are encouraged to apply the convention to all victims of domestic violence, they are asked to pay particular attention to women victims of gender-based violence and recognise that domestic violence affects the latter disproportionately.<sup>114</sup> Its gender-neutral approach is a major obstacle to the circular's ability to dispel the sexist prejudices of the very people who should be implementing it, particularly the police. Misjudgement of a context of violence may result in acts being recorded by police officers as a "family dispute".<sup>115</sup> GREVIO recognises that the purpose of registering acts under the heading "family dispute" is to create a file, even if no criminal offence has yet been committed, so that prosecutors can subsequently consult it when compiling their criminal case. It also notes the information according to which the records provide an objective description of the situation and due account is taken of the position of women. In GREVIO's opinion, however, such a classification is not appropriate, since it relies on a concept - that of "conflict" or "dispute" - which has historically been invoked to deny, minimise or disregard violence against women, by putting the perpetrator and the victim on the same level and erasing the inequalities created in a context of violence, even if no offence has been committed.

182. Since they are not binding, it is hard to form an idea of the extent to which the criminal policy circulars are actually applied. Civil society suggests that their implementation is still haphazard, depending on district heads and/or individual police officers, and that the authorities lack an overall picture of the situation because there is no regular evaluation of police practices. Implementation of the circulars is also hampered by the absence, in some judicial and/or police districts, of lists of lead judges and police officers in the field of violence; when these lists do exist, they are not always known about. Against the general background of a sharp cut in the federal budget for the police and

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<sup>111</sup> National Security Plan (PNS) 2016-2019, "Aller ensemble à l'essentiel", based on the Comprehensive Security Framework Note 2015-2019, which is also a joint security document produced by the two ministers.

<sup>112</sup> "Violences faites aux femmes : pourquoi la Police doit jouer son rôle ?", Vie Féminine, Brussels, 2018

<sup>113</sup> Pages 60 and 61.

<sup>114</sup> Article 2 of the Convention.

<sup>115</sup> COL 4/2006, page 12: "If the conduct reported or established does not seem to constitute an offence, a report with prevention rating 42 (family dispute) shall be made."

the judiciary,<sup>116</sup> the circulars create new responsibilities without providing the human and financial resources needed to implement them.

183. Concerns were also raised about the ability of the law enforcement agencies to detect so-called honour-related offences and to undertake appropriate investigations. This failing would seem to stem mainly from the fact that police officers are unfamiliar with the underlying dynamics and not sufficiently informed, which reduces their ability to ensure the safety and protection of victims of these offences. Although COL 06/2017 now states that a report must be drawn up and sent to the prosecution service in all cases of violence that appear to be so-called honour-related, irrespective of whether or not the conduct amounts to an offence, specialist NGOs told GREVIO that officers on the ground were regularly refusing to register complaints and/or report acts to the prosecution service in cases where there is a risk of an offence and/or where an offence has been attempted.<sup>117</sup> It is further alleged that the existing coding system does not allow law enforcement agencies to prioritise cases where there is a risk of female genital mutilation in line with the danger to victims.<sup>118</sup>

184. As a general comment, GREVIO notes the low rates of reporting of violence. On the basis of available statistics and the victimisation survey conducted in 2010 at the instigation of the IEFH, it is estimated that only 3.3% of people who identify themselves as victims of domestic violence file a complaint with the police.<sup>119</sup> Compared to the other forms of intimate partner violence (psychological, sexual and economic), physical violence is much more prevalent in legal proceedings (62%) than it appears in the above-mentioned survey (about 10%),<sup>120</sup> which might suggest that a significant number of psychological, sexual and economic acts of violence committed within the couple do not come to the attention of the law enforcement authorities. With regard to sexual violence, (gender-neutral) data from police crime statistics show that an estimated 82% of offences were not reported to the police in 2018.<sup>121</sup> As regards sexism, the disparity between the police data<sup>122</sup> (45 acts recorded in 2017) and the figures derived from a prevalence survey conducted in 2016,<sup>123</sup> according to which 98% of Belgian women have suffered street harassment at least once in their lives, is striking. As regards the 2014 survey on violence against women carried out by the European Agency for Fundamental Rights, this found that 22% of victims in Belgium reported their most serious incident of intimate partner violence to the police, compared with 14% for the average European woman. Given the “off-the-record” number of victims who do not file complaints, GREVIO welcomes the initiatives being taken by law enforcement agencies to encourage and facilitate the lodging of complaints, in particular through awareness-raising operations at grassroots level.

**185. In addition to further efforts to reveal the extent of unreported acts of violence, GREVIO strongly encourages the Belgian authorities to provide all the relevant law enforcement agencies with the necessary resources, knowledge and means to respond promptly and adequately to all the forms of violence covered by the Istanbul Convention. To this end, the authorities should in particular:**

- a. ensure gender mainstreaming in criminal policy documents and relevant working tools to take account of the unequal dynamics between women and men in situations of violence, along with the disproportionate impact of violence on women;**
- b. consider revising the coding system used by law enforcement agencies, to ensure that it reflects the nature and seriousness of the acts and the danger to the victim;**
- c. take measures to ensure the effective implementation of the relevant criminal policy instruments, in particular by strengthening the system of lead professionals, evaluate**

<sup>116</sup> On this subject, see paragraphs 184 and 185 of the GRETA report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belgium (second evaluation round), November 2017.

<sup>117</sup> Shadow report, page 73.

<sup>118</sup> Joint shadow report submitted to GREVIO by the Belgian branch of GAMS, the NGO Intact, and the End FGM European Network, page 9.

<sup>119</sup> Charlotte Vanneste, La politique criminelle en matière de violences conjugales : une évaluation des pratiques judiciaires et de leurs effets en termes de récidive, Brussels, March 2016

<sup>120</sup> Ibid.

<sup>121</sup> [www.stat.policefederale.be](http://www.stat.policefederale.be)

<sup>122</sup> Table 20 in appendix E to the state report.

<sup>123</sup> Sexisme bientôt fini ? – Where do we stand on sexism ?, Jump pour l'égalité, 2016.

- regularly how they are applied, in co-operation with specialist NGOs and institutions, and ensure that the evaluation findings are made public;**
- d. improve law enforcement agencies' provision of information and guidance for victims through a robust partnership involving victim assistance and support services and NGOs specialising in victim support.**

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

186. The study commissioned by the Board of Principal Crown Prosecutors to assess the practical implementation of COL 4/2006<sup>124</sup> provides an overview of judicial practice with respect to intimate partner violence. This research showed that, solely among those found to have committed an offence,<sup>125</sup> the proportion of accused persons who have not been the subject of any judicial decision (5%) or who have never at any time been the subject of any decision other than one to take no further action (65%), is 70% in total. On the basis of this finding, the research concluded that there appeared to have been no effective judicial response in more than one case in three (34% of those accused), with significant variations from one judicial district to another. According to the Code of Criminal Investigation,<sup>126</sup> various reasons may be given by the prosecution service for deciding not to proceed. These include the fact that the situation has resolved itself in the meantime, that there is insufficient evidence, that the social repercussions of the offence are limited or the harm minimal, or that the prosecution service has other priorities. The above-mentioned research found that a high proportion of cases where it is decided to take no further action are closed on the ground that the situation has been resolved (32%). According to information received from the authorities, the existence of other priorities is also cited as a reason in some cases. As regards the nature of the judicial decisions handed down, it transpires that of all those accused of intimate partner violence, 18% were referred for trial: of these, 7% were offered criminal mediation and 11% were convicted. A prison sentence was handed down in 21% of convictions, with an average duration of 6 months, while 70% of those convicted were fined.

187. As regards other forms of violence that disproportionately affect women, it will be observed that relatively few cases come before the prosecution service and that there are also high - albeit declining - rates of attrition.<sup>127</sup> From the judicial statistics submitted to GREVIO by the authorities,<sup>128</sup> it will be observed, for example, that the proportion of rape cases where it is decided to take no further action stands at around 50%,<sup>129</sup> while in cases of indecent assault, the figure was similar in 2015 but has been declining sharply since.<sup>130</sup> Between 2015 and 2018, no cases of female genital mutilation were recorded in prosecutor's offices under the dedicated code. In 2017 and 2018, the prosecution service recorded approximately 90 cases of so-called honour-related violence, mostly committed by men, with the percentage of cases closed without further action falling from 93.33% in 2016 to 67.37% in 2018. In the space of four years (from 2015 to 2018), the prosecution service dealt with a total of just 62 cases of sexual harassment, with the percentage of cases closed without further action falling from 64.71% in 2015 to 36.36% in 2018. Over the same period, the prosecution service also handled 82 cases of forced marriage, with the proportion of cases closed without further action falling from 85.71% to 42%. As regards the recent legislation on sexism, there has been only one known conviction to date.<sup>131</sup>

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<sup>124</sup> Charlotte Vanneste, *La politique criminelle en matière de violences conjugales : une évaluation des pratiques judiciaires et de leurs effets en termes de récidive*, Brussels, March 2016.

