



GREVIO

Baseline Evaluation Report Serbia

” 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)

SERBIA

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

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Foreword

The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) is an independent human 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 Serbia. It covers the Istanbul Convention in its entirety¹ and thus assesses the level of compliance of Serbian 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 evaluation of Serbia, GREVIO received written contributions from the civil society organisations

1. With the exception of Chapter VIII of the convention, which GREVIO considered as less relevant in assessing the national situation in each contracting party.

Atina, the Autonomous Women's Centre Belgrade, the Association of Roma Novi Bečej, Fenomena Association, FemPlatz and the Mental Disability Rights Initiative (MDRI-S), as well as from the SOS Vojvodina Network. GREVIO also received a contribution from the Protector of Citizens of the Republic of Serbia.

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 June 2019. Developments since that date are neither covered in the analysis nor taken into account in the conclusions and proposals therein.

According to the convention, national parliaments shall receive this report from the national authorities (Article 70, paragraph 2). GREVIO requests the national authorities to translate this report into their official national language(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 Serbian authorities with regard to all aspects of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (hereafter “the 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 right 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 Serbian authorities and additional information submitted by NGOs as well as the Protector of Citizens of the Republic of Serbia) as well as a 5-day evaluation visit to Serbia. A list of the bodies and entities which GREVIO had exchanges with can be found in Appendix II.

The report assesses the wide variety of measures taken by the Serbian authorities over the past years, including after the entry into force of the Istanbul Convention, with a view to preventing and combating the different forms of violence which women in Serbia experience at the hands of men. It welcomes the clear policy commitment to eliminate gender-based violence and the progress made in adapting its response to violence against women to international standards.

Several legislative acts, national action plans and strategies now address the various forms of violence against women and domestic violence as covered by the Istanbul Convention. Technical assistance and expert advice offered in the framework of co-operation with the wide range of intergovernmental organisations present in the country has been welcomed, propelling the issue of violence against women to the forefront of important protocols, guidance and instructions for relevant professional sectors. The Law on the Prevention of Domestic Violence is a central piece of legislation in this context and seeks to set out standardised approaches to domestic and other forms of violence that are based on multi-agency risk assessment, individual safety and protection plans as well as emergency protective measures. The report thus highlights the positive impact it has had on the handling of domestic violence cases in Serbia. It welcomes the setting up of the Co-ordination Body for Gender Equality of the Republic of Serbia, the national co-ordinating body, and the central role it plays in developing policy documents and action plans in the area of violence against women and gender equality.

Recognition has also been afforded to the importance of addressing the situation of women exposed to or at risk of intersectional discrimination and the particular obstacles they may face in seeking help from the authorities for experiences of violence. In this context, the report notes the recent efforts made to set up a National Coalition for Ending Child Marriage, uniting all relevant institutions and NGOs, as well as the stated intention to intensify training for professionals on the protection from child marriage as well as more support for Roma girls, their families and Roma organisations. Until these bear fruit, the report notes, Roma women and girls will continue to encounter stereotypical beliefs when seeking help from the authorities, and the multiple factors that contribute to their exposure to gender-based violence will persist.

The small number of women-to-women specialist support services – frequently run by non-governmental organisations operating on limited budgets – generally place a limit on victim-centred and specialist counselling and support for women’s experiences of violence. This is particularly pronounced for Roma women and girls as well as women with disabilities. Very few local authorities invest in the provision of specific services for women who experience or are at risk of forced marriage, stalking, sexual violence or sexual harassment. In the absence of rape crisis and sexual violence referral centres in most of Serbia, much-needed counselling as well as psychological support and trauma care seem unavailable for this particularly gruesome form of violence. More efforts must be made to ensure the provision of immediate, medium- and long-term support by involving and tapping into the long-standing expertise built up by women’s specialist support services in civil society. Similar efforts are required to ensure that children who witness domestic violence receive counselling and support, including for post-traumatic stress disorder (PTSD). Such efforts

are enhanced where children's safety is ensured in conditions that allow them to remain with the non-abusive parent, preferably in their own home, for example through rigorous use and enforcement of eviction and no-contact orders – rather than removing children from their mothers' care. In a similar vein, there is an urgent need to ensure that all incidents of violence committed by the abusive parent are considered in the determination of custody and visitation rights.

The need for a stronger criminal justice response to most forms of violence against women, in particular domestic violence, has been recognised, and the Law on the Prevention of Domestic Violence and additional policy documents have led to an increase in training and specialisation across the legal professions as well as law enforcement agencies. Amendments to the Criminal Code in recent years have aligned it more closely with the requirements of the Istanbul Convention, and forms of violence such as stalking, forced marriage and female genital mutilation are now criminalised. However, difficulties persist in ensuring their application in practice, not least because of a persistent lack of understanding of the serious nature of these forms of violence, their trivialisation in the media and in public discourse. The criminal offence of rape is not defined as a sexual act that the victim did not consent to, as required by the Istanbul Convention, but as an act committed with the use of coercion, force or threat.

Conviction rates for most forms of violence against women are extremely low. The reasons therefore range from low levels of reporting to lack of guidance on how to build a case, and insufficient training on more recently introduced offences. Although domestic violence cases have seen an increase in the number of persons charged since 2012, which GREVIO welcomes, they have seen an even more marked increase in the number of charges ultimately dropped. Where convictions close the case, the sanctions imposed are often conditional and the full sentencing range is rarely made use of. For women victims of violence who desire legal representation in cases concerning them, legal aid is in principle available. However, the newly introduced Law on Free Legal Aid distinguishes between victims of domestic violence – who always qualify – and victims of other forms of violence covered by the Istanbul Convention, who must demonstrate their eligibility through a lengthy application process. The law also sets out new criteria for providers of legal aid, which, in GREVIO's view, disregard the particular expertise built up over the years by women's NGOs in the legal representation of women victims of domestic violence.

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

- ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3;
- ensure, for all policies and measures which form part of the required comprehensive and co-ordinated approach to combating violence against women and domestic violence, stable and sustainable funding levels on the basis of separate budget and funding lines;
- introduce standardised data categories for mandatory use by law-enforcement agencies, the judiciary and all other relevant actors on the gender and age of the victim and perpetrator, their relationship, type of violence and the geographical location;
- ensure the provision of specialist women's support services with a gendered approach and expand the provision of shelters while ensuring *de facto* access of all women, in particular women with disabilities, Roma women and women migrants/asylum seekers;
- ensure due respect for the confidentiality and anonymity of all callers to the newly established national helpline for victims of gender-based violence, and to ensure that referrals are made to specialist support services provided by NGOs; and
- ensure heightened respect among legal guardians and medical professionals for women's informed and free decision-making in relation to medical procedures such as abortion and sterilisation, in particular where women with disabilities in residential institutions are concerned.

Furthermore, GREVIO has identified a number of additional areas in which improvements are required in order to comply fully with the obligations of the convention. These relate, among others, to the need to encourage the rate of reporting by victims and the need to research the impact of diverting cases away from the criminal justice system on both recidivism rates and deterrence. Funding levels of crucial support services for victims as well as programmes for perpetrators and financial resources for policies, measures and legislation aimed at preventing and combating violence against women and the institutions and entities mandated for their implementation, in particular Centres for Social Welfare, need to be increased. Lastly, efforts must be stepped up to identify and support women asylum seekers who have experience or are at risk of gender-based violence by developing and implementing gender guidelines for refugee status determination and ensuring adequate accommodation, access to support services and protection.

Introduction

Serbia signed the Istanbul Convention on 4 April 2012, ratified it on 21 November 2013 and was among the first states parties in which it entered into force on 1 August 2014. In accordance with Article 78, paragraph 2, of the convention, Serbia reserves the right not to apply the provisions under Article 30, paragraph 2, and Article 44, paragraph 1e, 3 and 4, of the convention pending the alignment of its national criminal legislation. This reservation is valid for a period of five years from the day of the entry into force of the convention in respect of Serbia and may be renewed. GREVIO may request an explanation of the grounds on which continuance of the reservation is justified and may make suggestions and proposals accordingly. GREVIO takes the view that working towards the lifting of reservations in order to ensure full implementation of the convention's provisions is an integral element of the evaluation procedure.

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 Serbia by letter and transmission of its questionnaire on 12 February 2018. The order of reporting to GREVIO is based on a combination of regional groupings and order of ratification. The Serbian authorities subsequently submitted their state report on 2 July 2018 – the deadline set by GREVIO. Following a preliminary examination of the Serbian state report, GREVIO carried out an evaluation visit to Serbia, which took place from 25 February to 1 March 2019. The delegation was composed of:

- Simona Lanzoni, Second Vice-President of GREVIO
- Aleid van den Brink, Member of GREVIO
- Shazia Choudhry, Professor, United Kingdom
- Johanna Nelles, Administrator at the Secretariat of the monitoring mechanism of the Istanbul Convention

During the evaluation visit, the delegation met with a wide range of governmental and non-governmental representatives working in the area of preventing and combating violence against women. A list of the national authorities, non-governmental organisations and others met is set out in Appendix II of this report. GREVIO is grateful for the valuable information provided by all of them.

The evaluation visit was prepared in close co-operation with Ljiljana Loncar, Adviser to the Deputy Prime Minister for Gender Equality, who was appointed as contact person for the evaluation 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 Serbian authorities.

As a first baseline evaluation, GREVIO has looked into the measures of implementation taken by the Serbian authorities with regard to all aspects of the convention. For the sake of brevity, this report prioritises some provisions over others. While it addresses all chapters of the convention (except Chapter VIII), it does not present detailed assessments and conclusions on every provision in each of these.

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

A. General principles of the convention

1. Chapter I of the Istanbul Convention sets out general principles which apply to all the substantive articles contained in Chapters II to VII. These include, among others, that it is a fundamental human right for everyone, 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. Another principle which constitutes “the backbone” of the convention is that spelled out in Article 6 of the convention requiring the state parties to devise and implement gender-sensitive policies and to ensure that a gender perspective is applied not only when designing measures in the implementation of the convention, but also when evaluating their impact. As forming part of the general obligations of parties set out in Chapter I, the application of Article 6 extends to all other articles of the convention.

2. Since the ratification of the Istanbul Convention in November 2013, the Serbian authorities have made much progress towards building a legislative, policy and institutional framework to prevent and combat violence against women. Several legislative acts, action plans and strategies now address some forms of violence against women and domestic violence. To this end, Serbia is co-operating closely with a wide range of intergovernmental organisations present in the country and has welcomed technical assistance and expert advice in this area. In addition, the process of accession to the European Union (EU) is contributing to important judicial, administrative, economic and other reforms as well as the alignment of Serbian legislation with EU law in many areas, including the area of victims’ rights and gender equality.

3. GREVIO welcomes the manifold initiatives taken by the Serbian authorities to adapt its response to violence against women to international standards. Its present assessment aims to provide a comprehensive review of the measures taken so far and analyse their compliance with the requirements of the Istanbul Convention. The suggestions and proposals which GREVIO makes in this report are intended to guide the Serbian authorities towards a more sustainable and consolidated implementation of the convention.

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

4. In light of the scope of the Istanbul Convention set out in its Article 2, paragraph 1, the first baseline evaluation focuses on measures taken in relation to all forms of violence against women, including domestic violence, which affects women disproportionately. The term “violence against women” used throughout the questionnaire and throughout this report thus refers to all forms of violence against women criminalised (or, where applicable, otherwise sanctioned) under Chapter V of the convention. These are psychological violence, stalking, physical violence, sexual violence, including rape, forced marriage, female genital mutilation, forced abortion, forced sterilisation and sexual harassment. It also refers to domestic violence against women, which is defined as physical, sexual, psychological or economic violence which occurs within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.

5. Following the entry into force of the convention in Serbia in 2014, important legislative changes have been made in view of its implementation. Amendments to the Criminal Code in 2016 have introduced offences not previously criminalised in Serbia such as stalking, sexual harassment and female genital mutilation. The Law on the Prevention of Domestic Violence (LPDV) addresses domestic violence in a comprehensive manner and institutes multi-agency co-operation of key

professionals around this form of violence. Its provisions are also said to apply to a wide range of additional forms of violence, within and outside of the domestic context (Article 4 LPDV).

6. Since the National Strategy for the Prevention and Elimination of Violence against Women in Family and in Intimate Partner Relationships ended in 2015, violence against women is not addressed in a specific policy document but does get mention under the National Strategy for Gender Equality (2016-2020). Importantly, this strategy defines violence against women as a violation of women's human rights and recognises it as gender-based violence and a form of discrimination of women.

7. However, GREVIO notes that most efforts in law and policy have focused mainly on domestic violence as the most widespread form of violence against women in Serbia. The LPDV treats intergenerational domestic violence and domestic violence against women alike, with no apparent emphasis on the gendered dynamics and issues of power and control that are manifest in intimate partner violence. While some policy documents such as the General Protocol for Action and Co-operation of Institutions, Bodies and Organisations in Situations of Domestic and Intimate Partner Violence against Women place women victims of domestic violence at their centre, many interventions by statutory agencies such as law-enforcement agencies and Centres for Social Welfare are gender-neutral. They are not always taken in full recognition of the gendered nature of abusive relationships and linkages with the inequality between women and men, women's socio-economic discrimination and unequal status in society compared to that of men, negative gender roles and sexist attitudes that affect and disadvantage women in daily life. GREVIO notes that for domestic violence interventions to be successful, a careful analysis of the patriarchal family models and gender roles present in Serbia is required. More efforts are therefore needed to ensure that legislative and other measures, including training and awareness-raising efforts, recognise and address domestic violence against women by male partners/spouses as a form of gender-based violence. While GREVIO welcomes the clear policy commitment of the Serbian authorities to eliminate gender-based violence and implement the Istanbul Convention to the fullest, it notes the need to increase the application of a gendered perspective of such violence in all institutional responses and decision-making at all levels.

8. GREVIO recalls that Article 2, paragraph 1, of the Istanbul Convention affirms the notion that all forms of violence against women, including domestic violence, affect women disproportionately. GREVIO thus strongly encourages the Serbian authorities to enhance the application of a gendered perspective in the implementation of the Istanbul Convention, including in relation to law and policy on domestic violence.

C. Definitions (Article 3)

9. Article 3 of the Istanbul Convention sets out key definitions of concepts that are fundamental to its implementation. "Violence against women" 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 ..., whether occurring in public or in private life". The definition of "gender-based violence against women" offered in paragraph d of Article 3 seeks to ensure more clarity regarding the nature of the violence covered by explaining that this is "violence that is directed against a woman because she is a woman or that affects women disproportionately". Hence, the violence addressed by the Istanbul Convention differs from other types of violence in that the victim's gender is the primary motive. It is violence that is perpetrated against a woman that is both the cause and the result of unequal power relations based on perceived differences between women and men that lead to women's subordinate status in the public and private spheres.

10. In Serbia, GREVIO notes the existence of a panoply of definitions, both on violence against women and domestic violence, which is not conducive to fostering a harmonised understanding of the issue as violence that affects women disproportionately and that is thus gender-based. The existing Law on Gender Equality, adopted in 2009, defines gender-based violence in a gender-neutral manner (Article 10, paragraph 5). This law also contains provisions on family violence, without defining this term. Domestic violence is defined both in the Family Code (Article 197) and in

the LPDV (Article 3 paragraph 3). In terms of scope of conduct and possible victims, both provisions are in line with the definition of domestic violence as set out in Article 3, paragraph b of the Istanbul Convention. The definition offered in the Family Code, however, encompasses a wider range of conduct compared to that listed in the LPDV. In addition, GREVIO notes that the Criminal Code offers yet another scope of possible victims of domestic violence by excluding the application of the criminal offence of domestic violence to non-live-in partners who do not have a child together. They can, however, benefit from prosecution under more general criminal offences such as assault (Article 121 of the Criminal Code of Serbia) and they may apply for protection orders under the Family Code (see Chapter VI).

11. While GREVIO welcomes the authorities' intention to update the Law on Gender Equality, GREVIO notes with concern that the 2017 draft amendments that proposed a definition of violence against women based on that in Article 3a of the Istanbul Convention was withdrawn following public pressure. GREVIO calls on the authorities to align existing legislation with the definitions of the convention in order to further its implementation at national level.

12. GREVIO encourages the Serbian authorities to harmonise across all areas of law all legal definitions of violence against women, gender-based violence and domestic violence on the basis of the definitions set out in the Istanbul Convention and to ensure their effective application in practice.

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

1. Gender equality and non-discrimination

13. The Constitution of Serbia guarantees equality between women and men and obliges the state to develop equal opportunities policies (Article 15). These constitutional provisions are transposed by and further defined in the Law on Gender Equality. It confirms the principle of equality between women and men and prohibits direct and indirect discrimination on the basis of sex. It also explains that special measures taken to ensure women's equal status with men and to achieve equal opportunities for both sexes shall not be considered discrimination (Article 7). Furthermore, it sets out the principle that witnesses or victims of gender-based discrimination shall not suffer harmful consequences when disclosing any instances of discrimination to a competent authority (Article 8).

2. Intersectional discrimination

14. 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 as well as the list contained in its Protocol No. 12² and, in addition, includes the grounds of gender, sexual orientation, gender identity, age, state of health, disability, marital status, and migrant or refugee status or other status. This obligation stems from the realisation that discrimination of certain groups of women, for example at the hands of law-enforcement agencies, the judiciary or service providers, is still widespread.³

15. GREVIO welcomes the recognition afforded by the Serbian authorities to the importance of addressing the situation of women exposed to or at risk of intersectional discrimination. This is an aim set out in the National Strategy for Gender Equality (2016-2020), which envisages specific training for judges, prosecutors, lawyers and employees in public administration on the multiple and intersecting forms of discrimination women may experience. Intersectional discrimination against women was also recognised as an issue to be addressed in the Strategy for Prevention and Protection against Discrimination (2014-2018), and a follow-up strategy is currently under preparation, also aiming to address intersectional discrimination.

². The discrimination grounds in question include sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

³. See paragraphs 52-54 of the Explanatory Report.

16. Despite the existence of important policy documents such as the above, GREVIO has observed a number of barriers which women from national minorities, women with disabilities, asylum-seeking and migrant women and other women exposed to intersectional discrimination face in seeking quality interventions for any of the forms of violence covered by the convention. For example, Roma women in Serbia seeking help for the many forms of gender-based violence they may experience encounter stereotypical beliefs among the authorities, resulting in insufficient responses. Early and forced marriage, a prevalent form of gender-based violence among the Roma communities in Serbia, is considered to be a norm or custom specific to their group, hence a cultural practice that does not necessarily entail the state's responsibility to act. GREVIO thus welcomes the Strategy for Social Inclusion of Roma in the Republic of Serbia (2016-2025) but notes that it does not contain comprehensive measures for the protection of Roma women from gender-based violence. Instead, this is delegated to a new national strategy for preventing violence against women in the family and partner relations, which has not been adopted to date. While the Strategy for Social Inclusion of Roma does seek to improve the access of Roma women and men to social services, including for support in relation to early and forced marriage, GREVIO notes the urgent need to address the multiple factors that contribute to Roma women's exposure to different forms of gender-based violence.

17. The obligation of due diligence in the Istanbul Convention requires states to take into account the specific needs of women who face multiple and intersecting forms of discrimination and disadvantages. Their individual characteristics as women and, for example, as members of a minority ethnic group, as women with a disability or as women lacking knowledge of Serbian, interact in a way that compounds discrimination. In order not to create barriers for women in exercising their right to live free from violence and to receive effective protection, interventions need to take individual rights into account and to be sensitive to the individual situation and needs of each victim and in relation to the specific form of violence experienced.

18. Recent steps have been taken to ensure more co-ordinated and victim-centred interventions, which GREVIO welcomes. These include, among others, the establishment of a National Coalition for Ending Child Marriage in February 2019 uniting all relevant institutions and NGOs, plans for training initiatives for professionals at centres for social welfare on the protection from child marriage as well as more support for Roma girls, their families and Roma organisations. In relation to other groups of women, GREVIO observes less efforts in ensuring that the available support services cater to and address the specific needs of these groups of women (see Chapter VII in relation to migrant women). A renewed and comprehensive strategy on violence against women would certainly help to ensure the prevention of, protection from and prosecution of all forms of violence for all women living in Serbia.

19. GREVIO encourages the Serbian authorities to continue to address the multiple forms of discrimination that in particular women and girls from Roma communities face and to take measures to ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the other grounds listed in Article 4, paragraph 3. This includes improving the accessibility of services, in particular shelters, to women with disabilities and migrant women.

E. State obligations and due diligence (Article 5)

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

II. Integrated policies and data collection

21. 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)

22. In the recent past, a number of policy measures, action plans and strategies have been introduced in Serbia that, each in their own way, contribute towards the implementation of the Istanbul Convention. The National Strategy for the Prevention and Elimination of Violence against Women in Family and in Intimate Partner Relationships, the most relevant policy document, was introduced before the convention's entry into force (2011) and set out important measures. It ended in 2015, and a follow-up strategy is under development. Several action plans have been adopted since but are of broader scope and less specific to violence against women. Examples are the National Strategy on Gender Equality (2016-2020) and the Action Plan for the Strategy for the Prevention and Protection from Discrimination (2014-2018).

23. In parallel, the Co-ordination Body for Gender Equality was set up (see Section D, Co-ordinating body) and important legislative changes have been made to align Serbian criminal law and criminal procedural law with the requirements of the Istanbul Convention. On the operational level, efforts have been made towards a multi-agency response to victims of domestic violence, which is another element of Article 7. Standard protocols for action have been issued to key professionals, laying out specific measures such as the obligation to co-operate around individual cases, and GREVIO welcomes in particular the recognition they afford to the gendered nature of domestic violence.⁴ However, while protocols are important, they are not binding in nature and thus not always rigorously implemented. GREVIO further notes that the above-mentioned protocols are limited to domestic violence and no initiatives exist in relation to any of the other forms of violence covered by the convention.

24. While GREVIO notes with satisfaction that the above are important aspects in working towards a comprehensive implementation of the convention, it draws attention to the risk of fragmentation which the co-existence of poorly resourced action plans and strategies bear if they are not robustly evaluated and renewed on the basis of the lessons learnt in order to ensure coherence and complementarity. In Serbia, a range of measures seems to have been launched with a view to implementing the Istanbul Convention, but it is unclear whether this was done on the basis of a needs assessment of each of the four pillars of the convention: prevention, protection, prosecution and integrated policies. It is in particular the much-needed preventive measures that are absent from the policy agenda. Also, no mapping of service needs and delivery seems to have been carried out, resulting in significant blind spots with no plans to close existing gaps (see Chapter IV, sections D, E and G).

25. While efforts seem to be made in the framework of anti-discrimination policies to address intersectional discrimination as experienced by specific groups of women such as Roma women, women with disabilities, refugee and migrant women and others, these do not always lead to adequate, comprehensive responses to individual cases of violence at the local level. At the same time, policy attention seems to be focused almost exclusively on domestic violence with little to no initiatives taken or planned to address, in a comprehensive manner, other forms of violence, in particular rape, sexual harassment, stalking and forced marriage. Lastly, GREVIO notes with concern that no formal role is afforded to specialist support services set up by women's NGOs and that this expertise is not sufficiently tapped into in the implementation of the Istanbul Convention (see below).

⁴. See for example the General Protocol for Action and Co-operation of Institutions, Bodies and Organisations in Situations of Domestic and Intimate Partner Violence against Women, as well as protocols specific to professional groups.

26. GREVIO strongly encourages the Serbian authorities to pursue the adoption of a new comprehensive national strategy on all forms of violence against women in order to develop a long-term co-ordinated plan/strategy giving due importance to all forms of violence against women and which would fully reflect the specific needs of women who are or might be exposed to intersectional discrimination, in particular women belonging to minority groups in Serbia, women with disabilities and migrant women.

B. Financial resources (Article 8)

27. Government funding for services and measures to prevent and combat violence against women is made available in different ways in Serbia. Most operational costs are borne by the regular budgets of the respective line ministries, but no specific information was provided as to the specific share earmarked for measures in response to violence against women. Some local government units, in particular in the Autonomous Province of Vojvodina, record data on the specific funds allocated for the response to violence against women, but it is difficult to assess whether these are adequate. However, GREVIO welcomes the fact that information on public expenditure is collected at local level because it is an important first step in identifying where adjustments are warranted.

