



GREVIO

Baseline Evaluation Report Germany

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



Istanbul Convention

GREVIO's (Baseline) Evaluation Report
on legislative and other measures
giving effect to the provisions
of the Council of Europe Convention
on Preventing and Combating
Violence against Women and Domestic Violence
(Istanbul Convention)

GERMANY

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

GREVIO/Inf(2022)21

Adopted by GREVIO on 24 June 2022

Published on 7 October 2022

Secretariat of the monitoring mechanism of the Council of Europe Convention
on Preventing and Combating Violence against Women and Domestic Violence
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www.coe.int/conventionviolence

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Foreword

The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) is an independent human rights monitoring body mandated to monitor the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (CETS No. 210, “the Istanbul Convention”) by the parties to the convention. It is composed of 15 independent and impartial experts appointed on the basis of their recognised expertise in the fields of human rights, gender equality, violence against women and/or assistance to and protection of victims.

GREVIO’s statutory activities include country-by-country monitoring of the Istanbul Convention (evaluation procedure), the initiation of inquiries into specific circumstances within a party to the convention (inquiry procedure) and the adoption of general recommendations on themes and concepts of the convention.

This report is the fruit of the first (baseline) evaluation procedure carried out in respect of Germany. It covers the Istanbul Convention in its entirety¹ and thus assesses the level of compliance of country legislation and practice in all areas covered by the convention. In light of the scope of the convention – as set out in its Article 2, paragraph 1 – the baseline evaluation focuses on measures taken in relation to “all forms of violence against women, including domestic violence, which affects women disproportionately”. Hence, the term “victim” used throughout this report is to be understood as referring to a woman or girl victim.

Based on this assessment, the report proposes measures to strengthen the implementation of the convention. In proposing such measures, GREVIO has adopted the use of different verbs which correspond to different levels of urgency, noting that all of them are important. These are, in order of priority, “urges”, “strongly encourages”, “encourages” and “invites”. GREVIO uses the verb “urges” where it considers that immediate action is required to bring the party’s legislation or policy into compliance with the Istanbul Convention, or to ensure its implementation. “Strongly encourages” is used where GREVIO has noted shortcomings which need to be remedied in the near future in order to ensure comprehensive implementation of the convention. A third level of urgency is indicated by the use of the verb “encourages”, which is used for shortcomings that require attention though possibly at a later stage. Lastly, the verb “invites” points to small gaps in implementation which the party is requested to consider closing or to proposals made to provide guidance in the implementation process.

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

- submission, by the party, of a report drawn up on the basis of GREVIO’s baseline questionnaire (the state report);
- an evaluation visit to the party under review to meet with governmental and non-governmental representatives working in this field;
- comments by the party on GREVIO’s draft report;
- publication of GREVIO’s report after its adoption together with any comments received from the party.

In addition, GREVIO also collects additional information from various other sources, including non-governmental organisations (NGOs), other members of civil society, national human rights institutions and Council of Europe bodies (Parliamentary Assembly, Human Rights Commissioner and other pertinent bodies), as well as other international treaty bodies. Within the framework of the evaluation of country, GREVIO received written contributions from SOLWODI e.V.; LebKom,

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

Lessan, Terre Des Femmes and the End FGM European Network (jointly); Intervention Union Rhineland-Palatinate (Interventionsverbund Rheinland-Pfalz); DaMigra; German Women Lawyers' Association (Deutscher Juristinnenbund); German Istanbul Convention Alliance (Bündnis Istanbul Konvention); Alliance Nordic Model (Bündnis Nordisches Modell); ProAsyl, Refugee Councils of the German Federal States (Flüchtlingsrat) and the University of Göttingen (jointly); and Federal Working Group Homeless Aid (BAG Wohnungslosenhilfe).

The state report and the written contributions submitted by civil society have been made public and are available on the official website of the Istanbul Convention.

The analysis, suggestions and proposals contained in this first baseline evaluation report were drawn up under the exclusive responsibility of GREVIO. It covers the situation as observed by the GREVIO delegation during its evaluation visit to Germany. Where available, significant legislative and policy developments up until 21 June 2022 have also been taken into account.

According to the convention, national parliaments shall receive this report from the national authorities (Article 70, paragraph 2). GREVIO requests the national authorities to translate this report into their official national language(s) and to ensure that it is widely disseminated, not only to the relevant state institutions at all levels (national, regional and local), in particular to the government, the ministries and the judiciary, but also to NGOs and other civil society organisations which work in the field of violence against women.

Executive summary

This report provides an assessment of the measures of implementation taken by the German authorities with regard to all aspects of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (hereinafter referred to as the “Istanbul Convention” or “the convention”).

This assessment has been carried out by the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), an independent human rights monitoring body mandated to monitor the implementation of the convention. GREVIO’s findings are based on the information obtained during the various steps of the first (baseline) evaluation procedure set out in Article 68 of the convention. These include written reports (a state report submitted by the German authorities, and additional information submitted by SOLWODI e.V.; LebKom, Lessan, Terre Des Femmes and the End FGM European Network (jointly); Intervention Union Rhineland-Palatinate; DaMigra; German Women Lawyers’ Association; German Istanbul Convention Alliance; Alliance Nordic Model; ProAsyl, Refugee Councils of the German Federal States and the University of Göttingen (jointly); and the Federal Working Group Homeless Aid) and a six-day evaluation visit to Germany. A list of the bodies and entities with which GREVIO had exchanges can be found in Appendix II.

The report assesses the wide variety of measures taken by the German authorities in the area of preventing and combating violence against women and domestic violence. While some of the key legislative instruments such as the Act on the Protection from Violence predate the drafting of the Istanbul Convention, important building blocks for the convention’s implementation, such as the national telephone helpline and amendments to the criminal code provision on rape and sexual assault, were introduced with a view to ensuring compliance before the convention’s entry into force. Two successive national action plans specifically devoted to preventing and combating violence against women were in force in Germany until 2012, setting out a wide range of individual measures and strengthening the co-ordination among the various actors. Germany’s long history in responding to violence against women and domestic violence coupled with a strong movement of women’s organisations providing the majority of specialist support services and advocacy around violence against women have resulted in a multitude of promising practices in the different federal states. This has allowed Germany to play a leading role in developing the Istanbul Convention and the country continues to show strong support for this international treaty, at both national and international level.

In addition, the report welcomes a series of criminal law measures taken before and after ratification of the Istanbul Convention by Germany, above all the introduction of a consent-based definition of rape and sexual violence. It notes with satisfaction that the reform process was accompanied by significant awareness-raising campaigns, which led to broad public debate on these issues. In addition, the explicit criminalisation under German law of several forms of technology-facilitated abuse, such as cyberstalking, the unauthorised taking of pictures of private bodily parts, the sharing of images online and the use of stalkerware, has contributed in recent years to a solid legal framework applicable to the digital dimension of violence against women. Moreover, significant efforts were made to render the extent of intimate partner violence visible through statistics collected by the Federal Criminal Police Office, which publishes since 2016 annual statistics of reported offences of relevance and their analysis. Their reach is not limited to an expert audience but is addressed to the population at large with the aim of heightening awareness about intimate partner violence against women.

Despite the above, the report notes that since the entry into force of the Istanbul Convention, no national policy document or strategy has been developed which would set out, at the central level, common definitions of violence against women and domestic violence, and which would set objectives to achieve throughout the country to further the implementation of the convention, placing the rights of victims at the centre of all measures and giving due importance to the gendered nature of the different forms of such violence. Most, if not all, federal states have adopted action plans at their level, covering various forms of violence against women and guiding action in that respect, but their scope and definitions vary. While these are undoubtedly important, they cannot replace a

comprehensive national policy document that would set out general principles and definitions and thus provide a strategic framework for the action to be taken by all relevant actors.

The absence of a central strategic framework for the implementation of the Istanbul Convention is exacerbated by the fact that to date no national co-ordinating body has been designated or set up in accordance with Article 10 – a core requirement of the convention yet to be implemented in Germany. Greater co-ordination in the implementation of the Istanbul Convention is urgently needed in order to address remaining shortcomings such as the uneven level of training of the different professionals who are dealing with women victims of violence and the lack of systematic efforts to promote their economic empowerment through, for example, employment services and social housing provision.

The lack of a co-ordinating body and a long-term comprehensive strategy offering a state-wide effective and co-ordinated set of policies is also resulting in shortcomings in the provision of support and protection for women victims of violence. This is particularly pronounced by the lack of emphasis on multi-agency co-operation and risk assessment. GREVIO has identified the urgent need to ensure that systematic and gender-sensitive risk assessment and safety management become standard procedure for all agencies involved, especially in the context of measures taken under the Act on the Protection from Violence, and that an effective multi-agency approach be taken to such risk assessment in order to ensure the human rights and safety of the individual victim and any children concerned. Recognising that the responsibility for service provision for victims of violence as such lies with the local authorities in Germany, the report notes that the number and types of services available vary significantly from one federal state to the next, including the level of multi-agency co-operation. This disparity was found to particularly affect young women and girls, but also those with disabilities living in institutions, as well as women and girls victims of rape and/or sexual violence.

Moreover, significant safety concerns for women victims of domestic violence in Germany persist because of the shortage of domestic violence shelters in many parts of the country, and the barriers that exist to their admission. Complex funding requirements and restrictions linked to a woman's disability, her residence status or the age and number of accompanying children result in many women and children being unable to find safe accommodation and asked to make the difficult choice of returning to the abuser or risking homelessness. Urgent action is therefore needed to increase the number of available dedicated shelter places and ensure an adequate geographic distribution across the country, while at the same time guaranteeing their operation on the basis of nationwide quality standards to be agreed upon with all relevant actors.

Noting that Germany has been a destination country for asylum seekers for many years and recognising the efforts made to offer accommodation, the report further points to the persistent safety concerns for women and girls asylum seekers in collective reception and accommodation centres, which do not offer circumstances in which those who have fled gender-based persecution or experienced egregious forms of sexual or gender-based violence in flight can process their experiences with the help of specialist counselling and support in order to disclose them to asylum interviewers and begin the recovery process. Unsafe washing facilities, unlockable or mixed-sex dormitories, poor lighting, lack of safe rooms, abuse by security staff and poor management of incidents of harassment and abuse by male residents, including the non-enforcement of protection orders against abusive spouses, are among these concerns. Screening for vulnerabilities and referrals to specialist support services must be stepped up and form part of standardised protocols for the prevention of and protection from gender-based violence in reception facilities.

Lastly, the report points to the urgent need to ensure that the exercise of any visitation or custody rights after domestic violence does not jeopardise the rights and safety of the victim or children as required by Article 31 of the Istanbul Convention. Greater recognition of the negative impact on children of witnessing violence by one parent against the other is needed among the relevant professionals when deciding on custody and visitation, including legal professionals and child welfare officers. In proposing alternative dispute resolution processes, awareness must increase of the power imbalances in relationships marred by violence to ensure that divorce settlements or mediation do not jeopardise the safety of a victim of violence or that of her children.

While GREVIO welcomes Germany's ratification of the Istanbul Convention and the efforts taken in its implementation, it has identified a number of further issues that require urgent action by the authorities to comply fully with the convention's provisions. These relate to the need to:

- strengthen, on the basis of a national strategy or policy document, measures to prevent and combat violence that affects women who are or might be exposed to intersectional discrimination;
- integrate the gender dimension of violence against women into the development of laws, policies and measures to prevent and combat all forms of violence against women, based on an understanding of the link between violence against women and the structural inequalities between women and men;
- take measures to increase the levels of reporting to law enforcement agencies of the different forms of violence covered by the Istanbul Convention and to ensure wider levels of prosecution, in particular of cases of physical violence in the context of intimate partner violence, including by establishing strict guidelines for prosecution and the ordering of forensic evidence, and to reduce the processing time by the prosecution services in order to enable victims to obtain justice in a timely manner;
- ensure that data collected by all relevant stakeholders (law-enforcement agencies, judicial authorities, and health and social services) are disaggregated by the sex and age of the victim and the perpetrator, their relationship, geographical location and type of violence, and that data collection is harmonised between law-enforcement agencies and the judicial sector, in order to analyse the handling of cases along the criminal justice chain;
- introduce a system, such as a domestic homicide review mechanism, to analyse all cases of gender-based killings of women, with the aim of identifying possible shortcomings in institutional responses to violence against women;
- make use of emergency barring orders more frequently, in order to protect the right to safety of women victims of domestic violence and their children, including by enabling children to benefit from emergency barring orders and by ending the practice of allowing for exceptions to prohibitions on contact of the abusive parent with his child for the duration of the emergency barring order;
- increase the availability of holistic and nationwide support for children who have witnessed any of the forms of violence against women covered by the Istanbul Convention, ideally in the framework of one-stop-shop services;
- step up efforts to ensure, through sustainable public funding and on the basis of approved standards, the setting up of dedicated domestic violence perpetrator programmes and specialist programmes for sexual offenders;
- enable all women in Germany, irrespective of the nature of the residence permit of their abusive sponsoring spouse, to apply for an independent residence permit, and enable women and girls forced into marriage abroad to exercise their right to return; and
- establish nationwide, uniform guidelines on procedures and criteria regarding the identification, in the asylum determination procedure, of women who have been victims of gender-based violence and the adequate training of professionals involved in the asylum procedure.

Furthermore, GREVIO has identified a number of additional areas in which improvements are required in order to comply fully with the obligations of the convention. These relate, among others, to the need to actively support and promote the involvement of the private sector, including the information technology sector, in the prevention of violence against women; the need to further align the Criminal Code with the requirements of the Istanbul Convention, notably in relation to criminalising psychological violence and verbal and non-verbal sexual harassment, and the importance of taking further measures to inform women victims of violence about complaints mechanisms available at international level.

Introduction

Germany ratified the Istanbul Convention on 12 October 2017. The convention entered into force in respect of Germany on 1 February 2018. In accordance with Article 78, paragraph 2, of the convention, Germany reserves the right not to apply the provisions under Article 59, paragraphs 2 and 3. This reservation is valid for a period of five years from the day of the entry into force of the convention in respect of Germany and may be renewed.

The Istanbul Convention is the most far-reaching international treaty to tackle violence against women and domestic violence. Its comprehensive set of provisions spans far-ranging preventive and protective measures as well as a number of obligations to ensure an adequate criminal justice response to such serious violations of human rights. It covers new ground by asking that root causes of violence against women (such as gender stereotyping, traditions harmful to women and general manifestations of gender inequality) be addressed.

The convention sets up a monitoring mechanism to assess the level of implementation by its parties. This monitoring mechanism consists of two pillars: the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), an independent expert body, and the Committee of the Parties, a political body composed of official representatives of the parties to the convention.

In accordance with Article 68 of the convention, GREVIO initiated the baseline evaluation in respect of Germany by letter and transmission of its questionnaire on 6 February 2020. The order of reporting to GREVIO is based on a combination of regional groupings and order of ratification. The German authorities subsequently submitted their state report on 31 August 2020 – the deadline set by GREVIO. Following a preliminary examination of the country state report, GREVIO carried out an evaluation visit to Germany, which took place from 6 to 10 September 2021. The delegation was composed of:

- Aleid van den Brink, Member of GREVIO,
- Helena de Carvalho Martins Leitão, Member of GREVIO,
- Johanna Nelles, Executive Secretary of the Istanbul Convention monitoring mechanism,
- Sabrina Wittmann, Administrator at the Secretariat of the Istanbul Convention monitoring mechanism.

During the evaluation visit, the delegation was welcomed by high-level public figures, including Juliane Seifert, State Secretary at the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth; Prof. Dr Christian Kastrop, State Secretary at the Federal Ministry of Justice and Consumer Protection; Bernhard Franke, Head of the Federal Anti-Discrimination Agency; Dr Markus Gruber, Head of Office at the Bavarian State Ministry for Family, Labour and Social Affairs; Prof. Dr Frank Arloth, Head of Office at the Bavarian State Ministry of Justice; Karl Michael Scheufele, Head of Office of the Bavarian State Ministry for Home Affairs, Sports and Integration; Astrid Barbeau and Nico Waibel, Ministerial Counsellors at the Bavarian State Ministry for Education; Andreas Bothe, State Secretary at the Ministry for Children, Family, Refugees and Integration of North Rhine-Westphalia; and Dirk Wedel, State Secretary at the Ministry of Justice of North Rhine-Westphalia.

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

The evaluation visit was prepared in close co-operation with Alina Kuhl, adviser at the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, who was appointed as contact person for the evaluation by GREVIO. GREVIO wishes to extend its gratitude for the co-operation and support provided throughout the entire evaluation procedure, and for the constructive approach adopted by the German authorities.

As part of this first baseline evaluation, GREVIO examined the implementation measures taken by the German authorities concerning all aspects of the convention. For the sake of brevity, this report gives priority to some provisions over others. While it covers all chapters of the convention (with the exception of Chapter VIII), it does not present detailed assessments and conclusions for each provision.

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

A. General principles of the convention

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

2. From the information reviewed, it transpires that in Germany the general principles of the Istanbul Convention and many of its specific provisions have informed legislative reform, notably in the area of criminal law, and that many important initiatives have been taken at federal, regional and local level in order to fill these principles with meaning. While some of the key legislative instruments such as the Law on the Protection from Violence predate the entry into force of the Istanbul Convention, important building blocks for the convention's implementation, such as the national telephone helpline, were introduced with a view to ensuring compliance before the convention's entry into force. GREVIO is mindful of the leading role played by the German authorities in developing the Istanbul Convention and their strong support for this international treaty, at both national and international level.

3. As a federal democracy, the competences for the implementation of the Istanbul Convention are shared across all administrative levels, including the federal (national), regional (*Länder*, federal state) and local level. The 16 *Länder* or federal states, which vary widely in the number of inhabitants (between 680 000 in Bremen, and almost 18 million in North Rhine-Westphalia) and in size (Bremen being the smallest and Bavaria being the largest federal state), hold many legislative, executive and judicial competences. These include responsibility for the provision, expansion and financing of counselling and support services for women, including shelters, and for the judiciary and the law-enforcement system. Within the federal states, there are in total about 11 790 municipalities. Mindful of the multiple layers of governance involved in the implementation efforts, the suggestions and proposals outlined in this report are thus intended to guide the German authorities towards a more comprehensive approach in implementing the full range of provisions of the Istanbul Convention in full respect of the constitutional context of Germany, but without having had the possibility of reviewing in detail the implementation in each of the 16 federal states.

B. Scope of application of the convention and definitions (Articles 2 and 3)

4. In light of the scope of the Istanbul Convention set out in its Article 2, paragraph 1, the first baseline evaluation focuses on measures taken in relation to all forms of violence against women, including domestic violence, which affects women disproportionately. Article 3 of the Istanbul Convention sets out key definitions of concepts that are fundamental to its implementation. According to paragraph *a*, the term "violence against women" refers to "all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life", whereas the expression domestic violence is to be understood as referring to "all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim". The definition of "gender-based violence against women" offered in paragraph *d* of Article 3 seeks to ensure more clarity regarding the nature of the violence covered by explaining that this is "violence that is directed against a woman because she is a woman or that affects women disproportionately".

5. Hence, the violence addressed by the Istanbul Convention differs from other types of violence in that the victim's gender is the primary motive. It is violence that is perpetrated against a woman that is both a cause and consequence of unequal power relations based on perceived differences between women and men that lead to women's subordinate status in the public and private spheres. In accordance with the definition given in Article 3b, Chapter V of the convention specifies the forms of violence against women that are to be criminalised (or, where applicable, otherwise sanctioned). These are psychological violence, stalking, physical violence, sexual violence, including rape, forced marriage, female genital mutilation, forced abortion, forced sterilisation and sexual harassment. Owing to the seriousness of domestic violence, Article 46 of the convention requires ensuring that the circumstance in which the offence was committed against a former or current spouse or partner, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority, may entail a harsher sentence either as an aggravating circumstance or a constituent element of the offence.

6. Prior to the opening for signature of the Istanbul Convention, two successive national action plans specifically devoted to preventing and combating violence against women were in force in Germany, setting out a wide range of individual measures and the strengthening of co-ordination among the various actors. Since the expiry of the second national action plan in 2012, however, no further policy documents on violence against women have been adopted at federal level, although such plans had been announced in a previous coalition agreement of the former government. Almost all of the federal states have, however, adopted action plans at their level covering various forms of violence against women, addressing these mostly from a distinctly gendered perspective, which GREVIO welcomes.

7. While the adoption of policy documents and strategies at the level of the individual federal states is undoubtedly important, they do not replace a comprehensive national policy document that would set out general principles and definitions and thus provide a strategic framework for the action to be taken by all relevant actors. As a result, there is currently no agreed definition of violence against women or domestic violence, a situation which is exacerbated by the absence of a national co-ordinating body as required by Article 10 of the convention. It is thus unclear upon which principles and definitions the efforts to prevent and combat violence against women are based in Germany, and to what extent they differ from one federal state to the next. While some regional laws or policy documents contain definitions, they are far from being uniform.² The Conference of the Ministers of the Interior introduced a working group on gender-specific crimes, which is tasked, among other things, with formulating nationwide definitions of the terms "gender-specific crimes against women" and "domestic violence" albeit for use by law enforcement agencies only. Additional working groups elaborating definitions have been set up by the Conference of Ministers of Justice, the Conference of Ministers of Equality as well as the Conference of Ministers of Integration but do so mainly for statistical purposes. Efforts to agree on nationwide definitions that are applicable for all government agencies must therefore be urgently stepped up.³ This would help ensure the gendered understanding of domestic violence and other forms of violence against women which are currently set out in gender-neutral legislative approaches, such as the Act on the Protection of Violence. Such standard definitions would also serve as a basis for the development, at national level, of co-ordinated strategies and standardised instruments (such as risk-assessment tools) that are currently lacking.

8. The information reviewed in the course of the evaluation procedure, however, does illustrate that significant efforts are being made to address the full range of forms of violence against women covered by the Istanbul Convention, albeit to differing extents. GREVIO notes that many policy measures focus mainly on domestic and sexual violence, but that other forms of violence, such as forced marriage and female genital mutilation, do not appear to have received comparable amounts of attention. The Istanbul Convention, however, requires that parties adopt a holistic approach to violence against women, which requires preventive, protective and policy efforts with respect to all forms of violence against women.

2. The Bavarian police, for example, has its own definition of "domestic violence", see www.polizei.bayern.de/schuetzen-und-vorbeugen/beratung/005128/index.html.

3. Available at: www.sueddeutsche.de/politik/bundeslaender-stuttgart-imk-chef-strobl-will-straftaten-gegen-frauen-besser-erfassen-dpa.urn-newsml-dpa-com-20090101-211130-99-194134.

9. Expanding the scope of policy measures on the basis of and embedded in a holistic and comprehensive approach that clearly frames violence against women as a human rights violation and a form of discrimination, underlining the importance of securing substantive gender equality, is therefore urgently needed. Ample evidence and research exist to embark on a process of evidence-based policy making, and the many working groups, ad hoc co-ordination entities and other bodies at the *Länder* level can easily be tapped into, as should the expertise developed by civil society and women's rights organisations, including the specialist support services. Use should also be made of the many promising regional or local intervention models or pilot projects which currently all too often do not survive beyond the project phase.

10. **GREVIO urges the German authorities to adopt nationwide applicable definitions of the terms set out in Article 3 of the Istanbul Convention.**

11. **GREVIO strongly encourages the German authorities to enhance the implementation of the Istanbul Convention in relation to all forms of violence against women, beyond domestic violence and sexual violence, which are currently less addressed by policies, programmes, and support services, with due regard to their gendered nature.**

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

1. Gender equality and non-discrimination

12. The constitutional principle of gender equality is enshrined in Article 3, paragraph 2, of the Basic Law for the Federal Republic of Germany. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth publishes an interactive map called "Gender Equality Atlas Germany", which lays out the geographic variety of the level of equality within the country.⁴ Its fourth edition was published in 2020 and found that women are still underrepresented in leadership positions, be it in politics, science or the private sector; they work part-time more often than men; and shoulder the vast majority of care work. GREVIO welcomes this periodically updated publication, which serves as an important indicator for policies of all levels of governance in working towards equality between women and men.

13. The General Act on Equal Treatment, through which four European Union (EU) directives concerning equal treatment were implemented, entered into force in 2006. It offers protection from discrimination based on racist motives, sex/gender, ethnicity, religious or other convictions, disability, age or sexual identity in the workplace and in some areas of civil law, such as property rental. The Federal Anti-Discrimination Agency was established at the same time and offers counselling and information for victims of discrimination, does outreach work, takes measures to prevent discrimination, conducts scientific studies and regularly reports to the German Parliament. The co-operation with relevant NGOs is a statutory requirement for the agency. While GREVIO welcomes this institution, it notes with regret that its mandate is limited to workplace discrimination and limited areas of civil law. For example, a woman victim of sexual harassment cannot turn to the Federal Anti-Discrimination Agency if the harassment happened outside the workplace. Moreover, the agency cannot determine whether discrimination on any of the above grounds has taken place but can merely negotiate with employers to reach an amicable settlement. If such a settlement cannot be reached, the victim must turn to the ordinary courts and institute civil proceedings.

2. Intersectional discrimination

14. Article 4, paragraph 3, of the convention requires parties to secure the implementation of their undertakings under the convention without any discrimination. This provision provides an open-ended list of grounds of discrimination which draws on that of Article 14 of the European Convention on Human Rights as well as the list contained in its Protocol No. 12⁵ and, in addition, includes the grounds of gender, sexual orientation, gender identity, age, state of health, disability,

4. Available at: www.bmfsfj.de/equalityatlas.

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

marital status, and migrant or refugee status or other status. This obligation stems from the realisation that discrimination of certain groups of women, for example at the hands of law-enforcement agencies, the judiciary or service providers, is still widespread.⁶

15. The Istanbul Convention requires states to take into account the specific needs of women who face multiple and intersecting forms of discrimination and disadvantages. Their individual characteristics as women and, for example, as members of a minority ethnic group, a woman with a disability or lacking knowledge of the German language, interact in a way that compounds discrimination. In order not to create barriers for women in exercising their right to live free from violence and to receive effective protection, interventions need to respond to the specific needs of these groups of women and offer support and protection adapted to the reality of their situation with a view to their empowerment.

16. The analysis of the availability of and access to services for women victims of violence, as set out in Chapter IV and other sections of this report, showed that apart from the general issues women face, certain groups of women are confronted with particular barriers. These are women with disabilities, migrant/asylum-seeking women, girls and young women, homeless women, victims of forced marriage, women in prostitution, women with addiction issues, Roma women and LGBTI women. While the situation of women with disabilities⁷ and the legal obstacles barring asylum-seeking women in Germany from accessing vital support and protection for experiences of gender-based violence are well documented, the specific barriers for the remaining groups of women and girls mentioned above and how to overcome them have received much less attention through research. It is therefore of utmost importance to assess in more detail the specific legal and practical barriers that may exist in accessing support and protection but also justice for women in prostitution, women with addiction issues, women with irregular migration status, LGBTI women, migrant women, Roma women and homeless women.

17. **GREVIO strongly encourages the German authorities to:**

- a. **strengthen, on the basis of a national strategy or policy document, measures to prevent and combat violence that affects women who are or might be exposed to intersectional discrimination, including women with disabilities, women belonging to minority groups, migrant and asylum-seeking women, Roma women, LGBTI women, homeless women, elderly women, women in prostitution and women with addiction issues;**
- b. **integrate the perspective of such women into the design, implementation, monitoring and evaluation of policies for preventing and combating violence against women, by supporting, funding and closely co-operating with women's NGOs representing them;**
- c. **raise the awareness of victims belonging to these groups of women about their rights to protection and support services;**
- d. **develop and improve accessibility to protection and support services for these groups of women;**
- e. **support research into the violence experienced by specific groups of women and girls at risk of or exposed to intersectional discrimination, in particular migrant/asylum-seeking women, girls and young women, homeless women, women in prostitution, LGBTI women and Roma women.**

D. State obligations and due diligence (Article 5)

18. Article 5 of the convention enshrines the overarching principle of due diligence: states parties are under the obligation to organise their response to all forms of violence covered by the scope of the convention in a way that allows relevant authorities to diligently prevent, investigate, punish and provide reparation for such acts of violence, as well as to provide protection for victims. It is not an

6. Explanatory Report to the Istanbul Convention, paragraphs 52-54.

7. See, for example, Monika Schröttle et al., "Experiences of violence of women with disabilities living in institutions – extent, risk factors, prevention", Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 2014.

obligation of result, but an obligation of means. Failure to meet this obligation incurs state responsibility for an act otherwise solely attributed to a non-state actor. The realisation of the full potential of the due diligence standard relies on the ability of state institutions to invest in equally strong terms in all the required actions of prevention, investigation, punishment, reparation and protection, starting from the duty to transform patriarchal gender structures and values that perpetuate and entrench violence against women.

19. In the absence of an overarching strategy or policy document setting out policy aims in the area of prevention, protection, prosecution and integrated policies on violence against women in Germany, little emphasis is placed on the need for statutory agencies to act with due diligence in cases of violence against women and domestic violence. While civil, administrative and criminal procedures exist to hold state officials accountable should they intentionally or negligently breach their professional duties, or should their action amount to a criminal act, these procedures do not apply to those failing to take preventive or protective measures for lack of information, lack of training or because of gender bias. Data on the number of such procedures instituted in connection with a failure to act on a case of violence against women do not seem to exist. As a result, it is not known to what extent public officials are in fact held accountable for their failure to meet their due diligence obligation.⁸ The relevance of such accountability, however, cannot be understated and is particularly visible in the context of decisions taken in relation to domestic violence victims. Custody and visitation rights granted to abusive fathers without sufficient consideration for women's safety concerns and the frequent non-granting of protection orders can result in the victim's safety and that of her children being compromised. The low use of standardised risk-assessment procedures prevents state officials from fully identifying all relevant risk factors and exacerbates the situation. If it is suspected that a homicide might have occurred as a result of a possible breach of duty by a public authority, the public prosecutor's office is obliged to investigate whether this was due to an official's disregard for their due diligence obligation. However, information on the number and outcome of such investigations is not available. Moreover, GREVIO was not made aware of any systematic attempt to specifically review individual cases of gender-related killings from the point of view of identifying a failure to act after a report of violence, including omissions stemming from possible institutional gender bias and discriminatory and stereotypical views of women and their experiences of violence.

20. The first steps to remedy this situation are being taken with the project "FEM-UnitED for prevention of femicides at national and European level" by the Institute for Empirical Sociology at the Friedrich-Alexander-University Erlangen-Nuremberg.⁹ The project is co-funded by the European Union and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. Moreover, an academic research project has been initiated in 2022 that aims to study the different social contexts and motives behind murders of women on the basis of criminal files from four federal states.¹⁰ GREVIO notes, in that context, that it would be important for the authorities to analyse whether a woman that was killed by her intimate partner had previously reported violence by the perpetrator, in order to assess, as required under the case law of the European Court of Human Rights in relation to Article 2 of the European Convention on Human Rights, whether the state authorities "knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual or individuals from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk".¹¹ Second, it would be necessary to also analyse those cases where there was a history of violence against the murder victim by the perpetrator, but where the victim had not turned to the

8. In this context, GREVIO notes that the European Court of Human Rights has recently confirmed that "special diligence" was required from the authorities when dealing with a case of domestic violence; see *Kurt v. Austria* [GC], Application No. 62903/15, § 166, 15 June 2021.

9. The aim is to develop and strengthen strategies on national and European level to eradicate gender-related killings of women and to implement these strategies in practice and in policy. Part of the project is the development of quantitative and qualitative tools to gain detailed background information on femicides. On the basis of this information, risk factors and improved prevention strategies are developed. More information available at: https://www.ifes.fau.de/referenzen/projekte/gender-gewalt-und-menschenrechte/#collapse_1.

10. Available at: <https://uni-tuebingen.de/fakultaeten/juristische-fakultaet/forschung/institute-und-forschungsstellen/institut-fuer-kriminologie/forschung/gewaltkriminalitaet/femizide-in-deutschland/>.

11. The so-called "Osman test" – see European Court of Human Rights, *Osman v. the United Kingdom*, Application No. 23452/94, § 116, 28 October 1998, and recently *Kurt v. Austria* [GC], Application No. 62903/15, § 158, 15 June 2021.

authorities, in order to learn why she was reluctant to seek help and make the necessary amendments in practice.

21. **GREVIO strongly encourages the German authorities to step up efforts to raise awareness among public officials dealing with victims of violence against women and domestic violence of the need to act in full compliance with their due diligence obligation to prevent, investigate, punish and provide reparation for victims of any of the forms of violence covered by the Istanbul Convention and without discrimination on the basis of any of the grounds listed in Article 4, paragraph 3, of the Istanbul Convention.**

22. **GREVIO encourages the authorities to introduce a system, such as a domestic homicide review mechanism, to analyse all cases of gender-based killings of women, with the aim of identifying possible shortcomings in institutional responses to violence, preserving the safety of women and holding to account both the perpetrator and the multiple agencies that come into contact with the parties.**

E. Gender-sensitive policies (Article 6)

23. Article 6 of the Istanbul Convention calls on the parties to include a gender perspective in the implementation and evaluation of the impact of its provisions and to promote and implement policies aimed at achieving equality between women and men and the empowerment of women. This obligation stems from the realisation that in order to put an end to all forms of violence covered by the scope of the convention, it is necessary to promote *de jure* and *de facto* equality between women and men. It also reflects the principle that violence against women is a consequence as well as a cause of gender inequality.

24. In Germany, there is no comprehensive piece of legislation, policy document or government programme that, at the national level, sets out or otherwise recognises the gender dimension of violence against women, including domestic violence, by linking the prevalence of violence against women to the structural inequalities between women and men. While GREVIO notes with satisfaction that many of the action plans and policy documents at federal state level have a gendered dimension, they cannot substitute for a lack thereof at the national level. The Act on Protection from Violence is a cornerstone of the protection from domestic violence and stalking in Germany but is conceptualised as a general protective tool and is gender neutral in that it applies to any act of violence perpetrated by any other person, irrespective of the relationship to the victim. While this allows for a broad scope of application, this legislative act does not in and of itself offer any guidance for frontline professionals on how to afford specific recognition to women victims of domestic violence or stalking, including post-separation stalking. As GREVIO has had the opportunity to note, where gender-neutral legislation is accompanied by effective training of frontline professionals on the gendered nature of violence against women, and where service providers pay particular attention to women victims, the aim of responding to the gendered aspect of violence can be achieved.¹² GREVIO recalls that Article 2, paragraph 1, of the Istanbul Convention affirms that all forms of violence against women, including domestic violence, affect women disproportionately and are a form of discrimination against women.

25. In order to assess the level of gender-sensitivity of existing legislation and policy measures in Germany – from the point of view of women’s experiences in relation to the different forms of violence against women covered by the Istanbul Convention and as required by this provision – an evaluation of their impact should be carried out. This would reveal to what extent the specific needs and experiences of women victims of these forms of violence, which differ from those of men, are addressed by existing laws and policies and their implementation in practice, as well as areas in need of an increased gender perspective. This is even more important in the absence of a national strategy or action plan setting out the importance of arriving at and applying a gendered understanding of the different forms of violence against women and domestic violence. GREVIO notes, however, that the working group on gender-related violence of the Conference of Ministers of

12. See GREVIO’s baseline evaluation report on Austria, paragraph 7.

Justice, in co-operation with civil society organisations, is currently assessing the need for more gender-sensitive approaches through law.

26. GREVIO encourages the German authorities to integrate the gender dimension of violence against women into the development of laws, policies and measures to prevent and combat all forms of violence against women. Such a gender-sensitive approach should be based on an understanding of the link between violence against women and the structural inequalities between women and men, with the aim of addressing the specific needs of women victims as well as raising awareness of and counteracting the negative stereotypes against women which legitimise and sustain violence against women.

II. Integrated policies and data collection

27. Chapter II of the Istanbul Convention sets out the core requirement for a holistic response to violence against women: the need for state-wide effective, comprehensive and co-ordinated policies sustained by the necessary institutional, financial and organisational structures.

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

28. Article 7 of the Istanbul Convention requires states parties to ensure that co-ordinated and comprehensive measures to prevent and combat violence against women address all forms of violence against women.

29. While the authorities in Germany have taken steps to adopt and implement policies to prevent and combat domestic violence, notably at federal state and at municipality level, GREVIO notes with concern the absence of any policy document, national action plan or other comprehensive strategy at the national level that would serve as a strategic framework for comprehensive action on violence against women. The National Strategy for Gender Equality “Strong for the future”, adopted in 2020 by the Federal Government, covers many aspects of gender equality, but does not offer specific measures on violence against women, nor does it make the link between women’s inequality with men and violence against women.

30. GREVIO draws attention to the importance of developing, in a consultative process involving all relevant parties, including NGOs, a strategic policy document that would offer a framework for cross-sector engagement, on the basis of common principles and aims, for action to prevent and combat all forms of violence against women based on the standards of the Istanbul Convention. GREVIO recalls that the drafters of the convention considered this to be one way of ensuring the elements of comprehensive and co-ordinated policies on the one hand and the involvement of all relevant institutions and agencies on the other.¹³ GREVIO therefore welcomes the fact that the coalition agreement by the new German Government, which was formed in November 2021, contains plans for a multi-agency, political strategy against violence, as well as several other goals to strengthen the implementation of the Istanbul Convention in Germany.¹⁴

31. At federal state level, many action plans on violence against women are already in force or are in the process of being drafted or renewed. For example, Bremen, Rhineland-Palatinate and Schleswig-Holstein¹⁵ – at the time of the adoption of this report – were developing their own regional action plans and strategies on the implementation of the Istanbul Convention. Brandenburg and Lower Saxony have adopted their first action plans on violence against women as early as 2001 and update them regularly,¹⁶ and a comprehensive three-step action plan against violence exists in Bavaria.¹⁷ Baden-Württemberg adopted its first action plan on violence against women in 2016,¹⁸ Thuringia in 2007 and Hesse in 2004.¹⁹ GREVIO welcomes these initiatives in the various federal states, which, in addition, all show a strong gendered approach to combating violence against women. However, they cannot replace a comprehensive and all-encompassing strategy at the national level. Instead, GREVIO notes that in the absence of such a strategy, coherence among the different regional action plans cannot be guaranteed, leading to differences in their comprehensiveness and approaches.

32. As regards the level of co-ordination of policies developed and implemented by the multi-layered political and administrative entities and institutions in Germany – ranging from federal ministries to federal state-level governments and ministries, specialised agencies, those in the

13. Explanatory Report to the Istanbul Convention, paragraph 65.

14. Available at: www.spd.de/fileadmin/Dokumente/Koalitionsvertrag/Koalitionsvertrag_2021-2025.pdf.

15. Available at: www.schleswig-holstein.de/DE/Fachinhalte/K/kriminalpraevention/Aktuelles/aktuelles_ag35.html.

16. Available at: https://msgiv.brandenburg.de/sixcms/media.php/9/623_21_MSGIV_Fachtag_Istanbul_Konvention_2021_1110.pdf.

17. Available at: www.stmas.bayern.de/gewaltschutz/index.php.

18. Available at: www.mhkgb.nrw/broschueren.

19. Available at: www.lks-hessen.de/.

criminal justice system and NGOs – GREVIO notes that this is being aimed at through the creation of ad hoc working groups consisting of all or some of the above entities. One of the central examples is the *Bund-Länder-NGO Working Group on Domestic Violence*, which includes ministries and stakeholders from the national level, the federal states and civil society organisations. Its main focus is domestic and sexual violence, and it does not yet have a mandate in respect of all forms of violence as covered by the Istanbul Convention. There is, however, a specific working group on eliminating FGM (female genital mutilation) in Germany, which is structured similarly to the working group on domestic violence.²⁰ The aim of these working groups is to discuss current developments, identify good practices and take measures, as well as to improve the network between the different levels of government (national/federal states/municipalities) and NGOs. Other important co-ordinating entities are the Conference of the Ministers of Justice and the Conference of the Ministers of the Interior.

33. Round tables on FGM exist at federal state level, for example in North Rhine-Westphalia, Hamburg, Berlin-Brandenburg and in the Munich municipality, which include government entities and NGOs and aim to improve prevention and care for affected women through local intervention chains and to improve networking and the exchange of information. GREVIO welcomes such examples of multi-agency co-operation in individual cases. In this context, GREVIO notes with satisfaction the examples of institutionalised multi-agency co-operation on domestic violence set up across the entire state of Rhineland-Palatinate, for example, and the efforts by other states to do the same.²¹ GREVIO recalls that the design and implementation of a comprehensive framework to prevent and combat violence against women needs to ensure that the rights of victims are placed at the centre of all measures, which requires effective co-operation and co-ordination among the various stakeholders and service providers at local level. For this reason, the implementation of any adopted policies by way of victim-centred effective multi-agency co-operation is an important element of Article 7 of the convention and should form part and parcel of any future strategic framework.