<sup>125</sup> Cases of intimate partner violence may be referred to the prosecution service based on a finding of "family dispute" without the conduct complained of being classified as an offence.

<sup>126</sup> Article 40, paragraph 1.

<sup>127</sup> Attrition is the process whereby cases drop out of the criminal justice system.

<sup>128</sup> See appendix E to the state report, it being understood that the justice sector statistics provided are not disaggregated by the sex of the victim.

<sup>129</sup> Table 30 in appendix E shows that the percentage of cases closed without further action was 56.01%, 56.44%, 48.92% and 27.73% in 2015, 2016, 2017 and 2018 respectively.

<sup>130</sup> Table 33 in appendix E shows that the percentage of cases closed without further action was 60.20%, 63.20%, 56.67% and 38.20% in 2015, 2016, 2017 and 2018 respectively.

<sup>131</sup> [https://igvm-iefh.belgium.be/fr/actualite/premiere\\_condamnation\\_pour\\_sexisme\\_dans\\_lespace\\_public](https://igvm-iefh.belgium.be/fr/actualite/premiere_condamnation_pour_sexisme_dans_lespace_public)



188. GREVIO is concerned about the conclusion reached in the above-mentioned evaluation exercise. The gap between the principle of a zero-tolerance crime policy and the judicial reality raises questions about the widespread implementation of this policy and its effectiveness in terms of preventing recidivism. GREVIO also notes that this conclusion is in line with the general context in Belgium where there is a clear trend towards “diversion” and finding alternative solutions outside the judicial system, presumably in connection with the large backlog of cases in the courts. During the evaluation procedure, GREVIO noted a number of elements that reflected this general context, such as the decision in 2018 by the Brussels prosecutor’s office to systematically dismiss a large number of cases because of insufficient investigative capacity.<sup>132</sup>

189. GREVIO recognises that criminal justice is not the only appropriate response to violence against women, as it must be part of a comprehensive and integrated response encompassing at once prevention, protection, prosecution and integrated policies (the four pillars of the convention). In the absence of a process that holds perpetrators to account, however, violence is unlikely to stop, meaning that prosecution and punishment are an essential component of the effort to protect women. In addition, low conviction rates may reduce victims’ confidence in the justice system and, consequently, contribute to low reporting rates. Law enforcement agencies and the judiciary should therefore endeavour to increase reporting of crimes as their response becomes more effective. In this connection, GREVIO notes with interest that the judicial statistics provided by the authorities show a significant decrease in attrition rates during the period under review.

**190. With a view to putting an end to the impunity of perpetrators and preventing the risk of recidivism, GREVIO strongly encourages the Belgian authorities:**

- a. to ensure the implementation of crime policies which prioritise cases involving any form of violence against women, including attempted violence, and to continue their efforts to ensure that criminal investigations and proceedings relating to such cases can be conducted effectively, while at the same time seeing to it that any measures taken to this end are backed by adequate funding;**
- b. to ensure that sentencing in cases of violence against women, including domestic violence, is commensurate with the gravity of the offence and preserves the dissuasive function of penalties.**

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

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

192. Various risk assessment instruments have been developed in Belgium. In the case of intimate partner violence, "Preventie en Aanpak van Conflicten en Geweld" is an online tool for professionals directly or indirectly involved in a specific case of violence between partners and affords an opportunity to deal with it collectively. To this end, the tool is designed to encourage networking. Instruments also exist for perpetrators of sexual violence and assessing the risk of re-offending. In addition, circulars COL 4/2006 and COL 6/2017 contain checklists that can be used by the police, judges and prosecutors to identify risk factors for the recurrence or escalation of violence and to respond appropriately. A specific tool on forced marriage has been developed by the IEFH for civil registrars, providing them with a list of warning signs of forced marriage and advice on what to do.

193. Specialist associations have alerted GREVIO to the fact that these instruments are not always widely known or used as a matter of course. GREVIO notes in this connection that collecting data on the number of assessments carried out and their frequency would provide a more accurate

<sup>132</sup> See press article “Vols simples et harcèlement ne sont plus poursuivis à Bruxelles”, L’Echo, 25 October 2018.

picture of the situation and an understanding of the protective measures adopted as a result. Furthermore, GREVIO agrees with civil society's reading of the tool for assessing the risk of violence between partners: as it noted in its comments under Article 3 of the convention, this tool fails to take a gendered approach to violence and tends to place the victim and the perpetrator on an equal footing by disregarding the inequalities created by violence. The gendered dimension of violence is, however, recognised in the tool developed and promoted in Wallonia for analysing the process by which one member of a couple exerts control over the other.<sup>133</sup> GREVIO also notes that a decision-making tree targeting the risk of female genital mutilation has been developed within the framework of circular COL 6/2017, but appears to be under-utilised in the relevant professional circles.<sup>134</sup>

194. The need to implement risk assessment procedures as part of the process of determining custody and visitation rights is discussed in this report in connection with Article 31 of the convention.

195. GREVIO notes that in Belgium, no retrospective reviews into the deaths of women victims of violence are carried out. GREVIO draws attention to the value of such reviews as a working method for identifying possible systemic gaps in the institutional response to violence. This analysis should assess, *inter alia*, whether careful and repeat risk assessment and co-ordinated safety planning had been carried out and appropriate measures taken to protect victims from further harm, whether the victim was under a 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 the investigation and prosecution. GREVIO further notes in this regard the call issued by the Special Rapporteur on violence against women, its causes and consequences, for a mechanism to be set up to monitor femicides or gender-related killings of women, in order to analyse the available data and propose concrete measures to prevent these crimes.<sup>135</sup>

196. **GREVIO urges the Belgian authorities:**

- a. **to integrate a gender perspective into risk assessment and risk management procedures and to ensure wide dissemination of these procedures for all forms of violence against women within all statutory agencies involved in dealing with cases of gender-based violence;**
- b. **to ensure that risk assessments are repeated at all relevant stages of the procedure, in particular at the end of any protective measures, having regard to the views and concerns expressed by victims and allowing victims to be represented by a specialist support service;**
- c. **to consider setting up a system, such as a domestic killings review mechanism, to analyse all cases of gender-based killings of women, with a view to preventing them in the future, keeping women safe and upholding the principle of accountability both of the perpetrators and of the various agencies in contact with the parties.**

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

197. Since 2012, the prosecution service has had the power to order the temporary removal of a person from their residence if there is a serious and immediate threat to the safety of one or more persons living under the same roof. The law<sup>136</sup> covers violence between partners but also acts of violence committed against children. The obligation to remove also entails a ban on contact with the persons covered by the order and is valid for a maximum of 10 days. In the meantime, a hearing must be held during which the family judge may decide to lift the ban on residence or to extend it for a maximum of three months and impose a ban on contact. Failure to comply with this measure leads to the application of criminal sanctions, namely imprisonment for a term ranging from eight days to six months and/or a fine of between €26 and €100. Other restraining or protection orders may be

<sup>133</sup> Page 89 of the joint shadow report.

<sup>134</sup> Joint shadow report submitted to GREVIO by the Belgian branch of GAMS, the NGO INTACT and the End FGM European Network, page 6.

<sup>135</sup> Report to the United Nations General Assembly, A/71/398, September 2016.

<sup>136</sup> Law of 15 May 2012 on temporary barring orders in cases of domestic violence.

issued in the context of criminal proceedings: they may be imposed at any stage of the proceedings, e.g. in the context of criminal mediation, conditional release in the case of pre-trial detention, or as probationary conditions for the imposition or enforcement of sentences.<sup>137</sup>

198. GREVIO welcomes the fact that the emergency expulsion of a domestic violence perpetrator from a shared residence is possible in cases where they pose an immediate danger, and that restraining orders can be imposed in a wide range of circumstances where individuals are at risk. The legislation on emergency barring orders and its implementation by the Belgian authorities, however, raises a number of concerns which GREVIO wishes to address in detail.