28. As a general rule, domestic violence shelters (safe houses) are either fully funded by the authorities (local and central), or co-funded by international and national donors. Funds are generally modest, and the limited number of available shelters are understaffed as a result of the ongoing public-sector hiring freeze. A similar situation presents itself in relation to Centres for Social Welfare, which are experiencing significant challenges as a result of their understaffing and under-resourcing.

29. As far as action plans and strategies are concerned, specific funding is not always made available. Where it is, it is often in even shares from the Serbian Government and international donors. For documents such as action plans and strategies to be adopted from now on, the Law on the Planning System of the Republic of Serbia requires authorities to ensure a financial calculation and cost estimate prior to adoption. GREVIO welcomes this step towards securing funding for planned measures.

30. Similarly, GREVIO welcomes the readiness of international donors to fund measures and projects to prevent and combat violence against women in Serbia, which is of valuable help. International funding already seems to account for a high share of the expenditure in this area and the process of EU accession offers even more opportunities for financial and technical support. Many activities undertaken are of a project nature and thus of limited duration. Expertise that is being developed under such schemes is easily lost without the necessary follow-up funding and without the necessary political and local administrative support to accept foreign sponsorship and to ensure continuity at local level. The sexual violence support centres in the Autonomous Province of Vojvodina are a case in point (see Chapter IV, Section G, Support services for victims of sexual violence).

31. While GREVIO notes with satisfaction the readiness of the Serbian authorities to co-operate with the international community, GREVIO recalls the importance of contributing, through the allocation of appropriate state funds, to the funding of legislative and policy measures in the area of violence against women in order to discharge their obligation under Article 8 of the Istanbul Convention. This is particularly important against the backdrop of more and more responsibilities placed on professionals in various sectors (i.e. law enforcement, prosecution services and social workers) through the adoption of specific laws and measures on violence against women.

32. GREVIO strongly encourages the Serbian authorities to ensure appropriate human and financial resources for any policies, measures and legislation aimed at preventing and combating violence against women and the institutions and entities mandated for their implementation. GREVIO furthermore invites the Serbian authorities to gradually reduce its dependency on international donors for activities to combat violence against women and ensure a wider share of funding from the Serbian state budget to demonstrate their financial responsibility and ownership.

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

33. In Serbia, NGOs offer most of the available specialist counselling and support services for women victims of domestic violence. These include local and regional helplines and counselling services as well as the provision of legal support. Operating with a victim-centred and feminist approach, these organisations have formed the “Women against Violence Network” and are a strong advocacy voice (mainly) on domestic violence against women in Serbia. Roma women’s organisations also exist and fill a vacuum in the provision of counselling and support to Roma women at the local level. They have developed important expertise on the intersections of gender-based violence, poverty, social exclusion and discrimination. Similarly, women’s disability rights organisations are important advocates for inclusive approaches to service provision, support and protection for women with disabilities who face violence, within and outside of institutions.

34. In general terms, the Serbian authorities recognise the expertise of women’s specialist NGOs, in particular their advocacy and awareness-raising efforts. Some good examples of co-operation around the preparation of national strategies or the adoption of legislative proposals also exist, and GREVIO welcomes the fact that dialogue and consultations with NGOs form part of the objectives under the National Strategy for Gender Equality (2016-2020). However, many women’s organisations do not form part of an inclusive dialogue for the consultative process of developing measures and policies in the area of violence against women.

35. Furthermore, GREVIO notes with concern the growing isolation these women’s NGOs face in their day-to-day work of supporting women victims of violence. This isolation is most pronounced for Roma women’s organisations, as they face obstacles both from within their communities and outside. For example, none of the policy documents adopted in recent years envisage co-operation between state actors and women’s NGOs that run specialist services. The Law on the Prevention of Domestic Violence does not assign them a standard role in drawing up individual protection plans – the cornerstone of the new multi-agency approach to protection from domestic violence – but leaves their participation to the discretion of the relevant prosecutor’s office. Moreover, the General Protocol does not mandate co-operation with specialist support services nor the routine referral of victims, resulting in the under-utilisation of crucial community resources and existing specialist expertise within the NGO sector.⁵ GREVIO is particularly concerned at the difficulties that persist for locally operating women’s support services in delivering services and advocating change. Political support for the role of women’s NGOs in this field must be increased, including at the local level, and for services provided to all women in Serbia (including women from national minorities). To ensure greater compliance with the Istanbul Convention, it must be recognised that specialist support services for women victims of violence must exist in adequate numbers in all regions of Serbia, which would require the expansion to currently under-resourced areas. Moreover, many such services are best ensured by being run by women’s organisations and by support services provided, for example, by local authorities with specialist and experienced staff who have in-depth knowledge of gender-based violence against women. GREVIO recalls the importance of recognising specialist support services as partners in multi-sectoral co-operation.

36. As the example of the national helpline shows (see Chapter IV, Section F. Telephone helplines), it is not necessarily the established women’s specialist support services with decades of experience that win public tenders for services in the area of violence against women. Instead, contracts are being awarded to newer/other players in the field. The reasons therefore are not always clear, and this is eroding the level of trust on both sides.

37. While GREVIO appreciates the efforts made by the Serbian authorities to fund women’s NGOs within the limits of available funds, GREVIO notes that the funding provided to women’s specialist support services by state bodies at local, regional or central level is generally low, and most rely on international donor funds to run their services. The risk of significant downscaling of service provision is omnipresent for most, and many have indeed reduced their services or rely on volunteers and unpaid work. This precarious situation does not allow for the expansion of their

⁵ “Multi-sectoral Co-operation – Institutional Response to Violence against Women”, report published by the United Nations Development Programme, 2013, p. 114.

service scope, nor does it guarantee their sustainability in the long term. New approaches must be found to ensure the active government support and recognition of women's specialist support services as required by Article 9 of the Istanbul Convention. Mutual co-operation mechanisms will need to be developed in particular to cater to the needs of women for experiences of violence that are currently unmet (see Chapter IV, Section G).

38. GREVIO urges the Serbian authorities to:

- a. establish at different levels of government consultative dialogues with women's organisations in order to incorporate their opinions and experiences into the design of policies and measures to prevent and combat all form of violence against women;**
- b. foster mutual co-operation between state actors such as Centres for Social Welfare, law-enforcement agencies, prosecution services and women's specialist support services run by NGOs through appropriate referrals and more institutionalised support;**
- c. ensure appropriate funding through suitable funding opportunities such as long-term grants based on transparent procurement procedures to ensure sustainable funding levels for women's NGOs that run specialist support services for women victims of all forms of violence.**

D. Co-ordinating body (Article 10)

39. The Co-ordination Body for Gender Equality of the Republic of Serbia, established in 2014, is mandated to co-ordinate, implement, monitor and evaluate policies and measures in the area of gender equality and violence against women. GREVIO welcomes the setting up of this body and its cross-sectoral composition and high-level chairperson. It notes its central role in preparing important policy documents such as the Strategy for Gender Equality and its Action Plan (see above), and that it partners with the various UN agencies in the implementation of the "Integrated Response to Violence against Women and Girls" project.

40. However, GREVIO notes the existence of several additional co-ordinating and monitoring bodies at national and regional level, such as the Council for the Prevention of Domestic Violence, which is mandated to monitor implementation of the LPDV. Under the Ministry of the Interior, a Working Group for Monitoring and Co-ordination of Police Work in Cases of Domestic Violence has been set up, and the Autonomous Province of Vojvodina has set up its own regional co-ordinating committee.⁶ GREVIO welcomes the existence of these structures, which aim at reviewing and improving sector-specific responses to domestic violence but points to the need to ensure that all relevant findings and proposals feed into the work of the Co-ordination Body for Gender Equality.

41. With regard to the Co-ordination Body for Gender Equality, which is given the formal role of ensuring implementation of the Istanbul Convention, GREVIO notes that no permanent staff or budget have been allocated to it. GREVIO is concerned that serving on this body adds to the existing workload of its members, and that the financial and human resources currently at its disposal do not ensure the efficient discharge of its mandate. In addition, data collection on violence against women does not form part of its mandate, although improvements in this area are urgently needed. Moreover, the Ministry of Health does not form part of the co-ordination body, thus leaving out the health-care sector, which is a central element in the prevention of violence against women and the identification of victims.

42. Lastly, GREVIO notes that the co-ordination body is mandated to both implement and monitor implementation of policies and measures in the area of violence against women. GREVIO wishes to point out that the evaluation function of a co-ordinating structure in implementation of Article 10 of the convention 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

⁶. Intersectoral Committee for Co-ordination and Monitoring and Assessment of Effects of the Programme for Protection of Women against Domestic and Intimate Partner Violence and Other Forms of Gender-Based Violence.

is important to highlight the value that lies in differentiating implementation from the evaluation of measures taken and attributing these two functions to separate institutions. A set-up in which close institutional ties exist between those who implement measures and bear political responsibility for them and those who are supposed to evaluate the efficacy of those measures, or even a set-up in which the two groups are identical, might not ensure the necessary objectivity to assess and independently evaluate policies and measures taken.

43. GREVIO strongly encourages the Serbian authorities to fully institutionalise the Co-ordination Body for Gender Equality and to allocate the necessary human and financial resources. GREVIO furthermore encourages the Serbian authorities to ensure, on the one hand, the co-ordination and implementation of policies and measures to prevent and combat all forms of violence against women, and, on the other hand, their independent monitoring and evaluation. In so doing, the authorities should ensure that the functions of the co-ordinating body are exercised in close consultation with those of other co-ordinating and monitoring bodies as well as relevant NGOs and civil society and that they are supported by adequate and appropriate data.

E. Data collection and research (Article 11)

44. Preventing and combating violence against women and 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.

1. Administrative data collection

45. A wealth of statistical data is being collected in Serbia, and the authorities are well aware of their importance for policy making and legislation to prevent and combat violence against women. The desire to move towards a uniform system for the standardised collection and exchange of data on all forms of violence against women is set out in the Strategy for Gender Equality. GREVIO welcomes this step and calls for its swift implementation, not least in order to stamp out any inconsistencies that arise in collecting data on the basis of diverging definitions of domestic violence (see Chapter I, Section C, Definitions).

a. Law-enforcement agencies and the criminal justice sector

46. Law-enforcement agencies, prosecution services and courts collect data on reported offences, outcomes of prosecution and convictions in relation to a number of offences, in particular domestic violence and sex offences. All data are classified by type of offence. Since the entry into force of the LPDV, systematic electronic recordkeeping and monitoring has been introduced in relation to domestic violence. All police directorates, basic courts, basic public prosecutor's offices and centres for social welfare collect data electronically and together form the Central Registry on Domestic Violence run by the Republic Public Prosecutor's Office. In addition, all actions taken by police in domestic violence cases are recorded by the Ministry of Interior using extensive data categories such as age and sex of the victim and the perpetrator, the nature of their relationship, the type of violence perpetrated and its location as well as the number of protection orders issued and whether risk assessment has been carried out. Additional records collect data on the number of women killed by intimate partners and plans are underway to ensure this will be done electronically in the future.

47. GREVIO welcomes the setting up of the Central Registry on Domestic Violence and trusts that this allows uniform data collection on domestic violence across the different stages of the criminal justice system. GREVIO notes, however, that most of this data is not available publicly. Moreover, data collection on sexual violence, forced marriage or other forms of violence covered by the Istanbul Convention and outside the domestic violence context seems much less developed. It would be important to ensure the collection of robust data on all forms of violence and on the basis

of all essential data categories, which are in particular the age and sex of the victim and perpetrator, their relationship as well as the type of violence and where it took place.

48. The need for data disaggregation would also apply to data collected in relation to emergency barring and protection orders issued within criminal proceedings. Although their overall number is recorded annually, data on their use does not seem to be disaggregated by sex and age of the victim and perpetrator, nor their relationship and geographical location. This masks the extent to which women victims of intimate partner violence benefit from an emergency barring or protection order against their abusive partner.

49. GREVIO strongly encourages the Serbian authorities to develop data collection systems for all forms of violence covered by the Istanbul Convention, in particular sexual violence, stalking, sexual harassment, forced marriage and female genital mutilation, for use by law-enforcement agencies, prosecution services and the judiciary on the basis of data categories such as sex, age, type of violence and type of relationship of the perpetrator with the victim to be collected at regular intervals.

b. Health-care sector

50. Tools have been developed for health-care professionals to identify and support victims of domestic violence, and records are kept by the Institute of Public Health on the number of identified victims and case referrals (reports) to police and social welfare centres. It is disaggregated by geographical location, which shows stark differences in approaches. While in 10 of the 26 administrative districts of the Republic of Serbia all identified cases of domestic violence are reported to another authority (police, prosecution or social welfare centre), in other districts a large number go unreported (10-40%). The records kept also identify the percentage of women with disabilities, pregnant women and elderly women – but not their relationship to the perpetrator.

51. It is unclear whether instances of patient contact with the health sector are recorded in a similar manner in relation to other forms of violence against women, in particular sexual assault and rape, forced abortion or forced sterilisation, and female genital mutilation (FGM).

52. GREVIO strongly encourages the Serbian authorities to expand the collection of data on instances of patient contact with the health sector in order to cover all forms of violence covered by the Istanbul Convention, in particular for sexual assault and rape, forced abortion or forced sterilisation, and female genital mutilation (FGM).

c. Social services

53. The Republic Institute for Social Welfare collects data on the use of social services and interventions made in relation to domestic violence, intimate partner violence and child marriage. For example, it collects data annually on the number of domestic violence cases reported to centres for social welfare, the number of protection measures taken in response and the number of victims placed in shelters, including their length of stay. Most information is broken down by type of violence, sex and age of the victim and perpetrator, their relationship, geographical location and who reported the incident. GREVIO welcomes these efforts at monitoring service provision by the social welfare centres for victims of domestic violence and for girls at risk of early or forced marriage. Concerns have been raised regarding the level of support that is provided by social services to Roma women and girls at risk of early or forced marriage (see Chapter IV, General support services). GREVIO trusts that robust data collection on the number of reported cases and interventions proposed by social welfare centres will help in understanding the extent to which interventions are proposed by social services and they are in compliance with their obligation as set out in the Law on Social Welfare to provide support and assistance to all women and children who experience or who are at risk of violence, abuse, neglect and exploitation.

54. GREVIO strongly encourages the Serbian authorities to expand the collection of data on reports made to and interventions proposed by social services in relation to all forms of violence covered by the Istanbul Convention.

2. Population-based surveys

55. According to the authorities, national population-based surveys to assess the prevalence of violence against women in Serbia were last conducted in 2009 and 2010. No information was provided on the scope of these surveys nor on their outcomes.

56. In 2018, the Organization for Security and Co-operation in Europe (OSCE) published the results of its survey on violence against women in Serbia.⁷ This survey is part of the first comparable representative survey conducted in South-East Europe and Eastern Europe and is based on the methodology used by the Violence against Women survey conducted in 2014 by the European Union Agency for Fundamental Rights. It covers the exposure to different forms of violence by women in Serbia, including women from minority groups. The results show that one in six ever-partnered women aged 18-74 have experienced physical and/or sexual violence from an intimate partner. Psychological violence from a partner is much more widespread, and 44% of ever-partnered women have been exposed to this form of violence.⁸ Attitudes around psychological violence show that it is frequently considered a normal part of a relationship, and that it is not something that can be changed. As regards sexual harassment, two in five women (42%) aged 18-74 have experienced it since the age of 15, making it a widespread form of violence that is, however, only rarely prosecuted (see Chapter V).

57. The survey provides important insights into the prevalence of different forms of violence against women, as well as perceptions and attitudes among victims. Use should be made of its results as a starting point for further policy measures, in particular with a view to ensuring higher levels of satisfaction with service provision.

3. Research

58. Numerous studies and research exist in Serbia on different forms of violence against women. These relate to gender-based violence in schools, early and child marriage and, most frequently, on domestic violence and the implementation of legislation in this regard. The reporting on violence against women by the media has also been researched, as has the gender responsiveness of the asylum system in Serbia.

59. GREVIO appreciates that the above-mentioned research projects have revealed important insights into specific aspects of violence against women. However, GREVIO notes that they focus predominantly on domestic violence and only briefly touch upon any other forms of violence against women. For instance, there is little research that explores the reasons for the low reporting rates of women who experience sexual violence and rape from a non-partner or that assesses any difficulties law enforcement and the judiciary might encounter in handling rape cases. Also, no comprehensive research has been commissioned to elucidate issues of intersectional discrimination and other factors faced by migrant and ethnic minority women that present barriers to seeking and receiving help from statutory agencies and social services.

60. GREVIO encourages the Serbian authorities to step up efforts to support research into manifestations of violence against women that are not currently explored, in particular by setting research priorities based on harmonised definitions of violence against women and common goals to ensure progress, and by ensuring the overall co-ordination of and financial support to research projects.

⁷. "Well-being and Safety of Women – OSCE-led survey on violence against women in Serbia" (2018).

⁸. Ibid, p. 22.

III. Prevention

61. 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.

A. General obligations (Article 12)

62. Article 12 delineates the fundamental foundations of the parties' duty to prevent violence against women. These include the parties' determination to promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men. Moreover, flowing from the premise that violence against women is a cause as much as a consequence of gender inequality, Article 12 requires further that parties adopt specific measures to empower women and to achieve greater gender equality in order to reduce women's vulnerability to violence.

63. In Serbia, patriarchal attitudes and stereotypes prevail regarding the roles, responsibilities and the expected behaviour of women and men in society and in the family. There is a great need for increased awareness raising of gender stereotypes and the causes and consequences of violence against women. The level of normalisation of domestic violence even among the young generation is of concern, as a recent survey shows.⁹ Many teenage girls accept traditional roles for women and men in relationships, including the notion of women making sacrifices for the family, and most would stay with an abusive husband without reporting to the authorities. Acceptance of patriarchal family and community structures and physical and sexual violence is particularly pronounced among many women of Roma origin, as interviews in support of the GREVIO evaluation of Serbia have shown.¹⁰

64. The National Strategy for Gender Equality (2016-20) and the Action Plan (2016-18) for its implementation recognise the need for a change in gender roles and patterns and seeks to introduce a culture of gender equality. In addition, a range of measures have been taken to change mentalities and gender stereotypes, notably through an increase in media content promoting gender equality and gender-sensitive reporting. Moreover, several large-scale awareness raising campaigns have been carried out (see below). Academic achievements and publications emanating from the gender studies field have been promoted and the curricula and textbooks for Serbian language courses in primary school were reviewed with a view to eliminating gender stereotypes. Gender equality in sports and in higher education is also specifically pursued through projects, conferences and international exchanges.

65. GREVIO encourages the Serbian authorities to continue its activities to eradicate to eradicate prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men across all pockets of society.

⁹. A survey among female high-school students aged 18 and 19 in several Serbian municipalities on the "Analysis on correlation between gender stereotypes and gender-based violence" was conducted by the non-governmental organisation Atina. Results in English are available at: <http://atina.org.rs/en/survey-vast-number-girls-said-they-would-not-report-violent-husband>, and in Serbian at: www.politika.rs/sr/clanak/418970/U-istrazivanju-mnoge-devojke-rek.

¹⁰. Information provided during the evaluation procedure.

B. Awareness raising (Article 13)

66. The Serbian authorities report on several awareness-raising activities, mainly in relation to domestic violence. Notably, in 2015 and 2016 a campaign was carried out to encourage the reporting of domestic violence to the authorities, which targeted both the public at large and relevant professionals. It addressed the role of gender stereotypes and myths around false accusations by women, thus enforcing the message that domestic violence is a reality for women, which GREVIO welcomes. International campaigns such as the “16 Days of Activism against Violence against Women” which is held annually from 25 November to 10 December and the “HeForShe” are regularly supported by the Serbian authorities at national level and boost awareness of violence against women and the importance of gender equality among the public at large. Moreover, 18 May was declared “Day of the Remembrance of Victims of Domestic Violence”, a step taken to demonstrate that domestic violence is unacceptable. High visibility football matches featuring the Serbian club “Red Star Belgrade” have been used in 2018 to show banners with messages such as “Stop violence against women”.

67. In addition, there are a range of programmes which focus on the young generation in the area of education, funded by UNICEF. The thematic scope is largely on non-violent behaviour in more general terms and includes digital media abuse.

68. GREVIO welcomes the above but notes that the campaigns undertaken so far do not span the full spectrum of forms of violence covered by the Istanbul Convention. It thus considers it crucial to expand the scope of awareness-raising activities and address explicitly sexual violence, including rape, which occurs in and outside of intimate partner relationships. Such efforts would be key to encouraging reporting of this form of violence, which remains severely underreported. Greater levels of awareness of the detrimental effects of stalking and sexual harassment are equally required – not least to ensure greater acceptance and practical relevance of the new criminal offences on these two forms of violence. In addition, awareness-raising activities should promote knowledge about the harm caused to children who witness domestic violence. Finally, GREVIO believes that in order to ensure a wider reach, awareness-raising efforts should be stepped up at the local level with a stronger involvement of the municipalities. To this extent, resources should be set aside by the authorities to discharge the obligation contained in Article 13 to ensure that campaigns and programmes on all forms of violence against women are carried out and implemented in co-operation with civil society and women’s NGOs.

69. GREVIO strongly encourages the Serbian authorities to further develop and sustain their awareness-raising efforts on all forms of violence covered by the Istanbul Convention, including through the resourcing of campaigns and by engaging in partnerships with the relevant women’s specialist support services, community-based grass-roots organisations and the media.

C. Education (Article 14)

70. Attitudes, convictions and behavioural patterns are shaped very early in life. Educational establishments therefore have an important role to play in promoting equality between women and men and human rights. Article 14 therefore requires the design of teaching material that promotes equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity.

71. GREVIO notes with satisfaction the obligation to include the principle of gender equality in education, which Articles 30 to 33 of the Law on Gender Equality place on educational institutions of all levels in Serbia. According to the law, gender equality policies must be drawn up by all schools in Serbia with the aim of ensuring that teaching methods, classroom management and the general learning environment respect the principle of gender equality.

72. GREVIO welcomes the fact that the National Strategy for Gender Equality sets out important measures to address equality between women and men in education. These include, among others, improving the capacity of educational staff to teach gender equality issues, reviewing textbooks through a gender lens and introducing age-appropriate education on sexual and reproductive rights that includes gender roles in relationships and responsible sexual behaviour. If implemented in a comprehensive and co-ordinated manner across all levels of education and with appropriate resources, great strides can be made to eliminate gender stereotypes among the young generation and to prevent gender-based violence. Research suggests that sexual harassment, groping and forced exposure to pornography is highly prevalent in primary and secondary educational establishments in Serbia and that some forms of violence such as sexual harassment are implicitly or explicitly condoned by students.¹¹ The same research showed that 19% of boys surveyed consider it justified to slap a girlfriend. It also revealed a high level of interest among teachers and student bodies alike in introducing gender equality issues and the prevention of gender-based violence into teaching.¹²

73. This demonstrates that there is an urgent need but also an opportunity to address in schools the issue of gender-based violence, gender relations and negative (male and female) stereotypes. Not all educational programmes and curricula in Serbia actively promote gender equality principles and, despite efforts made, the mandatory curriculum and the corresponding textbooks do not seem to have been adapted in all areas to ensure the structured teaching of all topics required by Article 14.¹³ GREVIO is hopeful that the recently adopted National Programme for Safeguarding and Improving Sexual and Reproductive Health of the Citizens of the Republic of Serbia will help to take much-needed measures to address the root causes of violence against women, in particular sexual violence, by ensuring access to comprehensive sexuality education and eliminating stereotypical images of masculinity linked to the use of violence and a lack of respect for women's human rights and dignity.

74. GREVIO welcomes that several projects and programmes exist which seek to tap into the potential of educators, in particular in early childhood education and primary education, to recognise and respond to situations where children are victims of or witnessing domestic violence in the home or where they are exposed to sexual violence and abuse.¹⁴

75. GREVIO strongly encourages the Serbian authorities to continue to invest in the education sector to ensure early intervention by educators where children are exposed to or experiencing sexual or domestic violence and to ensure the promotion of equality between women and men, positive gender relations, mutual respect, non-violent conflict resolution in interpersonal relationships and the right to personal integrity with the aim of preventing gender-based violence against women at all levels of education. To this end, GREVIO encourages the Serbian authorities to speedily implement the relevant measures set out in the National Strategy for Gender Equality and the National Programme for Safeguarding and Improving Sexual and Reproductive Health of the Citizens of the Republic of Serbia.