34. **GREVIO – in full recognition of Germany’s constitutional requirements and sharing of competences – urges the German authorities to develop a long-term comprehensive strategy offering a state-wide effective, comprehensive and co-ordinated set of policies to prevent and combat all forms of violence covered by the Istanbul Convention, placing the rights of victims at the centre of all measures and giving due importance to the gendered nature of the different forms of such violence, including domestic violence. To this end, GREVIO urges the German authorities to:**

- a. **strengthen and build upon the existing mechanisms aimed at improving co-ordination of activities undertaken at the different levels of government (national/federal states/municipalities) in relation to all forms of violence covered by the scope of the Istanbul Convention, with the view to establishing more structured and continuous co-operation between relevant entities;**
- b. **conduct an independent comparative analysis of existing national, federal and local measures and programmes on violence against women, including domestic violence, with a view to identifying gaps, as well as promising practices that can be recommended throughout the country;**
- c. **devise and implement comprehensive and holistic policies to address violence against women in all its forms and manifestations, including in their digital dimension, and in particular domestic violence, sexual violence, stalking, sexual harassment, forced marriage, violence related to “honour”, forced sterilisation and forced abortion.**

B. Financial resources (Article 8)

35. In Germany, government funding for activities to prevent and combat violence against women is made available at both the federal and the *Länder* level, including also the level of municipalities.

20. However, according to the joint NGO submission by LebKom, Lessan, Terre des Femmes and End FGM, p. 5., the working group has not convened since 2018.

21. See Chapter IV, General Obligations.

GREVIO regrets, however, that only limited information was made available as to the budgetary resources allocated to policies on violence against women and domestic violence in Germany and that there was no indication of the percentage of overall public expenditure this would amount to. According to the authorities, the federal structure of the country does not permit the respective amount of human and financial resources to be quantified.

36. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth provided GREVIO with an overview of its budget for measures under its competence, such as the federal funding programme "Ending Violence against Women together", which was allocated €150 million between 2020 and 2024 for the improvement of accessibility and usability of protection and counselling facilities for women affected by domestic violence. It also funds the national helpline on violence against women with an annual budget of more than €9 million.

37. Despite this additional funding programme, the many women's rights NGOs in Germany who provide the overwhelming share of specialist support and counselling, including shelters, for women and girls subject to the different forms of violence covered by the Istanbul Convention, still experience significant shortcomings in their funding, as well as funding insecurity and difficulties in long-term planning. While they receive government funding, and the responsibility lies with the municipalities, the available funding is fragmented for many service providers, and includes sources from the national government, the federal states and the municipalities. The fragmentation of funding sources, many of which do not ensure long-term funding, requires service providers to invest significant amounts of their time into applying and re-applying for their funding, taking away precious time from their core activities.²² As a result, GREVIO was informed that a significant part of the work of specialist support services has to be done on a voluntary and unpaid basis, as funding does not sufficiently cover the demand.²³ This holds particularly true for small, grass-roots NGOs, which struggle to keep their services available. GREVIO notes with grave concern that this lack of secure funding and fragmentation of financial sources works to the detriment of the availability of sustainable, experienced specialist services for victims of all forms of violence covered by the convention.

38. The funding structure for domestic violence shelters is particularly complex and needs to be significantly improved in order to enable Germany to meaningfully comply with the Istanbul Convention's requirement to offer shelters for victims of domestic violence.²⁴ In addition to the fragmentation of public funding sources, the per capita funding applicable to about two thirds of the shelters in Germany prevents them from admitting women who are not entitled to benefits under the Social Codes II and XII (such as students, trainees, some self-employed women, irregular migrant women and those without secure residence status, and some EU citizens), effectively making this an eligibility criteria for a stay in a shelter. As GREVIO has had the occasion to note previously, this type of funding does not allow for advance planning, nor does it enable shelters to accommodate women anonymously and on a needs basis. Although some examples exist of funding structures that are more flexible, such as the emergency accommodation systems that have been set up in Hamburg and Berlin, which do not require residency or eligibility for social benefits, these are rare.

39. The above-mentioned investment programme introduced by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is an important first step to increasing the quality and quantity of available shelter spaces and making them more accessible to, for example, women with disabilities. While GREVIO welcomes the allocation of these funds, it is concerned that it does not address the structural issues related to the gaps in funding for shelters. GREVIO further notes that parts of the funding have been redirected to violence protection measures during the Covid-19 pandemic and are therefore unavailable for their initial intended use. Moreover, GREVIO notes that the specific funding requirements and purposes of the programme may not, in practice, lead to the necessary significant increase in the number of dedicated domestic violence shelters nor to the required long-term funding security for specialist service providers in Germany.

22. NGO submission by Alliance Istanbul Convention, p. 71. Information also obtained during the evaluation visit.

23. Information obtained during the evaluation visit, and Stefanie Soine, "Counselling of women who experience partnership violence", p. 252, in Melanie Büttner (ed.) (2020), *Handbuch Häusliche Gewalt* [Domestic Violence Handbook], Schattauer, Stuttgart 2020, available at: www.klett-cotta.de/buch/Schattauer/Handbuch_Haeusliche_Gewalt/117379.

24. See Chapter IV, Shelters.

40. While GREVIO recognises that the federal structure in Germany makes it difficult to ensure top-down funding for women's shelters and specialist support services, the inadequacy of the funding available, both in terms of the overall amount and the funding structure, requires a paradigm shift in order to ensure the adequacy of specialist support services as required by Articles 22 and 23 of the Istanbul Convention. While the funding needs certainly vary from *Land* to *Land* and from service to service and funding levels for women's support services have seen an increase in recent years in some of the *Länder*, it is of vital importance to find a lasting and nationwide solution to this issue. One federal state, Schleswig-Holstein, has enacted a law ensuring the funding for counselling services for victims of violence, which GREVIO notes with interest. It also notes that discussions have begun in Germany on the introduction of a legal right of access to support services and shelters for victims of domestic violence. GREVIO points to the urgent need to pursue such discussions despite diverging assessments of its feasibility, in order to adequately discharge the obligation to protect and support women victims of all forms of violence as set out in Chapter IV of the Istanbul Convention. The urgency of finding a new approach is demonstrated by the yearly costs of domestic violence in Germany, which have been estimated at amounting to €3.8 billion, consisting predominantly of the goods and services which victims need as a consequence of the violence suffered.²⁵

41. Against this backdrop, it would be important to work towards a more detailed overview of government spending on policies and measures that respond to the different forms of violence against women, notably to track government expenditure in this area and to assess where adjustments are required. The tools of gender budgeting and gender impact assessments can be of use in this context.²⁶ In fact, a publication by the German Women's Council has found that the manner in which public funds are allocated at the federal level creates a barrier to achieving equal opportunities between women and men.²⁷

42. GREVIO strongly encourages the German authorities to ensure appropriate human and financial resources for any policies, measures and legislation aimed at preventing and combating violence against women and for the institutions and entities mandated with their implementation, including specialist support services provided by civil society entities, and to introduce separate budget and funding lines. Furthermore, GREVIO strongly encourages the German authorities to introduce adequate long-term funding structures for specialist service provision in order to ensure their availability and accessibility as required, as well as to conduct a gender impact assessment of the government expenditure on the policies and measures undertaken to respond to different forms of violence.

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

43. A wide variety of NGOs and civil society organisations exists in Germany, including many specialist women's rights NGOs, as well as a large number of small-scale service providers and NGOs. Many of them have existed for decades and have been trailblazers for women's rights in the country. They play an important role in preventing and combating violence against women and domestic violence, as evidenced by the numerous NGO submissions received by GREVIO in the framework of its evaluation procedure in respect of Germany. They also represent the overwhelming majority of providers of specialist support services and have, in many cases, accrued decades of experience. The German authorities, at federal level, support the work of several women's NGO networks financially, for example the Association of Women's Shelters and the Federal Association of Rape Crisis Centres and Women's Counselling Centres. In addition, many NGOs nationwide receive funding from federal, *Länder* or municipal sources, to varying degrees. However, as set out

25. Sylvia Sacco, "Domestic violence cost study for Germany: Violence against women in (former) partnerships", Hamburg 2017.

26. See, for example, the Council of Europe Parliamentary Assembly's Recommendation 1739 (2006) on gender budgeting, available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17420&lang=en>, and the Final report of the Group of specialists on gender budgeting (EG-S-GB), Council of Europe, 2005, available at: <https://rm.coe.int/1680596143>.

27. German Women's Council, Expert Opinion: Gender-equitable Federal Budget, 2019, available at: www.frauenrat.de/wp-content/uploads/2020/05/Gutachten-Geschlechtergerechter-Bundeshaushalt.pdf.

above,²⁸ the fragmented and often complicated funding structures for NGOs severely impact their ability to deliver the services they are dedicated to. It frequently leaves no capacity for networking, co-ordination or advocacy work. Sustainable financial support by the government needs to be made a priority in order to ensure the long-term existence of the NGOs.

44. NGOs are invited to participate in the various *Bund-Länder*-NGO round tables, where an exchange of views and development of policies takes place. GREVIO welcomes the co-operation by the German Government with NGOs and civil society. However, civil society organisations reported that their expertise is not sufficiently made use of in policy making.²⁹ They are not systematically asked to participate in legislative processes, and there is no legal or policy document which would give them a role. For example, the Act on Protection from Violence does not foresee any involvement of NGOs.

45. To give another example, a “Letter of protection against female genital mutilation” was introduced by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth in 2018, which is intended to be carried by potential victims of this form of violence when they travel to their country of origin, in order to be able to show to their relatives that FGM is a crime in Germany.³⁰ While GREVIO welcomes this initiative, it was made aware by NGOs active in the field that they had not sufficiently been involved in the development of the document. They reported from their experience that many (potential) victims were put off by the direct language the document uses, essentially insinuating that their relatives were criminals, which resulted in victims being hesitant about using the letter of protection.³¹ In this context, GREVIO underlines the importance in involving the communities of women and girls and specialist services in the development of strategies and actions to prevent all forms of violence against women, in order to benefit from their expertise and ensure that campaigns and measures reach the intended audience.

46. GREVIO encourages the German authorities to continue to systematically involve women’s NGOs in policy making, in order to make use of their knowledge in their respective fields of expertise, while paying special attention to those that work with groups of women who are or may be exposed to intersectional discrimination, or with forms of violence that are currently less addressed in policies.

D. Co-ordinating body (Article 10)

47. To date, there has been no national co-ordinating body designated or set up in Germany that is mandated to take on the four functions set out in Article 10 of the Istanbul Convention, namely the co-ordination, implementation, monitoring and evaluation of policies and measures to prevent and combat all forms of violence covered by the convention. Currently, these tasks are performed jointly by the competent federal states’ ministries, which for their part also make use of various federal government/federal state working groups (*Bund-Länder* working groups), such as the working groups on domestic violence; on eliminating FGM in Germany; on the implementation of the EU Victim’s Rights Directive (2012/29/EU); on combating crimes specifically directed against women; and on the protection of children and adolescents against sexual violence and exploitation.

48. GREVIO welcomes the plans under way to establish a national monitoring rapporteur or body at the level of the German Institute of Human Rights.³² However, it notes that this will only cover the monitoring and evaluation of measures, which amounts to half of the functions required. The designation or establishment of an official body to ensure the co-ordination and implementation of policies on all forms of violence against women and domestic violence is urgently needed. Without a body that is fully institutionalised and mandated to fulfil its functions with regard to all aspects of

28. See Chapter II, Financial resources.

29. Information obtained during the evaluation visit.

30. Available at: www.bmfsfj.de/bmfsfj/meta/en/publications-en/letter-of-protection-against-female-genital-mutilation-schutzbrieft-gegen-weibliche-genitalverstuemmelung--182516.

31. Information obtained during the evaluation visit.

32. Report submitted by Germany pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report); hereinafter: “state report”, p. 10.

Article 10, including the co-ordination of the collection of data referred to in Article 11 of the convention, and that is equipped with the necessary financial and human resources, it will not be possible to develop the required holistic approach to all forms of violence covered by the convention.³³ The various *Bund-Länder* working groups fulfil an important role and are a first step towards increased co-operation but cannot be regarded as national co-ordinating bodies because of their ad hoc nature. Regional co-ordinating bodies, such as the one currently being introduced in Saarland,³⁴ are a welcome and important measure, but cannot replace a national co-ordinating body. An entity to bring together and co-ordinate existing measures in order to identify gaps and further action on the basis of the requirements of the Istanbul Convention at the federal level is urgently needed. This would need to involve all levels of government, including all relevant ministries. It would also help in the sharing of good practices across the country and ensuring capacity development across all sectors, as well as developing quality standards. GREVIO is encouraged by the express reference to the introduction of a national co-ordinating body as required by the Istanbul Convention as one of the measures to be taken by the incoming government as set out in its coalition agreement.³⁵

49. GREVIO urges the German authorities to designate or establish one or more national co-ordinating bodies that are fully institutionalised and mandated to fulfil all of the functions as set out in Article 10 of the Istanbul Convention, and that are provided with the necessary financial and human resources.

50. GREVIO strongly encourages the German authorities to ensure, on the one hand, the co-ordination and implementation of policies and measures to prevent and combat all forms of violence against women, and, on the other hand, their independent monitoring and evaluation. In so doing, the German authorities should ensure that the functions of the co-ordinating body are exercised in close consultation with those of other co-ordinating and monitoring bodies as well as relevant NGOs and civil society and that they are supported by adequate and appropriate data.

E. Data collection and research (Article 11)

51. Preventing and combating violence against women and domestic violence requires evidence-based policy making. The collection of systematic and comparable data from all relevant administrative sources is crucial in this regard, as is information on the prevalence of all forms of violence against women.³⁶

1. Administrative data collection

52. Following the 2004 German-wide prevalence study commissioned by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth,³⁷ the survey on the prevalence of violence against women in all member states of the European Union (EU), conducted by the EU Fundamental Rights Agency (FRA),³⁸ there is some information on the extent of physical, sexual and psychological violence and sexual harassment. According to the FRA survey, about 35% of women in Germany have experienced physical and/or sexual violence since the age of 15.³⁹

33. See Article 7, Comprehensive and co-ordinated policies.

34. Available at: www.saarbruecker-zeitung.de/saarland/landespolitik/saarland-richtet-koordinierungstelle-fuer-betroffene-haeuslicher-gewalt-ein_aid-65450499.

35. Coalition agreement between three political parties (SPD, the Greens/Bündnis 90 and the FDP), entitled "Daring more progress", adopted in December 2021, p. 114.

36. While this section discusses the main considerations related to data collection, Chapters V and VI also offer reflection on data related to specific criminal offences.

37. Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, "Life situation, Security and Health of Women in Germany – A representative study on violence against women in Germany", 2004, available at: www.bmfsfj.de/resource/blob/84328/0c83aab6e685eeddc01712109bcb02b0/langfassung-studie-frauen-teil-eins-data.pdf

38. Available at: https://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-at-a-glance-oct14_en.pdf.

39. Ibid.

53. GREVIO welcomes the steps taken by the German authorities to collect different type of data, particularly in the realm of domestic violence, and the recognition, at the policy and legislative level, of the urgency to robustly strengthen endeavours in this area. However, it also identified a number of gaps in data collection, which will be addressed in the following sub-chapters.

a. Law-enforcement agencies and the justice sector

54. At the level of law-enforcement agencies, the national police crime statistics on reported offences contain data on the type of offence; the place of commission; previous criminal record; sex, age and nationality of the victim and the perpetrator, as well as any indication of the influence of alcohol/substances on either; and the relationship between victim and perpetrator, if any (separated into married couples, registered life partnerships, unmarried cohabiting couples and former partnerships).

55. An important statistical publication on intimate partner violence is the “Federal Situation Picture of Intimate Partner Violence”, published yearly since 2016 by the Federal Criminal Police Office.⁴⁰ It consists of a special analysis of the police crime statistics, which disaggregates reported crimes by victim-perpetrator relationship (spouse, registered partner, current or former partner), spatial-social context, sex, nationality, disability/illness and type of crime (murder/manslaughter, dangerous and aggravated bodily harm, death as a result of bodily harm, intentional “simple” bodily harm, sexual assault, sexual coercion, rape, coercion, threat, stalking, deprivation of liberty, pimping and forced prostitution). As regards the offences under Section 4 of the Act on Protection from Violence (violation of a protection order) and Article 170 of the Criminal Code (violation of the duty to pay alimony, which is regarded as a form of economic violence), the statistics only show the number of suspects, but not the number of victims. GREVIO underlines the added value of this publication, whose reach is not limited to an expert audience and is addressed to the population at large with the aim of heightening awareness about intimate partner violence against women among the general public.

56. The number of breaches of emergency barring, restraining and protection orders, the number of sanctions imposed as a result of such breaches and the number of cases where the woman was revictimised or murdered as a consequence of such breaches is not discernible from any statistics. Information on any child victims or witnesses of violence against women is entirely lacking.

57. The criminal prosecution statistics comprise data from the public prosecutors’ offices⁴¹ and the criminal courts⁴² throughout Germany and are published separately. Data is disaggregated by age group and sex of the accused, type of offence, place of commission and type of decision/judgment. Age and sex of the victim or their relationship to the accused is not discernible from the publications.

58. GREVIO regrets that, to date, Germany has not introduced a case management system that would allow for the tracking of cases across the different stages in the criminal justice chain, from filing a complaint to the police to the final judgment of the court. Separate statistics exist for the police, the public prosecutors’ offices and the courts, but they are not linked. The data the police collect, for example, is difficult to compare with the data the courts and public prosecutors’ offices

40. Police Crime Statistics – Situation Picture of Intimate Partner Violence 2015-2020, available at: www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/Lagebilder/Partnerschaftsgewalt/partnerschaftsgewalt_node.html.

41. DeStatis, Administration of justice – Public prosecutors’ offices 2020, Fachserie 10 Reihe 2.6, available at: www.destatis.de/DE/Themen/Staat/Justiz-Rechtspflege/Publikationen/Downloads-Gerichte/staatsanwaltschaften-2100260207004.pdf?__blob=publicationFile.

42. The official court statistics state, for example, that while in 2015 the District Courts dealt with 4 262 cases concerning offences against sexual self-determination, in 2020 they completed 6 696 such cases. However, these numbers do not only include offences of rape, sexual assault and other related offences, but also the distribution of pornographic material; therefore, it cannot be determined how many cases there were that only concerned the offences under Articles 177 and 178 of the Criminal Code. DeStatis, Criminal Prosecution Statistics 2020, Fachserie 10 Reihe 3, available at: www.destatis.de/DE/Themen/Staat/Justiz-Rechtspflege/Publikationen/Downloads-Strafverfolgung-Strafvollzug/strafverfolgung-2100300207004.pdf?__blob=publicationFile.

compile.⁴³ The assessment of conviction, attrition and recidivism rates is thus not sufficiently possible at the moment. Such data, however, would be of vital importance for identifying gaps in the response of institutions which may contribute to low conviction rates and/or discrepancies between reporting rates and conviction rates. GREVIO notes that discussions are ongoing in Germany on establishing a legal basis for data collection within the criminal justice sector, with the aim of providing, inter alia, more detailed information about the level of prosecution and recidivism. However, GREVIO notes that the measures under discussion would not allow for the tracking of cases from the stage of police investigations to the final judgment by a court. Harmonising data collection across the different sectors should be made a priority.

59. Family court statistics are available in the form of a yearly publication⁴⁴ that sets out, among other things, the number of violence protection orders issued and the sex of the applicant and the perpetrator, but not the type of violence they cover or the age and relationship of the parties involved. Neither does it include data on the number of decisions on custody/visitation/residence of children which expressly take into account reports of domestic violence and ensure the safety of all family members.

60. With regard to gender-related killings, GREVIO notes that data are available on the number of murders/cases of manslaughter each year, disaggregated by the sex of the victim and the perpetrator and their relationship to each other.⁴⁵ However, most of the federal states do not collect comprehensive data in relation to any gender-based motive the perpetrator may have had, or his relationship to the victim. As not all killings of women are gender-related, the motive for the offence, the way it was carried out and any shared history between the victim and the perpetrator would need to be analysed to make a final classification. This does not appear to be the case nationwide. Bavaria and Brandenburg, for example, collect statistics on intimate partner killings; and only Saxony-Anhalt collects data on a previous history of domestic violence between the victim and perpetrator.⁴⁶ The nationwide statistics show that, on average, an attempt by a former or current intimate partner to kill a woman is made almost every day in Germany. The police crime statistics on intimate partner violence recorded 359 female victims of attempted murder/manslaughter in 2020; 132 of them were murdered or were victims of manslaughter at the hands of their partner and seven women died as a result of the grievous bodily harm inflicted by their partner.⁴⁷ It would thus be important to ensure greater effort to quantify and analyse the issue of gender-related killings of women on the basis of solid data. In that context, GREVIO notes with interest an empirical study running between 2022 and 2025 at the University of Tübingen that is examining the different social contexts and motives behind murders of women on the basis of criminal files from four federal states.⁴⁸

b. Healthcare sector

61. GREVIO welcomes the recent publication by the Robert Koch Institute on the state of health of women in Germany, which contains a whole chapter on the effects of violence against women on their health.⁴⁹ It found that experiences of violence of women in Germany are independent from socio-economic status, but that women with disabilities, women in the process of separating from their partner and asylum-seeking women are affected disproportionately.⁵⁰

43. See the official statistics on criminal courts for 2015 and 2020, respectively, available at: www.statistischebibliothek.de/mir/receive/DESerie_mods_00000103.

44. DeStatis, Administration of Justice – Family Courts 2020, Fachserie 10 Reihe 2.2, available at: www.destatis.de/DE/Themen/Staat/Justiz-Rechtspflege/Publikationen/Downloads-Gerichte/familiengerichte-2100220207004.pdf?__blob=publicationFile.

45. For more in-depth information, see a recent parliamentary inquiry to the regional Government of North Rhine-Westphalia and related answers, available at: <https://opal.landtag.nrw.de/portal/WWW/dokumentenarchiv/Dokument/MM D17-16826.pdf>.

46. Laura Backes and Margerita Bettoni, Every three days: Why men kill women and what we must do against it [Alle Drei Tage: Warum Männer Frauen töten und was wir dagegen tun müssen], p. 32, Spiegel Buchverlag, 2021.

47. Situation Picture Intimate of Partner Violence 2020, available at: www.bka.de/SharedDocs/Downloads/DE/Publikationen/JahresberichteUndLagebilder/Partnerschaftsgewalt/Partnerschaftsgewalt_2020.pdf?__blob=publicationFile&v=3.

48. Available at: <https://uni-tuebingen.de/fakultaeten/juristische-fakultaet/forschung/institute-und-forschungsstellen/institut-fuer-kriminologie/forschung/gewaltkriminalitaet/femizide-in-deutschland/>.

49. Robert Koch Institute, State of Health of Women in Germany, Berlin 2020, p. 251.

50. Ibid., p. 14.

62. While the above study is undoubtedly useful and important, GREVIO notes that in the healthcare sector itself, there appears to be no relevant data collection in respect of the different forms of violence against women. Data would be needed on the number of women and girls who seek help or contact the healthcare sector for experiences of violence against women, including domestic violence, broken down by the victims' sex, age and relationship with the alleged perpetrator. GREVIO underlines that this lack of data is worrying because health services are often on the frontline when it comes to detecting women victims of violence, listening to them in confidence, offering them assistance and referring them to specialist support services.

c. Social services

63. The federal states collect statistics on the existing support services, their take-up and users, albeit on the basis of different indicators and in different contexts. GREVIO welcomes the fact that a needs assessment of five of the 16 federal states was published in 2021, which constitutes a good basis for policy decisions.⁵¹ However, it notes that no nationwide overview of the number of women and girls who contact social services for help with experiences of violence against women, including domestic violence, broken down by the victims' sex, age and relationship with the alleged perpetrator, is available.

d. Data on the asylum procedure

64. In 2020, 1 809 persons were granted refugee status based on gender-specific persecution.⁵² This amounts to 1.7% of all asylum claims of that year (106 685 in total). However, the statistics provided by the Federal Office for Migration and Refugees (BAMF) do not indicate how many of them are women, as this ground for asylum is open to all genders. No statistics are available on the number of women victims of gender-based violence who have received subsidiary protection or any other form of legal recognition; or on how many asylum claims based on gender-specific persecution were dismissed.

e. Conclusion

65. The fragmentation of administrative data collected by the various institutions as described above does not provide a full enough picture of gender-based violence and domestic violence with which to evaluate public policies and laws in order to identify and remedy existing shortcomings. GREVIO concludes that administrative data collection in Germany currently falls short of the requirements of Article 11 of the Istanbul Convention. This requires the judiciary, law-enforcement agencies and healthcare and social welfare services, and other relevant authorities, to have data systems that record harmonised data on victims and perpetrators disaggregated by (at a minimum) sex, age, type of violence, the relationship of the perpetrator to the victim and geographical location, with all data collection complying with the applicable personal data-protection standards.

66. **Bearing in mind the need for data collection to apply to all forms of violence covered by the Istanbul Convention, GREVIO strongly encourages the German authorities to take the necessary measures, including, if necessary, legislative amendments establishing the duty of statutory agencies to:**

- a. **ensure that data collected by all relevant stakeholders (namely law-enforcement agencies, judicial authorities, and health and social services) are disaggregated with regard to the sex and age of the victim and the perpetrator, their relationship, geographical location and the different forms of violence covered by the Istanbul**

51. Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Needs analysis and planning on the development of the support system for the protection from violence against women and domestic violence, 2021, available at: www.bmfsfj.de/resource/blob/174020/475825b323ffd386faebcf47d7472c54/bedarfsanalyse-und-planung-zur-weiteren-entwicklung-des-hilfesystems-zum-schutz-vor-gewalt-gegen-frauen-und-haeuslicher-gewalt-data.pdf.

52. Bundesamt für Migration und Flüchtlinge, Das Bundesamt in Zahlen 2020 – Asyl, p. 59, available at: www.bamf.de/SharedDocs/Anlagen/DE/Statistik/BundesamtinZahlen/bundesamt-in-zahlen-2020.pdf?__blob=publicationFile&v=5.

Convention, and that information on the presence of child witnesses and victims is also included;

- b. harmonise data collection between law-enforcement agencies and the judiciary, with the aim of, *inter alia*, allowing the assessment of conviction and attrition rates and of recidivism rates; enabling a thorough analysis of the pathway of cases through the criminal justice system chain – law enforcement, prosecutors’ offices and the courts;
- c. harmonise data collection and analysis of cases of violence against women that have resulted in the killing of the woman and, where appropriate, children;
- d. introduce a data-collection system that allows the recording of the number of breaches of emergency barring, restraining and protection orders, the number of sanctions imposed as a result of such breaches and the number of cases where the woman was revictimised (i.e. subjected to one or more further acts of violence) or murdered as a consequence of such breaches;
- e. introduce a data-collection system that allows the recording of the registration and outcomes of asylum claims made on the basis of gender-related persecution;
- f. introduce data collection in the healthcare sector in relation to all forms of violence against women;
- g. ensure that the process of collecting, storing and transforming collected data complies with standards on personal data protection, as stipulated in the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

2. Population-based surveys

67. In 2004, a representative survey on violence against women was carried out in Germany, with a sample size of over 10 000 women.⁵³ Germany was also featured in the 2014 EU-wide survey by the EU Fundamental Rights Agency on violence against women.⁵⁴ GREVIO notes with interest that the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, the Federal Ministry of the Interior and Community and the Federal Criminal Police Office are planning a representative survey on women and men’s exposure to violence within relationships and with regard to sexual violence as well as the digital dimension of violence. A representative study on the prevalence of violence against women with disabilities was carried out between 2009 and 2011,⁵⁵ and a new study is currently being conducted on violence against men and women with disabilities living in institutions.⁵⁶ An empirical study on the prevalence of FGM was published in 2017.⁵⁷ And in 2019, a study commissioned by the Federal Anti-Discrimination Agency was published on the prevalence of sexual harassment in the workplace.⁵⁸ While GREVIO welcomes these comprehensive surveys, it points out that no measures seem to exist to measure the prevalence of forms of violence covered by the Istanbul Convention such as digital forms of violence against women, there having been no study so far on the digital dimension of violence against women in Germany. Moreover, the last study on the extent of forced marriage dates back to 2011.⁵⁹

53. Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Life situation, Security and Health of Women in Germany – A representative study on violence against women in Germany, 2004, available at: <http://www.bmfsfj.de/resource/blob/84328/0c83aab6e685eeddc01712109bcb02b0/langfassung-studie-frauen-teil-eins-data.pdf>.

54. Available at: https://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-at-a-glance-oct14_en.pdf.

55. Life situations of and pressures on women with disabilities in Germany, 2012, available at: www.bmfsfj.de/bmfsfj/service/publikationen/lebenssituation-und-belastungen-von-frauen-mit-beeintraechtigungen-und-behinderungen-in-deutschland-80576.

56. Institute for Empirical Sociological Research at the University of Erlangen-Nürnberg, Study on violence against women and men with disabilities in institutions, available at: https://www.ifes.fau.de/referenzen/projekte/gender-gewalt-und-menschensrechte/#collapse_8.

57. Network INTEGRA, Empirical Study on FGM in Germany, 2017, available at: www.netzwerk-integra.de/wp-content/uploads/2021/07/Eine-empirische-Studie-zu-Genitalverstueummelung-in-Deutschland.pdf.

58. Monika Schröttle et al., Dealing with sexual harassment in the workplace – Strategies for finding solutions and measures for intervention, 2019, available at:

www.antidiskriminierungsstelle.de/SharedDocs/forschungsprojekte/DE/Studie_Umgang_mit_sex_Bel_am_ArbPlatz.html.

59. Forced Marriages in Germany – numbers and analysis of counselling cases, 2011, available at: www.bmfsfj.de/bmfsfj/service/publikationen/zwangsverheiratung-in-deutschland-anzahl-und-analyse-von-beratungsfaellen-80740. According to the study, 3 443 individuals sought advice on the issue of forced marriage in the year 2008. In about 40% of the cases, a forced marriage had already taken place; in the remaining cases there was a threat thereof.

68. GREVIO encourages the German authorities to regularly conduct population-based surveys addressing all forms of violence against women covered by the scope of the Istanbul Convention.

3. Research

69. Article 11, paragraph 1*b*, of the Istanbul Convention creates the obligation for parties to support research, out of the consideration that it is essential that parties base their policies and measures to prevent and combat all forms of violence covered by the convention on state-of-the art research and knowledge in this field. As a key element of evidence-based policy making, research can contribute greatly to improving day-to-day, real-world responses to violence against women and domestic violence by the judiciary, support services and law-enforcement agencies.⁶⁰

70. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and other federal ministries regularly commission research and studies on a variety of forms of violence against women, many of which are quoted throughout this report. GREVIO notes, however, that these do not cover all forms of violence against women, nor is existing research regularly updated. Very little is known on the specific experiences of violence against Roma and Sinti women in Germany, or their access to and experiences with general and specialist services in that respect.

71. GREVIO welcomes these initiatives as an effort to understand the root causes and effects of violence against women. However, it considers that the lack of (up to date) studies concerning some forms of violence or groups of women makes it difficult for the authorities to develop targeted strategies to tackle the different issues arising specifically for them. GREVIO is hopeful that with the planned designation of the German Institute for Human Rights as the national monitoring body in charge of monitoring and evaluation of measures, research activities will be strengthened.

72. GREVIO encourages the German authorities to conduct or commission more research on the forms of violence covered by the Istanbul Convention that have so far not been addressed through research, and to regularly update the results of any previous research, in close co-operation with community-based organisations and NGOs.

60. Explanatory Report to the Istanbul Convention, paragraph 77.

III. Prevention

73. This chapter contains a number of general and more specific obligations in the area of prevention. These include early preventive measures such as changing social and cultural patterns of behaviour of women and men, eradicating prejudices and gender stereotypes, and measures to involve all of society, including men and boys, in achieving gender equality and the prevention of violence against women. It also includes more specific preventive measures such as awareness raising and campaigning, ensuring the adequate training of all professionals, education in schools and other settings, and, last but not least, measures such as perpetrator programmes to prevent further victimisation.

A. General obligations (Article 12)

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

75. In Germany, various initiatives exist that aim to prevent violence generally and certain forms of gender-based violence against women more specifically. In this regard, GREVIO welcomes the Federal Government's support for initiatives that challenge young people's gender stereotypes in higher education and professional choices, notably through the initiative "Free from clichés".⁶¹ This work on basic gender stereotypes can contribute positively towards a different perception of gender roles. Moreover, GREVIO notes with interest the initiative "Dialogue Forums against Sexism",⁶² a contribution to the implementation of the recommendation by the Committee of Ministers of the Council of Europe to member States on preventing and combating sexism.⁶³ The dialogue forums were organised in 2020/2021 and led to a publication with a collection of good practices against sexism in the world of work, public space and in media and culture, as well as a joint declaration⁶⁴ by stakeholders from these fields in 2021. The initiative then also joined forces with the national campaign "Stronger than Violence", making the connection between sexism and gender-based violence more strongly. Also, many different initiatives of varying reach and scope have been taken at the level of individual federal states.

76. GREVIO also points to the work carried out by the various "prevention councils" at regional level, although this work seems to focus more generally on (violent) crime prevention rather than specific action to prevent any or all forms of violence against women covered by the Istanbul Convention.⁶⁵ In the absence of a national strategy or action plan on preventing and combating violence against women, however, there is no strategic framework nor common principles and objectives for preventive work. Moreover, monitoring and evaluation of the ongoing preventive efforts seem to be largely absent. As a result, it is unclear which definitions, if any, preventive action is based on and whether the action is aimed at primary, secondary or tertiary prevention.

77. Moreover, GREVIO notes that there are limited primary prevention measures that aim to empower women and reduce their vulnerability to violence, notably by strengthening or restoring their confidence and informing them about their rights. Evidence-based primary prevention

61. Available at: www.klischee-frei.de/de/index.php.

62. Available at: www.dialogforen-gegen-sexismus.de.

63. CM/Rec(2019)1.

64. Available at: www.dialogforen-gegen-sexismus.de/gemeinsame-erklaerung-gegen-sexismus.

65. In Berlin, however, the prevention council (Landeskommission Berlin gegen Gewalt) is cooperating with the Senate Department for Gender Equality and is in the process of developing an action plan for the implementation of the Istanbul Convention. In this context, a comprehensive information brochure on the content of the Istanbul Convention and measures in place as well as a list of addresses where to get help will be published.

measures, such as feminist empowerment self-assertion and self-defence classes⁶⁶ that meet quality standards⁶⁷ and are proven to be effective in preventing gender-based violence, exist in Germany, but are rarely recognised or supported by the authorities and are thus not included and funded through programmes on violence against women. Moreover, concerns have been raised by civil society groups about a decline in funding for activities for the empowerment of girls.⁶⁸ GREVIO notes the importance of promoting the empowerment of women and girls at all levels in order to enable them to recognise and reject discrimination, violence, unequal power relations and abuse. Such work should be accompanied by equivalent work with boys and men, irrespective of their socio-economic, cultural or ethnic background. Emphasis should be placed on the principles that underpin all forms of violence against women: the power and control over a girl/woman – her body, her mind, her economic situation, her sexuality or her reproductive functions.

78. The active political involvement of women who have experienced violence in developing preventive measures and public relations work, where they can take on the role of experts with experience and knowledge – such as the advisory council of victims for the implementation of the Istanbul Convention established by the federal state of Bremen⁶⁹ – is an example of an important empowerment measure which could be made use of more widely. Effective prevention approaches would benefit from the perspective of women and girls who have experienced violence, including those at risk of or exposed to intersectional discrimination.

79. GREVIO encourages the German authorities to ensure that preventive action incorporates, approaches for the prevention of violence against women and girls exposed to or at risk of intersectional discrimination, on the basis of their experience, such as women and girls with disabilities, homeless women and migrant women and girls. Programmes and activities for the empowerment of women and girls should form part of preventive measures, as should specific action tailored to men and boys.

B. Awareness raising (Article 13)

80. In addition to several awareness-raising activities funded and/or implemented by regional (federal state) and local authorities, such as the “StoP – districts without partnership violence” initiative,⁷⁰ the Bavarian initiative “Get rid of violence”⁷¹ and the ongoing communication work carried out by the national telephone helpline (hilfetelefon.de), GREVIO welcomes the nationwide campaign “Stronger than Violence”⁷² initiated by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth. Equipped with a substantial budget and aiming to provide information about most forms of violence covered by the Istanbul Convention, including their digital dimension, as well as information on where and how to find help (for victims, their family members or friends, for professionals and for perpetrators), this large-scale campaign addressed women and girls as (potential) victims rather than potential perpetrators. GREVIO notes, however, that it ended in December 2021 and that its website was shut down. No other large-scale initiatives at national level exist that would challenge harmful stereotypes around masculinity norms that are conducive to violence. Moreover, some civil society organisations reported a lack of any meaningful involvement in the design and implementation of the campaign.⁷³ Reinforcing primary prevention approaches by challenging the conditions that create a climate of acceptance of violence against women are therefore urgently needed, and the potential that women’s rights organisations, including those

66. "Knowledge and Know-how: the Role of Self-defence in the Prevention of Violence against Women" commissioned by the European Parliament Policy Department for Citizens' Rights and Constitutional Affairs upon request by the Committee on Women's Rights and Gender Equality (FEMM Committee), available at: www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU%282016%29571385.

67. BVFEST quality standard for empowerment of self-defence trainers and the minimum standards featured in Chapter 4 of the study “Knowledge and Know-how” (ibid.).

68. Information provided during the evaluation visit.

69. Available at: <https://bremen-sagt-nein.de/betroffenenbeirat/>.

70. Available at: <https://stop-partnergewalt.org/wordpress/>.

71. Available at: <https://bayern-gegen-gewalt.de/ueber-bayern-gegen-gewalt/sensibilisierungsinitiative-gewaltLOSwerden/>.

72. Available at: <https://staerker-als-gewalt.de>.

73. NGO submission by Alliance Istanbul Convention, p. 36.

representing women and girls at the intersection of discrimination because of their migrant status, health status, disability, addiction issues or homelessness, among other factors, should be tapped into.

81. In view of the wide range of awareness-raising activities at the federal, regional (federal states) and local levels, co-ordination and exchanging lessons learned or good practices are of crucial importance. This, however, seems to be lacking, and there is no mechanism for effective stocktaking and evaluation of campaigns/activities. Most seem to focus on domestic violence as one of the many forms of violence against women covered by the Istanbul Convention, and very little information has surfaced on campaigns or awareness-raising efforts targeting forms of violence against women currently underreported or less visible in Germany.⁷⁴ A promising example is the campaign “exit.nrw – protection unites – North Rhine-Westphalia against forced marriage”, which included a digital awareness raising information session for multipliers and persons who work with children (e. g. teachers, youth welfare services and others).⁷⁵ Moreover, many awareness-raising activities seem to be conceptualised as one-off events (often as part of international campaign days such as 25 November or 14 February) rather than long-term sustained efforts.

82. GREVIO strongly encourages the German authorities at all levels to promote or conduct, on a regular basis and as part of a wider preventive strategy encompassing primary, secondary and tertiary prevention activities, awareness-raising campaigns or programmes on the different manifestations of violence against women, including in co-operation with civil society actors such as national human rights institutions, equality bodies and non-governmental organisations working with and representing women and girls, including those at the intersection of discrimination.

83. Furthermore, GREVIO encourages the German authorities to step up efforts to ensure greater co-ordination between federal, regional and local-level campaigns, to ensure synergies and to ensure that the efforts at the different levels contribute to the overall goals by setting clear objectives, targets and indicators to measure outcomes.

C. Education (Article 14)

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

85. In Germany, the competence for education falls to the federal states. The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth has taken some action in support of this by developing handouts and methodological tools to address gender stereotypes as part of the initiative called “Free from clichés” mentioned earlier in this report.

86. The information available on the measures taken at the level of the 16 federal states shows a wide variety of initiatives, varying significantly as to their comprehensiveness and compulsory nature, and generally covering some but not all of the elements required under Article 14. Baden-Württemberg and Rhineland-Palatinate, for example, reported on more general efforts to promote respect and mutual acceptance of diversity, including on the basis of gender identity, among many other general core teaching aims.

87. In North Rhine-Westphalia, the directives and guidelines for teaching in schools offer information that is required to critically examine processes and structures for gender-typical

74. For example, according to women’s rights organisations active in the field of FGM, no government-led campaigns (national, regional or local) have ever been carried out. See NGO submission by LebKom, Lessan, Terre des Femmes and End FGM European Network, p. 8.

75. Available at: www.schulministerium.nrw/exitnrw-schutz-vereint-nordrhein-westfalen-gegen-zwangsheirat.

socialisation and stereotypical behavioural expectations. The principle of “gender-sensitive education” is set out as a binding cross-cutting aim to be achieved through the teaching of various subjects. The Education Act of Hesse sets out in Article 7, paragraph 1, the provision of sexual education and specifically requires it to “engender and promote the concept of a sphere of personal intimacy and of non-violent, respectful behaviour in personal and partnership relations, both present and future, as well as imparting the fundamental significance of marriage, family and civil partnerships”. Teaching is adapted to the evolving capacity of learners across several age groups ranging from early childhood to age 10-12. In Bavaria, the curriculum for primary and secondary school foresees sexuality education as a cross-curriculum objective and includes the issue of sexual violence and sexual harassment. Guidelines have been developed by the Bavarian Ministry of Education and Culture on the teaching of these topics with respect for the evolving capacity of learners. According to these guidelines every school administration appoints a commissioner for family and sexual education, who acts as a special reference person for the whole school community and supports the implementation in education and teaching. The ministry also offers information material for teachers on the heightened exposure to sexual and other forms of violence of girls with disabilities. School psychologists and counsellors are trained to respond to pupils seeking help for or information on any form of violence covered by the Istanbul Convention. North Rhine-Westphalia recently passed a law which requires schools to introduce mandatory prevention and protection concepts for the prevention of sexual violence and other forms of violence.

