

Ireland and the Council of Europe Convention on preventing and combating violence against women and domestic violence

Irish Human Rights and Equality Commission
December 2022



Coimisiún na hÉireann um Chearta
an Duine agus Comhionannas
Irish Human Rights and Equality Commission

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The Irish Human Rights and Equality Commission was established under statute on 1 November 2014 to protect and promote human rights and equality in Ireland, to promote a culture of respect for human rights, equality and intercultural understanding, to promote understanding and awareness of the importance of human rights and equality, and to work towards the elimination of human rights abuses and discrimination.

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December 2022

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1. Abbreviations

AGS	An Garda Síochána
CSO	Central Statistics Office
DPO	Disabled Peoples Organisations
DSGBV	Domestic, Sexual and Gender Based Violence
EIGE	European Institute on Gender Equality
FGM	Female Genital Mutilation
FRA	European Union Agency for Fundamental Rights
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
HEI	Higher Education Institution
HIQA	Health Information and Quality Authority
HSE	Health Service Executive
ISL	Irish Sign Language
NHRI	National Human Rights Institution
NIRP	National Independent Review Panel
NGO	Non-Governmental Organisation
RET	Domestic Abuse Risk Evaluation Tool
RSE	Relationships and Sexuality Education
SAVI	Sexual Abuse and Violence in Ireland
SVH	Sexual Violence and Harassment
SVS	Sexual Violence Survey
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities

2. List of Recommendations

1. The Commission recommends that:
 - Article 40.1 of the Constitution is amended to refer explicitly to gender equality and non-discrimination; and
 - Article 41.2 is amended to include language that is not gender specific and obliges the State to take reasonable measures to support care within the home and wider community.
2. The Commission recommends that the Equality Acts are amended to provide for intersectional discrimination. The Commission recommends that the oversight structures for the Third National Strategy, such as the forthcoming monitoring framework, ensure a participatory, innovative and effective approach to accountability, including through a framework of sanctions for consistently inadequate implementation by responsible bodies.
3. The Commission recommends that oversight Committees should be empowered to gather and analyse information; monitor progress in attaining Strategy goals; identify good practice; and propose measures for future action.
4. The Commission recommends the publication of periodic reports detailing progress in achieving the goals of the Third National Strategy. Reports should be easily accessible to all stakeholders, use clear metrics, address areas where progress is lagging, and revise targets to reflect new developments as necessary.
5. The Commission recommends that the oversight structures for the Third National Strategy, such as the forthcoming monitoring framework, ensure a participatory, innovative and effective approach to accountability, including through a framework of sanctions for consistently inadequate implementation by responsible bodies.
6. The Commission recommends that oversight Committees should be empowered to gather and analyse information; monitor progress in attaining Strategy goals; identify good practice; and propose measures for future action.

- 7. The Commission recommends the publication of periodic reports detailing progress in achieving the goals of the Third National Strategy. Reports should be easily accessible to all stakeholders, use clear metrics, address areas where progress is lagging, and revise targets to reflect new developments as necessary.**
- 8. The Commission recommends sustained, multi-annual, equality budget-proofed and ring-fenced funding to facilitate the implementation of the Third National Strategy and successor strategies.**
- 9. The Commission recommends that the Third National Strategy is supported by targeted strategies addressing FGM, forced marriage, forced abortion, and forced contraception, including sterilisation.**
- 10. The Commission recommends the prompt publication of a Third National Action Plan to Prevent and Combat Human Trafficking which closely aligns with the Third National Strategy, to ensure that all measures focused on combating DSGBV are coherent and coordinated.**
- 11. The Commission recommends that clear, tangible commitments to zero tolerance of DSGBV are integrated in all relevant new and successor national strategies due for publication, including but not limited to:**
 - the National Strategy for Women and Girls; the National Action Plan Against Racism; the National Traveller and Roma Inclusion Strategy; the Migrant Integration Strategy; the National Disability Inclusion Strategy; the LGBTI+ National Youth Strategy; the second Brighter Outcomes Better Futures: National Policy Framework for Children and Young People; and the National Equality Data Strategy.**
- 12. The Commission recommends the strategic involvement of civil society in the implementation, review and evaluation of the Third National Strategy. Guidelines, protocols and training should be developed to facilitate horizontal coordination between civil society/NGOs and State agencies.**

- 13. The Commission recommends that the central role of civil society in the Third National Strategy is recognised through increased financial resource allocation, including standardised multi-annual funding and a commitment to protect resources in future situations of economic recession and budgetary cuts.**
- 14. The Commission recommends that the State supports the establishment and work of DPOs, including through sustained funding and capacity building.**
- 15. The Commission recommends that the new statutory agency support the active participation of all public and voluntary sector bodies in the implementation of the Third National Strategy and successor DSGBV strategies.**
- 16. The Commission recommends that compliance with the Public Sector Equality and Human Rights Duty is set out in the Department of Justice's Oversight Agreement with the new statutory agency, and that the agency's design and strategic plan is in compliance with the Duty from inception.**
- 17. The Commission recommends that any national survey and supplementary data collection exercises including qualitative work should document incidences of violence against structurally vulnerable women, their experiences in accessing supports and their experiences of access to justice.**
- 18. The Commission recommends that the State immediately undertake research on DSGBV with structurally vulnerable groups of women.**
- 19. The Commission recommends that the State prioritises the collection and use of survey data to address gaps in the evidence-base, including data on FGM, violence against children, and the digital dimension of violence against women.**
- 20. The Commission recommends that the State take urgent action to improve the disaggregated data collected and used by An Garda Síochána.**
- 21. The Commission recommends that the State work with stakeholders to develop a comprehensive statistical database containing robust data on DSGBV from different administrative sources.**

- 22. The Commission recommends that the State prioritises the improvement of clear disaggregated equality data on violence against women and girls, including data on disability, ethnic status and human trafficking.**
- 23. The Commission recommends that all bodies subject to the Public Sector Duty should be mandated and resourced to collect, process, and publish accessible disaggregated equality data. The Commission recommends that data is linked, encrypted and fed into microdata sets and repositories, which are made available to researchers on request.**
- 24. The Commission recommends that the State aligns the development of the statistical database to international instruments, both at the European Union, Council of Europe and UN level.**
- 25. The Commission recommends that the statistical database is routinely audited for completeness against international instruments and best practice guidance.**
- 26. The Commission recommends that all campaigns relating to DSGBV are accessible, widely available, reach structurally vulnerable groups and target all forms of violence covered by the Istanbul Convention.**
- 27. The Commission recommends that a national campaign is rolled out highlighting the specific forms of DSGBV that disabled women and girls are subjected to, including disabled women's experiences of coercive control, perpetration by caregivers and DSGBV in residential institutions. Specific campaigns should be complemented by the integration of disabled women's experiences in general DSGBV awareness-raising measures.**
- 28. The Commission recommends that the State develops a specific campaign on FGM, co-designed with affected communities and focused on supporting non-judgmental discourse about the health and wider impacts of the practice.**
- 29. The Commission recommends that all lessons on unhealthy and abusive relationships are delivered appropriately to students of all ages and grounded in norms of gender equity, non-gender stereotyped roles, mutual respect and consent. Education on**

healthy relationships and consent should be linked with lessons on self-worth and access to services. Additionally, all lessons should incorporate the principles of diversity, inclusion and intersectionality.

30. The Commission recommends that lessons on unhealthy and abusive relationships are developed in consultation with DSGBV support services and advocacy groups, and supported by teacher training. Provision should also be considered for the external facilitation of workshops and classes on DSGBV by specialist services that are committed to a human rights and equality approach.
31. The Commission recommends urgent implementation of recently developed HEI policies and implementation plans, which should be delivered in conjunction with adequate funding. Education initiatives at HEIs should be accessible, respect diversity and intersectionality, make use of specifically developed and evidence informed tools and be provided to all students and staff.
32. Reflecting young people's preference to access information online, the Commission recommends that young people are made aware of appropriate online support services. Safe and age-appropriate online resources should be used to supplement classroom and HEI provided education. Recognising the level of digital exclusion regionally and amongst structurally vulnerable groups, students should be able to access this information confidentially in educational settings.
33. The Commission recommends regular reporting on the State's targets to develop, fund and deliver co-designed, co-ordinated and DSGBV informed training to frontline and administration professionals working with victims and survivors. Reporting should include a comprehensive list of all relevant agencies undertaking training; data on the number of professionals attending mandatory and voluntary training and their grades; the development, content and duration of training modules; and the findings of evaluation activities.
34. The Commission recommends that DSGBV training for professionals should include content on structurally vulnerable groups, including a disability focus, and evaluation should consider the training process, training outcomes and review methodology.

- 35. The Commission recommends that all public bodies advance compliance with their Public Sector Duty obligations, and use the Commission's e-learning module on the Duty as a foundation to building professional understanding of equality between women and men.**
- 36. The Commission recommends that the State should issue a formal communication, in the form of a circular, to public bodies to advance compliance with the Public Sector Duty, in line with the Commission's guidance.**
- 37. The Commission recommends that the new National Perpetrator Programme Office prioritises the geographical expansion and increased resourcing of perpetrator programmes. Perpetrator programmes must be embedded in local intervention structures; be widely known of by police, courts, social workers and others; be adaptable to the diverse needs of offenders; and comprise both court mandated and voluntary programmes.**
- 38. The Commission recommends that the low completion rate of perpetrator programmes is evaluated to establish whether current programmes and modes of delivery are the most effective. The impact of perpetrator programmes should be independently monitored, and should consider the appropriate use of court mandated attendance and how to increase attendance among men without convictions.**
- 39. The Commission recommends that proposed updates to media guidelines are developed collaboratively with media workers, trade unions, AGS, and DSGBV advocacy and support groups, and supported by training on responsible reporting. Guidelines should note the need to report on individual crimes as a serious social issue, replace on-the-ground community sources with DSGBV experts, shift focus from the perpetrator to the victim, and avoid myth-promulgation and victim-blaming.**
- 40. The Commission recommends that the work of the Media Commission and the Online Safety Commissioner should be grounded in understandings of the digital dimension of DSGBV and comply with obligations set out in the Istanbul Convention.**

41. The Commission recommends the introduction of a mandatory requirement for human rights due diligence for all businesses, which includes a focus on preventing and combating DSGBV, including human trafficking.
42. The Commission recommends that the Second National Plan on Business and Human Rights includes greater consideration of gender equality, and commits to targeted, time-bound actions to effectively prevent and combat DSGBV in the private sector, including human trafficking.
43. The Commission recommends that provision is made for ten days of domestic violence leave per rolling 12-month period in the *Work Life Balance and Miscellaneous Provisions Bill 2022*.
44. The Commission recommends that co-designed supports are put in place to enable employers to develop broader policies around DSGBV, including training on safe reporting, flexible working arrangements, access to confidential counselling, diversion of phone calls and emails, and no negative action for performance issues occurring as a result of DSGBV.
45. The Commission recommends that the State takes the opportunity provided by the ratification of ILO Convention on Violence and Harassment and related gap analysis work to amend the Equal Status Acts to include harassment as a specific form of discrimination.
46. The Commission recommends that steps are taken by the State to ensure that information on support services reaches structurally vulnerable and socially excluded groups. Information should be available in a range of formats and languages, and should be accessible on and offline.
47. The Commission recommends that all general support services for the public should have a procedure in place for the pro-active identification of, and response to, victims and survivors of DSGBV.
48. The Commission recommends that the State adopts a 'whole of housing' approach grounded in international standards on adequate housing to improving outcomes for

victims and survivors of DSGBV, in recognition of the proven link between homelessness and DSGBV.

49. The Commission recommends that Housing Authorities conduct a review of social housing policies to identify and address deficiencies in protection for victims and survivors of DSGBV, including through the use of waivers where appropriate.
50. The Commission recommends the introduction of legislation to provide for a DSGBV waiver to the Habitual Residence Condition.
51. The Commission recommends the urgent development and adequate resourcing of a high quality, culturally appropriate and inclusive public health system, in order to ensure timely access to healthcare services for victims and survivors of DSGBV.
52. The Commission recommends that the public procurement of privately provided healthcare for victims and survivors of DSGBV and their families must ensure compliance with human rights and equality standards, including the Public Sector Duty.
53. The Commission recommends that the State engages fully with GREVIO on collective complaints mechanisms, and conducts a review into the barriers which may impede the accessibility of these mechanisms for structurally vulnerable groups.
54. The Commission recommends that providers take measures to ensure the accessibility of specialist support services to structurally vulnerable groups, including through the diversification of staff to reflect service users, provision of language interpreters and cultural mediators, provision of material supports to facilitate the safety of victims and survivors and their children, and the active involvement of affected communities in their design and delivery.
55. The Commission recommends that the State undertakes a comprehensive gap analysis to inform the development of a trauma-informed, streamlined continuum of supports for all forms of DSGBV, and ensures regular review and evaluation.

- 56. The Commission recommends the immediate revision of refuge accommodation commitments in the Third National Strategy to comply with Council of Europe standards.**
- 57. The Commission recommends that refuge accommodation built as part of the implementation of the Third National Strategy should be exclusively designed as independent units and Safe Homes. Pre-existing communal living units should be reconfigured to maximise the privacy of occupants while also ensuring their safety and security.**
- 58. The Commission recommends that new refuge accommodation units are built in accordance with universal design principles, facilitate the needs of disabled people, and make provision for child-friendly spaces.**
- 59. The Commission recommends the development of a detailed, time-bound and adequately resourced commitment to scale up public and community-based therapeutic services for victims and survivors of DSGBV. Services should include psychological counselling, psycho-social support, trauma care and other supports, and should cater to short, medium and long-term needs.**
- 60. The Commission recommends the adequately resourced provision of specialised and multi-disciplinary therapeutic services for child victims and survivors of violence. Cultural, ethnic, disability and other identities should be taken into account in the provision of services and supports.**
- 61. The Commission recommends that training for health-care workers on culturally sensitive, trauma-informed medical treatment of FGM is collaboratively developed and rolled out throughout Ireland. Health and social care should be supplied within a framework of holistic, wraparound support for victims and survivors, including therapeutic services, refuge accommodation, legal advocacy, and immigration assistance as required.**

62. The Commission recommends that the urgent need for supports for victims and survivors of sexual violence is reflected in increased and multi-annual funding, to ensure high quality, accessible services and reduce waiting periods.
63. The Commission recommends that the State increase funding to both national DSGBV Helplines, and provides funding to regional Helplines. Funding should enable capacity building to address the particular needs of structurally vulnerable groups, through interpretive services including ISL interpretation, text and chat functions for Deaf victims and survivors, and digitally inclusive approaches.
64. The Commission recommends that Helplines are resourced to proactively recognise, respond to and refer potential or suspected victims of human trafficking.
65. The Commission recommends that the State withdraw its reservation to Article 30(2) of the Istanbul Convention as a matter of priority.
66. The Commission recommends that the State provides a new statutory compensation scheme for victims and survivors that is accessible, transparent and trauma-informed; implemented by professionals with specialist training; and adequately resourced to provide timely and proportionate compensation. The State's claiming of regress for compensation awarded from the perpetrator must ensure due regard for the safety of victims and survivors.
67. The Commission recommends that the State considers the provision of compensation to victims and survivors of DSGBV for 'pain and suffering' in the case of non-fatal offences.
68. The Commission recommends that orders under the *Domestic Violence Act 2018* are consistently taken into account during proceedings granting custody and access orders.
69. The Commission recommends that a national network of Child Contact Centres is established as a matter of urgency. These Centres should be adequately resourced, independently monitored, take account of the views of the child in the review of

family arrangements, and employ staff trained to work with victims and survivors of violence.

70. The Commission recommends the development of appropriate data collection, awareness-raising and training measures to ensure widespread knowledge of the existence and availability of the offence of coercive control.
71. The Commission recommends that legislation is enacted to criminalise forced abortion and forced sterilisation, without delay.
72. The Commission recommends that the State considers the introduction of legislation to criminalise sexual harassment, in order to provide better protection to victims and survivors.
73. The Commission recommends that all legislation criminalising sexual violence is codified, in order to clarify the law in this area and identify and address current legislative gaps.
74. The Commission recommends that the criminalisation of DSGBV acts is supported by effective awareness-raising measures directed at the public, and training initiatives and protocols for frontline and administrative professionals.
75. The Commission recommends that in addition to the FGM policy measures required as referenced throughout this report, the *Criminal Justice (Female Genital Mutilation) Act 2012* is reviewed in order to examine and respond to barriers to prosecution and conviction.
76. The Commission recommends that sentencing guidelines are developed for all acts of DSGBV, to ensure effective, proportionate and dissuasive sanctions. These sanctions should be accompanied by wraparound State supports, including for the families of the offender, and evidence-based interventions to prevent recidivism.
77. The Commission recommends that the Courts Service systematically collects disaggregated data on sentencing for crimes related to DSGBV, and that such data is made available to the public.

78. The Commission recommends that comprehensive training on the gravity of crimes committed in the context of DSGBV is co-designed, developed and delivered to judges and legal professionals.
79. The Commission recommends that the State amends the *Commissions of Investigation Act 2004* to embed human rights and equality considerations in the legislation, and to ensure that membership of Commissions of Investigation should include relevant expertise and/or training in human rights for investigations relating to violence against women and girls.
80. The Commission recommends that the State overhaul the existing investigative approach to ensure that all allegations of historical abuse are afforded timely, independent, transparent, thorough, intersectional, and effective survivor-centred investigations, in line with international human rights standards.
81. The Commission recommends that identified perpetrators of sexual and gender-based violence against women and girls in institutional and other settings should be prosecuted and punished with penalties proportionate to the gravity of the offence.
82. The Commission recommends that the State overhauls existing redress schemes to ensure access to an effective remedy for victims and survivors, based on the right to truth, justice, reparation, non-recurrence and memory processes and in line with human rights principles.
83. As the *Mother and Baby Institutions Payment Scheme Bill 2022* is likely to be passed by Parliament prior to the evaluation visit, the Commission recommends that GREVIO considers the enacted legislation in its engagement with the State and the preparation of its report. Further, the Commission recommends that the review of the operation of the Scheme fully addresses the outstanding human rights and equality concerns.
84. The Commission recommends that the State provides a detailed update on the financial contributions of religious congregations to redress.

85. The Commission recommends that abuse of disabled people in institutional settings, and by professional caregivers in the home, is treated as DSGBV and integrated in policy responses by the Department of Justice and the new DSGBV agency.
86. The Commission recommends that NIRP investigations into DSGBV perpetration in institutional and community contexts contribute to a culture of zero tolerance through the publication and dissemination of appropriately redacted reports, recommendations for actions to create professional and organisational accountability, and recommendations for specific inter-agency responses.
87. The Commission recommends that the State takes measures to facilitate higher levels of reporting by all victims and survivors of DSGBV, including by ensuring there are adequate numbers of specialised female law enforcement officers available.
88. The Commission recommends that the State adopts immediate and far-reaching measures to address chronic levels of distrust by Travellers in the justice system, including a dedicated policing plan to foster and improve the relationship between AGS members and the Traveller community.
89. The Commission recommends that the State engages fully with GREVIO on Article 28, conducts a review into the barriers which may impede the reporting of DSGBV by professionals, and identifies additional measures including the involvement of third parties such as civil society organisations to increase reporting.
90. The Commission recommends that a multi-agency Domestic Homicide Review procedure is put in place in Ireland, drawing on international best practice.
91. The Commission recommends that the development of the *Garda Síochána (Recording Devices) Bill 2022* requires careful examination of whether the interference with the rights to privacy, protection of data, and a fair trial presented by the use of body worn cameras is proportionate and necessary in the response to DSGBV crimes.
92. The Commission recommends that the Domestic Abuse Risk Evaluation Tool is published to be transparent and accountable, and to ascertain what specific measures are in place for structurally vulnerable groups.

93. The Commission recommends that the Domestic Abuse Risk Evaluation Tool be reviewed by the Policing Authority to understand its impact and the experiences of victims and survivors on its usage and outcomes, and to ensure it is practical, effective and in line with international best practice.
94. The Commission recommends that all efforts are made to introduce multi-agency risk assessment protocols to ensure co-ordinated efforts are in place to protect and support victims and survivors.
95. The Commission recommends that the development of risk assessment training/management must be in line with international best practice, and as such, the State should consult with experts in the area to inform its provision of this training for front line staff. Furthermore, the Commission recommends regular reporting on the State's targets to develop this training, and its incorporation and delivery in CPD training for all frontline services.
96. The Commission recommends that the *Domestic Violence Act 2018* is amended to allow children to make safety and protection orders in their own right.
97. The Commission recommends that the property test for interim barring and barring orders is removed in situations where the constitutionally-protected 'best interests of the child' requires it.
98. The Commission recommends that the protection afforded victims and survivors through interim barring orders, barring orders and emergency barring orders is bolstered by the prompt creation of a criminal offence of stalking through the *Criminal Justice (Miscellaneous Provisions) Bill 2022*.
99. The Commission recommends the development of a system of accredited training and quality assurance for legal interpretation. Legal documentation should be available in a range of accessible formats and languages, including Irish Sign Language.
100. The Commission recommends that the State develop, publish, fund and implement a strategy across the justice system to address gaps in trust, legitimacy and accountability impacting on the Traveller community, including Traveller victims and

survivors of DSGBV, underpinned by data from an ethnic identifier and annual reports on ethnic minorities.

101. The Commission recommends that the consistent and full implementation of the *Domestic Violence Act 2018* by An Garda Síochána is supported through ongoing training on the orders available, supervision activities, and the strengthening and monitoring of Garda policy in this area.
102. The Commission recommends that the State proactively and comprehensively collects all relevant evidence in DSGBV cases, so that it may prosecute cases *ex officio*, without relying on witness statements or other forms of cooperation from the victim/survivor.
103. The Commission recommends that the State review any barriers faced by victims and survivors in seeking to access court accompaniment and support services across all regional areas, as well as international best practices being developed in this area.
104. The Commission recommends that trainings and protocols for trauma-informed investigative interviewing in the context of DSGBV are developed, disseminated and delivered to AGS frontline and administrative professionals at all grades. Protocols should recognise the need for strategic and sensitive interviewing driven by rapport-based techniques, the management of the physical and psychological needs of victims and survivors and the prevention of re-traumatisation.
105. The Commission recommends that the O'Malley Report recommendations addressing delay, including establishment of a pre-trial hearings system, are adopted in relation to all types of criminal cases relating to DSGBV.
106. The Commission recommends that the State ensures the provision of adequate judges and court facilities so that criminal proceedings can be heard without delay.
107. The Commission recommends that the Department of Justice undertakes research on the best way to accurately capture and provide redress for the cumulative and multi-layered impact of DSGBV when perpetrated over long periods of time.

108. The Commission recommends that the O'Malley Report recommendations in relation to admission of evidence on sexual experience, counselling and medical history are adopted in relation to all criminal prosecutions of DSGBV.
109. The Commission recommends that the curriculum for intermediary training includes training in human rights and equality, including the rights of children and disabled people.
110. The Commission recommends the appointment of a sufficient number of District, Circuit and High Court judges to combat issues with delay in family law cases.
111. The Commission recommends that the new family court is constructed in accordance with principles of universal design; in consultation with structurally vulnerable groups that are over-represented in family law proceedings; and having particular regard for the need for privacy and child-friendly facilities. The construction of a new family court in Dublin city centre should be complemented by upgrades to district, circuit and high court facilities outside of Dublin.
112. The Commission recommends the introduction of mandatory judicial training on child and family law, as well as the dynamics and impacts of family violence, including coercive control.
113. The Commission recommends that the *Civil Legal Aid Act 1995* is amended to provide that the Legal Aid Board may provide free legal advice and aid to all victims of sexual offences.
114. The Commission recommends the extension of the scope of the Civil Legal Aid Scheme to quasi-judicial tribunals and bodies, as well as funding increases to meet demand.
115. The Commission recommends increased engagement between court support services and legal aid, including a gap analysis and clear division of roles so that legal information and assistance for victims and survivors can be delivered seamlessly and collaboratively by multiple agencies.

- 116. The Commission recommends that the Immigration Guidelines for Victims of Domestic Violence are placed on a statutory basis to ensure that victims and survivors, whose residence status depends on the perpetrator of domestic violence, can access autonomous residence permits irrespective of the duration of the relationship; and that the State clarifies which permission is granted in these instances.**
- 117. The Commission recommends that the State undertakes a review of the impact of the European Communities (Free Movement of Persons) Regulations 2015 on victims and survivors of DSGBV, particularly women excluded from the retention of the right of residence, and makes any findings publicly available.**
- 118. The Commission recommends that the State publish a timeframe for its planned review to ensure gender and LGBT+ sensitivities are considered at each stage of the asylum application process, and ensures that the direct participation of victims and survivors of DSGBV is adequately resourced.**
- 119. The Commission recommends that the State establishes clear policies and procedures on FGM as a ground for asylum for women who have been cut, are at risk of being cut, or facing pressure to have their children cut.**
- 120. The Commission recommends that the State takes active measures to ensure vulnerability assessments are carried out within 30 days of an international protection claim, and on an ongoing basis (with reasonable frequency and at points of transition), by specialised professionals trained in gender-sensitive and trauma-informed practice and communication.**
- 121. The Commission recommends that the State provides data on the number of vulnerability assessments undertaken for Ukrainian refugees applying for temporary protection.**
- 122. The Commission recommends that the State take active measures to extend the independent monitoring role of HIQA to emergency accommodation for international and temporary protection applicants, to ensure compliance with national standards. The Commission further recommends that HIQA considers within their inspection**

procedures how services identify and respond to the needs of women and girls at risk of or experiencing DSGBV.

123. The Commission recommends that provision of specific accommodation for victims of trafficking must be underpinned by a gender-specific and trauma-informed approach, in particular with respect to victims of sexual violence and exploitation.

124. The Commission recommends the immediate establishment of the proposed pilot accommodation service for victims of trafficking, and its expansion/replication as necessary to meet the needs of victims of trafficking within the State.

3. Introduction

The Irish Human Rights and Equality Commission ('the Commission') is Ireland's 'A' status National Human Rights Institution ('NHRI') and the National Equality Body.¹ The Commission is also the Independent National Rapporteur on the Trafficking of Human Beings;² awaits statutory designation as the Independent Monitoring Mechanism under the UN Convention on the Rights of Persons with Disabilities ('UNCRPD');³ and will be assigned the role of the Coordinating National Preventative Mechanism under the Optional Protocol to the Convention against Torture, pending ratification.⁴ This parallel report is informed by the Commission's Strategy Statement 2022-2024 and our prioritisation of the following areas within the context of our work: Economic equality; Justice; Respect and recognition (including through the eradication of racism, ableism, ageism and sexism); Futureproofing; and the Public Sector Duty.⁵

We welcome the first baseline evaluation of Ireland's implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence ('Istanbul Convention') by the Group of Experts on Action against Violence against Women and Domestic Violence ('GREVIO'). We published a policy statement on Ireland's ratification of the Convention in 2019,⁶ and set out the areas for immediate action by the

¹ The Commission was established under statute on 1 November 2014 to protect and promote human rights and equality in Ireland, to promote a culture of respect for human rights, equality and intercultural understanding, to promote understanding and awareness of the importance of human rights and equality, and to work towards the elimination of human rights abuses and discrimination.

² IHREC, [Commission Takes on New Role as Ireland's National Rapporteur on the Trafficking of Human Beings](#) (22 October 2020).

³ The Assisted Decision-Making (Capacity) (Amendment) Bill 2021 proposes to amend the *Irish Human Rights and Equality Commission Act 2014* to provide a statutory basis for our designation as the Independent Monitoring Mechanism under the UNCRPD. The Bill is currently before the upper house of Ireland's Parliament, Seanad Éireann.

⁴ The Draft General Scheme of the Inspection of Places of Detention Bill was published in June 2022. This Bill will provide for the designation of sectoral National Preventive Mechanisms that will act as national inspection bodies of places of detention, and we will be the Coordinating National Preventive Mechanism. This will allow Ireland to ratify the Optional Protocol to the Convention against Torture. For our observations on the draft legislation, see IHREC, [Commission proposed as Coordinating National Preventative Mechanism under Inspection of Places of Detention Bill](#) (8 November 2022).

⁵ IHREC, [Strategy Statement 2022-2024](#).

⁶ We note that the State has reserved the right not to apply for provisions of the Convention relating to compensation for victims of domestic violence and jurisdiction for the prosecution of offences: Article 30(2) and Article 44(3) of the Istanbul Convention. Council of Europe Portal, [Reservations and Declarations for Treaty No. 210](#) (2019).

State.⁷ While there has been welcome progress in the introduction of legislative and policy measures,⁸ a priority focus on overcoming implementation challenges and adopting an intersectional approach at each stage of the State's response to violence is required. In particular, further progress is needed in improving the gender equality structures in the State; the collection, analysis and reporting of disaggregated data; the provision of specialist support services for all victims and survivors; and removing the barriers across the justice system to ensure accessibility and prevent re-traumatisation. The positive and responsive measures adopted by the State to respond to domestic violence from the outset of the Covid-19 pandemic should ground the approach to the reforms in policy and service delivery required,⁹ including for future emergencies.¹⁰ Responses should also recognise and proactively respond to the unique historical context of violence against women and children in Ireland, which is characterised by a legacy of patriarchal institutional violence, and a failure by the State to accept responsibility and ensure adequate redress.

We welcome the recent 'Dublin Declaration' adopted by the Council of Europe Member States on preventing violence through gender equality, following a conference organised during Ireland's Presidency of the Council of Europe.¹¹ Through the Declaration, the State commits to actively promoting, at the highest level, an institutional and political culture which rejects gender-based discrimination and violence, and such leadership should extend to promoting the ratification of the Istanbul Convention by the European Union.

We remain available to GREVIO to further discuss the information presented in this report, and note our emphasis on women and girls subjected to violence, in line with the scope of

⁷ IHREC, [Statement on the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence](#) (2019).

⁸ See references to legislative and policy developments throughout this report, including the publication of the Third National Strategy on Domestic, Sexual and Gender-Based Violence in June 2022.

⁹ Promising measures have been identified in the State's coordinated approach to the domestic violence including an interagency plan between Government and non-Government bodies; a specific policing operation (Operation Faoiseamh) focussed on domestic violence; prioritisation of domestic violence cases in the court system; funding for service providers; and, awareness campaigns. European Institute for Gender Equality, [The Covid-19 pandemic and intimate partner violence against Women in the EU](#) (2021), pp. 27-28.

¹⁰ When the pandemic hit, no EU Member State had a gender-sensitive disaster plan in place to address possible surges in violence against women: European Institute for Gender Equality, [The Covid-19 pandemic and intimate partner violence against Women in the EU](#) (2021), p. 3.

¹¹ Council of Europe, [European ministers adopt "Dublin Declaration" on preventing violence through equality \(2022\)](#).

the Istanbul Convention.¹² We welcome the important expertise that civil society organisations bring to this evaluation procedure, particularly in highlighting the experiences and barriers faced by structurally vulnerable¹³ women and girls subjected to violence and abuse.¹⁴ There are also recent recommendations by other human rights monitoring bodies of relevance to this evaluation procedure, including the Human Rights Committee,¹⁵ and the Group of Experts on Action against Trafficking in Human Beings.¹⁶

Structure of the Commission’s report to GREVIO

This report follows the structure of the Istanbul Convention, the State questionnaire developed by GREVIO¹⁷ and Ireland’s GREVIO Report.¹⁸ The relevant Istanbul Convention articles are included in parentheses in each heading. Section four (general principles) discusses non-discrimination, equality and gender-sensitive policies. Section five (policy coordination) makes recommendations in relation to Government strategies, the proposed Domestic, Sexual and Gender Based Violence (‘DSGBV’) coordinating body, data collection and research. Section six (prevention) looks at awareness-raising, education and training, while section seven (protection) details general and specialist support services. Section eight (substantive law) analyses the legal framework prohibiting DSGBV, noting gaps in protection. Section nine considers issues faced by victims and survivors of DSGBV navigating

¹² GREVIO has also highlighted that adopting a gender neutral approach fails to take into account that gender is a primary motive of violence against women or effectively respond to the specific experiences of women and girls. In particular, such an approach fails to address the challenges faced by women and children who predominantly suffer domestic violence inflicted on them by male perpetrators: GREVIO, [Mid-term Horizontal Review of GREVIO baseline evaluation reports](#) (2022), section 12.