D. Training of professionals (Article 15)

76. The standard set by the convention in its Article 15 is that of systematic initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence. 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. In

¹¹ Čeriman, J. et al (2015), "Research on gender-based violence in schools in Serbia", Center for the Study of Gender and Policy, faculty of Political Science of the University of Belgrade and UNICEF Serbia. Research carried out in the framework of the "Integrated Response to Violence against Women Programme II". Results are available in English at www.slideshare.net/unicefceecis/june-5-gbv-in-schools-presentationv2.

¹² Ibid, slide 14.

¹³ This is recognised by the National Strategy for Gender Equality.

¹⁴ Examples are the project entitled "Protection of Children from Violence in South East Europe", funded by the European Union in co-operation with UNICEF as well as the project "Gender Awareness, Prevention of Violence in Kindergartens and Schools", which was implemented in 50 primary and secondary schools in collaboration with UNICEF.

Serbia, there is evidence of many training initiatives that cover one or more of the above aspects. Efforts are made to introduce some of the required topics into both the initial and the in-service training of legal professionals, law-enforcement officers, social workers, medical professionals, journalists and civil servants.

77. GREVIO notes that the Judicial Training Academy is taking on an important role in providing specific training on domestic violence to all incoming judges and public prosecutors. Family judges receive more in-depth training on protective measures in domestic violence cases and how to conduct relevant civil law proceedings. Women's specialist NGOs have also offered a range of project-based training, frequently in the area of education, but also with a view to training migration officials on recognising and responding to violence against women.¹⁵ Following the introduction of the Law on the Prevention of Domestic Violence, which made training mandatory, most training efforts have centred on those authorities that deal with domestic violence cases (law-enforcement agencies, prosecution authorities and judges).

78. GREVIO welcomes these steps and notes that a wide range of projects and individual training initiatives have been carried out over the past few years. However, the information made available does not point to a systematic and comprehensive approach for all relevant professionals, nor does it seem to extend to all forms of violence as covered by the Istanbul Convention. For example, staff in centres for social welfare benefit from the availability of training on domestic violence (case conferences, co-ordinated local community action, work with perpetrators etc) while training on other forms of violence seems to be lacking. The professional development of educators such as teachers, early childhood education specialists and primary and secondary teachers, on the other hand, has been identified as a priority. Several programmes have been introduced in the framework of the three-year Catalogue of Continuous Professional Development Programmes for Teachers and Professional Associates, which seek to strengthen the role of educational institutions in preventing violence, discrimination, abuse and neglect. Some of these specifically aim at enabling the ability of teachers to act towards the protection from gender-based violence and discrimination and form part of the in-service training required for license renewal.

79. While GREVIO welcomes the above initiatives, it recalls the need to ensure that all relevant professional groups, including social workers and those in the health sectors, receive mandatory initial and continuous training on all forms of violence against women. This would require a thorough review of existing training requirements of the relevant professionals in order to embed additional content. This must be compulsory and part of a credit-earning scheme. Where in-service training is offered, it should include follow-up and continuity to ensure effective professional development and the day-to-day application of newly acquired skills.

80. This is particularly important following the introduction of new legislation to ensure its full implementation. A case in point would be the new Law on Foreigners and the Law on Asylum and Temporary Protection, which align legislation with the requirements of Articles 59 and 60 of the Istanbul Convention and thus provide additional grounds for residence permits and asylum recognition. Although some training initiatives have begun for immigration and asylum staff, more efforts are required to ensure a more pronounced understanding of gender-based violence, its causes and consequences as well as its relevance to the asylum determination procedure (see Chapter VII).

81. GREVIO encourages the Serbian authorities to:

- a. introduce violence against women as a compulsory topic in vocational curricula and, while respecting academic freedom, encourage higher education to introduce such topics in university study programmes, where it is lacking;**
- b. ensure on a continuous and regular basis in-service training on all forms of violence against women, based on existing protocols and with a view to ensuring implementation of new legislation;**

¹⁵. State report, p. 26.

- c. **integrate in all professional development schemes the dimension of professionals' duties and responsibilities when faced with cases of violence against women, including as members of the referral mechanisms.**

In implementing the above, the authorities should take full ownership of the training process, in particular by guaranteeing the application of harmonised standards and monitoring the quality of training.

E. Preventive intervention and treatment programmes (Article 16)

1. Programmes for perpetrators of domestic violence

82. In the past 10 years, efforts have been made in Serbia to establish work with perpetrators of domestic violence, but difficulties in securing sustainable funding and the absence of legal requirements have resulted in fragmented delivery.

83. The National Strategy for the Prevention and Elimination of Violence against Women in the family and in Intimate Partner Relationships (2011-2015) required centres for social welfare to engage in work with domestic violence perpetrators, which several have done. A programme run by UNDP¹⁶ from 2009 to 2011 allowed for the training of 120 employees of centres for social welfare across Serbia on the basis of standards developed by Alternative to Violence Norway.¹⁷ A small number of NGOs is also offering perpetrator programmes based on the same standards and the National Network for Treatment of Perpetrators of Domestic Violence (OPNA) was formed to unite all providers of work with perpetrators of domestic violence.

84. However, the project-based nature of the work undertaken by the municipality-run programmes led to its termination in most cases. In 2016, centres for social welfare in only four cities continued to offer work with perpetrators, either as part of a programme or because of committed individuals.¹⁸ It is unclear if this number has increased since.

85. Participation in the remaining programmes seems to be mostly voluntary, for example through encouragement from marriage and family counsellors in the centres for social welfare. At the same time, perpetrators of domestic violence may be ordered to attend these or other types of treatment programmes by the prosecutor's office in deferral of prosecution. Formal requirements exist for such a step (see Chapter V, B, Criminal law, section 10) and the perpetrator's consent must be assured. The type of treatment ordered may vary. In Belgrade, for example, perpetrators are usually ordered to undergo psycho-social treatment at the Belgrade Institute of Mental Health.

86. Although a system of accreditation by the Institute for Social Protection exists, the approaches seem to vary among the existing programmes. Some use marriage and family counselling methodologies, while others use anger management techniques.¹⁹ It is unclear to what extent these programmes are embedded in a comprehensive response to domestic violence. Co-operation with women's specialist support services offered by NGOs is limited and outcomes are only measured where perpetrators are ordered to attend a programme by the prosecution service.

87. GREVIO notes with concern that in as far as voluntary attendance of perpetrator programmes in a non-custodial setting is concerned, the number of referrals to such programmes seems to depend on the level of co-operation among the different agencies and services at local level.²⁰ Moreover, the funding made available to the existing programmes is minimal and their sustainability not guaranteed. To comply with Article 16 of the Istanbul Convention, GREVIO points to the urgent

¹⁶. "Combating Sexual and Gender based Violence", UNDP Serbia, 2009-2011.

¹⁷. Alternativ til vold, <https://atv-stiftelsen.no/english/>.

¹⁸. These four cities are: Novi Sad, Belgrade, Kragujevac and Niš. Work with Perpetrators European Network, National Report Serbia 2016, p. 3; available at www.work-with-perpetrators.eu/fileadmin/WWP_Network/redakteure/National_Reports_2016/Serbia-Report-2016.pdf.

¹⁹. Branković, B. (2016), "Multi-country study on violence against women, National Report Serbia", unpublished, p. 72.

²⁰. Ibid, p. 71.

need to set up well-resourced and adequate perpetrator programmes that incorporate the core elements set out in the Explanatory Report to Article 16 of the Istanbul Convention. Among these is the need to ensure that programmes encourage perpetrators to take responsibility for their actions and examine their attitudes and beliefs towards women. To protect women from further violence and avoid giving victims a false sense of security, priority consideration must be given to the needs and safety of victims, including their human rights. A core principle of perpetrator programmes is thus their close co-operation with women's specialist support services.

88. For convicted perpetrators of domestic violence within custodial settings in Serbia, individual programmes can be drawn up to address their respective needs. The available modules include, for example, learning techniques for non-violent behaviour in the family, anger management and control to reduce aggressive behaviour. In a more recent development, modules for behavioural change programmes for convicted perpetrators of domestic violence have been developed for roll-out across several prisons in Serbia starting in 2020. These modules may be added on to rehabilitation programmes addressing alcohol and drug abuse or may be administered separately. GREVIO welcomes these new developments and is hopeful that they will be made available to a large number of convicted offenders.

89. GREVIO strongly encourages the Serbian authorities to ensure:

- a. **the adequate resourcing of existing domestic violence perpetrator programmes in order to ensure the continuation of their work in a sustainable manner, in particular those in non-custodial settings;**
- b. **an increase in the number of voluntary domestic violence perpetrator programmes;**
- c. **that all programmes implement uniform standards which place at their centre the safety of, support for and the human rights of victims by co-operating closely with specialist support services for victims as required by Article 16, paragraph 3, of the Istanbul Convention;**
- d. **that such programmes are widely attended, including by incorporating them into the criminal justice system, including the probation service, or by introducing incentive schemes, as a tool to reduce recidivism.**

90. **GREVIO further encourages the Serbian authorities to initiate scientific outcome studies (evaluations) of the programmes to assess, among other things, the risk of reoffending, in order to ensure higher levels of safety and protection for victims.**

2. Programmes for sex offenders

91. Work with sex offenders within custodial settings takes the form of individually drawn-up programmes based on the needs of the perpetrator. In 2015, a total of 207 convicted perpetrators of domestic and/or sexual violence took part in such programmes.

92. Moreover, convicted perpetrators of sexual offences against children can be ordered to abide by certain measures upon release, including mandatory counselling and supervision, as prescribed by the Law on Special Measures for the Prevention of Criminal Offences against Sexual Freedoms of Minors.

F. Participation of the private sector and the media (Article 17)

93. Some examples exist of private-sector initiatives in the area of preventing and combating violence against women. For example, B92 Fond, the foundation related to the B92 media outlet, initiated a project to ensure women's economic independence after a shelter stay.²¹ A similar programme was introduced by the Provincial Secretariat for Gender Equality of the Autonomous

²¹. She Empowerment – Safe House Economic Empowerment, short description available at: <http://fondb92.org/en/she-empowerment.1.65.html>.

Province of Vojvodina together with the Serbian Employers Union and UN Women for the period 2014-2020.²² In addition, a memorandum of understanding was signed between the Union of Employers of Vojvodina and the SOS Vojvodina Network to increase co-operation between specialist women's support services and private-sector employers. GREVIO welcomes these steps and calls for more direct involvement of the private sector in other areas, such as the support and protection of domestic violence victims among their employees.²³

94. In relation to the media, GREVIO notes the existence of the Code of Ethics in Journalism adopted by the Independent Journalist Association of Serbia and the Journalist Association of Serbia, which set out self-regulatory standards to respect human dignity and ethical reporting. Complaints can be brought to the Commission for Complaints of the Press Council. Self-regulatory standards also exist in the area of online media with an autonomous regulatory body established under the Law on Electronic Media. None of the above, however, contain specific measures on the reporting of violence against women.

95. Sensationalist reporting, including the sharing of intimate details, on incidents of violence against women and children seems to persist. The Commissioner for the Protection of Equality regularly issues warnings in relation to the media coverage of women.²⁴ A qualitative analysis of media reporting on violence against women in Serbia for the period of 2010-2012 showed that it explicitly or implicitly promotes patriarchal sociocultural norms and downplays the perpetrator's responsibility by putting the blame on victims.²⁵ More alarming is the fact that basic journalistic principles such as respect for the anonymity of a victim, including those of a very young age, are frequently breached.

96. The Network of Women Journalists against Violence against Women, consisting of over 30 female journalists representing national and international media outlets (print, television and radio), is responding to the rise in commercialisation and sensationalist reporting on violence against women by developing a code of practice for journalists specifically on violence against women. Their aim is also to raise awareness among colleagues by organising seminars and meetings.

97. Another positive development is the obligation introduced by the 2014 Law on Public Information and Media to generate public interest information through project financing. By co-funding the production of media content on violence against women, including domestic violence, the Ministry of Culture and Information and the Provincial Secretariat of Culture, Information and Public Relations with Religious Communities are actively partnering with media in order to promote positive gender roles and non-violence.

98. GREVIO encourages the Serbian authorities to continue to engage the media as a key partner to raise awareness on violence against women and to encourage media, including social media, to develop and monitor the use of self-regulatory standards specifically in the area of violence against women and gender equality, having due regard to relevant existing international standards.²⁶

²² Programme for the Protection of Women against domestic and partner violence 2014-2020, supported by UN Women in partnership with the Serbian Employers Union.

²³ See the Council of Europe collection of papers: [Encouraging the participation of the private sector and the media in the prevention of violence against women and domestic violence: Article 17 of the Istanbul Convention](#).

²⁴ See state report p. 31.

²⁵ Mršević, Z. (2017), "Media Coverage of Violence against Women in Serbia - Qualitative Analysis", UNDP Belgrade, p. 29 and throughout the report; available at: www.rs.undp.org/content/serbia/en/home/library/poverty/kvalitativna-analiza-medijskog-izvetavanja-o-nasilju-nad-enama-u/.

²⁶ See, *inter alia*, the following Council of Europe instruments: Recommendation No. R (84)17 of the Committee of Ministers to member states on equality between women and men in the media; Recommendation 1555 (2002) of the Parliamentary Assembly of the Council of Europe on the image of women in the media; Recommendation 1799 (2007) of the Parliamentary Assembly of the Council of Europe on the image of women in advertising; Resolution 1751 (2010) and Recommendation 1931 (2010) of the Parliamentary Assembly of the Council of Europe on combating sexist stereotypes in the media. Reference is also to be made to the UNESCO's "Gender-Sensitive Indicators for Media" (GSIM).

99. GREVIO invites the Serbian authorities to seek the involvement of employers in the prevention of violence against women. To this end, employers should be encouraged to take part in the implementation of policies such as awareness-raising campaigns, as well as to foster a work environment where violence against women is openly condemned and victims feel that they can be heard and supported.

IV. Protection and support

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

A. General obligations (Article 18)

101. In line with the general multi-agency and comprehensive approach promoted by the Istanbul Convention, Article 18, 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 requires the establishment of any structures, such as round tables, case conferences or agreed protocols, that enable a number of professionals to co-operate on individual cases in a standardised manner. According to the Istanbul Convention, such co-operation must be based on a gendered understanding of violence against women and domestic violence and focus on the human rights and safety of the victim. Specialist women's support services play an important role in guaranteeing that the rights of victims are safeguarded in multi-agency co-operation.

102. Since the adoption of the National Strategy for the Prevention and Elimination of Violence against Women in the Family and in Intimate Partner Relationships in 2011, which focused on improving co-operation in one of its areas of action but has since come to an end, several initiatives have been taken in Serbia to institutionalise co-operation around domestic violence cases. Examples include the General Protocol for Action and Co-operation of Institutions, Bodies and Organisations in Situations of Domestic and Intimate Partner Violence against Women and the Law on the Prevention of Domestic Violence. Both documents seek to ensure a co-ordinated approach to domestic violence cases among the relevant statutory agencies. These include law-enforcement agencies, prosecutors, courts, Centres for Social Welfare, the public health sector and other competent government bodies. It is interesting to note that co-operation is required not only in responding to domestic violence, but also in preventing it. The law specifically requires co-operation to extend to the provision of protection and support to victims for their recovery, empowerment and independence (Article 12 of the LPDV).

103. GREVIO welcomes the fact that the co-ordination groups that have been set up at the level of basic prosecutors in accordance with Article 25 of the LPDV are generally considered to have significantly improved the authorities' response to domestic violence. Co-ordination groups act as multi-agency case conferences and meet regularly across the country to ensure a more co-ordinated response from government institutions. However, GREVIO notes the striking absence of non-governmental providers of domestic violence services (where they exist) in the groups that have been created. This should be remedied as it is precisely these services that have a strong record of working towards recovery, empowerment and independence of women coming out of an abusive relationship.

104. Furthermore, GREVIO draws attention to the fact that the above efforts are limited to domestic violence as one form of violence covered by the Istanbul Convention. Similar measures do not exist for any other form of violence against women. This is particularly striking in the context of the urgent need to address the issue of early and forced marriage which many Roma girls and women are exposed to and which can only be achieved on the basis of a multi-agency approach aimed at their empowerment through education and employment.²⁷

²⁷. Some of the interlocking issues which Roma girls face in Serbian Roma settlements around early/forced marriage, low educational attainment, domestic violence and poverty and how to address them in a multisectoral manner are described by UNICEF in its fact sheet "Child Marriage in Serbia", available at: www.unicef.org/serbia/sites/unicef.org.serbia/files/2018-04/Child_Marriage_in_Serbia.pdf.

105. GREVIO strongly encourages the Serbian authorities to continue efforts to ensure co-operation between all relevant institutions and with women’s support services run by NGOs. Furthermore, GREVIO urges the Serbian authorities to establish similar levels of institutionalised co-operation among statutory agencies and with women’s support services run by NGOs in relation to cases of rape and sexual violence, forced marriage, stalking, sexual harassment and other forms of violence covered by the Istanbul Convention.

B. Information (Article 19)

106. There are several laws and protocols in Serbia that set out the obligation of statutory agencies to provide information to victims of violence against women on their rights and the support services available to them.²⁸ Several websites exist that list the available services, in particular domestic violence shelters (“safe houses”). All relevant women’s organisations that provide services for victims offer information online, some even in minority languages.

107. Criticism persists, however, of the extent to which law-enforcement agencies, social workers and other statutory agencies actively draw women’s attention to the services that are available to them and the type and level of social assistance they might expect. Despite the existence of the Law on the Official Use of Languages and Scripts which requires local authorities to introduce a certain use of the language and script of a national minority, there is no evidence that local authorities systematically communicate or draft document in these languages, as the Council of Europe Committee of Experts of the European Charter for Regional or Minority Languages found in its Fourth Report on Serbia.²⁹ Moreover, not much effort is made to reach out Roma women.

108. Migrant and asylum-seeking women who reside in reception or transit centres also seem to find it difficult, in practice, to access pertinent information on asylum procedures and support services for experiences of violence, although efforts are made by the relevant authorities, including by having information available in several languages. (see Chapter VII).

109. GREVIO encourages the Serbian authorities to ensure the wider dissemination of information about the support services and legal measures available to victims of domestic and other forms of violence against women in a language they understand. This should include measures such as the dissemination of posters and leaflets as well as the intensification of efforts to ensure that professionals of all relevant institutions take a more proactive approach towards informing victims.

C. General support services (Article 20)

1. Social services

110. Social services in Serbia are under a clear obligation to provide support and assistance to women and children who experience or who are at risk of domestic or other violence, abuse, neglect and exploitation. The Law on Social Welfare affords them a status of being particularly vulnerable and sets out a range of measures of support. These include counselling, safe accommodation, the initiation of court proceedings, the provision of financial support, and legal and psychological counselling. In relation to child victims of domestic violence, the child’s removal from the family, individually or jointly with the non-violent parent, also features among the range of options. As a result, the responsibility to support and protect women from violence lies primarily with the 140 Centres for Social Welfare operating throughout Serbia. They are often the first point of contact for women and children at risk of violence and their relevance is significant.

²⁸ Article 29 of the Law on the Prevention of Domestic Violence, the Criminal Procedural Code, and the General Protocol for Action and Co-operation of Institutions, Bodies and Organizations in Situations of Domestic and Intimate Partner Violence against Women.

²⁹ European Charter for Regional or Minority Languages, Fourth report of the Committee of Experts in respect of Serbia, CM(2018)144.

111. Unfortunately, the serious levels of understaffing and under-resourcing, as well as the wide range of tasks that social workers at Centres for Social Welfare are expected to fulfil, significantly impact on the quality of their responses in individual cases. Responsibilities seem to have increased, in particular following the introduction of the LPDV. This law places an obligation on Centres for Social Welfare to draw up individual safety and protection plans for each victim of domestic violence, but this has not been accompanied by increases in staff or budgets. Rather, the lasting hiring freeze for public servants has resulted in many vacancies going unfilled. For example, social workers at the Centre for Social Welfare in Belgrade now act as case managers for as many as 200 families with complex social needs, including domestic violence. Attempts have been made in the past by central government to transfer funds to local governments to improve the level and quality of social services, which GREVIO welcomes. Disparities in service provision, however, remain across municipalities, with stark contrasts between rural and urban areas, both in the level and the quality of interventions.

112. Although GREVIO welcomes the efforts made by social workers to respond to situations of domestic violence within the limits of their resources and individual capacity, higher levels of co-ordination with the well-established domestic violence services run by women's NGOs (where they exist) could significantly enhance the results. Such co-operation would need to be part and parcel of a multi-agency approach and should be incorporated into any long-term strategy to implement the Istanbul Convention.

113. Increased efforts to co-ordinate service provision with domestic violence services run by women's NGOs might also result in an enhanced understanding of the gendered nature of domestic violence. Although training exists in relation to domestic violence, and most social workers have extensive work experience, GREVIO notes with concern that the knowledge base regarding other forms of violence, in particular in relation to forced and early marriage, is not widely developed within Centres for Social Welfare. This does not allow the complex social needs of many families, in particular Roma families, to be addressed in a comprehensive manner, and it does not ensure a comprehensive approach to early and forced marriage.

114. Numerous accounts have been shared with GREVIO of Roma women failing to obtain the necessary support and protection from Centres for Social Welfare for violence they are exposed to within their communities or families. Prejudice and misperceptions of the Roma people and their customs, traditions and cultural practices seem to result in the normalisation of such violence and represent significant obstacles to their support and protection. Fear of stigma and discrimination by statutory agencies is widely present among Roma women and presents a significant barrier to seeking help.³⁰ Where Roma women overcome this barrier and turn to the authorities for help, it is crucial that their needs be assessed and adequately met. Social workers should be trained to recognise the particular vulnerability of a Roma woman in Serbia and to propose measures of support and protection that take this into account, as well as any other factors of relevance that might require assistance to be adapted. In order to establish mutual confidence, proposals have been made by other international treaty bodies to ensure a proportionate number of persons with minority background, in particular Roma, among public servants in Serbia.³¹ Another important step to this extent would be the introduction of Roma mediators in social services in addition to those already in existence in the health sector, as recommended by the Council of Europe Recommendation CM/Rec(2012)9 of the Committee of Ministers to member states on mediation as an effective tool for promoting respect for human rights and social inclusion of Roma. The positive effects of systems which engage in quality mediation with Roma communities are well documented and should be ensured in a sustainable manner in relation to Roma women seeking support from the Serbian authorities.

115. In terms of empowering victims to build a life after violence, GREVIO notes with satisfaction that social housing schemes and specific employment services exist for women victims of domestic violence. The National Social Housing Strategy (2021-2022) makes special provision for victims of domestic violence in need of housing, and job creation subsidies for companies have been

³⁰. "Well-being and Safety of Women, OSCE-led survey on violence against women in Serbia", Results report 2019, p. 59.

³¹. ECRI Report on Serbia (5th monitoring cycle), ECRI(2017)21, p. 91. Progress in implementing this recommendation will be monitored by a process of interim follow-up to be initiated by ECRI in 2019.

introduced by the National Employment Service (NES) Employment Programme. In practice, however, these programmes seem to have little relevance, as only a small number of municipalities are in a position to offer social housing to victims of domestic violence. Similarly, very few women are helped with finding employment to reduce their dependence on an abusive partner. The Safe House Economic Empowerment project (SHE-Empowerment) set up in the Autonomous Province of Vojvodina is a notable exception to ensure women victims of domestic violence can provide for them and their children and should be expanded in order to produce lasting results across the country.³²

116. According to the authorities, steps are also made to increase women's economic independence in the aftermath of domestic violence, which GREVIO welcomes. The annual National Employment Action Plan envisages that they are given priority when joining job-seeking schemes. Subsidies for employers are also envisaged for the employment of those considered "hard-to-employ", which include victims of domestic violence.