88. Other federal states, such as Brandenburg, Lower Saxony, Thuringia, and Saxony did not provide information on existing teaching material or measures taken for their introduction/promotion. Most federal states, however, seem to have some measures in place to ensure that the principle of equality between women and men underpins all teaching and is instilled in pupils as a fundamental value.

89. Exchanges of experience/good practices or standard setting are possible through the Conference of Ministers of Education and Cultural Affairs (*Kultusministerkonferenz*), which is held regularly to discuss emerging issues in relation to education across all 16 federal states. While guidelines for ensuring equal opportunities through gender-sensitive school education and training were adopted in 2016 via this process, discussions on how to advance more systematically on the teaching of the elements listed in Article 14 do not seem to have taken place.

90. **GREVIO strongly encourages the German authorities to take the necessary legal and other measures, including by involving all relevant actors, to ensure a more even degree of teaching, in a compulsory manner, of the principles set out in Article 14 of the Istanbul Convention, notably non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships and the right to personal integrity, and to ensure information is provided on the different forms of gender-based violence against women. This should be done through the exchange of existing practices among the different federal states and through common approaches identified in the framework of the Conference of Ministers of Education and Cultural Affairs on the basis of a mapping of relevant existing teaching materials, cross-curricular learning areas and other teaching approaches.**

D. Training of professionals (Article 15)

91. The standard set by the Istanbul Convention in its Article 15 is that of systematic initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence against women. The training that is required must cover the prevention and detection of such violence, equality between women and men, the needs and rights of victims and the prevention of secondary victimisation. The questionnaire drawn up by GREVIO lists, in the table appended to it, the professional groups which GREVIO considers relevant and in need of such training. Against this background, the information obtained by GREVIO from the German state report and during the evaluation visit reveals a mixed picture regarding the level of such specific training undertaken by members of the various professions.

92. GREVIO notes that there are many initiatives to train different professional groups, on the basis of projects⁷⁶ or other initiatives and predominantly under the responsibility of the federal states. Some professional groups receive some level of initial or in-service training on matters related to the Istanbul Convention. However, GREVIO considers that there are several professional groups that require more systematic and wider training to arrive at a more comprehensive understanding of the different forms of violence against women, their gendered nature and dynamics, and their linkages with women's inequality with men. These are judges, law-enforcement professionals, health professionals and social workers, including youth welfare/child protection officers, and those dealing with asylum procedures. It is of particular relevance to ensure training for all those who deal directly with victims of gender-based violence.

93. In relation to the training of judges, GREVIO notes that this falls within the competence of the federal states. Bavaria, for example, regularly offers conferences on the current Supreme Court jurisprudence in relation to sexual violence and training courses on the topics of femicide and stalking. The Judicial Academy of Berlin-Brandenburg regularly offers numerous (state-specific) further training courses for judges, public prosecutors and district attorneys, which address some forms of violence covered by the Istanbul Convention. Moreover, the German Judicial Academy has organised several seminars on criminal law provisions concerning sexual offences and which included specific information on the Istanbul Convention's standards in this field. While in principle judges are obliged to follow continuous training courses, the prevailing view is that they cannot be obliged to follow specific training courses, as this would be incompatible with their judicial independence.

94. In view of the inadequacies of the judicial treatment of violence against women, which is dealt with in Chapters V and VI of this report, GREVIO is concerned that continued training of judges is left to their discretion. Indeed, the UN Committee on the Elimination of Discrimination against Women (CEDAW) has voiced its concerns about gender-based stereotypes and myths surrounding rape within society and among legal professionals in Germany.⁷⁷ Lawyers and NGOs active in the field of violence against women reported similar concerns to GREVIO about the German judiciary.⁷⁸

95. Currently, a promising project called "Gender Stereotypes in the Justice System" is under way, which was developed by the association JUMEN e.V. The findings of the first phase of the project, in essence, were that the criminal justice system often did not recognise rape as being a consequence of unequal power relations, but rather as a solely sexually motivated offence. Rape myths in court were not uncommon and have resulted in victims being partly blamed for their rape, while excuses are being made for the perpetrator. The lack of understanding of the causes and dimensions of sexual violence by those applying the existing laws was identified as the single largest issue. The conclusion was that rape myths and gender stereotypes in the criminal justice system constitute a barrier to access to justice for women, and that more training and awareness raising thereof in the judiciary was necessary. GREVIO welcomes this important project and related research and encourages the German authorities to take into account its findings when tackling rape myths and gender stereotypes through training for judges.

96. As concerns law-enforcement professionals, GREVIO notes that almost all police academies at the level of the federal states offer training units on dealing with domestic violence, in the course of initial training as well as part of in-service training. However, women's rights groups and experts active in the field indicated that this knowledge is too basic and therefore is not always implemented in practice. More in-depth training would be necessary, not only on domestic violence and its dynamics, including its gendered nature, but also more specifically on sexual violence and how to respond to victims. It is not clear whether law-enforcement professionals in all federal states receive training on other forms of violence covered by the Istanbul Convention, such as FGM, forced

76. A good example is the e-learning project funded by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, "Protection and help in cases of domestic violence – an interdisciplinary online course" available at: <https://haeuslichegewalt.elearning-gewaltschutz.de/>, which was launched in 2019. Its aim is to develop an interdisciplinary curriculum for professionals who are likely to be in contact with victims of domestic violence in their work.

77. Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports on Germany, 9 March 2017, CEDAW/C/DEU/CO/7-8, p. 7.

78. Information obtained during the evaluation visit, and NGO submission by German Women Lawyers' Association, pp. 47-48.

marriage, stalking, etc., or on how to deal with victims of violence subject to intersectional discrimination, such as women with disabilities, women with addiction issues, women in prostitution, LGBTI women and migrant women. GREVIO's attention has been drawn to the fact that, in practice, law-enforcement officials at times demonstrate a lack of comprehension of the situation women victims of violence find themselves in, and the reasons behind the ambivalence they often display.⁷⁹ To prevent secondary victimisation through insensitive questioning, specific training of all law-enforcement officials who may come into contact with victims of violence should be intensified, which also addresses the problem of rape myths and gender stereotypes. Low reporting rates for sexual violence can be countered if victims feel that they can trust the system, and that they are being taken seriously. Continuous training efforts in that respect are needed.

97. Social workers are another important group which will often encounter victims of violence in their professional life. However, topics such as gender-based violence and domestic and sexual violence against women are not compulsory elements of the curricula of most universities for applied sciences for social work, but at most are offered as an elective course.⁸⁰ GREVIO notes with satisfaction that some of the federal states offer training courses on these topics. However, data on the number of social workers that have taken such training are unavailable. This includes youth welfare officers, professionals that GREVIO considers should have a particular awareness of the issues concerning domestic violence and its effects on children. Further efforts in that respect are required.

98. Health professionals are often the first to come into contact with a woman victim of violence. Their training in the different forms of violence covered by the Istanbul Convention is therefore of primordial importance. Domestic violence is not sufficiently anchored in the curricula for medical doctors or nurses. However, there are training manuals and guidelines made available to healthcare professionals. For example, the Federal Ministry of Health has commissioned a translation into German of the World Health Organization (WHO) clinical handbook "Health care for women subjected to intimate partner violence or sexual violence".⁸¹ In addition, in the federal states there are currently about 30 guidelines available to health professionals on different issues related to (sexual) violence, such as on doctor-patient interaction or post-traumatic stress disorder. However, there are no data available on how many health professionals actively make use of these guidelines, and their use is not mandatory. There are projects which issued guidelines on the collection of evidence for use in court, but they are few.⁸²

99. GREVIO notes with satisfaction that training on FGM is now included in the Model Continuous Training Order of the German Chamber of Medical Doctors; and midwives are now receiving mandatory initial training on FGM. According to information provided by NGOs active in the field of violence protection, however, the topic of healthcare intervention in other cases of violence is not sufficiently anchored in initial or continuous training programmes, and not systematically covered in the relevant curricula nationwide.⁸³ NGOs and civil society organisations should systematically be involved in the development of training material on all forms of violence against women. Moreover, training material should periodically be updated in order to include new developments and findings.

100. A comprehensive study on the state of the health of German women found that a large proportion of practising doctors do not feel sufficiently qualified to adequately address and diagnose the effects of domestic, physical or sexual violence. The study concluded that if medical professionals were sufficiently trained on these issues, they could recognise violence earlier and refer more victims to relevant counselling and support services.⁸⁴ More needs to be done to equip

79. Information obtained during the evaluation visit.

80. NGO submission by Alliance Istanbul Convention, p. 45.

81. World Health Organization, "Health care for women subjected to intimate partner violence or sexual violence – A clinical handbook", November 2014, available at: www.who.int/publications/i/item/WHO-RHR-14.26.

82. Lisa Sondern and Bettina Pfeleiderer, "Frontline response in cases of severe domestic violence – Results from the IMPRODOVA project", p. 121, in Melanie Büttner (ed.) (2020), *Handbuch Häusliche Gewalt* [Domestic Violence Handbook], Schattauer, Stuttgart.

83. NGO submission by Alliance Istanbul Convention, p. 45.

84. Robert Koch Institute, State of Health of Women in Germany, Berlin 2020, p. 318, with further references.

those working in the healthcare sector with the necessary knowledge on all forms of violence against women, their causes and consequences.

101. Officials in charge of receiving and processing women's asylum applications often receive little initial and in-service training to detect and respond to suspected cases of gender-based violence and persecution, unless they are trained as "Special representatives for gender-specific persecution". While the latter are trained according to uniform standards recommended by the European Union Asylum Agency and receive national basic and advanced training in co-operation with selected NGOs, this level of training is not mandatory for all officials.

102. GREVIO urges the German authorities to ensure that all professionals dealing with victims or perpetrators of all forms of violence covered by the scope of the Istanbul Convention receive systematic and mandatory initial and in-service training on identifying and responding to all forms of violence against women, while focusing on the victims' human rights, safety, individual needs and empowerment and the prevention of secondary victimisation. Such training should be based on the principles of non-discrimination and equality between women and men and devised in close co-operation with regional and local authorities, as well as relevant stakeholders, including independent women's NGOs providing specialist support to women victims of violence. Clear protocols and guidelines should be established to set the standards that staff are expected to follow in their respective fields.

103. GREVIO strongly encourages the German authorities to focus on the debunking of harmful gender stereotypes and rape myths in the training of law-enforcement officials and members of the judiciary.

E. Preventive intervention and treatment programmes (Article 16)

1. Programmes for perpetrators of domestic violence

104. In 2013, the Law to Increase the Responsibility of Perpetrators entered into force, which allows the public prosecutor's office, with the approval of the competent court and the agreement of the accused, to provisionally refrain from bringing an indictment and instead order the accused to participate in a "social training course" for a duration of up to two years.⁸⁵ Social training courses specifically include dedicated domestic violence perpetrator programmes. In the case of a misdemeanour, where there is no minimum penalty foreseen by law and the consequences of the offence were minor, the approval of a court is not required.⁸⁶ A specific legal basis was created allowing the transmission of data on the accused to the entity offering the social training course.⁸⁷ Equally, courts may order an accused to participate in such a training course as a form of alternative sentencing, instead of a prison term or other sanctions.⁸⁸

105. Standards for perpetrator work in Germany have been developed by the Federal working group on perpetrator work related to domestic violence (Bundesarbeitsgemeinschaft Täterarbeit Häusliche Gewalt e.V.; hereafter BAG), in close collaboration with women's counselling services.⁸⁹ These standards are approved by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth and aim to harmonise the work of the member organisations of the working group and to ensure respect for good practice in perpetrator work. GREVIO welcomes that these standards are very much in line with the principles of the Istanbul Convention, notably that of victim-centred and safety-oriented approaches that seek to change the behaviour of perpetrators of domestic violence by taking responsibility for their actions and learning to live in a relationship on the basis of mutual acceptance and equality. The principles of this type of perpetrator work also include the notion of embedding work with perpetrators in multi-agency co-operation and as part of a co-ordinated policy

85. Article 153a, paragraph 1(6), of the German Code of Criminal Procedure.

86. Article 153, paragraph 1, of the German Code of Criminal Procedure.

87. Article 153a, paragraph 4, of the German Code of Criminal Procedure.

88. Article 59a of the German Criminal Code. In case of non-compliance with the order, a sanction would be imposed.

89. Standard zur Täterarbeit Häusliche Gewalt [Standard on perpetrator work related to domestic violence] (4th edition, March 2021), available at: www.bmfsfj.de/blob/jump/95364/standards-taeterarbeit-haeusliche-gewalt-data.pdf.

among various statutory and institutional sectors, involving criminal justice, women's counselling services and other local welfare bodies such as youth welfare offices.

106. However, not all programmes for domestic violence perpetrators apply these standards. While some of the federal states make their funding dependent on whether the service operates according to the standards, others do not. More efforts are therefore needed to ensure more universal compliance with the approved standards by all perpetrator programmes in operation in Germany. Data on the overall number of places or perpetrators who completed the programmes are unavailable, making it difficult to assess to what extent work with perpetrators is contributing to reducing recidivism. Information on evaluations of the existing programmes is unavailable and their impact does not seem to be assessed in a systematic manner. The government of Lower Saxony recently commissioned an evaluation of the existing perpetrator counselling services and mapped their number and working methods with a view to developing quality standards.

107. GREVIO notes that the number and practice of organisations working with perpetrators vary greatly among the 16 federal states. There are, for example, nine state-funded perpetrator work facilities each in Rhineland-Palatinate and Schleswig-Holstein; 23 in Hesse; 11 in Lower Saxony; four in Thuringia; three each in Saxony and in Mecklenburg-Western Pomerania, two in Berlin, and one in Brandenburg. Their funding varies from federal state to municipality and is not always sufficient, which renders sustainable and continuous work difficult. Last, not all of them are embedded in established intervention structures involving all stakeholders of relevance to the prevention and combating of domestic violence.

108. Moreover, it appears that not all public prosecutors and judges are sufficiently aware of the principles of work with perpetrators of domestic violence and frequently order them to attend only a very small number of counselling sessions, which are insufficient to achieve long-term behavioural change.⁹⁰ According to facilitators, a group programme of at least six months is necessary in order to internalise non-violent behaviour, in addition to individual counselling.⁹¹ A basic requirement for a perpetrator's participation is taking responsibility in the offence he committed, that he is willing to co-operate and that he is able to participate in a group setting.⁹² Those in need of treatment for substance or alcohol abuse, with psychiatric problems or limited cognitive abilities, who are suicidal, or do not sufficiently know the local language may not be suitable for perpetrator programmes. Their situation should be assessed individually.⁹³

109. In addition to attendance ordered in the context of a criminal investigation, perpetrators may also attend perpetrator programmes on a voluntary basis. Some initiatives exist that seek to capitalise on the momentum of a police intervention, which in some cases may lead to higher motivation among perpetrators to seek help on their own initiative. In Hannover, for example, police are instructed to encourage perpetrators to self-refer to a perpetrator programme. Work is underway to explore a more pro-active approach to perpetrator work through a project carried out by the BAG and funded by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth.

110. As regards dedicated domestic violence programmes for perpetrators in custodial settings, they are often linked to programmes for sexual offenders in prison (see below).

111. GREVIO strongly encourages the German authorities to step up efforts to ensure, through sustainable public funding and on the basis of the standards approved by the Federal Ministry for Family Affairs, Senior Citizens, Family and Youth, the setting up of dedicated domestic violence perpetrator programmes throughout the country. Furthermore, GREVIO encourages the German authorities to:

90. Ibid., p. 287.

91. Andreas Schmiedel, „Beratung von Männern, die Partnerschaftsgewalt ausüben“ [Counselling for men who are perpetrators of intimate partner violence], p. 267, in Melanie Büttner (ed.) (2020), *Handbuch Häusliche Gewalt* [Domestic Violence Handbook], Schattauer, Stuttgart.

92. Ibid. and Standard on perpetrator work related to domestic violence, p. 10.

93. Standard on perpetrator work related to domestic violence, pp. 10-11.

- a. ensure that the perpetrator work institutions are embedded in the local intervention structures and closely co-operate with all stakeholders, such as women's support organisations, the police, the justice system and other support services like the youth welfare office;
- b. introduce perpetrator programmes in custodial settings, where they do not yet exist;
- c. raise awareness and disseminate knowledge on perpetrator work among the relevant prosecution authorities and judges who are legally competent to order offenders to attend preventive intervention and treatment programmes;
- d. ensure that the impact of all programmes is monitored by independent entities, in line with standard methodological rules, and that independent scientific outcome studies of the treatment methods are carried out.

2. Programmes for sex offenders

112. A programme for (potential) perpetrators of sexual violence against children (*Kein Täter werden* – “Don't become an offender”) started in 2005 at the Charité hospital in Berlin, and has since been implemented at 11 different locations in other federal states (such as Hamburg). It aims to offer (potential) perpetrators of sexual crimes against children⁹⁴ therapy to prevent them acting upon their sexual urges towards children, as well as to prevent repeated offences.

113. Moreover, different programmes and initiatives targeting sex offenders who do not (necessarily) fall into the category of perpetrators of sexual crimes against children exist in several federal states, mostly in prisons but also as walk-in clinics. As regards the latter, data are available from a study published in 2016, which stated that 69 such clinics offered therapy to 5 895 outpatient clients in 2013.⁹⁵ Research has shown the efficiency of programmes for perpetrators of sexual offences and found that outpatient treatment had a higher rate of success (measured by recidivism rates).⁹⁶

114. As concerns programmes in prisons, the Bavarian correctional system specifically focuses on the prevention of future sexual violence by inmates convicted of such crimes, by combining social therapy treatment with individual treatment measures. Equally, in Berlin, Brandenburg, Rhineland-Palatinate and several other federal states, programmes for sex offenders exist in custodial settings. Mecklenburg-Vorpommern reports offering three different programmes in their correctional facilities, numbering 65 therapy places altogether. Evaluations of these programmes for perpetrators of (sexual) violence were published in 2009 and 2015.⁹⁷ GREVIO thus notes that while many good practices and initiatives exist, the offer of such programmes varies greatly between the 16 federal states.

115. **GREVIO encourages the German authorities to ensure nationwide coverage of specialist programmes for sexual offenders, both inside prison settings and as outpatient programmes.**

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

116. There are various activities undertaken by the federal and some regional governments on the different issues covered by Article 17 on the role of the media and the private sector in the prevention of violence against women and domestic violence. In the absence of a comprehensive strategy or action plan to combat violence against women and domestic violence, the level of

94. See the 2016 Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (the “Luxembourg Guidelines”), available at: <https://ecpat.org/luxembourg-guidelines/>.

95. Gregório Hertz P., Breiling L., Schwarze C., Klein R. and Rettenberger M. (2017), “Extramural treatment and care of sexual offenders: results of a nationwide survey on the practice of follow-up care 2016”, KrimZ, Wiesbaden. Available at: www.krimz.de/fileadmin/dateiablage/E-Publikationen/BM-Online/bm-online13.pdf.

96. Ibid., p. 9, with further references.

97. Central Criminological Office (Zentralkriminologische Stelle), “The evaluation of social-therapeutic treatments of perpetrators of violence and sexual violence in the penitentiary system”, available at: www.krimz.de/forschung/behandlungsbetreuung/sexsoztherapie.html.

engagement by authorities across the country in encouraging the private sector and the media to act as partners in preventing violence against women varies significantly and offers room for further action.

117. In relation to the media and commercial communication, GREVIO notes that self-regulatory standards exist in relation to the non-stereotypical and non-sexist portrayal of women in the media, including in the context of reporting on violence against women. In 2019, the Conference of Equality and Women's Ministers and Senators of the Länder called on the German Advertising Standards Council to tighten the wording in its advertising code of conduct so that sexism in advertising can be detected and responded to even earlier. Several municipal authorities have initiatives to ban sexist advertising from their publicly owned advertising spaces. The German Advertising Standards Council has a specific code of conduct against personal denigration and discrimination, including on the grounds of gender and violence against persons generally,⁹⁸ and examples that are featured in this context relate to sexist advertising.

118. The self-regulation guidelines for the media, such as those provided by the German Press Council, the Organisation for the Voluntary Self-regulation/Film Classification Board of the German Film Industry (FSK) and the German Association for Voluntary Self-Regulation of Digital Media Service Providers (FSM), as well as the broadcasting treaties and regulations, are less specific with regard to gender stereotypes and violence against women, and their provisions relating generally to the protection of human dignity, respect for life, freedom and physical integrity do not specifically address the portrayal of violence against women in the media.

119. This is of concern, as research has shown that sensationalist reporting on cases of violence against women persists. A screening of terminology used by various media entities to report on gender-related killings of women by their intimate partners demonstrates the wide use of terms that mask the context of intimate partner violence, downplay the perpetrator's responsibility and seek to catch the reader's attention.⁹⁹ A qualitative analysis of media reporting on violence against women in Germany during the period of 2015-2019 showed that the manner of reporting explicitly or implicitly promotes patriarchal sociocultural norms and minimises the perpetrators' responsibility by putting the blame on victims, masking the structural element of violence against women.¹⁰⁰ Moreover, the media tends to report on the most serious crimes, such as murders or killings in the context of sexual violence. Bodily harm or offences against personal freedom are widely underreported, even though they make up the vast majority of violent acts against women, which results in a distorted picture for the public of the dimensions of the issue.¹⁰¹ The impact of such reporting has been demonstrated to be significant, depending on how a media report is phrased and what it focuses on.¹⁰² The reader's sympathy with the victim is higher if the act of violence is named as what it is rather than euphemised and if it is contextualised by quoting general statistics of the extent of violence against women. On the other hand, readers tend to sympathise more with the perpetrator of violence if the report focuses on him and presents the offence without general context.¹⁰³ A recent study analysed (pre-)prime-time German TV shows and found that the structural dimension of gender-based violence was rarely addressed, that, generally, no reference is made to counselling services or to where victims could find help, and that the victim's perspective is lacking in the vast majority of shows.¹⁰⁴

98. Available at: https://werberat.de/sites/default/files/uploads/2021/09/01/dwr_code_of_conduct_denigration_discrimination_2014_0.pdf.

99. Many headlines/reporting on women killed at the hands of former or current intimate partners use terms such as "family tragedy", "relationship drama", "blood crime" or "act of jealousy". Information compiled by Gender Equality Media, available at <https://genderequalitymedia.org/portfolio/gewalt-ist-keine-sprache-unser-mediencreening>.

100. Christine E. Meltzer, "Tragic isolated cases? How the media reports on violence against women", Otto Brenner Foundation, Frankfurt/Main, July 2021, available at: www.otto-brenner-stiftung.de/wissenschaftsportal/informationsseiten-zu-studien-2021/tragische-einzelfaelle/.

101. Ibid., pp. 63-64.

102. M. L. Teichgräber and L. Mußlick, "The reception of media frames in reporting on violence against women – summary of the results of an online survey", Landesverband Frauenberatung Schleswig-Holstein e.V., September 2021, available at: www.lfsh.de/files/Materialien/Rezeption%20medialer%20Frames.pdf.

103. Ibid.

104. Dr Christine Linke and Ruth Kasdorf, "Gender-specific violence in German TV", Wismar University of Applied sciences and Rostock University, November 2021, available at: <https://malisastiftung.org/wp-content/uploads/Ergebnisse-Medieninhaltsanalyse-Geschlechtsspezifische-Gewalt-im-deutschen-Fernsehen-HS-Wismar.pdf>.

120. Examples of initiatives taken jointly by media professionals and women's NGOs to promote a portrayal of violence against women that highlights the structural nature of such violence and shifts focus onto the (alleged) perpetrator do exist. In Schleswig-Holstein, journalists, together with the Regional Network of Women's Counselling Services (LFSH), compiled recommendations on how to apply the guidance offered by the German Press Council to reporting on violence against women by offering concrete terminology to use.¹⁰⁵ Moreover, the film production company UFA has developed internal guidelines for its productions regarding gender stereotypes and portrayal of violence against women in the context of its diversity commitments.¹⁰⁶ Such initiatives demonstrate the interest in and potential held by media professionals themselves and civil society more largely, which should be supported and tapped into as part of a wider strategy to prevent and combat violence against women.

121. When it comes to the private sector and the role of employers, GREVIO notes that the process of the "Dialogue Forums against Sexism" initiated by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth addresses their role with regard to sexism in the workplace. It notes with satisfaction the introduction of THEMIS,¹⁰⁷ an independent psychological and legal advice service for those affected by sexual harassment and other forms of violence in the theatre, film and TV industry, which also provides consultancy services on prevention policies. The campaign "Stronger than Violence" in 2021 focused on gender-based violence in the world of work.

122. GREVIO notes with interest that Germany's General Equal Treatment Act sets out obligations on private as well as public employers to take measures to prevent discrimination in the workplace. It enables employees to stop working without losing their salary if their employer does not take (sufficient) measures to stop (sexual) harassment in the workplace. In addition, victims of sexual harassment in the workplace have access to counselling provided by the Federal Anti-Discrimination Agency. This agency provides them with a legal assessment of their possibilities under the Equal Treatment Act, requests a statement from the employer concerned and enables an amicable settlement between the parties, where appropriate. Between 2006 and 2021, the Agency registered 1 219 complaints related to sexual harassment in the workplace. Amicable settlements were sought in 88 of these by the Federal Anti-Discrimination Agency, and this was reached in only 11 cases. GREVIO welcomes the efforts by the government's Anti-Discrimination Agency, notably the collection of good practices¹⁰⁸ and its campaign "Betriebsklimaschutz" (Work atmosphere protection)¹⁰⁹ for the protection from sexual harassment in the workplace addressing companies with the aim of initiating prevention and well-functioning complaint structures in companies. Nonetheless, civil society organisations have pointed out that a more proactive approach is necessary, notably that the authorities proactively and directly address high-ranking representatives from the private sector, including umbrella organisations and interest groups representing sectors and employers. They also highlighted the importance of public authorities acting as role models and provide guiding principles for private-sector companies. They could do this for instance by establishing effective in-house procedures for addressing sexual harassment, and by making the fulfilment of the obligations set out in the General Equal Treatment Act (such as ensuring structures and responsibilities are in place for dealing with harassment in the workplace) a selection criterion and prerequisite for the award of public tenders.

123. As regards programmes or initiatives aimed at enabling children, parents and educators to take a critical approach to and protect themselves from harmful images and messages of a sexual or violent nature conveyed by ICT, GREVIO notes the recent reform of the Youth Media Protection Act, which includes a provision to establish a federal centre for child and youth protection.¹¹⁰ GREVIO is hopeful that the scope of action of this new entity, mandated to develop a comprehensive strategy (through shared responsibility by the state, private sector and civil society), will include specific measures to equip children, parents and educators to safely use media, including online media and

105. Recommendations available at www.lfsh.de/blognews/pressekodex-angewandt-so-will-schleswig-holstein-ueber-gewalt-gegen-frauen-berichten.

106. Available at: www.ufa.de/karriere/arbeiten-bei-der-ufa/ufa-erstes-deutsches-unterhaltungsunternehmen-mit-diversitaets-selbstverpflichtung.

107. Available at: <https://themis-vertrauensstelle.de>.

108. Available at: www.antidiskriminierungsstelle.de/DE/wir-beraten-sie/praxisbeispiele/praxisbeispiele-node.html.

109. Available at: www.antidiskriminierungsstelle.de/betriebsklimaschutz/betriebsklimaschutz_node.html.

110. Available at: www.bmfsfj.de/bmfsfj/aktuelles/alle-meldungen/reform-des-jugendschutzgesetzes-tritt-in-kraft-161184.

ICTs, and be protected from degrading content of a sexual or violent nature that might be harmful, as required by Article 17 of the Istanbul Convention. The role of ICT and the private sector that develops the technology to prevent and combat could also be strengthened, for example by ensuring that all products that can be used for undetected spying and other forms of digital violence are labelled as such and that users are automatically notified about this.

124. GREVIO encourages the German authorities to actively support and promote the involvement of the private sector, including the information technology sector, in the prevention of violence against women in all its forms, including by providing guiding principles for private-sector companies in establishing internal procedures to address sexual harassment. It further encourages the authorities to collect data to assess the implementation of Germany's General Equal Treatment Act with respect to measures aimed at preventing sexual harassment in the workplace, as well as to review and follow up the outcomes of measures undertaken by the Federal Anti-Discrimination Agency in such cases.

125. With a view to the important role of the media in promoting equality between women and men and reducing the level of acceptance of violence against women, GREVIO encourages the German authorities to tap into the potential offered by the high level of awareness of the issue among the various media and press councils and set incentives or otherwise promote the development of specific self-regulatory standards in relation to the non-sensationalist and balanced reporting on violence against women.

IV. Protection and support

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

A. General obligations (Article 18)

127. Article 18 of the Istanbul Convention sets out a number of general principles to be respected in the provision of both general and specialist protective and supportive services. One of these principles is the need for services to act in a concerted and co-ordinated manner with the involvement of all the agencies concerned, taking into account the relationship between victims, offenders, children and their wider social environment. Addressing the complexity of violence against women requires establishing an intervention system which involves all relevant policy sectors, administrative levels and actors. Multisectoral and multi-agency interventions across the national, regional and local levels are key to ensuring an effective and cohesive response to all forms of violence. Effective co-ordination at local level is particularly important in terms of ensuring that responses fit the community needs and of providing “one-stop-shop” services to victims.

128. In Germany, the responsibility for the provision of support services to victims of the different forms of violence covered by the Istanbul Convention lies with the local authorities. The number and types of services available thus vary significantly, as do the approaches to service provision, including the level of multi-agency co-operation. GREVIO regrets not being able to offer a detailed assessment of the situation in each of the federal states but wishes to offer general guidance on reaching an elevated degree of implementation of the general principles set out in Article 18 of the Istanbul Convention.

129. As noted previously, the foundation for effective multi-agency co-operation for the protection of individual women is often laid in national action plans or similar strategic policy documents, which does not exist at national level in Germany. While some federal states have filled this gap by introducing their own federal/regional strategies, GREVIO notes that this leads to great variation across the regions, both in the quantity and quality of service provision.

130. Among the promising practices that correspond to the principles established by Article 18 of the convention is the Munich Support Model against Domestic Violence (Münchner Unterstützungsmodell gegen Häusliche Gewalt), in operation since 2004.¹¹¹ It consists of a multi-agency co-operation model, involving the police and counselling services, designed to reach victims of domestic violence rapidly after a police intervention and to guide them through the criminal justice system with the support of proactive counselling services who make contact with the victim following a police intervention (if consented to). Practice has shown that many victims are grateful for this offer for support. In addition, the police in Bavaria inform the family courts directly of any protective measures taken, so the courts have this information at hand if the victim of violence applies for a court protection order. If such an order is subsequently issued, the respective court informs the police, so they can supervise its observance. Similarly, the Rhineland-Palatinate Intervention Project (RIGG) implements a comprehensive prevention and intervention concept against violence in close social relationships, involving all governmental and non-governmental institutions active against violence in the federal state.¹¹² On the basis of a standardised questionnaire, a risk assessment is conducted, and case conferences are held for those cases where a high risk has been assessed. The University of Koblenz-Landau evaluated this project and found that the risk of recidivism was reduced to 20% after a high-risk case conference, compared to 46% without.¹¹³ Authorities in

111. Available at: www.maennerzentrum.de/mum-kooperation/

112. Available at: <https://mffki.rlp.de/de/themen/frauen/gewalt-gegen-frauen-und-maedchen/sexualisierte-gewalt/das-projekt-rigg/>.

113. Available at: www.zeit.de/news/2022-02/04/toedliche-gewalt-gegen-frauen.

Schleswig-Holstein are in the process of amending their laws in order to enable multi-agency co-operation and high-risk management for women victims of violence.¹¹⁴

131. While GREVIO welcomes the above examples of long-standing multi-agency co-operation, it is concerned, however, that far from all federal states and municipalities in Germany implement such models. Where they do exist, they almost exclusively concern cases of domestic violence. Similar measures do not exist for other forms of violence against women covered by the Istanbul Convention. This is particularly striking in the context of the urgent need to offer a comprehensive approach to respond to sexual violence and rape. Other forms of violence, such as FGM, forced marriage and violence related to “honour”, would also greatly benefit from a multi-agency approach, in order for change to take root. Co-ordination exists among NGOs, but not structurally with local authorities. Last, multi-agency co-operation is entirely absent when it comes to asylum-seeking women in reception centres.

132. The absence of systematic multi-agency approaches based on guidelines on protocols to respond to domestic violence cases, including high-risk cases, is documented by international research. The first results from the research and innovation project IMPRODOVA shows that in Germany explicit guidelines for dealing with cases of domestic violence do not exist in most cases; where they do, they are self-imposed and not part of a wider strategy.¹¹⁵

133. One-stop-shop models, however, where different services ranging from those offered by law enforcement agencies, lawyers, therapists, medical professionals and social workers are located in the same premise exist in a handful of cities. Model “childhood houses” for child victims of violence exist in Berlin, Leipzig, Hamburg, Düsseldorf, Heidelberg, Offenburg, and Flensburg, and another one will open soon in Frankfurt/Main¹¹⁶ GREVIO welcomes this as a start in introducing one-stop-shop services in Germany, but stresses that nationwide coverage is far from being obtained, and where they are available, they do not cater for adult victims of violence, for whom this is just as necessary.

134. As far as general services available for women with disabilities goes, a recent study, has shown that there is an acute lack of mandatory and heterogeneous violence protection concepts for institutions housing persons with disabilities.¹¹⁷ Prevalence studies have shown that women with disabilities are at a much higher risk of becoming victims of physical, psychological and sexual violence than the average female population in Germany, which makes such protection concepts all the more important. In addition, the study found that no standardised instructions or teaching materials exist to guide institutions on how to react in a case of violence. GREVIO considers that protection from violence must be stepped up for women with disabilities living in institutions and welcomes that in June 2021 a new provision was introduced in the Social Code IX,¹¹⁸ obliging all service providers running institutions for people with disabilities to ensure appropriate protection against violence.

114. Available at: <https://herzogtum-direkt.de/index.php/2022/01/11/hochrisikomanagement-zum-besseren-schutz-von-frauen-vor-gewalt/>.

115. Lisa Sondern and Bettina Pfeleiderer, “Frontline response in cases of severe domestic violence – Results from the IMPRODOVA project”, p. 120, in Melanie Büttner (ed.) (2020), *Handbuch Häusliche Gewalt* [Domestic Violence Handbook], Schattauer, Stuttgart. IMPRODOVA is a project funded by the EU to provide solutions for an integrated response to high-impact domestic violence. More information available at www.improdova.eu.

116. Available at: www.childhood-haus.de/.

117. Federal Ministry for Labour and Social Affairs, Violence protection structures for persons with disabilities – stocktaking and recommendations, November 2021, p. 165, available at: <https://www.bmas.de/SharedDocs/Downloads/DE/Publikationen/Forschungsberichte/fb-584-gewaltschutzstrukturen-fuer-menschen-mit-behinderungen.pdf>.

118. Para. 37a of the Social Code IX.

135. **REVIO urges the German authorities to significantly increase efforts at all relevant levels in order to embed the provision of services for victims of all forms of violence covered by the Istanbul Convention in multi-agency co-operation structures that involve all relevant actors, including women’s specialist support services, and that operate in accordance with protocols and guidelines for co-operation, based on a gendered understanding of violence against women and domestic violence and focusing on the human rights and safety of victims, as well as on their empowerment and economic independence. To this end, GREVIO urges the German authorities to establish mandatory guidelines and/or protocols for relevant professionals on how to respond to cases of violence against women as covered by the Istanbul Convention on the bases of multi-agency co-operation.**

136. **GREVIO strongly encourages the German authorities to ensure that protection and support services are made available as much as possible on the same premises (“one-stop shop”).**

B. Information (Article 19)

137. Information on available support services and legal measures is provided in various ways and often in multiple languages. This appears to be effective, with the Fundamental Rights Agency reporting that only 1% of German women surveyed in 2014 reported no knowledge of any of the three nationwide organisations offering services to victims of violence against women.¹¹⁹ About 96% of German households have internet access (data from the year 2020), which makes online information easily accessible for most of its population.¹²⁰ There is a significant amount of both general and specialist information in respect of all matters covered by the Istanbul Convention available online for free, in a number of different languages, and with easily accessible contact points for further information via e-mail, WhatsApp, online chat or telephone.

138. The initiative “Stronger than Violence” by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth is a good example for a wide-ranging information campaign, offline and online. During the Covid-19 pandemic, the campaign co-operated with large supermarkets, making information on services for persons affected by violence available at checkouts or billboards.¹²¹ While GREVIO welcomes this effort, it notes that small, local supermarkets were not included, meaning that women who mainly shop there were not reached. In addition, it appears that the flyers were not available in languages other than German, creating language barriers for some.

139. Specific examples of information provided on forced marriage and FGM exist, mainly at *Länder* or city level. The campaign “NO to forced marriage” in the federal state of Saarland offers anonymous counselling and help for those affected, and also aims to raise awareness among professionals as well as the greater public for this specific form of violence.¹²² Several large cities, such as Berlin, Düsseldorf,¹²³ Hamburg, Frankfurt/Main, Cologne¹²⁴, Leipzig and Munich, are home to NGOs with a long history of addressing FGM, and are well connected in the respective communities.¹²⁵ However, in smaller cities and rural areas, women and girls exposed to FGM may not have easy access to information on specialist and support services for FGM. These women should not be overlooked and should equally be provided with information on specialist services.

119. FRA, Violence against women: an EU-wide survey, main results available at: <https://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report>.

120. Households – level of internet access, Eurostat, available at: http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=isoc_ci_in_h&lang=en.

121. Available at: www.bmfsfj.de/bmfsfj/aktuelles/alle-meldungen/supermarkt-aktion-gegen-haesusliche-gewalt-gestartet-155054.

122. Available at: www.zwangsheirat.de/images/downloads/flyer/Flyer_Zwangsheirat-Saarland.pdf.

123. Available at: www.stop-mutilation.org/default.asp.

124. Available at: <https://yuna-nrw.de>.

125. Network Integra, An empirical study on female genital mutilation in Germany, Freiburg, January 2017, p. 71, available at: www.netzwerk-integra.de/wp-content/uploads/2021/07/Eine-empirische-Studie-zu-Genitalverstummelung-in-Deutschland.pdf.

140. Similarly, GREVIO recalls that some groups of women, for example those with intellectual or other disabilities, those who are illiterate, and asylum-seeking and migrant women, may not have access to information, either because it is not available in an easy-to-read language or because they simply have no knowledge that it exists, if they live in institutions or if they have just arrived in the country. NGOs active in the field indicated that these groups of women, which are at risk of or exposed to intersectional discrimination, cannot easily be reached.¹²⁶ A more proactive approach to offering them information on their rights and on where to find help would be necessary, for example through information packages for newly arrived asylum-seeking and migrant women, and through specific information campaigns for women with disabilities.

141. In the context of criminal proceedings, a victim information sheet is available nationwide, informing victims of violence in easy-to-understand language of their rights (see Article 406, *i to k*, of the Code of Criminal Procedure). It is available online in 30 languages and is also distributed by the police and public prosecutors' offices during investigations. Equally, the website of the Federal Ministry of Labour and Social Affairs provides information, albeit only in German and English, about the right to compensation for victims under the Victim Compensation Act. However, the latter would greatly benefit from a more proactive distribution, as data show that only a small number of victims make a request for compensation each year.¹²⁷

142. GREVIO encourages the German authorities to continue their efforts to proactively and systematically provide easily accessible information in all relevant languages, including easy-to-understand language and in formats that are accessible to persons with disabilities, to women victims of all forms of violence, and to include information about rights and services for victims in information packages for migrant and asylum-seeking women.

C. General support services (Article 20)

1. Social services

143. As GREVIO has had the occasion to note in its previous reports, it is of fundamental importance to support women victims of domestic violence through housing schemes to enable them to rebuild their lives.¹²⁸ In a similar vein, it is crucial to ensure access to the labour market for women victims of domestic violence by developing specific schemes such as co-operation with public or private-sector employers, and to provide them with vocational training opportunities, to fast-track their reintegration into the workforce and thus contribute to their economic independence.

144. Despite Germany's strong social welfare system, GREVIO notes with concern that little effort has been made by the authorities to involve social welfare agencies and bodies in the preventing and combating of violence against women. Women victims of domestic violence have access to public employment services, including counselling and placement services, on the same basis as other jobseekers in Germany, and some federal states are implementing projects for the economic empowerment and professional training of women. An example is a project in Hamburg, which helps victims of domestic and sexual violence as well as victims of forced marriage to reintegrate into the labour market.¹²⁹ As regards housing initiatives, GREVIO notes that some promising local initiatives exist, but they remain rather the exception than the rule, such as the efforts of the Hestia housing agency in Berlin,¹³⁰ and the projects "Vivienda" and "Abrigo" financed by the social welfare office Hamburg,¹³¹ which facilitate access to the housing market for women victims of violence. The lack of systematic efforts throughout the country to promote the economic empowerment of women victims of violence through the general social services paired with the above-described lack of a

126. NGO submission by Alliance Istanbul Convention, p. 63.

127. Data compiled by the victim support organisation WEISSER RING e.V. show that, on average, only about 10% of all victims of violent crimes claim compensation under the OEG. See also Chapter V, Compensation.