¹³ For the purpose of this parallel report, we define a structurally vulnerable person as someone who is particularly vulnerable to violations of their rights due to political, economic, social and cultural structures. Instead of focusing on the personal characteristics of individuals and groups and viewing them as lacking agency or inherently vulnerable, ‘structural vulnerability’ refers to the structures in place which render certain sectors of the population particularly vulnerable to human rights abuses.

¹⁴ For the alternative reports submitted by Irish civil society, see: <https://www.coe.int/en/web/istanbul-convention/ireland>.

¹⁵ Human Rights Committee, [Concluding observations on the fifth periodic report of Ireland](#) (2022) UN Doc. CCPR/C/IRL/CO/5.

¹⁶ GRETA, [Third Evaluation Report: Ireland](#) (2022).

¹⁷ GREVIO, [Questionnaire 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](#) (2016).

¹⁸ Department of Justice, [Report submitted by Ireland pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) (2022).

the policing and courts systems. Section ten has a thematic focus on migrants, including asylum seekers and those living in Direct Provision.

4. General principles

Non-discrimination, equality and gender-sensitive policies (Articles 4, 6)

We welcome a number of recent legislative developments aimed at combating gender-based violence in Ireland, [as noted in the substantive law section below](#). We remain concerned, however, about the limited progress in advancing gender equality in the Irish Constitution,¹⁹ which is essential to fully vindicate women’s rights under the Istanbul Convention.²⁰ In June 2021, the Citizens’ Assembly on Gender Equality published its 45 priority recommendations, including recommendations for constitutional reform.²¹ Alternative wordings for Articles 40.1²² and 41.2²³ of the Constitution have been further identified by a Parliamentary Committee on Gender Equality.²⁴ However, there is no concrete timeline from the State on the holding of a constitutional referendum to support gender equality.

¹⁹ Current constitutional provisions, including Article 41.2, have been found to perpetuate stereotypical attitudes towards the role of women in Irish society. See IHREC, [Submission to the Citizens’ Assembly on Gender Equality](#) (March 2020).

²⁰ In its Preamble, the Convention recognises the structural nature of such violence, which is both a cause and a consequence of unequal power relations between women and men. See Council of Europe, [Convention on Preventing and Combating Violence against Women and Domestic Violence Istanbul](#), 11.V.2011.

²¹ Recommendations for constitutional reform include amending Article 40.1 to refer explicitly discrimination on the grounds of gender, and amending Article 41.2 to reflect language that is gender-neutral and supports care within the home and wider community. See Citizens’ Assembly on Gender Equality, [Final Report](#) (June 2021).

²² Article 40.1 of the Constitution of Ireland: All citizens shall, as human persons, be held equal before the law. This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.

²³ Article 41.2 of the Constitution of Ireland: 1° In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved; 2° The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.

²⁴ See Houses of the Oireachtas, [Interim Report on Constitutional Change](#) (July 2022); Houses of the Oireachtas, [Unfinished Democracy: Achieving Gender Equality Final Report December 2022](#) (2022). We appeared before the Joint Committee in March 2022 and made a subsequent submission in November 2022, outlining its recommendations for constitutional reform and possible wording. See IHREC, [Submission to the Joint Committee on Gender Equality](#) (2022); and Houses of the Oireachtas, [Joint Committee on Gender Equality debate - Thursday, 10 Mar 2022](#) (2022).

1. The Commission recommends that:

- **Article 40.1 of the Constitution is amended to refer explicitly to gender equality and non-discrimination; and**
- **Article 41.2 is amended to include language that is not gender specific and obliges the State to take reasonable measures to support care within the home and wider community.**

A review of equality legislation in Ireland is currently being undertaken by the State, with a report on the submissions received due to be published by the end of 2022 and legislative proposals to be brought forward in 2023.²⁵ We have repeatedly called for the Equality Acts to be amended to provide for intersectional discrimination,²⁶ in order to recognise the unique disadvantage experienced by a person as a result of a combination of grounds which can only be understood by examining them together rather than apart.²⁷

2. The Commission recommends that the Equality Acts are amended to provide for intersectional discrimination.

We also support the commentary by the Citizen’s Assembly on Gender Equality on the recognition of intersectionality and the layers of discrimination experienced by Travellers, migrant women and disabled women.²⁸ We note, however, that the Report is silent on ‘ageism’ and the specific experiences of older and younger women. As well as legislative reform, it is critical that all policy responses to structural, institutional and interpersonal gender-based violence adopt an intersectional approach to address complex and compounding forms of discrimination. This is particularly important as the State is at a

²⁵ In June 2021, the Minister for Children, Equality, Disability, Integration and Youth announced a review of the Equality Acts, including the *Equal Status Acts 2000-2018* and the *Employment Equality Acts 1998-2015*. See Department of Children, Equality, Disability, Integration and Youth, [Written Answers](#) (8 November 2022). See also: IHREC, [Submission on the Review of the Equality Acts](#) (December 2021).

²⁶ Intersectional discrimination happens when two or multiple grounds operate simultaneously and interact in an inseparable manner, producing distinct and specific forms of discrimination: Council of Europe, [Intersectionality and multiple discrimination](#) (accessed in November 2022).

²⁷ IHREC, [Submission on the Review of the Equality Acts](#) (December 2021), p. 27.

²⁸ IHREC, [Submission to the UN Committee on Economic, Social and Cultural Rights for the List of Issues on Ireland’s Fourth Periodic Report](#) (December 2021), p. 23.

critical moment for public policy relevant to gender-based violence,²⁹ including the development of the successor National Strategy for Women and Girls, the upcoming National Action Plan Against Racism, and the mid-term review of the Roadmap to Social Inclusion.³⁰

- 3. The Commission recommends that the State actively integrates an intersectional approach in the design, implementation, monitoring and evaluation of all legislative and policy responses to gender-based violence.**

- 4. The Commission recommends that the State addresses the particular needs of structurally vulnerable victims and survivors, including young women³¹ and girls,³² older women,³³ minority ethnic women,³⁴ migrant women,³⁵ Traveller and Roma**

²⁹ See also, the section of this report on ‘policy coordination’.

³⁰ IHREC, [Submission to the Department of Social Protection’s public consultation on the Roadmap for Social Inclusion: Mid-Term Review](#) (2022).

³¹ According to Women’s Aid, one in five women is subjected to abuse by the age of 25; and just over half of these young women experienced the abuse before the age of 18: Women’s Aid, [Annual Impact Report 2021](#) (2021), p. 9.

³² In 2021, Women’s Aid received 5,735 disclosures of abuse against children: Women’s Aid, [Annual Impact Report 2021](#) (2021), p. 9. This is of particular concern given that exposure to intimate partner violence can have long-lasting effects on a child’s socio-emotional and neurological development: I. Mueller and E. Tronick, “Early Life Exposure to Violence: Developmental Consequences on Brain and Behaviour” (2019) *Frontiers of Behavioural Neuroscience*. As noted elsewhere in this report, a child who witnesses violence should also be considered a victim of violence, due to the detrimental effect it can have on their physical and mental wellbeing. More information on this can be found here: Barnardos, [A Shared Understanding of Childhood Domestic Violence and Abuse](#) (2021).

³³ Safeguarding Ireland have expressed concern over the impact of legislative gaps on older women, including that the definition of a dependent person under the *Domestic Violence Act 2018* does not cover a large group of persons (mainly older people), some of whom may lack decision-making capacity and may be subjected to violence by a family member: see Safeguarding Ireland, [Domestic Violence Act 2018](#) (2019), p. 3. See also, Age Action, [Why We Need a Commissioner for Ageing and Older Persons](#) (2022) which highlights that 3,871 notifications of abuse for persons aged over 65 was reported in the HSE’s National Safeguarding Report 2021 and that immediate family members are identified as persons of concern in these reports.

³⁴ Women’s Aid highlighted that proportionally, more minority ethnic women seek the support of GBV services compared with the general female population. In 2021, 942 calls to their 24hr National Freephone Helpline service related to women that identified as part of a minoritised group. 548 calls were facilitated in 30 languages; 43% of the calls were facilitated in an EU language with the remainder facilitated through a non-EU language. See Women’s Aid, [Annual Impact Report 2021](#) (2021), p. 23.

³⁵ IHREC, [Submission to the Anti-Racism Committee: Developing a National Action Plan Against Racism](#) (2021), pp. 19-23; see also IHREC, [Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland’s Combined 5th to 9th Report](#) (2019), pp. 102-108.

women,³⁶ disabled women,³⁷ LGBT+ women,³⁸ victims of trafficking,³⁹ women with addiction issues,⁴⁰ and women in prostitution.⁴¹

³⁶ There is a lack of data on violence affecting Traveller and Roma women. In 2009, 37% of women accessing refuge accommodation identified themselves as Travellers. See the Women's Health Council, *Translating Pain Into Action: A study of Gender-based Violence and Minority Ethnic Women in Ireland*, 2009.

³⁷ There is very little research on disabled women's experiences. The Fundamental Rights Agency in an EU-wide survey in 2014, found that 34% of women with a health problem or disability have experienced physical or sexual partner violence, compared with 19% of women who do not have a health problem or disability. See Fundamental Rights Agency, 'Violence against women: an EU-wide survey' (2014). Recent research from NUI Galway found 40% of disabled female students reporting experience of rape (compared with 27% of non-disabled students). See NUIG, [Sexual violence and harassment experiences in a national survey of higher education institutions](#) (2020). In 2021, 7% of victims and survivors attending support services organised by Rape Crisis Network Ireland had a disability, while 4% of victims and survivors availing of Women's Aid supports had a disability; Rape Crisis Network Ireland, [Rape Crisis Statistics 2021](#) (2022) p. 23; Women's Aid, [Annual Impact Report 2021](#) (2022) p. 23. Ireland is obliged to take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects; [UN Convention on the Rights of Persons with Disabilities](#), Article 16. See also Committee on the Rights of Persons with Disabilities, [General Comment no. 3 on Article 6 – Women and Girls with Disabilities](#) (2016).

³⁸ Sexual violence against LGBT+ people in particular is under-researched in Ireland, despite high levels of incidence as identified by civil society. Research amongst LGBT+ people in 2016 found that 14.9% of participants disclosed being sexually attacked (GLEN, BeLonG To, 2016). There is also demonstrably high levels of sexual violence perpetrated against Trans people (TENI, 2013). See also Rape Crisis Network Ireland, [Finding a Safe Place](#) (2016), p. 6. In recently published IHREC-supported research, participants had experienced harassment and violence because they are LGBT+ Traveller or Roma. 40% of participants had experienced some form of physical attack due to being LGBT+ Traveller or Roma (41.9%), attacked sexually (7%) or attacked with a weapon (20.9%). National Action Group for LGBT+ Traveller and Roma Rights, [Unveiling Inequality - Experiences of LGBT+ Travellers & Roma](#) (2022), p. 10.

³⁹ See IHREC, [Trafficking in Human Beings in Ireland: Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (June 2022), p. 41.

⁴⁰ Women with addiction issues face high rates of sexual violence, coercive control, and other forms of DSGBV. COVID-19 exacerbated issues of DSGBV, often leaving women isolated in abusive situations; Merchant's Quay Ireland, [A space of her own: The need for gender specific services for women experiencing homelessness and addiction](#) (2021), p. 2.

⁴¹ Women in prostitution in Ireland have significant concerns of violence: see Interim Report of the High-Level Working Group, [The Implementation of the Criminal Law \(Sexual Offences\) Act 2017, Part IV – An Interim Review](#) (2020) and Dr. M O'Connor and R. Breslin, *Shifting the Burden of Criminality* Dr Monica O'Connor and R. Breslin, [An analysis of the Irish sex trade in the context of prostitution law reform](#) (2020).

5. Policy coordination

Comprehensive and coordinated policies (Article 7) and financial resources (Article 8)

We welcome the publication of the Third National Strategy on Domestic, Sexual and Gender Based Violence ('Third National Strategy') in June 2022. The Strategy builds significantly on previous strategies, including by committing to a goal and guiding mission of zero tolerance of DSGBV.⁴² However, we are concerned that some of the Strategy's measures, particularly those committing to 'explore' and 'consider' taking action, are underdeveloped and lacking in specificity.⁴³ Strategies which are formulated with insufficient detail cannot be adequately monitored and can lead to slower and less tangible progress in the medium to long-term.⁴⁴

The UN has noted the need for strategies combating violence against women to include detailed, transparent monitoring frameworks, which can be easily tracked by a variety of stakeholders.⁴⁵ Although a Monitoring Committee of the Second National Strategy for Domestic, Sexual and Gender Based Violence was established,⁴⁶ details about the Committee's membership, work, and recommendations were not made public. Concerns have been raised about the absence of a clear and consistent monitoring framework, and

⁴² Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022).

⁴³ Although the State has highlighted the 144 'detailed actions' to be implemented, many of them are commitments to research best practice, develop strategies, etc. These actions should have been done as part of the development of the Third National Strategy itself. For example, the Strategy seeks to ensure that it is informed and influenced by victims and survivors, but commits only to exploring and considering the most appropriate mechanisms to incorporate the voice of the victim/survivor during the lifetime of the Strategy. Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 48.

⁴⁴ See for example, IHREC, [Submission to the Department of Social Protection's public consultation on the Roadmap for Social Inclusion: Mid-Term Review](#) (2022); Better Outcomes, Brighter Futures, [Mid-Term Review BOBF Advisory Council Perspective](#). Similar criticisms have been made in relation to the Second National Action Plan to Prevent and Combat Human Trafficking. Six years after its publication, the action plan still has strategic objectives which have not achieved. This failure is linked to the lack of a specific implementation timeline and lack of progress indicators. IHREC, [Trafficking in Human Beings in Ireland. Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), p. 34.

⁴⁵ United Nations, [Handbook for National Action Plans on Violence Against Women](#) (2012), p. 70.

⁴⁶ Department of Justice, [Second National Strategy on Domestic, Sexual and Gender-Based Violence](#) (2016). At the time of Ireland's ratification of the Istanbul Convention, this was the primary strategy addressing DSGBV.

the lack of accessible information about progress achieved in the Second National Strategy.⁴⁷ In particular, the lack of periodic and publicly available reports on the implementation of the Second National Strategy is regrettable; while there were opportunities for stakeholder engagement during the mid-term review, the findings of this review were not made public.⁴⁸ The Third National Strategy notes that the development of a monitoring and implementation strategy will be the responsibility of the new statutory agency;⁴⁹ however, the agency is not expected to be established until 2024.⁵⁰ Provision should be made for strong oversight structures in the interim period. In particular, mechanisms for monitoring delivery should be based on accountability; be independent from the bodies responsible for delivery; adequately resource rights holders to participate; involve appropriate technical and subject matter expertise; and receive high level political and financial support from the State.⁵¹

5. The Commission recommends that the oversight structures for the Third National Strategy, such as the forthcoming monitoring framework,⁵² ensure a participatory, innovative and effective approach to accountability, including through a framework of sanctions for consistently inadequate implementation by responsible bodies.⁵³

⁴⁷ Oireachtas Library and Research Service, [Addressing domestic, sexual and gender-based violence Part Three: National Strategies/Action Plans to Address GBV](#) (2021), p. 10.

⁴⁸ Oireachtas Library and Research Service, [Addressing domestic, sexual and gender-based violence Part Three: National Strategies/Action Plans to Address GBV](#) (2021), p. 10. Note that some limited publicly available information on implementation is included in the Action Plan and Third National Strategy. See Department of Justice, [Second National Strategy on Domestic, Sexual and Gender-Based Violence: Action Plan](#) (2016); Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022), p. 32.

⁴⁹ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 44.

⁵⁰ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022), p. 3.

⁵¹ For further information on the requirements for strong monitoring and accountability frameworks, see IHREC, [Developing a National Action Plan Against Racism: Submission to the Anti-Racism Committee](#) (2021), pp. 9-10. Strategies should also be formulated in line with UN guidelines, including the requirement to 'strengthen national plans of action... supported by the necessary human, financial and technical resources, including time-bound, measurable targets'. Goals and objectives should be concrete, with budget allocation and review mechanisms included beside each individual action. United Nations, [Handbook for National Action Plans on Violence Against Women](#) (2012), pp. 6, 64.

⁵² Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), action 4.2.1, p. 44.

⁵³ See for example, IHREC, [Developing a National Action Plan Against Racism: Submission to the Anti-Racism Committee](#) (2021), p. 10.

6. **The Commission recommends that oversight Committees should be empowered to gather and analyse information; monitor progress in attaining Strategy goals; identify good practice; and propose measures for future action.**⁵⁴
7. **The Commission recommends the publication of periodic reports detailing progress in achieving the goals of the Third National Strategy. Reports should be easily accessible to all stakeholders, use clear metrics, address areas where progress is lagging, and revise targets to reflect new developments as necessary.**

We welcome the allocation of €363 million to the implementation of the Third National Strategy between 2022 and 2026,⁵⁵ as well as the additional €9 million spending on DSGBV provided for in Budget 2023.⁵⁶ To assist with strategic planning and the streamlining of DSGBV service provision by public bodies, the Implementation Plan should be revised to include a stronger commitment to introduce standardised multi-annual funding structures, processes and service agreements⁵⁷ early in the lifetime of the Strategy. The State should maintain commensurate financial commitments in future strategies by ring-fencing DSGBV funding.

8. **The Commission recommends sustained, multi-annual, equality budget-proofed⁵⁸ and ring-fenced funding to facilitate the implementation of the Third National Strategy and successor strategies.**

⁵⁴ United Nations, [Handbook for National Action Plans on Violence Against Women](#) (2012), p. 70.

⁵⁵ Government of Ireland, [Government publishes Zero Tolerance strategy to tackle domestic, sexual and gender-based violence](#) (2022).

⁵⁶ Department of Justice and Equality, [Written Answers](#) (20 October 2022).

⁵⁷ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 49. The Implementation Plan currently includes an action to 'explore the potential' for introducing standardised multi-annual funding structures.

⁵⁸ The National Observatory on Violence against Women and Girls has called for the Equality Budgeting Expert Advisory Group and inter-departmental equality budgeting groups to embed equality and gender-sensitive budgeting across all Government departments. There should be a statutory commitments to equality budgeting. National Observatory on Violence against Women and Girls, [Shadow Report to GREVIO in respect of Ireland](#) (2022), p. 19; OECD, [Equality Budgeting in Ireland](#) (2019).

Commitments made in general DSGBV strategies can be expanded on through the use of targeted action plans dealing with specific forms of DSGBV.⁵⁹ In this context, we regret the State's failure to publish a number of key action plans, including national action plans on FGM,⁶⁰ forced marriage,⁶¹ forced abortion⁶² and forced contraception, including sterilisation.⁶³ The Second National Action Plan to Prevent and Combat Human Trafficking has been in operation since 2016 and is in need of significant updating.⁶⁴

9. The Commission recommends that the Third National Strategy is supported by targeted strategies addressing FGM, forced marriage, forced abortion, and forced contraception, including sterilisation.

10. The Commission recommends the prompt publication of a Third National Action Plan to Prevent and Combat Human Trafficking which closely aligns with the Third National Strategy, to ensure that all measures focused on combating DSGBV are coherent and coordinated.⁶⁵

⁵⁹ GREVIO has cautioned that this approach works best when the targeted policies are sufficiently framed in the context of a coherent policy on violence against Women; GREVIO, [Mid-Term Horizontal Review of GREVIO Baseline Evaluation Reports](#) (2022), p. 18.

⁶⁰ AkiDWA published guidance on the development of a National Action Plan in 2016. Regrettably, this resource has not catalysed the development of a State-led strategy. AkiDWA, [Towards a National Action Plan to Combat Female Genital Mutilation](#) (2016). The gaps analysis action set out in the Third National Strategy provides a timely opportunity to create a National Act Plan on FGM. Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 27.

⁶¹ Although the *Domestic Violence Act 2018* criminalises Forced Marriage, legislative changes need to be accompanied by policies, training and the dissemination of information to have a greater impact. In a questionnaire on forced marriage administered by the Office of the High Commissioner of Human Rights, Ireland's response conveys a concerning perception of a forced marriage as an issue of foreign rather than domestic policy. OHCHR, [Questionnaire on child, early and forced marriage in humanitarian settings](#) (2018).

⁶² The lack of detailed policies on forced abortion is notable in light of recent concerns from healthcare staff about the prevalence of reproductive coercion in Ireland; Irish Examiner, [Child 'locked in room and forced to take abortion tablets' in one case of reproductive coercion](#) (2022).

⁶³ Clear policies and actions plans related to forced sterilisation are particularly important given deficiencies in legal protection in this area; IHRC, [Observations on the Assisted Decision-Making \(Capacity\) Bill 2013](#) (2014).

⁶⁴ For further commentary on the Third National Action Plan, see IHREC, [Trafficking in Human Beings in Ireland. Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), p. 34.

⁶⁵ IHREC, [Trafficking in Human Beings in Ireland. Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), p. 28.

We have previously emphasised the need for linkages and coordination across State policies and plans,⁶⁶ and welcome the commitment in the Third National Strategy to make clear connections and agree targets with other relevant strategies.⁶⁷ Actions and targets combating DSGBV should be mainstreamed across all relevant national policy frameworks, including sectoral strategies focused on structurally vulnerable groups.⁶⁸

11. The Commission recommends that clear, tangible commitments to zero tolerance of DSGBV are integrated in all relevant new and successor national strategies due for publication, including but not limited to:

- **the National Strategy for Women and Girls; the National Action Plan Against Racism; the National Traveller and Roma Inclusion Strategy; the Migrant Integration Strategy; the National Disability Inclusion Strategy; the LGBTI+ National Youth Strategy; the second Brighter Outcomes Better Futures: National Policy Framework for Children and Young People; and the National Equality Data Strategy.**⁶⁹

Civil society organisations (Article 9)

We welcome actions taken by the State which recognise the valuable contributions of civil society organisations, reflecting mounting evidence of the effectiveness of these groups at combating DSGBV.⁷⁰ We note the development of the Third National Strategy in close

⁶⁶ IHREC, [Submission to the Department of Social Protection’s public consultation on the Roadmap for Social Inclusion: Mid-Term Review](#) (2022); IHREC, [Trafficking in Human Beings in Ireland. Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), p. 28.

⁶⁷ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 46.

⁶⁸ Istanbul Convention, Art. 6. The Committee on the Rights of Persons with Disabilities has also noted that the State must adopt such a twin track approach but systematically mainstreaming disability rights across all national action plans, strategies and policies, as well as in sectoral plans concerning violence and access to justice. See Committee on the Rights of Persons with Disabilities, [General comment No. 3: Article 6 - Women and girls with disabilities](#) (2016), para 27.

⁶⁹ See also, section 2 of this report on ‘general principles’.

⁷⁰ Johnson J. and Brunell L., [The Emergence of Contrasting Domestic Violence Regimes in Post-communist Europe](#) *Policy and Politics* 34 (4), p. 578.

collaboration with the National Women’s Council of Ireland and Safe Ireland, and informed by submissions made by other civil society groups.⁷¹

The provision of regular and adequate funding to civil society organisations is an integral part of State support.⁷² However, Irish non-governmental organisations (‘NGO’s) in the DSGBV sector have expressed concern at the allocation of financial resources among civil society groups, which places organisations in competition with each other and discourages inter-organisational openness and collaboration.⁷³ We are concerned that the €363 million allocated to the Third National Strategy does not include increases in funding for civil society on which the delivery of the Strategy depends.⁷⁴ Multiple actions incurring costs are allocated to NGOs in the implementation plan, including service provision, partnership with the Department of Justice, monitoring, advisory and review activities, and engagement with the media.⁷⁵

Particular barriers exist for small and newly-formed organisations such as Disabled Peoples Organisations (‘DPOs’), who are often ineligible for funding due to requirements related to minimum turnover, charitable status, previous grant awards, and the age of the organisation.⁷⁶ As the designate Independent Monitoring Mechanism for the UNCRPD, we note that the State has specific obligations under Article 4.3⁷⁷ on the participation of

⁷¹ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022), p. 40.

⁷² For example, we previously recommended that the State consider increasing funding to gender-based violence organisations to allow them to increase their capacity to provide trafficking-specific services to victims who have experienced DSGBV, especially for victims of sexual exploitation. See IHREC, [Trafficking in Human Beings in Ireland. Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), p. 44.

⁷³ The National Observatory on Violence against Women and Girls has raised a number of concerns, including precarity of funding; time-consuming reporting requirements; non-availability of funding for policy, prevention, advocacy and training activities; and competition between service providers; National Observatory on Violence against Women and Girls, [Shadow Report to GREVIO in respect of Ireland](#) (2022), p. 27; Dublin Rape Crisis Centre, [Shadow Report to GREVIO](#) (2022), p. 12; Department of Justice, [Domestic, Sexual and Gender Based Violence: An Audit of Structures](#) (2021), p. 27.

⁷⁴ Department of Justice and Equality, [Written Answers](#) (12 July 2022).

⁷⁵ See Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022).

⁷⁶ Commission consultation with Disabled Women Ireland has revealed particular burdens faced by Disabled Persons Organisations, which are often only eligible for funding for service provision and unable to fund essential advocacy activities. The meaningful participation of disabled persons in advocacy activities is highly beneficial, due to their lived experience and their knowledge of the rights to be implemented. See also IHREC, [Submission on the General Scheme of the Mental Health \(Amendment\) Bill](#) (2022), p. 23.

⁷⁷ [United Nations Convention on the Rights of Persons with Disabilities](#), Art. 4.

disabled people, including disabled children, through their representative organizations, in the implementation and monitoring of their rights.⁷⁸

12. The Commission recommends the strategic involvement of civil society in the implementation, review and evaluation of the Third National Strategy. Guidelines, protocols and training should be developed to facilitate horizontal coordination between civil society/NGOs and State agencies.⁷⁹

13. The Commission recommends that the central role of civil society in the Third National Strategy is recognised through increased financial resource allocation, including standardised multi-annual funding and a commitment to protect resources in future situations of economic recession and budgetary cuts.⁸⁰

14. The Commission recommends that the State supports the establishment and work of DPOs, including through sustained funding and capacity building.⁸¹

Coordinating body (Article 10)

As noted in the State report to GREVIO, responsibility for policy, service provision and campaigns is currently split across three separate divisions.⁸² This approach has been criticised for creating confusion around responsibility and poor accountability.⁸³ We

⁷⁸ United Nations Convention on the Rights of Persons with Disabilities, [General comment no. 7 on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention](#) (2018).

⁷⁹ See National Observatory on Violence against Women and Girls, [Shadow Report to GREVIO in respect of Ireland](#) (2022), p. 26.

⁸⁰ See also IHREC, [Statement on the ratification of the Council of Europe Convention on preventing and combatting violence against women and domestic violence](#) (2019), p. 9; Committee on the Elimination of Discrimination Against Women, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Ireland](#) (2017), p. 5; IHREC, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women](#) (2017), p. 75.

⁸¹ IHREC, [Submission to the UN Committee on Economic, Social and Cultural Rights for the List of Issues on Ireland's Fourth Periodic Report](#) (2021), p. 21-22.

⁸² Responsibility for DSGBV policy falls under the remit of Community Safety Policy and Criminal Justice Policy in the Department of Justice; responsibility for awareness raising campaigns falls under the Transparency function of the Department of Justice; while Tusla, the Child and Family Agency, is the primary State funder of services for victims and survivors of DSGBV. Department of Justice, [Report submitted by Ireland pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) (2022), p. 17.

⁸³ Department of Justice, [Domestic, Sexual and Gender Based Violence: An Audit of Structures](#) (2021), p. 5.

welcome the plan to move away from a fragmented approach through the establishment of a statutory agency to coordinate policies and measures combating DSGBV.⁸⁴ The new agency should engage with the lessons learned from its predecessor Cosc, the National Office for the Prevention of Domestic Sexual and Gender Based Violence.⁸⁵ In particular, it should ensure the meaningful engagement of all public and voluntary sector bodies involved in service delivery.⁸⁶

As a public body, the new agency will be legally required to comply with its statutory obligation under Section 42 of the *Irish Human Rights and Equality Commission Act 2014* (the Public Sector Equality and Human Rights Duty), which means that it must perform its functions having regard to the need to eliminate discrimination, promote equality of opportunity and protect the human rights of members, staff, and service users.⁸⁷ The agency will be required to ‘Assess, Address and Report’ – to undertake an assessment of the equality and human rights issues pertaining to its purpose and functions; to devise policies, plans and actions to address the issues raised in the assessment; and to report annually on progress and achievements. These requirements have to be set out in a strategic plan and reported on in annual reports.⁸⁸

15. The Commission recommends that the new statutory agency support the active participation of all public and voluntary sector bodies in the implementation of the Third National Strategy and successor DSGBV strategies.

⁸⁴ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022). Plans for the new agency should consider international best practice and the lessons learned from other members of the Istanbul Convention; Rabe, H. and Ünsal, N., [Implementing Article 10 of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence – Establishing National Coordinating Bodies](#) (2016).

⁸⁵ Cosc was established in 2007 and assisted with the creation and implementation of the First and Second National Strategies on DSGBV. See UN Women, [Global Database on Violence Against Women: Cosc, the National Office for the Prevention of Domestic, Sexual and Gender Based Violence](#) (2009).

⁸⁶ Review of the First National Strategy on DSGBV indicates that participating public bodies considered it to be “The Cosc Strategy”, and did not have a sense of ownership over it. Similarly, it was observed that NGOs saw themselves as external monitors, rather than as agencies involved in service delivery. McCormack, P., Development, Coordination and Implementation of National Strategies for the Prevention of Domestic, Sexual and Gender-Based Violence in Ireland (2017), p. 48, in Holt, S., Øverlien, C. and Devaney, J., [Responding to Domestic Violence: Emerging Challenges for Policy, Practice and Research in Europe](#) (2017).

⁸⁷ *Irish Human Rights and Equality Commission Act*, s. 42.

⁸⁸ For guidance on implementing the obligations under Section 42, see IHREC, [Implementing the Public Sector Equality and Human Rights Duty](#).

16. The Commission recommends that compliance with the Public Sector Equality and Human Rights Duty is set out in the Department of Justice’s Oversight Agreement with the new statutory agency,⁸⁹ and that the agency’s design and strategic plan is in compliance with the Duty from inception.

Data collection and research (Article 11)

Despite being recognised as an essential element of effective policy-making in the field of preventing and combating all forms of violence against women, as articulated in Article 11 of the Istanbul Convention,⁹⁰ we note that systematic and robust data collection remains rare.⁹¹ Both the Commission and the UN Committee on the Elimination of Discrimination against Women have raised concerns about the limited data and research available in the Irish context on DSGBV, including the reliability of existing data.⁹²

As discussed further below, it is known that many victims of crime do not engage with the criminal justice system and sexual and domestic violence offences are systematically under-reported.⁹³ Such under-reporting contributes to deficits in the data available on the

⁸⁹ See for example, Department of Justice and Irish Prison Service, [Oversight Agreement 2022-2024](#) (2022).

⁹⁰ Article 11 of the Istanbul Convention requires the collection of data to support the aim of preventing and combating violence against women and domestic violence in Europe. The scope of the article is clarified in the Convention’s Explanatory Report, and includes the collection disaggregated relevant statistical and survey data at regular intervals and the requirement to conduct research to study the causes of the violence and the methods to prevent it. The Convention requires that the collection of data is co-ordinated by a national body, provided to the group of experts convened under Article 66, and made available to the public. See: Council of Europe, [Convention on Preventing and Combating Violence Against Women and Domestic Violence](#), (2011), p. 5; Council of Europe, [Explanatory Report of the Convention on Preventing and Combating Violence Against Women and Domestic Violence](#) (2011).

⁹¹ Council of Europe, [Explanatory Report of the Convention on Preventing and Combating Violence Against Women and Domestic Violence](#) (2011), p. 14.

⁹² Irish Human Rights and Equality Commission, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women](#) (2017), p. 59; Irish Human Rights and Equality Commission, [Submission to the Commission on the Future of Policing](#) (2018); and Committee on the Elimination of Discrimination against Women, [Concluding observations on the combined sixth and seventh periodic reports of Ireland](#) (2017), p. 7.