117. GREVIO strongly encourages the Serbian authorities to provide adequate resources to allow the Centres for Social Welfare to discharge their responsibilities in an effective manner. It further encourages the Serbian authorities to provide training for social workers specifically on the gendered nature of all forms of violence against women, including forced and early marriage, and with a view to removing cultural and gender bias.

2. Health-care services

118. Public health-care services play an important role in the prevention of violence and in the provision of medical and other support, including referrals to Centres for Social Welfare. GREVIO thus welcomes the Special Protocol of the Ministry of Health for the Protection and Treatment of Women Victims of Violence (2010)³³ which is based on a definition of gender-based violence understood as the result of the imbalance of power between women and men. The protocol provides tools to health professionals to detect victims of violence, to avoid secondary victimisation, to document acts of violence, to develop a safety plan and to refer victims to relevant services. It covers physical violence, psychological violence and sexual violence involving the use of force, coercion or physical intimidation – leaving out other forms of violence against women covered by the Istanbul Convention, such as forced sterilisation and abortion, female genital mutilation as well as sexual violence committed without the explicit use of force or threat. In the absence of specialist support services for some forms of violence, in particular sexual violence (see below), an adequate response by medical professionals is vital for a victim's physical and psychological well-being and her prospects of obtaining criminal justice. A number of training initiatives for health professionals on identifying and responding to gender-based violence have been initiated recently, mainly by the United Nations Population Fund (UNFPA) and other UN agencies. GREVIO welcomes these steps but points to the repeated concerns regarding the quality of forensic documentation of injuries and the lack of referrals. Primary health-care centres are, like Centres for Social Welfare, a primary entry point for victims of domestic violence, but the high doctor to patient ratio frequently stands in the way of the proper identification of victims and adequate documentation. Moreover, certificates may only be obtained for a fee, which presents an obstacle to women's access to justice.

119. GREVIO takes positive note of the fact that the above-mentioned protocol recognises that women suffering from intersectional discrimination are particularly exposed to gender-based violence. However, it does not develop screening procedures, safety assessments and referrals to services which take into account the specific vulnerabilities to violence that women suffering from intersectional discrimination may face. Indeed, it does not develop screening questions which would enable health professionals to determine how a victim's disability status, migrant status or national minority status affects her experience of violence and the specific barriers to help-seeking that she may encounter.

³² <http://fondb92.org/en/she-empowerment.1.65.html>.

³³ See the Republic of Serbia- Special protocol for the Protection and Treatment of Women Victims of Violence, 2010

120. For Roma women, fear of discrimination and stigmatisation has lessened their confidence in the health-care sector, as have the extensive reporting obligations imposed on the medical sector (see below).³⁴ GREVIO notes with satisfaction, however, that the institution of Roma health mediators in selected areas is helping to overcome distrust and is leading to higher levels of reproductive health among Roma women, including the prevention of early marriage in individual cases. GREVIO is concerned, however, that Roma health mediators do not seem to exist throughout the country, leaving many Roma settlements without such vital support.

121. Women with disabilities in Serbia form another group of women who have difficulties accessing health care, in particular reproductive and sexual health care, including after experiencing sexual violence.

122. GREVIO strongly encourages the Serbian authorities to ensure that all health-care professionals assume their responsibility to:

- a. **detect all forms of violence against women covered by the Istanbul Convention and ensure the safety of all victims as well as their referral to relevant specialist services, while acknowledging that victims suffering from intersectional discrimination, including women with disabilities, migrant women and Roma women face specific barriers to help-seeking;**
- b. **ensure that health services are accessible to all women, including women with disabilities;**
- c. **provide free-of-charge documentation of forensic evidence adequate for the use by the criminal justice sector.**

D. Specialist support services (Article 22)

123. The aim of specialist support is to ensure the complex task of empowering victims through optimal support and assistance catered to their specific needs. Much of this is best ensured by women's organisations and by support services provided, for example, by local authorities with specialist and experienced staff with in-depth knowledge of gender-based violence against women. It is important to ensure that these services are sufficiently spread throughout the country and are accessible to all victims. Moreover, these services and their staff need to be able to address the different types of violence covered by the scope of the Istanbul Convention and to provide support to all groups of victims, including hard-to-reach groups.

124. GREVIO has seen very little evidence of such specialist support services in Serbia. Those that exist are mainly run by women's organisations rooted in Serbia's civil society. With the exception of support services offered by Roma organisations, most focus on providing support for domestic violence only. Local authorities do not invest in the provision of any specialist support services and, as a result, no specific services exist for women who experience or are at risk of, for example forced marriage, FGM, stalking, sexual violence or sexual harassment. Much-needed counselling and long-term psychological support and trauma care thus seem unavailable for most of the forms of violence covered by the convention. GREVIO notes with concern that important policy documents such as the General Protocol for Action and Cooperation of Institutions, Bodies and Organisations in Situations of Domestic and Intimate Partner Violence do not distinguish between general and specialist support services, suggesting the need for more recognition of the need to offer specialist support services for all forms of violence against women.

125. Recalling the importance of women-to-women specialist support and counselling for any experiences of violence covered by the Istanbul Convention, GREVIO urges the Serbian authorities to provide or arrange for adequate specialist women's support services with a gendered approach throughout the country and for all forms of violence covered by the Istanbul Convention. The aim should be to ensure the provision of immediate, medium- and

³⁴. See the Strategy for Social Inclusion of Roma in the Republic of Serbia 2016-2025, p. 49, paragraph 2.

long-term support by involving and tapping into the long-standing expertise built up by women's specialist support services in civil society.

E. Shelters (Article 23)

126. Shelters in Serbia are mainly run by the municipalities and are called "safe houses". One of the few exceptions is the shelter currently run by the women's rights organisation Atina, which – although a dedicated anti-trafficking NGO – provides specialist support and accommodation to migrant women victims of domestic or other forms of violence (see Chapter VII).

127. Of the 15 existing shelters in Serbia, only nine seem to be specifically designated and equipped to receive women and children victims of domestic violence. The range and quality of services provided seem to vary quite significantly. Most are understaffed, and none seem to offer trained professionals on duty 24/7. It has been brought to GREVIO's attention that, as a result, some shelters lock the doors overnight, effectively locking in women and children until the beginning of the shift the next day.

128. Understaffing is also what seems to keep some of the shelters from obtaining the necessary licence. The Rulebook on Licensing of Social Welfare Organisations adopted in 2013 sets out standards for licensing of all social welfare service providers, which includes shelters. These standards seem to represent general standards for service providers and are not specific to ensuring high-quality support and protection of victims of domestic violence. The same seems to apply to the Rulebook on the Reception at and Release from the Shelter, which applies to all types of sheltered accommodation, not domestic violence shelters specifically. GREVIO thus concludes that no specific standards exist to ensure a victim-centred and integrated approach to sheltered accommodation for victims of domestic violence or other forms of violence against women that is based on a gendered understanding aimed at avoiding secondary victimisation and the empowerment of victims.

129. No attempts have been made by the authorities to map the overall capacity of domestic violence shelters nor to establish the number of women and children who have used their services. From the information reviewed by GREVIO, however, it emerges that Roma women are significantly under-represented among shelter users. This suggests *de facto* barriers to their access to sheltered accommodation if in need. This may be a result of the referral system in place, as most shelters will only accept service users on the basis of an official referral by the local Centre for Social Welfare. Stigmas and perceptions of Roma women seem to affect their chances of being referred to a shelter. Although some shelters do accept women who self-refer, they will be asked to cover the cost of their stay – presenting an insurmountable obstacle for most women in Serbia.

130. Barriers also seem to exist for women with disabilities, women substance abusers and women migrants/asylum seekers, albeit for different reasons (see Chapter VII). None of the existing shelters are equipped to accommodate women with disabilities or substance abuse issues.

131. With a view to ensuring specialist support services in the form of shelters, GREVIO strongly encourages the Serbian authorities to introduce and apply quality standards - in addition to the existing licensing standards - for shelters that accommodate victims of domestic violence and other forms of violence based on a gendered understanding of violence against women, the empowerment of victims and a victim-centred and integrated approach to service provision.

132. Moreover, GREVIO strongly encourages the Serbian authorities to map and expand, where necessary, the capacity of domestic violence shelters and to ensure practical access for all women, in particular women with disabilities, Roma women and women migrants/asylum seekers.

F. Telephone helplines (Article 24)

133. Since December 2018, a national helpline has been in operation, free of charge and open 24/7, to serve all victims of gender-based violence in Serbia. It is run by Zvečanska, a public social protection centre for infants, children and young people.

134. GREVIO notes with some concern the controversy around the establishment of this helpline. The three public calls to identify a suitable contractor were each withdrawn by the Serbian authorities, either for technical reasons or because they did not result in any applications. According to women's NGOs and other interlocutors GREVIO met with, all three calls had set out criteria that were difficult to meet for those NGOs with the most relevant experience in this field. The subsequent designation of the service Zvečanska as provider of the national helpline seems to have taken place without a public call for procurement, and the criteria that have led to its designation remain unclear.

135. Another controversy that has erupted concerns the level of confidentiality guaranteed to callers. All calls are recorded per type of violence and geographical location in order to identify where service needs are more pronounced. Recordings of all calls are kept should they be requested upon the order of a court. Women's organisations are concerned that this might compromise the caller's anonymity and might therefore keep women from calling.

136. GREVIO is concerned by the above and recalls the Istanbul Convention's requirement to ensure confidentiality or due regard for the anonymity of callers. This can be achieved in many ways and does not require a complete ban on the recording of any data of callers. It must, however, be ensured that the identity of callers is under no circumstances disclosed to helpline staff and that personal data, that is, any information relating to an identified or identifiable individual, is adequately protected against unauthorised access, alteration or dissemination. GREVIO thus recalls Serbia's obligations under the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, in particular as regards the need to introduce legal safeguards for the processing of personal data concerning health or sexual life.³⁵ Moreover, GREVIO notes that the Rulebook on Detailed Conditions and Standards for Providing SOS Hotline Services for Women Survivors of Violence, introduced in 2015, specifically requires confidentiality. GREVIO trusts that these principles are applied by all providers of helplines, including Zvečanska, and that their staff are adequately trained to do so.

137. In addition to the newly established national helpline, several regional and local helplines exist, many with long-lasting experience. In the Autonomous Province of Vojvodina, a free-of-charge single helpline for victims of all forms of violence is available, including in minority languages, operating on working days from 10 a.m. to 10 p.m. It is run by representatives of six women's organisations affiliated with the SOS Vojvodina Network but funded by the provincial government. In other parts of the country, local women's organisations continue to run local helplines, mainly focusing on victims of domestic violence. Only three of the NGO-run helplines, however, have received the required licence from the Ministry of Social Affairs. The reasons for this small number of accreditations remain unclear, as do the consequences of offering services without the required licence.

138. With respect to the situation of helplines as it presents itself in Serbia, GREVIO notes that the services provided by most local helplines run by specialist women's organisations amount to in-depth counselling over the phone, whereas the newly established helpline at national level focuses only on referrals. Second, most referrals seem to be limited to the local Centre for Social Welfare and law-enforcement agencies, and women are not or are only rarely referred to specialist support services run by NGOs, such as the Autonomous Women's Centre in Belgrade or the various

³⁵Article 5 of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data sets out the obligation to ensure that personal data undergoing automatic processing shall be obtained and processed fairly and lawfully, stored for specified and legitimate purposes and not used in a way incompatible with those purposes and preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored. Article 6 explains that personal data revealing racial origin, political opinions or religious or other beliefs, as well as personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards.

SOS helplines across the country. GREVIO points to the urgent need to connect any newly introduced central services such as the national helpline with existing specialist women's support services by developing partnerships and creating synergies.

139. GREVIO urges the Serbian authorities to take all appropriate measures to ensure due respect for the confidentiality and anonymity of all callers to the newly established national helpline and to ensure that referrals are made to specialist support services provided by women's NGOs.

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

140. There are no fully established rape crisis or sexual violence referral centres in Serbia. Attempts were made by the Autonomous Province of Vojvodina to introduce more specialist services for women victims of rape and sexual violence within hospital settings. For the duration of the project "Stop-Protect-Help", all seven districts of Vojvodina offered medical and forensic examinations by trained medical staff combined with legal and psychological counselling through specialist NGOs. This number has now dropped to three (Novi Sad, Kikinda and Zrenanjin) that are kept running because of private donations. The relevant authorities do not seem to have attempted to ensure the sustainability of the service through public funding, although legal professionals from all sides and other experts agreed on its positive impact.

141. GREVIO is concerned about the loss of expertise and service provision for victims of sexual violence and calls for urgent steps to ensure and expand to other parts of the country the provision of specialist sexual violence services. Although rape kits continue to be used in hospitals throughout the Autonomous Province of Vojvodina, and a protocol exists for the treatment of sexual violence victims, this can be but one element of the services as required by Article 25 of the convention. Moreover, outside of Vojvodina, no specific services for rape victims seem to be provided at all, and victims are required to rely on non-specialist examiners to have their forensic evidence taken, often twice (by law-enforcement agencies and hospitals). Certificates from forensic examiners seem to be subject to a fee, adding a financial burden to an already complex situation and presenting obstacles to women's access to justice.

142. The sufficient availability of rape crisis and sexual violence referral centres with their distinct set of services is all the more important in the face of recent data which shows that 9% of women in Serbia experienced either physical or sexual violence by a non-partner, whereas of all Serbian women ever in a relationship, 17% experienced such violence by a partner.³⁶ In the absence of any psychological counselling and trauma support or any other support for victims of rape, they are entirely alone with their experience. This, GREVIO recalls, still holds true for the many women who endured rape and sexual violence during the wars and who are now residing in Serbia. There is an obligation imposed by the Istanbul Convention to set up holistic services for victims of rape and sexual violence, past and present, which offers a unique opportunity to work towards removing any stigma around experiences of sexual violence and begin a process of collective healing and recovery.

143. GREVIO urges the Serbian authorities to set up rape crisis and/or sexual violence referral centres, ensuring a sensitive response by trained and specialist staff, in sufficient numbers, recalling that one such centre should be available for every 200 000 inhabitants and that their geographical spread should make them accessible to victims in rural areas as much as in cities.³⁷ The gathering of relevant forensic documentation must not be subject to a charge.

³⁶. "Well-being and Safety of Women, OSCE-led survey on violence against women in Serbia", Results report 2019, p. 22.

³⁷. Explanatory Report to the Convention, paragraph 142.

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

144. The obligation set out in this article is to ensure that whenever children have witnessed domestic violence, rape, sexual harassment or other forms of violence covered by the convention, the services provided to direct victims are also equipped to address the needs and rights of any children who were present. While this is most relevant to domestic violence cases, it is important to bear in mind that other forms of violence may also be witnessed by children.

145. Research has shown that children who witness one parent's assaults on another in the home often develop emotional problems, cognitive functioning disorders and accept attitudes around violence that need to be addressed in the long term.³⁸ It is thus of crucial importance to ensure their access to psychological counselling and therapy as soon as they come to the attention of the authorities. In Serbia, this may be because of a professional report to social services, or of a woman victim of domestic violence turning to the authorities for help. Children who have witnessed violence frequently accompany their mothers to a shelter, where specific counselling services for them are rare. However, children may also be accommodated separately from their mothers in foster care, where it is even less likely they will receive specific counselling for having witnessed domestic violence (see Chapter V, A, Civil law, section 3, Custody and visitation rights).

146. GREVIO is concerned that the plans announced by the Serbian authorities to establish regional centres to accommodate children who are victims of domestic violence will further increase the number of children in foster care for this reason. Although the setting up of such centres might bear potential in making available the much-needed counselling and therapy for children who have witnessed domestic violence, efforts must be intensified to ensure children can remain with the non-abusive parent – preferably in the safety of their own home – and receive the care and support they need. Solutions should therefore focus on making greater use of emergency and protection orders in order to remove perpetrators from the family home, and, as a second step, should focus on increasing the number of available specialist domestic violence shelters for women and their children. Without ensuring children's safety together with that of the non-abusive parent, psycho-social support and counselling for child victims and witnesses of domestic violence will remain an unfulfilled promise. GREVIO notes with satisfaction the preventive nature of many of the measures set out in the LDPV and points to the potential this bears in keeping children safe from harm in their own home.

147. GREVIO urges the Serbian authorities to ensure that children who witness domestic violence receive counselling and support, including for post-traumatic stress disorder (PTSD), while at the same time ensuring their safety in conditions that allow them to remain with the non-abusive parent, preferably in their own home.

I. Reporting by professionals (Article 28)

148. Serbian legislation envisages extensive reporting obligations for professionals who may, in the course of their work, come in contact with victims of domestic violence. The Law on the Prevention of Domestic Violence requires any individual and public authorities to report to police and prosecution services any knowledge of domestic violence or threat thereof (Article 13, paragraphs 1 and 2). It spells out the obligation of centres for social work to identify domestic violence victims among their beneficiaries (Article 13, paragraph 3). Additional reporting obligations exist for professionals in the health and teaching professions.

149. Educational professionals in Serbia seem to report much more rarely, and the level of screening by social protection professionals to identify victims of domestic violence among their beneficiaries seems to vary significantly. Both areas seem to offer room for improvement, in particular the education sector, which bears potential for the early identification of girls at risk of early and forced marriage or those exposed to other forms of violence (as witnesses or victims).

³⁸“Problems associated with children’s witnessing of domestic violence”, Jeffrey L. Edleson, VAW Net, available at http://vawnet.org/sites/default/files/materials/files/2016-09/AR_Witness.pdf.

150. Records are kept on the number of reports made by some of the relevant professionals. For example, medical doctors seem to report quite frequently on cases of domestic violence or other forms of violence against women and abstain from this duty only in a fraction of cases.³⁹ For some women, in particular women from Roma communities, the obligation to report presents barriers to seeking medical help, as they fear mandatory reporting and the institution of criminal proceedings against their will. This raises issues around victim autonomy. A fundamental element of the doctor-patient relationship is that of confidentiality, and health-care professionals are generally required to respect patient confidentiality. This is based on the notion that individuals should not be prevented from seeking medical treatment for fear of disclosure of his or her condition to a third party. A confidential relationship is a prerequisite for providing patients with a correct diagnosis and the best possible medical care. This is even more important for victims of domestic violence, rape, sexual violence or other forms of violence covered by the convention.

151. The obligation entailed by Article 28 of the Istanbul Convention is thus carefully worded in order to allow health-care staff, where they have reasonable grounds to believe that a serious act of violence has been committed and that further serious acts of such violence are to be expected, to report their suspicion to the competent authorities without a risk of sanction for breaching their professional duty of confidentiality. The Explanatory Report explicitly states that this provision does not impose an obligation on such professionals to report.⁴⁰

152. GREVIO strongly encourages the Serbian authorities to ensure that the duty to report imposed on health-care professionals is tempered by full and sensitive information being provided to the victim to allow her to make an informed decision herself and maintain autonomy, while also ensuring the safety of all, especially minors. To this end, GREVIO strongly encourages the Serbian authorities to review the existing reporting obligations to ensure that they integrate a gendered approach based on respect for women's autonomy and self-determination, while operating from a multi-agency perspective involving both statutory agencies and women's specialist support services run by NGOs.

³⁹. According to the Serbian authorities, in 2017, medical doctors reported a total of 2 047 cases to police, prosecution services and centres for social welfare, compared to 96 cases in which they had noted a suspicion of violence but refrained, for reasons unknown, from reporting.

⁴⁰. Explanatory Report to the Convention, paragraph 147.

V. Substantive law

153. 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 – ensuring due diligence (Article 29)

154. A core aim of the convention is to end impunity for acts of violence against women. This not only requires that individual perpetrators be held accountable through criminal law and other measures, but also that legal avenues be available to challenge and address any wrongdoing by state actors. If a state agency, institution or individual official has failed diligently to prevent, investigate and punish acts of violence (Article 5 of the convention), victims and/or their relatives must be able to hold them accountable.

155. In Serbia, there are multiple legal remedies available to citizens in this regard. This includes complaints about court actions, requests for the exemption of judges, contacting the Ombudsperson (in cases of misconduct of authorities), contacting the Commissioner for the Protection of Equality (in cases of non-action related to discrimination), contacting the Police Internal Control Sector (in cases where irregularities are related to police work), and also initiating disciplinary charges against the prosecution or judge if the charges are related to an oversight in the actions of these authorities.

156. The Law on Police sets out the disciplinary liability of police officers and other employees of the Ministry of Interior for violations on official duty as well as for off-duty violations that may endanger the interests and damage the reputation of the Ministry. Investigations are carried out by the Sector of Internal Control – at its own initiative or upon request of a police officer or other natural or legal person. Moreover, Article 6 of the LPDV specifically states that any failure of judges, public prosecutors and deputy public prosecutors constitute a disciplinary offence carrying a sanction. GREVIO welcomes these measures but notes that in the absence of data on their use and outcomes in relation to a failure to act in domestic violence cases, rape cases or cases of any other form of violence, in particular inaccurate risk assessment in cases where women were later killed by their abusers, it is difficult to assess the effectiveness of these procedures in challenging and addressing the wrongdoing of state actors.

157. The responsibility for the control of the legality and regularity of the work of administrative bodies and public institutions delegated as public authorities by the State of Serbia is undertaken by the office of the Protector of Citizens of the Republic of Serbia, an independent and autonomous body, introduced into the Serbian legal order by the Law on the Protector of Citizens and given the status of a constitutional category. Pursuant to its role, the Protector of Citizens has drafted a number of special reports on the implementation of legislative provisions and policies with regard to domestic violence and responded to individual complaints by citizens regarding omissions made by administrative authorities by producing two systemic aggregated recommendations.⁴¹ However, no information was made available regarding the action that was taken in response and the power available to the protector regarding their enforceability.

⁴¹. Systemic aggregated recommendation to the Ministry of Interior, Ministry of Labour Employment, Veteran and Social Policy, Ministry of Health and the Provincial Secretariat for Social Policy, Demography and Gender as a result of the omissions in the work of competent authorities in the system of protection of women against domestic and intimate partner violence and abuse and neglect of children on 25 August 2016 and 27 July 2016.

158. The information received by GREVIO indicates that, in general terms, the system of protection against illegal actions of state authorities is complex, inefficient and ineffective, with some evidence of a negative attitude towards recommendations.⁴²

159. GREVIO strongly encourages the Serbian authorities to ensure that full use is made of all available remedies with regard to cases of misconduct or failure of state officials to take appropriate action in relation to cases of domestic violence, in particular where victims were later killed by their abusers, and all other forms of violence covered by the Istanbul Convention. In addition, GREVIO encourages the Serbian authorities to ensure that appropriate data on the use of the available remedies is collected and regularly updated. Lastly, GREVIO strongly encourages the Serbian authorities to ensure, in particular, that the recommendations issued by the Protector of Citizens are implemented and monitored regularly.

2. Compensation (Article 30)

160. In Serbia, victims of violent offences can claim the costs of treatment and other related costs and for the loss of earnings due to the inability to work during treatment from the perpetrator (Article 195 of the Law on Contracts and Torts). If the offence resulted in the death of a person, their heirs also have the right to receive compensation for material and non-material damage suffered. In addition, a person being induced to unlawful intercourse or a lewd act by deceit, force or misuse of a relationship of subordination or dependence, as well as a person being a victim of some other criminal offence in violation of personal dignity and morale, shall be entitled to equitable damages for mental anguish suffered (Article 202 of the Law on Contracts and Torts).

161. Victims and indirect victims of criminal offences may claim compensation relating to the individual or property right violated by the perpetrator⁴³ by filing a property legal request against the perpetrator during the criminal procedure or in a separate lawsuit.⁴⁴ The victim does not pay for the costs of the procedure. However, if the information available from the criminal procedure does not provide reliable grounds to rule on a judgment on the property legal request, the court will refer the victim to file a lawsuit for compensation.⁴⁵

162. There is no data about the number of criminal procedures in which the victims of violence received compensation for damage. Furthermore, the Serbian authorities acknowledged that in practice the courts usually refer the victims to file lawsuits for compensation, which additionally complicates the victims' position, since they are expensive and can last for some time.⁴⁶ This was echoed in information received by GREVIO which underlined the prolonged nature of such lawsuits, their uncertainty and that they often entail additional testimony and further meetings between victims and perpetrators, which can be traumatic.⁴⁷

163. In addition, the victim must cover the costs of such procedures in advance, although the court may provide an exemption from this depending on her property status and if this is granted she has the right to ask for a free attorney if it is necessary to protect her rights (Articles 168 and 170 of the Law on Litigation Procedure). There is, however, no data regarding the number of lawsuits initiated for compensation as this information is not being recorded by the courts.