128. See GREVIO's baseline evaluation reports on Austria, paragraph 95; Portugal, paragraph 127; and Serbia, paragraphs 110 and 115.

129. Available at: www.verikom.de/gewaltschutz/aufbruch/.

130. Available at: www.hestia-ev.de/index.php/wohnungsvermittlung.html.

131. Available at: <https://www.lawaetz-ggmbh.de/projekte/vivienda/>.

multi-agency approach creates additional barriers for those who have escaped violence. GREVIO therefore points to the urgent need to further explore the potential of the German social welfare state to contribute to the set of comprehensive measures of protection and support services required under Chapter IV of the Istanbul Convention. GREVIO is hopeful that innovative approaches that are being developed in the context of the expansion of service provision by domestic violence shelters will come to fruition, such as the plans to directly link unemployment services provided by job centres in Lower Saxony with services provided by local domestic violence shelters.¹³²

145. In order to be able to adequately recognise and address the needs of victims of violence, training of all relevant professionals, such as housing officers, labour market officials, youth welfare officers and healthcare providers, on the forms and consequences of violence against women is crucial. However, such education is not always part of the standard training of public officials working in social support, meaning that victims of violence attempting to gain economic independence may not be met with the understanding they need.

146. Last, and of great concern to GREVIO, information obtained during the evaluation procedure revealed that the youth welfare centres and their officers that provide social welfare services to children in need of protection are not systematically considered to be a key element of policies on preventing and combating violence against women. There is a lack of multi-agency co-operation between youth welfare services, the healthcare sector, violence protection services and law-enforcement agencies. Although they are the guardians of the best interest and the well-being of the child, the youth welfare officers receive little training on the different forms of violence against women and are generally unaware of the standards of the Istanbul Convention. GREVIO welcomes the fact, however, that the Ministry of Justice of Saarland has issued guidance for youth welfare offices on the protection and best interests of children in cases of domestic partnership violence.¹³³

147. GREVIO urges the German authorities to set up dedicated programmes that cater to the specific needs of victims of violence against women in the areas of employment, training and housing, thus ensuring their recovery and their economic independence and empowerment. Moreover, social welfare system workers such as youth welfare officers must be made aware of the forms of violence against women and the negative consequences of violence for children who witness it.

2. Healthcare services

148. Healthcare workers are often the first to come into contact with a woman victim of violence, which is why their ability to identify victims, and react sensitively to their needs, is crucial.¹³⁴ This can be achieved through training initiatives, including practitioners in public as well as private healthcare settings, to make medical professionals into knowledgeable points of first contact for victims.¹³⁵ GREVIO thus welcomes that the subject of “prevention of and support in cases of abuse and violence” has been included in the Quality Management Guidelines of the Joint Federal Committee on Health, meaning that clinics, doctors in private practice and therapists, among others, have been required since November 2020 to offer a safe environment for victims of violence and to act as points of contact. These guidelines apply to children as well as adult patients. However, NGOs active in the field indicated that their implementation is not uniform across the country; that intersectoral co-operation between the healthcare sector and specialist support services is lacking; and that

132. Information provided by the Ministry of Social Affairs of Lower Saxony during the GREVIO evaluation visit.

133. Available at: www.saarland.de/msgff/DE/service/publikationen/publikationen_msgff_einzeln/Kinderschutz_und_Kindeswohl.pdf?__blob=publicationFile&v=6.

134. The World Health Organization states in that respect that: “While preventing and responding to violence against women requires a multi-sectoral approach, the health sector has an important role to play. The health sector can: advocate to make violence against women unacceptable and for such violence to be addressed as a public health problem; provide comprehensive services, sensitize and train healthcare providers in responding to the needs of survivors holistically and empathetically; prevent recurrence of violence through early identification of women and children who are experiencing violence and providing appropriate referral and support; promote egalitarian gender norms as part of life skills and comprehensive sexuality education curricula taught to young people; generate evidence on what works and on the magnitude of the problem by carrying out population-based surveys or including violence against women in population-based demographic and health surveys, as well as in surveillance and health information systems.” See www.who.int/news-room/fact-sheets/detail/violence-against-women.

135. See GREVIO’s baseline evaluation report on Denmark, paragraph 110.

reliable care and standardised referral pathways are missing.¹³⁶ No mandatory protocols in that respect are implemented nationwide, even though tried-and-tested models exist: the WHO clinical handbook “Health care for women subjected to intimate partner violence or sexual violence”¹³⁷ was made available in German and offers model intervention chains in cases where violence is suspected.¹³⁸ Moreover, the S.I.G.N.A.L. guidelines for clinics and surgeries on intervention in cases of domestic violence have been successfully implemented by ten emergency rooms across hospitals in Berlin, including the Charité.¹³⁹

149. GREVIO noted a general disconnect between the healthcare sector in Germany and other services and institutions for victims of violence. In the absence of an overarching strategic document or action plan at the national level, this disconnect will continue to prevent victims of violence from receiving the holistic support they urgently need. A study has shown that medical professionals do not usually form part of any multi-agency co-operation networks,¹⁴⁰ even though this is urgently needed. Some promising initiatives exist at the federal state level, such as in Saxony, where the State Ministry for Equality and Integration in 2015 established “Measures to include the health sector in the support network to combat domestic violence in Saxony”.

150. GREVIO draws attention to two groups of women who face particular barriers to accessing adequate healthcare services, namely women with disabilities and women asylum seekers. According to a study from 2013, women with disabilities are almost twice as likely to experience physical violence than the national average for women; 92% of them have experienced psychological violence; and they are two to three times more often victims of sexual violence.¹⁴¹ They have a greater need for healthcare services, but at the same time only have limited access to these services, because of physical, practical and communicational barriers.¹⁴² Moreover, the report on the state of health of women in Germany pointed out that women asylum seekers are a particularly vulnerable group, who are often exposed to severe psychological and physical strain as a result of experiences of violence and deprivation in their home countries and during their flight route.¹⁴³ The report found that they face bureaucratic as well as language barriers when accessing healthcare services. GREVIO considers that more needs to be done to eliminate the barriers to accessing healthcare services for women with disabilities and women asylum seekers.

151. GREVIO strongly encourages the German authorities to implement standardised care paths that include the identification of victims, screening, diagnosis, treatment, documentation of injuries and referral to the appropriate specialist support services, and to promote and institutionalise multi-agency co-operation between the healthcare sector and specialist services. Moreover, barriers to accessing the healthcare system for women with disabilities and women asylum seekers should be removed.

136. NGO submission by Alliance Istanbul Convention, pp. 66-67.

137. World Health Organization, “Health care for women subjected to intimate partner violence or sexual violence – A clinical handbook”, November 2014, available at: www.who.int/publications/i/item/WHO-RHR-14.26.

138. For an in-depth assessment of the different steps to take by medical professionals in the care of victims of domestic violence, see for example Julia Schellong, “Care of victims of violence in the health sector”, p. 171 et seq., in Melanie Büttner (ed.) (2020), *Handbuch Häusliche Gewalt* [Domestic Violence Handbook], Schattauer, Stuttgart.

139. Dorothea Sautter and Marion Winterholler, “S.I.G.N.A.L. – Intervention in cases of domestic violence in clinics and surgeries”, p. 182 et seq., in Melanie Büttner (ed.) (2020), *Handbuch Häusliche Gewalt* [Domestic Violence Handbook], Schattauer, Stuttgart.

140. Lisa Sondern and Bettina Pfeleiderer, “Frontline response in cases of severe domestic violence – Results from the IMPRODOVA project”, p. 126, in Melanie Büttner (ed.) (2020), *Handbuch Häusliche Gewalt* [Domestic Violence Handbook], Schattauer, Stuttgart.

141. Monika Schröttle et al., Experiences of violence of women with disabilities living in institutions – extent, risk factors, prevention, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 2014, pp. 6-7, available at: www.bmfsfj.de/resource/blob/93972/9408bbd715ff80a08af55adf886aac16/gewalterfahrungen-von-in-einrichtungen-lebenden-frauen-mit-behinderungen-data.pdf.

142. Robert Koch Institute, “State of Health of Women in Germany”, Berlin 2020, pp. 339-340.

143. Ibid., p. 251.

D. Assistance in individual/collective complaints (Article 21)

152. Article 21 of the Istanbul Convention sets out the obligation of states parties to ensure that victims have information on and access to applicable regional and international complaint mechanisms, depending on which mechanisms have been ratified. In the case of Germany, these include the European Court of Human Rights, the UN CEDAW Committee and the UN Human Rights Committee. The provision aims to promote the availability of sensitive and knowledgeable assistance to victims presenting such complaints, which may be provided by the state, bar associations, relevant NGOs or other bodies.¹⁴⁴

153. In Germany, the Federal Ministry of Justice and Consumer Protection and the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth both provide information on their websites on the available international complaints procedures. Moreover, the German Institute for Human Rights has made available a free handbook, where these complaints procedures are explained in detail.¹⁴⁵ However, its latest edition dates back to 2012 and is not up to date on some of the complaints mechanisms.

154. GREVIO notes that no complaints from Germany regarding the issue of women's protection from gender-based violence covered by the convention are pending before or have recently been decided by any of the bodies listed above, which is in stark contrast to many other states parties reviewed by GREVIO so far and may be indicative of the need to strengthen efforts in making information available on these complaint mechanisms.

155. GREVIO invites the German authorities to step up their efforts to ensure victims have information on and access to applicable regional and international complaint mechanisms.

E. Specialist support services (Article 22)

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

157. A multitude of support services exist for women in Germany concerning all forms of violence covered by the Istanbul Convention. These services are mainly provided by NGOs operating mainly or partly on the basis of government funding.¹⁴⁶ These women's organisations for the most part operate under a feminist and gender-based understanding of violence; others, such as church-based counselling services, operate according to the beliefs of their donor organisations.¹⁴⁷ GREVIO points out that it is not in a position to assess the situation of specialist services in each of the 16 federal states, as this would exceed the limits of this report. Generally speaking, GREVIO found that the geographic coverage and availability of the specialist services vary greatly throughout the country.¹⁴⁸ In rural areas, specialist support services are much less established, or focus mainly on domestic violence, leaving victims of other forms of violence without adequate offers of support. In larger cities, services in principle exist for most or all forms of violence, but the ratio between the number of staff and the number of clients often leads to long waiting lists. To give an example, in Berlin, a city with 3.7 million inhabitants, there is only one counselling centre for rape victims, which has fewer than

144. Explanatory Report to the Istanbul Convention, paragraph 130.

145. German Institute for Human Rights, *Human Rights Violations – What can I do?*, 3rd edition, 2021, available at: www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/menschenrechtsverletzungen_was_kann_ich_dagegen_tun.pdf.

146. See Chapter II, Financial resources.

147. NGO submission by Alliance Istanbul Convention, p. 75.

148. NGO submission by Alliance Istanbul Convention, pp. 72-73.

nine employees and an average waiting time of two months for an initial session.¹⁴⁹ This means that many women and girls simply cannot get the support they need. Moreover, in the absence of easily accessible support services that are available countrywide, reporting will remain low. Urgent action is needed to increase the capacities of specialist support services for all forms of violence against women. In addition, GREVIO noted that not all specialist services are operating in accordance with minimum standards which would be applicable nationwide, a situation that should be remedied.

158. In 2021, the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth published a needs analysis for the development of the support system for the protection from violence against women and domestic violence. It was based on model projects in Bremen, Lower Saxony, North Rhine-Westphalia, Saxony and Saxony-Anhalt.¹⁵⁰ A similar study concerning Bavaria was published in 2016 and found, among other things, that the capacities of women's specialist counselling services were too little for the strong demand, and that many women in rural areas do not have nearby services available, which is why general capacities and also mobile counselling services should be expanded.¹⁵¹ GREVIO thus welcomes these studies to quantify and qualify the issues concerning specialist support services in those federal states and encourages the German authorities to implement the respective recommendations nationwide and as soon as possible.

159. GREVIO welcomes that many good practices for specialist services and multi-agency co-operations have emerged and continue to emerge from Germany. They are either initiated by the federal states or are local or regional initiatives, some in the form of pilot projects, for a duration of two to three years. However, their continuation depends on the willingness of the relevant state entity to further finance them. Regrettably, many of these projects are discontinued or only continue locally despite their success. This approach significantly reduces the sustainability of services for victims of violence and does not allow new and successful work to take root and be rolled out across the federal state. One example would be the GeSa (violence-addiction-escape) project by the Federal Ministry of Health, which ran between 2015 and 2018 in two model regions and sustainably helped to enhance the co-operation between the different relevant services, thereby offering better support for women with addiction issues and their children.¹⁵² Despite its success, it was not rolled out across the federal state, but merely continues at select locations.

160. GREVIO will consider the various specific issues arising in relation to specialist support services by type of violence and group of victims below.

161. Most urgently, GREVIO observed a specific group of women and girls that have particular difficulties in accessing specialist services to support them with their experiences of gender-based violence, namely women and girls in asylum reception and accommodation facilities. While GREVIO recognises that the situation varies between and within the federal states, and again from facility to facility, there are numerous examples where women and girls do not have easy access or no access at all to specialist support services for experiences of sexual violence, domestic violence and other gender-based violence.¹⁵³ Some efforts are being made to install more systematic operating procedures for the prevention of and protection from gender-based violence in asylum reception facilities, but this is not the reality for all. Instead, there are many places where women and girls do not have access to more than security staff or a social worker. Their access to services must urgently be ensured nationwide and in every asylum reception and accommodation centre.

162. Whether women with disabilities who are victims of violence have access to specialist support services often strongly depends on their level of independence and the initiative of their carers, or whether or not they live in an institution. A recent study has shown that there is a general lack of

149. Ibid.

150. Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, Needs analysis and planning on the development of the support system for the protection from violence against women and domestic violence, 2021, available at: www.bmfsfj.de/resource/blob/174020/475825b323ffd386faebcf47d7472c54/bedarfsanalyse-und-planung-zur-weiterentwicklung-des-hilfesystems-zum-schutz-vor-gewalt-gegen-frauen-und-haueslicher-gewalt-data.pdf.

151. Monika Schrötle, Needs assessment study on the support system for women affected by violence and their children in Bavaria – Final report, Nuremberg, 2 February 2016, pp. 123-124.

152. Available at: www.bundesgesundheitsministerium.de/service/publikationen/details/gesa-gewalt-sucht-ausweg-verbund-zur-unterstuetzung-von-frauen-im-kreislauf-von-gewalt-und-sucht.html.

153. NGO submission by German Refugee Councils, pp. 38-41.

internal and external support and services for women with disabilities living in institutions. In particular, the access to general and specialist support services for women with cognitive disabilities is hardly possible, as they largely depend on their parents or carers to make contact with the relevant entities.¹⁵⁴ GREVIO welcomes this extensive, comprehensive study on the situation of women with disabilities living in institutions, and considers that it gives the German authorities many important incentives and recommendations to guide their policies for this group of women, which should be implemented as soon as possible. Moreover, GREVIO is hopeful that the federal investment programme “Together against violence against women” will be used for specialist services for women victims of violence for which there are not yet sufficient capacities, such as women with disabilities.

163. Concerning girls and young women between 14 and 25, a study on their health and sexuality found that one in five had experienced sexual violence. While the numbers slightly decreased between 2001 and 2014, the numbers of unwanted sexual experiences leading to rape increased. Only one third of girls and young women dared to speak to someone about their experiences; 25% had never spoken about them until they were asked in the study.¹⁵⁵ An NGO working with girl victims of sexual violence reported that the spaces for girls to open up about their experiences of violence had decreased in recent years. The above-mentioned lack of sufficient funding, staffing and unequal geographic distribution of specialist services affects girls and young women just as much. NGOs active in the field provided an example of a counselling service which offered advice on knockout drops for schoolgirls. The subsequent enquiries to the service were so numerous that new intakes for counselling had to be halted in order to deal with the existing requests for counselling.¹⁵⁶ Germany must step up efforts to improve the availability of services for girl victims of violence. GREVIO welcomes the fact that in that context, in 2018, Germany adopted a plan for the protection of child victims of sexual abuse, permanently appointed an independent commissioner for the issue and established a National Council on Combating Sexual Violence against Children and Young People.¹⁵⁷ The first findings published in 2021 concluded that support services for child victims were lacking and that children with disabilities needed to be better protected from abuse.¹⁵⁸ GREVIO is hopeful that the findings of the National Council will lead to improvements in the support system for girls and young women.

164. GREVIO notes that little to no information is available on the situation of Roma and Sinti in Germany, in particular on women and girls.¹⁵⁹ The latest qualitative study dates back to 2011 and did not look into the situation of Roma and Sinti women and their experiences of violence.¹⁶⁰ A recent study of 2020 examined the “empowerment of Sinti and Roma” (of all genders) in Germany, and found that over 70% of the participants had encountered violent experiences of marginalisation and victim blaming when reporting racist or discriminating experiences to the authorities.¹⁶¹ The latest report by the European Commission against Racism and Intolerance (ECRI) found that there was no general strategy or action plan in place for Roma and Sinti, but that Germany opted for an integrated set of policy measures, built on its general social inclusion policies.¹⁶² The report recommended that the authorities “roll out and finance Roma mediators in all places where German

154. Monika Schrötle et al., Experiences of violence of women with disabilities living in institutions – extent, risk factors, prevention, Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, 2014, p. 9.

155. Angelika Heßling, Heidrun Bode, Youth Sexuality 2015. The perspective of 14- to 25-year-olds. Results of a current and representative repeated survey, Federal centre for health education, Cologne 2015.

156. NGO submission by Alliance Istanbul Convention, p. 75.

157. Available at: www.nationaler-rat.de/.

158. Available at: www.nationaler-rat.de/downloads/Gemeinsame_Verstaendigung_Nationaler_Rat.pdf.

159. Due to the persecution and holocaust of Sinti and Roma during the period of Nazi rule, many Sinti and Roma strongly oppose the collection of any data about them. They were not featured in the 2014 FRA Survey on Violence against Women in the EU and did not agree to participate in the EU Minorities and Discrimination Surveys of the FRA. Note is taken that In February 2022 the new Federal Government's Cabinet decided to adopt the National Strategic Framework “Tackling Antigypsyism, Ensuring Participation”, available at: www.bmi.bund.de/SharedDocs/downloads/EN/publikationen/2022/2022-eu-roma-strategic-framework.pdf?__blob=publicationFile&v=2.

160. Daniel Strauß (ed.), Study on the current state of education of German Sinti and Roma, 2011, available at: https://mediendienst-integration.de/fileadmin/Dateien/2011_Strauss_Studie_Sinti_Bildung.pdf.

161. Hajdi Barz et al., Study on the empowerment of Sinti and Roma, Mittweida University of Applied Sciences 2020, available at: www.bmi.bund.de/SharedDocs/downloads/DE/veroeffentlichungen/themen/heimat-integration/antiziganismus/barz-kaya-horvath.pdf?__blob=publicationFile&v=2.

162. ECRI report on Germany (sixth monitoring cycle), paragraph 96, published on 17 March 2020, available at: <https://rm.coe.int/ecri-report-on-germany-sixth-monitoring-cycle-/16809ce4be>, with further references.

Sinti and Roma or recently-arrived Roma live".¹⁶³ Given the fact that no information is available on the need for and access to specialist services for Roma and Sinti women, their experiences of violence or access to these services, GREVIO considers that the German authorities should step up their efforts to identify the needs of this group of women.

165. NGOs working with LGBTI women in Germany reported that trans women in particular faced difficulties receiving specialist services, as the service providers do not systematically include them in their planning. While there are a number of NGOs offering advice and support to LGBTI women,¹⁶⁴ it is unclear how many of them may provide specialist support for their experiences of violence covered by the Istanbul Convention, in particular rape, domestic violence, sexual harassment and stalking.

166. Another group of victims for whom there are only a few support services available are women at risk of or victims of forced marriage. However, as the extent of the issue in Germany is not sufficiently quantified,¹⁶⁵ it is difficult to assess how many more specialist support services would be needed throughout the country. It would thus be important to conduct a needs assessment study for this group of women, as has been done for other groups of victims.

167. Women at risk of or subject to FGM have counselling services available in larger cities, but much less so in rural areas.¹⁶⁶ An important step to reach these women has been taken by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, by funding a project implemented by the NGO SAIDA, which aims at establishing a mobile counselling team for women affected by FGM in rural areas in Eastern Germany.¹⁶⁷ Baden-Württemberg is planning a model state-wide central contact point for women and girls who are affected or threatened by FGM, to advise and train professionals and authorities, and to build a network. In addition, there will be a cooperation with a specialized clinic so that medical treatment or reconstructive surgery could be offered.

168. GREVIO is concerned by the disparity in terms of levels of service provision for the different forms of violence covered by the Istanbul Convention, which vary significantly between the 16 federal states, as well as within each federal state. Aside from creating a form of hierarchy among victims, it leaves a significant number without specialist support. GREVIO urges the German authorities to ensure that the provision of specialist support services meets the demands of victims, irrespective of the form of violence they have experienced, and that these specialist services operate in accordance with minimum standards. In particular, GREVIO urges the German authorities to:

- a. ensure that women and girl asylum seekers who live in reception centres have access to adequate support services;
- b. increase internal and external support provision and services for women with disabilities living in institutions;
- c. improve the availability of specialist services for girls and young women;
- d. step up their efforts to assess the needs for specialist services for Roma and Sinti women victims of violence;
- e. assess the need for further support services for victims of forced marriage;
- f. ensure that specialist services also cater to LGBTI women;
- g. assess the provision of specialist services for other forms of violence and groups of victims and make adjustments as required;
- h. assess whether proactive counselling of hard-to-reach victims can be extended.

163. Ibid., paragraph 101.

164. Available at: www.regenbogenportal.de/english.

165. See Chapter II, Data collection and research.

166. See Chapter IV, Information.

167. Available at: <https://saida.de/en/arbeitsfelder/female-genital-mutilation>.

169. **GREVIO invites the German authorities to take stock of the good practices that have emerged from the federal states and consider whether they could be rolled out more broadly, by providing, among other things, a secure financial basis for them.**

F. Shelters (Article 23)

170. In Germany, the responsibility for domestic violence shelters lies with the municipalities. There are currently at least 336 shelters and 72 safe houses – offering a total of 5 086 places for women and their children. They are mostly operated by NGOs.

171. GREVIO notes with concern that the availability of shelter places varies significantly across the country, and that in many regions it is far from sufficient. A 2016 needs analysis in Bavaria concluded that the number of women turned away equalled that of those admitted.¹⁶⁸ Reports from other federal states confirm time and again that women have great difficulties in finding a shelter place and do not always succeed, while again others regularly report free capacity. Within the federal states, there is a tangible difference between larger cities and rural areas in terms of availability and demand. In more remote areas, women may often have to travel far in search of safety. All of the federal states fall short of the recommendation of one family place per 10 000 head of population.¹⁶⁹ In addition, there are no binding, nationwide quality standards regarding personnel, premises and operation in Germany. Urgent action is needed to increase the number of available shelter spaces in an adequate geographic distribution across the country.

172. However, the lack of spaces is not the only issue for women seeking shelter. In fact, many barriers to accessing shelters have been identified by GREVIO. They can be divided into structural barriers and barriers for women belonging to a certain group. First, structural barriers exist because of complex funding requirements for staying at a shelter caused by strict residency requirements, which at times result in women not being accommodated because they come from a different municipality. Second, certain groups of women face difficulties in being admitted to shelters, in particular women with sons above a certain age, women with many children, women with disabilities, women fleeing violence related to “honour”, asylum-seeking women and those with an insecure residence status. There are few or no dedicated shelters available for these groups of women. Moreover, there are almost no dedicated shelters for girls under the age of 18 who have experienced (sexual) violence.¹⁷⁰

173. Women asylum seekers face further barriers to accessing shelters, as they are obliged by law to reside in their assigned accommodation for a certain amount of time¹⁷¹ and because they are not eligible in many federal states to stay in a shelter without financially contributing, which is in most cases impossible for them. There is only a small number of shelters, such as in Hamburg and Berlin, where access is guaranteed regardless of whether the woman can cover the costs of her stay. In 2022, the Ministry for Women of Rhineland-Palatinate set up a fund for women victims of domestic violence unable to afford a shelter stay due to their financial situation and their lack of legal entitlement to social assistance. Only six federal states have dedicated shelters for women asylum seekers with experiences of violence. In Mecklenburg-Vorpommern, the nine existing women’s shelters are open to all women including asylum-seeking and migrant women.

174. GREVIO is seriously concerned that, as a direct consequence of these barriers preventing access to shelters, victims of violence who are turned away face the “choice” between returning to their abuser, ending up in “hidden homelessness” (moving to temporary emergency apartments or staying with friends or relatives) or being homeless altogether. Immediate measures are required to ensure that no woman seeking safety is turned away. A dramatic example of the serious consequences of a lack of access to shelters was brought to the attention of GREVIO by an NGO, namely the case of a pregnant Afghan asylum seeker stabbed and killed by her violent husband in her asylum residence. The perpetrator had previously been known to the social workers for his

168. Monika Schröttle, Needs assessment study on the support system for women affected by violence and their children in Bavaria – Final report, Nuremberg, 2 February 2016, p. 123.

169. Explanatory Report to the Istanbul Convention, paragraph 135.

170. NGO submission by Alliance Istanbul Convention, p. 79.

171. NGO submission by German Refugee Councils, pp. 42-43.

violent behaviour. However, because of legal and structural barriers surrounding access to women's shelters in Leipzig, the victim could not be moved out of her accommodation.¹⁷²

175. Homeless shelters exist and their operators have asserted that they do not turn away anyone seeking emergency shelter.¹⁷³ However, as GREVIO has had occasion to note,¹⁷⁴ and as confirmed by civil society representatives in Germany, emergency accommodation for the homeless is not suitable for women victims of violence, and even less so when they have children, as homeless shelters are often mixed-sex and lack specific approaches and protocols for the prevention of violence and for the provision of protection and support to victims of domestic violence.¹⁷⁵ GREVIO is concerned about the conditions under which victims find themselves in non-specialist and/or mixed structures, where they may be exposed to greater risks of violence. This risk is all the higher as staff are often not trained to recognise and respond to violence against women. In view of the high number of domestic violence victims who resort to such shelters for lack of other options, and the general risk of gender-based violence which homeless women are exposed to, much more should be done to enable staff in such accommodation centres to adequately respond to such situations. However, GREVIO has previously had the opportunity to clarify that generalist structures cannot replace specialist shelter spaces for women victims of violence,¹⁷⁶ and preference must be given to the expansion of the latter, rather than adapting the former.

176. Last, in order to assess the need for further places, not only must data on the number of women admitted to shelters be collected (which the shelters generally collect themselves),¹⁷⁷ but also statistics on how many women are refused a shelter space, where and why.

177. GREVIO urges the German authorities to increase the number of available shelter places, with an adequate geographical distribution throughout the country, and to ensure that all women victims of violence, regardless of their status under the Social Code or other factors – in particular girls under 18 years of age, LGBTI women, women with sons above a certain age, women with many children, women with disabilities, women fleeing violence related to “honour”, asylum-seeking women and those with an insecure residence status – have free-of-charge access to dedicated domestic violence shelters. In that context, GREVIO urges the German authorities to take account of the principle that only accommodation in dedicated, single-sex and specialist structures can meet the requirements of the Istanbul Convention, and that shelters for the homeless cannot serve as a replacement.

G. Telephone helplines (Article 24)

178. In 2013, ahead of its ratification of the Istanbul Convention, Germany set up a legally mandated, nationwide telephone helpline for women victims of violence. It provides free, low-threshold, anonymous counselling in 19 languages, available 24 hours a day, seven days a week. More than 80 specially trained female counsellors offer advice on all forms of violence covered by the Istanbul Convention and organise referrals to specialist services in the caller's local area, if indicated, including to women's shelters, healthcare services and the police. The telephone helpline is available to a wide range of callers, including women with intellectual disabilities, who can receive counselling in easy-to-understand language; deaf and/or mute women, who can use the online chat or video counselling in sign language; and those who may require intercultural counselling. During the four-week training, the counsellors, who have all completed studies in social work, psychology or similar disciplines, receive training on all forms of violence, including FGM, human trafficking, violence against women in prostitution and digital violence.

172. NGO submission by Alliance Istanbul Convention, p. 137.

173. Information obtained during the evaluation visit.

174. See GREVIO's baseline evaluation report on France, paragraph 153.

175. NGO submission by BAG Homeless Aid.

176. See GREVIO's baseline evaluation report on France, paragraph 154.

177. For example, Frauenhauskoordinierung [Women's Shelter Co-ordination], Statistics 2020, available at www.frauenhauskoordinierung.de/publikationen/fhk-bewohnerinnenstatistik/, which covers roughly half of all women's shelters in Germany.

179. The 2020 evaluation report of the helpline showed that it constituted an important, low-threshold addition to the existing support system. The number of callers has been increasing every year, with the majority of the callers not having previously received any support. Nonetheless, the report found that more needed to be done to make women aware of the helpline, even if GREVIO notes that in 2020, during the Covid-19 pandemic, the national helpline number was featured on each receipt issued by any of the 19 000 pharmacies nationwide, which certainly contributed to its wider dissemination.¹⁷⁸

180. In addition to the helpline, there are other specialist telephone hotlines and online counselling services, for example for victims of sexual abuse; children and young people; parents; and victims of organised sexual and ritual violence. In addition, some federal states operate regional helplines.

181. GREVIO concludes from the above that Article 24 of the Istanbul Convention is adequately implemented in Germany.

H. Support for victims of sexual violence (Article 25)

182. Concerning Article 25, the Explanatory Report to the Istanbul Convention sets out the goal of one rape crisis or sexual violence referral centre per 200 000 inhabitants, which should be evenly spread geographically. According to a 2020 study analysing the emergency services available for victims of sexual violence in Germany, there are no data available on the number or distribution of such centres throughout the country.¹⁷⁹ Some federal states such as Lower Saxony have ensured that 39 emergency wards offer state-of-the-art forensic examinations throughout the state on a 24/7 basis,¹⁸⁰ albeit not necessarily medical support in relation to sexually transmitted diseases, HIV or emergency contraception.¹⁸¹ In Saarland, the project “Confidential collection of evidence after sexual violence, independent from criminal proceedings” and the project “Anonymous collection of evidence after sexual violence” in North Rhine-Westphalia have both chosen a decentralised approach, meaning that as many clinics and practitioners as possible offer these services. The positive result is that further care can be ensured on-site.¹⁸² However, GREVIO is concerned that such services exist in far fewer numbers in other federal states.

183. The above-mentioned study found that in most cases acute care after sexual assault is ensured by hospitals, institutes for forensic medicine or general practitioners. There is at least one forensic medical examination centre located in each of the federal states, which specialise in examining victims of sexual violence.¹⁸³ However, the type of specialisation, the services offered, the storage time of the evidence and the opening hours of the centres vary significantly throughout Germany, depending on the region where the victim is located. Moreover, women in rural areas and some parts of Germany may need to travel far or accept long waiting times to obtain such emergency services, which is a disincentive to having evidence collected, with the obvious impact on future criminal proceedings. Only a very few centres exist for persons with disabilities, which means that this group of victims may have to deal with particularly long travelling times to receive adequate examinations.¹⁸⁴ Barriers to access also exist as a result of a lack of knowledge among women about forensic services after sexual violence, which should be countered by continuous awareness-raising campaigns and/or the distribution of information material.¹⁸⁵ In order to reach out to women with

178. Available at: www.hilfetelefon.de/aktuelles/pressemeldung-apotheken-machen-bundesweit-auf-das-hilfetelefon-gewalt-gegen-frauen-aufmerksam.html.

179. Lisa Fischer, Akutversorgung nach sexualisierter Gewalt – Zur Umsetzung von Artikel 25 der Istanbul Konvention in Deutschland [Acute care after sexual violence – on the implementation of Article 25 of the Istanbul Convention], Deutsches Institut für Menschenrechte [German Institute for Human Rights], November 2020, available at: <https://www.institut-fuer-menschenrechte.de/publikationen/detail/akutversorgung-nach-sexualisierter-gewalt>.

180. Available at: www.probeweis.de.

181. Information provided during the evaluation visit.

182. Lisa Fischer, Acute care after sexual violence – on the implementation of Article 25 of the Istanbul Convention, p. 81.

183. Ibid., p. 21.

184. Ibid., p. 95., and Federal Ministry for Labour and Social Affairs, Violence protection structures for persons with disabilities – stocktaking and recommendations, November 2021, p. 121.

185. Ibid., p. 85.

disabilities, migrant women, minors, elderly women and LGBTI women, such campaigns and material should be available in different languages as well as in easy-to-read formats.¹⁸⁶

184. Guidelines and standardised practices are in place in some of the federal states, such as Berlin,¹⁸⁷ which has drawn up, on the basis of a multi-agency collaboration between the police, the federal state of Berlin, the local hospitals and many other governmental and non-governmental stakeholders, a detailed plan for the effective implementation of the WHO Guidelines “Health care for women subjected to intimate partner violence or sexual violence”.¹⁸⁸ In Lower Saxony, medical staff have been trained to work on the basis of agreed standards and protocols to ensure that the forensic evidence taken from victims can be used in court. Several hospitals in Rhineland-Palatinate that offer the free and anonymous collection of evidence and medical treatment for victims of sexual violence equally work according to common standards. However, GREVIO notes that this is not the case nationwide. GREVIO considers that the German authorities will need to step up their efforts to make available robust standards of examination and guidelines to all forensic examiners across the federal states, and to harmonise the level of quality and availability of forensic examinations nationwide.

185. While the collection of forensic evidence has always been free of charge for women reporting to the police, a change in the law in 2020 paved the way for the free and anonymous collection of forensic evidence irrespective of a victim’s intention to press charges.¹⁸⁹ Section 27, paragraph 1, read in conjunction with section 132k of Book V of the Social Code stipulates that the health insurance companies are to conclude contracts with the respective federal state as well as a sufficient number of suitable institutions or doctors to that end. According to the authorities, the negotiations with the health insurance providers are still ongoing. However, Thuringia indicated that negotiations with the health insurance companies were difficult, especially since the relevant legal provision leaves a certain room for interpretation.

186. While GREVIO welcomes the new legal provision on the anonymous collection of evidence free of charge, it also notes with concern that it appears to only apply to persons with statutory health insurance in Germany. While emergency clinics are obliged to provide first aid, regardless of the insurance status of the injured person, it is not clear whether victims of violence who are not insured would be able to benefit from the anonymous collection of forensic evidence if they do not have the necessary financial means to pay for this service. In addition, the statutory provisions do not apply to private insurance, which may charge victims for a forensic examination. GREVIO stresses that such services must be available to all women victims of violence without discrimination on any grounds and therefore points to the importance of approaches such as those found in Lower Saxony that offer forensic examinations irrespective of reimbursement policies and standards under health insurance schemes.

187. On a more general note, GREVIO is concerned that the emphasis on ensuring the collection of forensic evidence is not matched by efforts to strengthen the level of comprehensive support available to women victims of sexual violence to address their medical and psychological needs.¹⁹⁰ Article 25 also requires parties to ensure that women victims of sexual violence have access to immediate, short- and long-term trauma support, including psychological counselling. In Germany, general support services such as crisis intervention centres may provide some form of psychological counselling – irrespective of whether the victim reported violence to the authorities – but they are not always equipped to provide specialist trauma-informed support to victims of sexual violence. GREVIO was alerted to the fact that not enough hospitals/medical practitioners offer comprehensive first-line support, as well as referral for further support, and victims at times have to pay for services such as emergency contraception and HIV tests themselves.¹⁹¹ Screenings for sexually transmitted

186. *Ibid.*, pp. 94-95.

187. Cornerstones of the implementation of the Guidelines by the World Health Organization in Berlin, available at: www.signal-intervention.de/sites/default/files/2021-05/2021_05_04%20FINAL%20Eckpunkte_web_final.pdf.

188. World Health Organization, “Health care for women subjected to intimate partner violence or sexual violence – A clinical handbook”, November 2014, available at: www.who.int/publications/i/item/WHO-RHR-14.26.

189. In Schleswig-Holstein and Rhineland-Palatinate, the anonymous collection of evidence without reporting obligation has been in place even before the new law entered into force and was financed by these federal states directly.

190. Information obtained during the evaluation visit.

191. NGO submission by Alliance Istanbul Convention, pp. 88-89.

diseases or HIV or the prescription of emergency contraception do not seem to form part of the standard care.

188. GREVIO points to scientific research that has shown that women victims of sexual violence, including in the context of domestic violence, face many risks to their sexual and reproductive health such as sexually transmitted infections, unwanted pregnancies, stillbirths, obstetric complications and recourse to non-medical abortion practices.¹⁹² These harmful effects are amplified by attacks on the right to self-determination of these women when perpetrators control their ability to make autonomous reproductive choices. Such control can have the effect of hampering their access to contraception and/or forcing them to carry to term an unwanted pregnancy or, conversely, requiring them to terminate a pregnancy. In these complex situations, women experience grave psychological suffering linked to sexual violence but also to coercion on their reproductive rights. Psychological distress can be exacerbated by social isolation and, where applicable, economic dependence that characterise sexual violence in the domestic violence context. Because sexual violence has a direct impact on the sexual and reproductive health of victims, its consequences need to be accounted for by support services so that their trauma can adequately be addressed, and negative lifelong effects can be prevented.¹⁹³

189. A specific issue under Article 25 of the Istanbul Convention concerns the accessibility of rape crisis services for victims of sexual violence under 18 years of age. While in general the centres described above offer examinations of girls, they are not necessarily specialised in dealing with underage victims of sexual violence, and guidelines specific to this age group appear to be lacking. Another important aspect in that context is the question of whether the parents need to consent to the medical examination and treatment of minor-age victims of sexual violence, which becomes particularly relevant when the alleged perpetrator is a family member of the victim. This question was examined in an expert opinion by the German Institute for Youth Aid and Family Law, which concluded that it was legal for medical personnel to examine and treat minors without the consent of a legal guardian if the minor was able to consent herself.¹⁹⁴ The expert opinion recommended that the retention period for forensic evidence taken from victims of sexual violence who were minors at the time of the offence should not end before the expiration of the statute of limitation of the corresponding crime, which starts running only when the victim turns 30 (see Article 78b, paragraph 1, of the Criminal Code). The retention period in Schleswig-Holstein, for example, is 20 years from the age of majority. However, retention periods are not harmonised throughout the different federal states in Germany. GREVIO is concerned that these factors may lead to important forensic evidence not being able to be used in subsequent court proceedings, which may subsequently contribute to low conviction rates in cases of rape and sexual violence.

190. With regard to mental healthcare for women affected by (sexual) violence, the working group “Mental health of women affected by violence and their children”, which was founded upon the private initiative of independent women’s organisations in Germany, reports that waiting times are lengthy, as trauma-specific psychotherapy places are few.¹⁹⁵ Treatment for women with cognitive and/or physical disabilities are close to non-existent, and the same holds true for women who need language mediators in psychotherapy.¹⁹⁶ Multi-agency co-operation between psychotherapists and psychologists exists, but is lacking between the mental healthcare sector and other services, such as the youth welfare offices, violence protection services and homeless aid – even though the women affected often face complex problems in their lives. Last, in about 60% of cases, the number

192. See Pallitto C. et al. (2005), “Is Intimate Partner Violence Associated with Unintended Pregnancy? A Review of the Literature”, in *Trauma, Violence, & Abuse*, 6(3), pp. 217-235; Fanslow J. et al. (2019), “Intimate partner violence and women’s reproductive health”, in *Obstetrics, Gynaecology & Reproductive Medicine*, 29(12), pp. 342-350.

193. See the Council of Europe Commissioner of Human Rights Statement (COVID-19: Ensure women’s access to sexual and reproductive health and rights) of 7 May 2020, available at www.coe.int/en/web/commissioner/.

194. Deutsches Institut für Jugendhilfe und Familienrecht, Ärztliche Versorgung Minderjähriger nach sexueller Gewalt ohne Einbezug der Eltern [Medical care for minors after sexual violence without involvement of the parents], 7 May 2018, p. 80-85, available at: <https://www.dijuf.de/versorgung-minderjaehriger-nach-sexueller-gewalt.html>.

195. Working Circle Women’s Health in Medicine, Psychotherapy and Society, It is high time to do something for the mental health of women affected by violence and their children: Position paper on the occasion of the International Women’s Health Day 2015, 28 May 2015, updated 9 September 2021, available at: www.akf-info.de/portal/wp-content/uploads/2015/10/2015_Erklaerung_zum_Internationalen_Tag_der_Frauengesundheit_02.pdf.