⁹³ See: Oireachtas Library and Research Service, [Addressing domestic, sexual and gender-based violence Part One: Overview](#) (2021), p. 2.; Government of Ireland, [Fifth periodic report submitted by Ireland under article 40 of the Covenant](#) (2020); Human Rights Committee, [Replies of Ireland to the list of issues in relation to its fifth periodic report](#) (2022), CCPR/C/IRL/RQ/5. There is also evidence about particularly low levels of reporting by victims with disabilities and victims from the Traveller and Roma communities. See: Irish Human Rights and Equality Commission, [Observations on the Criminal Justice \(Victims of Crime\) Bill 2016](#), (2017), p. 8; National Observatory on Violence Against Women and Girls, [Submission: The Policing Authority – Policing Priorities for 2019](#) (2018), pp. 4-5; Joyce, S., O’Reilly, O., & Joyce, M. [Irish Travellers’ Access to Justice](#) (2022).

prevalence of violence against particular groups.⁹⁴ A State audit found that the absence of a proper data system impedes the planning of services and strategies and the understanding of what is and is not working, ultimately leading to gaps in service provision.⁹⁵ We note the State's policy developments designed to address these deficits,⁹⁶ and related commitments across other relevant policies and strategies at a national level.⁹⁷

⁹⁴ Irish Human Rights and Equality Commission, [Statement on the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence](#) (2019), p. 2.

⁹⁵ Higgins, M., and O'Malley, E. , [Domestic, Sexual and Gender Based Violence: An Audit of Structures](#) (2021), p. 37.

⁹⁶ Ireland's Second National Strategy on Domestic Sexual and Gender-based Violence 2016-2021 emphasised the importance of research and data in support of its overarching objectives. Under the coordination goal, the high level objectives of the Third National Strategy has advanced this agenda, committing to ensuring an effective, robust research and evaluation strategy, and developing enhanced coordination of data collection strategies. The Implementation Plan commits to a range of actions, including a monitoring and implementation framework, periodic prevalence studies and a rolling research agenda. It also sets out commitments to a coordinated approach and liaison with European partners. These actions will be delivered by the Department of Justice, in partnership with the statutory DSGBV agency or the Central Statistics Office (CSO). See: Department of Justice, [Second National on Domestic Sexual and Gender-based Violence 2016-2021](#), (2016).; Department of Justice, [Third National Strategy on Domestic, Sexual & Gender-Based Violence](#), (2022); Department of Justice ,[Third National Strategy on Domestic, Sexual and Gender-based Violence Implementation Plan](#), (2022), pp. 44-45.

⁹⁷ An Garda Síochána, in their Strategy Statement 2022-2024, commit to creating a culture which recognises the central importance of data as an organisational asset, managing it in an ethical manner. See: An Garda Síochána, [Strategy Statement 2022-2024](#), (2022), p .19; The Second National Action Plan to Prevent and Combat Human Trafficking in Ireland commits to continue to collect data and conduct research on changing trends in trafficking in human beings. See Department of Justice, [Second National Action Plan to Prevent and Combat Human Trafficking in Ireland](#), (2016), p. 40; The HSE Policy on Domestic, Sexual and Gender Based Violence emphasis the value of high-quality data and the monitoring and evaluation of service provision. See HSE, [Policy on Domestic, Sexual and Gender Based Violence](#), (2010), p. 17. The Department of Further and Higher Education, Research, Innovation and Science's Ending Sexual Violence and Harassment in Higher Education Institutions - Implementation Plan 2022-2024 sets out a commitment to maximise the efficacy of accessing and recording different sources of information and data about student experiences. See: Department of Further and Higher Education, Research, Innovation and Science, [Ending Sexual Violence and Harassment in Higher Education Institutions - Implementation Plan 2022-2024](#) (2022), p. 5.

These policy developments align with a broader agenda to improve human rights, gender equality and related data.⁹⁸ We welcome the State's progress towards an Equality Data Strategy.⁹⁹

Research and survey data

While growing, the body of research and survey data on DSGBV has comprised largely standalone studies. At an international level, prevalence data for Ireland has been captured by the European Union Agency for Fundamental Rights ('FRA'),¹⁰⁰ and the United Nations.¹⁰¹ Data collection in Ireland has been undertaken by civil society organisations,¹⁰² the State¹⁰³ and academia, to date.¹⁰⁴

⁹⁸ The UN Sustainable Development Goal 5 commits to achieving gender equality and empowering all women and girls. The SDG Indicators measure progress against these targets and depend on prevalence statistics at a national level. See: United Nations, [Sustainable Development Goals Indicators](#) (2022). The UN's Evidence and Data for Gender Equality (EDGE) project seeks to improve the integration of gender issues into the regular production of official statistics for better, evidence-based policies. See: United Nations, [Evidence and Data for Gender Equality \(EDGE\)](#) (2022). The Council of Europe collects relevant data under the Group of Experts on Action against Trafficking in Human Beings (GRETA). See: Council of Europe, [Action against Trafficking in Human Beings Publications and Studies](#) (2022). Equality data developments at a European level include the European Commission's Subgroup on Equality Data, and the European Institute for Gender Equality's (EIGE) Gender Statistics Database. See: European Commission, [Equality Data](#) (2022).; European Institute for Gender Equality, [Gender Statistics Database](#) (2022).

⁹⁹ The National Equality Data Strategy is being developed by the Central Statistics Office and the Department of Children, Equality, Disability, Integration and Youth and will put in place a strategic approach to improving the collection, use and dissemination of equality data. A working group has been established which brings together a range of stakeholders from across Government, as well as civil society and research bodies, including the Irish Human Rights and Equality Commission. It is intended that the Strategy will be in place from 2023. This comes on foot of an Equality Data Audit undertaken by the CSO in 2020. The strategy is a recommendation in the OECD scan of equality budgeting in Ireland. See: CSO, [Equality Data Audit](#) (2020).; Organisation for Economic Co-operation and Development (OECD): [OECD scan of equality budgeting in Ireland: Equality mainstreaming and inclusive policy making in action](#) (2021), p. 145.

¹⁰⁰ European Union Agency for Fundamental Rights, [Violence against women: an EU-wide survey](#), (2014)

¹⁰¹ United Nations Women, [Global Database on Violence Against Women](#), (2022).

¹⁰² See; Women's Aid, [Impact Report](#), (2021); Women's Aid, [The SAVI Report](#), (2002); Safe Ireland, [A report on women and children seeking support from Domestic Violence Services September 2020 – December 2020](#), (2021); Pavee Point, [Position Paper on Violence Against Women](#), (2011).; [Dublin Rape Crisis Centre, Research and Statistics](#), (2022);

¹⁰³ Watson, D., Parsons, S. [Domestic abuse of women and men in Ireland: Report on the national study of domestic abuse](#), (2005).

¹⁰⁴ See: NUI Galway, [Assessing the Social and Economic Costs of DV: A Summary Report](#) (2021); Prakashini Banka, S., Lavelle Cafferkey, S., McDonagh, D., Walsh, R., Comiskey, C., [A Rapid Review of the International Literature and a National Estimate of the Prevalence of Women Who Use Substances and Experience Domestic Violence in Ireland](#) (2022).

We note that there has not been any comprehensive assessment of DSGBV in Ireland since the Sexual Abuse and Violence in Ireland Report in 2002.¹⁰⁵ In this context, we welcome the development of the Sexual Violence Survey ('SVS') by the Department of Justice in partnership with the Central Statistics Office ('CSO').¹⁰⁶ However, we are concerned about its approach to recording the data of structurally vulnerable groups,¹⁰⁷ many of whom are at greater risk of DSGBV.¹⁰⁸ We have previously specified that any national survey should document incidences of violence against specific groups of women and their experiences in accessing supports.¹⁰⁹ We note the plans for further exploratory, qualitative research with minority groups,¹¹⁰ but regret the lack of urgency and transparency in the State's approach, the absence of a clear timeline, and the decision to sequence this work after the SVS statistical release.¹¹¹

There are a number of additional gaps in the data and evidence-base. Female Genital Mutilation ('FGM') is acknowledged as a hidden issue in Ireland, with limited data available.¹¹² Enhanced data collection approaches are also necessary to document and

¹⁰⁵ Women's Aid, [The SAVI Report](#), (2002). We note that the Department of Justice has engaged the CSO to deliver a new national survey. See: Oireachtas, [Central Statistics Office Dáil Éireann Debate](#) (2022).

¹⁰⁶ As of November 2022, the Sexual Violence Survey is progressing and is on schedule for publication early 2023.

¹⁰⁷ The State has confirmed that in addition to the ongoing national survey on the prevalence of sexual violence, there is a survey in development to include data from migrant populations, Traveller communities and people with intellectual disabilities; however, there is no specified timeline for the start or completion of this survey. See: Human Rights Committee, [Replies of Ireland to the list of issues in relation to its fifth periodic report](#), CCPR/C/IRL/RQ/5, (April 2022), para. 79. We have elsewhere recommended that the State should not wait until the end of the current phase of the survey on the prevalence of sexual violence in Ireland to undertake survey research with structurally vulnerable groups. See: IHREC, [Ireland and the International Covenant on Civil and Political Rights](#), (2022) p. 42.

¹⁰⁸ Recently published research has shown that there are at least 11,000 women who experienced the duality of addiction issues and domestic violence in 2020. For further commentary on violence against specific structurally vulnerable groups of women, see the section in this report on 'non-discrimination, equality and gender-sensitive policies'.

¹⁰⁹ See Irish Human Rights and Equality Commission, [Statement on the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence](#), (2019), p. 3.

¹¹⁰ Oireachtas, [Sexual Offences Data Dáil Éireann Debate](#) (2019).

¹¹¹ Oireachtas, [Departmental Reviews](#), (September 2022).

¹¹² It is estimated that 6,000 girls under the age of 15 and living in Ireland are at risk of FGM. See Irish Human Rights and Equality Commission, [Ireland and the Rights of the Child Submission to the Committee on the Rights of the Child on Ireland's Combined Fifth and Sixth Periodic Reports](#) (2022), p.47; AkiDwA, [Statement to the Joint Oireachtas Committee on Gender Equality](#), (2022), p. 42; AkiDwA, [Female Genital Mutilation: Information for Healthcare Professionals Working in Ireland](#) (2021). Future data development should be based on the understanding of FGM as a process including girls and women who have been cut, who are at risk of being cut and women who are under pressure to have their children cut.

address forms of DSGBV experienced by disabled women, including disabled older women, in institutional contexts.¹¹³ While we welcome publication of the Terminology Guidelines for Data Collection on Sexual Violence Against Children,¹¹⁴ there is a need for improved research and the collection and use of disaggregated data on all forms of violence against children.¹¹⁵ We also welcome Ireland’s commitment in the Dublin Declaration to comparative research across Member States,¹¹⁶ and note GREVIO’s recommendation to undertake or support surveys, research programmes and studies on the digital dimension of violence against women.¹¹⁷

17. The Commission recommends that any national survey and supplementary data collection exercises including qualitative work should document incidences of violence against structurally vulnerable women, their experiences in accessing supports and their experiences of access to justice.¹¹⁸

18. The Commission recommends that the State immediately undertake research on DSGBV with structurally vulnerable groups of women.¹¹⁹

19. The Commission recommends that the State prioritises the collection and use of survey data to address gaps in the evidence-base, including data on FGM, violence against children, and the digital dimension of violence against women.

¹¹³ Disabled Women’s Group, [Submission to the Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022) p. 14. Data collection should also document instances of DSGBV perpetration by disabled people in institutional settings.

¹¹⁴ Rape Crisis Network Ireland, [Breaking the Silence: Terminology Guidelines for Data Collection on Sexual Violence Against Children](#) (2022).

¹¹⁵ Irish Human Rights and Equality Commission, [Ireland and the Rights of the Child Submission to the Committee on the Rights of the Child on Ireland’s Combined Fifth and Sixth Periodic Reports](#) (2022), p. 8.

¹¹⁶ Council of Europe, [Dublin Declaration](#) (2022).

¹¹⁷ GREVIO, [General Recommendation No.1 on the digital dimension of violence against women](#) (2021), p. 27.

¹¹⁸ This should include young women and girls, older women, minority ethnic women, migrant women, Traveller and Roma women, disabled women, LGBT+ women, victims of trafficking, and women in prostitution.

¹¹⁹ Such research should be participatory in nature, including peer research where appropriate.

Administrative data

The UN Human Rights Committee has previously recommended that Ireland establish a systematic data collection system on violence against women.¹²⁰ The need for a central data collection system was reflected in the Department of Justice State Audit, which recommended a single data system capturing a range of indicators including incidences, trends, activities, individual pathways in and out, outcomes, cross-overs, expenditure and value for money.¹²¹ The European Institute on Gender Equality ('EIGE') good practice compendium on administrative data collection on violence against women sets out the features of good administrative data systems, including systemic, centralised and multidimensional approaches to combining different sources of data.¹²²

As noted above, we welcome the State's commitment to creating a statutory DSGBV agency, and its role in partnership with the Department of Justice and the CSO in improving inter-agency coordination of data collection strategies. However, we are concerned about delays, noting that the implementation of related actions in 2022-2023 are dependent on the new agency, which as previously stated, is not set to come into existence until 2024.¹²³

Both the Commission and the UN Committee on the Elimination of Discrimination against Women have raised concerns about the quality of existing administrative data,¹²⁴ including reported inaccuracies by An Garda Síochána ('AGS') in the recording and classification of crimes involving domestic violence.¹²⁵ We have repeatedly called for the State to address

¹²⁰ Human Rights Committee, [Concluding observations on the fourth periodic report \(19 August 2014\)](#) CCPR/C/IRL/CO/4, para 8.

¹²¹ Higgins, M., and O'Malley, E. [Domestic, Sexual and Gender Based Violence: An Audit of Structures](#) (2021).

¹²² European Institute on Gender Equality, [Administrative data collection on violence against women Good practices](#), (2016), p. 71.

¹²³ Further information on the implementation of this goal will not be disseminated until the Agency is established; Department of Justice, [Third National Strategy on Domestic, Sexual & Gender-Based Violence Implementation Plan](#) (2022), p. 45.

¹²⁴ Irish Human Rights and Equality Commission, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women](#) (2017), p. 59; Irish Human Rights and Equality Commission, [Submission to the Commission on the Future of Policing](#) (2018); and Committee on the Elimination of Discrimination against Women, [Concluding observations on the combined sixth and seventh periodic reports of Ireland](#) (2017), p. 7.

¹²⁵ An analysis by the Central Statistics Office found that data gaps persist in relation to domestic abuse and sexual violence, largely based on some PULSE data fields not being comprehensively completed or the incorrect application of counting rules. See: CSO, [Review of the Quality of Recorded Crime Statistics 2020](#), (2020). Furthermore, data from An Garda Síochána on recorded crimes has been categorised by the CSO as

any legislative, policy or practice barriers to the collection and use of disaggregated data by AGS,¹²⁶ and expressed concern at AGS's continued failure to improve its administrative data in a timely manner. We note the CSO's finding that approach to crime recording for domestic abuse results in an underestimation of such crimes, which is particularly evident in the case of sexual offences.¹²⁷

We further regret that Ireland was one of two Member States¹²⁸ who failed to collect data for just one of the EIGE indicators developed to support States in achieving the minimum requirements for data collection on intimate partner violence, rape and femicide under the Victims' Rights Directive¹²⁹ and the Istanbul Convention.¹³⁰

20. The Commission recommends that the State take urgent action to improve the disaggregated data collected and used by An Garda Síochána.

21. The Commission recommends that the State work with stakeholders to develop a comprehensive statistical database containing robust data on DSGBV from different administrative sources.

'Statistics Under Reservation', which means it does not currently meet the CSO's standards for the completeness and accuracy required of official statistics. See: CSO, [Recorded Crime Q4 2021](#) (2022).

¹²⁶ See Irish Human Rights and Equality Commission, [Ireland and the International Covenant on Civil and Political Rights – Submission to the Human Rights Committee on Ireland's 5th Periodic Report](#) (2022), pp. 10-12. The UN Human Rights Committee in its Concluding Observations noted 'the shortcomings in comprehensive data collection, including the lack of ethnic identifiers, specifically related to the activities and actions of law enforcement, as well as the investigations, prosecutions and sanctions of discriminatory and hate-based crimes'. See United Nations, [Concluding observations on the fifth periodic report of Ireland](#), (July 2022), p. 4

¹²⁷ See Central Statistics Office, [Review of the Quality of Recorded Crime Statistics](#), (2017), p. 25. We note the introduction of the introduction of the victim-offender relationship field on An Garda Síochána's Pulse system but remain concerned at the overall breadth and quality of Pulse data in accurately capturing the nature and extent of violence against women.

¹²⁸ European Institute for Gender Equality (EIGE), [Indicators on intimate partner violence, rape and femicide](#) (2021).

¹²⁹ Council of Europe, [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime](#) (2012).

¹³⁰ The two jurisdictions collecting data for just one of EIGE's indicators are Romania and Ireland. Ireland collects data on Indicator 8: Rape Victims, although it is noted that this is not disaggregated by sex. European Institute for Gender Equality (EIGE), [EIGE's indicators on intimate partner violence, rape and femicide: EU state of play](#), (2021), p. 18.

22. The Commission recommends that the State aligns the development of the statistical database to international instruments, both at the European Union, Council of Europe and UN level.

23. The Commission recommends that the statistical database is routinely audited for completeness against international instruments and best practice guidance.¹³¹

Disaggregation of data

Through our Strategy Statement, we commit to improving the collection of disaggregated data by the State.¹³² We welcome the commitment of the National Statistics Board to social statistics, including the collection and disaggregation of data, and the development of an Equality Data Hub.¹³³

However, we remain concerned about the shortcomings in Ireland’s collection of disaggregated data, as previously highlighted.¹³⁴ There is a reluctance among public bodies – including across the criminal justice system¹³⁵ – in relation to the collection and processing of ‘special category’ data such as race, ethnicity and religion.¹³⁶

We continue to call for all State agencies to maintain clear disaggregated data on groups specified in the Equality Acts;¹³⁷ the proposed additional ground of socio-economic

¹³¹ See: European Institute for Gender Equality (EIGE), [EIGE’s indicators on intimate partner violence, rape and femicide: EU state of play](#) (2021); United Nations, [International Convention on the Elimination of All Forms of Racial Discrimination](#) (1965); United Nations, [Convention on the Elimination of All Forms of Discrimination Against Women](#) (1979); United Nations, [Convention on the Rights of Persons with Disabilities](#) (2008); Council of Europe, [Convention on Preventing and Combating Violence Against Women and Domestic Violence](#) (2011).

¹³² Irish Human Rights and Equality Commission, [Strategy Statement](#) (2022), p. 15.

¹³³ NSB, [Quality Information for All, Numbers Matter – National Statistics Board Strategic Priorities for Official Statistics, 2021-2026](#) (2021), p. 27.

¹³⁴ Irish Human Rights and Equality Commission, [Ireland and the International Covenant on Civil and Political Rights](#) (2022), pp. 10-11.;

¹³⁵ IHREC, [Ireland and the Convention on the Elimination of All Forms of Racial Discrimination \(2022\)](#), p. 2 and IHREC, [Ireland and the International Covenant on Civil and Political Rights](#) (2022), p. 11.

¹³⁶ See Article 9(1), European Union (EU) General Data Protection Regulation 2016/679.

¹³⁷ We have previously commented on the importance of disaggregated data on disability and minority ethnic women. See Irish Human Rights and Equality Commission, [The Impact of COVID-19 on People with Disabilities Submission by the Irish Human Rights and Equality Commission to the Oireachtas Special Committee on COVID-19 Response](#) (June 2020) p. 4.; Irish Human Rights and Equality Commission, [Submission to the Joint Committee on Key Issues affecting the Traveller Community](#) (2021), p. 9. Pavee Point have also called for an ethnic identifier. See: Pavee Point, [Submission to the Joint Oireachtas Committee on Justice, Equality and Defence on the issue of domestic violence](#) (2013), p. 4; Irish Traveller and Roma Women, [Alternative Report to](#)

discrimination; and on human trafficking.¹³⁸ We further note the obligation to make this data available to the public.¹³⁹

24. The Commission recommends that the State prioritises the improvement of clear disaggregated equality data on violence against women and girls, including data on disability, ethnic status and human trafficking.

25. The Commission recommends that all bodies subject to the Public Sector Duty should be mandated and resourced to collect, process, and publish accessible disaggregated equality data. The Commission recommends that data is linked, encrypted and fed into microdata sets and repositories, which are made available to researchers on request.

[GREVIO on the Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence](#), (2022).

¹³⁸ Irish Human Rights and Equality Commission, [Trafficking in Human Beings in Ireland](#) (2022), p. 30

¹³⁹ Council of Europe, [Explanatory Report of the Convention on Preventing and Combating Violence Against Women and Domestic Violence](#) (2011), p. 11.

6. Prevention

Awareness-raising (Article 13)

The State's report draws attention to the 'No Excuses' and the 'Still Here' campaigns, with additional campaigns to be rolled out as part of Ireland's Third National Strategy.¹⁴⁰ We note a lack of accessibility associated with these campaigns and question their reach to structurally vulnerable groups.¹⁴¹ The websites, TV and radio advertisements for both campaigns were in English only, so were not available in all of Ireland's national languages (including Irish Sign Language ('ISL')) or in other languages used in Ireland.¹⁴² The use of captioning and alternative text on digital content, and easy to read versions of written materials, also continues to be limited, which is in contravention of EU web accessibility requirements, which public bodies are bound by, since 2020.¹⁴³ There is no information on ensuring DSGBV campaigns reach those living in institutional settings or prisons in the Third National Strategy, or on specific campaigns highlighting the different types of abuse that are experienced by structurally vulnerable groups, including disabled people.

There has been no State led campaign to combat FGM or forced marriage and there is no mention in the Implementation Plan of the Third National Strategy of any intention to do so. In light of the ongoing risk of FGM for women and girls in Ireland,¹⁴⁴ and the challenges in implementing the *Criminal Justice (Female Genital Mutilation) Act 2012* referenced later in

¹⁴⁰ Department of Justice, [Report by the Irish Government on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#) (September 2022), Appendix 4.

¹⁴¹ Representative groups have highlighted that the 'Still Here' campaign and other DSGBV campaigns have not always reached or been accessible to the Traveller and Roma communities. This is in large part due to a lack of access to both broadband and digital devices. Irish Traveller and Roma Women, [Joint Alternative Report to GREVIO on the Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence](#) (August 2022), p. 8.

¹⁴² [Still Here Campaign, No Excuses Campaign](#). For example, in 2021 we translated our information booklets on the Employment Equality Acts and the Equal Status Acts into key languages spoken by a diversity of communities in Ireland. We also delivered services through Portuguese, Kurdish, Roma, Arabic and Ukrainian, provided legal interpretation services and translated documents into larger text and/or Braille where required: IHREC, [Annual Report 2021](#) (2022).

¹⁴³ National Disability Authority, [What are the EU Web Accessibility Requirements?](#) (2022), which highlights that digital content such as videos are included in the content that should be accessible.

¹⁴⁴ See the section in this report on 'research and data'.

this report, a State run campaign is required to support the ending of this harmful practice.¹⁴⁵

26. The Commission recommends that all campaigns relating to DSGBV are accessible, widely available, reach structurally vulnerable groups and target all forms of violence covered by the Istanbul Convention.

27. The Commission recommends that a national campaign is rolled out highlighting the specific forms of DSGBV that disabled women and girls are subjected to, including disabled women’s experiences of coercive control, perpetration by caregivers and DSGBV in residential institutions.¹⁴⁶ Specific campaigns should be complemented by the integration of disabled women’s experiences in general DSGBV awareness-raising measures.

28. The Commission recommends that the State develops a specific campaign on FGM, co-designed with affected communities and focused on supporting non-judgmental discourse about the health and wider impacts of the practice.¹⁴⁷

Education (Article 14)

Discussion about unhealthy relationships and consent is key to a comprehensive relationships and sexuality education (‘RSE’) curriculum. RSE must go beyond educating to prevent adverse health outcomes and should highlight that safe sexual experiences are free of coercion, discrimination and violence.¹⁴⁸ We welcome the recent opportunity for consultation on a draft junior cycle RSE curriculum, and the proposed Learning Outcomes on the ability to identify unhealthy and abusive relationships and the giving and receiving of

¹⁴⁵ Civil Society has called for a State-run campaign; AkiDwA, [Towards a National Action Plan to Combat Female Genital Mutilation 2016-2019](#), p. 10 and ActionAid, [Frequently Asked Questions about FGM](#) (4 November 2020).

¹⁴⁶ Disabled Women’s Group, [Submission to the Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022) p. 10. See also the section in this report on ‘Abuse of disabled people in institutional and community settings’.

¹⁴⁷ See AkiDwA, [Female Genital Mutilation: Information for Healthcare Professionals Working in Ireland](#) (2021)

¹⁴⁸ United Nations Secretary General, [Report of the United Nations Special Rapporteur on the right to education: Note by the Secretary-General](#) (July 2010) para. 61 and 11.

consent.¹⁴⁹ We also welcome the proposed updates to the primary and Senior Cycle curriculum.¹⁵⁰ RSE education should be informed by the Government's zero tolerance approach to DSGBV and should highlight all forms of DSGBV, including the digital dimension and human trafficking.¹⁵¹ It must be delivered from early childhood, in recognition of the cultural context of toxic masculinity, which can influence the behaviour of boys from a young age. Educational approaches must mainstream principles of diversity, inclusion and intersectionality to ensure that DSGBV and its intersection with sexuality, disability, ethnic identity and socio-economic status are understood, and these principles should be advanced through all strands of the curriculum.

Furthermore, the RSE curriculum must be accessible to disabled students. The draft Junior Cycle curriculum refers to accommodation for disabled students regarding assessment but does not refer to accommodations in learning, and no reference is made to ensuring access for disabled students living in institutional settings or who are spending extended periods outside of school settings. Disabled students, in particular those in institutional settings, are less likely to receive RSE education, which is concerning given the particular issues of consent faced by disabled people; the problems with boundary-setting that may be experienced by neuro-diverse young people;¹⁵² and the importance of education in ensuring they can recognise abuse.¹⁵³

¹⁴⁹ RSE education will be delivered through the social, personal and health education (SPHE) subject. The Third National Strategy sets out no timeline on the rollout of the updated SPHE/RSE junior cycle curriculum but advises that Continuous Professional Development and national rollout will follow after public consultation which has now ended; Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022), p. 11; National Council for Curriculum and Assessment, [Draft Junior Cycle Social, Personal and Health Education \(SPHE\) Short Course curriculum specification](#), Learning Outcomes 3.3 and 3.7, p. 15; IHREC, [Public consultation on Draft Junior Cycle SPHE Short Course Curriculum Specification](#) (2022).

¹⁵⁰ The State have committed to the finalisation of a draft Senior Cycle SPHE/RSE specification for public consultation by Q3 2023 and finalisation for public consultation of a draft primary SPHE/RSE specification for public consultation by Q1 2024. No further details have been provided on the content of these specifications. Government of Ireland, [Third National Strategy on Domestic, Sexual and Gender-Based Violence: Implementation Plan](#) (28 June 2022), p.11.

¹⁵¹ Council of Europe, [GREVIO General Recommendation No. 1 on the digital dimension of violence against women](#) (2021).

¹⁵² The Commission's Disability Advisory Committee has noted that the focus on obedience and compliance in educational approaches for neuro-diverse children and young people may facilitate DSGBV perpetration by those in positions of authority.

¹⁵³ This information was provided to the Commission during stakeholder engagement on the Istanbul Convention in November 2022.

In January 2022, the State published the results of two national surveys on the experiences of sexual violence and harassment in higher education institutions ('HEIs'). The surveys identified alarmingly high levels of sexual violence and harassment ('SVH'),¹⁵⁴ and indicated that some staff may not have sufficient information on SVH.¹⁵⁵ The surveys underline the need for urgent and effective measures, including education for students and staff, to tackle SVH on campuses. We welcome recent policy developments in this area.¹⁵⁶

29. The Commission recommends that all lessons on unhealthy and abusive relationships are delivered appropriately to students of all ages and grounded in norms of gender equity, non-gender stereotyped roles, mutual respect and consent. Education on healthy relationships and consent should be linked with lessons on self-worth and access to services.¹⁵⁷ Additionally, all lessons should incorporate the principles of diversity, inclusion and intersectionality.

30. The Commission recommends that lessons on unhealthy and abusive relationships are developed in consultation with DSGBV support services and advocacy groups, and supported by teacher training. Provision should also be considered for the external facilitation of workshops and classes on DSGBV by specialist services that are committed to a human rights and equality approach.

31. The Commission recommends urgent implementation of recently developed HEI policies and implementation plans, which should be delivered in conjunction with

¹⁵⁴ The student experiences survey found that nearly all the forms of sexual harassment described in the survey had been experienced by a majority of students and that sexual violence was commonly experienced among students who responded to the survey, with female students particularly likely to experience reoccurring sexual harassment and a higher incidence of sexual violence. Higher Education Authority, [Report on the National Survey of Student Experiences of Sexual Violence and Harassment in Irish Higher Education Institutions: Summary of Survey Findings](#) (27 January 2022), p.25.

¹⁵⁵ Higher Education Authority, [Report on the National Survey of Staff Experiences of Sexual Violence and Harassment in Irish HEIs: Summary of Survey Findings](#) (27 January 2022), p.28.

¹⁵⁶ See generally, Higher Education Authority, [Report of the Expert Group: 2nd HEA National Review of Gender Equality in Irish Higher Education Institutions](#) (2022); Higher Education Authority, [Ending Sexual Violence and Harassment in High Education Institutions: Implementation Plan 2022-2024](#) (2022); Department of Education and Skills, [Safe, Respectful, Supportive and Positive: Ending Sexual Violence and Harassment in Irish Higher Education Institutions](#) (2020).

¹⁵⁷ For example, on the Draft Junior Cycle SPHE/RSE curriculum Learning Outcome 1.3 aims to identify ways to nurture a positive sense of self-worth and Learning Outcome 3.10 relates to accessing trustworthy supports.

adequate funding. Education initiatives at HEIs should be accessible, respect diversity and intersectionality, make use of specifically developed and evidence informed tools¹⁵⁸ and be provided to all students and staff.

32. Reflecting young people’s preference to access information online,¹⁵⁹ the Commission recommends that young people are made aware of appropriate online support services. Safe and age-appropriate online resources should be used to supplement classroom and HEI provided education. Recognising the level of digital exclusion regionally and amongst structurally vulnerable groups, students should be able to access this information confidentially in educational settings.

Training of professionals (Article 15)

The State report does not provide sufficient information on training for all relevant agencies working with victims and survivors of DSGBV, and there is a lack of information on training to facilitate a coordinated and multi-disciplinary approach.¹⁶⁰ While the State identifies multiple agencies who are ‘serving in a front line capacity with vulnerable witnesses,’¹⁶¹ it has only submitted limited training information in respect of the Health Service Executive (‘HSE’) and AGS.¹⁶² Furthermore, the State report includes the results of the Department of Justice training mapping exercise,¹⁶³ however, we are concerned that this mapping exercise omits key agencies, and focuses exclusively on victims and survivors of sexual violence.¹⁶⁴

¹⁵⁸ For example, the National University of Galway in conjunction with the Department of Justice have developed the [Consent Hub](#) and National Women’s Council of Ireland lead [It Stops Now Toolkit](#).

¹⁵⁹ Youth Work Ireland, [Sexual Health Youth Consultation Findings](#) (April 2018). This study also found that 42 per cent of young people are not confident that help is available locally for young people who experience inappropriate sexual behaviour, further underlining the need for Learning Outcome 3.10.

¹⁶⁰ [Istanbul Convention, Art 15\(2\)](#).

¹⁶¹ Department of Justice, [Report by the Irish Government on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#) (2022), p. 69.

¹⁶² Department of Justice, [Report by the Irish Government on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#) (2022), pp. 21-22, 68-69.

¹⁶³ Department of Justice, [Report by the Irish Government on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#) (2022), p. 70.