199. First, the available statistics show that the legislation in question is used very little<sup>138</sup> if at all in some judicial districts. Civil society representatives met by GREVIO indicated that this measure is better known and more effectively employed in cases where a multidisciplinary approach makes it possible to better appreciate its usefulness and to identify the circumstances in which it should be used, in connection with the requirements for the support and safety of victims and their children. Second, apart from the fact that law enforcement agencies are not always trained and/or equipped for danger assessment, the crucial role of these agencies in monitoring compliance with emergency barring orders and victim protection seems not to be recognised. Delays within the prosecution service may also hamper access to this measure, and victims' rights groups report difficulties in securing recognition of the danger a particular situation presents.<sup>139</sup> GREVIO was provided with figures on cases of non-compliance with emergency barring orders, but no information on the application of the corresponding sanctions and what these entail.<sup>140</sup> In this connection, GREVIO notes that a fine of up to €100 seems very low, not least because failure to comply with such measures is generally an indicator that the abuser poses a high risk. Aware of the difficulties in monitoring compliance with emergency barring and protection orders 24 hours a day, seven days a week, GREVIO draws attention to the possibility of employing electronic tools such as attack alarms, regular checks on the victim by phone and follow-up meetings with perpetrators to explain the order in place and the consequences that any breach may have.

200. At the time of the evaluation procedure, new legislation<sup>141</sup> had recently entered into force with a view, inter alia, to alleviating the above-mentioned difficulties. Because it was enacted only recently, however, GREVIO has not been able to assess to what extent these provisions are likely to produce the expected improvements.

201. Protective measures for victims are also available in civil law. Victims of harassment can seek a restraining order,<sup>142</sup> for example, but owing to the lack of data on recourse to this measure, no assessment can be made as to the extent to which it is used or its effectiveness in protecting victims. There is also a lack of data as regards protective measures to prevent the practice of female genital mutilation, forced marriage, or other so-called honour-related violence. These measures are described in COL 6/2017 and include, inter alia, the decision of the Family Court to prohibit parents from leaving the Schengen area with their child, the depositing of the child's passport and/or identity card with the public prosecutor's office and urgent decisions on the exercise of parental authority. As for victims of domestic violence, a dedicated law<sup>143</sup> has amended the Civil Code so that in the event of assault and battery - or attempted assault and battery - in the context of a temporary separation of spouses or legal cohabitants, the justice of the peace shall grant the victim, as a matter of urgency or on a temporary basis, the right to occupy the family home. Such measures may also be imposed in the event of an application for divorce by the judge of the court of first instance under

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<sup>137</sup> Law of 17 May 2006 on the external legal status of persons sentenced to deprivation of liberty and the rights accorded to victims in the context of the arrangements for the enforcement of sentences and the Law of 5 May 2014 on detention.

<sup>138</sup> Table 25 in appendix E to the state report.

<sup>139</sup> Pages 90-93 of the shadow report.

<sup>140</sup> Table 26 in appendix E to the state report.

<sup>141</sup> Law of 5 May 2019 introducing miscellaneous provisions regarding criminal matters and religious services, and amending the Law of 28 May 2002 on euthanasia and the Social Criminal Code.

<sup>142</sup> ['Mapping the legislation and assessing the impact of protection orders in the European member states \(POEMS\)'](#), National report Belgium, Anke van Vossle, February 2015.

<sup>143</sup> Law of 28 January 2003 (known as the Onkelinx Law) on assigning the family home to spouses or legal cohabitants who are the victims of physical violence by their partners and supplementing Article 410 of the Criminal Code.

the system of urgent and provisional measures, if the spouse has been guilty of actual or attempted assault and battery and/or poisoning. The same principles apply when the divorce is granted.

202. GREVIO notes with interest the potential in terms of good practice of the legislation on preferential assignment of the family home to victims of violence, and not only in situations where there is an imminent danger. At the same time, it is noted that the scope of the law - which does not cover all forms of violence or de facto cohabitantes - and the way in which it is applied in case law – with the victim sometimes being required to pay the perpetrator compensation for the use of the property – limit its accessibility to victims, in particular the poor and vulnerable. Once again, the lack of data makes it difficult to assess the ability of the law to fulfil its victim protection role.

203. **GREVIO strongly encourages the Belgian authorities:**

- a. **to step up efforts to increase the use of emergency barring and protection orders by promoting their usefulness and ensuring their vigilant enforcement;**
- b. **to remove any obstacles in legislation and/or in the practical implementation of existing protection mechanisms, particularly in view of the fact that requiring the victim to pay an occupancy allowance if they are granted possession of the home may severely limit access to this arrangement;**
- c. **to assess the level of implementation of existing mechanisms, including civil-law mechanisms, by collecting relevant data;**
- d. **to actively refer victims to specialist women's support services which help victims to exercise their right to protective measures.**

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

204. Victims of violence have access to legal aid (so-called secondary legal aid) in accordance with Articles 446 bis and 508/1 to 508/25 of the Judicial Code. Subject to certain means tests, this assistance is free of charge, or partially free of charge. In 2016<sup>144</sup> the legal aid system underwent a reform which has been widely criticised by civil society on the grounds that it has considerably tightened the eligibility criteria for aid and made the procedure for accessing it more complex, to the detriment of victims and pro deo lawyers.<sup>145</sup> In Flanders, a reform is currently under way which seems to further restrict access to secondary legal aid with the aim of steering victims towards extrajudicial solutions such as so-called primary legal aid consisting of practical and/or legal advice, referral to general or specialist support services and alternative dispute resolution methods.<sup>146</sup>

205. **GREVIO encourages the Belgian authorities to ensure that the conditions provided for in their internal law for entitlement to legal aid do not create excessive obstacles to the possibility for victims who are deprived of financial means and unable to pay for the services of a lawyer to benefit from free legal assistance and legal aid.**

<sup>144</sup> See Law of 6 July 2016 amending the Judicial Code with respect to legal assistance and its implementing decrees.

<sup>145</sup> Pages 95 to 97 of the shadow report.

<sup>146</sup> Page 60 of the state report.

## VII. Migration and asylum

206. 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 those at risk of violence (Article 60).

### A. Residence status(Article 59)

207. Implementation of the law of 15 December 1980 governing immigration (Law on Foreign Nationals)<sup>147</sup> is the responsibility of the Aliens Office (Office des Etrangers, OE). Under this law a right of residence by way of family reunification may be granted for a five-year period, at the end of which the spouse/partner is entitled to apply for an autonomous residence permit. If, during this period, the relationship or family life comes to an end, the residence permit of the dependent spouse/partner is usually revoked. There are exceptions for victims of intimate partner violence, with conditions that vary depending on their administrative status and that of their spouse/partner:

- If the spouse or partner is a third-country national holding a permanent residence permit, the spouse/partner must prove that they have been the victim of one of a specific, narrow, range of criminal offences. The victim has the period laid down in Article 62, paragraph 1, of the Law on Foreign Nationals<sup>148</sup> in which to submit sufficient evidence of violence. If the partner only has a temporary residence permit, the victim has no specific protection in the event of domestic violence. The victim's only option is to apply for a residence permit on the basis of Article 9bis of the Law on Foreign Nationals on humanitarian grounds.
- If the partner is a citizen of the European Union (EU), a spouse/partner who is a citizen of a third country can keep their residence permit if the relationship has lasted at least three years (including one year in Belgium) or they have been the victim of domestic violence or a specific criminal offence. For a spouse/partner who is an EU citizen, they must satisfy EU free movement requirements independently or again meet the conditions for family reunification as a dependant of an EU citizen. The above-mentioned time-limit applies for submitting evidence of violence.
- If the spouse/partner is a Belgian national, the victim must prove that they have been a victim of domestic violence or a specific criminal offence. The above-mentioned time-limit applies for submitting evidence of violence.
- Women who apply for family reunification when they are already in Belgium come under different arrangements. These women receive a registration certificate and are considered to be in the process of obtaining a residence permit. If they suffer domestic violence while their applications are being considered, the law does not offer them any specific protection (even if their allegations are proven). The only option is to apply for a residence permit on the basis of Article 9bis on humanitarian grounds.

208. Given these differences between arrangements, which make the applicable legislation extremely complex and disjointed, GREVIO makes the following observations. Firstly, it is clear from the above that women holding registration certificates or joining a third-country national with a temporary residence permit have the weakest protection: no statutory provision affords specific protection for women who have suffered violence and their situation is extremely precarious. Secondly, women who are EU citizens and joining spouses/partners who are also EU citizens are

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<sup>147</sup> Law on entry, stay, settlement and removal of foreign nationals.

<sup>148</sup> Fifteen days, which can be extended by a period of one to three months at the OE's discretion.

not entitled to specific protection if they have suffered domestic violence or violence within the family, unlike other migrant women.

209. A number of issues were brought to GREVIO's attention by representatives of civil society concerning the applicable legislation and its implementation. First of all, the absence of OE public guidelines to clarify and promote transparency in the application of the laws has left lawyers and specialist NGOs in the dark as to the evidence required. For example, GREVIO observed that a number of them were unaware that the OE accepted "proof of temporary accommodation" as conclusive evidence of domestic violence. The lack of guidelines has encouraged a degree of inconsistency in decision-making, particularly between the OE's Dutch-speaking and French-speaking sections, which remains a particular concern.

