

# **Committee of the Parties**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

## **Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)**

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### **Recommendation on the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by Poland**

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The Committee of the Parties to the Convention on Preventing and Combating Violence against Women and Domestic Violence (hereinafter referred to as “the Convention”), acting under the terms of Article 68(12) of the Convention;

Having regard to the purposes of the Convention to protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence; to contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women; to design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence; to promote international co-operation with a view to eliminating violence against women and domestic violence; and to provide support and assistance to organisations and law enforcement agencies to effectively co-operate in order to adopt an integrated approach to eliminating violence against women and domestic violence;

Bearing in mind the provisions of Article 66 (1) of the Convention concerning the monitoring role of the Group of Experts on Action against Violence against Women and Domestic Violence (hereinafter referred to as “GREVIO”);

Having regard to the Rules of Procedure of the Committee of the Parties;

Having regard to the instrument of ratification deposited by Poland on 27 April 2015;

Having examined the Baseline Evaluation Report concerning the implementation of the Convention by Poland adopted by GREVIO at its 24<sup>th</sup> meeting (21-23 June 2021), as well as the comments of the Government received on 8 September 2021;

Considering the overarching priorities set out in Chapter I of the Convention (purposes and scope of the Convention, definitions, equality and non-discrimination, due diligence and gender-sensitive policies);

Bearing in mind the primordial importance of the provisions set out in Chapter II of the Convention, in particular the obligations to (1) ensure a holistic response to violence against women by devising a set of comprehensive and co-ordinated policies implemented by way of effective multi-agency co-operation; (2) institutionalise and fully mandate one or more co-ordinating bodies as required by Article 10 of the Convention; (3) adequately resource policies, measures and mandates introduced to prevent and combat all forms of violence against women, including government and non-governmental specialist support services; and (4) to collect relevant statistical data disaggregated, at a minimum, by sex, age, type of violence, relationship of the perpetrator to the victim and geographic location;

Welcoming the measures taken by the Polish authorities in implementing the Convention and noting in particular:

- the many steps taken at local and national level to offer comprehensive policies and a multisectoral response to domestic violence with a strong social policy dimension, notably the emphasis placed on multi-agency co-operation around domestic violence through the Blue Card procedure;
- the comprehensive approach in relation to domestic violence set out by the Law on Combating Family Violence, which requires the adoption of a National Programme mapping out actions in relation to the protection and assistance for victims, intervention for perpetrators and awareness raising;
- efforts to evaluate the quality of the measures taken to prevent and combat domestic violence, including efficacy of the Blue Card procedure, the support services for victims of domestic violence and the efficacy of programmes for perpetrators of domestic violence;

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- efforts made by law enforcement agencies, in the context of the Covid-19 pandemic, to contact families with a history of violence in order to assess their safety and to lower the threshold for reaching out for help;
- the range of measures taken to improve the criminal justice response to rape cases, including the introduction of *ex officio* prosecution, single and timely victim hearings, and efforts to ensure non-judgment of the victim by the interviewing officer;
- the introduction of innovative offences criminalising online harassment and stalking, including the impersonation of another person online and aggravating circumstances in cases which have led to a victim's suicide; and
- the introduction of emergency barring orders and the extensive plans to train the relevant professionals, such as law-enforcement officers, those working for social services, judges and prosecutors, on their use.

A. Recommends, in light of the considerations indicated in the preamble above, that the Government of Poland take the following measures identified in GREVIO's Baseline Evaluation Report<sup>1</sup> for immediate action to:

1. enhance the implementation of the Convention in relation to all forms of violence against women, beyond domestic violence, notably rape and sexual violence, stalking, female genital mutilation, forced marriage and sexual harassment, while ensuring that all definitions of domestic violence in use extend to former partners and spouses and irrespective of whether the victim shares a residence with the perpetrator, and that the economic dimension of domestic violence, including its linkage with psychological violence, is taken into consideration in a consistent manner in the legal and policy framework (paragraphs 8 and 9);
2. ensure that the provisions of the Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3 and address the multiple forms of discrimination in accessing protection and support faced by certain groups of women victims of violence, in particular women with disabilities, migrant women, Roma women, older women, LGBTI women and women in prostitution, by developing policies and measures which take into account and aim to overcome the specific obstacles faced by these groups of women (paragraph 22);
3. ensure a state-wide effective, comprehensive and co-ordinated set of policies to prevent and combat all forms of violence covered by the Convention, including by devising and implementing policies, improving interinstitutional co-operation mechanisms among relevant national and local state agencies in the design, implementation and monitoring of measures, particularly with a view to improving their capacity to ensure women victims' access to sufficient protection and support, and conduct independent comparative analyses of existing measures and programmes (paragraph 36);
4. increase the financial resources allocated to measures aimed at preventing and combating all forms of violence against women, review spending levels in order to remedy existing gaps in the provision of specialist support services and shelters for victims, ensure that all relevant central government agencies systematically introduce budget lines dedicated to measures to prevent and combat all forms of violence against women, and ensure equitable access to stable funding opportunities for independent women's NGOs providing specialist support services and running activities to prevent violence against women, while ensuring transparent selection, with due regard to Article 4, paragraph 4 of the Convention (paragraph 42);
5. recognise the role of independent women's NGOs as key partners in preventing and combating violence against women by actively creating an environment that is conducive to

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<sup>1</sup> The number of the paragraph setting out the GREVIO's proposals and suggestions in the report is indicated in brackets.