¹⁶⁴ The training mapping exercise referred to in the State report arose as a response to the Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences (‘O’Malley Report’).¹⁶⁴ As a result, the scope of the exercise was narrow; the mapping exercise omitted key agencies, such

Civil society organisations have expressed concern that training for professionals takes the form of short information sessions, rather than continuous vocational training that sensitises professionals to the causes of DSGBV, and creates changes in outlooks and attitude.¹⁶⁵

AGS has a number of training programmes in place to assist Gardaí in their support of victims and survivors of DSGBV, and important progress has been made in this area.¹⁶⁶

However, we are concerned about the number of gaps identified in AGS training to support structurally vulnerable victims and survivors, and the lack of published data on the numbers of AGS staff attending both voluntary and mandatory courses.¹⁶⁷ Similarly, while we welcome new training commitments across the justice and legal systems in the Third National Strategy,¹⁶⁸ we are concerned that no concrete timelines for delivery or information on the content of these programmes is provided.¹⁶⁹

The limited information provided in the State report regarding training of health care workers indicates that DSGBV training is not mandatory for medical, counselling and social

as local housing authorities, educational professionals and the Department of Social Protection, and focused only on the needs of victims and survivors of sexual violence, rather than victims and survivors of DSGBV more broadly.

¹⁶⁵ National Observatory on Violence against Women and Girls, [Shadow Report to GREVIO in respect of Ireland](#) (2022), p. 47.

¹⁶⁶ Houses of the Oireachtas, [Dáil Éireann Debate Question 795](#) (28 April 2021). The Third National Strategy Implementation Plan also notes that the Garda College will create and deliver a trauma informed curriculum; Department of Justice, [Third National Strategy on Domestic, Sexual and Gender-Based Violence: Implementation Plan](#) (2022), p. 31.

¹⁶⁷ Department of Justice, [Report by the Irish government on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#) (September 2022), pp. 69-70. For more information and recommendations on AGS training, see the sections in this report on ‘civil remedies and compensation,’ ‘criminalisation and sanctioning of DSGBV,’ ‘emergency and protection orders,’ ‘risk assessment,’ and ‘protection during investigations and judicial proceedings’.

¹⁶⁸ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender-Based Violence: Implementation Plan](#) (2022), pp. 31, 33. We also welcome the pilot training programme established by the Judicial Council on Avoiding Re-traumatisation. This training should be rolled out to trial judges across Ireland; The Judicial Council, [Judicial Studies Committee: Updates on Judicial Training](#) (2022).

¹⁶⁹ The Joint Committee on Justice has made a number of recommendations in relation to cultural awareness training for bodies within the justice system; Joint Committee on Justice, [Report on Minorities Engaging with the Justice System](#) (2022) pp. 42-43. For more information and recommendations on judicial training, see the sections in this report on ‘criminalisation and sanctioning of DSGBV’ and ‘protection during investigations and judicial proceedings’.

work staff.¹⁷⁰ We also note that training was suspended during the Covid-19 pandemic.¹⁷¹ The Third National Strategy outlines a number of commitments to improving training of health care professionals working with victims and survivors of DSGBV.¹⁷² Given deficiencies in current training provision, these commitments should be implemented without delay. Finally, although the Third National Strategy commits to adopting a ‘whole of school’ approach to ending DSGBV,¹⁷³ there are no details about training initiatives for primary and secondary teachers, and training of higher educational professionals is limited to the area of consent.¹⁷⁴

33. The Commission recommends regular reporting on the State’s targets to develop, fund and deliver co-designed,¹⁷⁵ co-ordinated and DSGBV informed training to frontline and administration professionals working with victims and survivors.¹⁷⁶ Reporting should include a comprehensive list of all relevant agencies undertaking training; data on the number of professionals attending mandatory and voluntary training and their grades; the development, content and duration of training modules; and the findings of evaluation activities.

¹⁷⁰ Department of Justice, [Report by the Irish Government on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#) (2022), pp. 68-69.

¹⁷¹ Department of Justice, [Report by the Irish Government on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#) (2022), p. 22.

¹⁷² The HSE undertakes to ‘work in partnership with other government departments and agencies to develop a HSE National DSGBV Training Strategy to support healthcare workers to identify domestic violence and refer victims/survivors to appropriate services’; Department of Justice, [Third National Strategy on Domestic, Sexual and Gender-Based Violence: Implementation Plan](#) (2022), p. 22.

¹⁷³ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender-Based Violence: Implementation Plan](#) (2022), pp. 11-12.

¹⁷⁴ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender-Based Violence: Implementation Plan](#) (2022), p. 9.

¹⁷⁵ The Committee on the Rights of Persons with Disabilities has noted that States should reach out directly to women and girls with disabilities and establish adequate measures to guarantee that their perspectives are fully taken into account and that they will not be subjected to any reprisals for expressing their viewpoints and concerns, especially in relation to gender-based violence, including sexual violence. See Committee on the Rights of Persons with Disabilities, [General comment No. 3: Article 6 - Women and girls with disabilities](#) (2016), para 23.

¹⁷⁶ Department of Justice, [Third National Strategy on Domestic, Sexual & Gender-Based Violence: Implementation Plan](#) (2022).

34. The Commission recommends that DSGBV training for professionals should include content on structurally vulnerable groups, including a disability focus, and evaluation should consider the training process, training outcomes and review methodology.

There is no information in the State report on the provision of training to staff within public bodies on the Public Sector Equality and Human Rights Duty.¹⁷⁷ While it would not discharge the Duty in and of itself, increased completion of the Commission developed e-learning module, 'Equality and Human Rights in the Public Service',¹⁷⁸ would provide a foundation to support staff within public bodies to meet their obligations and increase their understanding of equality between women and men. We requested for this training to be mandatory within the civil service and are awaiting a response.¹⁷⁹ This online training should be seen as a starting point, and would be further supported by the issuing of a circular to all Government Departments and public bodies to comply with their obligations under the Duty.¹⁸⁰

35. The Commission recommends that all public bodies advance compliance with their Public Sector Duty obligations, and use the Commission's e-learning module on the Duty as a foundation to building professional understanding of equality between women and men.

36. The Commission recommends that the State should issue a formal communication, in the form of a circular, to public bodies to advance compliance with the Public Sector Duty, in line with the Commission's guidance.¹⁸¹

¹⁷⁷ As noted above in this report, this Duty is a statutory obligation on public bodies to have regard to the need to eliminate discrimination, promote equality of opportunity and protect the human rights of their staff and service users. [The Irish Human Rights and Equality Commission Act 2014, s.42\(1\)](#).

¹⁷⁸ See www.ihrec.ie/elearning.

¹⁷⁹ IHREC sent a letter to One Learning on 13 July 2022 requesting that the Public Sector Duty e-learning be designated as essential and mandatory. IHREC received no reply and has since followed up.

¹⁸⁰ Houses of the Oireachtas, [Written Answers Nos.229-253](#), Answer 243.

¹⁸¹ Commission guidance on the Duty can be found at: <http://www.ihrec.ie/our-work/publicsector-duty>.

Intervention and treatment programmes (Article 16)

We are concerned by the low numbers of men completing perpetrator programmes for both domestic and sexual violence.¹⁸² Domestic violence perpetrator programme referrals, assessments, commencement numbers and completion rates are very low,¹⁸³ in comparison to the number of applications to and orders granted by the courts under domestic violence legislation.¹⁸⁴ We are further concerned by the significant decrease in referrals and completion rates during the pandemic and the likely impact of this on victims and survivors.¹⁸⁵ Organisations in the sector have expressed the need for programmes to be further rolled out and for additional funding;¹⁸⁶ noted a high turnover among programme facilitators; and have advised that changes may be needed to increase the effectiveness of the interventions.¹⁸⁷

Criticism has been directed at the Building Better Lives programme run by the Irish Prison Service for those in prison convicted of sexual offences, due to low uptake.¹⁸⁸ In relation to community-based programmes for those convicted of harmful sexual behaviour, an assessment has identified the need for an expansion of services both geographically and in terms of their scope, which will necessitate additional resources.¹⁸⁹

¹⁸² As noted in the Department of Justice [Review of Policy Options for Prison and Penal Reform 2022-2024](#), 'punishment alone does not prevent offending or make everyone safer. Interventions and services to promote better social behaviour, rehabilitation and end offending are necessary to drive and sustain real change.'

¹⁸³ For example, from 2017 – 2020 MOVE Ireland received fewer than 250 referrals, with the completion rate only higher than 50 people in 2018. Move Ireland, [Annual Report 2020](#), p. 15; see additionally Move Ireland, [Annual Report 2019](#), p. 14; Men's Development Network, [Annual Report 2021](#), p. 27; and Men's Development Network, [Annual Report 2020](#), p. 22.

¹⁸⁴ 22,970 applications were received in 2020 and 22,596 in 2021. The Courts Service, [Annual Report 2021](#), p. 66.

¹⁸⁵ Group work did not continue during this time and so the Choices programme could not be completed. Individual sessions did continue. See Move Ireland, [Annual Report 2020](#), pp. 3, 15; Men's Development Network, [Annual Report 2021](#), p. 13.

¹⁸⁶ Noel Baker, ['Glut' of men to address their domestic violence behaviour post-pandemic](#) (4 February 2022), The Irish Examiner.

¹⁸⁷ Men's Development Network, [Annual Report 2021](#), p.26.

¹⁸⁸ A figure of 1 in 8 people serving sentences for sexual offences taking up places in the programme has been quoted. This is in part due to criteria for accessing the programme; for example a person must be serving longer than an 18 month sentence and provide an admission of sexually harmful behaviour. Gordon Deegan, [McEntee rules out mandatory treatment programme for imprisoned sex offenders](#) (21 February 2021), The Irish Examiner.

¹⁸⁹ An evaluation of three programmes run by PACE for those convicted of sexual offences and living in the community was completed and made a number of different recommendations for each programme: PACE,

We welcome the State's adoption of the Dublin Declaration, under which it has committed to increase the provision of perpetrator programmes.¹⁹⁰ We also note the State's commitment to consider the potential establishment of a new National Perpetrator Programme Office, with the support of the Probation Service, but note with concern that no timeline is set out for the establishment of this Office.¹⁹¹

37. The Commission recommends that the new National Perpetrator Programme Office prioritises the geographical expansion and increased resourcing of perpetrator programmes. Perpetrator programmes must be embedded in local intervention structures; be widely known of by police, courts, social workers and others; be adaptable to the diverse needs of offenders; and comprise both court mandated and voluntary programmes.

38. The Commission recommends that the low completion rate of perpetrator programmes is evaluated to establish whether current programmes and modes of delivery are the most effective. The impact of perpetrator programmes should be independently monitored, and should consider the appropriate use of court mandated attendance and how to increase attendance among men without convictions.

Participation of the private sector (Article 17 (1))

Media reporting of DSGBV

The Media Standards referenced in the State report are general in nature and do not set out specific guidelines for reporting on DSGBV.¹⁹² This is concerning in light of deficiencies in media reporting of DSGBV, which perpetuate existing stereotypes, obscure the systemic nature of DSGBV, do not address the root causes, and potentially lead to secondary

[Assisted Desistance: An Evaluation of PACE Prevention Services for people with convictions for harmful sexual behaviour](#), pp. 14, 19.

¹⁹⁰ Council of Europe, [European minister adopt 'Dublin Declaration' on preventing violence through equality](#) (30 September 2022)

¹⁹¹ As has been set out in the Third National Strategy on Domestic, Sexual and Gender-Based Violence Implementation Plan, p. 41.

¹⁹² Department of Justice, [Report submitted by Ireland pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) (2022), appendix 8.

victimisation. We note the civil society #FixedIt campaign, which re-writes headlines published in broadcast media from a feminist perspective, challenging patriarchal discourses of DSGBV.¹⁹³ A recent study on broadcast news coverage of intimate partner homicide and familicide in Ireland reveals patterns of de-contextualisation, non-expert sourcing and perpetrator exoneration.¹⁹⁴

39. The Commission recommends that proposed updates to media guidelines¹⁹⁵ are developed collaboratively with media workers, trade unions,¹⁹⁶ AGS, and DSGBV advocacy and support groups, and supported by training on responsible reporting. Guidelines should note the need to report on individual crimes as a serious social issue, replace on-the-ground community sources with DSGBV experts, shift focus from the perpetrator to the victim, and avoid myth-promulgation and victim-blaming.¹⁹⁷

Online safety and media regulation

GREVIO has noted that experiences of DSGBV may be amplified or facilitated by technology, and recommends that discourses around human rights and digital technology are informed by understandings of DSGBV.¹⁹⁸ The recently enacted *Online Safety and Media Regulation Act 2022* purports to regulate online content and create accountability for victims and survivors.¹⁹⁹ We welcome the introduction of an individual complaints mechanism in the Act,²⁰⁰ but are concerned about the open-ended nature of the definition of harmful online

¹⁹³ National Observatory on Violence against Women and Girls, [Shadow Report to GREVIO in respect of Ireland](#) (2022), p. 40.

¹⁹⁴ O'Brien A. and Culloty E., [Reporting familicide-suicide in broadcast media: An Irish case study to inform better practice](#) (2020).

¹⁹⁵ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 15.

¹⁹⁶ The National Union of Journalists has published resources on ethical reporting online; National Union of Journalists, [Reporting Guidance](#) (2022).

¹⁹⁷ O'Brien A. and Culloty E., [Reporting familicide-suicide in broadcast media: An Irish case study to inform better practice](#) (2020), p. 13.

¹⁹⁸ GREVIO, [General Recommendation No. 1 on the digital dimension on violence against women](#) (2021), pp. 9-10. See also Advisory Committee on Equal Opportunities for Women and Men, [Opinion on combatting online violence against women](#) (2020).

¹⁹⁹ [Online Safety and Media Regulation Act 2022](#).

²⁰⁰ Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, [Written Answers](#) (27 September 2022). See also Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, [Report of the Expert Group on an Individual Complaints Mechanism](#) (2022).

content.²⁰¹ There is a need for greater alignment between this bill and the *Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill*, particularly in the context of preventing and combating DSGBV.²⁰²

The *Online Safety and Media Regulation Act 2022* provides for the establishment of a Media Commission,²⁰³ but fails to detail the human rights considerations which underpin its work. There is a need to take a rights-based, collaborative, and cross-departmental approach to online safety, informed by the lived experience of victims and survivors of DSGBV.²⁰⁴

40. The Commission recommends that the work of the Media Commission and the Online Safety Commissioner should be grounded in understandings of the digital dimension of DSGBV and comply with obligations set out in the Istanbul Convention.

Business and human rights

We have recommended the introduction of legislation establishing a mandatory human rights due diligence requirement for businesses²⁰⁵ on a number of occasions.²⁰⁶ The need for such a requirement is particularly acute in light of the State's tendency to subcontract its

²⁰¹ We are concerned that the definition is not sufficiently precise, which may undermine the ability of the Bill to tackle online harms. IHREC, [Submission to the Joint Committee on Media, Tourism, Arts, Culture, Sport and the Gaeltacht on the General Scheme of the Online Safety and Media Regulation Bill](#) (2021), p. 24.

²⁰² There is limited reference to hate speech or incitement to violence and hatred in the Bill. We consider it critical that the two Bills are aligned. See IHREC, [Ireland and the Rights of the Child](#) (2022), p. 35; IHREC, [Ireland and the International Covenant on Civil and Political Rights](#) (2022), p. 29.

²⁰³ [Online Safety and Media Regulation Bill 2022](#), s. 8.

²⁰⁴ IHREC, [Ireland and the Rights of the Child](#) (2022), p. 35.

²⁰⁵ According to the UN Working Group on the issue of human rights and transnational corporations and other business enterprises, legislation should require businesses to proactively manage actual and potential adverse human rights impacts and should consist of (a) identifying and assessing actual or potential adverse human rights impact (b) integrating findings from impact assessments and taking appropriate action (c) tracking the effectiveness of measures and (d) communicating how impacts and being addressed and demonstrating to stakeholders that the appropriate policies are in place. Working Group on Business and Human Rights, [Recommendations from the Working Group on Business and Human Rights regarding a legislative proposal on human rights and environmental due diligence in Europe – Letter to European Commissioner for Justice, Didier Reynders](#) (22 October 2020).

²⁰⁶ IHREC, [Ireland and the Rights of the Child](#) (2022), p. 20; IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination](#) (2019), p. 148.

functions to non-State actors,²⁰⁷ and the potential for subcontractors to disregard human rights and equality principles.²⁰⁸

41. The Commission recommends the introduction of a mandatory requirement for human rights due diligence for all businesses, which includes a focus on preventing and combating DSGBV, including human trafficking.²⁰⁹

We note that Ireland’s National Plan on Business and Human Rights 2017–2020 has concluded, and that gender equality did not feature prominently in the Plan.²¹⁰ We support recommendations made in 2021 that Ireland’s second National Plan on Business and Human Rights Plan should contain a series of time-limited plans; use more specific and directive language; and contain clear timelines and responsibilities.²¹¹

42. The Commission recommends that the Second National Plan on Business and Human Rights includes greater consideration of gender equality, and commits to targeted, time-bound actions to effectively prevent and combat DSGBV in the private sector, including human trafficking.

Domestic violence leave

We welcome plans to introduce paid leave for victims and survivors of DSGBV in the *Work Life Balance and Miscellaneous Provisions Bill 2022*,²¹² however we note that the provision of five days leave is lower than proposals made by civil society organisations with expertise in this area.²¹³ We are also concerned about employer opposition to this legislative

²⁰⁷ This practice is particularly notable in relation to the provision of accommodation for asylum seekers which has been shown to be unsuitable for victims and survivors; see the section in this report on ‘migration and asylum’. See also IHREC, [Ireland and the Elimination of All Forms of Discrimination Against Women](#) (2017), p. 50.

²⁰⁸ IHREC, [Ireland and the Elimination of All Forms of Discrimination Against Women](#) (2017), p. 50. The Chief Commissioner also expressed these concerns to the UN Committee on Economic, Social and Cultural Rights in 2015.

²⁰⁹ OHCHR, [Guiding Principles on Business and Human Rights](#) (2011).

²¹⁰ Government of Ireland, [Ireland’s National Plan on Business and Human Rights 2017 – 2020](#) (2017).

²¹¹ Department of Foreign Affairs, [Review of implementation of National Plan on Business and Human Rights 2017-2020](#) (December 2021), p. 7.

²¹² [Work Life Balance and Miscellaneous Provisions Bill 2022](#).

²¹³ Women’s Aid has noted that many countries provide more than 10 days domestic violence leave and argues that 10 days of leave would not be overly generous. Women’s Aid, [Response on the consultation on Domestic](#)

development, which has resulted in the reproduction of negative stereotypes of victims and survivors of DSGBV, including accusations of misuse of leave.²¹⁴ The State should work with employers to support and encourage compliance and collaboratively develop broader employment policies to combat DSGBV, highlighting positive developments and current best practice.²¹⁵

43. The Commission recommends that provision is made for ten days of domestic violence leave per rolling 12-month period in the *Work Life Balance and Miscellaneous Provisions Bill 2022*.

44. The Commission recommends that co-designed supports are put in place to enable employers to develop broader policies around DSGBV, including training on safe reporting, flexible working arrangements, access to confidential counselling, diversion of phone calls and emails, and no negative action for performance issues occurring as a result of DSGBV.²¹⁶

Sexual harassment

We have previously expressed concerns about the ongoing prevalence of sexual harassment,²¹⁷ with recent data indicating that 75.7% of respondents have reported experiencing sexual harassment, primarily in the workplace.²¹⁸ Victims and survivors of sexual harassment are often members of structurally vulnerable groups.²¹⁹ We welcome

[Violence Leave for the Steering Committee of the National Strategy on Domestic, Sexual and Gender-based Violence](#) (2021), p. 8.

²¹⁴ Irish Independent, [Ibec objects to paid domestic violence leave plan for workers](#) (5 October 2022).

²¹⁵ For example, Vodafone has allowed up to 10 days of leave for victims and survivors of DSGBV since 2019. See Vodafone, [Vodafone's Domestic Violence and Abuse Policy Guide: A Briefing for Business](#) (2020).

²¹⁶ For more information, see Women's Aid, [Employer Engagement Programme](#).

²¹⁷ IHREC, [Comments on Ireland's 19th national report on the implementation of the European Social Charter](#) (2022), p. 36.

²¹⁸ Dublin Rape Crisis Centre, [Discussion Paper: Workplace Sexual Harassment and Abuse](#) (2021), p. 6. See also Irish Theatre Institute, [Speak Up: A Call for Change, Towards Creating a Safe and Respectful Environment for the Arts](#) (2021); Law Society [Law Society tackles bullying, harassment and sexual harassment in the solicitors' profession](#) (2021); Irish Examiner, [Surge in sexual allegations by female soldiers against male colleagues](#) (19 July 2022).

²¹⁹ For example, research undertaken by Rape Crisis Network Ireland indicates that 80% of adolescents disclosed being subjected to sexual harassment. 68% of LGBTI+ participants experienced serious sexual harassment, compared with 20% of the whole population. Rape Crisis Network Ireland, [Storm and Stress: An Exploration of Sexual Harassment Amongst Adolescents](#) (2021), p. 4.

two positive developments in this area; the recent publication of our Code of Practice on Sexual Harassment and Harassment at Work,²²⁰ and proposals for ratification of the International Labour Organisation Convention on Violence and Harassment.²²¹ However, we regret that harassment is not expressly included as a form of discrimination under the *Equal Status Acts 2000-2018*,²²² contravening Article 2 of the Racial Equality Directive²²³ and Article 2 of the Framework Employment Directive.²²⁴ For further consideration of the legal framework prohibiting sexual harassment, [see the section in this report on the ‘criminalisation and sanctioning of DSGBV’](#).

45. The Commission recommends that the State takes the opportunity provided by the ratification of ILO Convention on Violence and Harassment and related gap analysis work²²⁵ to amend the Equal Status Acts to include harassment as a specific form of discrimination.

²²⁰ IHREC, [Code of Practice on Sexual Harassment and Harassment at Work](#) (2022). The Code give practical guidance to employers, organisations, trade unions and employees on definitions, prevention and remedies.

²²¹ Government of Ireland, [Stakeholder consultation on ratification by Ireland of ILO Convention 190 – Violence and Harassment](#), 2019 (5 September 2022).

²²² In this way, it differs from the *Employment Equality Acts 1998-2015*. IHREC, [Submission on the Review of the Equality Acts](#) (2021), p. 52.

²²³ [Council Directive \(EC\) 42/2000 on implementing the principle of equal treatment between persons irrespective of racial or ethnic origin](#) (‘the Racial Equality Directive’), Art. 2.

²²⁴ [Council Directive \(EC\) 78/2000 on establishing a general framework for equal treatment in employment and occupation](#) (‘the Framework Employment Directive’), Art. 2.

²²⁵ The State report to GREVIO notes that a gap analysis is currently being carried out by the Department of Enterprise, Trade and Employment; Department of Justice, [Report submitted by Ireland pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) (2022), p. 25.

7. Protection and support

Information on support services (Article 19)

Information on available services should be widely disseminated to ensure that victims and survivors are aware of the specialist supports in place. In this context, we welcome Third National Strategy commitments to ensure access to adequate, extensive and accessible information on and offline.²²⁶ Structurally vulnerable and socially excluded groups must be at the centre of all communications on available support services.²²⁷ Efforts should also be made to reach male victims and survivors, given the under-use of support services by this group.²²⁸

The EU Victims' Rights Directive requires information to be given in a manner which can be understood by the victim.²²⁹ While efforts to increase online provision of information in the Third National Strategy are commendable, non-digital provision of information must continue to be facilitated to prevent exclusion due to digital poverty or the lack of digital skills.²³⁰

46. The Commission recommends that steps are taken by the State to ensure that information on support services reaches structurally vulnerable and socially excluded groups. Information should be available in a range of formats and languages, and should be accessible on and offline.²³¹

²²⁶ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 21.

²²⁷ GREVIO has noted that 'Article 19 requires information to be tailored to serve groups of victims who are at risk of social exclusion or have difficulties accessing services, namely migrant and asylum seeking women, women with disabilities or women in rural areas.' GREVIO, [Mid-Term Horizontal Review of GREVIO Baseline Evaluation Reports](#) (2022), p. 74.

²²⁸ Taylor, J., Bates, A., Colosi, A. and Creer, A., [Barriers to Men's Help Seeking for Intimate Partner Violence](#) (2021) *Journal of Interpersonal Violence* 37 (19).

²²⁹ [Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA](#), para 21.

²³⁰ GREVIO, [Mid-Term Horizontal Review of GREVIO Baseline Evaluation Reports](#) (2022), p. 7. Structurally vulnerable groups are more likely to experience digital poverty; IHREC, [Ireland and the Rights of the Child](#) (2022), pp. 33-34.

²³¹ We notes the commitment in the Third National Strategy to 'ensure that interpretation (including ISL) and translation is provided... to enable victims to understand and be understood in their participation in the

General support services (Article 20)

Although designed to serve the public at large, supports such as housing, social welfare, and healthcare services must address the needs of victims and survivors of DSGBV. Victims and survivors are regular users of such services and the failure to sufficiently and systematically take their particularly difficult situation and trauma into account can result in additional barriers to access. Furthermore, such services have an important role in pro-actively identifying victims and survivors and providing support, as well as directing them to available information and specialist services.

47. The Commission recommends that all general support services for the public should have a procedure in place for the pro-active identification of, and response to, victims and survivors of DSGBV.

Housing

DSGBV is the leading cause of homelessness for women and children in Ireland.²³² As a result, victims and survivors often remain in dangerous situations due to a fear of becoming homeless,²³³ or are forced to stay in refuge accommodation for long periods of time.²³⁴ This also impacts the provision of specialised DSGBV accommodation services, as refuges are forced to turn down new referrals due to capacity issues.²³⁵ It is important that housing

criminal justice process.’ Actions in relation to translation and interpretation must extend to all types of support services and should not be limited to criminal justice. Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 21. See also IHREC, [Statement on the ratification of Council of Europe Convention on Preventing and Combatting Violence Against Women and Domestic Violence](#) (2019), p. 9.

²³² Safe Ireland, [Pre-Budget 2023 Submission](#) (2022), p. 4.

²³³ Women’s Aid notes that having nowhere to go is the main reason women stay in situations of DSGBV; Women’s Aid, [Submission on the Domestic Violence Bill 2017](#) (2017), p. 15.

²³⁴ Research data has noted accounts of victims and survivors remaining in refuges for prolonged periods of time due to social housing waiting lists, with reports of women staying in refuge accommodation with children for up to 2 years; Thompson, S., Doyle, D., Murphy, M. and Mangan, R., [‘A welcome change . . . but early days’: Irish Service Provider Perspectives on Domestic Abuse and the Domestic Violence Act 2018](#) (2022) *Criminology and Criminal Justice* 22 (5).

²³⁵ See section in this report on ‘specialist women’s support services’.

available to victims and survivors of DSGBV is of an adequate standard, in line with international standards.²³⁶

We have repeatedly expressed concerns regarding the impact of the Departmental Housing Circular 41/2012 on access to social housing for structurally vulnerable groups.²³⁷

Conditions imposed by the Circular present complications for Traveller, Roma²³⁸ and migrant²³⁹ victims and survivors seeking to leave situations of DSGBV and obtain social housing. Our consultations suggest a reluctance among disabled victims and survivors to leave homes where accessibility adaptations have been made, with many unable to leave a home shared with the perpetrator as a result.²⁴⁰

Victims and survivors with an interest in an owned or rented property that is shared with the perpetrator may be disqualified from social housing eligibility and prevented from seeking alternative accommodation.²⁴¹ The requirement to have a local connection to an area also creates challenges for victims and survivors seeking accommodation away from the perpetrator's locality for safety purposes.²⁴²

48. The Commission recommends that the State adopts a 'whole of housing' approach grounded in international standards on adequate housing to improving outcomes for

²³⁶ Commission supported research identified six dimensions of housing adequacy – accessibility, affordability, security of tenure, cultural adequacy, quality, and location. See [Monitoring Adequate Housing in Ireland](#).

²³⁷ IHREC, [Developing a National Action Plan Against Racism](#) (2021), p. 50; IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination](#) (2019), p. 94; IHREC, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women](#) (2017), p. 63.

²³⁸ Irish Traveller and Roma Women noted in its report to GREVIO that Roma women often lack documentation, proof of address and/or language and literacy skills to prove their connection to the State, despite residing in the jurisdiction for many years; Irish Traveller and Roma Women, [Alternative Report to GREVIO on the Implementation of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence](#) (2022), p. 5.

²³⁹ Changes to Irish immigration law since 2012 are not reflected in the Circular, meaning that migrants with visas from categories which were created in the last 10 years are not covered by the circular; Mercy Law Resource Centre, [Minority Groups and Housing Services: Barriers to Access](#) (2019), pp. 6-8.

²⁴⁰ This problem is exacerbated by long wait times for approval of adaptation grant applications; Independent Living Movement, [Submission on the Department of Housing's Review of Housing Adaptation Grants for Older People and People with a Disability](#) (2022), p. 4. Ireland is obliged to ensure that disabled people have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement; [UN Convention on the Rights of Persons with Disabilities](#), Article 19.

²⁴¹ Safe Ireland, [Pre-Budget 2023 Submission](#) (2022), p. 9.

²⁴² Safe Ireland, [Pre-Budget 2023 Submission](#) (2022), p. 10.

victims and survivors of DSGBV, in recognition of the proven link between homelessness and DSGBV.²⁴³

49. The Commission recommends that Housing Authorities conduct a review of social housing policies to identify and address deficiencies in protection for victims and survivors of DSGBV, including through the use of waivers where appropriate.

Social supports

We welcome the Department of Social Protection's introduction of a rent supplement for victims and survivors of DSGBV, which waives conventional qualifying criteria for a period of three months.²⁴⁴ However, the Habitual Residence Condition continues to act as a barrier to access to employment, social welfare and housing for migrants and victims of human trafficking.²⁴⁵ A number of DSGBV support organisations have called for a domestic violence waiver to the Habitual Residence Condition, in order to ensure that the needs of victims and survivors are met.²⁴⁶ We also note that victims and survivors of DSGBV living in Direct Provision centres have reported losing their entitlement to the Direct Provision payment if they leave the centres to escape DSGBV.²⁴⁷

50. The Commission recommends the introduction of legislation to provide for a DSGBV waiver to the Habitual Residence Condition.

²⁴³ Safe Ireland, [Pre-Budget 2023 Submission](#) (2022), p. 10.

²⁴⁴ Department of Social Protection, [Access to Rent Supplement for victims of domestic violence](#) (2022).

²⁴⁵ IHREC, [Ireland and the Rights of the Child](#) (2022), p. 79; IHREC, [Trafficking in Human Beings in Ireland. Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), p. 99; IHREC, [Developing a National Action Plan Against Racism](#) (2021), p. 20. For information on the Habitual Residence Condition, see Department of Social Protection, [Habitual Residence Condition](#) (2019).

²⁴⁶ EU Mutual Learning Programme in Gender Equality, [Support services for victims of violence in asylum and migration: Comments Paper, Ireland](#) (2018), pp. 5-6.

²⁴⁷ National Observatory on Violence against Women and Girls, [Shadow Report to GREVIO in respect of Ireland](#) (2022), p. 58.

Healthcare services

The Covid-19 pandemic has demonstrated weaknesses in healthcare provision in Ireland and exposed the consequences of under-investment in healthcare services. Our concerns about Ireland's two-tier healthcare system have been echoed by the UN Committee on Economic, Social and Cultural Rights.²⁴⁸ Shortcomings in healthcare provision have an acute impact on victims and survivors of DSGBV, who may be in need of extensive physical and mental health supports. In this context, we are concerned about the lack of progress with the implementation of *Sláintecare*,²⁴⁹ as well as ongoing pressures on the healthcare system in this phase of the pandemic.

We welcome the recent publication of the National Traveller Health Action Plan 2022-2027 and its stated alignment with the Third National Strategy, but note that it does not include specific actions focused on victims and survivors of DSGBV in the Traveller community.²⁵⁰ Additional steps must be taken to ensure the accessibility of public health services to all victims and survivors of DSGBV, including ethnic minorities, migrants and disabled people.²⁵¹ Patriarchal views of marriage and women's sexual autonomy within an ethnic minority community may prevent victims and survivors from accessing health supports.²⁵² Steps must be taken to ensure the cultural appropriateness of all public healthcare (both publicly provided and publicly procured),²⁵³ including women's health and reproductive services.