196. Silke Schwerz, “Mental health of women affected by violence: approaches to better care”, p. 234, in: Melanie Büttner (ed.) (2020), *Handbuch Häusliche Gewalt [Domestic Violence Handbook]*, Schattauer, Stuttgart.

of therapy hours paid for by health insurance is insufficient.¹⁹⁷ More effort is needed to improve the availability and comprehensiveness of mental healthcare for women victims of violence, in order to enable them to work through their trauma and live a self-determined life.

191. GREVIO urges the German authorities to take legislative and other measures to comply with the requirements of Article 25 of the Istanbul Convention. To this end, the authorities should establish a sufficient number of emergency centres, in an adequate geographical distribution, that form part of a multi-agency approach to service provision, accessible to victims of rape and/or sexual violence, which meet all their needs in the short, medium and long term and which provide immediate medical care, high-quality forensic examinations, psychological and legal support, and referral to specialist organisations, on the basis of protocols for relevant professionals that should be developed and made applicable nationwide, in order to comprehensively address this form of violence. A victim's access to such support services should not depend on her insurance status or other factors, such as her willingness to report the violence to the authorities. Moreover, awareness should be raised among healthcare personnel that minors who are capable of consenting to treatment may do so without the approval of their legal guardians.

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

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

193. Research has shown that children who witness one of the parents assaulting the other one in the home often develop emotional problems, cognitive functioning disorders and accept attitudes around violence that need to be addressed in the long term.¹⁹⁸ It is thus of crucial importance to ensure their access to psychological counselling and therapy as soon as they come to the attention of the authorities.

194. Psychosocial support is offered by the approximately 160 intervention centres in Germany, which proactively offer advice to victims of violence after a police intervention and refer them to appropriate services. However, GREVIO is concerned that, apparently, only some of these intervention centres offer specific support for children.¹⁹⁹ Children who are relocated to a shelter with their mother may receive psychosocial support there, but it appears that this strongly depends on the financial and human resources of a given shelter. In Rhineland-Palatinate, for example, information provided by intervention centres working in that federal state indicate that only one such centre offers counselling specifically for child witnesses of domestic violence, and of a limited duration. In addition, one intervention centre exists for children and adolescents affected by domestic violence called KIST, which is operated by project funds for a duration of two years.²⁰⁰ GREVIO welcomes the fact that in Lower Saxony a model project called "Children as witnesses of domestic violence" was run, supported by the Ministry of Social and Labour Affairs. Moreover, there are 22 counselling centres for children and youth victims and witnesses of domestic or sexual violence in Lower Saxony. Equally, in some of its child protection centres, psychologists are available for counselling and the support of children. In Bavaria, there are currently 28 state-funded intervention centres offering counselling services for women and their children who have been affected by domestic violence and/or stalking by their (ex-)partner. Unfortunately, the service provision for child witnesses of violence varies greatly between the 16 federal states, and nationwide access to such services is not guaranteed.

197. Ibid.

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

199. See *Denkschrift* (explanatory report) to Germany's ratification of the Istanbul Convention, p. 42.

200. NGO submission by RIGG Intervention Union RLP, p. 7.

195. Specialist (psychosocial) support services, while available in larger cities in Germany, are severely understaffed, which equally results in long waiting times. In more rural areas, the general lack of support services affects their availability for children just as much. Psychological counselling is also available to children through registered psychologists. However, similar to the situation for women affected by violence, waiting times are lengthy, as trauma-specific psychotherapy places are few.²⁰¹ More needs to be done to support child witnesses of violence nationwide.

196. GREVIO welcomes the fact that a specific telephone helpline for children has been operational since 1980, which is anonymous and staffed by trained professionals (“Nummer gegen Kummer” – number against worries). It offers advice and support, and often serves as a first point of contact for arranging further support within the psychosocial network in Germany.

197. In 2017, psychosocial support for victims of serious acts of (sexual and other) violence was introduced into German law.²⁰² In the context of criminal proceedings, children have a legal right to this type of support free of charge. The aim of psychosocial support is to alleviate fears and provide emotional support for victims, thus lessening the chances of revictimisation. GREVIO welcomes the introduction of free psychosocial support for children in the framework of criminal proceedings.

198. GREVIO strongly encourages the German authorities to increase the availability of holistic and nationwide support for children who have witnessed any of the forms of violence against women covered by the Istanbul Convention. It recalls the general obligations set out in Article 18, paragraph 3, which aim to ensure that a range of relevant services, for victims and for any affected children, be located on the same premises.

J. Reporting by professionals (Article 28)

199. In general, certain professional groups²⁰³ in Germany are bound by an obligation of secrecy, the violation of which amounts to a criminal offence (see Article 203 of the German Criminal Code). In certain cases, however, there is a legal obligation to disclose information. Article 138, paragraph 1, of the Criminal Code contains a duty to report certain offences (such as murder, certain forms of trafficking in human beings, forced prostitution, abduction for the purpose of extortion, and hostage taking) to the competent authority or the person threatened at a time when the execution or completion of the offences could still be averted.

200. Members of the clergy (persons designated by state-recognised religious communities as holders of spiritual offices) are exempt from the obligation to report if they become aware of a criminal offence in their capacity as pastoral workers (pursuant to Article 139, paragraph 2, of the Criminal Code). In addition, lawyers, doctors, psychotherapists and anyone who might have to report their relatives are also exempt from punishment if they omit to report a crime but make a serious effort to prevent the perpetrator from committing the crime or prevent the completion of the crime (Article 139, paragraph 3, of the Criminal Code). However, this exemption from punishment does not apply when there is a risk of the most serious crimes being committed, such as murder, abduction for purpose of extortion and hostage-taking.

201. Working Circle Women’s Health in Medicine, Psychotherapy and Society, “It is high time to do something for the mental health of women affected by violence and their children: Position paper on the occasion of the International Women’s Health Day 2015”, 28 May 2015, updated 9 September 2021, available at: www.akf-info.de/portal/wp-content/uploads/2015/10/2015_Erklaerung_zum_Internationalen_Tag_der_Frauengesundheit_02.pdf.

202. 3. Opferrechtsreformgesetz [3rd Act on the Reform of the Rights of Victims], Federal Gazette 2015, pt I, no. 55, 30 December 2015, online: www.bmfv.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/BGBI_Staerkung_Opferschutzrechte.pdf.

203. The professions include doctors, pharmacists, members of other healthcare professions, occupational psychologists, lawyers, defence counsels in statutorily regulated proceedings, notaries and certain counsellors in officially recognised counselling centres.

201. When it comes to children, Section 4 of the Act on Co-operation and Information in Child Protection sets out nationwide binding standards for the reporting by professionals bound by confidentiality rules, including medical practitioners, among others. In the event of a threat to the well-being of a child, the professionals listed may inform the youth welfare authorities.

202. GREVIO notes with satisfaction that the current legal situation in Germany is in line with the requirements of Article 28 of the Istanbul Convention.

V. Substantive law

203. Chapter V of the Istanbul Convention covers a range of provisions related to substantive law, in the area of both civil and criminal law. Their aim is to help create, in all parties to the convention, the necessary legislative framework to prevent violence against women, protect them from further victimisation and to ensure robust intervention and prosecution by law-enforcement agencies. In the interest of prioritisation, this section of the report addresses several but not all provisions of Chapter V of the convention.

A. Civil law

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

204. A core aim of the Istanbul Convention is to end impunity for acts of violence against women. This not only requires that individual perpetrators be held accountable through criminal law and other measures, but also that legal avenues be available to challenge and address any failure of state actors to comply with their due diligence obligation to prevent, investigate and punish acts of violence (Article 5, paragraph 2, of the convention).

205. German civil law provides for claims for damages arising from wrongful acts or omissions by public servants. Pursuant to Article 839, paragraph 1, of the German Civil Code, read in conjunction with Article 34 of the German Basic Law, public servants who violate their professional duty towards an individual by acting intentionally or negligently are liable for compensation for damages to that individual. Such professional duties may also include those arising from regional police laws concerning the protection of a person from foreseeable and avoidable damage from another person. The responsibility to offer damages lies with the public law body employing the public official, which ensures that the victim receives the amount granted, regardless of the public official's ability to pay.

206. However, breaches of professional duties in the context of a court ruling only give rise to liability of the public official concerned if the breach amounts to a criminal offence (see Article 839, paragraph 2, of the Civil Code). Wrongful decisions in the administration of justice thus do not give rise to liability under the Civil Code. While GREVIO recognises the need to ensure the independence of the judiciary by limiting liability claims against judges to severe cases of professional misconduct, this may also lead to gaps for victims in holding the state accountable for breaches of their officials' (in this case judges') due diligence obligation. GREVIO was made aware of a case where a woman was obliged by a court to watch a video of her being raped multiple times by two men who had filmed their crimes.²⁰⁴ The victim had been heavily intoxicated at the time of the events and had no recollection of the rapes. The presiding judge granted the defence lawyers' request to show the full video recordings during the trial in the presence of the victim to "help her remember", which led to her being retraumatised, prolonging her suffering and causing her further pain. While the perpetrators were convicted and, in subsequent civil proceedings, ordered to pay a high amount of compensation to the victim, there were apparently no consequences for the judge who had allowed the video to be shown. Another potential scenario would be the failure by a judge to issue protection orders for victims of violence²⁰⁵ because of a misjudgement of the level of risk they face, which may lead to serious consequences, including gender-related killings. However, no legal avenues exist for victims to challenge and claim compensation from the state for breaches of professional duties by judges below the threshold of a criminal offence. While disciplinary measures against the judge may of course be available, these must be instituted by a public body and do not serve as a civil remedy for individuals.

207. GREVIO further notes that no statistical data seem to be available as to the number of civil proceedings in relation to unlawful action or omissions by public authorities in cases of acts of violence covered by the Istanbul Convention, making it difficult to assess to what extent these

204. Regional Court of Münster, judgment of 7 December 2017, 02 O 229/17, available at: www.justiz.nrw.de/nrwe/lgs/muenster/lg_muenster/j2017/02_O_229_17_Teil_Versaeumnis_und_Schlussurteil_20171207.html.

205. See Chapter VI, Article 53.

procedures, in practice, address any failure of the public authorities to comply with their due diligence obligation.

208. GREVIO encourages the German authorities to examine any barriers to the use of civil law measures available to hold the state accountable for public officials' failure to comply with the obligation to diligently prevent, investigate and punish acts of violence covered by the Istanbul Convention, including in the context of wrongful decisions in the administration of justice, in order to enable women victims of violence to make practical use of the existing legal remedies. Progress in this area needs to be measured by collecting data on the number of proceedings initiated by victims and their outcomes.

2. Compensation (Article 30)

209. Victims of crime may adhere to criminal proceedings in order to claim damages arising from the crime(s) in question (Articles 403 et seq. of the German Code of Criminal Procedure), which spares them from having to institute civil proceedings against the perpetrator. In addition, German civil law provides for claims for damages arising from wrongful acts or omissions by individuals. Pursuant to Article 823, paragraph 1, of the German Civil Code, damages can be claimed from private persons who wilfully or negligently violate the right to life, limb, health, freedom, property or any other right of an individual. In addition, claims for damages may arise from Article 823, paragraph 2, of the German Civil Code if a person culpably violates a law intended to protect another. The scope of that article includes criminal acts as set out in the Istanbul Convention. Compensation may be claimed for material damages (Articles 249 et seq. of the German Civil Code) and for pain and suffering (Article 253 of the German Civil Code).

210. While GREVIO welcomes the possibility for victims of any form of violence covered by the Istanbul Convention to claim compensation from the perpetrator as part of the criminal proceedings, it notes with concern the low number of cases of rape, sexual violence and other forms of violence under the convention going to trial.²⁰⁶ Moreover, it appears that there are no official data available on the number of compensation claims filed by victims of any of the forms of violence covered by the Istanbul Convention against perpetrators, or their outcome. Information on the average amounts of compensation was not made available either, making it difficult to assess the practical relevance of this avenue for compensation for women victims of violence.

211. Victims of wilful, unlawful acts of violence can also claim compensation from the competent German federal state under the Act on Compensation for Victims of Violent Crimes (*Opferentschädigungsgesetz*; hereinafter "the OEG"). It consists of financial compensation, including for economic loss, and/or compensation in kind for physical and psychological damages resulting from the violent act (for example monthly pensions, funeral and death grants, medical and healthcare, welfare services). Damages for pain and suffering must be claimed from the perpetrator directly. On 1 January 2021, a new fast-track entitlement to services offered by trauma outpatient clinics was introduced in order to facilitate access to psychological support for victims of violent crime by avoiding long waiting lists. While GREVIO welcomes this new development, it notes that, in general, the process of claiming financial and other in-kind compensation may take several months or years, making this a lengthy process.²⁰⁷

212. Moreover, under its current provisions, the definition of violence under the OEG is limited to physical violence. It does not include psychological violence or stalking, which are also forms of violence that may lead to an "impairment of health", which is understood as "serious psychological damage caused by psychological violence" as defined in Article 33 of the Istanbul Convention.²⁰⁸ GREVIO notes with concern that victims of these forms of violence are thus excluded from benefiting from compensation under the OEG.

206. See Chapter VI, General obligations, immediate response, prevention and protection.

207. Rabe H. and Leisering B., "The Istanbul Convention", German Institute for Human Rights, 2019, p. 52, available at: www.institut-fuer-menschenrechte.de/fileadmin/Redaktion/Publikationen/Analyse_Studie/Analyse_Istanbul_Konvention.pdf; and Igney C. and Ehmke J. (2016), "The Victims of Violent Crimes Compensation Act – A Good Idea in Need of Reform", in *Trauma – Magazine for psycho-traumatology and its field of application*, p. 66, 14 Jg., Heft 4, available at: https://vielfalt-info.de/images/vielfalt/Trauma_4-2016_IgneyEhmke.pdf.

208. Explanatory Report to the Istanbul Convention, paragraph 166.

213. Article 2, paragraph 2, of the OEG requires that the applicant reports the crime to the police without delay, to enable the state to prosecute the perpetrator. In cases where this would be particularly burdensome on the victims – including in cases of sexual abuse within the family or domestic violence – exceptions can be made. However, according to indications from civil society representatives working for and with victims, the number of women victims of domestic violence or women in prostitution being refused compensation under the OEG is growing, on the grounds that their remaining in the violent relationship/situation was contributing to the damage because of “grossly negligent self-damaging behaviour” or “remaining in a dangerous situation”.²⁰⁹ GREVIO notes with concern such a tendency to shift the responsibility for abusive behaviour from the perpetrator to the victim.

214. The OEG stipulates that the state may claim redress from the perpetrator. However, there is a possibility for the victim to choose not to do so if claiming redress could lead to considerable disadvantages for her or her family members. GREVIO welcomes this exception for hardship cases, for example when claiming redress from the perpetrator would diminish the household income for the victim, who may still be living with him.

215. In this context GREVIO notes that important changes are being introduced. As of 1 January 2024, all compensation under social laws (outside of court proceedings) will be consolidated in the new Book No. XIV of the Social Code, making the OEG obsolete. The new provisions will be applicable retroactively from 1 July 2018. The definition of violence will also include psychological violence, and the requirement to report the crime to the authorities has been dropped. In the explanatory memorandum to the new provisions, it is stated that remaining in a violent relationship no longer constitutes a reason for refusal of compensation. GREVIO welcomes these developments as they appear to be closing certain gaps for victims of violence covered by the Istanbul Convention.

216. This is all the more necessary as data compiled by the victim support organisation WEISSER RING e.V. show that, on average, only about 10% of all victims of violent crimes claim compensation under the OEG,²¹⁰ despite Article 406j of the German Code of Criminal Procedure stipulating, among other things, that injured parties must be informed of the option to claim compensation under the OEG. In 2019, about 46% of those claims were dismissed and 26% granted. Putting these percentages into perspective with the number of violent crimes recorded that year, only 2.43% of victims received compensation under the OEG.²¹¹ Moreover, it appears that the data available are not disaggregated by sex, age, type of violence, the relationship of the perpetrator to the victim and geographical location. Concerning women who sought refuge in a shelter, only 1% of them requested compensation under the OEG.²¹² The Women’s Shelter Co-ordination reports that the main reasons for this extremely low number are that such requests are complex and require proof of a causal connection between the damage suffered and the act of violence, and that they are often rejected in cases of intimate partner violence.²¹³

217. **GREVIO strongly encourages the German authorities to:**

- a. take the necessary measures in order to ensure that wider use is made of the legal possibilities to claim compensation for women victims of any of the forms of violence covered by the Istanbul Convention, in particular by examining and addressing the reasons for the low number of applications for compensation under the Act on Compensation for Victims of Violent Crimes , and the relatively**

209. Ibid., p. 68, with further references.

210. As these statistics are based on the Police Crime Statistics, they only include cases where the violent crime was reported to the police. Unreported crimes are not counted, and it is therefore not known in how many cases exceptions are made from the general obligation to report a crime that is constitutive for the eligibility for compensation under the OEG. Data available at: <https://weisser-ring.de/media-news/publikationen/statistiken-zur-staatlichen-opferentschaedigung>.

211. Available at: https://weisser-ring.de/system/files/domains/weisser_ring_dev/downloads/2019staatloperentschaedigung15072020.pdf.

212. Statistics on Women’s Shelters and their Inhabitants 2020, Women’s Shelter Co-ordination, p. 33, available at: www.frauenhauskoordination.de/fileadmin/redakteure/Publikationen/Statistik/2021-118-16_FHK_Frauenhausstatistik2020_Langfassung.pdf.

213. Ibid.

low number of granted claims. In this context, GREVIO strongly encourages the German authorities to take measures to put an end to the practice of qualifying women who remain in abusive relationships as ineligible for compensation well before the entry into force of Book No. XIV of the Social Code;

- b. collect data, disaggregated by sex, age, type of violence, the relationship of the perpetrator to the victim and geographical location, of compensation claims made and granted under the OEG as well as compensation granted in the context of criminal proceedings;**
- c. ensure that claims under the Act on Compensation for Victims of Violent Crimes are dealt with within a reasonable time as required by Article 30, paragraph 3, of the Istanbul Convention, to ensure that victims receive the financial and material support they urgently need.**

3. Custody, visitation rights and safety (Article 31)

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

219. There is no express obligation under applicable laws in Germany to ensure that, in the determination of custody and visitation rights, incidents of violence covered by the scope of the convention are taken into account. However, there are several provisions in the Civil Code which in principle allow for their interpretation in line with Article 31, paragraph 1, of the convention. Article 6 of the German Basic Law provides for a constitutionally guaranteed right of parents to raise their child. However, it also allows for the separation of children from their parents if the latter fail in their obligations as carers. Article 1 631, paragraph 2, of the German Civil Code guarantees that children have a right to a non-violent upbringing, and that physical punishment, psychological violence and other degrading measures are prohibited. In proceedings concerning custody and visitation rights in Germany, the principle of joint custody is to be given preference. However, another important consideration is the best interest of the child. Article 1 684, paragraph 4, of the Civil Code stipulates that a restriction on or exclusion of visitation rights is possible for a longer period or permanently if this is considered necessary to avert a threat to the welfare of the child. Pursuant to Article 1 666, family courts must take measures if the physical or mental well-being of a child is endangered, and may, among other things, restrict or withdraw parental custody. The family courts thus have legal bases available to take into account any violence committed against the child by a parent in their decisions on custody and visitation rights.²¹⁴ Courts may also order that the handover of the child is organised in a way that the victim of violence does not have to encounter the perpetrator, and that her address is kept secret. GREVIO welcomes these possibilities for protecting victims through court orders, which can make a decisive difference in keeping them safe.

220. However, in the light of ample research showing that child custody and visitation decisions that do not duly take violence within the family into account may expose women to post-separation abuse²¹⁵ and secondary victimisation,²¹⁶ GREVIO wishes to underline that, under the Istanbul Convention, the safety of the non-violent parent and children must be a central factor when deciding on the best interest of the child in relation to custody and visitation arrangements. As regards the latter, paragraph 2 of Article 31 of the convention requires that the exercise of any visitation or

214. Article 1 671, paragraph 1, and Article 1 684, paragraph 4, of the Civil Code.

215. An overview of research in this area shows that for many women and children, violence intensifies after separation; that child contact arrangements (including court-ordered contact) can be significant for the perpetuation of physical and emotional abuse towards children and women, even where there are high levels of supervision; that child contact often replaces the intimate relationship as the avenue for men to control women, so that child contact can become a form of post-separation violence. See: R. Thiara and C. Harrison (2016), "Safe not sorry: Key issues raised by research on child contact and domestic violence", Women's Aid, available at: www.womensaid.org.uk/wp-content/uploads/2016/01/FINAL-Safe-not-sorry-FOR-WEB-JAN-2016.pdf.

216. Studies on child homicides committed by perpetrators of domestic violence in the context of unsafe child contact started a national campaign in the United Kingdom, run by Women's Aid (see www.womensaid.org.uk/tag/nineteen-child-homicides/), and have led to a review of judicial practices on custody and visitation in some countries.

custody rights does not jeopardise the rights and safety of the victim or children. This obligation stems from the realisation that for many victims and their children, complying with contact orders can present a serious safety risk because it often means meeting the perpetrator face to face²¹⁷ and it can act as a contributing factor to serious instances of violence, including the killing of the woman and/or children.²¹⁸ A robust risk assessment and screening for a history of domestic violence, including intimate partner violence against the other parent, is essential to ensure that threats to the safety and well-being of the non-abusive parent and the child can be identified and that child contact decisions do not facilitate the continuation of abuse and control. These must therefore be an integral part of decision-making processes on child custody and visitation, including where they are based on an agreement of the parents, so as to ensure that the agreed arrangements are in the best interest of the child and in particular that the safety of the parent victim of violence and the child are protected.²¹⁹

221. A leading judgment by the Constitutional Court from 2003 limited the general priority that German law gives to joint custody in cases where violence has been perpetrated against the other parent – in this case because of the multiple rape of the mother by the child’s father.²²⁰ A recent publication on child custody and domestic violence, which was funded by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth, compiled a selection of relevant judgments by courts from various federal states, ranging from first-instance courts to the Federal Constitutional Court, which made use of the legal possibility of withdrawing custody or significantly limiting visitation rights of parents who have perpetrated violence on the other parent.²²¹ On the other hand, GREVIO received information from women’s rights groups and lawyers active in the field of domestic violence about cases in which incidents of violence against the mother were not taken into account by the competent courts, as it was not considered to have a bearing on the right of the abusive father to maintain contact with the child.²²² In fact, the above-mentioned study concluded, based on an overview of relevant jurisprudence, that most legal commentaries saw a high threshold for visitation rights to be limited or not granted where the abuse was committed against the mother and/or the child, corroborating the accounts of practitioners.²²³

222. While supervised visitation may be ordered, this seems to be reserved as a tool to ensure visitation rights of the abuser with children in cases where the abuse was perpetrated directly against the child, including in cases of proven sexual, physical and psychological abuse.²²⁴ It does not seem to be recommended, by legal commentaries, in cases where the abuse is committed against the mother, indicating a lack of understanding of the harmful effect this has on children. While GREVIO recognises the need to carefully balance the different rights at stake and fully supports the right of the child to maintain its ties with both parents as enshrined in Article 6 of the German Basic Law as well as Article 9, paragraph 3, of the UN Convention on the Rights of the Child, exposure to domestic

217. Explanatory Report to the Istanbul Convention, paragraph 176.

218. See, for example, the facts of the case of *Penati v. Italy*, Application No. 44166/15, 11 May 2021, <https://hudoc.echr.coe.int/eng?i=001-209868> (available only in French and Italian).

219. The European Court of Human Rights held in its Grand Chamber judgment in the case of *Kurt v. Austria* [GC] (Application No. 62903/15, § 163, 15 June 2021) that “Children who are victims of domestic violence are particularly vulnerable individuals and entitled to State protection, in the form of effective deterrence, against such serious breaches of personal integrity, notably as a consequence of the States’ positive obligations under Article 2 of the Convention ... Violence against children belonging to the common household, including deadly violence, may be used by perpetrators as the ultimate form of punishment against their partner.”

220. Federal Constitutional Court, decision of 18 December 2003, 1 BvR 1140/03.

221. Thomas Meysen (ed.) (2021), “Child Custody and Domestic Violence – Contact, Parental Custody, Child Welfare Endangerment, Family Procedural Law”, SOCLES International Centre for Socio-Legal Studies, p. 33 et seq., Heidelberg, August 2021, available at: www.bmfsfj.de/resource/blob/185888/804264351973903018ba213d1bd73a5a/kindschaftssachen-und-haesusliche-gewalt-data.pdf.

222. NGO submissions by RIGG Intervention Union RLP, p. 18, and Alliance Istanbul Convention, p. 105, as well as information obtained during the evaluation visit.

223. Thomas Meysen (ed.) (2021), “Child Custody and Domestic Violence – Contact, Parental Custody, Child Welfare Endangerment, Family Procedural Law”.

224. In relation to supervised visitation, for example, a commentary on German jurisprudence on Article 1 684, paragraph 4, of the Civil Code, states that supervised visits should be the exception, indicating that regular visitation is to be favoured. Examples of cases in which German courts have allowed supervised visitation with an abusive parent concern serious abuse, including proven sexual abuse of the child (leading to “exceptional” visitation rights); physical or psychological abuse of the child; domestic violence against the child; “paedophile” preference with a specific endangerment of the child; the complete disregard of a father of the (physical) integrity of the child; a threat of an abduction of a child by the parent. See BeckOK BGB/Veit, 59. Ed. 1.11.2019, BGB § 1684 Rn. 60, 60.1 and 60.3 with further references.

violence – as a victim or witness – requires exceptions to be made in the best interest of the child.²²⁵ In the absence of data on the number of cases in which parental rights and visitation was limited because of a history of intimate partner violence, GREVIO is not in a position to assess to what extent such exceptions to visitation rights are being made. It is therefore important to collect more detailed and in-depth information on the respective practice of the German family courts in order to obtain a full picture of the current practice.

223. GREVIO welcomes the good judicial practice demonstrated by the Munich Family Court,²²⁶ but notes with regret that the type of proactive approach employed in Munich is not replicated by courts in other parts of Germany.²²⁷ Moreover, there are no leading judgments or other nationwide guidelines that clearly state the duty of judges to screen cases for domestic violence and conduct risk assessments in order to determine the best interest of the child in deciding on parental separation in relation to families marred by a history of violence. This, however, would be of utmost importance in order to enable family courts, who are bound by the principle of expedited procedures and required to set a first hearing on custody and visitation matters within a month, to benefit from information on a child's situation obtained by other relevant parties, notably in the context of police investigations or proceedings under the Act on Protection from Violence or by youth welfare services. As criminal proceedings often taken much longer than family court proceedings, GREVIO stresses the importance of multi-agency co-operation in custody and visitation cases where allegations of violence have been made. Only if there is an active exchange of information between all stakeholders can incidents of violence be adequately taken into account by family courts, such as previous protection orders, the opening of a police investigation, criminal convictions or other relevant factors.

224. The sharing of information through multi-agency co-operation based on guidelines and clear protocols and with due regard to personal data protection of the individuals concerned would also enable judges to be made aware of parties whose relationship has been marred by violence, and the resulting power imbalance in the relationship which would impair the ability to reach mutually acceptable agreements on custody and visitation based on co-operation, as German law encourages.²²⁸ As GREVIO has had occasion to note in previous reports, family judges and other relevant professionals, such as expert court witnesses or child psychologists and youth welfare officers, must be enabled to recognise and assess the – often very real – safety concerns and fears that women victims of domestic violence and their children raise, including as a reason for objecting to reaching settlements or to custody and visitation arrangements as proposed by the court.²²⁹ Through training and higher levels of awareness of the nature and the impact of intimate partner violence and of the heightened risk to victims during separation, which is often manifested by death threats and post-separation stalking, a deeper understanding of the risks which custody and visitation arrangements can present for women victims and their children can be reached.

225. Noting the preparations for a wider reform of the laws on custody and visitation, GREVIO is concerned that the specific situation of women experiencing intimate partner violence by the other parent has seemingly not been considered as a factor requiring specific responses.²³⁰ A study commissioned by the Federal Government entitled “Best interest of the child and visitation rights”,

225. The UN Committee on the Rights of the Child emphasises, in paragraph 61 of its General Comment No. 13, that the “interpretation of a child's best interests must be consistent with the whole Convention, including the obligation to protect children from all forms of violence”.

226. The special guidelines of the Munich Family Court on custody and visitation proceedings clearly state that witnessing violence also threatens the best interest of the child and that the protection of witnesses must be given precedence. The guidelines recommend a standardised procedure to be followed in cases of domestic violence and child abuse. As an example, one of the steps in the procedure is obtaining all previous files from the police, the public prosecutor's office and other previous court proceedings, as well as family court files on proceedings under the Act on Protection from Violence. The special guidelines are available at: https://www.justiz.bayern.de/media/images/behoerden-und-gerichte/amtsgerichte/muenchen/familienachen/20.07.06_sonderleitfaden_muenchner_modell.pdf

227. At the time of the adoption of this report, the Munich Catholic University for Applied Sciences was in the process of analysing the application of a risk-assessment tool related to the “Munich model”, with the aim of offering a suitable tool (i.e. the questionnaire) for use in other parts of Germany.

228. See Chapter V, Prohibition of mandatory alternative dispute resolution processes or sentencing.

229. See GREVIO's baseline evaluation report on France (paragraphs 106, 107 and 186), on Denmark (paragraph 154), on Italy (paragraph 185) and on Sweden (paragraphs 171 and 164).

230. The paper issued by the Federal Ministry of Justice's working group on custody and visitation rights is available at: www.bmjv.de/SharedDocs/Artikel/DE/2019/102919_AG_SorgeUndUmgangsrecht.html.

intended to examine the interrelation of violence, access rights and the best interest of the child, has been completed but not yet published and is currently subject to court proceedings for reasons related to personal data protection.²³¹

226. However, even in the absence of a study specific to Germany, GREVIO points to research emanating from other countries that reveals the extent to which the position of children during separation and in post-separation parenting is overlooked, in particular in cases where intimate partner violence has preceded the separation.²³² The ensuing custody and visitation decisions and their enforcement are frequently used by domestic abusers to continue the pre-separation tactics of power and control. Children's vulnerability in this context is exacerbated by the fact that restraining orders in Germany do not have a bearing on the abuser's (father's) right of access to their child unless the order has been specifically issued to protect the child. Further research into these and other factors affecting the safety of children and their abused mothers in the context of custody and visitation arrangements in Germany is therefore important, taking into account the perspectives and experiences of all stakeholders, including women's services and lawyers active in the field. Moreover, the publication and discussion of any findings should ensue, in order to enable public debate and full engagement with the standards of the Istanbul Convention, as announced in the coalition agreement adopted by the newly elected government.²³³ In this regard, GREVIO notes with interest an ongoing research project that maps existing co-operation structures, protocols and guidelines addressing the issue of custody and visitation, the best interest of the child and the safety of the victim after separation from an abusive partner with a view to identifying best practice examples.²³⁴

227. GREVIO notes with concern the indications from women's rights organisations and experts active in the field regarding the high risk of violence against women and their children remaining undetected and/or contested because of the assessments made by court-appointed experts in cases concerning custody and visitation rights, which frequently consider that the rejection of a parent by the child is based on the so-called notion of "parental alienation".²³⁵ This and other related notions proven to be without any scientific foundation seem to be widespread in Germany, and are even used in the training of youth welfare officers.²³⁶ GREVIO stresses the high risk of this contributing to violence against women and their children remaining undetected and/or contested since they ignore the gender-based nature of domestic violence and essential aspects of child welfare.²³⁷ It is important to ensure that all professionals dealing with the determination of custody and visitation rights are trained in the root causes of domestic violence, its gendered nature and the power-and-control dynamics employed by domestic abusers to enable professionals to act in full spirit of Article 31 of the convention. Full knowledge of these issues can significantly enhance awareness among the

231. Available at: www.bmfsfj.de/bmfsfj/aktuelles/alle-meldungen/aktueller-stand-der-studie-kindeswohl-und-umgangsrecht--176860.

232. Anna Nikupeteri and Merja Laitinen (University of Lapland), "Children's everyday lives shadowed by stalking: post-separation stalking narratives of Finnish children and women", in *Violence and Victims*, 2015, Vol. 30, No. 5, pp. 830-45, at p. 831. Interviews conducted with children show the extent to which the shadow of violence and abuse they have lived with continues because of visitation arrangements; Holt S., Buckley H. and Whelan S. (2008) "The impact of exposure to domestic violence on children and young people: A review of the literature", in *Child Abuse and Neglect*, 32, pp. 797-810; Callaghan J. E., Alexander J. H., Sixsmith J. and Fellin L. C. (2018), "Beyond 'Witnessing': Children's Experiences of Coercive Control in Domestic Violence and Abuse", in *Journal of Interpersonal Violence*, 33(10), pp. 1551-1581; McLeod D. (2018), "Coercive Control: Impacts on Children and Young People in the Family Environment", in *Research in Practice*; and Katz E. (2016), "Beyond the Physical Incident Model: How Children Living with Domestic Violence are Harmed by and Resist Regimes of Coercive Control", in *Child Abuse Review*, 25(1), pp. 46-59.

233. Coalition agreement between three political parties (SPD, the Greens/Bündnis 90 and the FDP), entitled "Daring more progress", adopted in December 2021, p. 114.

234. <https://prospektive-entwicklungen.de/>

235. Information obtained during the evaluation visit. For a discussion on the issue of the notion of "parental alienation" see GREVIO's baseline evaluation reports on France, paragraph 169; on Italy, paragraph 161; and on Poland, paragraph 164.

236. See for example the study "Family law in Germany" of April 2022 by sociologist Wolfgang Hammer, former head of the Division for Children and Youth at the Hamburg Social Welfare Office, available at: www.familienrecht-in-deutschland.de/studie, information obtained during the evaluation visit, and NGO submission by Alliance Istanbul Convention, p. 104.

237. See the statement dated December 2017 from the European Association for Psychotherapy (EAP) warning that the concepts of "parent alienation syndrome" and "parental alienation" are unsuitable for use in any psychotherapeutic practice. This statement from the EAP, which consists of 128 organisations of psychotherapists from 41 European countries, serves as a guideline for psychotherapists across Europe.

relevant professionals that women victims of domestic violence may have real safety concerns for themselves and their children which must be addressed rather than dismissed on the grounds of accusations of lack of co-operation or manipulation of their children.

228. GREVIO urges the German authorities to take all appropriate measures, including legislative measures where necessary and providing specialised training and appropriate guidelines, to ensure that all relevant professionals, including social workers, youth welfare officers, members of the judiciary, court experts and child psychologists, when deciding on custody and visitation:

- a. are duly aware of and take into account the negative impact on children of violence by one parent against the other;**
- b. are aware of the lack of a scientific basis for so-called “parental alienation” and similar concepts;**
- c. incorporate a process for screening cases for a history of violence by one parent against the other and for identifying whether it has been reported, including for cases referred to out-of-court settlement.**

229. GREVIO further urges the German authorities to:

- a. improve the co-operation between family courts and specialist services that assist victims and their children in proceedings concerning custody and visitation rights;**
- b. take steps to ensure that procedures and decisions in such cases do not endanger the safety of women victims of intimate partner violence, in particular by not disclosing their place of residence.**

230. GREVIO strongly encourages the German authorities to evaluate the effects of the current judicial practice of deciding on custody and visitation rights on the safety of women victims of domestic violence and their children, including linkages to gender-related killings of women and their children, to analyse relevant case law and to collect data on the use that is made by judges of limiting or withdrawing parental or visitation rights in the context of domestic violence, with a view to reconsidering the criteria for supervised visitation.

4. Civil consequences of forced marriages (Article 32)

231. In Germany, forced marriages can be dissolved regardless of the age of the victim upon their request. The family courts are responsible for the marriage annulment proceedings. GREVIO reiterates that Article 32 of the Istanbul Convention requires that the procedure for the dissolution of a forced marriage should be easily accessible and should not entail an undue financial or administrative burden for the victim.

232. As for the civil consequences of child marriages, GREVIO notes that the German Civil Code differentiates between marriages of a child under 16 and marriages concluded with a minor who has reached the age of 16 but not yet 18. While the latter can be dissolved (Article 1314, paragraph 1(1)), the former are automatically void under German law, without exception.²³⁸ While acknowledging the differences between underage and forced marriages, GREVIO underlines that the young age of brides means that they are at a higher risk of not being able to express their full and free consent to a marital union or to resist a forced marriage.²³⁹ The damaging consequences of both forced and child marriage have been amply illustrated by international human rights bodies. Child, early and forced marriages are widely acknowledged as harmful practices that violate, abuse or impair human rights and are linked to and perpetuate other harmful practices and human rights

238. Pursuant to Article 1303 of the Civil Code, and Article 13, paragraph 3(1), of the Introductory Act to the German Civil Code.

239. See Resolution 175 of the United Nations General Assembly and the Joint General Recommendation No. 31 by the CEDAW Committee and Committee on the Rights of the Child, and general comment 18 of the Committee on the Rights of the Child.

violations. Such harmful practice has a disproportionately negative impact on women and girls and constitutes a serious threat to multiple aspects of their physical and psychological health.

233. GREVIO thus welcomes the entering into force in 2017 of the Act against Child Marriages, which raised the age of marriage in Germany to 18 years. The evaluation of the law by the Federal Ministry of Justice and Consumer Protection in 2020 showed that during the period examined (22 July 2017 to 31 March 2020), 104 proceedings were initiated to dissolve a marriage because of (one of) the spouses being underage. In the entire reporting period, a total of nine proceedings were reported to determine the invalidity of marriage due to the absence of the required minimum age of 16. Most of the applications were granted. In one case, the application was withdrawn. Only 11 cases ended in the dissolution of the marriage. The study concluded that the prohibition of child marriages was successful as far as it resulted in no such marriages officially taking place in Germany. However, it also acknowledged that the data available were not complete, as not all federal states had provided relevant numbers and there still remained an unknown number of religious and unofficial practices of child marriage. In general, the study found that the dissolution of child marriages by civil courts was of little importance in practice.

234. NGOs active in the field, however, drew GREVIO's attention to the fact that the automatic voidance of any marriage involving a girl under the age of 16 resulted, at times, in undue hardship for the victim, who loses any claims to alimony or subsistence payments from her former spouse.²⁴⁰ GREVIO therefore considers that the authorities should ensure that any woman or girl who finds herself in such a situation should receive the necessary relevant support.

235. GREVIO encourages the German authorities to harmonise the procedures for the dissolution of forced marriages throughout the country, making the procedure easily accessible and ensuring that it does not entail an undue financial or administrative burden for the victim, as required under Article 32 of the Istanbul Convention.

B. Criminal law

236. A number of criminal law provisions exist in the German Criminal Code to criminalise the forms of behaviour covered by Articles 33 to 40 of the Istanbul Convention. The comprehensive reform of all sexual offences prior to Germany's ratification of the Istanbul Convention was accompanied by extensive awareness-raising efforts and public debates, which led to a rise in criminal reports of such offences. Moreover, important legislative amendments, such as the introduction of the criminal offence of cyberstalking, were recently made to account for the rising relevance of the digital dimension of violence against women, which was timely as GREVIO had just issued its first General Recommendation focusing on this topic.²⁴¹

1. Psychological violence (Article 33)

237. There is no specific offence of psychological violence under German law. This form of violence frequently experienced in domestic violence situations may fall under the criminal offences of coercion,²⁴² threat,²⁴³ bodily harm,²⁴⁴ stalking,²⁴⁵ and/or Section 4, paragraph 1, of the Act on Protection from Violence.

240. This issue is currently under examination by the Federal Constitutional Court. In 2018 the German Federal Court of Justice (*Bundesgerichtshof*) requested the Federal Constitutional Court to examine whether Article 13, paragraph 3(1), of the Introductory Act was in line with the German Basic Law (see the text of the request here: <http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&Datum=Aktuell&nr=90440&anz=1&pos=0&Frame=4&.pdf> (in German)).

241. GREVIO General Recommendation No. 1 on the digital dimension of violence against women, adopted on 20 October 2021, Council of Europe, 2021, available at: <https://rm.coe.int/grevio-rec-no-on-digital-violence-against-women/1680a49147>.