- their work, establishing consultative dialogue with women's organisations in order to incorporate their opinions and experiences into the design of policies and measures to prevent and combat all forms of violence against women covered by the Convention and creating a framework for their involvement in the implementation and monitoring of such policies (paragraph 46);
6. assign the role of co-ordinating body to one or more fully institutionalised government entities, to equip these with clear mandates, powers and competences, allocate the necessary human and financial resources to these entities and set up separate bodies for, on the one hand, the co-ordination and implementation of policies and measures, and, on the other hand, of their monitoring and evaluation on the basis of pre-defined indicators, while ensuring that their functions are exercised in close consultation with relevant NGOs and civil society actors, including independent women's NGOs, and that they are supported by adequate and appropriate data (paragraph 49);
  7. expand the scope of the data collected by law-enforcement agencies and the judiciary to cover all forms of violence against women, ensuring that such data are disaggregated by sex, age and the relationship of the perpetrator to the victim, and harmonise the collection of such data between law-enforcement agencies and the judiciary with the aim, *inter alia*, of assessing attrition rates (paragraph 54) while ensuring the collection of harmonised data in relation to healthcare providers' contact with women patients for reasons related to experiences of violence, disaggregated by sex, age and relationship of the perpetrator to the victim (paragraph 58);
  8. take measures to prevent all forms of violence against women covered by the scope of the Convention, in particular by promoting changes in mentalities and attitudes of individuals, addressing structural inequalities between women and men as the root causes of such violence, and promoting programmes and activities for the empowerment of women (paragraph 70) on the basis of a comprehensive national policy or strategy on equality between women and men (paragraph 15) and the integration of a gender dimension of violence against women into the development of laws, policies and measures to prevent and combat all forms of violence against women (paragraph 27);
  9. ensure that all professionals dealing with victims or perpetrators of all forms of violence covered by the scope of the Convention receive systematic and mandatory initial and in-service training on identifying and responding to all forms of violence against women based on the principles of non-discrimination and equality between women and men and devised in close co-operation with regional and local authorities, as well as relevant stakeholders, including independent women's NGOs providing specialist support to women victims of violence (paragraph 97);
  10. ensure co-operation between all relevant institutions, including law-enforcement agencies, the judiciary, prosecution services, probation officers and support services for women victims, in order to offer institutionalised co-operation in relation to all forms of violence against women covered by the Convention on the basis of protocols and guidelines for the relevant professionals (paragraph 121);
  11. provide or arrange for adequate specialist women's support services throughout the country and for all forms of violence covered by the Convention (paragraph 143), notably for victims of rape and sexual violence through rape crisis and/or sexual violence centres offering medical care, high-quality forensic examination and trauma support delivered by trained professionals, ensuring that such services are accessible to all victims and that the reproductive choice of women victims of rape does not constitute a barrier to their access to information and support from these services (paragraph 161);
  12. develop clear and uniform standards for the provision of shelter places for women victims of violence, especially in relation to their safety and empowerment and training of staff, expand

- the number and/or capacity of specialist shelter facilities dedicated to women and their children while monitoring the quality and financial sustainability of service provision (paragraph 150);
13. ensure that all relevant professionals, when deciding on custody and visitation, are aware of and take into account the negative impact on children of witnessing violence by one parent against the other, refrain from the use of concepts related to “parental alienation” or equivalent, incorporate a process for screening cases for a history of violence by one parent against the other, and take steps to ensure that procedures and decisions do not endanger the safety of women victims of intimate partner violence (paragraph 195);
  14. ensure that the provisions of the Criminal Code are applied in relation to all forms of intimate partner violence, that intimate partner violence among non-cohabiting partners, including former partners and spouses, is adequately responded to, and identify and address procedural factors that contribute to the high threshold for proving cases of domestic violence in court (paragraph 212), while ensuring that systematic and gender-sensitive risk assessment and safety management become standard procedure for all agencies involved, especially in the context of the Blue Card procedures, and that an effective multi-agency approach is taken to such risk assessment in order to ensure the human rights and safety of the individual victim while giving due consideration to the rights and needs of child witnesses of intimate partner violence (paragraph 281);
  15. reform all sexual offences contained in Chapter XXV of the Polish Criminal Code to fully incorporate the notion of freely given consent, and ensure appropriate sanctions for all sexual acts without the consent of the victim, including where the circumstances preclude valid consent (paragraph 220);
  16. recognise the power imbalances in relationships marred by violence and ensure that all offers of mediation are accepted entirely voluntarily, through all available means, such as guidelines and training offered to mediators and all other relevant parties in the criminal justice sector that focus on the gendered dynamics of domestic violence and its impact on the ability of victims to enter the mediation process on a par with the perpetrator (paragraph 248);
  17. initiate a process of reviewing the restraining and protection orders currently in place as well as their implementation in practice with a view to ensuring that protection orders are available for immediate protection without undue delay, extend to abusers who do not permanently or who no longer share, or who have never shared, a residence with the victim, are available for all forms of violence covered by the scope of the Convention and are vigilantly enforced, with breaches effectively, proportionately and dissuasively sanctioned (paragraph 294);
  18. ensure women asylum seekers’ swift access to the asylum procedure irrespective of whether they apply at border crossings, from within the territory of Poland or from detention, while ensuring the gender sensitivity of all asylum procedures, in particular by introducing systematic vulnerability screening for women and girls entering the asylum procedure in order to identify international protection needs, respect the principle of *non-refoulement* of victims of violence and offer referrals to specialist services with a view to enabling women to disclose experiences of gender-based persecution, as well as to pay due attention to country-specific reasons that might have prevented women from reporting to authorities in their countries of origin the experiences with violence (paragraphs 329, 338 and 342);
- B. Requests the Government of Poland to report to the Committee of the Parties on the measures taken to improve the implementation of the Convention in the above-mentioned areas by 8 December 2024.

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- C. Recommends that the Government of Poland take measures to implement the further conclusions of GREVIO's Baseline Evaluation Report.