210. The statutory time-limit of fifteen days laid down in Article 62 of the Law on Foreign Nationals for providing evidence of violence is very short, and while an extension of this time-limit is in theory possible, it is at the discretion of the OE official responsible for the case. If an application is rejected on the grounds of insufficient evidence, the victim is unable to produce further evidence (however compelling) to lay before the Council for Asylum and Immigration Proceedings since the jurisdiction of this appeals body is confined to reviewing the lawfulness of the OE decision and does not extend to the merits of the case.

211. Article 9bis of the Law on Foreign Nationals, concerning humanitarian grounds, is worded generally, without reference to the specific situation of migrants who are victims of domestic violence. Applications under this article are subject to a payment of €385. The victim is required to produce an official photographic identity document and provide a fixed address (which cannot be the address of a shelter). These requirements take no account of the specific situation of victims of violence, such as financial exploitation preventing payment of the fee, retention of official identity documents by the perpetrator, or a victim's inability to provide an address after having fled violence. According to the authorities, moreover, the decisions of the Council for Asylum and Immigration Proceedings show that the admissibility threshold for an application under Article 9bis is particularly high: an applicant must prove that return to the home country is "impossible or particularly difficult". Furthermore, pending examination of an application under Article 9bis, there are no safeguards to protect a victim from the risk of being arrested and detained. Here COL 4/2006 provides that if the police become aware of acts of violence between partners in a family where the victim is staying in Belgium on a temporary residence permit issued in connection with family reunification, they must notify the OE. GREVIO believes that, in the absence of protective measures, this measure is likely to discourage victims from reporting violence and seeking protection.

212. As for the requirements of paragraphs 2 and 3 of Article 59 of the convention, the authorities have informed GREVIO that the only legal protection available to women threatened with expulsion because of the expulsion of their violent spouse or partner is an application on humanitarian or medical grounds under Article 9bis of the Law on Foreign Nationals, the limitations of which have been described above. This would also be the only option for victims who are undocumented.

213. GREVIO has been unable to find any provisions giving effect to Article 59, paragraph 3(b) of the convention, since the relevant article of the Law on Foreign Nationals (Article 61) covers only victims of trafficking in human beings.

214. Lastly, there would seem to be a legal vacuum regarding the requirement set out in Article 59, paragraph 4, for victims of forced marriage abroad. The royal decree of 7 August 1995 and Article 19 of the Law on Foreign Nationals contain only general provisions for all migrants seeking to return to Belgium after a period of absence. The conditions laid down (possession of a valid passport, previous long-term residence in Belgium, previous permanent residence permit, and financial resources) are very much at odds with the situation of a victim of forced marriage.

215. **GREVIO strongly encourages the Belgian authorities to undertake an in-depth review of their immigration laws and policies in order to bring them into line with their obligations under Article 59 of the Istanbul Convention.**

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

### 1. Reception and accommodation

216. In Belgium, the Federal Agency for the Reception of Asylum Seekers ("Fedasil") is responsible for managing and co-ordinating the entire reception network, reception centres and Local Reception Initiatives. Registration for international protection and initial accommodation takes place at Fedasil's Petit Château arrival centre in Brussels. Individuals seeking international protection begin by registering with the Aliens Office (followed a few days later by an initial more detailed interview before the application is transferred to the Office of the Commissioner-General for Refugees and Stateless Persons (CGRA)). The information gathered by the Aliens Office, Fedasil or its reception partners is then entered in the "Match-it" software used by Fedasil to arrange for a place to be allocated, based on individual needs and the vulnerabilities identified.<sup>149</sup>

217. GREVIO commends the measures provided for in law to determine vulnerability and take it into account at an early stage of the asylum procedure.<sup>150</sup> These measures include the need to carry out an individual assessment in the first thirty days to identify less visible signs of vulnerability (torture, or physical, psychological or sexual violence), special procedural measures, repeat assessment of individual needs throughout the stay at the reception centre, asylum seekers' access to medical, psychological and social care/support services, and the possibility of external partnerships in order to refer asylum seekers to specialist services.

218. GREVIO has nevertheless noted a number of factors that undermine the effectiveness of these measures. Firstly, initial registration at the Aliens Office located in the Petit Château arrival centre takes place at an open counter in a waiting room, with no regard for confidentiality. A form is used for this registration, with tick boxes for a series of vulnerabilities (victim of physical, psychological or sexual violence, victim of trafficking in human beings, or suffering from psychological problems). At the time of the evaluation, once completed, the forms, containing both personal data and highly sensitive information, were then placed in a tray above a table in an adjoining waiting room, where they could easily be read. GREVIO considers that this lack of confidentiality and gender-sensitiveness may well hamper disclosure of violence at this preliminary stage and undermine initial efforts to identify women and girls who have suffered gender-based violence. GREVIO is pleased to note that the procedure has since been changed: the registration unit is now equipped with counters offering applicants a space closed off by a transparent partition and data are now stored electronically. GREVIO welcomes these improvements and wishes to stress how crucial it is that the places of first contact with victims provide them with a safe and confidential environment that encourages them to disclose their experiences of violence and enables them to access, as soon as possible, specialist support services and appropriate procedures.

219. Furthermore, although the CGRA has produced a brochure specifically for women and girls seeking international protection, it is not available in the registration waiting rooms at the Petit Château arrival centre. As for training, immigration officers attend a two-week awareness course. It includes modules on unaccompanied minors and trafficking in human beings but does not deal with sexual and gender-based violence.

220. GREVIO notes with interest the recent ruling by the Conseil d'Etat,<sup>151</sup> and the authorities' decision implementing it, to stop imposing a daily quota on the number of asylum applications that could be registered, thus refusing asylum seekers access to the asylum procedure and reception facilities.<sup>152</sup> However, both the Belgian authorities and NGOs have confirmed that the reason behind the imposition of a quota, namely a serious shortage of accommodation in reception centres, is still very much a problem. Fedasil is currently operating with 99% occupancy across the reception centre

<sup>149</sup> Article 11 of the law of 12 January 2007 on reception.

<sup>150</sup> See in particular Articles 22, 25, 30, 31 and 36 of the Law on reception.

<sup>151</sup> Case No. 243.306 of 20 December 2018: <http://www.raadvst-consetat.be/arr.php?nr=243306>

<sup>152</sup> Right of access to accommodation and practical assistance when registering for international protection, see Articles 3 and 6.1 of the Law of 12 January 2007 on reception of asylum seekers and other categories of foreign nationals.



network (24,400 places in all). In practice, allocation of or transfer to appropriate accommodation on the basis of vulnerability or specific needs is still subject to extremely limited availability.

221. A recent Fedasil study has highlighted a number of shortcomings.<sup>153</sup> While good practice exists in some reception centres, centralised gender protocols or guidelines would facilitate a uniform approach to violence against women that is currently lacking. The health care services available within reception centres have insufficient capacity, while external medical services have long waiting lists, are not specialised and are not accessible for people in rural areas. A shortage of interpreters may mean that interpreting is provided by family members, which is particularly problematic for women victims of conjugal and/or domestic violence. A vulnerability assessment seldom results in transfer to a more appropriate centre because not enough places are available.

## 2. Gender as grounds for asylum

222. GREVIO commends the measures taken by the Belgian authorities to facilitate and support victims of gender-based violence disclosing the latter during the asylum procedure. The CGRA has produced a brochure specifically for women asylum seekers, called *Women, Girls and Asylum in Belgium*.<sup>154</sup> The information taken down during the vulnerability assessment at the reception centre is forwarded to the CGRA, with the asylum seeker's consent, to trigger special procedural measures, where appropriate.<sup>155</sup> These measures include a shorter interview and the right to assistance from a "trusted person" during this interview – a representative from an approved organisation, for example.<sup>156</sup> If there are signs of sexual and/or gender-based violence, a specially trained CGRA welfare officer will conduct the asylum interview.<sup>157</sup> A woman asylum seeker is interviewed separately from her family and, if necessary, the information supplied is treated confidentially;<sup>158</sup> she can ask for the interviewing officer and the interpreter to be women provided that she gives reasons for her request.<sup>159</sup> Interpreters are bound by a code of conduct,<sup>160</sup> while CGRA case workers are bound by the *Charter of the Personal Interview*.<sup>161</sup>

223. GREVIO welcomes the establishment in 2005 of a specialist gender unit in the CGRA with 15 members of staff.<sup>162</sup> In 2017 the unit's welfare officers attended a training conference on post-traumatic stress disorder caused by sexual violence, followed by a conference in 2018 on medical and psychosocial aspects of female genital mutilation. In June 2017 the CGRA published specific internal guidelines on treatment of protection applications linked to sexual violence, which contain guidance on how to conduct interviews and assess the credibility of asylum seekers with this profile. The CGRA is also implementing a significant policy for girls having obtained refugee status on the basis of a risk of female genital mutilation, in order to protect them from future injury. Their parents have to attend an information interview and produce an annual medical certificate confirming that no mutilation has taken place. However, GREVIO has been made aware of broader concerns relating to the new CGRA policy on female sexual mutilation. In effect, concerns have been raised that the CGRA fails to recognise either the continuous nature of the violence facing women and girls having suffered mutilation or the significance of mutilation as a social norm for the purpose of judging a mother's ability to protect her daughter.