242. Article 240 of the Criminal Code.

243. Article 241 of the Criminal Code.

244. Article 223 of the Criminal Code.

245. Article 238 of the Criminal Code.

238. However, as regards the offence of “coercion”, the Federal Constitutional Court held in a leading judgment²⁴⁶ that the use of force within the meaning of Article 240 of the Criminal Code only applies in cases where the perpetrator exerts coercion on the victim through the use of physical force and this coercion does not merely have a psychological effect but is also physically felt. In addition, the offence of “coercion” may also be fulfilled through the threat of serious harm. The offence of “threat” requires the threat of a criminal act, which is a threshold that is too high to capture the type of ongoing psychological violence that victims of domestic violence experience. In relation to the offence of bodily harm, GREVIO notes that while the wording of the offence would allow for psychological harm to be subsumed under this provision, in practice the jurisprudence of the Federal Court of Justice appears to exclude this possibility to a wide extent.²⁴⁷ Moreover, none of the mentioned offences encompass a course of conduct which might consist of several incidents of conduct of a lower intensity, which often form part of the pattern of abuse in domestic violence situations and which is what Article 33 of the Istanbul Convention seeks to capture. Finally, the criminal provision of Section 4, paragraph 1, of the Act on Protection from Violence only applies if the victim has obtained a protection order beforehand and the perpetrator has violated it. According to indications from civil society and lawyers specialising in the field, judges do not systematically consider psychological violence to form part of domestic violence.²⁴⁸ Introducing a separate offence of psychological violence into the Criminal Code would be likely to lead to greater legal clarity and coherence, also in the light of the reform of social compensation law, which will include the possibility to claim compensation for psychological violence as of 1 January 2024.²⁴⁹

239. GREVIO notes with interest that in April 2021 the Act on Combating Right-Wing Extremism and Hate Crimes entered into force, which contains an amendment to the offence of “threat”. It now includes threats of an unlawful nature against sexual autonomy, physical integrity, personal freedom or an object of significant value.²⁵⁰ This act is directed against the sharing of threatening and otherwise unlawful content online, in particular on social media. While this amendment of the offence of “threat” closes some gaps in relation to Article 33 of the convention, GREVIO notes that it still may not cover all cases of serious impairment of a person’s psychological integrity.

240. In relation to the issues of online hate speech, defamation and other forms of abuse perpetrated via ICT, which can have a tremendous psychological impact on victims and is becoming more and more prevalent, GREVIO draws attention to its General Recommendation No.1 on the digital dimension of violence against women.²⁵¹ It considers that violence against women online and through technology constitutes a continuation of violence perpetrated against them offline. Research has shown that almost half of domestic violence victims reported experiencing some form of abuse online during a relationship and/or after the relationship ended.²⁵² The Fundamental Rights Agency found in its 2014 survey that one in 10 women in the EU had faced either unwanted sexually explicit messages or inappropriate advances on social networks since the age of 15.²⁵³ It must be presumed that these numbers have increased since 2014. In that context, GREVIO welcomes the explicit criminalisation under German law of several forms of technology-facilitated abuse, such as cyberstalking, the unauthorised taking of pictures of private bodily parts, the sharing of images online and the use of stalkerware.²⁵⁴ Other forms, such as image-based sexual abuse (so-called “revenge porn”, deepfakes, etc.)²⁵⁵ may come under one or several other criminal provisions (such as libel, slander or defamation, stalking, violation of personality rights or copyright).

246. See Federal Constitutional Court, judgment of 1 January 1995, 1 BvR 718/89.

247. See Federal Court of Justice, judgments of 18 July 2013, 4 StR 168/13; 9 October 2002, 5 StR 42/02; 12 March 2019, 4 StR 63/19.

248. Information obtained during the evaluation visit.

249. See Chapter V, Compensation.

250. Article 241, paragraph 1, of the Criminal Code.

251. GREVIO General Recommendation No. 1 on the digital dimension of violence against women, adopted on 20 October 2021, Council of Europe, 2021, available at: <https://rm.coe.int/grevio-rec-no-on-digital-violence-against-women/1680a49147>.

252. *Ibid.*, p. 14, with further references.

253. Fundamental Rights Agency, *Violence against women: an EU-wide survey. Main results report*, 3 March 2014, available at: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf.

254. See Chapter V, Stalking.

255. For a glossary, see GREVIO’s General Recommendation No. 1 on the digital dimension of violence against women, adopted on 20 October 2021, Council of Europe, 2021, available at: <https://rm.coe.int/grevio-rec-no-on-digital-violence-against-women/1680a49147>.

241. The Network Enforcement Act, which aims to fight hate crime and other unlawful content on social networks, entered into force on 1 October 2017.²⁵⁶ It defines standards for effective mechanisms for complaints and obliges the operators of social networks to offer easy procedures to users for the reporting of criminally relevant online content and to immediately examine the content concerned and, if it is found to be unlawful, rapidly remove it. The law further contains a reporting obligation on the social networks, which must provide the authorities with biannual reports on, for example, the number of complaints received. Failing to set up a complaints management system or not deleting criminally relevant content on time results in a fine. Last, anyone whose personality rights are violated by content that is covered by the Network Enforcement Act has the right to obtain information from the social network on the details of the person having committed the offence. GREVIO commends the German authorities for its pioneering role in this context but notes that there remain some issues in its implementation by the respective platforms and notes that insufficient checks by the authorities have resulted in hateful content remaining online.²⁵⁷ While there is a possibility to complain to the Federal Ministry of Justice, this is only possible for structural violations of the Network Enforcement Act. In all other cases, the person requesting the removal of unlawful content must bring a claim directly against the platform in question, which is a high threshold to take. GREVIO notes, however, that in 2021 an amendment to the Network Enforcement Act entered into force, which makes it easier to complain against the failure to delete unlawful content.²⁵⁸

242. Another issue brought to the attention of GREVIO by NGOs active in the field of combating digital violence is that the Network Enforcement Act currently only aims to remove unlawful content but does not enable the criminal prosecution of the author thereof. Criminal investigations and proceedings for libel, defamation or the illegal distribution of images are all too often discontinued for an alleged lack of public interest, and perpetrators are rarely brought to justice, not least because the technical means are lacking.²⁵⁹ In that context, GREVIO welcomes Germany's plans to reform the Network Enforcement Act in 2022 and introduce an obligation on platforms to report certain unlawful content to the Federal Criminal Police Office. GREVIO notes with interest that since 2018, the Central Cybercrime Office for North Rhine-Westphalia based at the Cologne Public Prosecution Service (ZAC NRW) has been responsible for the project "Tracking instead of just deleting" together with the State Media Authority. In this project, the participating media companies are trained to separate content that is relevant under criminal law from content that may be deplorable but is still covered by freedom of expression. The ZAC NRW processes criminal reports generated from this throughout the federal state. ZAC NRW is also currently working with the Federal Criminal Police Office, among other entities, on a concept that will enable civil society organisations to report incriminating content online in the future.

243. GREVIO strongly encourages the German authorities to investigate, prosecute and punish effectively acts of psychological violence online and offline by making full use of the available provisions in the German Criminal Code. To effectively criminalise all acts that seriously impair the psychological integrity of a person as required by Article 33 of the Istanbul Convention, GREVIO strongly encourages the German authorities to consider creating a separate offence which takes into account all elements of the crime as required by the convention.

2. Stalking (Article 34)

244. Stalking is criminalised under Article 238 of the German Criminal Code. It covers a wide range of behaviour that is likely to interfere with a person's way of life, including by approaching the vicinity of the targeted person without their consent, establishing contact via means of telecommunication, misusing personal data by placing orders for goods or services on the person's behalf, threatening the life or limb of that person or those close to her, or distributing or making public

256. Network Enforcement Act, available at: www.bmjj.de/DE/Themen/FokusThemen/NetzDG/NetzDG_EN_node.html.

257. See for example *Sueddeutsche Zeitung*, "How Facebook deals with hateful comments", available at: www.sueddeutsche.de/projekte/artikel/digital/hass-im-netz-wie-facebook-mit-hasskommentaren-umgeht-e994275/?reduced=true and HateAid, "Facebook fails in protecting the Federal Elections", available at: <https://hateaid.org/facebook-bundestagswahl/>.

258. Available at: www.bmjj.de/DE/Themen/FokusThemen/NetzDG/NetzDG_node.html.

259. Information obtained during the evaluation visit.

under pretence of the targeted person's authorship any content, including via means of ICT, which is likely to disparage them in the eyes of public opinion. The provision thus primarily refers to the intent of the perpetrator, placing the onus on his behaviour rather than on the actual impact of his actions on the victim. In addition, the aggravated form of the offence includes more severe penalties for the use of stalkerware; for stalking the victim over a period of at least six months; or for causing the victim or persons close to them a health impairment, serious damage to their health or (a real risk of) death.

245. GREVIO welcomes the fact that Article 238 of the Criminal Code complies with the requirements of Article 34 of the Istanbul Convention, and in particular that the offence now includes cyberstalking, which is a more and more prevalent form of violence against women.²⁶⁰ Moreover, GREVIO notes with satisfaction that the definition of stalking is behaviour-based rather than result-based; and that the offence includes acts of stalking perpetrated not only against the victim but also against persons close to her. Last, the possible punishment for violations of a protection order of up to two years' imprisonment or a fine can be considered as sufficiently dissuasive.

3. Physical violence (Article 35)

246. A wide range of offences encompassing different forms and levels of severity of physical violence are covered by Articles 223 et seq. of the German Criminal Code, such as bodily harm, dangerous bodily harm, ill-treatment of a person entrusted to one's care, grievous bodily harm and bodily harm resulting in death. However, the simple and the negligent forms of the offence of bodily harm (Articles 223 and 229 of the Criminal Code, respectively) are only prosecuted upon application by the victim, unless the prosecuting authority considers that there is a special public interest in prosecution.²⁶¹

247. With due respect for the requirements of the efficiency of the justice system, GREVIO notes with concern that this approach runs counter to the requirement under Article 55 of the Istanbul Convention to make the investigation or prosecution of acts of physical violence not wholly dependent on the victim initiating proceedings.²⁶² As to whether *ex officio* prosecution of an offence is to be considered in the public interest, Section 234 of the Guidelines for Public Prosecutors²⁶³ states that such interest can be assumed if there is a personal relationship between the victim and the accused that would make prosecution by the victim unreasonable. However, GREVIO notes that there is no express reference to domestic violence in that context. Moreover, it appears that there are no data available indicating how often the prosecuting authorities assumed a specific public interest in prosecution, or how many times victims of "simple" bodily harm were referred to private prosecution.

248. In addition, there is no specific offence in German criminal law that covers a course of conduct that is typical of domestic violence cases, namely a sequence of – sometimes – minor offences, which in themselves may not reach the threshold of *ex officio* prosecution for bodily harm, but which form part of a pattern of abuse which, cumulatively, reaches a certain threshold of gravity.

249. In the absence of a reservation regarding the right not to ensure criminal investigations into and prosecution of offences established in accordance with Article 35, GREVIO strongly encourages the German authorities to take legislative and/or other appropriate measures to ensure wider levels of prosecution of cases of physical violence in the context of intimate partner violence, including by establishing strict guidelines for prosecution, in order to enable victims to obtain justice and to contribute to the effective deterrence of this form of violence.

260. For more detailed information, see GREVIO's General Recommendation No. 1 on the digital dimension of violence against women, adopted on 20 October 2021, Council of Europe, 2021, available at: <https://rm.coe.int/grevio-rec-no-on-digital-violence-against-women/1680a49147>.

261. Article 230 of the Criminal Code.

262. See Chapter VI, *Ex parte* and *ex officio* proceedings.

263. Richtlinien für das Strafverfahren und das Bußgeldverfahren (RiStBV) [Guidelines for criminal proceedings and proceedings concerning fines], available at: www.verwaltungsvorschriften-im-internet.de/bsvwvbund_01011977_420821R5902002.htm.

4. Sexual violence, including rape (Article 36)

250. In 2016, ahead of Germany's ratification of the Istanbul Convention, the Act to Amend the Criminal Code to Improve the Protection of Sexual Self-Determination entered into force and fundamentally reformed German criminal law on sexual offences. In particular, the “no means no” rule was implemented, criminalising any sexual act against the recognisable will of the victim. A separate and new type of criminal offence covering the act of encouraging sexual offences committed in group settings was also introduced (Article 184j of the Criminal Code). Article 177 of the German Criminal Code figures as the central offence, covering many of the elements set out in Article 36 of the Istanbul Convention. In its current version, paragraph 1 of Article 177 states that “any person who, against the apparent will of another person, performs or causes sexual acts to be performed on that person or causes that person to perform or tolerate sexual acts on or by a third person shall be liable to a prison sentence of six months to five years”. Certain groups of victims are considered unable to or limited in their ability to consent, such as persons incapable of forming or expressing their own will and those who are limited in forming a will for physical or psychological reasons (Article 177, paragraph 4, of the Criminal Code). The sentencing range for this group of victims of non-consensual sexual offences is similar, namely between one and five years of imprisonment. Rape is considered a particularly serious offence that is punishable with at least two years' imprisonment (Article 177, paragraph 6(1), of the Criminal Code) and is defined as causing or performing a penetration of the body of the victim or similar sexual acts.

251. GREVIO welcomes the introduction of a consent-based definition of rape and sexual violence and notes with satisfaction that the reform process was accompanied by significant awareness-raising campaigns, which led to broad public debate. As a result, an increase in reports to the police for offences against sexual self-determination has been observed. To illustrate, before the reform entered into force, in 2015, 46 081 reports of offences against sexual self-determination were registered. In 2020, this number almost doubled to 81 630 reported cases.²⁶⁴ While it is unclear whether this steep rise in reports was caused by the shift from a force-based definition of sexual assault to the “no means no” approach, by the public debates around the reform or by the heightened level of public awareness of the issue, the results of the reform are positive. Legal practitioners report that cases that would previously have been discontinued or would not have qualified as an act of sexual assault or rape are now going to trial and even leading to convictions.²⁶⁵ GREVIO welcomes this development as the beginning of the paradigm shift which Article 36 of the convention aspires to achieve in order to ensure greater access to justice for women and girls who experience sexual violence and rape without the use of force and threat. It wishes to point out, however, that the merit of the new criminal provisions will depend heavily on their rigorous application by prosecution services and courts. In that context, GREVIO welcomes the introduction of training on the criminal law reform on sexual offences at the Judges' Academy, which reportedly has been well received.

252. Moreover, GREVIO wishes to point to the fact that the conceptualisation of the new offences of rape and sexual assault as “sexual acts committed against the recognisable will of the victim” does not fully comply with the standard of criminalisation of all non-consensual sexual acts as required by Article 36, notably the requirement of its paragraph 2 that consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances. This means, for example, that the wording of Article 177 of the German Criminal Code may not allow for prosecution in cases where the victim remains passive but does not consent. For the act to be punishable under German legislation, the victim must express her opposing will verbally or otherwise. This, in turn, means that criminal proceedings will focus on the actions of the victim rather than those of the accused, creating room for gender stereotypes and rape myths to resurface. As GREVIO has had occasion to note in previous reports,²⁶⁶ research on the neurobiology of sexual trauma, conducted on victims of rape, shows that “freezing” (what is known as “tonic

264. Police Crime Statistics for 2015 and 2019, available at: www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/PolizeilicheKriminalstatistik/pks_node.html.

265. NGO submission by Alliance Istanbul Convention, p. 118.

266. For example, GREVIO's baseline evaluation report on Spain, paragraph 220.

immobility”) is a common reaction by victims associated with subsequent post-traumatic stress disorder (PTSD) and severe depression.²⁶⁷

253. GREVIO encourages the German authorities to monitor and further evaluate the implementation of the new sexual offences legislation, in particular Article 177 of the German Criminal Code, with a view to further aligning its definition of consent with that set out in Article 36, paragraph 2, of the Istanbul Convention.

5. Forced marriage (Article 37)

254. Forced marriage is specifically covered by Article 237 of the German Criminal Code. The crime is defined as unlawfully coercing someone to enter into a marriage through the use of force or by threat of serious harm. Equally, it is punishable by law to lure or force someone to travel abroad for that purpose. GREVIO thus notes with satisfaction that the constituent elements of Article 37, paragraphs 1 and 2, of the Istanbul Convention are adequately reflected in German criminal law.

255. According to the latest police crime statistics, in 2020 there were 82 victims of attempted and completed forced marriage, with 77 female victims, 35 of which were minors between the age of 14 and 17.²⁶⁸

6. Female genital mutilation (Article 38)

256. A specific criminal offence exists in Article 226a of the German Criminal Code, by which it is punishable to “mutilate the outside genitalia of a female person”. Germany applies extraterritorial jurisdiction for this offence if the perpetrator is a German citizen or the victim has her habitual residence in Germany (Article 5, paragraph 9a(b), of the Criminal Code).

257. Aiding and abetting the commission of FGM is covered by Articles 26 and 27 of the Criminal Code. GREVIO notes, however, that these provisions would not cover the act of inciting, coercing and procuring as required by Article 38b and c of the Istanbul Convention. These two sub-paragraphs require the criminalisation of behaviour that involves the intentional exertion of influence or coercion on a girl who herself does not harbour the intention of undergoing FGM. They seek to ensure that criminal liability occurs, for example, where relatives or community members incite, coerce or procure a girl to undergo FGM but do not take an active part in ensuring the procedure is carried out. This conduct differs from that of aiding and abetting both in terms of the constituent elements of the crime and the scope of intent. The obligation to criminalise the act of aiding and abetting FGM is set out in Article 41 of the Istanbul Convention and establishes criminal responsibility for someone who aids or abets another person in the commission of any of the acts set out in Article 38a (the excision, infibulation or any other mutilation of a woman’s labia majora, labia minora or clitoris). It would require the actual commission of FGM, whereas the act of coercing or procuring an adult woman (Article 38b) or inciting, coercing or procuring a girl (Article 38b) involves behaviour that is below the threshold of aiding and abetting and irrespective of the final commission of the act of excision, infibulation or any other mutilation.

258. From the data available to GREVIO, it appears that there has never been a conviction in Germany for FGM. The police crime statistics for 2020 do not show any reported cases of FGM; the statistics of 2019 list one case.²⁶⁹

267. Research studies show that a substantial number of victims do not resist the perpetrator in any way: tonic immobility is described as an involuntary, temporary state of motor inhibition in response to situations involving intense fear. In various studies, significant immobility was reported by 37% to 52% of sexual assault victims. See Moller A., Sondergaard H. P. and Helstrom L. (2017), “Tonic immobility during sexual assault – a common reaction predicting post-traumatic stress disorder and severe depression”, in *Acta Obstetricia et Gynecologica Scandinavica*, 2017; 96: pp. 932-938.

268. Police Crime Statistics of 2020, Table 91, Victim classification by age and sex, available at: www.bka.de/SharedDocs/Downloads/EN/Publications/PoliceCrimeStatistics/2020/pks2020Victims_excel.xlsx?__blob=publicationFile&v=3.

269. Available at: www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/PolizeilicheKriminalstatistik/pks_node.html.

259. **GREVIO encourages the German authorities to criminalise the intentional conduct of coercing or procuring a woman to undergo female genital mutilation and the intentional conduct of inciting, coercing or procuring a girl to undergo the act as set out in Article 38b and c of the Istanbul Convention.**

7. Forced abortion and forced sterilisation (Article 39)

260. Terminating a pregnancy against the will of the pregnant woman is punishable under Article 218, paragraph 2(1), of the German Criminal Code. Moreover, coercing a pregnant woman to undergo an abortion is criminalised pursuant to Article 240, paragraph 4(1), of the Criminal Code. In 2020, 16 persons were convicted for coercing a woman to undergo such procedure.

261. Forced sterilisation is punishable under Article 226 of the Criminal Code, which stipulates that causing a bodily injury that results in the injured person losing the ability to procreate constitutes aggravated bodily harm. It appears that there are no data available on the number of criminal proceedings or convictions for the specific crime of causing an inability to procreate; only overall statistics in relation to aggravated bodily harm are available.

262. In general, in Germany sterilisations may not be performed on persons who did not consent. Patients are considered capable of giving consent if they are able to grasp the significance and implications of the decision after being informed by the physician and are able to direct their will accordingly. In cases of persons who are legally considered as unable to consent, their court-appointed legal representative can give his or her consent in their name, subject to certain conditions. Under the current legal situation, a court-appointed legal representative may not consent to sterilisation if this is contrary to the person's will, irrespective of their capacity to consent (Article 1 905 of the Civil Code). The sterilisation of minors is prohibited without exception (Article 1 631c of the Civil Code).

263. On 1 January 2023, the Act on the Reform of Guardianship Law will enter into force, which will only permit the sterilisation of adults if it is in accordance with the natural will of the person who has been assigned a court-appointed legal representative, that is, if they themselves declare being in favour of it (according to the forthcoming Article 1 830, paragraph 1, no. 1 of the amended Civil Code). In theory, therefore, persons who are unable to form or express a natural will may no longer be sterilised as of 1 January 2023. In order for consent to sterilisation to be valid, a judge must appoint a special legal representative whose consent to sterilisation requires the approval of the competent court (future Article 1817, paragraph 2 of the Civil Code). In addition, the further requirements of Article 1830 paragraph 1 of the Civil Code must also be met, namely that the person under guardianship will remain permanently incapable of giving consent; that without the sterilisation a pregnancy would occur, as a result of which a danger to life or a danger of serious impairment of the physical or mental state of health of the pregnant woman is to be expected; and that the pregnancy cannot be prevented by other reasonable means. These requirements are already contained in Article 1905, paragraph 1 of the Civil Code as it is currently in force.

264. Statistics on court-approved sterilisations of persons assigned a court-appointed legal representative in Germany are available for the years from 1992 to 2016.²⁷⁰ The numbers vary from 65 approvals in 1992 to a peak of 203 in 1996 and down to an all-time low of 23 in 2016. In the same years, respectively, 7, 31 and 8 such requests for approval were dismissed. The Federal Ministry of Justice and Consumer Protection stated its intent to carry out a research project on sterilisation in guardianship law, which would, among other things, examine the situation in practice before and after the Act on the Reform of Guardianship Law entered into force. Research suggests that the actual number of women who are legally incapacitated and undergo sterilisation is much higher, as not all of them go through court proceedings.²⁷¹ Some of the participants in a study published in 2012

270. Available at: www.bundesjustizamt.de/DE/SharedDocs/Publikationen/Justizstatistik/Betreuungsverfahren.pdf?__blob=publicationFile&v=14.

271. See Julia Zinsmeister, "On the influence of legal guardians on the contraception and family planning of persons under their care", in *BtPrax* 2021, pp. 230-232, with further references, available at: www.reguvis.de/xaver/btrecht/start.xav?start=%2F%2F*%5B%40attr_id%3D%27btrecht_2490063499%27%5D#__btrec ht_%2F%2F*%5B%40attr_id%3D%27btrecht_2490063499%27%5D__1634570385005.

stated that they had consented to their sterilisation after having been pressured by doctors, court-appointed legal representatives and/or carers.²⁷² Moreover, the study found that many were sterilised or taking contraceptives without being sexually active. Studies suggest that the percentage of women with disabilities who have undergone sterilisation in Germany is significantly higher than the national average for all women.

265. GREVIO notes that while the reform of the Guardianship Law appears, at first sight, to improve the self-determination of women assigned a court-appointed legal representative as regards their reproductive rights, it remains to be seen whether it will reduce the number of court-approved sterilisations in practice. Even the amended Article 1 830 of the Civil Code cannot guarantee that sterilisations without the express consent of legally incapacitated women will no longer be performed, as the question of what constitutes a person's free and informed will inevitably leave room for interpretation. The above-mentioned study suggests that many women with disabilities were not sufficiently informed about the procedure of sterilisation, alternative methods of contraception or their right to found a family of their own. Moreover, the authors supposed that many women had not been sufficiently aware of the extent of their decision to consent to a sterilisation, and that some of them felt that they had been considered able to give their consent by their legal representative or others in order to circumvent the requirement to obtain a court approval for their sterilisation.²⁷³

266. GREVIO considers that in view of the far-ranging implications of sterilisation, more must be done to ensure that the reproductive rights of women with disabilities are respected by offering them the full range of birth control options without resorting to invasive and permanent measures such as sterilisation. This would require training for all professionals involved (medical and legal professionals) in order to challenge assumptions that sterilisation is in the best interest of the woman concerned. In this context, GREVIO stresses the importance of ensuring that the existing safeguards are applied in line with the standards set out in the Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine (ETS. No. 164).²⁷⁴ In order to be able to freely form a will on their sexuality and family planning, women with disabilities/assigned a court-appointed representative should be informed, in a language that is easy to understand, of their various options for contraception.

267. GREVIO strongly encourages the German authorities to ensure that in any procedures authorising the sterilisation of legally incapacitated women, less invasive birth control options are considered with due regard to the best interest and self-determination of the women concerned.

268. GREVIO encourages the German authorities to ensure that women with disabilities who undergo consensual sterilisation can make their decision on the basis of sufficient information designed in a disability-accessible manner, which is presented to them by professionals who are trained on gender and disability issues. Furthermore, GREVIO encourages the German authorities to collect data on the number of forced abortions and forced sterilisations, in order to gain knowledge of their extent, and take any necessary action.

8. Sexual harassment (Article 40)

269. Sexual harassment is defined in Article 184*i* of the Criminal Code as physically touching another person in a sexually explicit manner and thereby harassing that person, and is punishable with up to two years' imprisonment or a fine. The offence is only prosecuted upon application by the victim, unless the prosecuting authority decides to prosecute *ex officio* because of a special public interest in a given case. GREVIO welcomes this legislative change and notes with satisfaction that the provision applies to all spheres and areas of life, not only professional life. GREVIO points to the important message conveyed by a comprehensive criminal offence of sexual harassment, including in the context of sexual harassment experienced online and through technology.

272. *Ibid.*

273. *Ibid.*, p. 231.

274. Explanatory Report to the Istanbul Convention, paragraph 205.

270. In addition, on 1 January 2021, “upskirting” and “downblousing” (which the new Article 184*k*, paragraph 1, of the Criminal Code defines as the intentional and unauthorised photographing or filming of genitalia, buttocks, female breasts or underwear covering these bodily parts) were criminalised.

271. While GREVIO welcomes the above, it considers that the wording of Article 184*i* is nonetheless too restrictive compared to the aim of Article 40 of the Istanbul Convention, which is to make liable to legal or criminal sanction any verbal, non-verbal or physical conduct of a sexual nature unwanted by the victim. The current definition of sexual harassment under that provision covers only physical touching of an unwanted nature. The verbal conduct qualifying the offence as required under the convention can be constituted by any unwanted words or sounds such as jokes, questions or remarks, whether expressed or communicated orally or in writing. Non-verbal conduct, on the other hand, covers any expressions or communication on the part of the perpetrator that do not involve words or sounds, for example facial expressions, hand movements or symbols. Some of the described behaviour may fall under other provisions of the Criminal Code, such as libel, slander and defamation (Articles 185 to 187 of the German Criminal Code), or the new provisions on “upskirting” and “downblousing”. However, these provisions may fall short of the aim of Article 40 of the Istanbul Convention which is to capture a pattern of behaviour whose individual elements, if taken on their own, may not necessarily result in a sanction.

272. As regards image-based abuse and non-consensual image or video sharing or taking, GREVIO notes that the Network Enforcement Act introduces some obligation to remove such content, with non-compliance leading to a possible sanction. According to specialist counselling services, however, while some images may be taken down, they are frequently uploaded again.²⁷⁵ This contributes to the perpetuation of the image-based abuse, and victims must continuously search platforms for such content, only to report it again and request its removal. Moreover, pornography platforms apparently do not fall within the scope of application of the Network Enforcement Act. Moving from a take-down obligation for platforms to a stay-down policy could solve the problem, which is common practice for terrorism-related content as well as child pornography.

273. GREVIO strongly encourages the German authorities to ensure that the relevant provisions of the Criminal Code include verbal and non-verbal sexual harassment, and in particular are able to capture a pattern of sexual harassment whose individual elements, if taken on their own, would not necessarily result in a sanction.

274. GREVIO encourages the German authorities to remain vigilant of current forms of digital violence against women and girls and to take the necessary legislative and practical steps to efficiently counter existing as well as newly emerging forms of sexual harassment perpetrated via ICT.

9. Aggravating circumstances (Article 46)

275. Article 46 of the German Criminal Code contains a list of circumstances which judges are required to consider in determining a sentence (aggravating as well as mitigating factors). None of the factors listed in Article 46 (a to j) of the Istanbul Convention are mentioned explicitly in that provision. However, there are judgments by German courts which show that several of these are regularly taken into account as aggravating factors, such as the use or threat of a weapon, previous criminal convictions, extreme levels of violence, the repeated commission of the offence, etc. Other aggravating factors, such as an offence being committed against a child or a vulnerable person, are in certain cases considered as inherent elements of crimes (meaning that an aggravated form of a given offence exists, such as ill-treatment of children,²⁷⁶ sexual abuse of minors,²⁷⁷ and sexual abuse of prisoners, persons in the custody of the authorities or sick and helpless persons in institutions²⁷⁸). Pursuant to Article 46, paragraph 3, of the German Criminal Code, circumstances which already form part of the respective criminal provision may not additionally be used as an aggravating factor

275. Information obtained during the evaluation visit.

276. Misshandlung von Schutzbefohlenen, Article 225, paragraph 1, of the Criminal Code.

277. Articles 174, 176 et seq. of the Criminal Code.

278. Article 174a of the Criminal Code.

when deciding on the appropriate sentence. GREVIO considers this to be in compliance with Article 46 of the Istanbul Convention, as long as all the factors listed therein are either featured in criminal law provisions directly or can be taken into account in practice by the criminal courts.

276. However, GREVIO was made aware by lawyers active in the field of domestic violence that committing sexual violence against a former or current spouse/partner tends to be considered as a mitigating factor rather than an aggravating one,²⁷⁹ despite a judgment by the Federal Court of Justice to the contrary.²⁸⁰ Although all sexual offences apply irrespective of the nature of the current or previous relationship of the perpetrator with the victim, harmful gender stereotypes and attitudes of victim blaming seem to persist among the German judiciary and the prospect of a lenient sentence in cases of sexual violence against a former or current partner may hinder effective prosecution of these offences.²⁸¹ GREVIO recalls that Article 46a of the Istanbul Convention requires offences committed against a former or current spouse or partner, or by a person cohabitating with the victim, to be considered as aggravating circumstances in the determination of the sentence.

277. Moreover, GREVIO wishes to point to the differentiation made in German jurisprudence between the offences of “murder” (Article 211 of the German Criminal Code) and “manslaughter” (Article 212 of the German Criminal Code). Under German criminal law, a “murderer” is defined as someone who kills another person for any of the following reasons: (1) out of lust for murder; (2) for sexual gratification; (3) out of greed or (4) otherwise for base motives; (5) perfidiously or (6) cruelly or (7) with dangerous means; or (8) to make another criminal act possible or to cover it up. In a leading judgment dating back to 1952, the Federal Court of Justice held that base motives are those which are, according to general opinion, at the lowest level.²⁸² If none of these motives are present (or if none were dominating the motivation of the perpetrator), killing another person is to be qualified as “manslaughter”. While the offence of murder is punishable with lifelong imprisonment and no statute of limitation applies, manslaughter carries a sentence of at least five years’ imprisonment, and as much as life in particularly serious cases.

278. The Federal Court of Justice has affirmed a judgment by a lower-instance court which had found that the killing of a 15-year-old girl by her father because of a relationship he did not approve of had amounted to murder. It considered that stabbing his own daughter 68 times in order to restore his “honour” constituted a base motive within the meaning of Article 211 of the Criminal Code, and in addition fulfilled the criterion of perfidiousness. The man was thus sentenced to a lifelong prison term.²⁸³

279. Research has shown that German courts do tend to easily find base motives for “honour” killings and thus apply the offence of murder rather than manslaughter, which usually leads to a more severe punishment of the perpetrator.²⁸⁴ On the other hand, an analysis of judgments concerning killings of women in the context of separating from their partners has shown that the existence of base motives was questioned when “the separation was initiated by the victim and the accused deprived himself of what he did not actually want to lose”,²⁸⁵ which may result in the less severe spectrum for punishment of Article 212 of the Criminal Code being applied. The Federal Court of Justice has held, moreover, that the fact that the separation was initiated by the victim may be considered as counting against the baseness of the motive.²⁸⁶

279. NGO submission by German Women Lawyers’ Association, p. 43, with further references.

280. Federal Court of Justice, decision of 10 July 2007, 3 StR 242/07.

281. NGO submission by German Women Lawyers’ Association, p. 43.

282. Federal Court of Justice, judgment of 25 July 1952, 1 StR 272/52.

283. Available at: <http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&Datum=Aktuell&nr=53350&linked=pm>.

284. See in more detail Lena Foljanty and Ulrike Lembke, “Die Konstruktion des Anderen in der “Ehrenmord“-Rechtsprechung” [The Construction of the Other in the “honour killing” jurisprudence], in *Kritische Justiz* 2014, pp. 298-315; Available at: <https://dejure.org/ext/cc7cb30dd3b15cc45ab61957b9b53267>; NGO submission by German Women’s Lawyers Association, pp. 40-41; and Thematic paper “Femizide in Deutschland: Strafverfolgung und angemessene Bestrafung von sogenannten Trennungstötungen” [Femicides in Germany: prosecution and appropriate punishment of so-called separation homicides], pp. 19-24, 25 November 2019: www.djb.de/presse/stellungnahmen/detail/st19-24#_ftn2.

285. Federal Court of Justice, 29 October 2008, 2 StR 349/08; 15 May 2003, 3 StR 149/03.

286. Federal Court of Justice, judgment of 21 February 2018, 1 StR 351/17; decision of 24 October 2018, 1 StR 422/18; decision of 7 May 2019, 1 StR 150/19.

280. GREVIO considers that this line of argumentation runs counter to the spirit of Article 46 of the Istanbul Convention, which requires the commission of an offence by a current or former spouse or partner to be considered an aggravating circumstance. The above-mentioned jurisprudence insinuates that the killer had a reason to kill his partner, because she wanted to live a self-determined life, which is unacceptable. GREVIO reiterates in that context that intimate partner killings are often triggered by the decision of one partner to leave.

281. A project at the Ruhr University Bochum,²⁸⁷ which analysed 472 cases of killings of women perpetrated by men in Germany between 2015 and 2017, found that convictions for manslaughter after intimate partner killings were more common than convictions for murder (50% compared to 42.7% in 2015, and 57.6% compared to 39.4 % in 2016).²⁸⁸ About 40% of the offenders were sentenced to life imprisonment; on average; the remainder of the perpetrators were sentenced to about 9 years' imprisonment.

282. **GREVIO strongly encourages the German authorities to:**

- a. **take appropriate measures to ensure that all aggravating circumstances listed in Article 46 of the Istanbul Convention are, in practice, effectively applied by the judiciary;**
- b. **ensure that awareness of the dynamics of intimate partner violence and killings is raised among the judiciary through training and a deepened understanding of the causes and consequences of intimate partner violence.**

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

283. Criminal law mediation and alternative dispute resolution are of growing relevance in Germany. While the German criminal courts and the public prosecutors' offices must examine at every stage of the criminal proceedings whether victim-offender mediation may be a feasible way of settling the case,²⁸⁹ this may not be imposed against the express will of the victim. Attempts at conciliation are not required in cases of any of the forms of violence within the scope of the Istanbul Convention.

284. However, NGOs and lawyers active in the field of domestic violence have drawn GREVIO's attention to the fact that, in practice, women victims of domestic violence experience the process as one in which they cannot refuse and in which subtle forms of pressure are applied by individual judges and prosecutors to agree to a settlement.²⁹⁰

285. As regards civil proceedings, Article 278 of the Code of Civil Procedure encourages courts to seek an amicable settlement at every stage of the proceedings, but there is no obligation for the parties to do so. In matters concerning family law and non-contentious proceedings, cases related to protection from violence, such as applications for protection orders, are expressly excluded from attempts at conciliation.²⁹¹

286. In child custody proceedings, NGOs active in the field point out that settlements, referrals to court-based joint counselling and mediation are the rule, and cases with a history of intimate partner violence are not always excluded.²⁹² While GREVIO is mindful of the need to find viable solutions for child custody and visitation rights after parental separation, and that mutually acceptable decisions

287. Julia Habermann, Projektbeschreibung: Die Sanktionierung von Partnerinnentötungen im Vergleich zu anderen Tötungsdelikten, September 2021, Ruhr Universität Bochum: www.kriminologie.rub.de/images/pdf/habermann_julia_projektbeschreibung.pdf

288. Ibid.; the remainder of the convictions were for multiple offences, such as double murder/murder and manslaughter/double manslaughter.

289. Article 155a of the Code of Criminal Procedure.

290. NGO submission by Alliance Istanbul Convention, p. 144.

291. Sections 36(1) and 36a(1) of the Act on Proceedings in Family Matters and in Matters of Non-Contentious Jurisdiction (Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit). See also Chapter VI, Restraining or protection orders.

292. NGO submission by Alliance Istanbul Convention, p. 144. See also Chapter V, Custody, visitation rights and safety.

reached jointly may be preferable to court-imposed regulations, GREVIO recalls that practices requiring a joint meeting with the abusive parent in order to reach a decision on child custody, residence or visitation rights may be tantamount to mandatory mediation.²⁹³ GREVIO has repeatedly stated its concerns about practices that do not allow for sufficient screening of incidents of violence by one parent against the other prior to referrals to mediation and court-based joint counselling. Where parties are required to undergo mediation before proceeding with the separation, as seems to be the practice in Germany, sufficient safeguards need to be built in that would allow for the detection and screening of cases that involve not only direct violence perpetrated on the child but by one parent against the other as well. GREVIO notes with concern that the prevailing attitude among the German judiciary in this context is one of disregard for the harmful effect that intimate partner violence has on women asked to negotiate with their abuser but also on children who witness it, resulting in such cases being referred to counselling and mediation. Reports of women experiencing serious repercussions (such as being considered unfit for parenting)²⁹⁴ for refusing to attend joint meetings out of fear for their safety and because they cannot enter the process on an equal footing with their abuser are of serious concern to GREVIO.

287. Last, certain federal states have made use of the authorisation contained in Section 15a of the Act on the Introduction of the Code of Civil Procedure, which means that in cases concerning claims for acts of violence not exceeding €750, there is an obligation to attempt conciliation. While the German Government explained in its state report that there was a possibility to circumvent this obligation, GREVIO notes that a victim of violence should not have to resort to procedural steps aimed at circumventing the applicable laws in order to escape a mandatory conciliation procedure with a perpetrator of violence. GREVIO considers that this provision cannot be regarded as fulfilling the state's obligation under Article 48 of the Istanbul Convention.

288. GREVIO urges the German authorities to take the necessary legislative and other measures, such as training and awareness raising among the judiciary and all others involved in reaching decisions on child custody, to ensure that prohibition of mandatory dispute resolution and mediation in criminal and civil law is applied in practice for cases concerning any of the forms of violence covered by the Istanbul Convention. GREVIO urges the German authorities to further strengthen the level of awareness among all professionals involved in court proceedings of the power imbalances in relationships marred by violence, so they can take this into account when assessing whether to propose alternative dispute resolution measures. Attempts at settlements or mediation may never jeopardise the safety of a victim of violence or her children.

293. For an overview of GREVIO's findings in this regard see Mid-term Horizontal Review of 17 baseline evaluation reports, paragraph 411, Council of Europe, May 2021, available at: <https://rm.coe.int/prems-010522-gbr-grevio-mid-term-horizontal-review-rev-february-2022/1680a58499>.

294. NGO submission by Alliance Istanbul Convention, p. 144, and information provided during the evaluation visit.

VI. Investigation, prosecution, procedural law and protective measures

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

A. General obligations and immediate response, prevention and protection (Articles 49 and 50)

290. A key principle of an adequate response to violence against women is that of swift and effective investigations and judicial proceedings that are based on a gendered understanding of these types of offences and that take into consideration the rights of the victim during all stages.

1. Reporting to, immediate response and investigations by law-enforcement agencies

291. The police crime statistics for 2020 show that there was a 4.9% rise in reported cases of intimate partner violence in Germany compared to the year before.²⁹⁵ Already in 2018, two years after the reform of the Criminal Code on offences against sexual self-determination, the number of reports recorded by the police for such offences had increased by about a third.²⁹⁶ This rise, however, was not matched by an increase in human or financial resources for law-enforcement agencies but led to a drop in the quality of the processing of complaints and the time available for investigations, and an increase in the duration of proceedings. Moreover, GREVIO notes that law-enforcement agencies do not always have the technical means available to respond to digital forms of violence against women, which are equally on the rise. In addition, women's rights organisations have indicated that it is currently not possible in all federal states to report a crime to the police online or to upload digital evidence. More needs to be done to make police reporting more easily accessible and to include digital forms of reporting.²⁹⁷ In that context, GREVIO welcomes the fact that the police in the federal states receive support from the cybercrime division of the Federal Criminal Police Office and considers it of vital importance to invest more in this ever-growing field of crime.

292. GREVIO is concerned by the information it obtained regarding experiences of discrimination allegedly faced by migrant women, LGBTI women, homeless women, women with disabilities and women in prostitution when reporting violence to the law-enforcement agencies.²⁹⁸ According to the information provided, some women belonging to these groups were hesitant to even turn to the police, as they have lost trust because of previous experiences of not being heard, being blamed themselves for the violence they have suffered or not being taken seriously. In addition, GREVIO is concerned by the findings of a recent study which showed a lack of sensitivity by the police towards women with disabilities and that barriers existed to the taking of evidence.²⁹⁹ As a result, such women avoid contact with the criminal justice system out of fear of secondary victimisation. GREVIO considers that more needs to be done to ensure effective access to justice for women with disabilities and all other women and girls who are exposed to, or at risk of, intersectional discrimination.

293. As concerns the procedure before the police, GREVIO notes that police training and organisation falls within the competence of the 16 federal states, resulting in great variations in practice. Several federal states have specialist officers for domestic violence among their police

295. Federal Situation Picture of Partnership Violence 2020, Federal Crime Office, available at: www.bka.de/SharedDocs/Downloads/DE/Publikationen/JahresberichteUndLagebilder/Partnerschaftsgewalt/Partnerschaftsgewalt_2020.pdf?__blob=publicationFile&v=3.