164. As regards compensation paid by the state, GREVIO notes that Serbia entered a reservation with regard to Article 30, paragraph 2. As a result, victims of violent crimes, which includes victims of violence against women and domestic violence, cannot seek compensation from the state.

⁴²“Ombudsperson – recommendations in practice”, 2013. Available in Serbian at: <http://ombudsman.yucom.org.rs/wp-content/uploads/2013/02/Za%C5%A1titnik-gra%C4%91ana-preporuke-u-praksi.pdf>.

⁴³ Article 2, paragraph 1, item 11 of the Law on Criminal Procedure.

⁴⁴ Article 252 of the Law on Criminal Procedure.

⁴⁵ Article 258, paragraph 4, of the Law on Criminal Procedure.

⁴⁶ If the procedure lasts too long, the victim can reach for the legal remedies stipulated by the Law on Protection of the Right to Trial in a Reasonable Time from 2015. See the Official Gazette of the Republic of Serbia, No. 40/2015.

⁴⁷ Information provided by NGOs during the evaluation visit.

In addition, Serbia has not ratified the European Convention on Compensation of Victims of Violent Crimes, which it signed in October 2010.

165. GREVIO notes that under Article 79, paragraph 3 of the Istanbul Convention, the Serbian authorities will be required to provide GREVIO with an explanation of the grounds for the reservation entered in relation to compensation (Article 30, paragraph 2) upon expiry of its period of validity and prior to its renewal.

3. Custody and visitation rights (Article 31)

166. Custody and visitation decisions in relation to families with a history of abuse require a careful balancing of the different interests at stake. Article 31 of the convention seeks to ensure that incidents of violence covered by the convention, in particular domestic violence, are taken into account in decisions on custody and visitation rights to ensure that the exercise of these rights does not harm the rights and safety of the victim or children.

167. According to the Family Code of Serbia, a child has the right to live and be cared for by its parents. However, the court can make a decision to separate the child from its parents in cases where there are grounds for it and in cases of domestic violence (Article 60). The court may limit the child's right to maintain a personal relationship with the parent that the child does not live with if it is in the best interest of the child, if there are reasons to deprive this parent of parental rights either fully or partly, or in cases of domestic violence (Article 61). According to Article 273, paragraph 3, of the Family Code, the court can also impose one or more protective measures against domestic violence and order new measures, if they are necessary to assure the safety of the victim and their children. This can also include ordering contact to occur in Centres for Social Welfare, under the supervision of professionals, where the victim's safety demands there be no contact between her and the perpetrator. GREVIO welcomes the different possibilities, enshrined in law, to limit the contact and visitation rights of an abuser in order to ensure the safety of the child. However, the Family Code does not specify whether domestic violence in this context includes violence towards a child or if it is confined to violence towards an adult. According to the authorities, all relevant regulations and protocols treat children witnessing domestic violence as victims of psychological violence and that a draft special strategy and action plan on child victims of violence is being developed.

168. In practice, courts rely heavily on assessments provided by the Centres for Social Welfare in order to make such decisions and rarely seek to investigate violence themselves. Centres for Social Welfare are given a deadline by the family courts by which they must provide a report and they are fined if they exceed it. Information provided to GREVIO suggests that these centres are unable to adequately cope with the demands being placed upon them.⁴⁸ The concerning level of understaffing and under-resourcing (see Chapter IV, Article 20) means assessments must be done quickly. This results in the prioritisation of cases involving extreme violence and/or risk of life. Moreover, the lack of specialisation of social workers on domestic violence (see Chapter IV, Article 20) suggests that individual cases are not being given the time and attention needed for a full risk assessment to be undertaken and that this area of their work is insufficiently defined in the regulations and inadequately supported in terms of resources, expertise and training.

169. Where Centres for Social Welfare advise against contact, contact can still be ordered by the courts despite their recommendations against it. Research has shown that both supervised and unsupervised contact is often the outcome in cases involving violence, because forms of abuse such as coercive control and its continuation through child contact regulations go unrecognised by social workers and/or judges.⁴⁹ Although supervised visitation exists as a temporary measure and is being

⁴⁸. Information provided by NGOs during the evaluation visit.

⁴⁹. Tanja Ignatović (2015), "Assessment and decision making on parental care in the context of Intimate Partner Violence: a gender perspective", p. 148, available at: <http://uvidok.rcub.bg.ac.rs/bitstream/handle/123456789/902/Doktorat.pdf?sequence=1>. Of 62 court cases analysed, "free" contact was ordered in 32% of the cases, and "standard visitation arrangements" were ordered in an additional 31% of cases in which fathers had been violent.

used in cases involving violence, it has been ordered on a final basis in a number of cases, according to information provided to GREVIO. By contrast, the ability to withdraw parental rights in such cases seems to be rarely used, if ever.

170. This suggests a worrying lack of understanding among key professionals as to the dynamics of domestic violence and the impact upon children.⁵⁰ It also demonstrates a distinction being applied by the courts between children who witness violence and those who experience violence (in terms of decisions as to whether contact should take place) and that the child's wishes and feelings about the contact are not being taken into account. GREVIO recalls that incidents of violence by one parent against another have a severe impact on children. Exposure to such violence breeds fear, causes trauma, adversely affects children's development⁵¹ and is recognised as a form of mental violence.⁵²

171. Equally alarming is the practice of removing children from their mothers' care in cases of domestic violence. According to the authorities, this has only been carried out on an exceptional basis where mothers were deemed to be lacking parental ability, or where safe accommodation was only available for mothers and the children were thus temporarily placed in foster care. However, the interpretation of lack of parental ability in these cases appears to be based on the inability to protect children from the abusive parent. No consideration seems to be made that this may be linked to the lack of availability of shelters which can house both her and the children or the lack of protective measures taken by the authorities. GREVIO is highly concerned by the evident discrimination towards women victims from minority communities in terms of the assessment of their competence in this regard.⁵³ Roma children are highly over-represented among children in care in Serbia, which points to the worrying practice of removing Roma children for reasons of parental inability or lack of income rather than supporting Roma women to build a life without violence.⁵⁴

172. GREVIO urges the Serbian authorities to take the necessary measures, including legislative amendments, to ensure that courts are under the obligation to:

- a. consider all issues related to violence against women when determining custody and visitation rights;**
- b. ensure the recognition of witnessing violence against a close person as jeopardising the best interest of the child;**
- c. restrict custody and visitation rights where this is warranted to guarantee the safety and best interest of the child;**
- d. end the practice of removing children from non-abusive parents and placing them into foster care.**

4. Civil consequences of forced marriages (Article 32)

173. Article 32 of the Istanbul Convention requires that parties shall take the necessary legislative or other measures to ensure that marriages concluded under force may be voidable, annulled or dissolved without undue financial or administrative burden placed on the victim. Article 216 of the Serbian Family Law provides for the submission of claims for the annulment of marriage concluded under force within one year from the cessation of force. According to the authorities, Articles 168 to 173 of the Civil Procedure Code of Serbia allow for an exemption relating to the procedural costs and the costs of legal representation in relation to claims for the annulment of marriage. While GREVIO is aware of the rare nature of forced marriage in Serbia, it recalls the importance of enabling women in such situations to free themselves from such marriages, including by ensuring easy access to free-of-charge legal procedures.

⁵⁰. Ibid, see English summary pp. 8-10.

⁵¹. Explanatory Report to the Istanbul Convention, paragraph 143.

⁵². UN Committee on the Rights of the Child, General Comment No. 13, adopted on 18 April 2011, paragraph 21e, CRC/C/GC/13, which lists exposure to domestic violence as a form of mental violence as prohibited by Article 19, paragraph 1, of the United Nations Convention on the Rights of the Child.

⁵³. Information provided by NGOs during the evaluation visit.

⁵⁴. Family Life Denied: Overrepresentation of Romani Children in State Care in Serbia, European Roma Rights Centre, (2017) p. 5, available at www.errc.org/uploads/upload_en/file/overrepresentation-of-romani-children-in-state-care-in-serbia.pdf.

174. GREVIO encourages the Serbian authorities to ensure that the existing eligibility criteria for exemptions from paying court fees for the annulment of a marriage concluded under force do not present an undue burden.

B. Criminal law

175. Much progress has been made in Serbia to criminalise the different forms of violence against women covered by Articles 33-40 of the Istanbul Convention. Since 2016, the Criminal Code includes, among others, the offences of stalking, forced marriage, female genital mutilation and sexual harassment. Domestic violence is criminalised both by the Criminal Code and the Law on Public Peace and Order, and the 2017 Law on Prevention of Domestic Violence (LPDV) introduces numerous provisions for the prevention of and protection from domestic violence in all its forms.

1. Domestic violence, including psychological violence

176. Article 194(1) of the Criminal Code sets out the specific offence of domestic violence, defined as the “use of violence, threat of attacks against life or limb, insolent or ruthless behaviour that endangers the tranquillity, physical integrity or mental condition of a member of his family”. GREVIO welcomes this provision, which has existed since long before the entry into force of the Istanbul Convention, but notes that its scope of application does not extend sufficiently to dating violence nor to violence perpetrated after a relationship ends. This is because the definition of “family” offered by Article 112 (28) of the Criminal Code includes common-law partners as well as former spouses, but it does not include former common-law partners unless they have children. Neither does it include relationship types, for example among teenagers who typically do not share a residence. Other criminal law provisions such as minor assault (Article 122 of the Criminal Code) may apply in this context, or offences in relation to image-based abuse (Articles 144 and 145 of the Criminal Code), but these are not subject to ex officio prosecution.

177. Information provided to GREVIO shows that despite efforts to harmonise the interpretation of the domestic violence offence as contained in Article 194 (1), differences still exist. This offence covers the course of conduct that is typical of domestic violence cases by allowing prosecutors to render a perpetrator criminally liable for a continuum of domestic violence rather than isolated incidents. While some judges seem to require the commission of more than one act, others consider a single incident sufficient if serious enough.⁵⁵ A judgment by the Supreme Court of Cassation from 2010 sought to clarify this issue by stating that single acts of abuse may be sufficient to qualify as domestic violence under Article 194 if it has the character of domestic violence.⁵⁶ Continuous abuse or its repetition is not necessarily required. Legal practitioners have indicated, however, that diverging practices persist.

178. Psychological violence may also be prosecuted under the domestic violence offence of the Criminal Code, which GREVIO welcomes. However, information received by GREVIO indicates that in practice psychological harm is rarely prosecuted within criminal proceedings and that the majority of cases involve bodily harm. It has been suggested this is due to a poor understanding of psychological harm and how to demonstrate that it has occurred. According to the authorities, training efforts have been made in recent years to ensure that prosecutors, judges and court experts are fully trained in investigating and processing psychological violence. While GREVIO trusts that this will translate into higher levels of prosecution in the near future, it notes that concern has been expressed that victims may be reluctant to pursue psychological harm for fear of it being used against them with respect to proceedings in the family court regarding child custody and contact.

⁵⁵The Advocates for Human Rights and Autonomous Women’s Centre, *Implementation of Domestic Violence Legislation in Serbia* (2017), p. 47.

⁵⁶ Supreme Court of Cassation, Rev.2844/10, 26 May 2010

179. GREVIO strongly encourages the Serbian authorities to extend the scope of application of the criminal offence of domestic violence to all types of relationships, including all former partners, married or not, and irrespective of whether the perpetrator shares or has shared the same residence with the victim or whether they have a child together.

180. Moreover, GREVIO strongly encourages the Serbian authorities to ensure that relevant institutions and their professionals, especially prosecutors, judges, medical staff and other experts, recognise that psychological harm inflicted in the context of domestic violence is equal to physical harm and to increase training on how it may be evidenced and prosecuted.

2. Stalking (Article 34)

181. Article 138a of the Serbian Criminal Code prohibits the unauthorised monitoring or physical proximity to a person against their will; efforts to establish direct contact, through a third person or through other means of communication; the misuse of personal information of a person or someone close to them with the aim of offering goods and services; threats to the life, body or freedom of another person or someone close to them; and the undertaking of other similar actions in a way that can significantly jeopardise the life of the person targeted by the acts. However, the term “significantly” is not defined and therefore leaves room for different interpretations in judicial practice and insufficiently distinguishes the offence from that of “compromising of safety” under Article 138 of the Criminal Code, which carries a much lower penalty – a fine or imprisonment of up to one year.

182. Furthermore, information received by GREVIO indicates that the implementation of the new offence has been hampered by a significant media backlash, a trivialisation of stalking within public discourse as the criminalisation of flirting and a general lack of understanding of the essence of stalking, lack of awareness about its unacceptability and the fact that it can lead to more serious consequences. GREVIO was also made aware of a number of high-profile cases of stalking involving members of local municipalities which have not been dealt with according to the law. This has further affected public confidence in the new legislation, which seems to be reflected in data on stalking in the criminal justice system. According to the authorities, 970 people were reported for stalking from June 2017 to January 2019. Evidentiary action was taken in 38 cases, while 152 cases were dismissed. Indictments were undertaken in 110 cases, leading to 48 convictions and no acquittals.

183. GREVIO strongly encourages the Serbian authorities to work towards a better understanding of the concept and dangers of stalking among the professionals in the criminal justice system in order to establish better practice in the implementation of Article 138a of the Criminal Code.

3. Sexual violence and rape (Article 36)

184. The Criminal Code contains several criminal offences of a sexual nature (Articles 178-185a). The offence of rape is defined as forcing a person into sexual intercourse or an equal act by use of force or threat of direct attack against the body of such person, or another person (Article 178). As a result, rape is not defined as an act of sexual intercourse that the victim did not consent to, as required by the Istanbul Convention, but as an act committed with the use of coercion, force or threat. Indeed, none of the criminal offences concerning sexual violence include this element of consent. GREVIO recalls that rape and sexual violence provisions must be based on the notion that consent must be given voluntarily as the result of a woman’s free will and assessed in the context of the surrounding circumstances. While plans seem to exist to amend the Criminal Code in order to comply with the convention, GREVIO notes that a previous attempt was abandoned after a significant public backlash.

185. GREVIO notes with concern that not all instances of rape carry the same criminal sanction. For example, sexual intercourse with the use of force and/or threat (Article 178, entitled “Rape”) carries a prison term of five to 12 years, while sexual intercourse resulting from an abuse of power, authority or dependence leads to a much lesser sentence of three months’ to three years’ imprisonment (Article 181, entitled “Sexual intercourse through abuse of position”). Where women with disabilities are raped, the offence primarily used by prosecutors and law-enforcement agencies

is that of the offence of sexual intercourse with a helpless person (Article 179), instead of rape. Although both offences offer the same sentencing range, the practice of prosecuting the rape of women with disabilities as sexual intercourse with a helpless person sends the message that the violation of their sexual decision making and autonomy does not amount to rape.

186. GREVIO recalls that according to Article 36 of the Istanbul Convention, sexual intercourse without the consent of the victim constitutes rape and shall give rise to dissuasive sanctions. It is the fact that the act is carried out without the consent of the victim that should determine the punishment, whether this is committed by someone who employs violence or abuses his position of power over the victim. GREVIO warns against the creation of a hierarchy of victims on the basis of their characteristics, such as age, helplessness, dependence, disability or others, and calls for appropriate legislative measures to send the message that rape is rape. Where the circumstances of the act are particularly violent, abusive and traumatising, aggravating circumstances should be applied to ensure a sanction commensurate with the gravity of the act.

187. GREVIO urges the Serbian authorities to speedily reform the Criminal Code provisions covering sexual violence to be based on the notion of freely given consent as required by Article 36 of the Istanbul Convention and to ensure appropriate sanctions for all sexual acts without the consent of the victim, irrespective of personal characteristics.

4. Forced marriage (Article 37)

188. Forced marriage is criminalised in Article 187a of the Criminal Code and covers, in its paragraph 2, the luring of an adult to the territory of a party or state other than Serbia for the purpose of forcing this adult to enter into a marriage. The offence can only be committed against an adult, or – according to the authorities – to a child over the age of 16 who is forced to enter into a marriage for which a court’s consent has been obtained. Customary child marriages are criminalised in Article 190 (co-habiting with a minor), which sets out criminal liability both for the adult co-habiting with the child and for the parents or guardians who arranged the co-habitation (i.e. customary child marriage). While GREVIO welcomes the fact that this provision is actively implemented and that by way of example, 60 accused were charged with this offence in 2017 and 53 convicted, GREVIO is concerned by the possibility of waiving prosecution where the customary child marriage has been transformed into a legal marriage (Article 187a). This is concerning given that GREVIO heard evidence from the Serbian authorities that early marriage, including customary marriage, is a particular issue affecting minors from the Roma community. Although it is difficult to establish the prevalence of forced marriage in Serbia, it appears that the practice of arranging early marriages that border on forced marriage, including early and forced customary marriage, is frequent among the Roma and other communities. Girls in these communities are raised in the knowledge that they will marry or join a union with a man at an early age, with or without their consent, as a result of a customary practice transmitted from one generation to the next. In many cases it is difficult to establish the actual use of force or threat, but the young age of most brides would point to a probable lack of consent to a marital union.⁵⁷ Nonetheless, GREVIO wishes to distinguish clearly between arranged and forced marriages. While the first category does not fall within the scope of Article 37 of the Istanbul Convention because of the existence of an “implicit” acceptance, the second one does. Moreover, GREVIO recalls the global human rights standards set out in the United Nations Convention on the Elimination of Discrimination against Women and the United Nations Convention on the Rights of the Child and their respective General Recommendations which prohibit the betrothal and the marriage of a child, ensure the right to freely choose a spouse and to enter into marriage with free and full consent, and consider early and forced marriage a harmful practice which must end.⁵⁸ While transforming a customary marriage into a legally recognised civil law marriage can

⁵⁷. “Early marriage of Roma girls: a ticket to sexual violence”, Roma Association of Novi Bečej and Roma Women’s Centre. Available in Serbian at: https://udruzenjeromanb.org.rs/images/publikacije/Rani_brakovi_romskih_devojica.pdf. According to this report, 54% of Roma in Serbia aged 20 to 49 entered a marriage or customary marital unit before the age of 18, and approximately 17% before the age of 15.

⁵⁸. Article 16, paragraph 1a and paragraph 2 of the CEDAW Convention. See also CEDAW General Recommendation No. 21: Equality in Marriage and Family Relations and Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices.

be of benefit to young wives for reasons of alimony and other rights when it comes to divorce proceedings, it cannot replace consent to the earlier customary marriage entered into without the explicit consent

189. GREVIO notes with concern a worrying tendency on the part of the Serbian authorities to conflate the issue of customary and forced marriage within the Roma community and to consider both types of marriage as an inevitable consequence of cultural difference and that the application of the criminal code in such matters is therefore unnecessary. This may, in large part, explain why there have been no convictions for forced marriage in Serbia since the introduction of the offence in 2016 and that no data are currently being collected in relation to its prevalence.

190. GREVIO strongly encourages the Serbian authorities to repeal the exemption from criminal prosecutors set out in Article 190, paragraph 4 of the Criminal Code of Serbia and to ensure effective criminal prosecution in all cases of early customary marriage, i.e. co-habitation with a minor.

5. Female genital mutilation (Article 38)

191. GREVIO welcomes the introduction of the criminal offence of mutilation of female genitals into the Serbian Criminal Code in 2016 (Article 121a of the Criminal Code), which forbids the mutilation of outer parts of a woman's genitalia, and the aiding or abetting a woman to perform these acts on herself. However, the offence as currently drafted does not comply with Article 38 of the Istanbul Convention as it is limited to only the outer parts of a woman's genitalia rather than "any and all" parts of a woman's genitalia. Further, the criminal offence does not include such acts in relation to minor girls and limits it to adult women. Lastly, the acts of aiding or abetting a woman to perform the act of FGM upon herself cannot be considered compliant with Article 38c of the Istanbul Convention. GREVIO notes that Article 38c requires the criminalisation of behaviour that involves the intentional exertion of influence on a girl who herself does not harbour the intention of undergoing FGM. The requirement to criminalise aiding or abetting the commission of FGM stems from Article 41 of the Istanbul Convention and differs from Article 38c both in terms of the constituent element of the crime (*actus reus*) and the scope of intent (*mens rea*). The aim of Article 38c is to ensure that criminal liability occurs, for example, where relatives or community members incite, coerce or procure a girl to undergo FGM but do not take an active part in ensuring the procedure is carried out.

192. Moreover, GREVIO notes with concern that Article 121a of the Criminal Code provides for the reduction of the minimum sentence where the criminal act was committed in particularly mitigating circumstances. No data was made available in relation to the number of such offences investigated or charged by law-enforcement agencies or prosecutors, however, GREVIO was informed that there have been no criminal convictions to date.

193. GREVIO strongly encourages the Serbian authorities to amend the Criminal Code to ensure that the offence of mutilation of female genitals is fully compatible with Article 38 of the Istanbul Convention and to remove the availability of mitigation and a lower sentence as a result.

6. Forced abortion and forced sterilisation (Article 39)

194. Forced abortion is criminalised in Serbia as the aggravated form of the criminal offence of illegal termination of pregnancy (Article 120). Forced sterilisation is explicitly prohibited by the Law on the Rights of Persons with Mental Disabilities⁵⁹ as the aggravated form of the criminal offence of grievous bodily harm (Article 12, paragraph 1, of the Criminal Code). GREVIO welcomes the compatibility of the law relating to these two issues with the convention. However, GREVIO notes with concern information it received regarding the situation of women with disabilities in residential institutions who are exposed to gender-specific forms of violence – forced contraception, forced

⁵⁹. Article 56 of the Law on the Rights of Persons with Mental Disabilities, Official Gazette of the Republic of Serbia, No. 45/2013.

sterilisation and forced abortion – and that such practices are considered as an integral part of institutionalisation and/or treatment that protect the beneficiary and are in their best interests.

195. GREVIO also received information regarding the low level of sentencing employed in the very few cases brought under these criminal offences. During 2016, only seven persons were reported for the act of unauthorised termination of pregnancy, four charges were initiated, only one person convicted, while three persons were declared innocent due to lack of evidence. It is unclear to what extent the interpretation of “consent” applied by the criminal justice system is that of “informed consent” as required under the Istanbul Convention. In cases of sentencing, all were given light punishments, ranging from six to twelve months in prison.⁶⁰

196. GREVIO notes that the Law on Patient Rights sets out the right of every patient to decide freely on all medical interventions, including sterilisation and abortion, and that all medical procedures require the patient’s consent. According to the authorities, a woman’s written consent is required in order to perform an abortion or sterilisation. For women with disabilities who are under guardianship, consent may be provided by the guardian, and this seems to be frequently done on the assumption that this is in the best interest of the woman concerned. In GREVIO’s view, given the far-ranging implications of an abortion or sterilisation, more must be done to ensure that the medical intervention legally consented to by the guardian is in line with the actual will of the woman concerned. The information made available to GREVIO suggests that women with disabilities who reside in care institutions are particularly vulnerable to practices that opt for an abortion once a pregnancy is underway rather than exploring possibilities of enabling women with disabilities to carry it to term.

197. GREVIO urges the Serbian authorities to ensure that legal guardians and medical professionals respect, under all circumstances, the need to act upon and ensure respect for women’s informed and free consent to the performance of medical procedures such as abortion and sterilisation, in particular where women with disabilities in residential institutions are concerned.

7. Sexual harassment (Article 40)

198. Since 2016, Article 182a of the Serbian Criminal Code has set out the offence of sexual harassment, including all verbal, non-verbal or physical conduct with the purpose or effect of violating the dignity of a person in the sphere of sexual life, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment. An aggravated form of criminal act exists where it is done to a minor. However, GREVIO notes that this definition of sexual harassment is not completely compatible with Article 40 of the Istanbul Convention. First, the Istanbul Convention refers to conduct of a sexual nature with the purpose or effect of violating the dignity of a person; however, Article 182a of the Serbian Criminal Code limits the violation to the dignity of a person “in the sphere of sexual life”. Second, the use of the term “sexual harassment” in the definition, which is missing from Article 40, may leave open the possibility of a limited interpretation of the conduct.