224. GREVIO voices its concern about the situation of vulnerable women to whom the "border procedure" applies; this entails detention of immigrants, or women from "safe third countries", who

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<sup>153</sup> December 2016 study: [https://www.fedasil.be/sites/default/files/summary\\_report\\_vulnerable\\_persons\\_2016\\_1.pdf](https://www.fedasil.be/sites/default/files/summary_report_vulnerable_persons_2016_1.pdf) and final report in December 2018: [https://www.fedasil.be/sites/default/files/fedasil\\_etude\\_personnes\\_vulnerables.pdf](https://www.fedasil.be/sites/default/files/fedasil_etude_personnes_vulnerables.pdf) (in French).

<sup>154</sup> [https://www.cgra.be/sites/default/files/brochures/asiel\\_asile\\_-\\_gender\\_genre\\_-\\_women\\_young\\_girls\\_and\\_asylum\\_in\\_belgium\\_-\\_eng\\_0.pdf](https://www.cgra.be/sites/default/files/brochures/asiel_asile_-_gender_genre_-_women_young_girls_and_asylum_in_belgium_-_eng_0.pdf)

<sup>155</sup> Article 48/9, §4, Law on Foreign Nationals.

<sup>156</sup> Royal decree of 11 July 2003, Article 13/1, paragraph 2.

<sup>157</sup> *Charter of the Personal Interview*, page 7: [https://www.cgvs.be/sites/default/files/brochures/brochure\\_charte-daudition\\_eng.pdf](https://www.cgvs.be/sites/default/files/brochures/brochure_charte-daudition_eng.pdf)

<sup>158</sup> Article 57/5ter, § 1 Law on Foreign Nationals.

<sup>159</sup> See Article 48/9 Law on Foreign Nationals, Article 9 of the Royal Decree on Immigration Department procedure, and Articles 15, 20.2 and 21 of the Royal Decree on CGRA procedure.

<sup>160</sup> [https://www.cgvs.be/sites/default/files/brochures/2011-02-11\\_brochure\\_deontology-for-translations\\_eng\\_1.pdf](https://www.cgvs.be/sites/default/files/brochures/2011-02-11_brochure_deontology-for-translations_eng_1.pdf)

<sup>161</sup> [https://www.cgvs.be/sites/default/files/brochures/brochure\\_charte-daudition\\_eng.pdf](https://www.cgvs.be/sites/default/files/brochures/brochure_charte-daudition_eng.pdf)

<sup>162</sup> Including 12 gender reference persons in the CGRA's six geographical sections.



then come under the “accelerated procedure” and receive an asylum decision on the merits within 15 days.<sup>163</sup> These procedures may seriously circumscribe the women’s ability to disclose violence suffered and gather the necessary evidence. While it is true that the accelerated procedure may be lifted in cases of torture, rape or other serious forms of psychological, physical or sexual violence, the CGRSA confirmed to GREVIO that there are no specific gender-sensitive guidelines or policy measures aimed at identifying victims belonging to these vulnerable groups, with a view to promoting recognition of their special procedural needs. The CGRA has further confirmed to GREVIO that there are no policies or guidelines containing exceptions for groups of women from “safe third countries” where gender-based violence is known to be widespread, with the result that assessment of their situation depends on the knowledge of individual welfare officers.

**225. GREVIO strongly encourages the Belgian authorities to take measures to tackle the shortage of places in reception centres in order to give full effect to the laws aimed at identifying and supporting women asylum seekers in situations of vulnerability because of violence and to produce and implement centralised gender-sensitive guidelines, protocols and training courses for all reception centres.**

**226. GREVIO encourages the Belgian authorities to ensure that a gender-sensitive approach is applied consistently to all grounds for persecution and that women receive optimal support for disclosing the grounds on which they are applying for international protection.**

**227. GREVIO encourages the Belgian authorities to draw up and publish gender guidelines offering better guarantees that violence will be taken into account in the case of vulnerable women to whom the “border placement” and “accelerated” procedures apply.**

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<sup>163</sup> Article 57/6/1, §§ 1(b) and 3 Law on Foreign Nationals. The following are considered “safe third countries”: Albania, Bosnia and Herzegovina, Georgia, India, Kosovo, Montenegro, North Macedonia and Serbia (see royal decree of February 2019: [http://www.ejustice.just.fgov.be/cgi/article\\_body.pl?language=fr&caller=summary&pub\\_date=19-03-01&numac=2019010039](http://www.ejustice.just.fgov.be/cgi/article_body.pl?language=fr&caller=summary&pub_date=19-03-01&numac=2019010039) : <https://www.cgra.be/en/news/new-list-safe-countries-0>)

## Concluding remarks

228. GREVIO welcomes the fact that the Belgian public authorities at both federal and federated entities level, have for several decades regularly asserted their commitment to guaranteeing gender equality and ensuring women's safety by combating violence against the physical, sexual and psychological integrity of individuals. Since 2006, these different levels of government have shared a joint action plan, the scope of which has been extended beyond intimate partner violence to include other forms of violence committed against girls and women in families, such as forced marriages, so-called honour crimes and female genital mutilation. Significant progress has been made in the primary prevention of gender-based violence, especially by endeavouring to eliminate gender stereotypes in education and in the workplace. Considerable efforts have also been made to strengthen networking through a variety of approaches and there have been many initiatives to make female victims of violence, including migrant women, more aware of their rights.

229. GREVIO's examination of Belgium's policy choices in the field of preventing and combating violence against women has, however, highlighted a somewhat fragmentary general framework resulting from the differences observed between the practices and policy decisions at the level of the country's various regions and communities. These differences have an impact on the quality of the institutional response to violence and call for closer co-ordination and enhancing the national co-ordination body's ability to promote a joint approach to these forms of violence.

230. The evaluation procedure also revealed the need to strengthen the application of a gender perspective. The guidance documents, circulars, guidelines and training provided fail to systematically establish links between gender inequalities and violence, most of which impacts women. This has repercussions in terms of the support programmes available, which are sometimes aimed at providing services for both women victims and their abusers without taking account of the unequal relationships underlying the violence. Intimate partner violence and joint custody issues can therefore be regarded as a two-person problem that can be resolved through mediation. At the same time, and in a general context of moving away from judicial proceedings, there is tendency towards promoting the judicial mediation approach, including for criminal cases. This is a source of concern because these practices are not always accompanied by the appropriate safeguards and are carried out by professionals who have not necessarily undergone training on domestic violence that makes them aware of the power dynamics of violence.

231. Differences can also be seen throughout the country regarding the interrelationship between the federated entities and the associations specialising in the defence of victims' rights. Different levels of support and involvement by these associations have an impact on the quality of the support provided to victims and on the way in which the authorities view violence. Greater recognition of the expertise of these associations and an increase in the financial resources allocated to them are essential to ensure a range of specialist services that meet the requirements of the convention and the needs of the victims of all the forms of violence covered by its field of application.

232. With this report, GREVIO wishes to support the Belgian authorities in this undertaking and asks them to keep it regularly informed about developments concerning the implementation of the Istanbul Convention. GREVIO looks forward to continuing its fruitful co-operation with the Belgian authorities.

233. In order to facilitate the implementation of its suggestions and proposals, GREVIO asks the national authorities to translate this report into their official national language(s) and ensure that it is widely distributed, not only to the competent public institutions at all levels (national, regional and local), – especially the government, the ministries and judicial system bodies – but also to NGOs and other civil society organisations working in the area 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. GREVIO urges the Belgian authorities to take appropriate steps to ensure that policies and measures for the implementation of the Istanbul Convention include a gender perspective. For this purpose, the authorities should, in particular, adopt a conceptual reference framework shared by all the authorities, and operational guidelines deriving from this, drawing on the Istanbul Convention and recognising the systemic link between violence against women and a historical organisation of society based on the domination and discrimination of women by men, which still puts women at a disproportionate disadvantage today (paragraph 12).