296. Der Tagesspiegel, Number of investigations for sexual offences rises by more than one third, 20 October 2019, available at: www.tagesspiegel.de/politik/folge-der-nein-heisst-nein-regel-zahl-der-ermittlungen-zu-sexualstraftaten-steigt-um-mehr-als-ein-drittel/25133822.html.

297. Information obtained during the evaluation visit.

298. Information obtained during the evaluation visit.

299. Federal Ministry for Labour and Social Affairs, Violence protection structures for persons with disabilities – stocktaking and recommendations, November 2021, pp. 119-120.

force, such as Bavaria, Brandenburg, Baden-Württemberg and Hamburg. In general, victims of (sexual) violence are able to ask for a police officer of the same sex when being interviewed, but there is no guarantee that one will always be available. However, statistics on the percentage of female police officers appear to be available for Rhineland-Palatinate and North-Rhine Westphalia only.

294. A variety of operational measures is available to the police in response to a report of violence, including searches, warning the perpetrator (*Gefährderansprache*), issuing a barring order and ultimately arrest. If the danger cannot be averted by other means, victims can be taken to a women's shelter. Bavaria, for example, compiled a special statistical evaluation on police responses to domestic violence, according to which their police dealt with 20 234 cases of domestic violence in 2020 (amounting to a 0.9% rise in comparison to 2019).³⁰⁰ In terms of the operational measures taken, the most common was ordering a drug/alcohol test, followed by a contact ban, barring the perpetrator from the scene and warning the perpetrator. The measures taken the least were a residence order, a search of the apartment, the use of coercive measures and the arrest of the perpetrator. However, such detailed statistics on the number of interventions, the types of measures taken, and other factors are not collected in all federal states. Statistics from the Women's Shelter Co-ordination, which collects data from roughly half of all women's shelters in Germany, offer an indication on the nationwide practice in respect of police measures. They show that while 19% of women were brought to a shelter by the police, in only 7% of the shelter inhabitants' cases was the perpetrator ordered to leave the scene (*Platzverweis*), and in only 2% of cases was he arrested.³⁰¹

295. As an example of a victim-friendly police response to reports of violence, GREVIO notes that the police in Saxony-Anhalt have been instructed via a decree from the Ministry of the Interior – the “Prevention and Victim Protection as Tasks of the Police in Saxony-Anhalt” – to take the following steps. In general, after a violent crime has been reported to the police, support to the victim is offered by victim protection commissioners at police stations across the federal state, who immediately contact the victim to give advice on their safety and behaviour. In addition, the officers inform the victim of further support services available, refer them to local co-operation partners, if possible, and co-ordinate further procedures with the competent violence intervention centres. Each victim is handed the (nationwide available) leaflet explaining their rights. GREVIO welcomes this victim-centred approach and notes that in almost every federal state victim protection commissioners act as an easily accessible “single point of contact” for victims of violence. For example, the victim protection commissioner in North Rhine-Westphalia, whose team can be reached online or via a hotline, refers victims to specialised counselling centres in the state. In Berlin, victims in high-risk situations can be equipped with an “SOS” phone, allowing them to send an emergency signal to the police, which then can locate the victim via GPS. While these approaches are promising, GREVIO points to a certain level of fragmentation and variation in the level of effort and specialisation throughout the country. Further efforts are required to raise the level of victim support to a steady level nationwide, in order to reduce the discrepancies among the federal states. One promising measure in this regard is the nationwide exchange that already exists between state and federal police forces on how to deal with individual situations involving threats to life or limb.

296. GREVIO strongly encourages the German authorities to take the necessary measures to ensure the reporting to law-enforcement agencies of incidents of violence against women and domestic violence covered by the Istanbul Convention, in particular by:

- a. increasing the degree of specialisation of law-enforcement officers across the country and ensuring their sensitivity towards women and girls at the intersection of**

300. Source: Bavarian State Ministry for Home Affairs, Sport and Integration, unpublished. According to their definition, the term “domestic violence” includes all cases of physical and psychological violence, such as coercion, threat and bodily harm, against a current or former partner or spouse. Other cases of violence within a family are not included (such as intergenerational violence).

301. Statistics on Women's Shelters and their Inhabitants 2020, Women's Shelter Co-ordination, pp. 31-32, available at: www.frauenhauskoordination.de/fileadmin/redakteure/Publikationen/Statistik/2021-11-16_FHK_Frauenhausstatistik2020_Langfassung.pdf.

- discrimination, notably migrant women, women in prostitution, LGBTI women and homeless women;**
- b. taking practical steps to enable women victims of violence to report to and be interviewed by a female officer;**
 - c. offering the necessary communication tools to enable law-enforcement officers to communicate effectively with women and girls with disabilities;**
 - d. equipping law-enforcement agencies with the means to respond to and investigate digital manifestations of violence against women and domestic violence.**

2. Effective investigation and prosecution

297. A study conducted in 2021 examined the reasons behind decisions by public prosecutors' offices to discontinue proceedings in cases of sexual violence³⁰² pursuant to Article 170, paragraph 2, of the Code of Criminal Procedure (insufficient grounds for an indictment), based on 343 case files from 99 different prosecutors' offices from the year 2015 (hence before the reform of Article 177 of the Criminal Code) and extensively addressed the issue of rape myths.³⁰³ It examined whether there were any indications of rape myths or gender stereotypes being perpetuated within the reasoning given for the discontinuation of proceedings, by considering three central theses: 1) a "real" victim physically resists; 2) a victim under the influence of alcohol is partly to blame for her rape; and 3) a "real" victim immediately reports a rape to the police.³⁰⁴ The results showed that 1) in none of the cases did the public prosecutors refer to any lack of resistance, much less offer it as a reason for the discontinuation of the proceedings; 2) alcohol was never directly a reason for discontinuation, only when the victim as a result could not remember what had happened; and 3) the timing of the report of a rape only becomes relevant when it comes to the securing of forensic evidence. In addition, the study offers an analysis of a variety of individual cases and the reasons why they did not lead to an indictment, ranging from the elements of crime of Article 177 of the Criminal Code not being fulfilled (lack of use of force; no significant sexual act performed; no qualified threats; no taking advantage of the victim in a vulnerable situation) to cases where no coercion was applied; where the intent of the perpetrator could not be proven; where there was a lack of objective evidence; or in word-against-word situations. In view of the change in the definition of rape and sexual assault from a forced-based definition to a consent-based definition, it would be important to continue to study the reasons why prosecution is discontinued. In addition, GREVIO has previously had occasion to emphasise the importance of conducting a proactive investigation, including rigorously gathering evidence beyond the victim's statement.³⁰⁵

298. GREVIO notes with satisfaction that some public prosecutors' offices across Germany have specialist departments for the prosecution of crimes against sexual self-determination. Many seem to also have specialist units for domestic violence, covering various forms of violence within the domestic unit.³⁰⁶

299. Concerning the length of investigations, in 280 of the cases examined in the framework of the above-mentioned study, the duration of the investigative phase was between three days and 38 months.³⁰⁷ This corresponds to indications received from lawyers representing victims which indicate that it may take two years before such cases go to trial; in the case of an appeal the proceedings might take up to five years.³⁰⁸ GREVIO notes, in that context, that no comprehensive official data are available on the average time for prosecution of cases of violence against women covered by the convention. In some of the federal states, cases of domestic and sexual violence are

302. Article 177 of the Criminal Code.

303. Jutta Elz, "The discontinuation of proceedings pursuant to Article 170, paragraph 2 of the Code of Criminal Procedure in cases of sexual violence. Allegations, investigative acts, final decisions", Wiesbaden 2021, available at: www.krimz.de/fileadmin/dateiablage/E-Publikationen/BM-Online/bm-online26.pdf.

304. *Ibid.*, p. 183 et seq.

305. GREVIO's baseline evaluation reports on Austria, paragraph 153; on France, paragraph 256; on the Netherlands, paragraph 256; on Spain, paragraph 247; and on Turkey, paragraph 280.

306. See www.djb.de/presse/stellungnahmen/detail/st04-19-1.

307. *Ibid.*, p. 107.

308. See Christina Clemm's statement before the Reform Commission on Criminal Law relating to Sexual Offences, Final Report, pp. 286-287, available at: www.bmju.de/SharedDocs/Downloads/DE/Service/StudienUntersuchungenFachbereich/Abschlussbericht_Reformkommission_Sexualstrafrecht.pdf;jsessionid=D8D5B0EB1650ABAD1200A9B495DF7DD3.2_cid289?__blob=publicationFile&v=1, as well as information obtained during the evaluation visit.

given priority by being processed by specialist units within the public prosecutors' offices, such as in Hamburg and in North Rhine-Westphalia, but there is no legal obligation to process such cases within a given time frame. In fact, the members of the Reform Commission on Sexual Crimes argued that there was no need to implement a legal obligation to expedite such proceedings; rather, the number of judges and public prosecutors should be increased to obtain this effect.³⁰⁹ GREVIO considers that there are several ways to ensure that cases of violence are processed in an expedited manner; and it would be important for such measures to be taken nationwide, to ensure that victims see justice being done.

300. GREVIO notes that with the introduction of the legal possibility for victims of rape and sexual assault to have their forensic evidence taken and stored free of charge and irrespective of their desire to report, an important basis has been laid for proceedings to be instituted at a later stage. However, the availability and level of training of health practitioners qualified to document injuries and take DNA samples from a rape victim for use in criminal proceedings vary significantly.³¹⁰ When it comes to cases of domestic violence, forensic evidence is rarely collected and documented, as there is a lack of comprehensive guidelines for health professionals who come into contact with victims, according to indications received from NGOs and lawyers active in the field.³¹¹

301. As far as audiovisual recordings of testimonies are concerned, GREVIO notes that through the Act on the Modernisation of Criminal Proceedings in 2019,³¹² this possibility was extended to adult victims of sexual crimes, which until then was limited to victims under 18 years of age.³¹³ GREVIO welcomes this development, which is capable of considerably reducing the burden on victims of violence by sparing them from undergoing repeated questioning and appearances at trial. However, it notes some shortcomings in the application of this provision in relation to adults. First, there is no legal remedy to challenge a decision denying victims their request to testify through audiovisual recording. Second, not all courts nationwide appear to have the necessary technical equipment to do so.³¹⁴ In Berlin, for example, the rooms in which the recordings take place are so small that victims find themselves physically close to the alleged perpetrator, which defies the purpose of the exercise.³¹⁵ GREVIO considers that the video recording of witness statements is a vital element in the protection of victims from secondary victimisation, which is why its sensitive implementation in practice needs to be ensured by competent judges and law-enforcement officials across the country. In Schleswig-Holstein, for example, each court district has been equipped with the technical equipment to audiovisually record testimonies and interviews with victims. This tool has become a standard investigative measure for the questioning of underage witnesses who have been victims of physical abuse or sexual violence. Moreover, the Schleswig-Holstein Higher Regional Court offers special training courses on the subject of judicial questioning via video link or through recording for judges and prosecutors.

302. GREVIO strongly encourages the German authorities to take legal or other measures to decrease the processing time by the prosecution services of cases of violence against women and domestic violence covered by the Istanbul Convention; to ensure that forensic evidence is ordered not only in cases of sexual violence, but also in domestic violence cases; and to ensure that audiovisual recordings of testimonies are made use of in a sensitive manner and nationwide.

3. Conviction rates

303. Data made available on cases of violence against women show low conviction rates. In 2020, 1 638 people were convicted for sexual assault, sexual coercion or rape (Articles 177 and 178 of the

309. *Ibid.*, p. 287.

310. See Chapter IV, Support for victims of sexual violence.

311. Information obtained during the evaluation visit.

312. Articles 174 to 184j of the Criminal Code, available at: www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/BGBl_Modernisierung_Strafverfahren.pdf?__blob=publicationFile&v=2.

313. Article 58a, paragraph 1, of the Code of Criminal Procedure.

314. Information obtained during the evaluation visit.

315. Information obtained during the evaluation visit.

Criminal Code). Of these, 1 627 were male.³¹⁶ In comparison, during the same year, 9 752 such offences were reported to the police, 3 389 of which were perpetrated within (former) intimate partnerships.³¹⁷ The police clearance rate for rape and sexual violence amounts to 84.9%,³¹⁸ which shows that in the vast majority of cases of sexual violence, the victim is able to name the perpetrator. As regards sexual harassment (Article 184*i* of the Criminal Code), the conviction rate is even lower than that for sexual violence: while 12 860 such offences were reported in 2020, only 1 510 people were convicted during the same period. However, it is to be noted that several years may pass between the report of a crime and a criminal conviction being handed down, which is why the police crime statistics and the court statistics are difficult to compare. There are no flow statistics (*Verlaufsstatistik*) available from the first police report to the conviction/acquittal by a court. GREVIO notes that the use of harmonised data categories by various sectors across the different stages of the criminal justice process would be of utmost importance in order to determine the level of attrition and possible reasons thereof. GREVIO has had the opportunity to note in previous reports that low conviction rates erode victims' confidence in the criminal justice system, sending messages that perpetrators will not be held accountable, which, in turn, contributes to the problem of low reporting to law-enforcement authorities.³¹⁹

304. As regards domestic violence, GREVIO notes that data on the number of convictions is collected by type of offence, without any indication as to the relationship of the perpetrator to the victim, making it impossible to assess the level of convictions for domestic violence offences. With recording methods unaligned, it is not possible to track cases as they move through the criminal justice system.³²⁰ However, GREVIO notes that in 2020, a total of 91 212 reports were made to the police about the basic form of bodily harm (Article 223 of the Criminal Code) in intimate partner relationships.³²¹ In the same year, 34 210 convictions for this offence were handed down.³²² As regards stalking, GREVIO points to a total of 33 022 reported cases to the police in 2020³²³ – a year in which 407 perpetrators were convicted of the same offence, 363 male.³²⁴

305. GREVIO strongly encourages the German authorities to analyse the handling of criminal cases along the criminal justice chain from law-enforcement agencies to courts, relying on data, targeted research and case law, in order to identify and address the underlying causes of attrition, to identify possible systemic gaps in the institutional and judicial response to violence against women, and to make use of the findings to create evidence-based policies and/or make any necessary changes to legislation or practice.

B. Risk assessment and risk management (Article 51)

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

316. Federal Statistics Office, Criminal Prosecution, Fachserie 10 Reihe 3, 2020, p. 24, available at www.destatis.de/DE/Themen/Staat/Justiz-Rechtspflege/Publikationen/Downloads-Strafverfolgung-Strafvollzug/strafverfolgung-2100300207004.pdf;jsessionid=C7D6DF55704A61C0D36D3B9FCDA8D83A.live722?__blob=publicationFile and Federal

Situation Picture of Partnership Violence 2020, Federal Crime Office, p. 6.

317. Federal Police Crime Statistics 2020, basic table T01 (V1.0), available at: www.bka.de/SharedDocs/Downloads/DE/Publikationen/PolizeilicheKriminalstatistik/2020/Bund/Faelle/BU-F-01-T01-Faell_e_xls.xlsx?__blob=publicationFile&v=4.

318. Ibid.

319. See GREVIO's baseline evaluation reports on Belgium, paragraph 189; on Italy, paragraph 222; and on Portugal, paragraph 195.

³²⁰ See Chapter II, Data collection.

321. Federal Situation Picture of Partnership Violence 2020, Federal Crime Office, p. 6.

322. Federal Statistics Office, Criminal Prosecution, Fachserie 10 Reihe 3, 2020, p. 34.

323. Federal Situation Picture of Partnership Violence 2020, Federal Crime Office, p. 6.

324. Federal Statistics Office, Criminal Prosecution, Fachserie 10 Reihe 3, 2020, p. 34.

307. In Germany, the approaches to risk assessment and risk management vary significantly from one federal state to the next, and often within and across police or prosecution districts. The police are obliged to make a general risk assessment, which, however, is not always standardised.³²⁵ Some federal states such as Berlin, Bavaria and Baden-Württemberg have introduced, mainly at the level of law-enforcement agencies, risk-assessment procedures. Rhineland Palatinate introduced the recognised risk analysis tool called Danger Assessment³²⁶ and ODARA (Ontario Domestic Assault Risk Assessment)³²⁷ are used to structure and standardise the risk assessment, and cases identified as high-risk cases are subsequently discussed in an interdisciplinary case conference, where measures to prevent criminal offenses are agreed upon. Similar steps are being taking by Schleswig-Holstein.

308. However, the tools in use seem to vary and seem to be developed at the level of a police district or a federal state rather than being harmonised at the federal level. In addition, risk assessments appear to be mainly focused on domestic violence situations and are less adapted to women at risk of forced marriage or violence related to “honour” or to those subjected to stalking or other specific forms of violence covered by the Istanbul Convention. Children are rarely if ever taken into account in risk assessments. Moreover, risk-assessment procedures are not necessarily done on the basis of a multi-agency approach, and seldom on the basis of agreed standards.

309. GREVIO stresses that for women at high risk who live in rural areas, women with disabilities, women with a migrant background and homeless women, the protection offered must be adapted to their specific requirements and address their specific risks. Women must be heard and their own assessment of the risk they face must be taken into account.

310. GREVIO wishes to point out that the European Court of Human Rights has recently rendered a judgment in the case of *Kurt v. Austria*³²⁸ in which it specified the obligations relating to risk assessments and risk management under Article 2 of the European Convention on Human Rights. Notably, the Court held that authorities had to respond immediately to allegations of domestic violence. They must establish “whether there exists a real and immediate risk to the life of one or more identified victims of domestic violence by carrying out an autonomous, proactive and comprehensive risk assessment ... The reality and immediacy of the risk must be assessed taking due account of the particular context of domestic violence cases ... If the outcome of the risk assessment is that there is a real and immediate risk to life, the authorities’ obligation to take preventive operational measures is triggered. Such measures must be adequate and proportionate to the level of the risk assessed.”³²⁹ The Court found that once a risk has been established, rapid sharing of information among and co-ordination of relevant stakeholders is part of a comprehensive response to domestic violence, including information from child protection agencies, schools and other childcare facilities, should children be involved.³³⁰ GREVIO fully endorses these findings and stresses that an effective risk assessment and ensuing risk management can save lives and should be an integral part of the authorities’ response to cases of violence as covered by the Istanbul Convention.

311. GREVIO urges the German authorities to ensure that in cases of all forms of violence covered by the Istanbul Convention, including domestic violence and forced marriage, systematic and gender-sensitive risk assessment and safety management become standard procedure for all agencies involved, especially in the context of measures taken under the Act on the Protection from Violence. GREVIO further urges the German authorities to ensure that an effective multi-agency approach is taken to such risk assessment in order to ensure the human rights and safety of the individual victim while giving due consideration to the rights and needs of child witnesses of intimate partner violence.

325. Lisa Sondern and Bettina Pflaiderer, “Frontline response in cases of severe domestic violence – Results from the IMPRODOVA project”, p. 124, in Melanie Büttner (ed.) (2020), *Handbuch Häusliche Gewalt* [Domestic Violence Handbook], Schattauer, Stuttgart.

326. Available at: www.dangerassessment.org/DA.aspx.

327. Available at: <https://odara.waypointcentre.ca/>.

328. *Kurt v. Austria* [GC], Application No. 62903/15, para. 167-176, 15 June 2021.

329. *Ibid.*, para. 190.

330. *Ibid.*, para. 180.

C. Emergency barring orders (Article 52)

312. The legal basis for emergency barring orders can be found in the police laws of the respective federal states. They can be issued *ex officio* by the police on the spot with immediate effect. The validity of such an order varies between several days and several weeks, depending on the federal state. Children cannot be included in police emergency barring orders. The sanction for non-compliance with the order can be arrest. GREVIO welcomes the fact that the barring of a domestic violence perpetrator from a shared residence is possible in a situation of immediate danger, and that such orders can be imposed in a wide range of circumstances where individuals are at risk. The way the authorities make use of this important tool in practice, however, raises a number of concerns which GREVIO wishes to address.

313. NGOs and lawyers active in the field of violence against women alerted GREVIO to the fact that, according to their experience, the police often hesitate to issue an emergency barring order against a perpetrator of domestic violence, in particular in rural areas.³³¹ In some cases, they take the victim to a shelter instead. They further experience a lack of communication between the different stakeholders. While law-enforcement agencies should, in principle, inform domestic violence counselling centres about individual women in situations of domestic violence, this is not always done in practice. Where it is being done, and where law-enforcement agencies are trained to issue emergency barring orders systematically, it raises the level of protection of women victims of violence, and more information is made available to them, such as the option to apply for a court-ordered long-term protection order.³³² Generally, the frequency of the use of emergency barring orders appears to vary greatly between the different federal states. GREVIO notes with concern that there are very little data available in that respect. GREVIO recalls that the aim to protect the right to safety of women victims of domestic violence and their children and to remain in their homes is undermined when emergency barring orders are used infrequently in practice.³³³

314. Moreover, there are little to no data available on how frequently emergency barring orders are made use of in respect of asylum seekers who live in collective accommodation centres.³³⁴ Asylum seekers are under a legal obligation to reside in the area of validity of the residence permit for up to 24 months. Although Section 57, paragraph 1, of the Asylum Act grants an exception from this obligation for compelling reasons, it appears that not all local authorities are aware of this exception or are hesitant to apply it. GREVIO stresses that emergency barring orders must equally be applied to protect women from violence in asylum accommodation centres, and perpetrators of violence must be expelled if the safety of the victim so requires. More awareness raising in that respect among the relevant authorities is necessary.

315. Last, GREVIO is concerned about the exceptions to emergency barring orders made for contact with the child if the domestic abuser has custody of the child. In addition, such orders cannot be issued for children living in a shared household. Emergency barring orders are tools for creating much-needed distance from an abusive partner in the physical sense as much as in the emotional sense. Allowing contact around children, just as requiring the abused partner to facilitate visitation, undermines the purpose of such bans. As a temporary measure for up to two weeks and with the purpose of ensuring the safety of the victim, they should be absolute and not jeopardised by the fact that victim and perpetrator have parental responsibilities to share.

316. GREVIO strongly encourages the German authorities to make use of emergency barring orders more frequently, in order to protect the right to safety of women victims of domestic violence and their children, including by enabling children to benefit from emergency barring orders and by ending the practice of allowing for exceptions to prohibitions on contact of the abusive parent with his child for the duration of the emergency barring order.

331. Information obtained during the evaluation visit.

332. See the example of the Munich Support Model against Domestic Violence as discussed in Chapter III, General obligations.

333. See Mid-term Horizontal Review of 17 GREVIO baseline evaluation reports, p. 135.

334. NGO submission by Alliance Istanbul Convention, p. 158.

317. In order to review the implementation of emergency barring orders, GREVIO strongly encourages the German authorities to collect administrative data on 1) the numbers of such orders issued by the police; 2) the number of perpetrators who did not comply with the orders; and 3) the number and type of sanctions applied as a result of non-compliance.

D. Restraining or protection orders (Article 53)

318. Section 1 of the Act on Protection from Violence stipulates that protection orders can be issued, *ex officio*, if a person has unlawfully harmed or threatened to harm another person's physical integrity, health, freedom or sexual self-determination, or has persistently stalked that person. A court can order the perpetrator to refrain from entering the dwelling of the victim, to stay at a certain distance from the victim and her usual place of residence, work and other places where she habitually spends time, and/or prohibit further contact with the victim via means of telecommunication, irrespective of whether the victim and perpetrator usually cohabit or not. In contrast to police emergency barring orders, children can be included in court protection orders, unless the perpetrator has rights of custody or visitation.³³⁵ If that is the case, then Articles 1 666 and 1 666a of the Civil Code come into play, which state that measures which lead to the separation of a child from a parent that has been barred from the family home are only permissible if the threat to the child cannot be averted in any other way. However, proceedings under that provision are too slow to respond to an imminent threat against the welfare of a child, according to information from civil society organisations active in the field.³³⁶ They also lack the reversal of the burden of proof that is inherent in the Act on Protection from Violence, and there are no sanctions for breaches foreseen if a perpetrator violates a no-contact order. In addition, Article 1 666a of the Civil Code is rarely used.³³⁷

319. While some police laws of the federal states foresee protection orders in relation to places like schools, GREVIO is concerned that custody and visitation rights take precedence over the safety of victims of violence and their children, and that protection orders are not sufficiently made use of. In decisions on protection orders, GREVIO calls for the possibility of assessing, on a case-by-case basis, the safety concerns in relation to victims and their children, as it is not uncommon for a perpetrator of domestic violence to pose a real threat to his children, in particular during and after separation or divorce. In that context, it may be advisable to make use of visitation facilitators (*Umgangspfleger*) more frequently, which can be tasked with picking up and dropping off children for visitation contacts, thus avoiding the parents having to meet face to face.³³⁸

320. Court-ordered protection orders are usually issued for a period of six months, upon request by the victim, and can be extended. Often, they constitute a continuation of the protection offered by police barring orders, but the victim must make a respective request. Protection orders are usually issued *ex parte* on the day of application by the victim. In some cases, an oral hearing is held before the decision, but this is rather the exception than the rule. The victim can additionally request the competent family court to grant the sole use of a dwelling that she previously shared with the offender.³³⁹ The violation of a court-ordered protection order is a criminal offence punishable by up to two years' imprisonment or a fine.³⁴⁰

321. GREVIO welcomes the solid legal basis for protection orders for victims of domestic violence in Germany, which also includes victims of stalking. Other types of stalking, in particular cases of stalking via digital means and technology, can also give rise to protection orders in practice. However, no statistics are available whether victims of this form of violence apply for such orders, or how often they are granted. According to experts in the field, courts grant protection orders more easily in cases of physical violence rather than psychological violence – despite the fact that this may very well give rise to very real protection needs.³⁴¹ When it comes to women with disabilities, a recent study found

335. Section 3, paragraph 1, of the Act on Protection from Violence.

336. NGO submission by Alliance Istanbul Convention, p. 159.

337. *Ibid.*

338. Article 1 684, paragraph 3, of the Civil Code.

339. Section 2 of the Act on Protection from Violence.

340. Section 4 of the Act on Protection from Violence.

341. Information obtained during the evaluation visit.

that the Act on Protection from Violence is virtually never applied in institutions where persons with disabilities live, and is also not adapted to apply in that context.³⁴² Moreover, it is unclear to what extent protection orders are made use of by or are applied for women asylum seekers living in reception and accommodation facilities, victims of forced marriage or female genital mutilation.

322. The available data on the use of the measures offered by the Act on Protection from Violence show that most applicants obtain a protection order while a much smaller percentage obtain the right to the sole use of the dwelling. Only 9 387 decisions on the sole use of the common dwelling were taken by German courts in 2020, whereas the total number of protection orders stood at 42 973.³⁴³ This raises a number of issues, notably regarding the level of information made available to women victims about the possibility of requesting the sole use of the dwelling. It is unclear whether this is a measure that women victims of domestic violence are not sufficiently informed of or whether other barriers exist. GREVIO notes with concern that the desire for safety may prompt women victims to seek refuge in a domestic violence shelter. Statistics from the Women's Shelter Co-ordination, which collects data from roughly half of all women's shelters in Germany, show that only about 10% of women who sought shelter applied for a court protection order under the Act on Protection from Violence.³⁴⁴ Only 3% requested to be granted the sole use of the apartment she shared with the offender.

323. In addition, in those federal states where emergency barring orders are only issued for a few days rather than weeks, gaps in the protection of women victims of violence seem to arise. According to the German authorities, decisions on protection orders and the sole use of the family dwelling are usually taken within a day. Specialist support services, however, indicate that women regularly seek protection at women's shelters in order to bridge the time between the end of the emergency barring order and the issuance of a family court protection order.³⁴⁵

324. GREVIO urges the German authorities to take the necessary measures to systematically take into consideration the safety concerns of women victims of domestic violence and their children, on a case-by-case basis, when deciding on rights of contact for the duration of orders issued under the Act on Protection from Violence.

325. GREVIO strongly encourages the German authorities to take the necessary measures to ensure women victims of domestic violence are proactively informed of the legal possibilities of obtaining protection orders, including women asylum seekers living in reception facilities, as well as women and girls victims of forced marriage and female genital mutilation.

326. GREVIO strongly encourages the German authorities to ensure the application of the Act on Protection from Violence to women with disabilities living in institutions and to women asylum seekers living in reception and accommodation facilities.

E. Investigations and evidence (Article 54)

327. Article 54 of the Istanbul Convention entails the obligation for parties to take the necessary legislative or other measures to ensure that evidence relating to the sexual history and sexual conduct of the victim shall be permitted or considered only when it is relevant and necessary. The drafters of the convention felt it essential to emphasise that a victim's past sexual behaviour should not be considered as an excuse for acts of violence against women and domestic violence, allowing the exoneration of the perpetrator or the diminishing of his liability.³⁴⁶

342. Federal Ministry for Labour and Social Affairs, Violence protection structures for persons with disabilities – stocktaking and recommendations, November 2021, pp. 163-164.

343. Federal Statistics Office, Fachserie 10, Reihe 2.2, 2020, p. 18.

344. Statistics on Women's Shelters and their Inhabitants 2020, Women's Shelter Co-ordination, p. 32, available at: www.frauenhauskoordination.de/fileadmin/redakteure/Publikationen/Statistik/2021-1-16_FHK_Frauenhausstatistik2020_Langfassung.pdf.

345. Information obtained during the evaluation visit.

346. Explanatory Report to the Istanbul Convention, paragraph 278.

328. In Germany, Article 68a of the Code of Criminal Procedure adequately implements this obligation, stating that questions concerning facts which may be detrimental to the dignity of witnesses or which concern their personal life shall be asked only if this is indispensable. However, GREVIO is concerned by reports from lawyers working with victims of sexual violence about the limited use made of this provision,³⁴⁷ and that witnesses are often asked to lay bare intimate details of their private life and sexual history. As a consequence, victims of sexual violence are confronted with stereotypes and rape myths, from both the defence and judges.³⁴⁸ While GREVIO is conscious that the application of Article 68a of the Code of Criminal Procedure must be left, to a certain extent, to the discretion of the presiding judge, who must decide which questions to a witness are indispensable in a given case, it considers that the German authorities must do more to ensure that this provision is applied in practice in line with the requirements of the Istanbul Convention, for example through awareness raising among and training of judges.

329. GREVIO encourages the German authorities to ensure that Article 68a of the Code of Criminal Procedure is applied in practice in line with the requirements of Article 54 of the Istanbul Convention, and to train judges in that respect.

F. Ex parte and ex officio proceedings (Article 55)

1. Ex parte and ex officio proceedings

330. Article 55, paragraph 1, of the Istanbul Convention places on parties the obligation to ensure that investigations into a number of categories of offences shall not be wholly dependent upon the report or complaint filed by a victim and that any proceedings under way may continue even after the victim has withdrawn her statement of complaint.

331. German legislation conforms to this requirement, as prosecution of the different forms of violence is carried out ex officio. Intentional bodily injury under Article 223 and negligent bodily injury under Article 229 may be prosecuted ex officio if the prosecuting authority deems it necessary because of the special public interest in prosecution (Article 230, paragraph 1 of the Criminal Code). This is the case, among other things, if the victim cannot reasonably be expected to file a criminal complaint because of his or her personal relationship with the offender.

2. Victim support in legal proceedings

332. With a view to empowering victims and to encouraging them to go through with criminal proceedings, paragraph 2 of Article 55 requires parties to ensure that victim organisations, specifically trained domestic violence counsellors or other types of support/advocacy services may assist and support victims during investigations and judicial proceedings. In Germany, victims may be accompanied by a lawyer and/or a court-appointed psychosocial counsellor before the criminal court. Moreover, they may request the presence of a person of trust and/or a non-court-appointed psychosocial counsellor during questioning and the main hearing, unless there are specific reasons against their attendance (Article 406f, paragraph 2, and Article 406g, paragraphs 1 and 4, of the Code of Criminal Procedure).

333. However, not all adult victims of all forms of violence covered by the Istanbul Convention have the right to receive psychosocial court assistance free of charge. This is only the case for victims of offences that carry a minimum sentence of one year (which are classified as crimes, as opposed to misdemeanours, which are offences that carry only a low minimum sentence or are punishable by a fine).³⁴⁹ Therefore, this excludes victims of several forms of sexual violence under Article 177 of the Criminal Code; of “simple” and “dangerous” bodily harm under Articles 223 and

347. See Christina Clemm’s statement before the Reform Commission on Criminal Law relating to Sexual Offences, Final Report, p. 288, available at: www.bmju.de/SharedDocs/Downloads/DE/Service/StudienUntersuchungenFachbuecher/Abchlussbericht_Reformkommission_Sexualstrafrecht.pdf;jsessionid=D8D5B0EB1650ABAD1200A9B495DF7DD3.2_cid289?__blob=publicationFile&v=1.

348. Ibid., and information obtained during the evaluation visit.

349. Article 12 of the Criminal Code.

224 of the Criminal Code; and of the basic form of stalking under Article 238, paragraph 1, of the Criminal Code. GREVIO notes that victims of many of the forms of violence against women covered by the Istanbul Convention, notably many forms of domestic violence and stalking, including online stalking or stalking through technology, need to pay for psychosocial assistance in court. According to indications from civil society, this in fact means that a large proportion of women victims of violence are excluded from this important form of support, as they cannot afford the costs.³⁵⁰

334. Furthermore, GREVIO notes that no free-of-charge psychosocial assistance exists during the criminal investigation stage. Although they may be accompanied by a lawyer should they have one, this means that many victims of domestic violence or sexual violence will undergo some or all parts of the police investigation without a victim support advocate.

335. GREVIO strongly encourages the German authorities to take legislative or other measures to ensure that governmental and non-governmental organisations and domestic violence counsellors are able to assist and/or support victims, upon their request, during investigations concerning any of the offences established in accordance with the Istanbul Convention.

G. Measures of protection (Article 56)

336. At the investigative stage, law-enforcement authorities are instructed to ensure that perpetrators and victims are questioned separately, and that unnecessary encounters between them are avoided. In order to minimise possible barriers to reporting to the police, the Bavarian police also offer the possibility of telephone counselling by the police for victims of crimes. Moreover, a range of protective measures exist in German law to ensure the effective participation of victims during court proceedings. As set out above under Article 55, they have the right to be supported by a person of their trust, a psychosocial court assistance and/or a legal counsel of their choice. In addition, victims have the right to give a statement at any time during the proceedings, in particular on the effects the criminal offence had on them personally,³⁵¹ and may submit evidence. In general, hearings, questionings and other investigative steps must take into account any specific vulnerabilities of the victim. The competent judge can decide, for example, to exclude the public from the hearing, and must examine the extent to which non-essential questions on the personal sphere of the victim may be waived. In the case of child victims of crimes, proceedings must be expedited insofar as this is necessary for their protection or to avoid loss of evidence, considering the circumstances.³⁵² In November 2021, the National Council on Combating Sexual Violence against Children and Young People published a practical guide for the application of child-friendly measures for the conduct of criminal proceedings.³⁵³ Moreover, victims must be informed, upon their request, of the outcome of the criminal proceedings; whether the accused or convicted person has been released from custodial measures or has escaped; and which measures have been taken for the victims' protection in that case.³⁵⁴ They must be informed of their right to information during the investigative stage, as well as at the end of the proceedings. GREVIO welcomes these provisions that aim to protect victims during investigations and criminal proceedings, but notes that very little information was conveyed about their actual use.

337. GREVIO encourages the German authorities to ensure that all measures in place to protect victims during investigations and judicial proceedings are implemented accordingly, and in relation to victims of all forms of violence covered by the Istanbul Convention. Data collection and research on the implementation of these measures and their effectiveness should be carried out regularly, including from a victim's perspective.

350. NGO submission by Alliance Istanbul Convention, p. 164.

351. Article 69, paragraph 1, of the Code of Criminal Procedure.

352. Article 48a of the Code of Criminal Procedure.

353. Available at: www.nationaler-rat.de/fileadmin/user_upload/dokumente/praxisleitfaden_kindgerechte_kriterien_strafv_erfahren_0308.pdf.

354. Article 406d, paragraph 2, of the Code of Criminal Procedure.

H. Legal aid (Article 57)

338. In Germany, free legal aid from a counsel is in principle available for victims of sexual and other severe crimes which carry a minimum sentence of one year in prison.³⁵⁵ This excludes victims of several sexual offences under Article 177 of the Criminal Code: victims of simple and dangerous bodily harm; and victims of the basic form of the offence of stalking, unless the competent court considers that the victim is unable to safeguard her own interests.³⁵⁶ While victims may choose their own lawyer, GREVIO notes that the lawyers' remuneration from the state is rather low compared to the standard remuneration of defence lawyers.

339. Equally, legal aid can be requested in civil proceedings if a plaintiff does not have the necessary financial means to cover the costs of the court proceedings and if the intended legal action offers sufficient prospect of success. A person benefiting from legal aid may in addition be granted a lawyer free of charge if the support of a lawyer is legally required or appears necessary under the circumstances.³⁵⁷

340. To exercise rights outside of court proceedings, victims may request legal counselling and, where necessary, legal representation under the Act on Counselling Assistance if they do not have the means themselves and if the advice sought is not arbitrary. If granted, the state bears the costs of such legal assistance, with the exception of a contribution of €15 by the victim. A practical area where counselling may be needed is in relation to the question of whether a victim of violence should adhere to criminal proceedings as a plaintiff.

341. Asylum seekers can obtain legal aid, which grants them access to a lawyer to provide legal advice and accompany them to hearings. However, it appears that many asylum seekers have no knowledge of how to find an appropriately specialist lawyer. In addition, asylum seekers are heavily dependent on the local availability of such lawyers for this form of legal advice, as their radius of movement is severely restricted by their residence obligation. The language barrier also stands in the way of legal advice, as there is no right to be accompanied by interpreters. Moreover, the fees the lawyers are paid by the state for the counselling of asylum seekers are disproportionately low compared to the effort involved in preparing for and attending an asylum hearing. As a result, GREVIO is concerned that, in practice, many lawyers may not be able to offer advisory services to the required standard, if at all.

355. Article 12 of the Criminal Code.

356. Article 397a of the Code on Criminal Procedure.

357. Articles 114 and 121 of the Code of Civil Procedure.

VII. Migration and asylum

342. In the area of migration and asylum, the main requirement of the Istanbul Convention is to ensure that residence status laws and asylum procedures do not turn a blind eye to the realities of women living in abusive relationships or subjected to sexual violence and exploitation and other forms of gender-based violence. Residence status laws shall provide for the possibility of obtaining autonomous residence permits for women in specific circumstances (Article 59). Asylum procedures, on the other hand, must be gender-sensitive and allow women to disclose their stories in full, and grounds for persecution shall be interpreted in a gender-sensitive manner. This can only be achieved if, in turn, reception procedures and support services for asylum seekers are sensitive to the needs of women victims or those at risk of violence (Article 60).

A. Residence status (Article 59)

343. In accordance with Article 78, paragraph 2, of the Istanbul Convention, Germany has reserved the right not to apply Article 59, paragraphs 2 and 3, of the convention.³⁵⁸ The reservation was entered upon ratification in 2018 with a legal validity until 1 February 2023. GREVIO's assessment of the level of implementation of Article 59 hence focuses on Article 59, paragraphs 1 and 4.

344. The German Residence Act governs all issues of residence in Germany. According to Article 31, spouses who derive their residence permit from their partner will receive, under certain conditions, an independent right to residence, if the marriage has lasted for at least three years while living in Germany. Paragraph 2 of the same article, known as the hardship clause, allows a derogation from this minimum period, in particular if the spouse is a victim of domestic violence. However, the entitlement to an independent residence permit is excluded if the residence permit of the sponsoring spouse was issued for a set duration with no possibility for extension from the outset, and the sponsored spouse does not qualify for consideration under the hardship clause.

345. Moreover, the possibility to apply for an independent resident permit under Article 31 does not apply to women who derive their residence from a person entitled to asylum by way of family reunification pursuant to Section 26 of the Asylum Act. Such residence title is accessory to that of the spouse. In the event of divorce, the title may be revoked in accordance with Section 73, paragraph 1, of the Asylum Act, as the prerequisite for family asylum, which is the existence of the marriage with the person entitled to international protection, no longer exists. Consequently, the women concerned do not qualify for consideration under the hardship clause of Article 31, paragraph 2, of the Residence Act.

346. From the above, GREVIO notes that several categories of women who derive their residence status from their abuser are excluded from the possibility of applying for an autonomous residence permit and risk expulsion if they separate from their abusive spouse.

347. Moreover, the legal avenue available to those that are eligible to apply for an autonomous residence – that is, the possibility to be granted the right to remain in Germany under Article 31, paragraph 2 – is one that presents significant challenges to many women. While the provision specifically lists domestic violence as a reason for discontinuing marital cohabitation ahead of the required three years' duration of a marriage, it is for the victim of domestic violence to provide proof of her situation, in particular the "unreasonableness" of continuing the cohabitation. According to indications from NGOs active in the field of asylum and migration,³⁵⁹ the level of proof required by the authorities and the courts is high, including for example evidence of physical violence in the form of medical certificates.³⁶⁰ Other manifestations of domestic violence, in particular psychological

358. It is to be noted that the federal states of Thuringia, Bremen, Berlin and Hamburg have requested the Federal Council of Germany (Bundesrat) to issue a resolution requesting the Federal Government to withdraw the reservations on Article 59, paragraphs 2 and 3, of the Istanbul Convention. See *Drucksache Nr. 560/21*, available at: www.bundesrat.de/SharedDocs/drucksachen/2021/0501-0600/560-21.pdf?__blob=publicationFile&v=1.

