

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**Comments submitted by Liechtenstein on
GREVIO's final report on the implementation of the
Council of Europe Convention on preventing and
combating violence against women and domestic
violence (Baseline Report)**

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Chapter I. Paragraph 20, from fifth sentence. *Migrant women are not systematically informed by the government of their rights when arriving in the country, for example through marrying a national of Liechtenstein. They would need information, in particular, on access to support services for violence against women and domestic violence, mainly because of language and cultural barriers. A website is available with information for migrant women; however, it appears to be in German only. In this context, GREVIO welcomes the project “Integra” by the women’s rights NGO “infra”, which supports migrant women in Liechtenstein through counselling, labour market training and advice, and literacy training. This project is mainly financed by the authorities in Liechtenstein.*

Comment. The Liechtenstein Government would like to draw attention to the fact that the website www.integration.li, specifically designed for migrants, is also available in English: www.integration.li/en.

Chapter II. Paragraph 39. *GREVIO urges the authorities in Liechtenstein to: a. take steps, in particular through gender budgeting and planning earmarked funding, to identify more effectively the sums spent on addressing violence against women and domestic violence by all relevant institutions; b. ensure adequate and sustainable funding opportunities for civil society organisations working to combat violence against women and domestic violence.*

Comment. The Liechtenstein Government would like to emphasise that the Office of Social Services is in regular contact with the NGOs to discuss the service level agreements and adapt them to their needs. The annual financial statements are reviewed annually and discussed with the organisation as needed. Adjustments have been discussed and adopted over the past few years for the Women’s Shelter and other women’s organisations such as “infra” (www.infra.li).

Chapter III. Paragraph 95. *Perpetrators are referred to the Probation Service if they are released from prison under parole or if they are convicted and given a conditional prison term, or within the framework of a diversionary measure. GREVIO welcomes the fact that, in the context of diversionary measures, the Probation Service has the right to report to the public prosecutor’s office, which supervises such measures, when they consider that a case is unsuited for mediation. Moreover, the Child and Youth Service, the Office for Social Services, the police and courts can all refer perpetrators to the Probation Service, but only court-ordered referrals are mandatory for the person concerned.*

Comment. The Liechtenstein Government would like to take this opportunity to draw attention to preliminary supervised probation, which is a form of supervised probation not mentioned in the text (as a less severe measure to pre-trial detention, § 131(5)(8) in conjunction with § 144b of the Code of Criminal Procedure, StPO: “Preliminary supervised probation shall be ordered if the accused agrees and if it appears appropriate to thereby further the efforts of the accused for a way of life and for an attitude that will keep him from committing punishable acts in the future.”). This accordingly constitutes a further programme for perpetrators of domestic violence (Chapter III, E, 1).

Chapter IV. Paragraph 107, from fifth sentence; Chapter VI. Paragraph 267. *Several services consist of a very small number of staff members only (the Victims Assistance Office, for example, consists of one single person), which means that if they are on leave or retire, co-operation practices risk being*

interrupted. Institutionalising multi-agency co-operation would therefore be all the more important in Liechtenstein, paired with the issuance of mandatory protocols or guidelines for relevant professionals on how to respond to cases of violence against women covered by the Istanbul Convention on the basis of multi-agency co-operation. This would also contribute to authorities having a clear picture of other services' tasks and responsibilities in that context, and make these practices sustainable.

However, at the time of the adoption of this report, the Victims Assistance Office only had one staff member, working part-time. While GREVIO welcomes the existence of the Victims Assistance Office and the fact that its staff member is well trained and educated in violence against women, the cycle of violence and other topics related to the Istanbul Convention, it notes that the office may require more staff to be able to provide the full range of services contained in the Victims Assistance Act, to ensure a permanent service and to deal with the rise in cases it receives.

Comment. The Liechtenstein Government would like to draw attention to the fact that already in spring 2023, it initiated the process of creating additional personnel resources at the Victims Assistance Office, pursuant to which it requested Parliament to create additional personnel resources as part of its consideration of the budget and the Finance Act for 2024. Parliament met the Government's request at the beginning of November 2023 and approved financial resources for the creation of an additional 0.5 full-time equivalent position. This means that the Victims Assistance Office will have twice as many personnel resources available in 2024 as in 2023. The recruitment process was initiated immediately after approval by Parliament in mid-November 2023. Creation of the additional personnel resources will significantly improve deputisation and reachability within the Victims Assistance Office in 2024. It will also facilitate intervision within the team of the Victims Assistance Office.