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

###### **2. Multiple discrimination**

2. To ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3, GREVIO strongly encourages the Belgian authorities to continue promoting an approach incorporating multiple discrimination in its guidelines and to do more to put this into practice, through the following measures in particular (paragraph 21):

- a. the collection of data and the promotion of research on violence against women which highlights the situation of women victims according to the different grounds of discrimination (such as age, disability, national or social origin, migrant or refugee status, sexual orientation, gender identity);
- b. taking into account - at each stage of the development, implementation and evaluation of policies to combat violence against women - the point of view of the target groups, so that the needs of the most vulnerable groups can be better heard;
- c. the integration of an approach sensitive to the reality and needs of women victims of violence belonging to groups at risk of multiple discrimination in the training standards and guidelines on the prevention of violence for the relevant professionals;
- d. the inclusion of prevention and action to combat violence against women in general policies, measures and programmes aimed at these groups.

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

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

3. GREVIO strongly encourages the Belgian authorities to take measures to foster increased co-ordination and greater consistency in the policies and measures at the various levels of authority. For this purpose, the authorities should plan to remedy the current fragmentation of co-ordination and consultation bodies by setting up a forum for dialogue at federal level, which would be a long-term solution available to all the key stakeholders, whether from the political, administrative, civil society or academic spheres, and would be a means of drawing on their expertise and recommendations. GREVIO invites the authorities to consider signing a co-operation agreement<sup>164</sup> capable of enhancing co-operation between the federal and the federated authorities in the

<sup>164</sup> Based on the Co-operation Agreement of 12 June 2013 between the Federal Authority, the Regions and the Communities on the creation of an Interfederal Centre for Equal Opportunities and Opposition to Racism and Discrimination in the form of a joint institution, resulting in the establishment of Unia.

implementation of the Istanbul Convention and upholding the co-ordinating role that lies with the national co-ordinating body (paragraph 30).

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

4. GREVIO strongly encourages the Belgian authorities to take measures enabling them to identify the overall amounts allocated to preventing and combating violence against women and the funding lines specifically given over to the various aspects of these activities so as to ensure that these amounts satisfy the requirements of Article 8 of the convention (paragraph 34).

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

5. GREVIO strongly encourages the Belgian authorities to continue (paragraph 39):

- a. to give increased recognition and support for the specialised expertise of specialist women's associations and services, which should be drawn on at every stage of policy making and at all levels;
- b. to facilitate the work of women's associations through access to needs-oriented financing and extended use of structural and multiannual funding.

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

6. GREVIO strongly encourages the Belgian authorities to take measures to enhance the co-ordination, monitoring and evaluation of policies and measures with regard to violence against women. For this purpose, the authorities should (paragraph 45):

- a. increase the authority and the resources which the IEFH requires to carry out its tasks and support a transversal approach at all levels of government;
- b. provide, through an independent multidisciplinary body including members of women's rights associations, effective monitoring and evaluation of policies and measures designed to prevent and combat violence against women, ensuring in particular that dedicated resources and results indicators are identified for each activity.

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

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

7. GREVIO urges the Belgian authorities to take decisive steps towards improving the data available on violence covered by the Istanbul Convention and their collection, taking the following measures in particular (paragraph 54)

- a. regularly publishing and circulating at federal level an accessible synoptic reference document highlighting the main statistics on violence covered by the convention, making it possible to take advantage of existing data and for them to be assimilated and compared over time by public opinion and the media;
- b. making it compulsory, through law if necessary, to keep, in addition to data on perpetrators, data on victims, their sex, and their relationship with the perpetrators with respect to all forms of violence covered by the Istanbul Convention, especially with regard to murders by partners or former partners;
- c. making it possible, pending this, for cases of murders of partners or former partners and other victims, including children, to be investigated so as to improve knowledge in Belgium about the victims (their sex, age and relationship to the perpetrator) and the circumstances of their deaths (such as the date and time, place and murder weapon);
- d. committing to moving gradually towards an integrated system of statistics shared between the police, justice and health sectors with a view to *inter alia*: 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.

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

8. In view both of the time that has passed since the last population-based survey and the parameters of the 2010 survey, GREVIO encourages the Belgian authorities to launch a joint appraisal with all the stakeholders and experts concerned of the possibility of conducting a new national population-based survey in Belgium. This survey should be clearly based on a gendered definition of violence against women and make it possible in future, as a result of regular surveys, to assess the extent of and trends in all forms of violence covered by the Istanbul Convention (paragraph 57).

## **3. Research**

9. GREVIO encourages the Belgian authorities to continue their efforts to support research in areas relating to all forms of violence covered by the Istanbul Convention, while promoting links between gender studies and research on the one hand and the expertise of associations working in the field on the other and ensuring that these studies and research projects are disseminated and have an impact. For this purpose, the authorities may wish to conduct a new census of research departments or teachers and research workers specialising in gender, gender equality, and gender-based violence (paragraph 61).

## **III. Prevention**

10. GREVIO invites the Belgian authorities to consider adopting measures to promote the establishment of feminist self-defence groups in a balanced manner across Belgium - particularly where women from the most vulnerable populations reside (working-class neighbourhoods, rural areas, etc.), in order to empower women by restoring their confidence and informing them about their rights. One option would be to include support for this practice in the next NAP through funding for training for trainers, based on the good practice identified in the Province of Antwerp (paragraph 64).

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

11. GREVIO strongly encourages the Belgian authorities to pursue their efforts to promote, on a regular basis and at all levels, awareness-raising campaigns or programmes to increase awareness and understanding among the general public of the different manifestations of all forms of violence covered by the scope of the convention, of the gendered nature of this violence as a manifestation of a historical form of social organisation based on domination and discrimination of women by men, and of the effects of violence on children. To this end, the authorities should (paragraph 68):

- a. adopt, in a concerted manner and in co-operation with specialist associations, federal guidelines on awareness raising, making it possible to provide clear pointers and quality standards so as to ensure consistency in the messages conveyed;
- b. adapt awareness raising (media, images, language, etc.) to the needs of women victims and in particular the most vulnerable groups such as women with disabilities;
- c. feed data into a system for tracking and sharing the initiatives of other levels of government, enabling the authorities to monitor implementation of the priority objectives set at federal level;
- d. develop dissemination and impact indicators to assess the willingness to talk and listen and also the impact over time of these awareness-raising campaigns and tools on how people in Belgium perceive sexism, gender equality and gender-based violence.

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

12. GREVIO encourages the Belgian authorities to pursue their efforts to equip pupils with knowledge and skills in relation to the issues identified in Article 14 of the convention. When making such efforts, a gender mainstreaming approach should be adopted, in keeping with Recommendation CM/Rec(2007)13 of the Committee of Ministers to member states on gender mainstreaming in education (paragraph 74).

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

13. GREVIO strongly encourages the Belgian authorities to take measures to step up initial and in-service training for the relevant professionals who deal with victims or perpetrators of all forms of violence covered by the scope of the convention, taking care to ensure that the approach followed, the training manuals used and the partnerships forged to provide training and develop teaching materials are based on a gendered understanding of violence, in keeping with the Istanbul Convention. To this end, the authorities should more specifically (paragraph 84):

- a. in the police, state as an objective, when renewing the national security plan, compulsory training for lead police officers in each police district and consider producing, in a collaborative manner, federal guidelines on the initial reception of women victims of violence;
- b. in the judicial sector, step up compulsory initial training and extend it to cover sexual violence, and organise compulsory in-service training for the relevant judges and prosecutors, including, as a matter of priority, family judges and mediators;
- c. in the health sector, including psychological care, make initial and in-service training of relevant professionals compulsory and develop general guidelines, while ensuring that the guidance given is in line with the reading of violence against women promoted by the Istanbul Convention.

14. GREVIO strongly encourages the Belgian authorities to co-ordinate themselves in order to implement, monitor and evaluate Article 15 of the convention on compulsory initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence against women. To this end, the authorities should adopt a clear and shared strategy that makes it possible, at the appropriate levels and while clarifying the chain of responsibilities (paragraph 89):

- a. to enshrine in law the obligations with respect to training and the minimum list of professionals concerned;
- b. to adopt and disseminate quality standards for training courses that incorporate a gender approach, deconstruction of stereotypes and vulnerability factors;
- c. to adopt and disseminate clear protocols and guidelines that set the standards professionals are expected to follow in their respective fields;
- d. to reference and disseminate good practice and tools which have proven successful in the field;
- e. to increase funding, in particular for training for trainers.