²⁴⁸ IHREC, [Submission to the United Nations Committee on Economic, Social and Cultural Rights for the List of Issues on Ireland's Fourth Periodic Report](#) (2021), p. 4; Committee on Economic, Social and Cultural Rights, [Concluding observations on the third periodic report of Ireland](#) (2015), pp. 8-9.

²⁴⁹ IHREC, [Submission to the Department of Social Protection's public consultation on the Roadmap for Social Inclusion: Mid-Term Review](#) (2022).

²⁵⁰ Department of Health, [National Traveller Health Action Plan 2022-2027](#) (2022).

²⁵¹ Ireland is obliged to provide disabled people with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes; [UN Convention on the Rights of Persons with Disabilities](#), Article 25.

²⁵² EU Mutual Learning Programme in Gender Equality, [Support services for victims of violence in asylum and migration: Comments Paper, Ireland](#) (2018), p. 6.

²⁵³ As previously recommended by us, when the State subcontracts its functions to non-State actors, compliance with the Public Sector Equality and Human Rights Duty should be included as a requirement in all procurement processes and service level agreements. See IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination](#) (2019), p. 17. We note that the new [National Traveller Health Action Plan](#)

Public mental health services in Ireland are characterised by poor access, long waiting times and poor health outcomes.²⁵⁴ We are concerned about inadequate allocation of funding to mental health services, which results in gaps in care between private and publicly funded services.²⁵⁵ The pressures across the mental health system impact on the availability of specialist services for victims and survivors of DSGBV, as noted elsewhere in this report.²⁵⁶

51. The Commission recommends the urgent development and adequate resourcing of a high quality, culturally appropriate and inclusive public health system, in order to ensure timely access to healthcare services for victims and survivors of DSGBV.

52. The Commission recommends that the public procurement of privately provided healthcare for victims and survivors of DSGBV and their families must ensure compliance with human rights and equality standards, including the Public Sector Duty.

Collective complaints mechanisms (Article 21)

We note that the State report contains no information on collective complaints mechanisms or organisations which provide support, other than the Legal Aid Board.²⁵⁷ We urge the State to fully engage with this requirement of the reporting procedure during the remaining stages of the evaluation. There is evidence of structurally vulnerable groups having extremely low levels of engagement with domestic complaints mechanisms,²⁵⁸ and this

[2022-2027](#) does include a focus on the provision of services in a culturally sensitive manner to ensure an inclusive health approach.

²⁵⁴ Mental Health Reform, [Pre-Budget Submission 2023: The Cost of Waiting](#) (2022), p. 13.

²⁵⁵ IHREC, [Ireland and the Rights of the Child](#) (2022), p. 73.

²⁵⁶ See section in this report on ‘specialist women’s support services’.

²⁵⁷ Department of Justice, [Report by the Irish government on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#) (2022), p. 31.

²⁵⁸ See, for example, Ireland Traveller and Roma Women, [Alternative Report to GREVIO on the Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence](#) (2022), p. 11; CSO, [Equality and Discrimination](#) (2019) – ‘just 3% of persons who experienced discrimination made an official complaint, such as to IHREC, the Workplace Relations Commission (WRC), the Residential Tenancies Board, Garda Síochána Ombudsman Commission (GSOC)’; WRC, [Annual Report 2021](#) (2022) – Complaints made under the *Equal Status Acts* in 2021: Sexual Orientation (0.98%), Religion (3.5%); Irish Network Against Racism, [Report Card 2021](#) (2022), p. 16 – Only 25% of those reporting racist crimes to iReport also reported them to AGS or GSOC; p. 20 – Of 113 cases of racist hate speech across news media,

requires consideration in ensuring the accessibility of regional and international collective complaints mechanisms.

53. The Commission recommends that the State engages fully with GREVIO on collective complaints mechanisms, and conducts a review into the barriers which may impede the accessibility of these mechanisms for structurally vulnerable groups.

Specialist support services (Articles 22-27)

Specialist DSGBV support services for victims and survivors of DSGBV are a public good requiring excellent co-design and sufficient State investment. They must be widely accessible and accommodating of diverse needs, including the needs of children, disabled women,²⁵⁹ Travellers and Roma, migrants, victims of human trafficking,²⁶⁰ LGBT+ women, women experiencing poverty, and other structurally vulnerable groups. The provision of inadequate, unequal and culturally insensitive specialist support services²⁶¹ is unacceptable particularly in light of the marked increase in DSGBV during the Covid-19 pandemic.²⁶²

54. The Commission recommends that providers take measures to ensure the accessibility of specialist support services to structurally vulnerable groups, including through the diversification of staff to reflect service users,²⁶³ provision of language interpreters

online platforms and others, no cases were referred to the Broadcasting Authority of Ireland and one case was referred to the Press Ombudsman.

²⁵⁹ Our Disability Advisory Committee has raised concerns with NGO service providers which lack the capacity to accommodate disabled women. Given the centrality of NGO service providers in the delivery of the Third National Strategy, NGOs must be funded to facilitate the inclusion of all women, including disabled women.

²⁶⁰ We welcome the Third National Strategy's recognition that human trafficking is a form of gender based violence; Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 30. It is necessary to scale up DSGBV specialist services so that victims of human trafficking can avail of these supports.

²⁶¹ Department of Justice, [Domestic, Sexual and Gender Based Violence: An Audit of Structures](#) (2021), p. 23.

²⁶² In 2020, An Garda Síochána received approximately 43,000 calls regarding domestic violence, a 16% increase on 2019; Laura Foley, [Gender-based violence in Ireland](#) Geary Institute for Public Policy (2022), p. 4. See also Barry, U. [The care economy, COVID-19 recovery and gender equality - A summary report](#) UCD Geary Institute for Public Policy (2021); Government of Ireland [Report on the Social Implications of Covid-19 in Ireland: Update 5 June](#) (2020).

²⁶³ Irish Traveller and Roma Women, [Alternative Report to GREVIO on the Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence](#) (2022), p. 10.

and cultural mediators,²⁶⁴ provision of material supports to facilitate the safety of victims and survivors and their children, and the active involvement of affected communities in their design and delivery.²⁶⁵

Inter-agency cooperation and continuous dialogue between public bodies and civil society is essential to ensure a holistic continuum of specialist support, limit burdensome bureaucracy for victims and survivors, and identify gaps in service provision.²⁶⁶ Support services should be regularly reviewed, in order to respond to new and emerging forms of DSGBV such as digitally-perpetrated DSGBV.²⁶⁷

55. The Commission recommends that the State undertakes a comprehensive gap analysis to inform the development of a trauma-informed, streamlined continuum of supports for all forms of DSGBV, and ensures regular review and evaluation.²⁶⁸

Refuge accommodation

Although the Third National Strategy commits to double the number of available refuge spaces by 2026,²⁶⁹ we have expressed concern that this falls significantly short of international standards.²⁷⁰ The Strategy pledges to provide 280 refuge spaces, which is considerably lower than the approximately 675 spaces needed to comply with Council of

²⁶⁴ We have previously noted that the quality of support services is compromised by lack of interpreters, including Irish Sign Language interpreters. As a result, family members and friends of victims can be used to informally interpret in healthcare contexts, raising privacy, accuracy and consent issues. IHREC, [Statement on the Ratification of the Council of Europe Convention on preventing and combatting violence against women and domestic violence](#) (2019), p. 7. For comments regarding the need for cultural mediators to ensure services and supports are victim and survivor centred, see: IHREC, [Trafficking in Human Beings in Ireland. Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), p. 26.

²⁶⁵ IHREC, [Ireland and the International Covenant on Civil and Political Rights](#) (2022) p. 41. For additional comments on the importance of survivor voices being heard in service delivery, see IHREC, [Ireland's Actions Against Trafficking in Human Beings. Submission by the Irish Human Rights and Equality Commission to the Council of Europe Group of Experts on Action against Trafficking in Human Beings \(GRETA\)](#) (2021), p. 18.

²⁶⁶ Logar, R. and Marvánová Vargová, B. [Effective Multi-agency Co-operation for Preventing and Combating Domestic Violence](#) (2015), pp. 61-62.

²⁶⁷ For more on the digital dimension of DSGBV, see GREVIO, [General Recommendation No. 1 on the digital dimension of violence against women](#) (2021).

²⁶⁸ IHREC, [Ireland and the International Covenant on Civil and Political Rights](#) (2022), p. 41.

²⁶⁹ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 25.

²⁷⁰ IHREC, [Ireland and the Rights of the Child](#) (2022), p. 38.

Europe guidelines.²⁷¹ There is an acute need to increase refuge accommodation provision, in light of increases in DSGBV prevalence,²⁷² the broader context of the national housing crisis,²⁷³ and data indicating that the majority of refuge requests are refused due to capacity issues.²⁷⁴ Commission consultations have indicated that high demand for services operates to exacerbate barriers faced by structurally vulnerable groups, including women with addiction issues seeking accommodation.²⁷⁵ Refugees spaces must be designed and, as required, refurbished to accommodate disabled women and women who have disabled children.²⁷⁶

56. The Commission recommends the immediate revision of refuge accommodation commitments in the Third National Strategy to comply with Council of Europe standards.

The Covid-19 pandemic exposed the inadequacy of communal refuge accommodation units, which cannot effectively facilitate social distancing. This shortcoming of communal living is in addition to privacy concerns and difficulties for victims and survivors who are mothers of older boys.²⁷⁷ While we welcome movement towards the use of Safe Homes²⁷⁸ for victims

²⁷¹ The Council of Europe has set the standard at one place per 7,500 of the population and one family place per 10,000 of the population; Council of Europe, [Combating violence against women: minimum standards for support services](#) (2008), p. 18. As of figures available in November 2022, Ireland's population is 5.06 million, necessitating 675 individual units and 506 family units.

²⁷² Laura Foley, [Gender-based violence in Ireland](#) *Geary Institute for Public Policy* (2022), p. 4.

²⁷³ We previously noted in 2017 the trend of victims and survivors remaining in refuge accommodation for long periods of time due to non-availability of longer-term accommodation, a direct impact of the housing crisis: IHREC, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women](#) (2017), p. 62. This crisis has continued to worsen in the intervening years.

²⁷⁴ Six times out of ten, a National Helpline referral to a refuge accommodation provider was declined due to full capacity in 2021; Women's Aid, [Annual Impact Report 2021](#) (2022), p. 27. In 2021, 3000 requests for refuge could not be met; Safe Ireland [Pre-Budget 2023 Submission](#) (2022), p. 5.

²⁷⁵ This issue was raised during a focus group meeting with women accessing the SAOL Project's services. The SAOL Project is a person-centred, community based programme for women in treatment for drug addiction. See also Merchant's Quay Ireland, [A space of her own: The need for gender specific services for women experiencing homelessness and addiction](#) (2021).

²⁷⁶ Concerns have been expressed about the lack of universally designed refuges to accommodate disabled women, their children and carers; Disabled Women's Group, [Submission to the Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022).

²⁷⁷ Women's Aid, [Submission to the Joint Committee on Justice on women's shelters/domestic abuse refuges](#) (2021), p. 13.

²⁷⁸ The Safe Home model provides houses or apartments in the community with a Visiting Support Outreach Worker attached to it offering support through home visits. Women's Aid, [Submission to the Joint Committee on Justice on women's shelters/domestic abuse refuges](#) (2021), p. 22.

and survivors of DSGBV, the planned scale of provision of these homes in the Third National Strategy is low.²⁷⁹

57. The Commission recommends that refuge accommodation built as part of the implementation of the Third National Strategy should be exclusively designed as independent units and Safe Homes. Pre-existing communal living units should be reconfigured to maximise the privacy of occupants while also ensuring their safety and security.²⁸⁰

58. The Commission recommends that new refuge accommodation units are built in accordance with universal design principles,²⁸¹ facilitate the needs of disabled people,²⁸² and make provision for child-friendly spaces.

Therapeutic and counselling services

Although we note the increase in funding to a number of community-based counselling centres,²⁸³ we are strongly of the view that greater investment is needed to counteract the legacy of austerity cuts and accurately reflect demand.²⁸⁴ Data demonstrating the current inability to meet the demand for services is concerning, as it results in long waiting lists, and support services being offered by unspecialised and untrained counsellors.²⁸⁵ Despite victims and survivors of DSGBV being listed as a priority group in the *Sharing the Vision: A Mental Health Policy for Everyone*,²⁸⁶ there are no dedicated commitments in the

²⁷⁹ The Implementation Plan contains a commitment to build 14 Safe Homes during the lifetime of the Strategy. Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 25.

²⁸⁰ Women's Aid, [Submission to the Joint Committee on Justice on women's shelters/domestic abuse refuges](#) (2021), p. 14.

²⁸¹ Centre for Universal Design, [What is Universal Design: The 7 Principles](#).

²⁸² The issue of refuge accommodation being inaccessible for disabled people was raised during consultation with Disabled Women Ireland.

²⁸³ Department of Justice, [Report submitted by Ireland pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) (2022), Appendix 12.

²⁸⁴ Irish Examiner, '[Emergency situation](#)': Victims of rape wait a year for counselling (2021). In relation to therapeutic services for victims of sexual violence, Dublin Rape Crisis Centre notes that it has a waiting list of 200 people at any given time, and experienced a large increase in demand during the Covid-19 pandemic. Dublin Rape Crisis Centre, [Alternative Report to GREVIO](#) (2022), p. 25.

²⁸⁵ Rape Crisis Network Ireland, [RCNI Rape Crisis Statistics 2021](#) (2022), p. 3.

²⁸⁶ Department of Health, [Sharing the Vision: A Mental Health Policy for Everyone](#) (2022), p. 29.

accompanying Implementation Plan addressed to this group.²⁸⁷ As noted above, broader public and mental health reform is essential to meet demand for therapeutic services.²⁸⁸

59. The Commission recommends the development of a detailed, time-bound and adequately resourced commitment to scale up public and community-based therapeutic services for victims and survivors of DSGBV. Services should include psychological counselling, psycho-social support, trauma care and other supports, and should cater to short, medium and long-term needs.

Despite the severity of the impact of DSGBV on children, there is a considerable shortage of affordable and specialised child therapeutic services.²⁸⁹ Particular issues arise relating to the parental consent requirement when the violence is perpetrated by a parent.²⁹⁰ We welcome the Barnahus pilot project in Galway, and look forward to the prompt extension of the model in Dublin and Cork.²⁹¹

60. The Commission recommends the adequately resourced provision of specialised and multi-disciplinary therapeutic services for child victims and survivors of violence. Cultural, ethnic, disability and other identities should be taken into account in the provision of services and supports.

²⁸⁷ Department of Health, [Sharing the Vision: A Mental Health Policy for Everyone Implementation Plan](#) (2022). The Third National Strategy Implementation Plan undertakes to ensure DSGBV trauma-informed therapeutic counselling for adults and children, but does not provide any further details. Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 27.

²⁸⁸ In its Pre-Budget 2023 Submission, Mental Health Reform noted that additional funding for community-based mental health services has not materialised, despite the transition from congregated settings to community delivery. This resulted in poor access, long waiting times and poor mental health outcomes, Mental Health Reform, [Pre-Budget Submission 2023: The Cost of Waiting](#) (2022), p. 13. See the section in this report on 'general support services'.

²⁸⁹ In May 2022, CARI reported that 254 child victims and survivors of sexual abuse were waiting for support services, the highest number in the charity's 33-year history. Without emergency State support, it will take an estimated 5 years to clear the waiting list. IHREC, [Ireland and the Rights of the Child](#) (2022), p. 39.

²⁹⁰ IHREC, [Statement on the ratification of the Council of Europe Convention on preventing and combatting violence against women and domestic violence](#) (2019), p. 8.

²⁹¹ IHREC, [Ireland and the Rights of the Child](#) (2022), p. 39.

Female Genital Mutilation

Protection and support for victims and survivors of FGM is not widely available in Ireland, despite the critical need for these services.²⁹² There is only one specialised FGM clinic in Ireland, located in Dublin, which creates difficulties for women in rural areas seeking to access services.²⁹³ This failure to integrate medical care for victims and survivors of FGM into mainstream health service provision also contributes to their stigmatisation. The Third National Strategy's commitment to map current service provision and identify gaps in care, provides a timely opportunity to improve protection and support services.²⁹⁴

61. The Commission recommends that training for health-care workers on culturally sensitive, trauma-informed medical treatment of FGM is collaboratively developed and rolled out throughout Ireland. Health and social care should be supplied within a framework of holistic, wraparound support for victims and survivors, including therapeutic services, refuge accommodation, legal advocacy, and immigration assistance as required.

Support for victims and survivors of sexual violence

Support services for victims and survivors of sexual violence have developed in the form of Rape Crisis Centres, which operate throughout Ireland.²⁹⁵ Insofar as these centres often provide therapeutic support, hospital and court accompaniment, helplines, advocacy, and other services, they exemplify the type of holistic, wraparound support that centres the needs of victims and survivors.²⁹⁶ However, we are concerned that resource constraints

²⁹² This reflects trends at the European level; GREVIO has noted that specialist support services related to domestic violence tend to be more developed than services for victims and survivors of FGM. GREVIO, Mid-Term Horizontal Review of GREVIO Baseline Evaluation Reports (2021), p. 90. See also, IHREC, [Ireland and the Rights of the Child](#) (2022) p. 47; IHREC, [Ireland and the International Covenant on Civil and Political Rights](#) (2022), p. 44.

²⁹³ AkiDwA, [Statement to the Joint Oireachtas Committee on Gender Equality](#) (2022), p. 7.

²⁹⁴ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 27.

²⁹⁵ For a list of Rape Crisis Centres operating in Ireland, see Rape Crisis Network Ireland, [Useful Links](#).

²⁹⁶ For example, Dublin Rape Crisis Centre's specialised services include a 24-hour helpline, therapeutic and non-therapeutic support services, hospital accompaniment, court accompaniment, education and training; Dublin Rape Crisis Centre, [Shadow Report to GREVIO](#) (2022), p. 25.

mean that Rape Crisis Centre services are always operating at or over capacity,²⁹⁷ resulting in poor physical facilities,²⁹⁸ long waiting lists²⁹⁹ and difficult working conditions for staff.³⁰⁰ This is particularly notable in light of the documented increase in demand for services during the Covid-19 pandemic, which has not been matched by an increase in resources.³⁰¹

62. The Commission recommends that the urgent need for supports for victims and survivors of sexual violence is reflected in increased and multi-annual funding, to ensure high quality, accessible services and reduce waiting periods.

Helplines

The critical importance of free, confidential telephone Helplines for victims and survivors of DSGBV was particularly evident during the Covid-19 pandemic, which saw an increase in the number of people contacting Helpline services, as well as the length of phone calls.³⁰² While we welcome the provision of State funding to two national Helplines,³⁰³ we note that a number of Helplines operating in rural locations do not receive such funding.³⁰⁴ Victims and

²⁹⁷ In relation to therapeutic services for victims of sexual violence, Dublin Rape Crisis Centre notes that it has a waiting list of 200 people at any given time, and experienced a large increase in demand during the Covid-19 pandemic: Dublin Rape Crisis Centre, [Alternative Report to GREVIO](#) (2022), p. 25.

²⁹⁸ In some cases, this has meant that victims and survivors must wait for appointments on the street; Rape Crisis Network Ireland, [RCNI Rape Crisis Statistics 2021](#) (2022), p. 3.

²⁹⁹ In its most recent Annual Statistics Report, Rape Crisis Network Ireland notes that wait times for services grew significantly in 2021, a trend that was likely to increase in 2022; Rape Crisis Network Ireland, [RCNI Rape Crisis Statistics 2021](#) (2022), p. 12.

³⁰⁰ Rape Crisis Network Ireland reports that many counselling staff were on call for 24 hours a day during the Covid-19 pandemic; Rape Crisis Network Ireland, [RCNI Data During Covid 19 Together with Survivors: Rape Crisis Adaption and Transformation during Lockdown](#) (2020), p. 5.

³⁰¹ Irish Examiner, ['Emergency situation': Victims of rape wait a year for counselling](#) (2021); Rape Crisis Network Ireland, [RCNI Data During Covid 19 Together with Survivors: Rape Crisis Adaption and Transformation during Lockdown](#) (2020).

³⁰² Between March and June 2020, there was a 23% increase in calls to Rape Crisis Centre Helplines, and an 83% increase in the length of time spent on calls. Rape Crisis Network Ireland has linked the increase in the length of phone calls with national lockdowns due to the Covid-19 pandemic. Rape Crisis Network Ireland, [RCNI Data During Covid 19 Together with Survivors: Rape Crisis Adaption and Transformation during Lockdown](#) (2020), pp. 10-11.

³⁰³ The Domestic Violence Helpline is run by Women's Aid, while the Sexual Violence Helpline is run by the Dublin Rape Crisis Centre; Department of Justice, [Report submitted by Ireland pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) (2022), Appendix 13.

³⁰⁴ Rape Crisis Network Ireland, [RCNI Rape Crisis Statistics 2021](#) (2022), p. 3.

survivors should have the opportunity to access adequately resourced local Helplines, which may be better placed to make referrals to regional support services.³⁰⁵

63. The Commission recommends that the State increase funding to both national DSGBV Helplines, and provides funding to regional Helplines. Funding should enable capacity building to address the particular needs of structurally vulnerable groups, through interpretive services including ISL interpretation, text and chat functions for Deaf victims and survivors, and digitally inclusive approaches.

64. The Commission recommends that Helplines are resourced to proactively recognise, respond to and refer potential or suspected victims of human trafficking.³⁰⁶

³⁰⁵ Rape Crisis Network Ireland reports that survivors, supporters, professionals and others demonstrate an irrefutable need for Helpline access in their locality, which should be State funded to ensure equitable geographical access to services. Rape Crisis Network Ireland, [RCNI Rape Crisis Statistics 2021](#) (2022), p. 3.

³⁰⁶ IHREC, [Trafficking in Human Beings in Ireland. Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), p. 99.

8. Substantive law

The State legislates for DSGBV offences and related matters across a wide range of statutes, including in the areas of civil, criminal and family law. It has made gradual progress in improving the legal framework relating to DSGBV following ratification of the Istanbul Convention, including the enactment of the *Harassment, Harmful Communications and Related Offences Act 2020*³⁰⁷ and the proposed *Criminal Justice (Incitement to Violence or Hatred and Hate Offences) Bill 2022* and *Online Safety and Media Regulation Bill 2022* as referenced elsewhere in this report. We also note recent commitments to reform the law relating to sexual offences through the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022*.³⁰⁸ However, the following sections identify a number of areas which require further progress.

Civil remedies and compensation (Articles 29, 30)

The High Court has found that members of AGS hold no duty of care for actions taken while investigating and/or prosecuting crimes,³⁰⁹ which raises significant issues regarding the State's compliance with the Istanbul Convention. The question of AGS duty of care has arisen in a separate matter before the courts and will be considered again.³¹⁰

³⁰⁷ The [Harassment, Harmful Communications and Related Offences Act 2020](#) amended the law relating to harassment; provided for offences relating to the recording, distribution or publication of intimate images; and provided for the anonymity of victims of those offences.

³⁰⁸ The Bill seeks to, among other things, put the National Referral Mechanism for victims of trafficking on statutory footing; ensure anonymity for victims in all trials for sexual offences; and extend the right to separate legal representation for victims of sexual offences. For more see: Department of Justice, [Government approves publication of General Scheme of Bill which will strengthen law on consent in rape cases and support victims in sexual violence and human trafficking cases](#) (2 August 2022). We made a submission to the Joint Oireachtas Committee on Justice on the General Scheme in October 2022 focused on victims of trafficking; IHREC, [Submission on Part 3 of the General Scheme of the Criminal Justice \(Sexual Offences and Human Trafficking\) Bill 2022](#) (2022). We recommended that the right of separate legal representation should be extended to victims of trafficking for sexual exploitation.

³⁰⁹ *G v Minister for Justice, Equality and Law Reform* [2011] IEHC 65, Hedigan J at para 6.2 'It is now clearly established in Irish Law that the Gardaí owe no duty of care in respect of actions taken in the course of their duty to investigate and prosecute crime.'

³¹⁰ *Lockwood v Ireland* [2011] 1 IR 374 involved a rape trial which collapsed as a result of the investigating Garda detaining the defendant under the wrong powers. The victim's subsequent action against the police force for negligence was dismissed at a preliminary hearing by the High Court citing the principle that police do not owe a duty of care in their investigative and prosecutorial duties. On appeal, this matter has been referred back to the High Court with the Supreme Court finding the action should not have been dismissed by way of

We also note with concern that Ireland has entered a reservation to Article 30(2) of the Istanbul Convention on the provision of adequate State compensation to victims and survivors of DSGBV.³¹¹ The compensation avenues for victims of violent crimes include criminal legal action;³¹² civil legal action; and the State's Criminal Injuries Compensation Scheme. Both criminal and civil legal action require that the accused is identified, and for criminal proceedings, subsequently prosecuted and convicted. Furthermore, as noted later in this report, there are issues with the current operation of the State's Civil Legal Aid Scheme, and legal aid for tortious action is not part of the service the Legal Aid Board provides to victims of trafficking.³¹³

Given the evidentiary barriers to receiving compensation through criminal and civil legal action, it is essential that there is an effective alternative. In this connection, we welcome the revised Criminal Injuries Compensation Scheme ('Scheme') published in January 2021, and the proposal to place it on a statutory basis.³¹⁴ The present administrative basis for the Scheme is of concern given the State's obligations to victims under international law.³¹⁵ Furthermore, there are a number of issues with the current Scheme that require reform.³¹⁶ The operation and makeup of the Tribunal prevents the establishment of a consistent, transparent and specialised body of decision-making that provides victims and survivors with greater clarity regarding the outcome of their claim.³¹⁷ We are concerned by reports

preliminary hearing. This has cast uncertainty on the principle as settled law and the matter is still before the courts.

³¹¹ Council of Europe Portal, [Reservations and Declarations for Treaty No. 210](#) (2019).

³¹² The *Probation of Offenders Act 1907* allows for probation orders to be supplemented with damages; *Criminal Justice Act 1993* allows for compensation orders to be made in any criminal case.

³¹³ National Rapporteur on Human Trafficking, [Trafficking in Human Beings in Ireland: Evaluation of the implementation of the EU Anti-Trafficking Directive](#) (2022), p. 115.

³¹⁴ Department of Justice, [Minister McEntee announces reforms to the Criminal Injuries Compensation Scheme](#), (9 June 2021). The significant changes included increased capacity and the publication of decisions.

³¹⁵ *Preidenza del Consiglio dei Ministri v BV* [2020] Case C-129/19, in which the CJEU considering the Compensation Directive held that it provides a right to compensation and a corollary obligation on the State. See also, *Commission of the European Communities v Kingdom of the Netherlands* [1982] Case 96/81, para 12: 'mere administrative practices, which by their nature may be altered at the whim of the administration may not be considered as constituting the proper fulfilment of the obligation deriving from that Directive'.

³¹⁶ For a broader overview of the Scheme see generally: Law Reform Commission, [Consultation Paper: Compensating Victims of Crime](#) (2022).

³¹⁷ The Tribunal currently sits on a part-time basis and is made up of members who are legal professionals with full-time roles outside of their commitments to the Tribunal. The Law Reform Commission has noted that Tribunal members' discretion in applying the eligibility criteria under the Scheme in this jurisdiction may be too broad and ambiguous. Furthermore, no particular experience of, or specialist training on, dealing with of

from victims and survivors that applying to the Scheme has been stressful and overwhelming³¹⁸ and can involve considerable delay.³¹⁹

We also note that, at present, compensation under the Scheme is limited to out-of-pocket expenses, and it is only possible to claim compensation for general damages for ‘pain and suffering’ where a fatal offence has occurred.³²⁰ In particular, this continues to render the Scheme wholly unusable for victims of trafficking,³²¹ and raises concerns regarding compliance with the requirement on the State to provide compensation that is ‘fair and appropriate.’³²² No compensation is payable where the Tribunal is satisfied the victim was responsible for the offence which caused their injury.³²³ We are concerned about the effect such a provision may have on decisions relating to DSGBV offences, as a result of the often complex violence that can occur in intimate relationships and persistent outdated ‘myths’ about such crimes.³²⁴ Applicants are required to apply to the Scheme within three months of the violent crime occurring, or their claim is barred.³²⁵ We have previously expressed concerns about arbitrary time limits constituting barriers to justice³²⁶ and note that this aspect of the Scheme has been frequently criticised.³²⁷ Finally, the annual limit on the

victims or survivors is required. See Law Reform Commission, [Consultation Paper: Compensating Victims of Crime](#) (2022).

³¹⁸ See reports of client experiences given by Support After Homicide in a webinar run by the Victims’ Rights Alliance in June 2021, detailed in: Law Reform Commission (2022) [Consultation Paper: Compensating Victims of Crime](#), pg. 175.

³¹⁹ See, for example *Byrne v Criminal Injuries Compensation Tribunal* [2017] IEHC 28, in which there was a thirteen-year delay between an application for compensation and its final awarding.

³²⁰ In fatal cases, general damages are only payable to the dependents of the deceased, and the maximum award for compensation for pain and suffering is limited to the maximum amount set in any Statutory Instrument made pursuant to section 49 (1A) of the Civil Liability Act 1961 as amended. Criminal Injuries Compensation Scheme (2022) [Terms and conditions](#).

³²¹ National Rapporteur on Human Trafficking, [Trafficking in Human Beings in Ireland: Evaluation of the implementation of the EU Anti-Trafficking Directive](#) (2022), p. 115.

³²² Compensation Directive 2004/80/EC, Article 12.

³²³ The Tribunal may also reduce the amount of an award where, in its opinion, the victim has been partially responsible for the offence.

³²⁴ For more information on the role of these myths in criminal proceedings see: Law Reform Commission, [Report: Knowledge or Belief Concerning Consent in Rape Law](#) (2019), pp. 12-21.

³²⁵ The Tribunal adjudicating the Scheme is able to accept applications on an ‘exceptional basis’ for up to two years after an incident – previously there was no time limit for receipt of consideration on this exceptional basis. Therefore, the introduction has, in fact, reduced the time period for applications.

³²⁶ IHREC, [Submission on the Review of the Equality Acts](#), (2021), pp. 50-51.

³²⁷ Law Reform Commission, [Consultation Paper: Compensating Victims of Crime](#) (2022), p. 80; ‘As far back as 1977 the Tribunal recognised, in the Second Annual Report, the difficulties applicants had with the three-month time limit.’ ‘Three months appears to the Commission to be an excessively restrictive time limit’; Victim

amount of compensation that can be granted under the Scheme has resulted in delays once the limit is reached,³²⁸ and was cited as an issue in a report on victim's rights, prepared for the European Commission.³²⁹

The Law Reform Commission's Fifth Programme of Law Reform, approved by the State in 2019, includes the project 'Compensating Victims of Crime'. The outcomes of the report should inform significant reform in this area.

65. The Commission recommends that the State withdraw its reservation to Article 30(2) of the Istanbul Convention as a matter of priority.

66. The Commission recommends that the State provides a new statutory compensation scheme for victims and survivors that is accessible, transparent and trauma-informed; implemented by professionals with specialist training; and adequately resourced to provide timely and proportionate compensation. The State's claiming of regress for compensation awarded from the perpetrator must ensure due regard for the safety of victims and survivors.³³⁰

67. The Commission recommends that the State considers the provision of compensation to victims and survivors of DSGBV for 'pain and suffering' in the case of non-fatal offences.

Support Europe, [A Journey from Crime to Compensation: an Analysis of Victims' Access to Compensation in the EU](#) (2019), p. 46: 'one must question what benefits there are to imposing such short-term deadlines, beyond the arbitrary exclusion of the victims themselves.'

³²⁸ Law Reform Commission, [Consultation Paper: Compensating Victims of Crime](#) (2022), p. 77 – 'if the budget is spent before the end of the year, applicants must wait until the next annual funding allocation to receive awards of compensation. Large awards can take up a significant proportion of the annual budget and cause delays for both large and smaller claims.'

³²⁹ Joëlle Milquet, [Strengthening Victims' Rights: From Compensation to Reparation](#) (2019), p. 24.

³³⁰ As noted in the explanatory report, this covers particular situations where the perpetrator may want to avenge her or himself against the victim for having to pay compensation to the State: Council of Europe, [Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence](#) (2011), p. 30.