199. GREVIO is also concerned about the significant media backlash against the introduction of this offence and that of stalking, as detailed above. This may explain why between 2017 and February 2018 there have only been 38 cases of sexual harassment reported. This issue must be approached responsibly when informing the public about sexual harassment and to ensure that the criminal law is equally applied to all members of the public, including those holding public office.

200. GREVIO strongly encourages the Serbian authorities to amend the definition of sexual harassment in order for it to be fully compatible with Article 40 of the Istanbul Convention and to ensure its practical application by the criminal justice sector by raising awareness among all relevant professionals.

⁶⁰. Adult perpetrators of criminal acts in Serbia, 2016. Bureau of Statistics. Available in Serbian at: <http://publikacije.stat.gov.rs/G2017/Pdf/G20175629.pdf>.

8. Sanctions and measures (Article 45)

201. GREVIO welcomes the fact that for the most part Serbian criminal law foresees adequate sanctions for acts of violence against women. However, from the information received it appears that there is a wide discrepancy between available sanctions and those that are imposed in practice, particularly in terms of the use of conditional sentences. In 2017, out of a total of 2 200 convictions for domestic violence, 60% were given conditional sentences, leading to the perception that these penalties are inadequate and ineffective. Unconditional prison sentences were given in only a small number of cases, most of them being minimal, ranging from three to six months (223 verdicts) or six to twelve months (169 verdicts).⁶¹ Criminal justice professionals seem to acknowledge that the higher sentencing ranges are only rarely made use of and that most sentences stay far below the maximum.⁶²

202. GREVIO strongly encourages the Serbian authorities to ensure – through legislative measures and the effective training of members of the judiciary and prosecution services – that sentences and measures imposed for domestic violence and other forms of violence against women are effective, proportionate and dissuasive.

9. Aggravating circumstances (Article 46)

203. Some of the aggravating circumstances required by Article 46 of the Istanbul Convention form part of the elements of the crime in the Serbian Criminal Code, thus qualifying them as more serious offences punishable by harsher sentences. In addition, judges are under the obligation to consider any aggravating circumstances in the determination of a sentence either through the general provisions relating to the determination of a sentence or the more specific grounds listed in Article 54 of the Criminal Code. These include the degree of culpability, the criminal history of the offender, attitudes towards the victim and his personal situation generally. Motives based on religion, national or ethnic affiliation, sex, sexual orientation or gender identity form specific aggravating circumstances according to Article 54a of the Serbian Criminal Code, as does repeat offending (Article 55), which GREVIO welcomes. However, GREVIO notes with some concern that the above do not systematically incorporate all circumstances as set out in Article 46 of the Istanbul Convention such as, for example, the commission of the act against or in the presence of a child, which is frequently the case in domestic violence. Forced marriage of a child is not criminalised at all (see above), indicating the need to align the criminal legislation more closely with the requirements of the convention.

204. In light of the above discussion on the sentencing practice in cases of domestic violence and others, GREVIO is concerned that the full sentencing range of key offences is not resorted to and that the judiciary lack awareness of the severity of the nature of the forms of violence covered by the Istanbul Convention. The absence of a full list of aggravating circumstances as required by Article 46 of the convention seems to contribute thereto.

205. GREVIO strongly encourages the Serbian authorities to take appropriate measures to ensure that all circumstances listed in Article 46 of the Istanbul Convention are, in practice, considered as aggravating circumstances by the judiciary, in particular the commission of an offence against or in the presence of children.⁶³

⁶¹. "Adult perpetrators of criminal acts in Serbia, 2016", Bureau of Statistics, available in Serbian at: <http://publikacije.stat.gov.rs/G2017/Pdf/G20175629.pdf>.

⁶². The Advocates for Human Rights and Autonomous Women's Centre, Implementation of Domestic Violence Legislation in Serbia (2017), p. 75.

⁶³. See also the emerging case law of the European Court of Human Rights, which states that under the Istanbul Convention, "more severe sentences are required when the offence is committed against or in the presence of a child" (*D.M.D. v. Romania*, Judgment, 3 October 2017, p. 9, paragraph 27).

10. Prohibition of mandatory alternative dispute resolution processes or sentencing (Article 48)

206. Serbia's Criminal Procedure Code authorises the deferral of prosecution in specific cases, allowing a defendant to postpone or escape charges for an offence (Criminal Procedure Code, Article 283(1-3), (5-7)). Deferral is allowed for offences punishable by fines or sentences of up to five years, which includes domestic violence crimes under Articles 194(1) and (2) of the Serbian Criminal Code. Prosecutors may defer prosecution if the suspect agrees to any of several obligations, including, among others: remedying the consequences; paying a fine; undergoing substance abuse treatment; completing community service; undergoing psycho-social treatment to eliminate violent behaviour; or complying with court-issued decisions or restrictions. Once the defendant completes his deferral obligations, the prosecutor dismisses the criminal charge.

207. According to information provided by the authorities, the use of deferral varies and is generally low (accounting for 3.18% of all charges dismissed in 2018). Where it is used it can be used as a warning, or because a victim has withdrawn her statement, and/or the violence was not regarded as sufficiently serious, or to order the accused to pay a fine to a humanitarian organisation. Deferrals are also being used to ensure attendance of domestic violence perpetrator programmes – despite persisting issues around their availability and quality – which has reduced the practical relevance of this measure. GREVIO notes with concern that deferred prosecution invariably ends in criminal prosecution and that the decision to defer is made exclusively by the prosecutor and the perpetrator's consent. Victims are not consulted. This sends the worrying message that domestic violence is not a crime fit for criminal conviction, which is contrary to the purposes of the convention.

208. GREVIO encourages the Serbian authorities to ensure, through all available means, the full implementation of all relevant legislation and protocols by increasing the training and the availability of sufficient resources to the police, prosecutors and the judiciary in order for them to fulfil their obligations with regard to victims of violence against women.

VI. Investigation, prosecution, procedural law and protective measures

209. Full accountability for all acts of violence against women requires an adequate response from law-enforcement agencies and the criminal justice sector. Chapter VI of the Istanbul Convention establishes a set of measures to ensure criminal investigations, prosecutions and convictions of the various forms of violence covered therein.

A. Immediate response, prevention and protection (Article 50)

1. Reporting to and investigations by law-enforcement agencies

210. The LPDV and the Law on Police require law-enforcement officers to act upon every report of domestic violence and to do so swiftly. Failure to act may result in disciplinary misdemeanour proceedings (Article 6 of the LPDV). The Ministry of Interior Special Protocol on Action of Police Officers in Cases of Domestic and Intimate Partner Violence against Women (2013) sets out standard procedures for the collection of evidence at the crime scene and from the victim herself. It also stresses the need to intervene immediately. The Criminal Procedure Code (Article 286) stipulates the requirement to “detect and secure traces of the criminal offence and objects which may serve as evidence, as well as to collect all information which could be of benefit for the successful conduct of criminal proceedings” where the suspicion arises that a criminal offence which is to be prosecuted *ex officio* has been committed. According to the authorities, information on previous reports of violence, protective measures or the criminal record of the suspect as well as any relevant reports of a centre for social welfare are submitted to the public prosecutor to ensure that all relevant information is taken into account in charging decisions.

211. Guidelines for the Prevention of Secondary Victimization of Women Victims of Violence in Contact with Police Officers are said to have been drawn up in 2014 in co-operation with women’s specialist counselling services. GREVIO welcomes these measures as well as the information provided by the Serbian authorities on specific training initiatives that have begun with a view to ensuring that law-enforcement officers, public prosecutors, judges and staff at centres for social welfare are enabled to apply all relevant procedures.

212. However, GREVIO points to the need to ensure this training reaches all relevant professionals across the country to ensure effective investigations and case buildings in all instances of domestic violence. GREVIO also notes that less efforts have been made to ensure standardised procedures in relation to the investigation of other forms of violence against women as covered by the Istanbul Convention, notably forced marriage and the offence of “co-habitation with a minor”, which is relevant in relation to early customary marriage of Roma girls. Although improvements seem to be made, GREVIO was informed of the strong reliance of police and prosecution services on the victim’s statement, in particular in domestic violence cases. Where victims withdraw their statements, prosecutions and/or criminal proceedings frequently come to an end for the lack of supporting evidence, although there are some good examples of successful prosecutions that did not rely on the victim’s testimony.

213. GREVIO is concerned at the information it received regarding the backlash against women who withdraw or change their statement in the course of the investigation or proceedings of domestic violence cases: numerous accounts of women charged with false accusation by prosecution services have become available – even where victims invoked their right not to testify against their spouse.⁶⁴ According to the Serbian authorities, this practice is becoming more rare, as conviction data for the year 2017 shows that none of the cases in which women were convicted of false reporting concerned the false reporting of domestic violence. GREVIO wishes to point out, however, the importance of understanding the dynamics of domestic violence and of giving due consideration to the socio-economic situation of women victims of domestic violence in Serbia. In the absence of

⁶⁴. The Advocates for Human Rights and Autonomous Women’s Centre, Implementation of Domestic Violence Legislation in Serbia (2017), p. 50.

sufficient support services such as domestic violence shelters and with little prospect of gaining economic independence (see Chapter IV), many women have no other option but to remain living with the perpetrator of violence towards them, and hence prefer to not testify. Others may simply be under pressure from the perpetrator or relatives to withdraw their testimony, which is often the case.

214. Prosecution services are in charge of all criminal investigations and instruct law-enforcement officers in the way they are conducted. GREVIO notes that representatives of women's organisations and lawyers consider the level and quality of investigations into domestic violence, but also other forms of violence, to be ineffective, and attribute this not only to the over-reliance on the victim's statement but also their length.⁶⁵ Investigations and criminal proceedings in general are very lengthy.⁶⁶ GREVIO welcomes the fact that measures are being taken such as those set out on the Law on Protection of the Right to Trial in a Reasonable Time, and notes that according to the authorities, the efficiency of criminal proceedings is improving.

215. GREVIO strongly encourages the Serbian authorities to continue its training efforts for relevant professionals on the adherence to standard investigative procedures set out in relevant protocols and guidelines in order to lessen reliance on the victim's testimony. GREVIO also encourages the Serbian authorities to draw up and ensure training on standard investigative procedures in relation to all other forms of violence against women, in particular forced marriage and early customary marriages.

2. Conviction rates

216. The level of prosecution of and convictions for the criminal offences introduced in 2016 to comply with the Istanbul Convention are extremely low. Stalking, sexual harassment, forced marriage and female genital mutilation are rarely, if at all, prosecuted (see Chapter V, sections 2, 4, 5 and 7). The reasons vary, from low levels of reporting (stalking and sexual harassment) to lack of guidance on case building. Reluctance to use criminal law in relation to Roma communities affected by forced marriage is also a factor, which is worrying and raises issues in relation to the convention's prohibition of cultural or customary practices serving as justification for crimes (Article 42 of the Istanbul Convention). More generally, however, GREVIO is concerned that the introduction of crucial new offences has not been accompanied by the necessary training and guidance to judges and prosecutors on how to use them in practice.

217. In relation to convictions for more established criminal offences such as domestic violence, rape and unauthorised/forced abortion, more efforts must be made to increase the number of convictions and hence criminal justice for victims. In relation to domestic violence, for example, there has been a significant increase in the number of persons charged since 2012, but an even more marked increase in the number of charges ultimately dropped by prosecution services. Two thirds of all charges pressed for domestic violence are now dropped by a decision of the prosecution services and only one third lead to an indictment.⁶⁷ The reasons are unknown and might be linked to the understaffing of prosecution services. It is necessary to investigate this in more detail. Where cases do go to court, they generally lead to convictions (75.7% in 2012 and 86.5% in 2016), which GREVIO welcomes.

218. Sex offences, in particular rape, are treated as serious offences and, if criminal proceedings have been opened, almost invariably lead to a prison sentence. GREVIO notes that special protection measures exist in interviewing especially vulnerable victims to avoid secondary victimisation (see below Section E. Victim support in legal proceedings). According to Article 104 of the Criminal Procedure Code, the authority conducting the proceedings may decide to order victims to testify without the presence of the other party in the same room or through video link. It may also prohibit her confrontation with the defendant in court, unless this is specifically requested by the

⁶⁵. See also UN Cedaw Concluding Observations on the combined second and third periodic reports of Serbia, adopted by the Committee at its fifty-fifth session, 8-26 July 2013 (CEDAW/C/SRB/CO/2-3), paragraph 23c.

⁶⁶. Special Report of the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women against Violence, 2014, Finding no. 16, p. 5.

⁶⁷. See Table 20 of the Serbian state report, "Reported adults for the criminal offence of domestic violence, according to gender and outcome (decision of the prosecutor's office)".

defendant and subsequently granted. GREVIO notes with concern the worrying information it received regarding the use of “confrontation” in sexual violence proceedings as a tool to corroborate evidence. By asking the injured party to face the accused in order to observe the reaction this trigger, judges aim to validate her account of events. It thus appears that the protective measures are insufficiently made use of or requests for confrontations frequently approved. GREVIO is concerned by this practice and calls on the authorities to end it.

219. GREVIO strongly encourages the Serbian authorities to investigate and address the reasons why “confrontations” between the victims of sexual violence and the defendants are carried out with a view to ending this practice. In addition, GREVIO encourages the Serbian authorities to swiftly identify and address any factors, which may prevent women from reporting and/or from testifying in court or which may in any other way contribute to attrition (the process whereby cases drop out of the criminal justice system) in criminal justice procedures in relation to all cases of violence against women.

B. Risk assessment and risk management (Article 51)

220. Concern for the victim’s safety must lie at the heart of any intervention in cases of all forms of violence covered by the Istanbul Convention. Article 51 thus establishes the obligation to ensure that all relevant authorities, not just law enforcement, 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 each other. Several internationally recognised tools exist, for example the Spousal Assault Risk Assessment (SARA) or the Multi-agency Risk Assessment Conference (MARAC), and are applied to assess the risk, including the lethality risk, which perpetrators of domestic violence pose to their victims. Many perpetrators threaten their victims with serious violence, including death, and have often subjected their victims to serious violence in the past. It is therefore essential that any risk assessment or risk management considers the probability of repeated violence, especially lethal violence, and adequately assesses the seriousness of the situation. Moreover, if risk management is not reliable and ongoing, victims may be lulled into a false sense of security, exposing them to greater risk.

221. In Serbia, the LPDV places an obligation on public prosecutors throughout Serbia to assess the individual risk of every victim of domestic violence known to the authorities (Article 16 of the LPDV) and to draw up, in co-ordination with other relevant actors (Articles 24 and 25 of the LPDV), an individual plan of protection and support. GREVIO welcomes this firm obligation to engage in multi-agency risk assessment but notes that in practice, this seems to be done mainly in relation to cases of intimate partner violence. Very little information was provided as to how and in what detail risk assessment is carried out for women or girls exposed to other forms of violence which the LPDV extends its application to. GREVIO notes with particular concern that forced marriage and the offence of “cohabitation with a minor” are excluded from the scope of application of the LPDV. These two offences are of acute relevance in the context of Roma women’s and girls’ high exposure to early and forced marriage in Serbia. Often at increased risk of violence, including kidnapping and deprivation of liberty, in the period leading up to the marriage and thereafter, they are in need of the preventive and protective measures which the LPDV offers. Efforts must be stepped up by all relevant authorities to address these situations, including by way of an adequate assessment of a girl’s risk if she were to refuse the marriage as well as by offering an adequate safety plan.

222. GREVIO notes with satisfaction the positive impact that the introduction of the LPDV has had generally and on risk assessment and management more particularly. Most stakeholders in Serbia unite in their assessment that the introduction of co-ordination groups is the single most important example of progress in the handling of domestic violence cases in Serbia. According to the authorities, from 1 June 2017 to 31 December 2018, these co-ordination groups have been convened by public prosecutors across Serbia on a total of 2 751 occasions, resulting in over 13 000 individual protection and support plans.

223. Yet, concerns seem to persist in relation to several aspects of the work of these groups. First, Article 26 of the LPDV limits their composition to three statutory agencies: law-enforcement agencies, prosecution services and Centres for Social Work. Specialist women's support services run by women's NGOs and domestic violence shelters (safe houses) may be invited to attend, if needed, and the practice in this regard varies significantly across the different public prosecution services. GREVIO wishes to recall the need to ensure that, in practice, multi-agency work focuses on the human rights and safety of victims and allows them to be represented by specialist women's support services that the victims trust in order to guarantee the safeguarding of the victims' rights and needs. Moreover, risk assessment must include all aspects of a victim's life, including potential safety concerns and risks for herself or her children in the context of child custody and schooling. Such risks can only be meaningfully addressed if all relevant professionals, including those in the educational sector, are involved. While the applicable protocols require this, GREVIO is unsure to what extent this is ensured in every day practice.

224. Second, according to data provided by the authorities on the monthly number of meetings and cases of domestic violence discussed, around 12 to 16 cases are discussed per meeting. Individual protection plans are drawn up for those cases deemed to be high risk, while others result in the granting or extension of protective measures, such as an emergency barring order (see below). It is unknown which additional, more specific and individual safety measures are set out in these plans. The risk is assessed on a colour-coded scale, but it is unclear to what extent the full history of abuse is known or adequately investigated and whether past abuse and threats are factors in the assessment. This is of concern, as it is frequently a single incident that gives rise to discussion at the level of the co-ordination group. Checklists drawn up individually seem to be used rather than internationally recognised tools such as SARA or MARAC. No information was available regarding the efforts that are made to assess the perpetrator's access to firearms, the risk of which is quite high in Serbia as a result of its recent past.

225. Third, GREVIO queries to what extent the implementation of individual protection plans is being monitored to ensure their effectiveness, as little to no information was made available to this extent.

226. GREVIO notes with concern that the above factors stand in the way of significantly reducing the number of women fatally injured or killed by current or former spouses and partners.⁶⁸ Issues seem to persist with identifying risk factors and responding to death threats in a manner that ensures the safety of women and their children in a sustainable manner.

227. GREVIO strongly encourages the Serbian authorities to ensure that risk assessment and management is systematically carried out in relation to all forms of violence against women covered by the Istanbul Convention, including in relation to women and girls at risk of early and forced marriage. Moreover, GREVIO strongly encourages the Serbian authorities to ensure that effective multi-agency work is carried out systematically in all regions, based on the human rights and safety of the individual victim, in order to enable all relevant risk factors to be identified and responded to in an adequate number with a view to reducing the number of deaths of women and children.

C. Emergency barring orders (Article 52)

228. Emergency protective measures are stipulated by the LPDV and may be issued upon discovering the danger of violence, without a formal request by the victim (Article 17 of the LPDV). It enables a competent police officer⁶⁹ to issue emergency measures, after conducting a risk assessment with the aim of protecting against immediate danger of domestic violence. The emergency measures include orders to temporarily vacate the residence and an order to prohibit contact with the victim for a duration of 48 hours.

⁶⁸. See data compiled by the Women Against Violence Network, available at www.zeneprotivnasilja.net.

⁶⁹. A police officer who has completed the specialist training for domestic violence included in the Law on the Prevention of Domestic Violence (Article 8 of the LPDV).

229. Public prosecutors are to be informed of any emergency barring orders issued and may, within 24 hours and on the basis of their assessment of the level of risk involved, request an extension from the courts (Article 19 (3) of the LPDV). Extensions may be granted for up to 30 days (Article 21 of the LPDV). Violations of emergency measures will be brought to the misdemeanour court and may lead to up to 60 days' imprisonment (Article 36 of the LPDV). In most cases, extensions are granted.⁷⁰

230. GREVIO notes with satisfaction that the introduction of emergency barring orders has greatly improved the chance for women to escape violence and receive immediate protection from further abuse. According to the authorities, from 1 June to 31 December 2017, a total of 13 808 emergency measures were issued. Only 4 469 were measures involving temporary removal of a perpetrator from his household and 9 339 were measures prohibiting contacting and approaching the victim. In 2018, the number of emergency measures issued increased to 27 042, of which 8 065 removed the perpetrator from the home while 18 977 prohibited contact with the victim. According to the authorities, the difference in numbers between evictions and contact bans is explained by the fact that eviction orders concern partners in a shared residence who will also be issued a contact ban, while those not living together will only be issued a contact ban.

231. Breaches of either of these measures are not systematically registered. However, the number of requests for misdemeanour proceedings concerning the violation of emergency measures was 889 in 2017. From 1 June 2017 to 15 March 2018, 1 063 men and 703 women were punished by imprisonment for such violations, and 40 men and 15 women were punished by a fine. In appeal procedures, the court confirmed 82 prison sentences and 11 fines, and the court annulled 12 prison sentences and four fines.

232. GREVIO notes with concern the low number of proceedings instituted for breaches of eviction orders and contact bans, and that more than half of those punished with imprisonment in relation to the violation of emergency protection measures are women. This is in stark contrast to widely available international data and established fact that the majority of perpetrators of domestic violence are male. It seems to support the claim that mutual orders are frequently imposed on both spouses/partners, which in turn suggests that the context and history of violence and primary aggressor analysis is not sufficiently taken into account. More efforts must be taken to monitor and follow up on violations of emergency measures to increase respect for these measures. In this regard, attention must be paid to attitudes and stereotypes that may hamper the rigorous implementation of emergency measures vis-à-vis male perpetrators of domestic violence.

233. GREVIO strongly encourages the Serbian authorities:

- a. **to monitor more rigorously compliance with emergency protective measures with a view to instituting misdemeanour proceedings where breaches of such orders are evidenced; and**
- b. **to investigate the issuing of mutual protection orders by law-enforcement officials with a view to ending the practice by introducing improved primary aggressor analysis and by raising the knowledge base of the dynamics of domestic violence and its gendered dimension.**

D. Protection orders (Article 53)

234. In addition to the emergency orders examined above, the Serbian legal system provides for a wide range of protection orders. First, victims, children's legal guardians (including the Centres for Social Work) or the public prosecutor may initiate proceedings for protection orders under the Family Code, but they may also be issued *ex officio* by the court if the need for protection is discovered during family procedures. Protective measures stipulated by the Family Code may last for a maximum of one year but may be prolonged for as long as there are reasons to issue them

⁷⁰ For example, of the 1 346 requests for extension made by prosecutors in Serbia in February 2019, 1 292 were granted. Similar data available from the previous month indicate similar levels of positive outcomes.

(Article 198 of the Family Code). Violations of civil protective measures are crimes punishable by imprisonment and a fine (Article 194(5)). The initiation of this type of procedure by the victim bears a financial risk, as procedural costs must be borne by the victim and may only be waived if the application is successful or the victim is eligible for an exemption on financial grounds.

235. Second, criminal procedural law allows courts to order contact bans if there are circumstances indicating that the defendant may flee, disrupt the procedure by influencing the victim, witnesses, accomplices or concealers, or that he may commit a criminal offence or reoffend. Along with this measure, the court may order the defendant to occasionally report to the police, the commissioner from the Directorate for the Enforcement of the Criminal Sanctions, or another state authority as designated by the law (Article 197 of the Law on the Criminal Procedure). These measures are initiated by the prosecutor and can be ordered *ex officio* and can last as long as they are necessary, although every three months the court is obliged to examine if the measures are still justified (Article 198, paragraph 5).

236. The third measure is stipulated by the Criminal Code in the form of criminal sanctions against the perpetrator (Article 89a). The criminal court may *ex officio* issue a restraining order, prohibit access to the vicinity of a victim's place of residence or work and prohibit further molestation or communication with the victim, if it reasonably deems that, if placed in such situations or conditions, the perpetrator could jeopardise the victim. These measures can last for the period defined by the court decision within the range of three months to three years.

237. The final type of measure is stipulated by the Law on Misdemeanour Procedures, which provides grounds for issuing a restraining order to protect the victim or to prohibit access to the site of misdemeanour. The restraining order includes prohibition of access to the joint place of residence or household during the period for which the restraining order is valid. These protective measures can last up to one year, beginning from the moment when the verdict enters into force (Article 61).