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

### **2. Programmes for sex offenders**

15. GREVIO strongly encourages the Belgian authorities to (paragraphe 95):

- a. ensure that the programmes for the care and social and judicial follow-up of perpetrators of domestic violence and sexual violence incorporate a uniform gendered approach and deconstruction of sexist stereotypes and are based on close collaboration with support services for women victims;
- b. determine more precisely under what circumstances it is appropriate to encourage interventions with perpetrators of domestic violence as an alternative to conviction rather than as a complement to conviction, in view of the impact on re-offending and the impact on the safety, support and fundamental rights of women and girls;

- c. limit recourse to mediation combined with accountability training for perpetrators of violence to situations where it is possible to ensure that the victims have given their free and informed consent, in line with the suggestions and proposals made in this report with regard to the measures taken to give effect to Article 48 of the Istanbul Convention;
- d. evaluate existing programmes to determine their impact in the short and long term, including through scientifically designed surveys and the compilation of statistics on participation rates and re-offending rates, making it possible to assess whether the programmes have served their preventive purpose;
- e. provide adequate funding to improve the accessibility of programmes for perpetrators of violence and to ensure support over a sufficiently long period to achieve the objective of non-recidivism.

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

16. GREVIO strongly encourages the Belgian authorities to pursue and step up their active efforts to involve private- and public-sector employers in combating gender-based violence against women in the workplace. To this end, the authorities should aim in particular to improve awareness and information among the general public, trade unions, employment professionals and employers in relation to violence against women at work, to expand and improve the reporting channels available to victims, and to step up the specific support and assistance provided. The Belgian authorities might also wish to consider evaluating the legislation of 1 September 2014 on psychosocial risks from a gender perspective (paragraphe 99).

17. GREVIO invites the Belgian authorities to continue their efforts to involve the various competent regulators and large media organisations in Belgium, in order to ensure that care is taken not to undermine respect for equality between women and men, in particular by refraining from peddling gender stereotypes or degrading images of women, linking violence and gender, or by encouraging these actors to introduce ethical codes of conduct to ensure that media coverage of violence against women is human rights-based, sensitive to gender differences and avoids sensationalism. GREVIO also calls for further such action to be directed at publishers and distributors of online services (paragraphe 104).

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

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

18. GREVIO strongly encourages the Belgian authorities to take appropriate steps to encourage further multi-agency co-operation and to ensure that the different forms of co-operation are firmly based on a gendered understanding of violence against women and domestic violence and focus on the human rights, safety and respect for the wishes of victims, as well as on their empowerment and economic independence. To this end, when networking, more should be done to harness and support the expertise and know-how of NGOs providing specialist services which put a gendered understanding of violence at the centre of what they do (paragraphe 109).

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

19. GREVIO strongly encourages the Belgian authorities to pursue their efforts to provide victims with adequate and timely information on available support services and legal measures, while taking care to ensure that this is undertaken as part of a solid partnership with specialist support services (paragraphe 113).

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

### **3. Housing**

20. GREVIO strongly encourages the Belgian authorities to take measures to (paragraphe 119):
- a. ensure that victims of violence have access to appropriate financial assistance, while seeing to it that these measures are backed up by adequate training for the staff concerned, such as the staff of the Public Social Welfare Centres (CPASs) and the Centres for General Welfare (CAWs), regarding violence and its consequences for victims, particularly in terms of economic insecurity;
  - b. improve the care provided to victims by the health services, in particular as regards identifying violence and dealing with all its effects on overall health; the authorities should also encourage more informed use of medical certificates by health professionals, particularly in view of their impact on victims' access to compensation for the damage suffered;
  - c. make it easier for victims of violence to access housing as an essential condition for their recovery and consider reviewing existing arrangements so that they are as closely attuned as possible to the realities and needs of victims.

## **D. Specialist support services and shelters (Articles 22 and 23)**

21. GREVIO urges the Belgian authorities to take the necessary measures to ensure that victims of all forms of violence covered by the convention and their children, in an adequate geographical distribution, have access to specialist support services and appropriate shelters. To this end, the authorities should in particular ensure that there are sufficient places in specialised accommodation and guarantee free access to shelters for victims regardless of their condition or status, taking care to draw on existing good practice and to develop solutions which are the result of consultation with specialist associations working as closely as possible with victims and their children (paragraphe 125).

## **E. Helplines (Article 24)**

22. GREVIO strongly encourages the Belgian authorities to provide, in co-operation with women's rights NGOs, advice, information and guidance services specifically targeting violence against women which meet the requirements of Article 24 of the Istanbul Convention in terms of round-the-clock cover, seven days a week and are balanced between the country's different linguistic communities (paragraphe 129).

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

23. GREVIO strongly encourages the Belgian authorities to pursue their efforts to set up centres to provide emergency assistance to victims of sexual violence across the country (paragraphe 132).

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

24. GREVIO urges the Belgian authorities to take measures to make it easier for child witnesses to access protection and support services. To this end, the authorities should (paragraphe 136):
- a. improve collaboration between the various agencies specialising in the care of women victims of violence on the one hand, and those responsible for the care of children on the other;
  - b. draw up clear guidelines and/or review existing practices and benchmarks for agencies which specialise in helping and supporting children, so that any action they take is based on a recognition of the risks and harmful consequences to which child witnesses are exposed as a result of violence and in connection with their safety and the safety of their mothers;
  - c. provide more help for shelters in their task of supporting child witnesses, alongside their mothers.



## **VI. Substantive law**

### **A. Civil law**

#### **1. Civil remedies against the state: principle of due diligence (Article 29)**

25. GREVIO encourages the Belgian authorities to ensure that they have data for checking whether victims of all the forms of violence covered by the Istanbul Convention actually have access to 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 (paragraphe 141).

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

26. GREVIO invites the Belgian authorities to (paragraphe 144):

- a. step up the collection of data on the number of women victims of violence having claimed, and obtained, state compensation, taking care to disaggregate them for all the forms of violence covered by the Istanbul Convention, and include data on the timeframes within which such compensation is paid;
- b. ensure that state compensation is paid within a reasonable time, as required by Article 30, paragraph 2, of the Istanbul Convention.

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

27. GREVIO urges the Belgian authorities to take the necessary measures to ensure that in the determination of custody and visitation rights or the introduction of measures affecting exercise of parental authority, the competent authorities are required to consider all issues relating to violence against women and assess whether this violence might warrant restricting custody and visitation rights. To this end, the authorities should (paragraphe 150):

- a. consider amending their legislation to recognise explicitly the need to take account of the incidents of violence covered by the Istanbul Convention in the determination of custody and visitation rights regarding children;
- b. incorporate risk assessment procedures in the determination of custody and visitation rights in order to determine the child's best interests in situations of violence;
- c. ensure appropriate use of the legal provisions which allow the perpetrator's custody and visitation rights to be curtailed, removed and/or subjected to safeguards whenever a situation of violence is ascertained and promote the determination of custody and visitation rights on a provisional basis until all reported acts of violence against women are properly assessed;
- d. do more to encourage appropriate training and the preparation of professional guidelines alerting the relevant professionals to the harmful effects of violence on children, including child witnesses, and familiarising them with the provisions of the Istanbul Convention on custody and visitation rights;
- e. improve accessibility of arrangements ensuring that exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children.
- f. make the relevant professionals aware of the lack of scientific basis for "parental alienation syndrome" and sensitise the public to this issue.

Progress in this field should be measured by means of case law data and analysis illustrating how family courts consider incidents of violence and the grounds they give for their decisions on custody and visitation rights.

## **B. Criminal law**

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

28. GREVIO encourages the Belgian authorities to take measures to investigate, prosecute and punish acts of psychological violence in an effective manner, making full use of the relevant provisions of the Criminal Code, or to consider introducing new provisions that would better meet the requirements of Article 33 of the Istanbul Convention (paragraphe 154).

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

29. Whilst commending the Belgian authorities for their definition of sexual violence based on the victim's lack of free and informed consent, GREVIO invites the authorities to amend the current definition of this violence in criminal law as an offence against "family order" and "public morality" and to make it a crime against the victim's bodily integrity and sexual autonomy (paragraphe 157).

### **3. Forced marriage (Article 37)**

30. GREVIO strongly encourages the Belgian authorities to conduct a thorough review of the existing criminal legislation to ascertain whether it can be used for the criminal prosecution of a person who commits the intentional act of luring an adult or a child to the territory of another state with the purpose of forcing this adult or child to enter into a marriage, in accordance with Article 37, paragraph 2, of the Istanbul Convention, so that it can be determined whether there is a need to amend/incorporate the relevant legal provisions (paragraphe 159).

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

31. GREVIO invites the Belgian authorities to ensure that the existing provisions on forced abortion and forced sterilisation are able to protect women with disabilities against this form of violence, as required by Article 39 of the Istanbul Convention (paragraphe 163).