Custody and access (Article 31)

We note that violence can occur or continue to persist after a relationship has broken down,³³¹ in particular when negotiating and implementing access and custody arrangements.³³² In 2021, Women's Aid reported 5,735 disclosures of abuse against children, including disclosures related to 'children forced to go on access visits with an abusive father.'³³³ Examples of violence against children during access visits include the threat of abduction, abusive language, physical abuse, neglect and interrogation.³³⁴ We also note that conflict arising from child access can often act as a trigger for abuse, leading to individuals applying for relief under the 2018 Act.³³⁵ However, domestic violence orders are often not considered during custody and access proceedings if the abuse was not against the child.³³⁶ This approach fails to recognise children who have witnessed violence in the home as a victim in their own right,³³⁷ and does not give the court all of the relevant information.³³⁸

Child Contact Centres can strike an appropriate balance between the rights of parents to access their children and the right not to be further victimised, by providing a neutral location with trained staff, reducing the risk of further victimisation and supporting the

³³¹ See Women's Aid, [Submission to the Family Court Bill General Scheme](#) (2021), pp.3-4.

³³² Women's Aid have reported that unsafe custody and access arrangements made by the court allow abuse to continue post separation. There is a pro-contact assumption that often trumps considerations regarding the risk to the children and their mothers, as well as in some cases, the stated wishes of children not to be forced to go on access: Women's Aid, [Submission to the Family Court Bill General Scheme](#) (2021), pp. 3-4.

³³³ In 2021, Women's Aid reported 788 disclosures to the Helpline team where the abuser continued his abuse during access visits. This included: 605 disclosures of abuse against the woman during access handover & 183 disclosures of children abused while on access visits: Women's Aid, [Impact Report 2021](#) (2022), p. 24. See also Women's Aid, [Submission to the Family Court Bill General Scheme](#) (2021), pp. 4-5.

³³⁴ Women's Aid, [Child custody and access in the context of domestic violence: Women's Experiences and the Response of the Legal System](#) (2002); Women's Aid, [Submission to the Family Court Bill General Scheme](#) (2021).

³³⁵ S. Coneely, R. O'Shea & S. Dempsey, *Custody and Access in the District Court* (2021). In this article, the authors examined cases in the District Court. In 23.3 per cent of the domestic violence applications observed, applicants cited child access issues as the exclusive or primary trigger for abuse alleged. 72% of these cases involved an allegation of emotional abuse.

³³⁶ Women's Aid, [Submission to the Family Court Bill General Scheme](#) (2021).

³³⁷ Barnardos, [A Shared Understanding of Childhood Domestic Violence and Abuse](#) (2021), pp. 2-3. Children are not passive bystanders; they are centrally involved and impacted by the violence and abuse in their own right. The abuse may be directed towards them, they may intervene to stay safe, protect a parent or siblings, they may be encouraged or forced to participate in the abuse and are often used as a tool in abuse and control.

³³⁸ See One Family, [Child Contact Centre: Key Learnings](#) (2014). Parents with safety/barring orders may be required to break them in order to facilitate court-ordered contact between their child and the other parent.

inclusion of children’s views in reviews of the suitability of the arrangement.³³⁹ While a pilot of this Centres was positively evaluated in 2013,³⁴⁰ they were not mainstreamed and there has been little progress in establishing such services since.

68. The Commission recommends that orders under the *Domestic Violence Act 2018* are consistently taken into account during proceedings granting custody and access orders.

69. The Commission recommends that a national network of Child Contact Centres is established as a matter of urgency. These Centres should be adequately resourced, independently monitored, take account of the views of the child in the review of family arrangements, and employ staff trained to work with victims and survivors of violence.

Criminalisation and sanctioning of DSGBV (Articles 32-48)

New criminal offences

We commend a number of positive developments related to the criminalisation and sanctioning of DSGBV in recent years, including the creation of forced marriage and coercive control offences,³⁴¹ as well as plans to create offences of stalking and non-fatal strangulation or suffocation.³⁴² Plans to address recommendations made in the O’Malley report³⁴³ and by the Law Reform Commission³⁴⁴ in the *Criminal Justice (Sexual Offences and Human Trafficking) Bill 2022* are also welcome.³⁴⁵

³³⁹ One Family, [Child Contact Centre: Key Learnings](#) (2014).

³⁴⁰ C. Murphy and S. Holt, [Final Evaluation of the Barnardos/One Family Pilot Child Contact Centre](#) (2013).

³⁴¹ [Domestic Violence Act 2018](#), s. 38-39.

³⁴² [Criminal Justice \(Miscellaneous Provisions\) Bill 2022](#), s. 21-23.

³⁴³ O’Malley, T., [Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences](#) (2020).

³⁴⁴ The LRC makes a number of recommendations, including repealing and replacing the honest belief defence; Law Reform Commission, [Knowledge or Belief Concerning Consent in Rape Law](#) (2019).

³⁴⁵ [General Scheme of the Criminal Justice \(Sexual Offences and Human Trafficking\) Bill 2022](#). See also IHREC, [Submission on Part 3 of the General Scheme of the Criminal Justice \(Sexual Offences and Human Trafficking\) Bill 2022](#) (2022).

The incident-based nature of criminal law means that it may not accurately reflect and respond to the continuum of violence, which occurs in the context of DSGBV.³⁴⁶ We commend the recent creation of the crime of coercive control, which criminalises behaviour engaged in ‘persistently’.³⁴⁷ As the first prosecutions for this offence were recorded in 2020, there is limited data available at present to ascertain whether the offence is being adequately used to hold perpetrators accountable.³⁴⁸ We note GREVIO’s previous findings about the under-use of psychological violence offences.³⁴⁹

70. The Commission recommends the development of appropriate data collection, awareness-raising and training measures to ensure widespread knowledge of the existence and availability of the offence of coercive control.

Gaps in criminalisation

It is notable that a number of DSGBV acts are not criminalised, despite requirements in the Istanbul Convention. Forced abortion can only be prosecuted using general offences such as those relating to physical and psychological violence.³⁵⁰ As forced abortion contains simultaneous physical and psychological elements, as well as an important gender-dimension, the generality of these provisions do not adequately capture the nature of the offence. We are also concerned about the lack of a criminal offence of forced sterilisation, which has a particularly grave impact on the human rights protection of disabled people.³⁵¹

³⁴⁶ Mazzone, M., [Unheard and Uncounted: Women, Domestic Abuse and the Irish Criminal Justice System](#) (2019), pp. 50-51. See also section 7 of this report on ‘protection during investigations and judicial proceedings’.

³⁴⁷ S. 39 of the Act provides the following: a person commits an offence where he or she knowingly and persistently engages in behaviour that— (a) is controlling or coercive, (b) has a serious effect on a relevant person, and (c) a reasonable person would consider likely to have a serious effect on a relevant person. [Domestic Violence Act 2018](#), s. 39.

³⁴⁸ Department of Justice, [Report submitted by Ireland pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) (2022), pp. 40-41. Reports indicate that there were at least 50 cases under investigation by AGS or the DPP at the beginning of 2023. National Observatory on Violence against Women and Girls, [Shadow Report to GREVIO in respect of Ireland](#) (2022), p. 67.

³⁴⁹ GREVIO, [Mid-Term Horizontal Review of GREVIO Baseline Evaluation Reports](#) (2022), p. 104.

³⁵⁰ Department of Justice, [Report submitted by Ireland pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) (2022), p. 43.

³⁵¹ We previously addressed the grave and complex issues raised by the sterilisation of persons with intellectual disabilities in submissions made to the European Court of Human Rights on behalf of the European

We note that the Istanbul Convention provides states with discretion as to whether to punish perpetrators of sexual harassment through criminal or non-criminal sanctions, but we are concerned that the civil law system for dealing with sexual harassment under Irish equality law may result in gaps in protection for victims and survivors who have been subjected to DSGBV.³⁵² As highlighted above, the State is currently carrying out a gap analysis prior to the ratification of the International Labour Organization Convention on Violence and Harassment. Given the prevalence of sexual harassment in Ireland,³⁵³ criminalisation could be considered to send a clear message on the unacceptability of this behaviour and would be consistent with the ‘zero tolerance’ approach adopted in the Third National Strategy.³⁵⁴ Furthermore, we note that sexual violence crimes are addressed under a number of statutes,³⁵⁵ which obscures the scope of legal protection in this area, and creates gaps such as digital rape and voyeurism, which are not captured by any of the existing provisions.³⁵⁶

While the Istanbul Convention sets out minimum standards for State parties, the State should continuously expand on Convention requirements and improve the protection of victims and survivors of DSGBV. Particular attention should be paid to new and emerging

Group of National Human Rights Institutions in *Gauer & Ors v France*; The European Group of National Human Rights Institutions, [Written comments by the European group of National Human Rights Institutions pursuant to Article 36 § 2 of the European Convention on Human Rights and Rule 44 § 3 of the Rules of the European Court of Human Rights](#) (2011).

³⁵² The *Non-Fatal Offences against the Person Act 1997*, criminalises harassment but makes no explicit reference to conduct, behaviour or motivations of a sexual nature; *Non-Fatal Offences against the Person Act 1997*, s. 10. The *Equal Status Act 2000* prohibits sexual harassment in the provision of goods and services; *Equal Status Act 2000*, s. 11. The *Employment Equality Act 1998*, provides that acts of physical intimacy, requests for sexual favours or any other conduct shall constitute sexual harassment if unwanted or unwelcome and could reasonable be regarded as sexually, or otherwise in the gender ground, offensive, humiliating or intimidating; *Employment Equality Act 1998*, s 23. See also, section 4 of this report on the ‘participation of the private sector’.

³⁵³ See for example Department of Further and Higher Education, Research, Innovation and Science [Surveys of experiences of sexual violence and harassment in higher education](#) (2022); Dublin Rape Crisis Centre, [Discussion Paper: Workplace Sexual Harassment and Abuse](#) (2021); Irish Theatre Institute, [Speak Up: A Call for Change, Towards Creating a Safe and Respectful Environment for the Arts](#) (2021); Law Society [Law Society tackles bullying, harassment and sexual harassment in the solicitors’ profession](#) (2021); Irish Examiner, [Surge in sexual allegations by female soldiers against male colleagues](#) (19 July 2022).

³⁵⁴ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022).

³⁵⁵ Department of Justice, [Report submitted by Ireland pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) (2022), p. 42.

³⁵⁶ RCNI, [RCNI Submission on Third National Strategy on Domestic, Sexual and Gender Based Violence: Sexual Violence in the Criminal Justice System](#) (2021) p. 6.

forms of DSGBV,³⁵⁷ as well as responding to the specific needs of structurally vulnerable groups, including LGBT+³⁵⁸ and disabled people.³⁵⁹

71. The Commission recommends that legislation is enacted to criminalise forced abortion and forced sterilisation, without delay.

72. The Commission recommends that the State considers the introduction of legislation to criminalise sexual harassment, in order to provide better protection to victims and survivors.

73. The Commission recommends that all legislation criminalising sexual violence is codified, in order to clarify the law in this area and identify and address current legislative gaps.³⁶⁰

Prosecutions and convictions

Low prosecution and conviction rates weaken deterrence, result in impunity for perpetrators and fail to protect victims and survivors. In this connection, we are concerned about a number of areas of DSGBV where criminal provisions exist but are not adequately utilised in practice. Although FGM has been prohibited through specific criminal legislation since 2012,³⁶¹ only one conviction has taken place to date.³⁶² This is not a true reflection of the incidence of FGM in Ireland, including due to low levels of awareness and understanding by professionals, and has been highlighted as an area of concern by the UN Committee on

³⁵⁷ GREVIO has commended States for introducing new criminal legislation to capture specific harm perpetrated online; GREVIO, [General Recommendation no. 1 on the digital dimension of violence against women](#) (2022), p. 9.

³⁵⁸ Rape Crisis Network Ireland has noted the need to 'LGBT proof' sexual violence legislation; RCNI, [Finding a safe place: LGBT survivors of sexual violence and disclosure in rape crisis centres](#) (2016) p. 19.

³⁵⁹ Disabled women have expressed concerns with the definition of coercive control in the *Domestic Violence Act 2018*, which does not cover coercive and controlling behaviour that disabled women experience from carers, relatives and friends exploiting the vulnerability of the disabled person; Disabled Women's Group, [Submission to the Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022) p. 14.

³⁶⁰ RCNI, [RCNI Submission on Third National Strategy on Domestic, Sexual and Gender Based Violence: Sexual Violence in the Criminal Justice System](#) (2021) p. 6.

³⁶¹ [Criminal Justice \(Female Genital Mutilation\) Act 2012](#).

³⁶² AkiDwA, [Statement to the Joint Oireachtas Committee on Gender Equality](#) (2022) p. 3.

the Elimination of Racial Discrimination.³⁶³ Exceptions to the criminalisation of marriage of those under 18 were removed in 2018.³⁶⁴ However, we are similarly concerned about the non-prosecution of child marriage crimes, since thirteen 16 and 17 year olds were married in 2019.³⁶⁵ We have raised concerns about low levels of convictions in the area of human trafficking on several occasions.³⁶⁶

74. The Commission recommends that the criminalisation of DSGBV acts is supported by effective awareness-raising measures directed at the public, and training initiatives and protocols for frontline and administrative professionals.

75. The Commission recommends that in addition to the FGM policy measures required as referenced throughout this report, the *Criminal Justice (Female Genital Mutilation) Act 2012* is reviewed in order to examine and respond to barriers to prosecution and conviction.

Sanctioning of DSGBV

As noted by GREVIO, a lack of proportionate and dissuasive sanctions carries an implication that committing DSGBV, even repeatedly, is not a serious crime.³⁶⁷ In this context, we note the State's plans to increase the maximum penalty for assault causing harm from five to ten years.³⁶⁸ We also note the introduction of an aggravating circumstance where offences involving physical or sexual violence are committed in the context of a marriage, civil partnership or an intimate and committed relationship.³⁶⁹ However, we are concerned about the limited scope of this aggravating circumstance, which cannot be applied to

³⁶³ Committee on the Elimination of Racial Discrimination [Concluding Observations on the combined fifth to ninth reports of Ireland](#) (2020), para 40.

³⁶⁴ [Domestic Violence Act 2018](#), s. 49.

³⁶⁵ Central Statistics Office, [VSA62 - Marriages Registered](#) (2022).

³⁶⁶ See IHREC, [Ireland and the International Covenant on Civil and Political Rights](#) (2022), p. 59. We have previously highlighted that the State must move beyond awareness-raising measures to ending the demand that fuels trafficking for the purposes of sexual exploitation, see: IHREC, [Trafficking in Human Beings in Ireland: Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), pp. 3, 20. See also, OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, [Discouraging the Demand that Fosters Trafficking for the Purpose of Sexual Exploitation](#) (2021).

³⁶⁷ GREVIO, [Mid-Term Horizontal Review of GREVIO Baseline Evaluation Reports](#) (2022), p. 117.

³⁶⁸ [Criminal Justice \(Miscellaneous Provisions\) Bill 2022](#), s. 3.

³⁶⁹ [Domestic Violence Act 2018](#), s. 40.

coercive and controlling behaviour that disabled people can experience within a trusted relationship, including from carers, relatives and friends.³⁷⁰

Despite these legislative developments related to sanctioning, victims and survivors of DSGBV have expressed concerns that sentences do not reflect the severity of the abuse the woman was subjected to.³⁷¹ Inconsistency of sentencing is also an issue in this area.³⁷² Concerns have been raised about the limited available data on sentencing for crimes related to DSGBV, making it difficult to ascertain the effectiveness and proportionality of sanctioning.³⁷³

76. The Commission recommends that sentencing guidelines are developed for all acts of DSGBV, to ensure effective, proportionate and dissuasive sanctions.³⁷⁴ These sanctions should be accompanied by wraparound State supports, including for the families of the offender, and evidence-based interventions to prevent recidivism.³⁷⁵

77. The Commission recommends that the Courts Service systematically collects disaggregated data on sentencing for crimes related to DSGBV, and that such data is made available to the public.

78. The Commission recommends that comprehensive training on the gravity of crimes committed in the context of DSGBV is co-designed, developed and delivered to judges and legal professionals.

³⁷⁰ For more information on the context in which disabled people experience coercive control see Disabled Women's Group, [Submission to the Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022).

³⁷¹ Mazzone, M., [Unheard and Uncounted: Women, Domestic Abuse and the Irish Criminal Justice System](#) (2019), p. 41.

³⁷² O'Malley, T., [Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences](#) (2020) p. 118.

³⁷³ Mazzone, M., [Unheard and Uncounted: Women, Domestic Abuse and the Irish Criminal Justice System](#) (2019), pp. 8-9.

³⁷⁴ See the Sentencing Guidelines and Information Committee: <https://judicialcouncil.ie/sentencing-guidelines/>.

³⁷⁵ See also, section 4 of this report on 'intervention and treatment programmes'.

9. Investigation, prosecution, procedural law and protective measures

General obligations (Article 49)

Investigations into past human rights violations

The State has repeatedly failed to ensure independent, survivor-centred, thorough and effective investigations, in line with international human rights standards, into allegations of past human rights violations against women and girls, including in respect of the Magdalene Laundries,³⁷⁶ mother and baby homes,³⁷⁷ and the practice of symphysiotomy.³⁷⁸ We have highlighted the importance of incorporating human rights and equality considerations into the terms of reference of Commissions of Investigation, but this recommendation has not been progressed.³⁷⁹ We have also continually emphasised that the State's response to

³⁷⁶ The United Nations Committee against Torture has found that it has full jurisdiction to decide Elizabeth Coppin's complaint alleging that Ireland has failed to investigate or to ensure accountability or comprehensive redress for the abuse that she suffered in three Magdalene Laundries: [Committee Against Torture, Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 879/2018](#) (14 January 2020) CAT/C/68/D/879/2018.

³⁷⁷ Myriad human rights and equality concerns have been raised by IHREC and civil society over the Commission of Investigations' Final Report on Mother and Baby Homes, including issues on the accuracy of the findings and presentation of testimonies. For example, the report finds no evidence of discrimination, which has since been criticised by representative group Association of Mixed Race Irish (AMRI). We appeared as amicus curiae in cases where the State acknowledged that the rights of two survivors were breached as they were identifiable in the Final Report. See IHREC, [Advisory Paper to the Interdepartmental Group on the Government's Planned Development of a 'Restorative Recognition Scheme for former residents of Mother and Baby Homes and County Homes'](#) (April 2021) and [Philomena Lee v The Minister for Children, Equality, Disability, Integration and Youth, the Government of Ireland, Ireland and the Attorney General; and Mary Harney v The Minister for Children, Equality, Disability, Integration and Youth, the Government of Ireland, Ireland and the Attorney General](#).

³⁷⁸ Committee on the Elimination of Discrimination against Women, [Concluding observations on the combined sixth and seventh periodic reports of Ireland](#), CEDAW/C/IRL/CO/6-7 (9 March 2017) paras. 14-15; Committee against Torture, [Concluding observations on the second periodic report of Ireland, CAT/C/IRL/CO/2 \(31 August 2017\) paras. 23-30](#); Committee on the Elimination of Racial Discrimination, [Concluding observations on the combined fifth to ninth reports of Ireland](#), CERD/C/IRL/CO/5-9 (12 December 2019) paras. 17-18.

³⁷⁹ The exclusion of human rights and equality principles from the terms of reference of the Commission of Investigation into Mother and Baby Homes meant that it was not mandated to examine what occurred in these institutions as potential violations of human rights. In 2014, we recommended that the 'investigation should take place within a human rights and equality framework and, in particular, that it fully conforms with the State's human rights obligations under the Constitution and under international human rights law'; IHREC (Designate), [Proposed Commission of Investigation to Inquire into Mother and Baby Homes: Submission on behalf of the Irish Human Rights and Equality Commission \(Designate\)](#) (2014), p. 2. The Commission of Investigation itself noted it in its final report that the Government 'did not opt for that approach in its mandate

historical human rights abuses can inflict further and ongoing trauma on victims and survivors.³⁸⁰ Re-traumatisation can occur through the failure to acknowledge past abuses or the State's role therein, treatment which causes victims to believe that their voices are not being heard, or the absence of appropriate redress.³⁸¹ We note the commitment by the State in November 2022 to establish a new role of 'Special Advocate for Survivors of Institutional Abuse'.³⁸²

The State's ongoing failure to effectively investigate historical abuse has also directly impacted the identification, prosecution and conviction of perpetrators.³⁸³ As of September 2022, there have been 89 complaints to AGS in relation to alleged crimes in Mother and Baby Homes; however, 69 of these cases have been closed and only 20 remain open for further investigation.³⁸⁴

79. The Commission recommends that the State amends the *Commissions of Investigation Act 2004* to embed human rights and equality considerations in the legislation, and to ensure that membership of Commissions of Investigation should include relevant expertise and/or training in human rights for investigations relating to violence against women and girls.

to the Commission'; Department of Children, Equality, Disability, Integration and Youth, [Final Report of the Commission of Investigation into Mother and Baby Homes](#) (2021) Chapter 36: Human Rights, para. 36.2.

³⁸⁰ IHREC, [Submission to the United Nations Committee on the Elimination of Discrimination Against Women on the follow-up procedure to Ireland's combined sixth and seventh periodic report](#) (August 2020), p. 2.

³⁸¹ IHREC, [Submission to the United Nations Committee on the Elimination of Discrimination Against Women on the follow-up procedure to Ireland's combined sixth and seventh periodic report](#) (August 2020), p. 2.

³⁸² Department of Children, Equality, Disability, Integration and Youth, [Government approves proposals for new role of Special Advocate for Survivors of Institutional Abuse and publishes Collaborative Forum report](#) (November 2022).

³⁸³ There were only eleven cases referred for prosecution based on the Ryan Report regarding abuse in child residential institutions. There has been no recent criminal prosecutions related to Magdalene Laundries or Symphysiotomy. James Gallen, 'Transitional justice and Ireland's legacy of historical abuse' (2020) 55 *Éire-Ireland* 35, p. 60.

³⁸⁴ An Garda Síochána, [Monthly Report to the Policing Authority](#) (September 2022), p. 35. The complaints relate to emotional abuse; sexual abuse; physical abuse/mistreatment; legality of adoption/birth-cert falsified; medical treatments/vaccine trials; baby deaths/burial; and, other crimes (i.e. theft/state corruption). The State's recent reply to the List of Issues of the Human Rights Committee noted that An Garda Síochána considered the Final Report of the Commission of Investigation into Mother and Baby Homes and determined that there is insufficient information to commence criminal investigations. However, it separately acknowledges that this Commission 'was designed to facilitate effective fact-finding, not to impose penalties or adjudicate on individual behaviours.' See Human Rights Committee, [Replies of Ireland to the list of issues in relation to its fifth periodic report](#) (2022) CCPR/C/IRL/RQ/5, paras 26-27.

80. The Commission recommends that the State overhaul the existing investigative approach to ensure that all allegations of historical abuse are afforded timely, independent, transparent, thorough, intersectional, and effective survivor-centred investigations, in line with international human rights standards.

81. The Commission recommends that identified perpetrators of sexual and gender-based violence against women and girls in institutional and other settings should be prosecuted and punished with penalties proportionate to the gravity of the offence.³⁸⁵

Provision of an effective remedy

The implementation of redress schemes has been marked by inadequacies and limitations which have created barriers in accessing effective redress for victims and survivors of historical abuse.³⁸⁶ Despite agreeing in 2002 to provide cost of redress in exchange for indemnity from legal action, religious congregations have continually failed to meet the costs of the running redress schemes for child abuse since the publication of the Ryan Report in 2009.³⁸⁷

³⁸⁵ For example, the State's 2019 report to the Human Rights Committee sets out that no individuals claiming to be victims of the Magdalene laundries had made any complaints to the Department of Justice and Equality seeking further inquiries or criminal investigations as of 2019. However, victims may not be aware of the complaints mechanism or have the physical or psychological ability to present to law enforcement officials. IHREC, [Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland](#) (2020), pp. 18-19.

³⁸⁶ The State has established a range of redress schemes to address historical abuse including the Magdalene Restorative Justice Scheme, the Residential Institutions Redress Scheme and the O'Keeffe Scheme. Shortcomings identified in the operation of these redress schemes include an adversarial approach to the provision of redress; an unduly restrictive and narrow approach to the category of 'victim'; a short timeframe to apply to the scheme; overly burdensome standards of proof; low levels of award in comparison to violations suffered; difficulties accessing personal records held in archives; over reliance on the records of religious congregations in making assessments for eligibility; ambiguity about the weight being afforded to the testimony of individuals and/or their relatives; the ex gratia nature of the scheme meaning there is no acknowledgement of the violation of rights; and a requirement to sign a waiver against further legal recourse against state and non-state actors through the judicial process. See for example: IHREC, [Submission to the UN Committee against Torture on the List of Issues for the Third Examination of Ireland](#) (2020), pp. 26, 29–30.

³⁸⁷ In 2002, the State indemnified 18 congregations from any legal actions which former residents might take against them in return for their contribution to the cost of the redress scheme. The congregations agreed to contribute €128 million; following the publication of the Ryan Report the congregations made a further voluntary offer. The amounts offered total €480.6 million, contributions received to date are €236.5 million; Department of Education, [Parliamentary Question: Residential Institutions](#) (26 April 2022). See also [Comptroller and Auditor General, Cost of Child Abuse Inquiry and Redress](#) (2017), pp. 37–39.

The Government has proposed a payment scheme for survivors of Mother and Baby Homes and related institutions, to be established on a statutory footing.³⁸⁸ We have significant concerns about this legislation³⁸⁹ which have yet to be addressed, including the six-month length of stay requirement³⁹⁰ and establishment of the Payment Scheme on an 'ex gratia' basis.³⁹¹ Systemic change continues to be required in the State's attitude and responsibility towards anyone who is a victim or survivor of State wrongdoing, including a transitional justice response embedded in human rights and equality standards.

82. The Commission recommends that the State overhauls existing redress schemes to ensure access to an effective remedy for victims and survivors, based on the right to truth, justice, reparation, non-recurrence and memory processes and in line with human rights principles.

83. As the *Mother and Baby Institutions Payment Scheme Bill 2022* is likely to be passed by Parliament prior to the evaluation visit, the Commission recommends that GREVIO considers the enacted legislation in its engagement with the State and the preparation of its report. Further, the Commission recommends that the review of the operation of the Scheme³⁹² fully addresses the outstanding human rights and equality concerns.

³⁸⁸ The [Mother and Baby Institutions Payment Scheme Bill 2022](#) was published on 17 October 2022.

³⁸⁹ The primary areas of concern that we have in relation to the Mother and Baby Institutions Payment Scheme Bill were stated in our Legislative Observation that was published in October 2022. These concerns revolved around the recognition of harm; eligibility; access to legal representation; the institutions included within the Payment Scheme; and the ex gratia payment. See IHREC, [Submission on the General Scheme of a Mother and Baby Institutions Payment Scheme Bill](#) (October 2022).

³⁹⁰ The Bill includes a six-month length of stay requirement for a person who was resident as a child in a relevant institution to be eligible to apply to the Payment Scheme. All persons must also have been resident for 180 days (6 months) in a relevant institution to be eligible for the provision of health services without charge or if not ordinarily resident in the State, be entitled to a health support payment. It is estimated that approximately 19,500 mothers spent time in a Mother and Baby or County Home Institution, with just under 15,000 of these mothers spending less than six months there. In the case of people who spent time as institutions as children, it was estimated that of the approximately 38,500 people concerned, 24,000 spent less than six months in an institution. See IHREC, [Submission on the General Scheme of a Mother and Baby Institutions Payment Scheme Bill](#) (October 2022) pp. 1-2, 13.2 and Minister for Children, Equality, Disability, Integration and Youth, [Written Answers](#) (October 2022).

³⁹¹ Survivors are required to sign a waiver of any right of action before accepting an award. This was a particular concern of the Human Rights Committee during its 2022 review of Ireland: Human Rights Committee, [Concluding observations on the fifth periodic report of Ireland](#) (2022), paras 11-12.

³⁹² Section 42 of the Bill proposes that a review of the 5-year Scheme will be carried out '(a) as soon as possible after the second anniversary of the establishment day, and (b) as soon as possible after the cessation date.'

84. The Commission recommends that the State provides a detailed update on the financial contributions of religious congregations to redress.

Abuse of disabled people in institutional and community settings

The troubling history of institutional abuse of women and children in Ireland requires a proactive approach to ensuring zero tolerance of DSGBV against disabled women in institutional, residential, foster and respite care settings. We are of the view that violence perpetrated by residents or carers in settings such as public and private nursing homes and mental health institutions should be recognised as domestic violence, given that the abuse is taking place where the victim/survivor is domiciled. Similarly, violence perpetrated by professional caregivers in the home must be treated as DSGBV and addressed in relevant policies and strategies.³⁹³

Against the backdrop of historical abuse, more recent systemic failings such as in Aras Attracta,³⁹⁴ the Grace case,³⁹⁵ the Brandon case³⁹⁶ and Mary's case³⁹⁷ are of grave concern.

³⁹³ Disabled Women's Group, [Submission to the Third National Strategy on Domestic, Sexual and Gender Based Violence](#) (2022), p. 15.

³⁹⁴ In 2014, the national broadcaster aired an investigative documentary on abuse at a residential care facility for people with intellectual disabilities in Mayo. Undercover footage showed a number of staff members physically and psychologically abusing and neglecting residents in the facility. A subsequent investigation by An Garda Síochána resulted in criminal charges against 6 people, 5 of whom were found guilty. National Disability Authority, [Overview of UNCRPD Article 16 in Ireland: Freedom from exploitation violence and abuse](#) (2022) p. 54.

³⁹⁵ The Farrelly Commission of Investigation was established in 2017 to examine the culture and treatment of individuals with intellectual disabilities in a foster care setting in the South East. The Commission released its first interim reports in 2021. The substantive reports describe 'systemic failings and shortcomings' in the care of individuals with intellectual disabilities. Department of Health, [Farrelly Commission of Investigation Substantive Interim Reports](#) (2021); IHREC, [Ireland and the Rights of the Child](#) (2022), p. 42.

³⁹⁶ An investigation by the HSE's National Independent Review Panel (NIRP) found that at least 18 people with intellectual disabilities in care settings in Donegal were sexually abused by Brandon, another resident, on multiple occasions by between 2003 and 2016. Between 2003 and 2011 Brandon 'engaged in a vast number of highly abusive and sexually intrusive behaviours' against other residents. Staff and management were fully aware of this abuse occurring, but victims' family members were only informed about the abuse in December 2018. Both NIRP and previous HIQA inspections identified failings regarding the governance and management of this particular service. The review team believed a key contributing factor enabling this abuse to continue was the clinical-like environment of the setting which treated residents as patients and promoted a situation where they were completely reliant on staff to protect them. Brandon spent 20 years in this service and there was never a holistic assessment of his needs or a more specialised placement considered for him. National Disability Authority, [Overview of UNCRPD Article 16 in Ireland: Freedom from exploitation violence and abuse](#) (2022) p. 55; National Independent Review Panel, [Independent Review of the Management of Brandon](#) (2021).

³⁹⁷ In 2017 a report on the case review of Mary's case was published, in response to delays in removing Mary from a foster care placement between 2014 and 2016, despite concerns about abuse by her foster carers. The

Although the National Independent Review Panel ('NIRP') was established in 2017 to examine major concerns in community health and social care services such as these,³⁹⁸ reviews are treated as internal learning events, recommendations for action to hold the perpetrators accountable are not included and the NIRP has no authority to publish reports.³⁹⁹ We are of the view that reports on investigations into abuses in institutional and community settings should be shared publicly and between relevant agencies as appropriate.

85. The Commission recommends that abuse of disabled people in institutional settings, and by professional caregivers in the home, is treated as DSGBV and integrated in policy responses by the Department of Justice and the new DSGBV agency.

86. The Commission recommends that NIRP investigations into DSGBV perpetration in institutional and community contexts contribute to a culture of zero tolerance through the publication and dissemination of appropriately redacted reports, recommendations for actions to create professional and organisational accountability, and recommendations for specific inter-agency responses.

Reporting and the response by law enforcement agencies (Article 50)

Evidence shows that the reporting of DSGBV against both women and men has increased in recent years,⁴⁰⁰ in line with evidence of the increased risk factors for and prevalence of domestic violence during the pandemic.⁴⁰¹ However, [as noted in the above section on research and data](#), DSGBV offences continue to be systematically under-reported, which

report highlighted the lack of reliable safeguarding measures and misunderstandings regarding the role and function of post holders from different agencies. HSE and Tusla, [Case Review Mary](#) (2017).