238. The protective measures stipulated by the Family Code apply only to victims of domestic violence, whereas measures stipulated by the Law on Criminal Procedure and the Criminal Code apply to all victims irrespective of the criminal offence. Protective measures stipulated by the Law on Misdemeanour Procedure can be applied in all cases of violence.

239. While comprehensive in terms of protection and scope, GREVIO is concerned at the complexity and range of protection measures available, the qualification for which differs depending upon which statute is used. There is also a significant difference in the length of remedies available for each measure and the type of violence they are aimed at. Considering the very low number of criminal proceedings initiated for domestic violence, GREVIO notes with concern that most victims will need to rely on the protective measures available under the Family Code, in particular once the emergency orders issued under the LPDV for the maximum 30 day-period have expired. Public prosecutors and Centres for Social Work do not always apply for such orders on behalf of victims, requiring them to take action themselves, for which a fee applies. GREVIO is concerned that the system is far too complex and places undue financial and administrative burdens on victims, but also on professionals involved. More alarmingly, it bears the risk of gaps in protection as victims move from the emergency protection regime under the LPDV to the family or criminal law regimes.

240. GREVIO strongly encourages the Serbian authorities to simplify the available protection measures and ensure greater levels of consistency between the emergency protection order regime and the long-term protection orders available in the different areas of law (family law, criminal law and misdemeanour law). In addition, GREVIO strongly encourages the Serbian authorities to remove any financial barriers to applications for protection orders made by victims.

E. Victim support in legal proceedings (Article 55, paragraph 2)

241. With a view to empowering victims and to encouraging them to go through with criminal proceedings, paragraph 2 of Article 55 requires parties to ensure that victims' organisations, specifically trained domestic violence counsellors or other types of support/advocacy services may assist and support victims during investigations and judicial proceedings.

242. In Serbia, Information Offices for Injured Parties and Witnesses serve victims as the injured party in cases that come before higher courts, such as rape and homicide, but not necessarily domestic violence. Support made available to victims of these crimes mainly consists of information about their role in the trial. Representatives of the office may also attend trials to offer psycho-social support to victims. In the absence of any data on how many times women victims of violence have been supported in this manner, it is difficult to assess the level of support provided in practice. Domestic violence victims are generally supported during criminal proceedings by representatives of women's specialist support services, not the Information Offices for Injured Parties and Witnesses. GREVIO highlights the specific expertise which these women's specialist support services have developed over the years in the provision of psycho-social and legal support for victims of domestic violence at all stages of all relevant judicial proceedings, criminal and civil. However, GREVIO notes with concern that their human and financial resources available are very stretched, and not nearly enough. More widely available services in the form of specially trained domestic violence counsellors or victim support services are needed.

243. GREVIO welcomes that special protective measures for especially vulnerable victims of crime are set out in the Law on Criminal Procedure (for example Articles 103 and 104), and notes that, according to the authorities, victims of gender-based violence may benefit from such measures. These include, among others, the designation of a lawyer to represent the victim's interest in court and special protective measures in court. It is not known, however, in practice to what extent these measures are applied to women victims of sexual assault, rape, domestic violence, forced marriage or other type of violence against women as covered by the Istanbul Convention.

244. GREVIO strongly encourages the Serbian authorities to ensure the availability of specifically trained victim support services focused on the provision of psycho-social support at all stages of criminal proceedings and in relation to all forms of violence covered by the Istanbul Convention.

F. Legal aid (Article 57)

245. The newly introduced Law on Free Legal Aid contains an exhaustive list of beneficiaries of free legal aid. While children are always eligible, adults may only be granted free legal aid on the basis of their financial situation (if they are eligible for social welfare or child allowance or would become eligible if required to pay for legal services themselves). In addition, the following groups of adults are eligible irrespective of their income: adults placed in a social welfare institution, subject to confinement or mandatory treatment in a medical/psychiatric institution, seeking asylum or having obtained refugee or other status, and adults with disabilities or those exercising their rights in relation to domestic violence, evictions from property or deprivation/restoration of their business capacity.

246. GREVIO questions the distinction made between victims of domestic violence – who always qualify – and victims of other forms of violence covered by the Istanbul Convention, who have to go through a lengthy application process to demonstrate their eligibility on the basis of their financial situation. GREVIO thus recalls the obligation to ensure the implementation of the convention without any discrimination (Article 4, paragraph 3).

247. Moreover, GREVIO notes the controversy regarding the scope of providers of free legal aid which has accompanied the introduction of the new law. Article 9 of the Law on Free Legal Aid lists the types of providers of free legal aid, which Article 6 defines as the provision of legal advice, the drafting of motions, legal representation and acting as defence counsel. These services may be offered by lawyers employed by public legal aid services set up by the local municipality,

or by lawyers in private practice who are admitted to the bar. All providers must register with the Ministry of Justice and private lawyers must, in addition, form part of the list compiled by the Serbian Bar Association. Reimbursement for services is on the basis of a set fee (Articles 39 and 40 of the Law on Free Legal Aid).

248. NGOs may continue to offer general legal advice but are no longer authorised to act as legal counsel for individual clients. The only exceptions the new law allows is for NGOs active in the area of asylum and discrimination issues. All others, in particular women's organisations specialised in providing services, including representing victims of domestic violence in court, will have to move towards a system of co-operation with lawyers in private practice. GREVIO notes that many models of free legal aid exist and that it is up to the parties to the convention to determine the modalities. However, GREVIO queries the distinction made between NGOs with expertise in the area of asylum and discrimination and NGOs with expertise in other areas, notably domestic violence. It calls on all relevant parties to ensure that in the implementation of the new law, starting October 2019, efforts will be made to retain the specific level of expertise in representing victims of domestic violence as acquired by NGOs and lawyers. GREVIO also calls for measures to ensure that similar levels of expertise are rapidly developed among public and private legal aid lawyers to ensure the adequate legal representation of women victims of rape, sexual assault, stalking, forced marriage and all other forms of violence covered by the convention.

249. GREVIO urges the Serbian authorities to take measures to ensure, in the practical implementation of the Law on Free Legal Aid, the provision of free legal aid of sufficient quality in all areas related to the Istanbul Convention. Moreover, it strongly encourages the Serbian authorities to monitor, within and beyond the monitoring required under the law itself, its impact in practice with a view to ensuring women's continued access to justice through quality legal representation and to remove any administrative or procedural barriers to obtaining legal aid.

VII. Migration and asylum

250. 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)

251. The new Law on Foreigners, which entered into force in Serbia in September 2018, introduces provisions to comply with the Istanbul Convention. It grants temporary residence for different reasons, including family reunification and humanitarian grounds.

252. Foreigners who entered Serbia on the basis of the family reunification scheme may only obtain an autonomous residence permit after four years of uninterrupted residence, but exceptions can be made for victims of domestic violence and those in particularly difficult circumstances (Article 59 of the Law on Foreigners). The latter would seem to include the possibility of granting an autonomous residence permit to women victims of abuse who face repatriation because of expulsion proceedings initiated against their abusive spouse or partner. Any autonomous residence permit granted in accordance with Article 59 of the Law on Foreigners is issued for a period of one year and is renewable.

253. GREVIO welcomes the alignment of Serbian legislation with the requirements of Article 59 of the Istanbul Convention but notes that the changes to the Law on Foreigners are yet to develop relevance in practice. Efforts must be made to inform migrant women of the changes to the law, for example upon arrival or through any contact with social services. At the same time, GREVIO recalls the difficulties migrant women may experience in turning to social services and/or law enforcement because of isolation, language barriers or dependency on their abuser. Against this backdrop, GREVIO calls for an interpretation of the level of evidence required by the rulebook on the law's implementation (police record, statement from a domestic violence shelter and/or corroborated by reports from a Centre for Social Welfare) that takes into account the realities of migrant women in Serbia.

254. GREVIO invites the Serbian authorities to:

- a. **ensure the practical implementation of Article 59 of the Law on Foreigners for migrant women victims of violence based on standards of proof that they are able to meet;**
- b. **raise awareness among migrant women entering Serbia on the basis of a family reunification scheme of the possibility to obtain an autonomous residence permit on the grounds of being a victim of abuse.**

B. Gender-based asylum claims (Article 60)

255. In recent years, notably 2015 and 2016, Serbia has seen unprecedented numbers of migrants and refugees arriving within its borders. Following the enormous challenges this presented initially, and with a steady drop in new arrivals since the closure of the Western Balkans migration route in 2016, the authorities' efforts to provide humanitarian support to migrants and refugees seem to be bearing fruit. Important steps have been taken in ensuring accommodation, access to basic

health care and other forms of support to those transiting through or seeking asylum in Serbia, which GREVIO welcomes.⁷¹

256. For the purpose of this report, GREVIO has reviewed numerous sources of information and has exchanged information with relevant stakeholders in Serbia to assess to what extent provision is made for women's access to an asylum procedure that is sensitive towards their specific experiences of gender-based persecution, whether the principle of *non-refoulement* is upheld and to what extent asylum-seeking women and those transiting through Serbia are being protected from and supported for any experiences of violence against women, in particular sexual and domestic violence, as well as forced marriage.

257. Although the overall number of women and girls transiting through or applying for asylum in Serbia is much smaller compared to the number of men and boys, their exposure to sexual violence and abuse (while in Serbia or en route to Serbia) is extremely heightened.⁷² Interviews with women who reached Serbia via the Western Balkans migration route showed that 67% had experienced some form of physical and/or sexual violence, while 77% had witnessed other women experiencing physical violence – either in their country of origin, on their journey or while in Serbia.⁷³ Perpetrators range from male relatives, including husbands, to law-enforcement officers and people smugglers.⁷⁴ Women travelling with their husbands and children are in no way spared from experiencing physical or sexual violence.⁷⁵ These interviews provide rare insights into the realities of women who travel on the Western Balkans migration route and must be borne in mind by all authorities acting in support of migrant women or handling their asylum cases.

C. Gender-sensitive asylum determination procedure

258. The 2018 amendments to the Law on Asylum and Temporary Protection seem to remedy some of the structural, legal and practical barriers to the asylum procedure in Serbia that had emerged during the peak of the influx of migrants and asylum seekers in 2015 and 2016. It brings Serbian legislation closer to the standards of the Common European Asylum System framework, which GREVIO welcomes. Among other things, the law now sets out clear procedures for the expression of intention to seek asylum in Serbia, for registration as an asylum seeker and for the asylum procedure as such. For example, it places an obligation on law-enforcement and immigration officers to inform asylum seekers of their rights and obligations during the asylum determination procedure. This includes the obligation to inform them of the ability to submit an asylum claim separate from family members, as well as the entitlement to separate interviews with a case manager and interpreter of the same sex. In addition, the Asylum Office, which represents the first-instance decision maker in the asylum procedure, now comprises a unit dedicated to the compilation of country-of-origin information drawn from material made available by the European Asylum Support Office (EASO), the United Nations High Commissioner for Refugees (UNHCR) and other sources.

259. Importantly, gender is now explicitly recognised as a ground for persecution giving rise to the right to asylum or international protection (Article 24 of the Law on Asylum). Persecution is defined to include acts of physical or psychological violence, including sexual and gender-based violence (Article 28, paragraph 2, of the Law on Asylum). GREVIO welcomes the introduction of a legal basis for asylum claims on the basis of gender-based persecution, which is in full compliance with the

⁷¹. For a general overview, see the Report of the fact-finding mission by Ambassador Tomáš Boček, Special Representative of the Secretary General of the Council of Europe on migration and refugees to Serbia and two transit zones in Hungary, 12-16 June 2017, SG/Inf(2017)33.

⁷². According to the United Nations High Commissioner for Refugees (UNHCR), only 5% of migrants arriving in Serbia during the period of January to November 2018 were women, and 18% were children. Most unaccompanied children are boys, as very few girls undertake the journey on their own. In the same period, only 8% of registered intentions to seek asylum in Serbia were made by women.

⁷³. Jelena Markovic, Marija Cvejic, "Violence against women and girls among refugee and migrant population in Serbia", report published by Atina – Citizens' Association for combating trafficking in human beings and all forms of violence against women, 2017, Figures 4 and 6.

⁷⁴. Ibid, Chart 4 – Responses to questions about the perpetrators of violence.

⁷⁵. Ibid, p. 20.

requirements of Article 60, paragraph 1, of the Istanbul Convention. GREVIO further notes with satisfaction the emergence of the first positive decisions on asylum claims submitted by women based on some level of recognition of gender-based elements. These recent efforts to comply with the Istanbul Convention are part of the Serbian authorities' wider bid to align asylum legislation and procedures with international and European requirements, which GREVIO welcomes.⁷⁶

260. According to legal practitioners and civil society organisations, however, a range of issues persist in accessing the asylum procedure and in obtaining recognition of gender-based persecution. Although efforts have been made to train (some) law-enforcement officials on the obligation to issue certificates of the expression of intention and certificates of registration, there are still instances when this is not done. Moreover, there is only a short window to lodge an asylum application, during which authorised asylum officers must make available asylum application forms. The presence of Asylum Office staff however seems to be limited to the five asylum centres, which presents anyone residing in a transit/reception centre or elsewhere with practical difficulties. This is compounded by the fact that before entering the asylum determination procedure very little information is made available to migrants/asylum seekers in a language they understand. The Rules of Conduct in Asylum Centres and Other Accommodation Facilities for Asylum Seekers are available on notice boards in several languages and contain, among others, information on how to file reports and complaints in relation to any experiences of violence. In practice, however, asylum-seeking women are rarely aware of their rights and where to turn to for help, as civil society representatives informed GREVIO.⁷⁷ Although some NGOs have been granted permission to offer information and legal counselling in some asylum and reception centres, their presence is not ensured in all centres. Difficulties seem to persist for women's specialist NGOs and others, with applications required for each entry. While some asylum and reception centres readily grant access, others do not, thus preventing these organisations from providing much needed counselling services to women asylum seekers.

261. Although Serbia is by and large viewed as a transit country – by most migrants and by the authorities themselves – the prospect of entering any of the neighbouring European Union member states is slim. Unofficial lists for entry into Hungary nurture hope and cause many to delay applications for asylum in Serbia.⁷⁸ Negative experiences with smugglers or being pushed back into Serbia after a successful border crossing and the subsequent difficulties in (re-)entering the Serbian asylum system are taking a toll on many migrants/asylum seekers in Serbia. GREVIO notes with concern that the current circumstances and the lack of information regarding the available procedures, their duration and the prospect of successful outcomes is causing great uncertainty and confusion. While this negatively impacts on the mental health and overall well-being of all migrants and asylum seekers, it has particular ramifications for women and girls who are coping with trauma related to experiences of gender-based violence. It is of utmost importance to ensure conditions and procedures that instil a sense of trust in the authorities and confidence in the next steps to allow women to fully engage in the asylum procedure, as this will often require disclosing sensitive and intimate information.

262. For women who have decided to submit an asylum claim in Serbia, the amended Law on Asylum and Temporary Protection offers the chance to obtain protection from the risk of gender-based violence or gender-based persecution. In practice, not all notions of gender-based persecution seem to be adequately recognised by case managers nor are they always investigated in a gender-sensitive manner. Although some level of training of staff in the asylum determination procedure of the Asylum Office has been ensured, this would need to be enhanced to ensure a sufficient degree of familiarity of all staff with the realities of women's exposure to gender-based persecution and the relevant interpretation of country-of-origin information. In this context, GREVIO notes the absence of gender guidelines or protocols to ensure the prompt identification of victims of sexual and gender-based violence or other forms of gender-based persecution in the asylum determination procedure.

⁷⁶ For a more comprehensive overview, see European Commission, Serbia 2018 Report, 2.2.2. Chapter 24: Justice, freedom and security, pp. 34-38, SWD(2018) 152 final.

⁷⁷ Information obtained during the evaluation visit.

⁷⁸ Report of the fact-finding mission by Ambassador Tomáš Boček, Special Representative of the Secretary General of the Council of Europe on migration and refugees to Serbia and two transit zones in Hungary, Section III, 1.2, 12-16 June 2017, SG/Inf(2017)33.

Furthermore, no particular effort seems to be made to draw from or implement guidelines established for this purpose by the United Nations High Commissioner for Refugees.⁷⁹

263. Although the right to interpretation is envisaged in the law, it is not always possible to ensure an interpreter of the same sex, although GREVIO welcomes that efforts to this extent are made wherever possible. Neither is it possible to ensure interpretation into all relevant languages, and complaints regarding the quality of interpretation have been made by legal representatives. The issue of interpretation by a trained interpreter of the same sex is, however, crucial to women who are being interviewed about very intimate and possibly traumatic experiences that might give rise to an asylum claim. GREVIO thus points to the need to ensure that all interpreters are trained in the nature of gender-based violence, related trauma, stigma and shame, in order to remove any language and cultural barriers for women seeking asylum in Serbia.

264. GREVIO encourages the Serbian authorities to:

- a. **ensure that asylum seekers and migrants transiting through Serbia are, in practice, informed of their rights and the legal procedures available to them**
- b. **ensure the de facto access of all residents of asylum and reception/transit centres to legal and other counselling offered by specialist lawyers and non-governmental organisations;**
- c. **remove any remaining de facto barriers to women's access to the asylum determination procedure;**
- d. **step up the efforts made to identify women asylum seekers who have experienced or are at risk of gender-based violence by developing and disseminating gender guidelines for refugee status determination;**
- e. **ensure the practical implementation of the right to an interpreter of the same sex and trained in the nature of gender-based violence, related trauma, stigma and shame.**

D. Accommodation

265. Numerous efforts have been made to provide basic accommodation and subsistence to asylum seekers and migrants transiting through Serbia. According to the Serbian Commissariat for Refugees and Migration, provision is made in five asylum and 14 reception/transit centres for up to 6 000 beds, but not all are filled to capacity. On average, 4 000 asylum seekers and migrants are hosted in these centres, roughly half of which are women and children. A formal application for asylum in Serbia or an intention to do so is not required for admission to asylum and reception centres, as the authorities are aware of the transitory nature of most migrants' stay in Serbia. On the whole, GREVIO welcomes this flexible handling of the situation and commends the authorities on its efforts to offer shelter, food and medical support to those in need.

266. However, GREVIO notes that difficulties persist in ensuring accommodation for all and in a manner that ensures respect for their physical safety and well-being. Reports of asylum seekers and/or migrants being refused admission or readmission to asylum or reception centres continue to be made.⁸⁰ It is unclear to what extent this concerns families with children or women travelling alone. While efforts are made to always accommodate families together and, where possible, separate from single men, the building conditions in the available centres do not always allow for such measures. Separate accommodation facilities for women migrating on their own are not available, resulting in their accommodation in family wings where possible. For unaccompanied minors, separate accommodation does exist, but it is unclear to what extent provision is made to ensure the safety and protection of unaccompanied girls. Overcrowding seems to be an issue that has been overcome, and GREVIO welcomes the efforts made to this extent.

⁷⁹. UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees, 7 May 2002, HCR/GIP/02/01, available at: www.refworld.org/docid/3d36f1c64.html.

⁸⁰. See statements made by APC/CZA Asylum Protection Center, available at: <http://azilsrbija.rs/djurovic-about-400-migrants-staying-outdoors/?lang=en>.

267. Despite the improvements made in the accommodation of asylum seekers and migrants, GREVIO notes that feelings of uncertainty, helplessness and desperation are widespread among asylum seekers and those transiting through Serbia, which is putting a strain on family relations and impacting women's and children's exposure to violence as well as their survival strategies. Reports have shown that women and children on the move have experienced a wide range of violence, including at home and while in transit, and carry related stigma, trauma and fear, which must be addressed.⁸¹

268. Responses to such intimate partner violence, rape or other forms of violence, where it has occurred in Serbia, seem to vary, but most are limited in nature and rarely involve statutory agencies such as law-enforcement agencies and social services. A standard operating procedure (SOP) was adopted by the Ministry of Labour, Employment, Veteran and Social Affairs to ensure a more standardised approach to the prevention and protection of refugees and migrants from gender-based violence in asylum and reception facilities.⁸² However, the level of its implementation seems to vary. Training has been carried out for staff members of the Commissariat for Refugees to identify women who are victims or who are at risk of sexual and domestic violence, sexual harassment, forced marriage or any other form of violence against women. It is, however, unclear to what extent the conditions in the facilities are such that women feel empowered in practice to report and seek help for any such experiences.

269. Many measures taken to respond to instances of domestic violence in reception facilities seem to be different from those set out in the LPDV. Rather than referring victims to the local Social Welfare Centre and/or the police for a subsequent referral to a domestic violence shelter, most reception staff will aim to involve the specialist NGO Atina, and only very few asylum-seeking women are admitted to the local (municipality-run) women's shelter (safe house). This approach does not seem to ensure a systematic response by statutory agencies. It is important to involve law-enforcement agencies in all instances of domestic and sexual violence in asylum and reception facilities to ensure women's access to justice and protection, and to prevent a sense of impunity among perpetrators. Asylum-seeking and migrant women should also be guaranteed equal *de facto* access to specialist support and counselling services outside of reception facilities where necessary. GREVIO thus recalls the importance of ensuring the implementation of the provisions of the Istanbul Convention without any discrimination on the basis of migrant or refugee status, or any other status, as set out in Article 4, paragraph 3.

270. GREVIO strongly encourages the Serbian authorities to:

- a. strengthen the system of protection and support from violence against women available to women asylum seekers residing in asylum or reception/transit centres by ensuring their *de facto* access to support services such as domestic violence shelters and counselling services outside of reception facilities;**
- b. develop conditions conducive to the reporting of incidents of violence against women in reception facilities, for example by informing women migrants and asylum seekers of their rights to protection and support.**

⁸¹. See above: Jelena Markovic, Marija Cvejic, "Violence against women and girls among refugee and migrant population in Serbia", report published by Atina – Citizens' Association for combating trafficking in human beings and all forms of violence against women, 2017.

⁸². Standard Operative Procedures of the Republic of Serbia for the Prevention and Protection of Refugees and Migrants from Gender-based Violence.

VIII. Concluding remarks

271. GREVIO welcomes the many steps taken by the Serbian authorities to align its laws and policies with international standards in the area of gender equality and violence against women. Since the entry into force of the Istanbul Convention, a range of targeted efforts have been made to criminalise different forms of violence against women by introducing specific offences. In addition, the Law on the Prevention of Domestic Violence was introduced to offer a more holistic and multi-agency response to domestic violence in Serbia. This law has significantly improved interventions in individual cases and has provided law-enforcement agencies, prosecution and social services with tools to protect victims. Much effort has been put into implementing this law and although difficulties persist, it is an example of positive change achieved on the basis of legislation.

272. While forms of violence other than domestic violence have received much less policy attention, GREVIO recognises the overall political will demonstrated by the authorities in Serbia to intensify the level of compliance with the Istanbul Convention. Practical measures to this extent currently depend, however, on the technical and financial support made available by intergovernmental organisations and international donors. While this is greatly contributing to a rise in expertise and project-based initiatives, GREVIO notes that in order to support the implementation of the Istanbul Convention, in the long term and in a sustainable manner, these initiatives need to be more closely aligned with the standards and aims of the convention and supported and implemented by the Serbian authorities. GREVIO is mindful of the varying economic circumstances of states parties to the convention and that progress can only be achieved over time but recalls that the obligation to implement conventional requirements lies with the state party. Essential policies, measures and services must therefore be allocated appropriate state funding.

273. Policies, measures and services must also be comprehensive in nature and implemented in a co-ordinated manner. In the absence of a specific action plan on violence against women, there is little evidence of a coherent policy approach towards the implementation of the Istanbul Convention. It is in particular the much-needed preventive measures for all forms of violence covered by the convention that are absent from the policy agenda. Moreover, no mapping of service needs against the existing capacities (in terms of quantity and quality) has been done. As a result, the significant gaps in service provision for women victims of violence are not being addressed, leaving many women in Serbia without any support. Specialist support services for rape and sexual violence are largely absent and have been scaled down where they did exist. No counselling or support is available specifically on forced and early marriage, stalking, sexual harassment and other forms of violence against women.