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

32. GREVIO encourages the Belgian authorities to review the applicable legislation and relevant judicial practices in order to determine to what extent they should be amended to enable the circumstances described in Article 46 of the Istanbul Convention to be taken into consideration as aggravating circumstances for sentences relating to the violence covered by the convention (paragraphe 167).

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

33. GREVIO strongly encourages the Belgian authorities to take all necessary measures to ensure that the use of criminal mediation in cases of violence against women is based on full respect for the rights, needs and safety of victims. Such measures should have the effect of ensuring (paragraphe 170):

- a. that women victims of violence to whom criminal mediation is offered are informed of their rights in the context of such a procedure, in particular as regards the non-mandatory nature of mediation;
- b. that mediation is only offered/applied to women victims of violence who are in a position to decide freely to accept or refuse the procedure;
- c. that the judges, mediators and legal professionals involved in the decision to use mediation and in its application are trained in the field of violence against women and the risks that victims may face in the context of mediation.

34. GREVIO strongly encourages the Belgian authorities to (paragraphe 174):
- a. bring the legislative provisions on mediation into compliance, taking into account the prohibition by Article 48 of mandatory alternative dispute resolution processes in situations where there is violence against women;
  - b. take appropriate measures to train, raise awareness among and provide guidance for the relevant professionals, particularly judges, prosecutors, mediators and support service providers, so that they are able to identify and distinguish between intimate partner violence and situations of conflict and can assess the desirability of mediation in the light of the need to respect the victim's rights and interests.

## **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**

35. In addition to further efforts to reveal the extent of unreported acts of violence, GREVIO strongly encourages the Belgian authorities to provide all the relevant law enforcement agencies with the necessary resources, knowledge and means to respond promptly and adequately to all the forms of violence covered by the Istanbul Convention. To this end, the authorities should in particular (paragraphe 185):

- a. ensure gender mainstreaming in criminal policy documents and relevant working tools to take account of the unequal dynamics between women and men in situations of violence, along with the disproportionate impact of violence on women;
- b. consider revising the coding system used by law enforcement agencies, to ensure that it reflects the nature and seriousness of the acts and the danger to the victim;
- c. take measures to ensure the effective implementation of the relevant criminal policy instruments, in particular by strengthening the system of lead professionals, evaluate regularly how they are applied, in co-operation with specialist NGOs and institutions, and ensure that the evaluation findings are made public;
- d. improve law enforcement agencies' provision of information and guidance for victims through a robust partnership involving victim assistance and support services and NGOs specialising in victim support.

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

36. With a view to putting an end to the impunity of perpetrators and preventing the risk of recidivism, GREVIO strongly encourages the Belgian authorities (paragraphe 190):

- a. to ensure the implementation of crime policies which prioritise cases involving any form of violence against women, including attempted violence, and to continue their efforts to ensure that criminal investigations and proceedings relating to such cases can be conducted effectively, while at the same time seeing to it that any measures taken to this end are backed by adequate funding;
- b. to ensure that sentencing in cases of violence against women, including domestic violence, is commensurate with the gravity of the offence and preserves the dissuasive function of penalties.

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

37. GREVIO urges the Belgian authorities (paragraphe 196):

- a. to integrate a gender perspective into risk assessment and risk management procedures and to ensure wide dissemination of these procedures for all forms of violence against women within all statutory agencies involved in dealing with cases of gender-based violence;
- b. to ensure that risk assessments are repeated at all relevant stages of the procedure, in particular at the end of any protective measures, having regard to the views and concerns expressed by victims and allowing victims to be represented by a specialist support service;
- c. to consider setting up a system, such as a domestic killings review mechanism, to analyse all cases of gender-based killings of women, with a view to preventing them in the future, keeping women safe and upholding the principle of accountability both of the perpetrators and of the various agencies in contact with the parties.

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

38. GREVIO strongly encourages the Belgian authorities (paragraphe 203):

- a. to step up efforts to increase the use of emergency barring and protection orders by promoting their usefulness and ensuring their vigilant enforcement;
- b. to remove any obstacles in legislation and/or in the practical implementation of existing protection mechanisms, particularly in view of the fact that requiring the victim to pay an occupancy allowance if they are granted possession of the home may severely limit access to this arrangement;
- c. to assess the level of implementation of existing mechanisms, including civil-law mechanisms, by collecting relevant data;
- d. to actively refer victims to specialist women's support services which help victims to exercise their right to protective measures.

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

39. GREVIO encourages the Belgian authorities to ensure that the conditions provided for in their internal law for entitlement to legal aid do not create excessive obstacles to the possibility for victims who are deprived of financial means and unable to pay for the services of a lawyer to benefit from free legal assistance and legal aid (paragraphe 205).

# **VII Migration and asylum**

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

40. GREVIO strongly encourages the Belgian authorities to undertake an in-depth review of their immigration laws and policies in order to bring them into line with their obligations under Article 59 of the Istanbul Convention (paragraphe 215).

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

### **2. Gender as grounds for asylum**

41. GREVIO strongly encourages the Belgian authorities to take measures to tackle the shortage of places in reception centres in order to give full effect to the laws aimed at identifying and supporting women asylum seekers in situations of vulnerability because of violence and to produce and implement centralised gender-sensitive guidelines, protocols and training courses for all reception centres (paragraphe 225).

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42. GREVIO encourages the Belgian authorities to ensure that a gender-sensitive approach is applied consistently to all grounds for persecution and that women receive optimal support for disclosing the grounds on which they are applying for international protection (paragraphe 226).

43. GREVIO encourages the Belgian authorities to draw up and publish gender guidelines offering better guarantees that violence will be taken into account in the case of vulnerable women to whom the “border placement” and “accelerated” procedures apply (paragraphe 227).

## **Appendix II**

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

#### **National/federal authorities**

- Agence fédérale pour l'accueil des demandeurs d'asile
  - o Centre d'accueil de Rixensart, d'Yvoire et de Louvranges
  - o Centre d'accueil du Petit-Château à Bruxelles
- Conseil du Contentieux des étrangers
- Institut pour l'égalité entre les femmes et les hommes
- Institut de formation judiciaire
- Parquet de Bruxelles
- Parquet général de Liège
- Réseau d'expertise « criminalité contre les personnes » du Collège des procureurs généraux
- Police fédérale – Coordination nationale Assistance policière aux victimes
- Service public fédéral emploi, travail et concertation sociale
- Auditorat général près de la Cour du travail de Liège
- Service public fédéral Justice
  - o Direction générale de la législation, des droits fondamentaux et des libertés
- Service public fédéral Intérieur
  - o Commissariat général aux réfugiés et aux apatrides
  - o Commission permanente de police locale
  - o Direction générale Sécurité et prévention
  - o Office des étrangers
- Service public fédéral de programmation Intégration sociale, lutte contre la pauvreté et politique des grandes villes
- Service public fédéral Santé publique, sécurité de la chaîne alimentaire et environnement
  - o Service Soins de santé

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

- Communauté flamande
  - o Département de l'enseignement et de la formation
  - o Département du bien-être de la santé publique et de la Famille, division du développement des politiques et division des Maisons de Justice
- Communauté germanophone
- Communauté française
  - o Administration générale des Maisons de justice
  - o Secrétariat général du Ministère de la Communauté française – Direction de l'Égalité des chances
- Région wallonne
  - o Service public de Wallonie – Intérieur et Action sociale
- Région de Bruxelles-Capitale
  - o Commission communautaire française – Service des affaires sociales
  - o Equalbrussels

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**Non-governmental organisations**

- Amnesty International Belgique
- Arc-en-ciel Wallonie
- Centre d'Appui Bruxellois (CAB)
- Centrum voor Algemeen Welzijnswerk Brussel
- Ciré
- Collectif contre les violences familiales et l'exclusion (CVFE)
- Défense des enfants international – Belgique
- Belgian Disability Forum
- Fem & Law
- Garance
- Groupe pour l'abolition des mutilations sexuelles féminines (GAMS Belgique)
- Intact
- La Voix des femmes
- Maison Plurielle Charleroi
- Nederlandstalige Vrouwenraad
- Praxis
- Rainbow House Bruxelles
- Rainbowhouse Brussels
- Solidarité femmes et Refuge pour femmes victimes de violences de La Louvière
- Synergie Wallonie
- Université des Femmes

**Civil society organisations and other organisations**

- Centre fédéral migration Myria
- Centre Hospitalier Universitaire Saint-Pierre – Centre pluridisciplinaire de Planification familiale et de santé sexuelle (« 320 rue Haute »)
- Family Justice Center d'Anvers'







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.

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