³⁹⁸ HSE, [National Independent Review Panel \(NIRP\)](#) (2022).

³⁹⁹ The decision on whether or not to publish reports prepared by the NIRP lies with the HSE. HSE protocols currently stipulate that 'reports relating to service users are personal to the service user... and as such are not generally published'. NIRP guidelines also note that the purpose of a review is not to hold any individual to account. National Independent Review Panel, [Operational Guidelines](#) (2021), p. 39.

⁴⁰⁰ Oireachtas Library and Research Service, [Addressing domestic, sexual and gender-based violence - Part One: Overview](#) (2021), p. 2.

⁴⁰¹ Oireachtas Library and Research Service, [Domestic violence and COVID-19 in Ireland](#) (2020).

contributes to deficits in the data on the prevalence of violence against particular groups.⁴⁰² The available evidence does indicate that such under-reporting is prevalent among women and girls from structurally vulnerable groups,⁴⁰³ including disabled people, particularly disabled mothers,⁴⁰⁴ migrants,⁴⁰⁵ and women in prostitution.⁴⁰⁶

Commission-supported research recently examined barriers to reporting for victims and survivors of DSGBV, including self-blame; fears of upsetting or damaging familial relationships; lack of knowledge about how to report; and fears about the outcome of the adversarial criminal justice process.⁴⁰⁷ The lack of a gendered understanding of violence can be a significant barrier to victims reporting violence to law enforcement professionals.⁴⁰⁸ Furthermore, research indicates that the experiences of male victims of domestic violence can be ‘trivialised’ due to the wider Irish cultural context, and can result in chronic under-reporting.⁴⁰⁹

Low levels of trust and confidence in law enforcement agencies can also deter victims and survivors from reporting DSGBV even in the most serious of cases,⁴¹⁰ and this is a particular concern with regard to Travellers and Roma in Ireland. As noted in the Irish Traveller and

⁴⁰² Domestic violence continues to be amongst ‘the most underreported crimes’ in Ireland: The Policing Authority, [Interim Report: The Experiences of Crime with the Garda Síochána](#), (Su Anson, Leanne Cochrane, Olivia Iannelli, Julia Muraszkievicz Trilateral Research October 2020), p. 37.

⁴⁰³ We have previously raised this issue on a number of occasions: IHREC, [Submission to the UN Committee against Torture on the List of Issues for the Third Examination of Ireland \(2020\)](#) p. 32; IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination: Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland’s Combined 5th to 9th Report \(2019\)](#), p. 103.

⁴⁰⁴ Disabled women experience additional barriers to the reporting of crimes; [Disabled Women’s Group, Submission to Third National Strategy on Domestic, Sexual and Gender-Based Violence \(2020\)](#), pp. 8–9.

⁴⁰⁵ As noted later in this report, migrant women and girls are less likely to leave abusive environments for fear of losing their immigration status due to their residence permission being tied to an abusive spouse. See also: [AkiDwA, Stamp-3-Association, Ruhama, Nasc and Sexual Violence Centre Cork, Joint Submission to Citizens’ Assembly on Gender Equality: Violence against women \(2020\)](#), pp. 4-5.

⁴⁰⁶ R. Campbell, L. Smith, B. Stoica, ‘Not collateral damage: Trends in violence and hate crimes experienced by sex workers in the Republic of Ireland’ (2020) 28(3) *Irish Journal of Sociology*.

⁴⁰⁷ N. Gould, [The Victim Experience in Focus: An empirical study into the experiences of sexual crime complainants in the criminal justice system in Ireland](#) (One in Four: 2022), pp. 24-25.

⁴⁰⁸ GREVIO, [Mid-term Horizontal Review of GREVIO baseline evaluation reports \(2022\)](#), p. 129. The Dublin Rape Crisis Centre has also noted that: ‘deeply engrained attitudes and biases relating to sexual activity and gender stereotypes can blind professionals and service providers to the harm or crime and can lead to an inappropriate response’: Dublin Rape Crisis Centre, [Shadow Report to GREVIO: Implementation of Istanbul Convention in Ireland \(2022\)](#), p. 22.

⁴⁰⁹ The Policing Authority, [Interim Report: The Experiences of Crime with the Garda Síochána](#), (Su Anson, Leanne Cochrane, Olivia Iannelli, Julia Muraszkievicz Trilateral Research October 2020), p. 37.

⁴¹⁰ GREVIO, [Mid-term Horizontal Review of GREVIO baseline evaluation reports \(2022\)](#).

Roma women parallel report to GREVIO, relationships between AGS and these communities are often characterised by mistrust and conflict due to under-policing (not providing sufficient support and protection), over-policing and the excessive use of force against Travellers and Roma.⁴¹¹ Recent research has found that the levels of trust that Travellers have in AGS is approximately half that of the general population; with trust levels even lower among Travellers who have been victims of crime.⁴¹² Given the low reporting of DSGBV by victims and survivors, we are concerned that the State report does not respond to GREVIO's request for information on the measures adopted to support reporting by professionals under Article 28.⁴¹³

Following reports of DSGBV, AGS is obliged under the Istanbul Convention to provide adequate and immediate protection to victims and survivors and ensure the effective investigation and prosecution of offences.⁴¹⁴ In this regard, we welcome the full rollout of Divisional Protective Services Units (DPSUs) by AGS,⁴¹⁵ the use of domestic abuse coordinators,⁴¹⁶ as well as a number of actions to improve policing of DSGBV set out in the Third National Strategy.⁴¹⁷ We note that the State has commissioned an independent study into familicide and domestic homicide reviews, but has yet to progress legislation in this area despite a commitment in the 2020 Programme for Government.⁴¹⁸

⁴¹¹ Irish Traveller and Roma Women, [Joint Alternative Report](#) (2022), p. 11.

⁴¹² These low levels of trust extend beyond initial contact with AGS to all of the criminal justice institutions, including the courts. A majority of Travellers in the study disagreed that judges and juries in their area treat Travellers fairly. Interviewees raised concerns regarding the impartiality of Gardaí, judges and juries with respect to Travellers, while a large majority of survey respondents believe that both Gardaí and judges are stricter with Travellers than with settled people. See S. Joyce, O. O'Reilly, M. O'Brien, D. Joyce, J. Schweppe, and A. Haynes, [Irish Travellers' Access to Justice](#) (European Centre for the Study of Hate, (2022)).

⁴¹³ Department of Justice, [Report by the Irish government on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#) (2022), p. 34.

⁴¹⁴ Articles 5, 49 and 50 of the [Istanbul Convention](#).

⁴¹⁵ An Garda Síochána, [An Garda Síochána Divisional Protective Services Units now Operational Nationwide](#) (2020).

⁴¹⁶ Derek Penman, [Independent Report for the Policing Authority: Interim Update on the Preliminary Examination of the Garda Síochána review of the closure, \(including cancellation\) of Computer Aided Dispatch incidents](#) (2021).

⁴¹⁷ The Third National Strategy undertakes to administer training to DSPU staff, increase provision of interviewing suits and enhance protocols for referral to specialist support services; [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), pp. 38-39.

⁴¹⁸ Government of Ireland, [Programme for Government: Our Shared Future](#) (2020), p. 87.

We remain concerned about systemic issues in the State’s response to DSGBV.⁴¹⁹ Despite the growth in cybercrime, insufficient Gardaí are trained and allocated to the investigation of such crime.⁴²⁰ The reported inaccuracies by AGS in the recording and classification of crimes involving domestic violence has been highlighted above,⁴²¹ and is of particular concern given the State’s legal duty to ensure the effective functioning of Garda investigations.⁴²² Recent Commission-supported research found that following a report of DSGBV, some participants described the process of engaging with AGS as being marred by intimidation and humiliation. As noted further below, participants also reported that a gender or intrinsic power imbalance in the officer/s investigating the case can trigger a traumatic response.⁴²³

We are particularly concerned that between 2019 and 2021 thousands of emergency calls were cancelled by AGS, hundreds of which were emergency calls relating to DSGBV.⁴²⁴ An independent review of these cancellations noted that it is not possible to determine whether serious harm occurred in incidents where callers or potential victims were not identified. However, there is the potential that protection orders were not put in place;

⁴¹⁹ IHREC, [Submission to the United Nations Committee against Torture on Ireland’s Second Periodic Report](#) (2017), p. 24 and IHREC, [Submission to the Commission on the Future of Policing](#) (2018).

⁴²⁰ Dublin Rape Crisis Centre, [Shadow Report to GREVIO: Implementation of Istanbul Convention in Ireland](#) (2022), p. 23.

⁴²¹ See the above section on ‘research and data’.

⁴²² Article 2 of the ECHR; [McCann and Others v The United Kingdom](#) (21 ECHR 97 GC). [Opuz v. Turkey, no. 33401/02](#). See also, the concurring opinion of Judge Pinto de Albuquerque in [Valiulienė v. Lithuania no. 33234/07](#) who states, ‘If a State knows or ought to know that a segment of its population, such as women, is subject to repeated violence and fails to prevent harm from befalling the members of that group of people when they face a present (but not yet imminent) risk, the State can be found responsible by omission for the resulting human rights violations. The constructive anticipated duty to prevent and protect is the reverse side of the context of widespread abuse and violence already known to the State authorities’.

⁴²³ N. Gould, [The Victim Experience in Focus: An empirical study into the experiences of sexual crime complainants in the criminal justice system in Ireland](#) (One in Four: 2022), p. 4.

⁴²⁴ An independent review of the cancellation of calls noted that between 1 January 2019 and 31 October 2020, there were almost 203,000 cancelled incidents. Additional cancelled calls were identified in September 2021; Derek Penman, [Independent Report for the Policing Authority: Interim Update on the Preliminary Examination of the Garda Síochána review of the closure, \(including cancellation\) of Computer Aided Dispatch incidents](#) (2021). It should also be noted that issues with call taking and first response in AGS was previously flagged by the Garda Inspectorate in 2014 who made a number of recommendations to ensure AGS provided an effective service: Report of the Garda Síochána Inspectorate, [Crime Investigation](#) (2014).

crimes were not reported or investigated; and some offenders were not brought to justice.⁴²⁵

Section 9 of the *Garda Síochána (Recording Devices) Bill 2022* states that a member of AGS may operate a recording device to record an individual where:

“the member believes on reasonable grounds that domestic violence is occurring or may have occurred.”⁴²⁶

We have previously noted that the use of body worn cameras raises fundamental human rights concerns. Regard has to be given to the intrusion on the right to privacy of an individual, specifically if people are recorded in distressing circumstances or if they are victims and survivors of domestic violence, sexual violence or rape.⁴²⁷ This issue requires particular focus given that €14 million has been allocated to the procurement and deployment of body worn cameras under the Third National Strategy, in order to manage domestic violence situations and gather evidence for subsequent prosecutions.⁴²⁸

87. The Commission recommends that the State takes measures to facilitate higher levels of reporting by all victims and survivors of DSGBV, including by ensuring there are adequate numbers of specialised female law enforcement officers available.

88. The Commission recommends that the State adopts immediate and far-reaching measures to address chronic levels of distrust by Travellers in the justice system, including a dedicated policing plan to foster and improve the relationship between AGS members and the Traveller community.⁴²⁹

89. The Commission recommends that the State engages fully with GREVIO on Article 28, conducts a review into the barriers which may impede the reporting of DSGBV by

⁴²⁵ Derek Penman, [Independent Report for the Policing Authority Final Report on the Examination of the Garda Síochána review of the closure, \(including cancellation\) of Computer Aided Dispatch incidents \(2022\)](#), p. 6.

⁴²⁶ See [Garda Síochána \(Recording Devices\) Bill 2022](#).

⁴²⁷ IHREC, [Submission to the Minister for Justice on the General Scheme of the Garda Síochána \(Digital Recording\) Bill](#) (2022), pp. 23-24.

⁴²⁸ Department of Justice and Equality, [Departmental Strategies](#) (12 July 2022).

⁴²⁹ Joyce, S., O'Reilly, O., O'Brien, M., Joyce, D., Schweppe, J., and Haynes, A., [Irish Travellers' Access to Justice](#) European Centre for the Study of Hate (2022), p. 132.

professionals, and identifies additional measures including the involvement of third parties such as civil society organisations to increase reporting.

90. The Commission recommends that a multi-agency Domestic Homicide Review procedure is put in place in Ireland, drawing on international best practice.⁴³⁰

91. The Commission recommends that the development of the *Garda Síochána (Recording Devices) Bill 2022* requires careful examination of whether the interference with the rights to privacy, protection of data, and a fair trial presented by the use of body worn cameras is proportionate and necessary in the response to DSGBV crimes.

Risk assessment (Article 51)

We welcome the ongoing work of AGS on the rollout of the Domestic Abuse Risk Evaluation Tool ('RET').⁴³¹ However, the rollout of the RET is at an early stage so there is limited information available on its impact, including the experiences of victims and survivors on its usage and outcomes.⁴³² Given that the RET is not publically available, we are unable to ascertain if it adequately safeguards the rights of women and girls, and if it includes specific measures to assess victims and survivors from structurally vulnerable groups.

⁴³⁰ A Domestic Homicide Review is a multi-agency review, commissioned by a community safety partnership, of the circumstances in which the death of a person aged 16 or over has, or appears to have, resulted from violence, abuse or neglect by a person to whom they were related or with whom they were, or had been, in an intimate personal relationship, or a member of the same household; United Kingdom Home Office, [Key Findings and Analysis of Domestic Homicide Reviews](#) (2021), p. 1. GREVIO baseline evaluation reports such as those on Italy, Belgium, Malta, and Portugal have noted the lack of retrospective reviews into the deaths of women victims of violence and have encouraged the authorities to introduce systems to analyse this phenomenon. GREVIO has drawn attention to the importance of such domestic violence homicide review mechanisms as a means to analyse the effectiveness of risk assessment practises: GREVIO, [Mid-term Horizontal Review of GREVIO baseline evaluation reports](#) (2022), p. 133.

⁴³¹ The Policing Authority reported that the RET has gone fully live in the North-Western Region (in 2021), the Southern and Eastern Regions (both in 2022) and that training is ongoing in the Dublin Metropolitan Region for a Q4 go-live. See, the Policing Authority, [Assessment of Policing Performance July 2022](#), p. 8.

⁴³² The Policing Authority has stated that it will continue to engage with stakeholders and An Garda Síochána at management and operational levels to assess the impact of the RET as its use continues. See, the Policing Authority, [Assessment of Policing Performance July 2022](#), p. 8; Women's Aid Ireland published key findings from its consultation with women who had experience of domestic abuse and the Criminal Justice System. This consultation highlighted that the response from An Garda Síochána is inconsistent. Participants who reported a negative experience with An Garda Síochána cited that safety measures and risk assessments were not being implemented. See, Women's Aid and Monica Mazzone, [Unheard and Uncounted – Women, Domestic Abuse and the Irish Criminal Justice System](#) (2019), p. 36.

GREVIO has stated previously that a risk assessment is not a goal in and of itself, but a first step to ensuring co-ordinated safety measures and supports to victims and survivors.⁴³³ Therefore, we welcome the State's commitment to introduce multi-agency risk assessment protocols for domestic and sexual violence, including its consideration as to whether legislative amendments are necessary to allow for information-sharing to support such protocols.⁴³⁴ We also welcome the State's commitment to ensure the provision of risk assessment/management training for frontline staff who engage with victims and survivors of DSGBV.⁴³⁵

92. The Commission recommends that the Domestic Abuse Risk Evaluation Tool is published to be transparent and accountable, and to ascertain what specific measures are in place for structurally vulnerable groups.

93. The Commission recommends that the Domestic Abuse Risk Evaluation Tool be reviewed by the Policing Authority to understand its impact and the experiences of victims and survivors on its usage and outcomes, and to ensure it is practical, effective and in line with international best practice.

94. The Commission recommends that all efforts are made to introduce multi-agency risk assessment protocols to ensure co-ordinated efforts are in place to protect and support victims and survivors.

⁴³³ GREVIO, [Baseline Evaluation Report: Netherlands](#), para 274.

⁴³⁴ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence – Implementation Plan](#) (2022), p. 39; See Point 3.5.5 “Introduce multi-agency risk assessment protocols for domestic and sexual violence. Department of Justice/statutory DSGBV agency supported by An Garda Síochána, Tusla, the Probation Service and the relevant specialist and community-based support organisations working with victims/ survivors) The Department of Justice will examine, in conjunction with all relevant agencies, how best to take this forward. This will include considering if amendments to legislation, which would allow for information sharing to facilitate this objective, are necessary - Q2 2023”.

⁴³⁵ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence – Implementation Plan](#) (2022), p. 15; See Point 1.4.6, “Ensure provision of risk assessment/management training for frontline professional staff who engage with victims/survivors. Statutory DSGBV Agency with the support of the specialist and community- based support organisations. The Agency will develop a risk management assessment module to be incorporated into CDP training for all frontline services in consultation with AGS and the Probation Service”.

95. The Commission recommends that the development of risk assessment training/management must be in line with international best practice, and as such, the State should consult with experts in the area to inform its provision of this training for front line staff. Furthermore, the Commission recommends regular reporting on the State’s targets to develop this training, and its incorporation and delivery in CPD training for all frontline services.⁴³⁶

Emergency and protection orders (Articles 52-53)

The *Domestic Violence Act 2018* (‘2018 Act’) brought about important changes to the substantive and procedural requirements for obtaining interim barring orders and safety orders.⁴³⁷ We welcome the removal of the co-habitation requirement for safety and protection orders, reflecting the increasing prevalence of ‘dating abuse’ which may occur in the early stages of a relationship.⁴³⁸ The wide range of factors the court may consider when granting an order is also welcome,⁴³⁹ due to its provision for flexibility in individual cases.⁴⁴⁰

However, there are a number of gaps in the protection available to victims and survivors under the 2018 Act. The requirement that applicants for safety and protection orders are over the age of 18 is not in line with the rights and evolving capacities of children. The need for children to rely on a parent or child protection services to make an application on their

⁴³⁶ In line with the recommendation made in the training section of this report, such reporting should include a comprehensive list of all relevant agencies who should undergo training, data on the number of professionals and the grades of those professionals attending mandatory and voluntary training, content and duration of training modules, and the findings of evaluation activities.

⁴³⁷ It should be noted that in Ireland, an Emergency Barring Order (within the meaning of Article 52 of the Istanbul Convention) is referred to as an Interim Barring Order, while a Restraining/Protection Order (within the meaning of Article 53 of the Istanbul Convention) is referred to as a Safety Order. [Domestic Violence Act 2018](#), s. 6, 8. This report will also look at three other types of order created by the Domestic Violence Act: a protection order (s. 10) which operates as a temporary safety order to be made while a decision on a safety order is pending; a barring order (s. 7), which prohibits the accused from entering the home for a period of up to three years; and an Emergency Barring Order (s. 9), an exceptional temporary measure created to deal with circumstances where the accused has a proprietary interest. For a guide to these orders, see Women’s Aid, [Guide to the new Domestic Violence Act 2018](#) (2019); Citizens’ Information, [Safety orders, protection orders and barring orders in Ireland](#) (2022).

⁴³⁸ Thompson, S., Doyle, D., Murphy, M. and Mangan, R., [‘A welcome change . . . but early days’: Irish Service Provider Perspectives on Domestic Abuse and the Domestic Violence Act 2018](#) (2022) *Criminology and Criminal Justice* 22 (5).

⁴³⁹ Women’s Aid, [Guide on the new Domestic Violence Act 2018](#) (2018), pp. 1-2.

⁴⁴⁰ GREVIO, [Mid-Term Horizontal Review of GREVIO Baseline Evaluation Reports](#) (2022), p. 135.

behalf creates a barrier for young women and girls subjected to DSGBV in intimate partner relationships, as well as victims and survivors of parental abuse and victims and survivors in care.⁴⁴¹ As noted elsewhere in this report, the lack of integration between the 2018 Act and family law on custody and visitation can result in circumstances where victims and survivors must break barring orders to facilitate court-mandated custody visits.⁴⁴² The 2018 Act does not provide for the removal of the ‘property test’ in respect of interim barring orders or barring orders.⁴⁴³ Since having nowhere to go is reported as the main reason women stay with perpetrators, the existence of the property test is a cause for concern.⁴⁴⁴ The high rates of attrition and lenient and suspended sentences for breaching interim barring and safety orders also raise concerns about the extent to which the grave impact of DSGBV is recognised.⁴⁴⁵

There have also been reports of Domestic Violence Orders not being acted on and breaches of Orders not being taken seriously by AGS,⁴⁴⁶ including due to a lack of clarity as to what constitutes a breach.⁴⁴⁷ The independent review into the cancellation of emergency calls by AGS as referenced above, also stated that this:

⁴⁴¹ IHREC, [Ireland and the Rights of the Child](#) (2022), p. 40. See also, Professor G. Shannon, [Twelfth Report of the Special Rapporteur on Child Protection](#) (2019), p. 44.

⁴⁴² One Family, [Child Contact Centre: Key Learnings](#) (2014), p. 5. See also, section 6 in this report on ‘custody and access’. Further issues arise when applications are made *ex parte*, and due to the short return date of Interim Barring Orders and Emergency Barring Orders.

⁴⁴³ The 2018 Act sets out that interim barring orders and barring orders may not be granted by the Court in respect of the property the victim resides at if they have no legal or beneficial interest in the property and the perpetrator does, or if in the court's view the perpetrator's interest is greater than the victim's. The victim does not have to satisfy the property test to be able to get an emergency barring order, but this order can only last for a maximum of eight working days and a new emergency barring order may not be made until a month after the first one expires, unless there are ‘exceptional’ circumstances which justify the making of a second order in that time.

⁴⁴⁴ Women’s Aid, [Submission on the Domestic Violence Bill 2017](#) (2017), p. 15.

⁴⁴⁵ Mazzone, M., [Unheard and Uncounted: Women, Domestic Abuse and the Irish Criminal Justice System](#) (2019), pp. 42, 50-51. See also, our comments in section 6 of this report on the incident-based nature of criminal law means that it may not accurately reflect and respond to the continuum of DSGBV offences.

⁴⁴⁶ Women’s Aid and Monica Mazzone, [Unheard and Uncounted – Women, Domestic Abuse and the Irish Criminal Justice System](#) (2019), p. 45.

⁴⁴⁷ There are examples of the failure to arrest respondents even after a number of breaches: Women’s Aid, [Submission to An Garda Síochána Inspectorate on An Garda Síochána’s Response to Domestic Abuse](#) (2022), p. 10.

“could have delayed or deprived a victim of the opportunity to obtain a barring order against an abusive partner.”⁴⁴⁸

We note that the State has committed to reviewing the current operation and recording of orders under the 2018 Act, however, the scope of the review does not extend to addressing the legislative gaps.⁴⁴⁹

96. The Commission recommends that the *Domestic Violence Act 2018* is amended to allow children to make safety and protection orders in their own right.

97. The Commission recommends that the property test for interim barring and barring orders is removed in situations where the constitutionally-protected ‘best interests of the child’ requires it.⁴⁵⁰

98. The Commission recommends that the protection afforded victims and survivors through interim barring orders, barring orders and emergency barring orders is bolstered by the prompt creation of a criminal offence of stalking through the *Criminal Justice (Miscellaneous Provisions) Bill 2022*.⁴⁵¹

99. The Commission recommends that the consistent and full implementation of the *Domestic Violence Act 2018* by An Garda Síochána is supported through ongoing

⁴⁴⁸ Derek Penman, [Independent Report for the Policing Authority: Interim Update on the Preliminary Examination of the Garda Síochána review of the closure, \(including cancellation\) of Computer Aided Dispatch incidents](#) (2021), p. 21.

⁴⁴⁹ Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence – Implementation Plan](#) (2022), p. 15. See Section 3.2.2 ‘Explore the interface and interaction of the Family Law Courts and PULSE to aid Domestic Violence Act orders and improve the service and recording of Domestic Violence Act orders by reviewing how they currently operate.’

⁴⁵⁰ The Department of Justice will commence an analysis of the legal and practical barriers to women remaining in the home in 2023; Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 24.

⁴⁵¹ GREVIO has noted with approval the practice in Sweden concerning violations of emergency and protection orders, which are not only subject to fines and imprisonment but may also be charged as an offence of stalking; GREVIO, [Mid-Term Horizontal Review of GREVIO Baseline Evaluation Reports](#) (2022), p. 134. As noted elsewhere in this report, stalking is currently prosecuted under the Non-Fatal Offences Against the Person Act 1997; however proposed legislation will increase the clarity and comprehensiveness of the crime of stalking; Women’s Aid, [Women’s Aid Submission to the Criminal Justice \(Miscellaneous Provisions\) Bill 2022](#) (2022) p. 3.

training on the orders available, supervision activities, and the strengthening and monitoring of Garda policy in this area.⁴⁵²

Ex officio and ex parte proceedings and NGO assistance (Article 55)

Criminal proceedings for acts of DSGBV may be taken *ex officio* (at the initiation of the State rather than the victim or survivor) and *ex parte* (in the absence of the victim or survivor).⁴⁵³ In practice, however, decisions on whether or not to prosecute are highly dependent on the victim/survivor's cooperation and witness statement.⁴⁵⁴ In recognition of this reality, and as noted by GREVIO,⁴⁵⁵ it is necessary to offer support and encouragement to victims and survivors of DSGBV who are engaging with the criminal justice system.

General victims' support organisations and specialised DSGBV organisations provide court accompaniment, information and outreach services, court familiarisation visits and other forms of emotional support to victims and survivors of DSGBV.⁴⁵⁶ We welcome funding increases to support victims of crime which were announced by the Department of Justice earlier this year.⁴⁵⁷ We also welcome changes in the *Domestic Violence Act 2018* to facilitate court accompaniment, however we are concerned about wide judicial discretion to refuse accompaniment if it is not in 'the interests of justice'.⁴⁵⁸ As noted elsewhere in this report, particular attention should be paid to facilitating the engagement of victims and survivors from structurally vulnerable groups and ensuring a holistic continuum of support through multi-agency coordination.⁴⁵⁹

⁴⁵² For example, Garda policy should include a commitment to serving orders, particularly in relation to emergency barring orders, interim barring orders and barring orders under the *Domestic Violence Act 2018*.

⁴⁵³ Department of Justice, [Report submitted by Ireland pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) (2022), p. 57.

⁴⁵⁴ Department of Justice, [Report submitted by Ireland pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) (2022), p. 58.

⁴⁵⁵ GREVIO, [Mid-Term Horizontal Review of GREVIO Baseline Evaluation Reports](#) (2022), p. 138-139.

⁴⁵⁶ Dublin Rape Crisis Centre, [Shadow Report to GREVIO](#) (2022), p. 12; Department of Justice, [Written Answers](#) (24 May 2022); Joint Committee on Justice, [Report on Minorities Engaging with the Justice System](#) (2022) p. 46.

⁴⁵⁷ Department of Justice, [Written Answers](#) (24 May 2022).

⁴⁵⁸ [Domestic Violence Act 2018](#), s. 26.

⁴⁵⁹ GREVIO, [Mid-Term Horizontal Review of GREVIO Baseline Evaluation Reports](#) (2022), p. 138-139. See section 5 of this report on 'specialist support services'.

100. The Commission recommends that the State proactively and comprehensively collects all relevant evidence in DSGBV cases, so that it may prosecute cases *ex officio*, without relying on witness statements or other forms of cooperation from the victim/survivor.⁴⁶⁰

101. The Commission recommends that the State review any barriers faced by victims and survivors in seeking to access court accompaniment and support services across all regional areas, as well as international best practices being developed in this area.⁴⁶¹

Protection during investigations and judicial proceedings (Article 56)

Victims and survivors of DSGBV encounter numerous difficulties in accessing justice, across the criminal justice system and the family court system. It is essential that both systems integrate and reinforce each other to avoid atomised decision-making taking place at a remove from broader contextual factors.⁴⁶²

There is an overarching need to address barriers to access to justice for victims and survivors belonging to structurally vulnerable groups.⁴⁶³ Appropriately trained legal interpreters are required to accommodate the needs of migrant and disabled victims and survivors.⁴⁶⁴ Recent research, including Commission-supported work, has also

⁴⁶⁰ GREVIO, [Mid-Term Horizontal Review of GREVIO Baseline Evaluation Reports](#) (2022), p. 139.

⁴⁶¹ For example, the use of facility dogs as means of mitigating trauma for child victims and witnesses of violence; One in Four, [Mitigating re-traumatisation in sexual abuse cases – dogs to the rescue](#) (2022).

⁴⁶² Mazzone, M., [Unheard and Uncounted: Women, Domestic Abuse and the Irish Criminal Justice System](#) (2019), p. 59. We note that a draft report exploring the interface and interaction of civil family law, public criminal law and the child protection justice systems was submitted to the Department of Justice in Q2 2022; Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 32.

⁴⁶³ IHREC, [Submission on the General Scheme of the Family Court Bill 2020](#) (2021), pp. 4-5. Our Disability Advisory Committee has raised concerns about the inherent ableism which underpins the Irish legal system. This should be addressed through the provision of accessible information to disabled women on accessible reporting options and other trauma-informed supports that recognise power dynamics. The UNCRPD obliges states to ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses; [UN Convention on the Rights of Persons with Disabilities](#), Article 13.

⁴⁶⁴ IHREC, [Statement on the ratification of Council of Europe Convention on Preventing and Combatting Violence Against Women and Domestic Violence](#) (2019), p. 9. For information on the challenges that underlie legal interpretation in Ireland, see Phelan, M. [A matter of interpretation](#) *Law Society Gazette* (2017) p. 52.

demonstrated some negative biases in judicial attitudes towards Travellers, including overtly racist remarks.⁴⁶⁵ This results in low levels of trust in judges by the Traveller community, including Traveller victims and survivors of DSGBV.

102. The Commission recommends the development of a system of accredited training and quality assurance for legal interpretation. Legal documentation should be available in a range of accessible formats and languages, including Irish Sign Language.⁴⁶⁶

103. The Commission recommends that the State develop, publish, fund and implement a strategy across the justice system to address gaps in trust, legitimacy and accountability impacting on the Traveller community, including Traveller victims and survivors of DSGBV, underpinned by data from an ethnic identifier and annual reports on ethnic minorities.⁴⁶⁷

Criminal investigation

Criminal investigations into DSGBV offences must take into account the additional complexities which result from the nature of the crime under investigation. Commission-supported research highlights a number of issues experienced by victims during investigative interviews, including lack of privacy, sterile environment, being asked to recall traumatic memories in multiple interviews, last minute interview cancellations, conflicting information and instructions, frequent interruptions, and power imbalances caused by dynamics of gender, age and authority.⁴⁶⁸ Trauma-informed investigative interviewing has been shown to have a greater success rate, due to the willingness of victims and survivors to

⁴⁶⁵ Joyce, S., O'Reilly, O., O'Brien, M., Joyce, D., Schweppe, J., and Haynes, A., [Irish Travellers' Access to Justice](#) European Centre for the Study of Hate (2022), p. 8; UCC Traveller Equality and Justice Project, [Barriers to Justice for Irish Travellers seeking to challenge discrimination](#) (2022) p. 37; Joint Committee on Justice, [Report on Minorities Engaging with the Justice System](#) (2022) pp. 35-36.

⁴⁶⁶ IHREC, [Statement on the ratification of Council of Europe Convention on Preventing and Combatting Violence Against Women and Domestic Violence](#) (2019), p. 9.

⁴⁶⁷ IHREC, [Ireland and the International Covenant on Civil and Political Rights](#) (2022), p. 30.

⁴⁶⁸ Gould, N. [The Victim Experience in Focus: An empirical study into the experiences of sexual crime complainants in the criminal justice system in Ireland](#) (2022) pp. 26-30.

continue engaging throughout the prosecution process, and the prevention of re-traumatisation, which may impact memory and recall.⁴⁶⁹

104. The Commission recommends that trainings and protocols for trauma-informed investigative interviewing in the context of DSGBV are developed, disseminated and delivered to AGS frontline and administrative professionals at all grades. Protocols should recognise the need for strategic and sensitive interviewing driven by rapport-based techniques, the management of the physical and psychological needs of victims and survivors and the prevention of re-traumatisation.