274. The evaluation has not only revealed the urgent need to upscale the provision of specialist services to victims of violence against women, it has also shown the need to pool the existing expertise. Several well-established women's NGOs offer specialist support services – albeit mainly for experiences of domestic violence – but operate in isolation from the multi-agency approach introduced by the Law on the Prevention of Domestic Violence. Instead of ensuring referrals to their services, victims are expected to turn to the 140 Centres for Social Work across Serbia. However, these centres frequently lack the specific expertise and/or the human resources to deal with or offer the necessary help and support. Moreover, obstacles to seeking help from the authorities remain for a wide range of women in Serbia because of intersecting factors such as ethnicity, poverty, social origin and disability. These factors frequently compound women's experiences of violence, with a particular bearing on women from minority ethnic communities such as Roma, but also on women with disabilities and the many migrant women passing through or building a life in Serbia.

275. Lastly, GREVIO points to the need to ensure higher levels of awareness, sensitisation and capacity-building in relation to all forms of violence against women covered by the convention, in particular in relation to the newly introduced criminal offences of stalking and sexual harassment. Against the high prevalence of patriarchal attitudes and gender stereotypes, efforts to increase women's equal status in society, public discourse, the media and all other relevant areas must be urgently undertaken.

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

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

Appendix I

List of proposals and suggestions by GREVIO

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

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

1. GREVIO recalls that Article 2, paragraph 1, of the Istanbul Convention affirms the notion that all forms of violence against women, including domestic violence, affect women disproportionately. GREVIO thus strongly encourages the Serbian authorities to enhance the application of a gendered perspective in the implementation of the Istanbul Convention, including in relation to law and policy on domestic violence. (paragraph 8)

C. Definitions (Article 3)

2. GREVIO encourages the Serbian authorities to harmonise across all areas of law all legal definitions of violence against women, gender-based violence and domestic violence on the basis of the definitions set out in the Istanbul Convention and to ensure their effective application in practice. (paragraph 12)

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

2. Intersectional discrimination

3. GREVIO encourages the Serbian authorities to continue to address the multiple forms of discrimination that in particular women and girls from Roma communities face and to take measures to ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the other grounds listed in Article 4, paragraph 3. This includes improving the accessibility of services, in particular shelters, to women with disabilities and migrant women. (paragraph 19)

II. Integrated policies and data collection

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

4. GREVIO strongly encourages the Serbian authorities to pursue the adoption of a new comprehensive national strategy on all forms of violence against women in order to develop a long-term co-ordinated plan/strategy giving due importance to all forms of violence against women and which would fully reflect the specific needs of women who are or might be exposed to intersectional discrimination, in particular women belonging to minority groups in Serbia, women with disabilities and migrant women. (paragraph 26)

B. Financial resources (Article 8)

5. GREVIO strongly encourages the Serbian authorities to ensure appropriate human and financial resources for any policies, measures and legislation aimed at preventing and combating violence against women and the institutions and entities mandated for their implementation. GREVIO furthermore invites the Serbian authorities to gradually reduce its dependency on international donors for activities to combat violence against women and ensure a wider share of funding from the Serbian state budget to demonstrate their financial responsibility and ownership. (paragraph 32)

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

6. GREVIO urges the Serbian authorities to: (paragraph 38)
- a. establish at different levels of government consultative dialogues with women's organisations in order to incorporate their opinions and experiences into the design of policies and measures to prevent and combat all form of violence against women;
 - b. foster mutual co-operation between state actors such as Centres for Social Welfare, law-enforcement agencies, prosecution services and women's specialist support services run by NGOs through appropriate referrals and more institutionalised support;
 - c. ensure appropriate funding through suitable funding opportunities such as long-term grants based on transparent procurement procedures to ensure sustainable funding levels for women's NGOs that run specialist support services for women victims of all forms of violence.

D. Co-ordinating body (Article 10)

7. GREVIO strongly encourages the Serbian authorities to fully institutionalise the Co-ordination Body for Gender Equality and to allocate the necessary human and financial resources. GREVIO furthermore encourages the Serbian authorities to ensure, on the one hand, the co-ordination and implementation of policies and measures to prevent and combat all forms of violence against women, and, on the other hand, their independent monitoring and evaluation. In so doing, the authorities should ensure that the functions of the co-ordinating body are exercised in close consultation with those of other co-ordinating and monitoring bodies as well as relevant NGOs and civil society and that they are supported by adequate and appropriate data. (paragraph 43)

E. Data collection and research (Article 11)

1. Administrative data collection

a. Law-enforcement agencies and the criminal justice sector

8. GREVIO strongly encourages the Serbian authorities to develop data collection systems for all forms of violence covered by the Istanbul Convention, in particular sexual violence, stalking, sexual harassment, forced marriage and female genital mutilation, for use by law-enforcement agencies, prosecution services and the judiciary on the basis of data categories such as sex, age, type of violence and type of relationship of the perpetrator with the victim to be collected at regular intervals. (paragraph 49)

b. Health-care sector

9. GREVIO strongly encourages the Serbian authorities to expand the collection of data on instances of patient contact with the health sector in order to cover all forms of violence covered by the Istanbul Convention, in particular for sexual assault and rape, forced abortion or forced sterilisation, and female genital mutilation (FGM). (paragraph 52)

c. Social services

10. GREVIO strongly encourages the Serbian authorities to expand the collection of data on reports made to and interventions proposed by social services in relation to all forms of violence covered by the Istanbul Convention. (paragraph 54)

3. Research

11. GREVIO encourages the Serbian authorities to step up efforts to support research into manifestations of violence against women that are not currently explored, in particular by setting research priorities based on harmonised definitions of violence against women and common goals to ensure progress, and by ensuring the overall co-ordination of and financial support to research projects. (paragraph 60)

III. Prevention

A. General obligations (Article 12)

12. GREVIO encourages the Serbian authorities to continue its activities to eradicate to eradicate prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men across all pockets of society. (paragraph 65)

B. Awareness raising (Article 13)

13. GREVIO strongly encourages the Serbian authorities to further develop and sustain their awareness-raising efforts on all forms of violence covered by the Istanbul Convention, including through the resourcing of campaigns and by engaging in partnerships with the relevant women's specialist support services, community-based grass-roots organisations and the media. (paragraph 69)

C. Education (Article 14)

14. GREVIO strongly encourages the Serbian authorities to continue to invest in the education sector to ensure early intervention by educators where children are exposed to or experiencing sexual or domestic violence and to ensure the promotion of equality between women and men, positive gender relations, mutual respect, non-violent conflict resolution in interpersonal relationships and the right to personal integrity with the aim of preventing gender-based violence against women at all levels of education. To this end, GREVIO encourages the Serbian authorities to speedily implement the relevant measures set out in the National Strategy for Gender Equality and the National Programme for Safeguarding and Improving Sexual and Reproductive Health of the Citizens of the Republic of Serbia. (paragraph 75)

D. Training of professionals (Article 15)

15. GREVIO encourages the Serbian authorities to: (paragraph 81)

- a. introduce violence against women as a compulsory topic in vocational curricula and, while respecting academic freedom, encourage higher education to introduce such topics in university study programmes, where it is lacking;
- b. ensure on a continuous and regular basis in-service training on all forms of violence against women, based on existing protocols and with a view to ensuring implementation of new legislation;
- c. integrate in all professional development schemes the dimension of professionals' duties and responsibilities when faced with cases of violence against women, including as members of the referral mechanisms.

In implementing the above, the authorities should take full ownership of the training process, in particular by guaranteeing the application of harmonised standards and monitoring the quality of training.

E. Preventive intervention and treatment programmes (Article 16)

1. Programmes for perpetrators of domestic violence

16. GREVIO strongly encourages the Serbian authorities to ensure: (paragraph 89)
- a. the adequate resourcing of existing domestic violence perpetrator programmes in order to ensure the continuation of their work in a sustainable manner, in particular those in non-custodial settings;
 - b. an increase in the number of voluntary domestic violence perpetrator programmes;
 - c. that all programmes implement uniform standards which place at their centre the safety of, support for and the human rights of victims by co-operating closely with specialist support services for victims as required by Article 16, paragraph 3, of the Istanbul Convention;
 - d. that such programmes are widely attended, including by incorporating them into the criminal justice system, including the probation service, or by introducing incentive schemes, as a tool to reduce recidivism.
17. GREVIO further encourages the Serbian authorities to initiate scientific outcome studies (evaluations) of the programmes to assess, among other things, the risk of reoffending, in order to ensure higher levels of safety and protection for victims. (paragraph 89)

F. Participation of the private sector and the media (Article 17)

18. GREVIO encourages the Serbian authorities to continue to engage the media as a key partner to raise awareness on violence against women and to encourage media, including social media, to develop and monitor the use of self-regulatory standards specifically in the area of violence against women and gender equality, having due regard to relevant existing international standards. (paragraph 98)
19. GREVIO invites the Serbian authorities to seek the involvement of employers in the prevention of violence against women. To this end, employers should be encouraged to take part in the implementation of policies such as awareness-raising campaigns, as well as to foster a work environment where violence against women is openly condemned and victims feel that they can be heard and supported. (paragraph 99)

IV. Protection and support

A. General obligations (Article 18)

20. GREVIO strongly encourages the Serbian authorities to continue efforts to ensure co-operation between all relevant institutions and with women's support services run by NGOs. Furthermore, GREVIO urges the Serbian authorities to establish similar levels of institutionalised co-operation among statutory agencies and with women's support services run by NGOs in relation to cases of rape and sexual violence, forced marriage, stalking, sexual harassment and other forms of violence covered by the Istanbul Convention. (paragraph 105)

B. Information (Article 19)

21. GREVIO encourages the Serbian authorities to ensure the wider dissemination of information about the support services and legal measures available to victims of domestic and other forms of violence against women in a language they understand. This should include measures such as the dissemination of posters and leaflets as well as the intensification of efforts to ensure that professionals of all relevant institutions take a more proactive approach towards informing victims. (paragraph 109)

C. General support services (Article 20)

1. Social services

22. GREVIO strongly encourages the Serbian authorities to provide adequate resources to allow the Centres for Social Welfare to discharge their responsibilities in an effective manner. It further encourages the Serbian authorities to provide training for social workers specifically on the gendered nature of all forms of violence against women, including forced and early marriage, and with a view to removing cultural and gender bias. (paragraph 117)

2. Health-care services

23. GREVIO strongly encourages the Serbian authorities to ensure that all health-care professionals assume their responsibility to: (paragraph 122)

- a. detect all forms of violence against women covered by the Istanbul Convention and ensure the safety of all victims as well as their referral to relevant specialist services, while acknowledging that victims suffering from intersectional discrimination, including women with disabilities, migrant women and Roma women face specific barriers to help-seeking;
- b. ensure that health services are accessible to all women, including women with disabilities;
- c. provide free-of-charge documentation of forensic evidence adequate for the use by the criminal justice sector.

D. Specialist support services (Article 22)

24. Recalling the importance of women-to-women specialist support and counselling for any experiences of violence covered by the Istanbul Convention, GREVIO urges the Serbian authorities to provide or arrange for adequate specialist women's support services with a gendered approach throughout the country and for all forms of violence covered by the Istanbul Convention. The aim should be to ensure the provision of immediate, medium- and long-term support by involving and tapping into the long-standing expertise built up by women's specialist support services in civil society. (paragraph 125)

E. Shelters (Article 23)

25. With a view to ensuring specialist support services in the form of shelters, GREVIO strongly encourages the Serbian authorities to introduce and apply quality standards – in addition to the existing licensing standards - for shelters that accommodate victims of domestic violence and other forms of violence based on a gendered understanding of violence against women, the empowerment of victims and a victim-centred and integrated approach to service provision. (paragraph 131)

26. Moreover, GREVIO strongly encourages the Serbian authorities to map and expand, where necessary, the capacity of domestic violence shelters and to ensure practical access for all women, in particular women with disabilities, Roma women and women migrants/asylum seekers. (paragraph 132)

F. Telephone helplines (Article 24)

27. GREVIO urges the Serbian authorities to take all appropriate measures to ensure due respect for the confidentiality and anonymity of all callers to the newly established national helpline and to ensure that referrals are made to specialist support services provided by women's NGOs. (paragraph 139)

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

28. GREVIO urges the Serbian authorities to set up rape crisis and/or sexual violence referral centres, ensuring a sensitive response by trained and specialist staff, in sufficient numbers, recalling that one such centre should be available for every 200 000 inhabitants and that their geographical spread should make them accessible to victims in rural areas as much as in cities. The gathering of relevant forensic documentation must not be subject to a charge. (paragraph 143)

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

29. GREVIO urges the Serbian authorities to ensure that children who witness domestic violence receive counselling and support, including for post-traumatic stress disorder (PTSD), while at the same time ensuring their safety in conditions that allow them to remain with the non-abusive parent, preferably in their own home. (paragraph 147)

I. Reporting by professionals (Article 28)

30. GREVIO strongly encourages the Serbian authorities to ensure that the duty to report imposed on health-care professionals is tempered by full and sensitive information being provided to the victim to allow her to make an informed decision herself and maintain autonomy, while also ensuring the safety of all, especially minors. To this end, GREVIO strongly encourages the Serbian authorities to review the existing reporting obligations to ensure that they integrate a gendered approach based on respect for women's autonomy and self-determination, while operating from a multi-agency perspective involving both statutory agencies and women's specialist support services run by NGOs. (paragraph 152)

V. Substantive law

A. Civil law

1. Civil remedies against the state – ensuring due diligence (Article 29)

31. GREVIO strongly encourages the Serbian authorities to ensure that full use is made of all available remedies with regard to cases of misconduct or failure of state officials to take appropriate action in relation to cases of domestic violence, in particular where victims were later killed by their abusers, and all other forms of violence covered by the Istanbul Convention. In addition, GREVIO encourages the Serbian authorities to ensure that appropriate data on the use of the available remedies is collected and regularly updated. Lastly, GREVIO strongly encourages the Serbian authorities to ensure, in particular, that the recommendations issued by the Protector of Citizens are implemented and monitored regularly. (paragraph 159)

2. Compensation (Article 30)

32. GREVIO notes that under Article 79, paragraph 3 of the Istanbul Convention, the Serbian authorities will be required to provide GREVIO with an explanation of the grounds for the reservation entered in relation to compensation (Article 30, paragraph 2) upon expiry of its period of validity and prior to its renewal. (paragraph 165)

3. Custody and visitation rights (Article 31)

33. GREVIO urges the Serbian authorities to take the necessary measures, including legislative amendments, to ensure that courts are under the obligation to: (paragraph 172)

- a. consider all issues related to violence against women when determining custody and visitation rights;
- b. ensure the recognition of witnessing violence against a close person as jeopardising the best interest of the child;
- c. restrict custody and visitation rights where this is warranted to guarantee the safety and best interest of the child;
- d. end the practice of removing children from non-abusive parents and placing them into foster care.

4. Civil consequences of forced marriages (Article 32)

34. GREVIO encourages the Serbian authorities to ensure that the existing eligibility criteria for exemptions from paying court fees for the annulment of a marriage concluded under force do not present an undue burden. (paragraph 174)

B. Criminal law

1. Domestic violence, including psychological violence

35. GREVIO strongly encourages the Serbian authorities to extend the scope of application of the criminal offence of domestic violence to all types of relationships, including all former partners, married or not, and irrespective of whether the perpetrator shares or has shared the same residence with the victim or whether they have a child together. (paragraph 179)

36. Moreover, GREVIO strongly encourages the Serbian authorities to ensure that relevant institutions and their professionals, especially prosecutors, judges, medical staff and other experts, recognise that psychological harm inflicted in the context of domestic violence is equal to physical harm and to increase training on how it may be evidenced and prosecuted. (paragraph 180)

2. Stalking (Article 34)

37. GREVIO strongly encourages the Serbian authorities to work towards a better understanding of the concept and dangers of stalking among the professionals in the criminal justice system in order to establish better practice in the implementation of Article 138a of the Criminal Code. (paragraph 183)

3. Sexual violence and rape (Article 36)

38. GREVIO urges the Serbian authorities to speedily reform the Criminal Code provisions covering sexual violence to be based on the notion of freely given consent as required by Article 36 of the Istanbul Convention and to ensure appropriate sanctions for all sexual acts without the consent of the victim, irrespective of personal characteristics. (paragraph 187)

4. Forced marriage (Article 37)

39. GREVIO strongly encourages the Serbian authorities to repeal the exemption from criminal prosecutors set out in Article 190, paragraph 4 of the Criminal Code of Serbia and to ensure effective criminal prosecution in all cases of early customary marriage, i.e. co-habitation with a minor. (paragraph 190)

5. Female genital mutilation (Article 38)

40. GREVIO strongly encourages the Serbian authorities to amend the Criminal Code to ensure that the offence of mutilation of female genitals is fully compatible with Article 38 of the Istanbul Convention and to remove the availability of mitigation and a lower sentence as a result. (paragraph 193)

6. Forced abortion and forced sterilisation (Article 39)

41. GREVIO urges the Serbian authorities to ensure that legal guardians and medical professionals respect, under all circumstances, the need to act upon and ensure respect for women's informed and free consent to the performance of medical procedures such as abortion and sterilisation, in particular where women with disabilities in residential institutions are concerned. (paragraph 197)

7. Sexual harassment (Article 40)

42. GREVIO strongly encourages the Serbian authorities to amend the definition of sexual harassment in order for it to be fully compatible with Article 40 of the Istanbul Convention and to ensure its practical application by the criminal justice sector by raising awareness among all relevant professionals. (paragraph 200)

8. Sanctions and measures (Article 45)

43. GREVIO strongly encourages the Serbian authorities to ensure – through legislative measures and the effective training of members of the judiciary and prosecution services – that sentences and measures imposed for domestic violence and other forms of violence against women are effective, proportionate and dissuasive. (paragraph 202)

9. Aggravating circumstances (Article 46)

44. GREVIO strongly encourages the Serbian authorities to take appropriate measures to ensure that all circumstances listed in Article 46 of the Istanbul Convention are, in practice, considered as aggravating circumstances by the judiciary, in particular the commission of an offence against or in the presence of children. (paragraph 205)

10. Prohibition of mandatory alternative dispute resolution processes or sentencing (Article 48)

45. GREVIO encourages the Serbian authorities to ensure, through all available means, the full implementation of all relevant legislation and protocols by increasing the training and the availability of sufficient resources to the police, prosecutors and the judiciary in order for them to fulfil their obligations with regard to victims of violence against women. (paragraph 208)

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

46. GREVIO strongly encourages the Serbian authorities to continue its training efforts for relevant professionals on the adherence to standard investigative procedures set out in relevant protocols and guidelines in order to lessen reliance on the victim's testimony. GREVIO also encourages the Serbian authorities to draw up and ensure training on standard investigative procedures in relation to all other forms of violence against women, in particular forced marriage and early customary marriages. (paragraph 215)

2. Conviction rates

47. GREVIO strongly encourages the Serbian authorities to investigate and address the reasons why "confrontations" between the victims of sexual violence and the defendants are carried out with a view to ending this practice. In addition, GREVIO encourages the Serbian authorities to swiftly identify and address any factors, which may prevent women from reporting and/or from testifying in court or which may in any other way contribute to attrition (the process whereby cases drop out of

the criminal justice system) in criminal justice procedures in relation to all cases of violence against women. (paragraph 219)

B. Risk assessment and risk management (Article 51)

48. GREVIO strongly encourages the Serbian authorities to ensure that risk assessment and management is systematically carried out in relation to all forms of violence against women covered by the Istanbul Convention, including in relation to women and girls at risk of early and forced marriage. Moreover, GREVIO strongly encourages the Serbian authorities to ensure that effective multi-agency work is carried out systematically in all regions, based on the human rights and safety of the individual victim, in order to enable all relevant risk factors to be identified and responded to in an adequate number with a view to reducing the number of deaths of women and children. (paragraph 227)

C. Emergency barring orders (Article 52)

49. GREVIO strongly encourages the Serbian authorities: (paragraph 233)

- a. to monitor more rigorously compliance with emergency protective measures with a view to instituting misdemeanour proceedings where breaches of such orders are evidenced; and
- b. to investigate the issuing of mutual protection orders by law-enforcement officials with a view to ending the practice by introducing improved primary aggressor analysis and by raising the knowledge base of the dynamics of domestic violence and its gendered dimension.

D. Protection orders (Article 53)

50. GREVIO strongly encourages the Serbian authorities to simplify the available protection measures and ensure greater levels of consistency between the emergency protection order regime and the long-term protection orders available in the different areas of law (family law, criminal law and misdemeanour law). In addition, GREVIO strongly encourages the Serbian authorities to remove any financial barriers to applications for protection orders made by victims. (paragraph 240)

E. Victim support in legal proceedings (Article 55, paragraph 2)

51. GREVIO strongly encourages the Serbian authorities to ensure the availability of specifically trained victim support services focused on the provision of psycho-social support at all stages of criminal proceedings and in relation to all forms of violence covered by the Istanbul Convention. (paragraph 244)

F. Legal aid (Article 57)

52. GREVIO urges the Serbian authorities to take measures to ensure, in the practical implementation of the Law on Free Legal Aid, the provision of free legal aid of sufficient quality in all areas related to the Istanbul Convention. Moreover, it strongly encourages the Serbian authorities to monitor, within and beyond the monitoring required under the law itself, its impact in practice with a view to ensuring women's continued access to justice through quality legal representation and to remove any administrative or procedural barriers to obtaining legal aid. (paragraph 249)

VII. Migration and asylum

A. Residence status (Article 59)

53. GREVIO invites the Serbian authorities to: (paragraph 254)

- a. ensure the practical implementation of Article 59 of the Law on Foreigners for migrant women victims of violence based on standards of proof that they are able to meet;
- b. raise awareness among migrant women entering Serbia on the basis of a family reunification scheme of the possibility to obtain an autonomous residence permit on the grounds of being a victim of abuse.

C. Gender-sensitive asylum determination procedure

54. GREVIO encourages the Serbian authorities to: (paragraph 264)

- a. ensure that asylum seekers and migrants transiting through Serbia are, in practice, informed of their rights and the legal procedures available to them
- b. ensure the de facto access of all residents of asylum and reception/transit centres to legal and other counselling offered by specialist lawyers and non-governmental organisations;
- c. remove any remaining de facto barriers to women's access to the asylum determination procedure;
- d. step up the efforts made to identify women asylum seekers who have experienced or are at risk of gender-based violence by developing and disseminating gender guidelines for refugee status determination;
- e. ensure the practical implementation of the right to an interpreter of the same sex and trained in the nature of gender-based violence, related trauma, stigma and shame.

D. Accommodation

55. GREVIO strongly encourages the Serbian authorities to: (paragraph 270)

- a. strengthen the system of protection and support from violence against women available to women asylum seekers residing in asylum or reception/transit centres by ensuring their de facto access to support services such as domestic violence shelters and counselling services outside of reception facilities;
- b. develop conditions conducive to the reporting of incidents of violence against women in reception facilities, for example by informing women migrants and asylum seekers of their rights to protection and support.

Appendix II

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

National authorities

Deputy Prime Minister
Ministry of Interior
Ministry of Justice
Ministry of Labour, Employment, Veterans, and Social Affairs
Ministry of Culture and Information
Ministry of Education, Science and Technological Development
Ministry of Social Affairs
Commissariat on Migration and Refugees
Coordination Body for Gender Equality
Office for Cooperation with Civil Society

Public bodies

Protector of Citizens – Ombudsman
Centre for Social Welfare Belgrade
Centre for Social Welfare Novi Sad

Non-governmental organisations

Association of Roma Novi Becej
Asylum Protection Centre (APC)
Atina
Autonomous Women's Centre
Bibija Roma Women Center
FemPlatz
Fenomena
IZ KRUGA – VOJVODINA (Organisation Providing Support to Women with Disabilities)
Lawyers' Committee for Human Rights (YUCOM)
NGO Praxis
Out of Circle Belgrade
Refugee Aid Serbia
Sandglass Association of Women
Safe Oasis
SOS Helpline Vranje
UNICEF
Victimology Society of Serbia
Vojvodina SOS Network

Civil society organisations and other organisations

Dragica Gostović-Somborac, attorney at law
Miloš Srđanov, attorney at law
Sanja Stanić, attorney at law
Sanda Suvačar, attorney at law

International Organisations

UNDP Serbia
UN Women Serbia

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.

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union.

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

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

COUNCIL OF EUROPE



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