Chapter V. Paragraph 191. *The provision on "violation of sexual integrity" is relatively new. It was introduced in 2019 and covers instances of sexual intercourse or equivalent conduct "against the will of a person", "under coercive circumstances" or "following an act of intimidation". This is an important step towards holding perpetrators of rape accountable, notwithstanding that they did not resort to violence or threat. The merit of this new provision will depend heavily on its rigorous application by the prosecution services and courts. Legal practitioners informed GREVIO that the introduction of this provision made the prosecution of sexual violence easier, and that the number of prosecutions have increased. However, no official data confirming this are available. Moreover, GREVIO notes that the new provision only covers sexual acts against the will of a person over a certain threshold, that is penetration or equivalent. It does not cover all non-consensual sexual acts, which may in principle be covered by Article 203 of the Criminal Code on sexual harassment. Sexual acts other than penetration carried out with the use of force or serious threat are covered by Article 201 of the Criminal Code.*

Comment. *The Liechtenstein Government would like to draw attention to the fact that nine investigative proceedings into alleged violations of § 204a StGB (violation of sexual self-determination) have been conducted since that provision entered into force in 2019: one case is still pending; in four cases, suspects were indicted (two convictions to custodial sentences, one acquittal,*

one case was heard by the court at the end of August 2023); two investigations were discontinued without indictments; and one case was settled by diversion. In light of the small population and low crime rate in Liechtenstein, these figures show that the new provisions are being implemented vigorously. In particular, the figures confirm that the introduction of these provisions facilitates the prosecution of sexual violence and that the number of prosecutions has increased.

Paragraph 194. *One example of intentional conduct not currently covered by Liechtenstein's legislation in the area of sexual violence is that of causing another person to engage in non-consensual acts of a sexual nature with a third person (Article 36, paragraph 1c, of the Istanbul Convention). This paragraph covers scenarios in which the perpetrator is not the person who performs the sexual act but who causes the victim to engage in sexual activity with a third person, for example as part of the control and abuse in intimate-partner violence. The scope of criminal intent is wider than that under the crime of aiding and abetting. It would not only cover the intent to help the commission of an offence, for example a rape, and the intent of the rape as such, but would also extend to the intent of causing both. In other words, the intentional conduct covered by Article 36, paragraph 1c, aims at capturing more than the instigation or facilitating of a crime but the malevolent behaviour of abrogating a woman's sexual self-determination.*

Comment. The Liechtenstein Government would like to point out that this offence is in fact covered by § 204a(2) StGB (violation of sexual self-determination).

Paragraph 200. *There is no dedicated offence of female genital mutilation (FGM) in Liechtenstein. This conduct is currently covered by (grievous) bodily harm, bodily harm with severe long-term effects and related offences (Articles 83-87 of the Criminal Code). Pursuant to Article 90(3) of the Criminal Code, it is not legally possible to consent to a mutilation or any other injury to one's genitalia, which is likely to cause a lasting impairment of sexual sensitivity.*

Depending on the circumstances, preparatory acts or acts of coercing or procuring a woman or a girl to undergo the procedure may come within the remit of aiding and abetting the above offences (Article 12 of the Criminal Code). GREVIO notes, however, that Article 38c of the convention requires the criminalisation of behaviour that involves the intentional exertion of influence on a girl to undergo FGM. The requirement to criminalise aiding or abetting the commission of FGM stems from Article 41 of the convention, which 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 incurs, for example, where relatives or community members incite, coerce or procure a girl to undergo FGM but do not take an active role in ensuring that the procedure is carried out. Further legislative action is therefore required to ensure full conformity with the convention.

Comment. The Liechtenstein Government would like to draw attention to the fact that female genital mutilation is punishable under § 85(1)(2) StGB (bodily harm with serious lasting consequences) even in cases of negligence. Consent is irrelevant (§ 90(3) StGB), and all forms of participation in this offence are covered (§ 12 StGB).