Criminal justice proceedings

In a recent study, an alarmingly high proportion of victims and survivors of DSGBV reported regretting taking a criminal case, with participants noting deficiencies at every stage of the criminal justice system.⁴⁷⁰ Of particular concern to us is the issue of delay, which can have the effect of re-traumatising victims and survivors.⁴⁷¹ Delay in the courts is linked to poor case management⁴⁷² and vexatious use of court procedural rules,⁴⁷³ and can have a particularly significant impact on child victims.⁴⁷⁴ The problem is increasingly acute in light of further delays arising in the context of the Covid-19 pandemic.⁴⁷⁵ The O'Malley Report produced a number of targeted recommendations to combat delay in relation to the prosecution of sexual offence cases.⁴⁷⁶

⁴⁶⁹ Haskell, L. and Randall, M. [The Impact of Trauma on Adult Sexual Assault Victims](#) (2018) p. 18-23.

⁴⁷⁰ In a consultation conducted by Women's Aid, 44% of women asked if they would go through the criminal justice system again said they would not, while 31% were unsure; Mazzone, M., [Unheard and Uncounted: Women, Domestic Abuse and the Irish Criminal Justice System](#) (2019), p. 43.

⁴⁷¹ Dublin Rape Crisis Centre, [Alternative Report to GREVIO](#) (2022), pp. 33-34.

⁴⁷² Dublin Rape Crisis Centre has noted that poor cases management often results in cases not being heard on the day they are listed, causing unnecessary stress and inconvenience to victims and survivors; Dublin Rape Crisis Centre, [Alternative Report to GREVIO](#) (2022), p. 34.

⁴⁷³ Research by Women's Aid has documented the use of adjournment procedures by the accused to purposefully frustrate the victim/survivor; Mazzone, M., [Unheard and Uncounted: Women, Domestic Abuse and the Irish Criminal Justice System](#) (2019), p. 39.

⁴⁷⁴ RCNI, [Submission on Victims' Testimony in Cases of Rape and Sexual Assault to the Joint Oireachtas Committee on Justice](#) (February 2021).

⁴⁷⁵ Dublin Rape Crisis Centre, [Alternative Report to GREVIO](#) (2022), p. 34.

⁴⁷⁶ O'Malley, T., [Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences](#) (2020), p. 121. These recommendations are timely, as recent Commission-supported research highlights the difficult experience of sexual crime complainants and vulnerable witnesses within the criminal justice system. A key theme to emerge across respondents was a feeling of powerlessness throughout the

105. The Commission recommends that the O’Malley Report recommendations addressing delay, including establishment of a pre-trial hearings system, are adopted in relation to all types of criminal cases relating to DSGBV.⁴⁷⁷

106. The Commission recommends that the State ensures the provision of adequate judges and court facilities so that criminal proceedings can be heard without delay.

Victims and survivors of DSGBV have noted feeling as though they themselves were on trial, due to rules of procedure and evidence in the criminal courts.⁴⁷⁸ The ‘incident-based approach’ to criminal prosecution is not well suited to the reality of DSGBV perpetration, which may take place over long periods of time.⁴⁷⁹ As a result, victims and survivors of DSGBV are made to feel that their victim impact statements are disproportionate to the incident, and, in some cases, years of abuse are reduced to one relatively minor charge.⁴⁸⁰ Use of evidence of past sexual experiences, counselling records and medical histories reinforces pre-existing notions about what a ‘real victim’ should look like, and can obstruct access to justice for victims and survivors that do not fit this stereotype.⁴⁸¹ We are also aware that while victims and survivors, including child witnesses, are legally permitted to provide evidence by video-link, the availability of this measure is contingent on having the necessary physical and technical facilities.⁴⁸²

investigation and prosecution process. Gould, N., *The Victim Experience in Focus: An empirical study into the experiences of sexual crime complainants in the criminal justice system in Ireland* (2022)

⁴⁷⁷ A preliminary trial hearings system would reduce delay by allowing for certain matters to be addressed in advance of the trial, reducing the need for adjournments during trial; O’Malley, T., [Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences](#) (2020), p. 56.

⁴⁷⁸ Mazzone, M., [Unheard and Uncounted: Women, Domestic Abuse and the Irish Criminal Justice System](#) (2019), p. 39.

⁴⁷⁹ Mazzone, M., [Unheard and Uncounted: Women, Domestic Abuse and the Irish Criminal Justice System](#) (2019), pp. 50-51.

⁴⁸⁰ This has been contrasted with character references for the accused, which can refer to the whole life history of the perpetrator; Mazzone, M., [Unheard and Uncounted: Women, Domestic Abuse and the Irish Criminal Justice System](#) (2019), p. 40.

⁴⁸¹ O’Malley, T., [Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences](#) (2020), p. 84. We welcome the pilot training programme established by the Judicial Council on ‘Avoiding Re-traumatisation’. This training should be rolled out to trial judges across Ireland; The Judicial Council, [Judicial Studies Committee: Updates on Judicial Training](#) (2022).

⁴⁸² Dublin Rape Crisis Centre, [Alternative Report to GREVIO](#) (2022), p. 39. See also A. Cusack, [Addressing vulnerability in Ireland’s criminal justice system: A survey of recent statutory developments](#) (2020), p. 281.

107. The Commission recommends that the Department of Justice undertakes research on the best way to accurately capture and provide redress for the cumulative and multi-layered impact of DSGBV when perpetrated over long periods of time.

108. The Commission recommends that the O'Malley Report recommendations in relation to admission of evidence on sexual experience, counselling and medical history are adopted in relation to all criminal prosecutions of DSGBV.⁴⁸³

The lack of intermediary reporting and other special measures also creates particular barriers for children⁴⁸⁴ and disabled victims and survivors involved in judicial proceedings, who may struggle to understand questions or to present evidence in a manner that is deemed to be 'satisfactory' by the court.⁴⁸⁵ We welcome the implementation of the O'Malley Report recommendation to introduce a professional qualification for intermediaries.⁴⁸⁶

109. The Commission recommends that the curriculum for intermediary training includes training in human rights and equality, including the rights of children and disabled people.

Family law proceedings

The Citizens' Assembly on Gender Equality has recommended improving protections for victims and survivors of DSGBV within the justice system, explicitly noting the need for

⁴⁸³ These recommendations include the strengthening of the right to separate legal representation in certain cases; introducing a requirement to notify a judge at a pre-trial hearing that the defence intends to apply for leave to question a victim about other sexual experiences; and ensuring victims are aware of their right to object to the disclosure of counselling records. See O'Malley, T., [Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences](#) (2020), pp. 83-84.

⁴⁸⁴ We note the State's commitment to review the response to child victims of sexual crimes within the justice system, and the preparation of guidelines on children's rights in court settings: Department of Justice, [Third National Strategy on Domestic, Sexual and Gender-Based Violence](#) (2022), p. 28.

⁴⁸⁵ O'Malley, T., [Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences](#) (2020), p. 98. In particular, the report found that disabled children may not be in a position to avail of legal advice, may not be afforded an intermediary during the investigatory stage, and judges involved in questioning may lack specialist training. Children are most likely to give their best evidence when questioned in an age appropriate manner.

⁴⁸⁶ O'Malley, T., [Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences](#) (2020), p. 108-109. See also University of Limerick, [Minister launches University of Limerick programme to train intermediaries for work in justice system](#) (4 May 2022).

reform of the family courts.⁴⁸⁷ We note the recent publication of the Family Justice Strategy 2022-2025,⁴⁸⁸ and the Family Court Bill 2022.⁴⁸⁹ Victims and survivors of DSGBV, including child witnesses, are a key family court user group,⁴⁹⁰ and as such, their needs should be at the centre of reforms of the family law system which are currently underway.⁴⁹¹

We have identified issues in the administration of family law in Ireland on a number of occasions,⁴⁹² which are exacerbated in the context of DSGBV. Victims and survivors contend with protracted legal proceedings due to delays⁴⁹³ caused by a shortage of judges and issues accessing court-ordered expert reports.⁴⁹⁴ Approaches to hearing the views of child victims and survivors of DSGBV are inconsistent, due to a lack of a shared understanding of what constitutes the best interests of the child.⁴⁹⁵ A significant barrier to justice is poor quality court facilities, which are inadequately separated from other proceedings, lack appropriate waiting facilities and consultation rooms, and have a range of accessibility issues.⁴⁹⁶ Most

⁴⁸⁷ Citizens' Assembly on Gender Equality, [Report of the Citizens Assembly on Gender Equality](#) (2021), p. 19.

⁴⁸⁸ Department of Justice, [Family Justice Strategy 2022–2025](#) (2022).

⁴⁸⁹ [Family Court Bill 2022](#). IHREC published legislative observations on the General Scheme of the Bill in 2021; IHREC, [Submission on the General Scheme of the Family Court Bill 2020](#) (2021).

⁴⁹⁰ Women's Aid, [Submission to the Joint Committee on Gender Equality on the Recommendations of the Citizens' Assembly](#) (2022), p. 5. See also, section 6 of this report on 'custody and access'.

⁴⁹¹ Department of Justice, [Minister McEntee receives government approval to publish Family Court Bill and first National Family Justice Strategy](#) (November 2022). The new Family Justice Strategy 2022-2025 recognises that from a system perspective, there is a need to identify ways in which the criminal, family law and child care strands of the legal system can improve the experiences of these families, promote their protection and welfare and support them to live their lives. However, there are limited related commitments and targets to ensure progress in practice; Department of Justice, [Family Justice Strategy 2022–2025](#) (2022).

⁴⁹² IHREC, [Ireland and the Rights of the Child](#) (2022), p. 53; IHREC, [Submission on the General Scheme of the Family Court Bill 2020](#) (2021); IHREC, [Statement on the ratification of Council of Europe Convention on Preventing and Combatting Violence Against Women and Domestic Violence](#) (2019), pp. 8-10.

⁴⁹³ As of December 2021, District Court waiting times for family law domestic violence applications was 14 weeks in Portlaoise, 16 weeks in Trim, 23 weeks in Tullamore, and 26 weeks in Nenagh. See Department of Justice, [Family Justice Strategy 2022–2025](#) (November 2022), p. 61.

⁴⁹⁴ McCaughren, S., Holt, S., Parkes, A. and Gregory, S., [Research report on guidance on contact time for infants and young children in separated families](#) (2022) p. 4.

⁴⁹⁵ The Committee on the Rights of the Child has recommended strengthening of efforts to ensure that the best interests of the child are appropriately integrated and consistently interpreted and applied in all legislative, administrative and judicial proceedings; Committee on the Rights of the Child, [Concluding Observations on the combined 3rd and 4th periodic reports of Ireland](#) (2016) p.6. IHREC has noted a number of considerations which should form be included in such an assessment; IHREC, [Submission on the General Scheme of the Family Court Bill 2020](#) (2021), pp. 8-11.

⁴⁹⁶ See IHREC, [Submission on the General Scheme of the Family Court Bill 2020](#) (2021), pp. 4-5; McCaughren, S., Holt, S., Parkes, A. and Gregory, S., [Research report on guidance on contact time for infants and young children in separated families](#) (2022) p. 105. We note plans in the Third National Strategy to complete construction of a new family court facility in 2026; Department of Justice, [Third National Strategy on Domestic, Sexual and Gender Based Violence: Implementation Plan](#) (2022), p. 32.

family law cases are heard by judges from the general courts system who are not required to have specialist qualifications or specific training or experience in family law matters and are not appointed as family law judges.⁴⁹⁷

110. The Commission recommends the appointment of a sufficient number of District, Circuit and High Court judges to combat issues with delay in family law cases.

111. The Commission recommends that the new family court is constructed in accordance with principles of universal design; in consultation with structurally vulnerable groups that are over-represented in family law proceedings; and having particular regard for the need for privacy and child-friendly facilities.⁴⁹⁸ The construction of a new family court in Dublin city centre should be complemented by upgrades to district, circuit and high court facilities outside of Dublin.

112. The Commission recommends the introduction of mandatory judicial training on child and family law, as well as the dynamics and impacts of family violence, including coercive control.⁴⁹⁹

Civil legal aid (Article 57)

We reiterate our longstanding concern that civil legal aid is unavailable in a number of legal and administrative areas. The Legal Aid Board is precluded from providing legal representation before many quasi-judicial tribunals and bodies which victims and survivors

⁴⁹⁷ McCaughren, S., Holt, S., Parkes, A. and Gregory, S., [Research report on guidance on contact time for infants and young children in separated families](#) (2022) p. 123-124.

⁴⁹⁸ Family court proceedings are disproportionately represented by members of structurally vulnerable groups, such as lone parent families, disabled people, ethnic minorities, people in the International Protection system and Traveller and Roma communities. Research indicates that many lone parents and members of ethnic minorities facing intersectional disadvantage suffer from social isolation, and economic and social deprivation which makes them particularly vulnerable. See IHREC, [Submission on the General Scheme of the Family Court Bill 2020](#) (2021), pp. 4-5.

⁴⁹⁹ IHREC, [Submission on the General Scheme of the Family Court Bill 2020](#) (2021), pp. 16-18. We note that s. 59 of the Family Court Bill 2022 provides that ‘a judge of the Family High Court, the Family Circuit Court or the Family District Court shall take such course or courses of training or education, or both, as may be required by the Principal Judge of that Court, in consultation with the President of that Court and the Chief Justice, at such time or times as the Principal Judge may specify.’ However, the Bill does not set out the areas in which judges should receive training.

of DSGBV may engage with as they deal with issues relating to social welfare and housing.⁵⁰⁰ These shortcomings in service provision pose particular challenges for victims of human trafficking, international protection applicants, and minority ethnic communities facing particular barriers in accessing social and other supports, as highlighted previously.⁵⁰¹ Women's Aid has also noted that legal aid for victims and survivors of DSGBV is over-stretched, under-resourced and not meeting demand.⁵⁰² As noted in the State report, the legal advice service available to victims of sexual offences is limited to certain offences and where criminal proceedings have already been instituted.⁵⁰³

We welcome the Minister for Justice's commitment to review the Civil Legal Aid Scheme and the announcement of a public consultation with key stakeholders. Despite some delays to the commencement of the Review, we encourage the inclusion of affected groups which must be adequately resourced and given sufficient time to participate.

113. The Commission recommends that the *Civil Legal Aid Act 1995* is amended to provide that the Legal Aid Board may provide free legal advice and aid to all victims of sexual offences.⁵⁰⁴

114. The Commission recommends the extension of the scope of the Civil Legal Aid Scheme to quasi-judicial tribunals and bodies, as well as funding increases to meet demand.

⁵⁰⁰ IHREC, [Report of a review of section 19 of the Intoxicating Liquor Act 2003 carried out pursuant to section 30 of the Irish Human Rights and Equality Commission Act 2014](#) (2022), p. 65; IHREC, [Submission on the Review of the Equality Acts](#) (2022), p. 8-11; IHREC, [Developing a National Action Plan Against Racism](#) (2021), p. 62-63; IHREC, [Ireland and the International Covenant on Economic, Social and Cultural Rights](#) (2015), p. 14-15.

⁵⁰¹ IHREC, [Trafficking in Human Beings in Ireland. Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), pp. 108-109; IHREC, [Ireland and the International Covenant on Civil and Political Rights](#) (2022), pp. 88-89; IHREC, [Submission to the Citizens' Assembly on Gender Equality](#) (2020), pp. 29-30; IHREC, [Ireland and the Convention on the Elimination of Racial Discrimination](#) (2019), pp. 110-111, 142-143.

⁵⁰² Women's Aid, [Submission to the Joint Committee on Gender Equality on the Recommendations of the Citizens' Assembly](#) (2022) p. 5.

⁵⁰³ See Department of Justice, [Report by the Irish government on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Istanbul Convention\)](#) (2022), p. 60.

⁵⁰⁴ Provision of free legal advice and aid to victims of sexual offences was recommended in the O'Malley Report, which provides the following, 'individual victims of sexual crime may also need information and advice that is tailored to the circumstances of their particular case. We acknowledge that many victims do not currently have access to such advice, and we therefore recommend the adoption of certain measures... to address this situation.' O'Malley, T., [Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences](#) (2020), p. 97.

115. The Commission recommends increased engagement between court support services and legal aid, including a gap analysis and clear division of roles so that legal information and assistance for victims and survivors can be delivered seamlessly and collaboratively by multiple agencies.

10. Migration and asylum

Autonomous residence permits for victims and survivors (Article 59)

Protecting women from gender-based violence should be central to immigration reform in Ireland,⁵⁰⁵ as many migrant women, undocumented women and women seeking international protection are at an increased vulnerability due to their immigration status.⁵⁰⁶ The Irish Immigration Service has published guidelines on how the immigration system deals with cases where the victim's immigration status is derived from or dependent on that of the perpetrator of domestic violence. However, all decisions are subject to Ministerial discretion, and the arrangements do not apply to victims without permission to be in the State.⁵⁰⁷ While the State reports a general practice of granting independent residence permits under Stamp 4 conditions,⁵⁰⁸ the published Guidelines continue to refer to the more restrictive Stamp 3 category,⁵⁰⁹ which we note precludes women from taking up employment and accessing requisite social services, such as refuge spaces.⁵¹⁰ There also remains a current gap in statutory protection for certain women, including de-facto partners, who are not covered by the European Communities (Free Movement of Persons) Regulations 2015.⁵¹¹ The requirement to notify authorities of a change in residence within seven days presents particular challenges to victims and survivors of DSGBV.

⁵⁰⁵ IHREC, [Submission to the United Nations Committee on the Elimination of Racial Discrimination on Ireland's Combined 5th to 9th Report](#) (2019), p. 104.

⁵⁰⁶ See [Joint submission to Citizens' Assembly on violence against migrant women: a barrier to achieving gender equality in Ireland](#) (2020).

⁵⁰⁷ INIS, [Immigration guidelines for victims of domestic violence](#).

⁵⁰⁸ Stamp 4 permission confers the right to take up employment without the need for an employment permit. See Department of Justice, [Immigration permission/stamps](#) (updated 19 October 2022).

⁵⁰⁹ As reported by Ireland in its baseline report to GREVIO: Council of Europe, [Report submitted by Ireland pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence \(Baseline Report\)](#) (2022), p. 61.

⁵¹⁰ Stamp 3 permission does not, of itself, entitle a foreign national to work. In order to take up employment in Ireland, a person holding a Stamp 3 permission must have a job offer and then apply for an employment permit. See Department of Justice, [Immigration permission/stamps](#) (updated 19 October 2022). See also Immigrant Council of Ireland, [Joint Submission to the Citizens' Assembly on Gender Equality](#) (2020), p. 5.

⁵¹¹ EU Directive 2004/38/EC was transposed into Irish law by the European Communities (Free Movement of Persons) Regulations 2015 (S.I. No. 548 of 2015), which provides for the retention of the right of residence for certain family members of an EEA national in the event of divorce, annulment of marriage, annulment or dissolution of civil partnership. Section 10(2)(b) provides for the retention of the right of residence on an individual basis for spouses, civil partners, or dependent children under 18, provided that the Minister is satisfied of certain criteria, including that the retention of the right is warranted by particularly difficult

We note the recent concerns raised by the UN Committee on the Elimination of Racial Discrimination that migrant women whose residency status depends on their abusive spouses, particularly migrant women with irregular status, remain in abusive relationships due to the fear of being deported. The Committee recommended that migrant women are guaranteed a legal stay regardless of their residence status until they recover, and have the option to remain in the country if they so wish.⁵¹²

116. The Commission recommends that the Immigration Guidelines for Victims of Domestic Violence are placed on a statutory basis to ensure that victims and survivors, whose residence status depends on the perpetrator of domestic violence, can access autonomous residence permits irrespective of the duration of the relationship; and that the State clarifies which permission is granted in these instances.

117. The Commission recommends that the State undertakes a review of the impact of the European Communities (Free Movement of Persons) Regulations 2015 on victims and survivors of DSGBV, particularly women excluded from the retention of the right of residence, and makes any findings publicly available.

Gender-based asylum claims and support services (Article 60)

As recognised by the Council of Europe, introducing a gender perspective into asylum procedures allows for the specific types of persecution and protection concerns that affect women and girls to be taken into account.⁵¹³ In this regard, we welcome Action 2.1.8 in the

circumstances, such as the spouse, civil partner or child under 18 years of the Union citizen concerned having been a victim of domestic violence while the marriage or civil partnership was subsisting. Under the *Irish Human Rights and Equality Commission Act 2014*, the Commission has a statutory role as the Article 4 'Designated Body' for the purposes of Directive 2014/54/EU of the European Parliament and of the Council of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of freedom of movement for workers. As part of its role, IHREC may offer legal and/or other assistance to EEA workers and their families to vindicate their rights under the Directive and the IHREC Act 2014. IHREC also has functions for the promotion, analysis, monitoring and support of equal treatment of workers and members of their family without discrimination on grounds of nationality. See Section 10(2)(i) of the [Irish Human Rights and Equality Commission Act 2014](#).

⁵¹² Committee on the Elimination of Racial Discrimination, [Concluding observations on the combined fifth to ninth reports of Ireland](#), CERD/C/IRL/CO/5-9, at paras. 39-40

⁵¹³ See Council of Europe [Protecting migrant women, refugee women and women asylum seekers from gender-based violence](#), 2019: p. 5

Third National Strategy, which outlines that the Department of Justice will review current guidelines on interacting with vulnerable applicants applying for international protection to ensure gender and LGBT+ sensitivities are considered at each stage of the application process.⁵¹⁴ The Department must also establish the policies and procedures required to ensure that claims of asylum on the grounds of FGM are recognised, taking into account that FGM is a form of gender-based violence and a violation of human rights that involves a process rather than a single event.⁵¹⁵

The State is obliged to assess the special reception needs of vulnerable persons, including people who have been subjected to violence, within a reasonable time after an application for international protection is made. However, we note with concern reports that vulnerability assessments are not taking place at the beginning of the asylum procedure, as required, as well as inconsistencies between the two-step and one-step assessments, and a backlog in preparing the reports on completed assessments.⁵¹⁶ We are also concerned about the lack of a disability focus, the refusal to facilitate further assessments on an on-going basis and when new information is provided by applicants, and the risks of disrupting supports when people are transferred to other services.⁵¹⁷ It remains unclear whether vulnerability assessments are being conducted for Ukrainian refugees applying for temporary protection.⁵¹⁸ In order for Ireland to uphold its international human rights obligations, the State must ensure that refugee and asylum seeking victims and survivors of

⁵¹⁴ Department of Justice, [Third National Strategy on Domestic, Sexual & Gender-Based Violence Implementation Plan](#), p. 22.

⁵¹⁵ The Citizens' Assembly on Gender Equality recommended in 2021 that the State 'recognise female genital mutilation (FGM) as a ground for seeking asylum, and provide culturally sensitive specialised services for victims/survivors': [Final Report](#), p. 20. We note that FGM is a process and not an event; and impacts women who have been cut, women who are at risk of being cut, and women who are being pressured to have their children cut.

⁵¹⁶ As of February 2021, a vulnerability assessment pilot programme has been in operation by the International Protection Accommodation Service, in which applicants for international protection are entitled to participate. See Houses of the Oireachtas, [Dáil Éireann Debate-International Protection](#), 3 February 2022. For further commentary see for example, Asylum Information Database (AIDA), [Identification: Republic of Ireland](#); IHREC, [Submission to the Human Rights Committee on Ireland's fifth periodic report](#) (2022): p 71; and K. Barry, [Assessing Vulnerability: Asylum Seekers with Disabilities in Direct Provision in Ireland](#) (October 2021).

⁵¹⁷ As above, see Asylum Information Database (AIDA), [Identification: Republic of Ireland](#); IHREC, [Submission to the Human Rights Committee on Ireland's fifth periodic report](#) (2022): p 71; and K. Barry, [Assessing Vulnerability: Asylum Seekers with Disabilities in Direct Provision in Ireland](#) (October 2021).

⁵¹⁸ Children's Rights Alliance, [Initial submission on the reception and integration of Ukrainian children and young people arriving in Ireland](#) (2022), p. 10.

violence have access to appropriate supports through these assessments. This includes meaningful access to health services, reasonable accommodation for disabled people and gender and sexual orientation sensitive supports at the beginning of the asylum procedure and on an ongoing basis.⁵¹⁹ An assessment of women and girls' support needs regarding FGM and systematic screening for indicators of trafficking should also be considered as part of vulnerability assessments.⁵²⁰

118. The Commission recommends that the State publish a timeframe for its planned review to ensure gender and LGBT+ sensitivities are considered at each stage of the asylum application process, and ensures that the direct participation of victims and survivors of DSGBV is adequately resourced.

119. The Commission recommends that the State establishes clear policies and procedures on FGM as a ground for asylum for women who have been cut, are at risk of being cut, or facing pressure to have their children cut.

120. The Commission recommends that the State takes active measures to ensure vulnerability assessments are carried out within 30 days of an international protection claim, and on an ongoing basis (with reasonable frequency and at points of transition), by specialised professionals trained in gender-sensitive and trauma-informed practice and communication.⁵²¹

121. The Commission recommends that the State provides data on the number of vulnerability assessments undertaken for Ukrainian refugees applying for temporary protection.

⁵¹⁹ See IHREC, [Submission to the Human Rights Committee on Ireland's fifth periodic report](#) (2022): p 71; IHREC, [Submission to the Committee on the Rights of the Child on Ireland's combined fifth and sixth periodic reports](#) (2022): p. 92; and Rape Crisis Network, ['Sexual Violence Survivors in Direct Provision are Facing Serious Barriers'](#) (2020).

⁵²⁰ See IHREC, [Trafficking in Human Beings in Ireland: Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), pp. 86-87.

⁵²¹ We have also previously recommended that training to the personnel conducting vulnerability assessments include human trafficking competence and basic identification skills, at a minimum: IHREC, [Trafficking in Human Beings in Ireland: Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), pp. 86-87.

Gender-sensitive reception procedures (Article 60)

Additional risk factors for violence have been identified for women living in Direct Provision centres,⁵²² including heightened tensions within families as a result of the physical space and conditions within which they are living.⁵²³ We note that while the Health Information and Quality Authority ('HIQA') is currently establishing its role as the independent monitoring mechanism of accommodation centres, inspections of emergency accommodation will not be carried out. This is of particular concern given the State's increased and longer term use of emergency accommodation for applicants for international and temporary protection.⁵²⁴

Furthermore, the mass displacement of people and the enduring humanitarian crises caused by the war against Ukraine has compounded the vulnerabilities that make people susceptible to trafficking, particular women and girls. Despite repeated criticism from national and international bodies,⁵²⁵ the State continues to accommodate victims of human

⁵²² A record 11,689 people, including 2,800 children are currently living in Direct Provision. This is an increase of more than 40% from the previous year. We have previously raised concern about the long-term impact of the Direct Provision system on the rights to private and family life and self-determination. In February 2021, the Government committed to replacing Direct Provision with a 'human rights and equality based' model by December 2024, although the implementation of the White Paper is already behind schedule and now faces greater resource challenges. See IHREC, [Submission to the Committee on the Rights of the Child on Ireland's combined fifth and Sixth periodic reports](#), p. 90. In its July 2022 Concluding Observations on Ireland, the Human Rights Committee raised its ongoing concern about the reception conditions for asylum seekers in Ireland, exacerbated by the pandemic and including overcrowding, difficulty in accessing medical services and social protection payments, feelings of lack of safety due to sharing of communal areas, at times, of bedrooms with non-family members, as well as harassment and threats experienced by LGBT+ asylum seekers: Human Rights Committee, [Concluding Observations on the fifth periodic report of Ireland \(2022\)](#), paras 37-38.

⁵²³ AkiDWA, [Submission to the Joint Committee on Justice & Equality](#) (2019), pp. 3-4.

⁵²⁴ Human Rights Committee, [Concluding Observations on the fifth periodic report of Ireland](#) (2022), paras 37-38 and Houses of the Oireachtas, [Dáil Éireann Debate- Direct Provision System](#), 26 July 2022. In October 2022, the Irish Refugee Council noted that it has been alerted to grievous risks to women and children accommodated in emergency centres unfit for purpose, and that such accommodation must be used for the shortest time possible: [Accommodation Crisis 2022 – Response and Recommendations](#) (October 2022).

⁵²⁵ The Joint Oireachtas Committee investigation of Direct Provision, as well as the High Level Group Review of 2020, have both recommended the establishment of gender-specific shelters for victims, separate from Direct Provision. See Houses of the Oireachtas, [Joint Committee on Justice and Equality: Report on Direct Provision and the International Protection Application Process](#) (2019), p. 50. See also: Government of Ireland, [Report of the Advisory Group on the Provision of Support including Accommodation to Persons in the International Protection Process](#) (2020), p. 74; and US State Department, [Trafficking in Persons Report](#), p. 271.

trafficking in Direct Provision centres.⁵²⁶ As we have previously highlighted,⁵²⁷ Direct Provision centres are not gender-specific and lack the requisite safety and security needs specific to victims of trafficking.⁵²⁸ In 2020, a single-gender specialised shelter for victims of trafficking was procured by the Department of Justice and the arrangements for it were advanced. Since the transfer of such accommodation to the responsibility of the Department of Children, Equality, Disability, Integration and Youth, these arrangements were discontinued and the shelter plan abandoned.⁵²⁹ A renewed procurement process has yet to take place.⁵³⁰

122. The Commission recommends that the State take active measures to extend the independent monitoring role of HIQA to emergency accommodation for international and temporary protection applicants, to ensure compliance with national standards. The Commission further recommends that HIQA considers within their inspection procedures how services identify and respond to the needs of women and girls at risk of or experiencing DSGBV.

123. The Commission recommends that provision of specific accommodation for victims of trafficking must be underpinned by a gender-specific and trauma-informed approach, in particular with respect to victims of sexual violence and exploitation.

⁵²⁶ IPAS provided the Commission with a snapshot picture of all victims of trafficking accommodated in the month of December. In December 2021, IPAS reported that they operated to almost full capacity (10577 resident), including 84 different centres spread around Ireland. Just 77 or less than one percent (0.7%) among them were victims of trafficking, including 11 male and 66 female victims. It was reported that 18 of them were victims of trafficking for labour exploitation and 2 were victims of trafficking for forced criminal activities. The vast majority, 44, were trafficking for sexual exploitation, and further 13 were reported as victims of torture. The data shows that victims of human trafficking represent 0.7% of the residents accommodated by IPAS.

⁵²⁷ See IHREC, [Trafficking in Human Beings in Ireland: Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), p. 15.

⁵²⁸ Including the risk of being re-trafficked. Women, young adults and children are at most risk of being re-trafficking and those trafficked under the age of 18 are often vulnerable to being re-trafficked in adult life. Especially when seeking assistance, immediately after exiting their ordeal and if returned to the source country, victims are highly vulnerable to re-trafficking, see A. Jobe, [The Causes and Consequences of Re-trafficking: Evidence from the IOM Human Trafficking Database](#) (2010), Geneva: International Organization for Migration, p. 11.

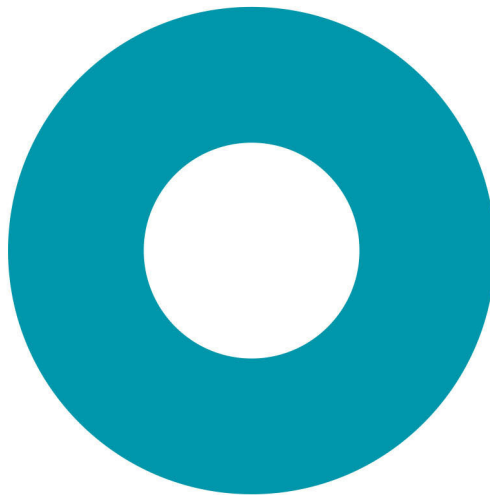
⁵²⁹ See IHREC, [Trafficking in Human Beings in Ireland: Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), p. 92.

⁵³⁰ See IHREC, [Trafficking in Human Beings in Ireland: Evaluation of the Implementation of the EU Anti-Trafficking Directive](#) (2022), p. 92.

124. The Commission recommends the immediate establishment of the proposed pilot accommodation service for victims of trafficking, and its expansion/replication as necessary to meet the needs of victims of trafficking within the State.



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an Duine agus Comhionannas
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