359. Information obtained during the evaluation visit.

360. See NGO submission by Alliance Istanbul Convention, p. 173.

violence, sexual violence or economic violence, are not taken into account. This regularly presents difficulties to women of a migrant background who, for a wide range of reasons, do not report or disclose their exposure to violence to the authorities but turn to NGO-run services instead. These support services may provide valuable information, which should be tapped into for evidence of abuse of women who are applying for an independent resident permit, as the Explanatory Report to the Istanbul Convention explicitly states.³⁶¹ Moreover, decisions by the immigration authorities are not fast-tracked and take time, compelling women to remain in the abusive relationship, which in turn may reduce their chance of being considered a hardship case because of a continuing relationship with the abuser.³⁶²

348. Data are collected on the number of residence permits issued under Article 31, paragraphs 1, 2 and 4, but is not broken down by sex and reason for the permit issued. For example, in 2019, a total of 11 022 people were issued an autonomous residence permit on this basis, comprising all women and men who were granted the right to remain in Germany after the required three-year period and those on the basis of the established “hardship criteria”. These do not, however, include statistics on the type of residence permit issued (temporary, permanent, with or without the right to work) and do not offer enough detail to assess to what extent it is a realistic possibility for migrant women to leave their abusive partners and spouses before the end of the three-year period without fearing deportation.

349. As to the requirement under Article 59, paragraph 4, of the convention, Article 37, paragraph 2, of the German Residence Act stipulates a “right to return” for non-German citizens, who were unlawfully coerced by force or threat of serious harm into entering into marriage and were deterred from returning to Germany. Victims of forced marriage who were taken abroad for that purpose thus may apply for a residence permit within three months of the end of the coercive situation, but no later than five years after leaving the country, if it appears guaranteed that they will be able to integrate in Germany. Foreigners who had lawfully resided in Germany for at least eight years, and attended school there for at least six years, shall be granted a residence permit if they apply within 10 years of leaving the country.

350. While GREVIO welcomes the “right to return” for victims of forced marriage it notes that the requirement of applying for a residence permit within three months of the end of the coercive situation may be a time frame that is too short for many women and girls forced into marriage abroad, especially so in the absence of any specific support provided to them through the diplomatic service or support services.³⁶³ Moreover, the additional requirement of “guaranteed reintegration” if returned to Germany appears to be too vague and potentially restrictive and therefore not in line with the requirements of Article 59, paragraph 4, of the convention.

351. GREVIO strongly encourages the German authorities to enable all women in Germany, irrespective of the nature of the residence permit of their abusive sponsoring spouse, to apply for an independent residence permit. Furthermore, GREVIO encourages the German authorities to enable, through legislative and other measures, women and girls forced into marriage abroad to exercise their right to return, notably by offering a broad understanding of the requirement of “guaranteed reintegration”.

B. Gender-based asylum claims (Article 60)

352. Germany has been a destination country for asylum seekers for many years. Like other European countries, it experienced a major increase in asylum applications in 2015 and 2016, presenting the authorities at all levels with significant challenges. Since then, Germany has remained a preferred destination country for many asylum seekers. In 2021, between January and November, the number of initial asylum applications registered was 132 666, with an additional

361. Explanatory Report to the Istanbul Convention, paragraph 303.

362. NGO submission by Umbrella Association of Migrant Women* Organisations DaMigra, p. 27.

363. Information obtained during the evaluation visit.

39 704 subsequent asylum applications submitted.³⁶⁴ This represents an increase of 58.3% compared to the reference period between January and November 2020. The great majority of asylum applications are submitted by applicants from Syria, Afghanistan and Iraq, representing two thirds of all initial asylum applications. Women and girls represent 41.5% of asylum seekers, constituting a significant group.³⁶⁵

1. Gender-sensitive asylum determination procedure

353. The conditions for obtaining asylum, subsidiary and temporary protection are set forth in the Asylum Act. Articles 3, 3b, paragraph 1(4), and Article 4 set out the legal basis under which gender-based persecution may give rise to refugee status or subsidiary protection. Article 3b, paragraph 1(4), specifies that "persecution on account of membership of a particular social group may also be possible on account of a person's gender or gender identity".

354. GREVIO welcomes the explicit inclusion of gender as a ground for persecution but notes that lawyers active in the field indicated that the Federal Office for Migration and Refugees (BAMF) does not always recognise gender as a stand-alone criterion for the persecution of women and girls. In cases of domestic violence, forced marriage, rape, "honour" killing or bride robbery, the BAMF has stated that gender alone was not sufficiently concrete to assume membership of a particular social group as a possible reason for persecution. Further criteria for a social group would have to be fulfilled, such as those listed in Article 3, paragraph 1, and Article 4 of the Asylum Act, such as a "delimitable identity" or "otherness". In addition, gender-specific persecution is often classified as non-political and thus irrelevant to asylum according to Article 3 of the Asylum Act if it occurs within the family environment. However, women experiencing GBV within the family environment may be considered to form a particular social group under Article 3 of the Asylum Act and within the framework of international protection in Article 4 of the Asylum Act. Data on the number of women and girls granted asylum or subsidiary protection on the grounds of gender-based persecution are not collected by the BAMF. Indications from women's migrant organisations suggest that the number of such cases is very low.³⁶⁶

355. As regards the asylum determination procedure, newly arrived asylum seekers are accommodated in arrival centres, set up under the responsibility of the federal state/regional authorities, while the BAMF is responsible for the processing of asylum claims and operates as the competent decision maker. Not every arrival centre is equipped with a branch office of the BAMF, but each is responsible for ensuring the registration of personal data, initial medical exams, and the registration of asylum applications and ensuring the initial interview. However, the filing of the asylum application and the interview are always carried out by a branch office of the BAMF. Germany operates a rapid initial interview procedure either at a BAMF facility or in the reception facility.

356. Asylum procedure counselling is provided by the BAMF ahead of the interview and the asylum application at 45 locations. It is divided into two parts: the first counselling session takes place in the form of group counselling, with a subsequent possibility for individual counselling and ideally with BAMF staff trained in asylum law. The advice given by BAMF staff members as the deciding administrative authority is of a general nature and does not constitute independent legal advice. It includes information about the possibility of being interviewed by a specially trained case-officer and an interpreter of the same sex and is available in parallel to information and counselling provided for asylum seekers by other entities such as NGOs and lawyers, who offer additional counselling where possible in terms of their resources and accessibility to the facility.

357. While GREVIO notes the increasing efforts made by the BAMF to ensure that asylum seekers, including women and girls, are informed of their rights and needs and the asylum procedure as such, it notes that research and lawyers working in the field point to a lack of information among women and girls about the importance of their experiences of sexual and gender-based violence for

364. Current Statistics (November 2021), published by the Federal Office for Migration and Refugees, p. 3; available at: www.bamf.de/SharedDocs/Anlagen/DE/Statistik/AsylinZahlen/aktuelle-zahlen-november-2021.html.

365. Ibid, p. 8.

366. NGO submission by Umbrella Association of Migrant Women* Organisations DaMigra, p. 30.

their asylum claims – and the need to raise them in order to be identified as vulnerable.³⁶⁷ The information made available to asylum seekers in the initial group sessions is of a general nature and does not equip women and girls with the ability and confidence to disclose traumatic experiences such as incidents of gender-based persecution. Access of NGOs active in the area of migration and refugees as well as those working in the field of women's rights to reception facilities has been significantly reduced during the pandemic but also as a result of the introduction of Anchor Centres. These are arrival centres for asylum seekers with very few support services provided by organisations or entities other than the facility managers, and asylum seekers residing therein do not have easy access to independent counselling.³⁶⁸

358. With initial hearings taking place within a few days of arrival, there is little chance for a woman victim of gender-based violence to gain knowledge of the procedure, build trust and feel sufficiently safe to adequately prepare for the hearing. As pointed out below, the accommodation offered to many women and girl asylum seekers is not conducive to their developing a sense of safety. GREVIO notes with concern that it is, however, during the initial interview that specific vulnerabilities such as those of women victims of gender-based violence are to be screened for by the interviewer, mostly on the basis of information provided by the women themselves. A woman asylum seeker must state in an interview before the BAMF that she is a victim of gender-based violence, and is first given the opportunity to be interviewed and receive interpretation by appropriately trained personnel, such as the specially-trained case-officers for gender-based persecution. They must be involved in the asylum procedure as early as possible and may be involved as part of the preparation and conducting of the interview. In individual cases, the interview may also be conducted by them. While GREVIO welcomes the degree of specialisation of these asylum decision makers, it notes that they are not sufficient in numbers and do not replace the need for all decision makers to receive sufficient and continuous training on gender-based persecution and how to conduct a gender-sensitive (initial) interview in order to enable women and girl asylum seekers to disclose their experiences. Nor does it replace the obligation to ensure, even during the initial interview, adequate interpretation by licensed interpreters of the same sex with sound knowledge of the specificities and sensitivities around gender-based persecution. Accounts of untrained interpreters or those applying their own cultural interpretation of the facts presented by the applicant persist and need to be addressed.³⁶⁹

359. Guidelines on the identification of vulnerable asylum applicants upon arrival do not exist in a form that would be applicable throughout the country. Nor are any measures routinely taken upon arrival of asylum seekers to screen for trauma or long-term consequences resulting from experiences of gender-based violence, for example in the context of the initial medical exam.³⁷⁰ Without such screening and subsequent referral to women's specialist support services (see below) that offer a sensitive and trauma-informed setting to disclose their experiences of violence, GREVIO notes that many women will remain unwilling to speak of such traumatic experiences and are likely to remain unaware of the fact that experiences of gender-based violence such as FGM or sexual violence can constitute a basis to claim asylum and are thus important to indicate – ultimately running the risk of having their claim rejected and being deported. Good practice from other countries indicates that asylum procedures may be suspended while the case is reviewed by specialist women-to-women support services.

360. The lack of systematic identification is all the more alarming as women applicants have difficulties being considered credible if they substantiate their claim with detailed information of their experience of gender-based violence after the initial interview. The burden of proof for gender-based violence lies with the asylum seekers, who are expected to reveal any asylum-relevant reasons at the first opportunity. Supporting evidence such as medical certificates stating the psychological consequences of such experiences – often required to prove a risk to their safety if returned – can be obtained. According to the authorities, such medical certificates may be requested by the BAMF

367. NGO submission on the implementation of the Istanbul Convention in relation to refugee women and girls in Germany by PRO ASYL and the Refugee Councils of Bavaria, Brandenburg, Hesse, Lower Saxony, Saxony-Anhalt, and by Prof. Dr Sabine Hess, University of Göttingen, p. 20.

368. Information provided during the evaluation visit.

369. Information provided during the evaluation visit.

370. Asylum in Europe, Country Report Germany, "Screening for vulnerability; available at <https://asylumineurope.org/reports/country/germany/asylum-procedure/guarantees-vulnerable-groups/identification/>.

which will then cover the costs. However, GREVIO was alerted to the fact that the applicants themselves may have to bear the costs in some instances which may be inhibitive.³⁷¹

361. While GREVIO welcomes the desire to ensure the swift handling of asylum claims by rapidly scheduling initial interviews, it considers that in the case of vulnerable victims of violence, a balance must be struck between the requirement to conduct asylum proceedings within a reasonable time and the necessity to give women the time and space to collect themselves after arriving in the host country and thus ensuring they are able to present claims of gender-based persecution.

362. **GREVIO strongly encourages the German authorities to:**

- a. **establish nationwide, uniform guidelines on procedures and criteria regarding the identification, in the asylum determination procedure, of women who have been victims of gender-based violence;**
- b. **ensure that all those involved in the asylum processes (interviewers, interpreters, lawyers) receive adequate training on gender-based persecution and gender-based violence;**
- c. **ensure the systematic provision of information to asylum-seeking women about their rights and grounds for asylum, prior to or in the context of the first interview with the Federal Office for Migration and Refugees (BAMF). This should include information provided by independent support services for asylum-seeking women on the possibility to request a female case worker and interpreter and to apply for asylum in their own capacity, as well as on the availability of legal counselling;**
- d. **incorporate specific gender-sensitive questions into the standard procedure for interviews in order to systematically assess whether a female asylum seeker has been exposed to or is at risk of gender-based persecution.**

2. Accommodation

363. Upon arrival and registration, asylum seekers are legally obliged to reside in initial reception facilities for up to 18 months, or longer if extended or if an application has been considered manifestly ill-founded or rejected because it was made by an applicant considered to be from a safe country of origin. Exceptions are made for families with children under 18 if the municipality in question has specialist accommodation on offer.

364. All initial reception facilities are collective accommodation, housing large numbers of people from different countries and of all sexes. Special wings for women travelling alone exist in some but are far from a standard feature. Conditions vary significantly from one initial reception centre to the next, both in terms of material conditions and staffing. While some reception facilities guarantee adequate care by employing a sufficient number of social workers, interpreters, legal advisers and psychologists, others may be located in more rural regions without access to medical or social support services.

365. Instead, GREVIO notes with grave concern the persistent allegations of safety concerns which individual asylum-seeking women and organisations representing their perspective have voiced.³⁷² These include accounts of unsafe washing facilities, unlockable dormitories, mixed-sex dormitories, poor lighting, lack of safe rooms, abuse by security staff and poor management of incidents of harassment and abuse by male residents, including the non-enforcement of protection orders against abusive spouses.

366. GREVIO is concerned that these accounts do not constitute isolated incidents but reveal a larger pattern of providing accommodation that is unfit to ensure safety, let alone offer circumstances

371. Information obtained during the evaluation visit.

372. See the NGO submission on the implementation of the Istanbul Convention in relation to refugee women and girls in Germany by PRO ASYL and the Refugee Councils of Bavaria, Brandenburg, Hesse, Lower Saxony, Saxony-Anhalt, and by Prof. Dr Sabine Hess, University of Göttingen, pp. 8-11, and the NGO submission by Umbrella Association of Migrant Women* Organisations DaMigra, p. 33. Ample information on the situation of women asylum seekers was also provided to GREVIO during the evaluation visit.

in which women and girls who have fled gender-based persecution or experienced egregious forms of sexual or gender-based violence in flight can process their experiences with the help of specialist counselling and support in order to disclose them to asylum interviewers and begin the recovery process.

367. It is in particular the lack of access to specialist support services for women victims of gender-based violence that gives rise to concern. This is despite the fact that, since 2019, the Asylum Act has required federal states to ensure the protection of women and vulnerable groups in reception facilities by taking “appropriate measures” (Article 44, paragraph 2a, and Article 53, paragraph 3, of the Asylum Act). This may include that operators running reception facilities develop and implement standards for the protection from violence referred to as “violence protection concepts”. While GREVIO welcomes this much-needed legal provision and the efforts made by some federal states to act in compliance thereof, not all have done so. Binding federal guidelines do not exist to facilitate, on the basis of agreed standards and incorporating the core principles of the Istanbul Convention, the development of violence prevention standards, leaving individual municipalities or federal states to develop their own approaches, including approaches to ensuring accountability of contractors and operators. GREVIO notes that the UNHCR has developed guidelines in that respect and made them publicly available,³⁷³ but they do not seem to be implemented in Germany.

368. The situation of women and girls in collective accommodation is aggravated by the legal obligation to reside there, affecting the likelihood of being referred to specialist support services for women victims of violence even if clearly in need. Referrals to a domestic violence shelter, for example, or to a specialist accommodation centre for vulnerable asylum-seeking women, of which very few exist across Germany, can be granted on the basis of Article 8 of the Asylum Act, but not all municipality decision makers do so. Indications from specialist support services for women victims of violence in some parts of the country indicate that it is entirely impossible for women asylum seekers in their federal state to be granted permission to relocate to a domestic violence shelter.³⁷⁴

369. **GREVIO urges the German authorities to ensure that all women and girls seeking asylum:**

- a. **are offered adequate and safe accommodation through, among other things, the screening for vulnerabilities and the implementation of standard protocols for the prevention of and protection from gender-based violence in reception facilities;**
- b. **are granted access, *de jure* and *de facto*, to specialist support services and to counselling for experiences of gender-based violence.**

C. *Non-refoulement* (Article 61)

370. Article 61 of the convention entails the obligation under international law for states to respect the principle of *non-refoulement* in relation to victims of gender-based violence who may fear persecution if returned. According to this principle, states shall not expel or return an asylum seeker or refugee to any country where their life or freedom would be threatened. Article 3 of the European Convention of Human Rights also prevents a person being returned to a place where they would be at real risk of being subjected to torture or inhuman or degrading treatment or punishment. The *non-refoulement* principle also includes not prohibiting access to the territory of a country to asylum seekers who have arrived at its borders or who are prevented from accessing its borders.³⁷⁵ The obligation to respect the *non-refoulement* principle applies equally to victims of violence against women who are in need of protection, irrespective of the status or residence of the women concerned.³⁷⁶

371. According to Article 60, paragraph 1, of the Residence Act, deportation to countries in which the life or freedom of the persons concerned is threatened because of their membership of a

373. UNHCR, Gender-based violence toolkit, available at: www.unhcr.org/gbv-toolkit/guidance-and-tools/.

374. Information obtained during the GREVIO evaluation visit.

375. Explanatory Report to the Istanbul Convention, paragraph 320.

376. Ibid., paragraph 322.

particular social group is prohibited. Women who fear being returned to a country where their lives are at risk or where they fear ill-treatment after seeing their initial asylum request denied may file a subsequent asylum application (Article 71 of the Asylum Act) to avoid deportation. Where this is not possible, deportation is suspended on the basis of Article 60a, paragraph 2, of the Residence Act. A deportation ban may also be issued to anyone without leave to remain in the country on the basis of Article 60, paragraphs 5 and 7, of the Residence Act. This is termed a “toleration” – the right to remain in the country without a specific residence permit for “reasons of international law or humanitarian reasons”.

372. With the above legal instruments, German legislation offers sufficient safeguards against *refoulement*. However, GREVIO notes that the failure to carry out systematic vulnerability assessments and screenings to adequately detect and support victims of gender-based violence discussed earlier in this report may lead to deportations or returns in violation of the obligation of *non-refoulement*.

Concluding remarks

373. Numerous legislative and policy measures adopted in Germany over the last two decades clearly demonstrate the country's commitment to combating violence against women. Most notably, two consecutive national action plans were in force until 2012, and many regional action plans are currently being implemented or drafted at the level of the federal states. The comprehensive reform of all sexual offences aligning Germany's criminal law with the requirements of the Istanbul Convention prior to Germany's ratification was accompanied by extensive awareness-raising efforts and public debates. Moreover, important legislative amendments, such as the introduction of the criminal offence of cyberstalking, were introduced more recently to account for the rising prevalence of the digital dimension of violence against women. The Act on the Protection from Violence gives law-enforcement officials the necessary tools to act immediately and issue emergency protection orders for victims of violence.

374. Moreover, GREVIO has witnessed a great number and variety of initiatives, projects and promising practices to prevent and combat violence against women in Germany, which are being implemented at all levels of government as well as by civil society organisations. Large amounts of data are being collected and published by the administrative authorities, and studies are being commissioned on a regular basis on most forms of violence covered by the Istanbul Convention.

375. Against this backdrop of a robust legal framework and promising policy initiatives, there remain areas where progress is still needed. For example, a national co-ordinating body has yet to be designated, and a comprehensive national strategy to combat all forms of violence against women is currently lacking. The countless specialist services run by dedicated women's NGOs lack sufficient and sustainable funding, and women in Germany currently have no guarantee of finding a place in a shelter for them and their children. Several professional groups require more systematic and wider training to arrive at a more comprehensive understanding of the different forms of violence against women and their gendered nature and dynamics, as well as their linkages with women's inequality with men. Some forms of violence against women do not yet receive the attention they require, and the needs of some groups of women who are facing multiple and intersecting forms of discrimination are not currently being taken into account sufficiently in policy making on violence against women. These and other points have been further developed in this report in order to provide guidance for the further implementation of the provisions of the Istanbul Convention.

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

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

Appendix I

List of proposals and suggestions by GREVIO

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

B. Scope of application of the convention and definitions (Articles 2 and 3)

1. GREVIO urges the German authorities to adopt nationwide applicable definitions of the terms set out in Article 3 of the Istanbul Convention (paragraph 10).
2. GREVIO strongly encourages the German authorities to enhance the implementation of the Istanbul Convention in relation to all forms of violence against women, beyond domestic violence and sexual violence, which are currently less addressed by policies, programmes, and support services, with due regard to their gendered nature (paragraph 11).

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

2. Intersectional discrimination

3. GREVIO strongly encourages the German authorities to (paragraph 17):
 - a. strengthen, on the basis of a national strategy or policy document, measures to prevent and combat violence that affects women who are or might be exposed to intersectional discrimination, including women with disabilities, women belonging to minority groups, migrant and asylum-seeking women, Roma women, LGBTI women, homeless women, elderly women, women in prostitution and women with addiction issues;
 - b. integrate the perspective of such women into the design, implementation, monitoring and evaluation of policies for preventing and combating violence against women, by supporting, funding and closely co-operating with women's NGOs representing them;
 - c. raise the awareness of victims belonging to these groups of women about their rights to protection and support services;
 - d. develop and improve accessibility to protection and support services for these groups of women;
 - e. support research into the violence experienced by specific groups of women and girls at risk of or exposed to intersectional discrimination, in particular migrant/asylum-seeking women, girls and young women, homeless women, women in prostitution, LGBTI women and Roma women.

D. State obligations and due diligence (Article 5)

4. GREVIO strongly encourages the German authorities to step up efforts to raise awareness among public officials dealing with victims of violence against women and domestic violence of the need to act in full compliance with their due diligence obligation to prevent, investigate, punish and provide reparation for victims of any of the forms of violence covered by the Istanbul Convention and without discrimination on the basis of any of the grounds listed in Article 4, paragraph 3, of the Istanbul Convention (paragraph 21).
5. GREVIO encourages the authorities to introduce a system, such as a domestic homicide review mechanism, to analyse all cases of gender-based killings of women, with the aim of identifying possible shortcomings in institutional responses to violence, preserving the safety of women and holding to account both the perpetrator and the multiple agencies that come into contact with the parties (paragraph 22).

E. Gender-sensitive policies (Article 6)

6. GREVIO encourages the German authorities to integrate the gender dimension of violence against women into the development of laws, policies and measures to prevent and combat all forms of violence against women. Such a gender-sensitive approach should be based on an understanding of the link between violence against women and the structural inequalities between women and men, with the aim of addressing the specific needs of women victims as well as raising awareness of and counteracting the negative stereotypes against women which legitimise and sustain violence against women (paragraph 26).

II. Integrated policies and data collection

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

7. GREVIO – in full recognition of Germany’s constitutional requirements and sharing of competences – urges the German authorities to develop a long-term comprehensive strategy offering a state-wide effective, comprehensive and co-ordinated set of policies to prevent and combat all forms of violence covered by the Istanbul Convention, placing the rights of victims at the centre of all measures and giving due importance to the gendered nature of the different forms of such violence, including domestic violence. To this end, GREVIO urges the German authorities to (paragraph 34):

- a. strengthen and build upon the existing mechanisms aimed at improving co-ordination of activities undertaken at the different levels of government (national/federal states/municipalities) in relation to all forms of violence covered by the scope of the Istanbul Convention, with the view to establishing more structured and continuous co-operation between relevant entities;
- b. conduct an independent comparative analysis of existing national, federal and local measures and programmes on violence against women, including domestic violence, with a view to identifying gaps, as well as promising practices that can be recommended throughout the country;
- c. devise and implement comprehensive and holistic policies to address violence against women in all its forms and manifestations, including in their digital dimension, and in particular domestic violence, sexual violence, stalking, sexual harassment, forced marriage, violence related to “honour”, forced sterilisation and forced abortion.

B. Financial resources (Article 8)

8. GREVIO strongly encourages the German authorities to ensure appropriate human and financial resources for any policies, measures and legislation aimed at preventing and combating violence against women and for the institutions and entities mandated with their implementation, including specialist support services provided by civil society entities, and to introduce separate budget and funding lines. Furthermore, GREVIO strongly encourages the German authorities to introduce adequate long-term funding structures for specialist service provision in order to ensure their availability and accessibility as required, as well as to conduct a gender impact assessment of the government expenditure on the policies and measures undertaken to respond to different forms of violence (paragraph 42).

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

9. GREVIO encourages the German authorities to continue to systematically involve women's NGOs in policy making, in order to make use of their knowledge in their respective fields of expertise, while paying special attention to those that work with groups of women who are or may be exposed to intersectional discrimination, or with forms of violence that are currently less addressed in policies (paragraph 46).

D. Co-ordinating body (Article 10)

10. GREVIO urges the German authorities to designate or establish one or more national co-ordinating bodies that are fully institutionalised and mandated to fulfil all of the functions as set out in Article 10 of the Istanbul Convention, and that are provided with the necessary financial and human resources (paragraph 49).

11. GREVIO strongly encourages the German authorities to ensure, on the one hand, the co-ordination and implementation of policies and measures to prevent and combat all forms of violence against women, and, on the other hand, their independent monitoring and evaluation. In so doing, the German authorities should ensure that the functions of the co-ordinating body are exercised in close consultation with those of other co-ordinating and monitoring bodies as well as relevant NGOs and civil society and that they are supported by adequate and appropriate data (paragraph 50).

E. Data collection and research (Article 11)

1. Administrative data collection

e. Conclusion

12. Bearing in mind the need for data collection to apply to all forms of violence covered by the Istanbul Convention, GREVIO strongly encourages the German authorities to take the necessary measures, including, if necessary, legislative amendments establishing the duty of statutory agencies to (paragraph 66):

- a. ensure that data collected by all relevant stakeholders (namely law-enforcement agencies, judicial authorities, and health and social services) are disaggregated with regard to the sex and age of the victim and the perpetrator, their relationship, geographical location and the different forms of violence covered by the Istanbul Convention, and that information on the presence of child witnesses and victims is also included;
- b. harmonise data collection between law-enforcement agencies and the judiciary, with the aim of, inter alia, allowing the assessment of conviction and attrition rates and of recidivism rates; enabling a thorough analysis of the pathway of cases through the criminal justice system chain – law enforcement, prosecutors' offices and the courts;
- c. harmonise data collection and analysis of cases of violence against women that have resulted in the killing of the woman and, where appropriate, children;
- d. introduce a data-collection system that allows the recording of the number of breaches of emergency barring, restraining and protection orders, the number of sanctions imposed as a result of such breaches and the number of cases where the woman was revictimised (i.e. subjected to one or more further acts of violence) or murdered as a consequence of such breaches;
- e. introduce a data-collection system that allows the recording of the registration and outcomes of asylum claims made on the basis of gender-related persecution;
- f. introduce data collection in the healthcare sector in relation to all forms of violence against women;
- g. ensure that the process of collecting, storing and transforming collected data complies with standards on personal data protection, as stipulated in the Council of Europe

Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

2. Population-based surveys

13. GREVIO encourages the German authorities to regularly conduct population-based surveys addressing all forms of violence against women covered by the scope of the Istanbul Convention (paragraph 68).

3. Research

14. GREVIO encourages the German authorities to conduct or commission more research on the forms of violence covered by the Istanbul Convention that have so far not been addressed through research, and to regularly update the results of any previous research, in close co-operation with community-based organisations and NGOs (paragraph 72).

III. Prevention

A. General obligations (Article 12)

15. GREVIO encourages the German authorities to ensure that preventive action incorporates, approaches for the prevention of violence against women and girls exposed to or at risk of intersectional discrimination, on the basis of their experience, such as women and girls with disabilities, homeless women and migrant women and girls. Programmes and activities for the empowerment of women and girls should form part of preventive measures, as should specific action tailored to men and boys (paragraph 79).

B. Awareness raising (Article 13)

16. GREVIO strongly encourages the German authorities at all levels to promote or conduct, on a regular basis and as part of a wider preventive strategy encompassing primary, secondary and tertiary prevention activities, awareness-raising campaigns or programmes on the different manifestations of violence against women, including in co-operation with civil society actors such as national human rights institutions, equality bodies and non-governmental organisations working with and representing women and girls, including those at the intersection of discrimination (paragraph 82).

17. Furthermore, GREVIO encourages the German authorities to step up efforts to ensure greater co-ordination between federal, regional and local-level campaigns, to ensure synergies and to ensure that the efforts at the different levels contribute to the overall goals by setting clear objectives, targets and indicators to measure outcomes (paragraph 83).

C. Education (Article 14)

18. GREVIO strongly encourages the German authorities to take the necessary legal and other measures, including by involving all relevant actors, to ensure a more even degree of teaching, in a compulsory manner, of the principles set out in Article 14 of the Istanbul Convention, notably non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships and the right to personal integrity, and to ensure information is provided on the different forms of gender-based violence against women. This should be done through the exchange of existing practices among the different federal states and through common approaches identified in the framework of the Conference of Ministers of Education and Cultural Affairs on the basis of a mapping of relevant existing teaching materials, cross-curricular learning areas and other teaching approaches (paragraph 90).

D. Training of professionals (Article 15)

19. GREVIO urges the German authorities to ensure that all professionals dealing with victims or perpetrators of all forms of violence covered by the scope of the Istanbul Convention receive systematic and mandatory initial and in-service training on identifying and responding to all forms of violence against women, while focusing on the victims' human rights, safety, individual needs and empowerment and the prevention of secondary victimisation. Such training should be based on the principles of non-discrimination and equality between women and men and devised in close co-operation with regional and local authorities, as well as relevant stakeholders, including independent women's NGOs providing specialist support to women victims of violence. Clear protocols and guidelines should be established to set the standards that staff are expected to follow in their respective fields (paragraph 102).

20. GREVIO strongly encourages the German authorities to focus on the debunking of harmful gender stereotypes and rape myths in the training of law-enforcement officials and members of the judiciary (paragraph 103).

E. Preventive intervention and treatment programmes (Article 16)

1. Programmes for perpetrators of domestic violence

21. GREVIO strongly encourages the German authorities to step up efforts to ensure, through sustainable public funding and on the basis of the standards approved by the Federal Ministry for Family Affairs, Senior Citizens, Family and Youth, the setting up of dedicated domestic violence perpetrator programmes throughout the country. Furthermore, GREVIO encourages the German authorities to (paragraph 111):

- a. ensure that the perpetrator work institutions are embedded in the local intervention structures and closely co-operate with all stakeholders, such as women's support organisations, the police, the justice system and other support services like the youth welfare office;
- b. introduce perpetrator programmes in custodial settings, where they do not yet exist;
- c. raise awareness and disseminate knowledge on perpetrator work among the relevant prosecution authorities and judges who are legally competent to order offenders to attend preventive intervention and treatment programmes;
- d. ensure that the impact of all programmes is monitored by independent entities, in line with standard methodological rules, and that independent scientific outcome studies of the treatment methods are carried out.

2. Programmes for sex offenders

22. GREVIO encourages the German authorities to ensure nationwide coverage of specialist programmes for sexual offenders, both inside prison settings and as outpatient programmes (paragraph 115).

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

23. GREVIO encourages the German authorities to actively support and promote the involvement of the private sector, including the information technology sector, in the prevention of violence against women in all its forms, including by providing guiding principles for private-sector companies in establishing internal procedures to address sexual harassment. It further encourages the authorities to collect data to assess the implementation of Germany's General Equal Treatment Act with respect to measures aimed at preventing sexual harassment in the workplace, as well as to review and follow up the outcomes of measures undertaken by the Federal Anti-Discrimination Agency in such cases (paragraph 124).

24. With a view to the important role of the media in promoting equality between women and men and reducing the level of acceptance of violence against women, GREVIO encourages the German authorities to tap into the potential offered by the high level of awareness of the issue among the various media and press councils and set incentives or otherwise promote the development of specific self-regulatory standards in relation to the non-sensationalist and balanced reporting on violence against women (paragraph 125).

IV. Protection and support

A. General obligations (Article 18)

25. GREVIO urges the German authorities to significantly increase efforts at all relevant levels in order to embed the provision of services for victims of all forms of violence covered by the Istanbul Convention in multi-agency co-operation structures that involve all relevant actors, including women's specialist support services, and that operate in accordance with protocols and guidelines for co-operation, based on a gendered understanding of violence against women and domestic violence and focusing on the human rights and safety of victims, as well as on their empowerment and economic independence. To this end, GREVIO urges the German authorities to establish mandatory guidelines and/or protocols for relevant professionals on how to respond to cases of violence against women as covered by the Istanbul Convention on the bases of multi-agency co-operation (paragraph 135).

26. GREVIO strongly encourages the German authorities to ensure that protection and support services are made available as much as possible on the same premises ("one-stop shop") (paragraph 136).

B. Information (Article 19)

27. GREVIO encourages the German authorities to continue their efforts to proactively and systematically provide easily accessible information in all relevant languages, including easy-to-understand language and in formats that are accessible to persons with disabilities, to women victims of all forms of violence, and to include information about rights and services for victims in information packages for migrant and asylum-seeking women (paragraph 142).

C. General support services (Article 20)

1. Social services

28. GREVIO urges the German authorities to set up dedicated programmes that cater to the specific needs of victims of violence against women in the areas of employment, training and housing, thus ensuring their recovery and their economic independence and empowerment. Moreover, social welfare system workers such as youth welfare officers must be made aware of the forms of violence against women and the negative consequences of violence for children who witness it (paragraph 147).

2. Healthcare services

29. GREVIO strongly encourages the German authorities to implement standardised care paths that include the identification of victims, screening, diagnosis, treatment, documentation of injuries and referral to the appropriate specialist support services, and to promote and institutionalise multi-agency co-operation between the healthcare sector and specialist services. Moreover, barriers to accessing the healthcare system for women with disabilities and women asylum seekers should be removed (paragraph 151).

D. Assistance in individual/collective complaints (Article 21)

30. GREVIO invites the German authorities to step up their efforts to ensure victims have information on and access to applicable regional and international complaint mechanisms (paragraph 155).

E. Specialist support services (Article 22)

31. GREVIO is concerned by the disparity in terms of levels of service provision for the different forms of violence covered by the Istanbul Convention, which vary significantly between the 16 federal states, as well as within each federal state. Aside from creating a form of hierarchy among victims, it leaves a significant number without specialist support. GREVIO urges the German authorities to ensure that the provision of specialist support services meets the demands of victims, irrespective of the form of violence they have experienced, and that these specialist services operate in accordance with minimum standards. In particular, GREVIO urges the German authorities to (paragraph 168):

- a. ensure that women and girl asylum seekers who live in reception centres have access to adequate support services;
- b. increase internal and external support provision and services for women with disabilities living in institutions;
- c. improve the availability of specialist services for girls and young women;
- d. step up their efforts to assess the needs for specialist services for Roma and Sinti women victims of violence;
- e. assess the need for further support services for victims of forced marriage;
- f. ensure that specialist services also cater to LGBTI women;
- g. assess the provision of specialist services for other forms of violence and groups of victims and make adjustments as required;
- h. assess whether proactive counselling of hard-to-reach victims can be extended.

32. GREVIO invites the German authorities to take stock of the good practices that have emerged from the federal states and consider whether they could be rolled out more broadly, by providing, among other things, a secure financial basis for them (paragraph 169).

F. Shelters (Article 23)

33. GREVIO urges the German authorities to increase the number of available shelter places, with an adequate geographical distribution throughout the country, and to ensure that all women victims of violence, regardless of their status under the Social Code or other factors – in particular girls under 18 years of age, LGBTI women, women with sons above a certain age, women with many children, women with disabilities, women fleeing violence related to “honour”, asylum-seeking women and those with an insecure residence status – have free-of-charge access to dedicated domestic violence shelters. In that context, GREVIO urges the German authorities to take account of the principle that only accommodation in dedicated, single-sex and specialist structures can meet the requirements of the Istanbul Convention, and that shelters for the homeless cannot serve as a replacement (paragraph 177).

H. Support for victims of sexual violence (Article 25)

34. GREVIO urges the German authorities to take legislative and other measures to comply with the requirements of Article 25 of the Istanbul Convention. To this end, the authorities should establish a sufficient number of emergency centres, in an adequate geographical distribution, that form part of a multi-agency approach to service provision, accessible to victims of rape and/or sexual violence, which meet all their needs in the short, medium and long term and which provide immediate medical care, high-quality forensic examinations, psychological and legal support, and referral to specialist organisations, on the basis of protocols for relevant professionals that should be developed and made applicable nationwide, in order to comprehensively address this form of violence. A victim's access to such support services should not depend on her insurance status or other factors, such as her willingness to report the violence to the authorities. Moreover, awareness should be raised among healthcare personnel that minors who are capable of consenting to treatment may do so without the approval of their legal guardians (paragraph 191).

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

35. GREVIO strongly encourages the German authorities to increase the availability of holistic and nationwide support for children who have witnessed any of the forms of violence against women covered by the Istanbul Convention. It recalls the general obligations set out in Article 18, paragraph 3, which aim to ensure that a range of relevant services, for victims and for any affected children, be located on the same premises (paragraph 198).

V. Substantive law

A. Civil law

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

36. GREVIO encourages the German authorities to examine any barriers to the use of civil law measures available to hold the state accountable for public officials' failure to comply with the obligation to diligently prevent, investigate and punish acts of violence covered by the Istanbul Convention, including in the context of wrongful decisions in the administration of justice, in order to enable women victims of violence to make practical use of the existing legal remedies. Progress in this area needs to be measured by collecting data on the number of proceedings initiated by victims and their outcomes (paragraph 208).

2. Compensation (Article 30)

37. GREVIO strongly encourages the German authorities to (paragraph 217):

- a. take the necessary measures in order to ensure that wider use is made of the legal possibilities to claim compensation for women victims of any of the forms of violence covered by the Istanbul Convention, in particular by examining and addressing the reasons for the low number of applications for compensation under the Act on Compensation for Victims of Violent Crimes, and the relatively low number of granted claims. In this context, GREVIO strongly encourages the German authorities to take measures to put an end to the practice of qualifying women who remain in abusive relationships as ineligible for compensation well before the entry into force of Book No. XIV of the Social Code;
- b. collect data, disaggregated by sex, age, type of violence, the relationship of the perpetrator to the victim and geographical location, of compensation claims made and granted under the OEG as well as compensation granted in the context of criminal proceedings;
- c. ensure that claims under the Act on Compensation for Victims of Violent Crimes are dealt with within a reasonable time as required by Article 30, paragraph 3, of the Istanbul

Convention, to ensure that victims receive the financial and material support they urgently need.

3. Custody, visitation rights and safety (Article 31)

38. GREVIO urges the German authorities to take all appropriate measures, including legislative measures where necessary and providing specialised training and appropriate guidelines, to ensure that all relevant professionals, including social workers, youth welfare officers, members of the judiciary, court experts and child psychologists, when deciding on custody and visitation (paragraph 228):

- a. are duly aware of and take into account the negative impact on children of violence by one parent against the other;
- b. are aware of the lack of a scientific basis for so-called “parental alienation” and similar concepts;
- c. incorporate a process for screening cases for a history of violence by one parent against the other and for identifying whether it has been reported, including for cases referred to out-of-court settlement.

39. GREVIO further urges the German authorities to (paragraph 229):

- a. improve the co-operation between family courts and specialist services that assist victims and their children in proceedings concerning custody and visitation rights;
- b. take steps to ensure that procedures and decisions in such cases do not endanger the safety of women victims of intimate partner violence, in particular by not disclosing their place of residence.

40. GREVIO strongly encourages the German authorities to evaluate the effects of the current judicial practice of deciding on custody and visitation rights on the safety of women victims of domestic violence and their children, including linkages to gender-related killings of women and their children, to analyse relevant case law and to collect data on the use that is made by judges of limiting or withdrawing parental or visitation rights in the context of domestic violence, with a view to reconsidering the criteria for supervised visitation (paragraph 230).

4. Civil consequences of forced marriages (Article 32)

41. GREVIO encourages the German authorities to harmonise the procedures for the dissolution of forced marriages throughout the country, making the procedure easily accessible and ensuring that it does not entail an undue financial or administrative burden for the victim, as required under Article 32 of the Istanbul Convention (paragraph 235).

B. Criminal law

1. Psychological violence (Article 33)

42. GREVIO strongly encourages the German authorities to investigate, prosecute and punish effectively acts of psychological violence online and offline by making full use of the available provisions in the German Criminal Code. To effectively criminalise all acts that seriously impair the psychological integrity of a person as required by Article 33 of the Istanbul Convention, GREVIO strongly encourages the German authorities to consider creating a separate offence which takes into account all elements of the crime as required by the convention (paragraph 243).

3. Physical violence (Article 35)

43. In the absence of a reservation regarding the right not to ensure criminal investigations into and prosecution of offences established in accordance with Article 35, GREVIO strongly encourages the German authorities to take legislative and/or other appropriate measures to ensure wider levels of prosecution of cases of physical violence in the context of intimate partner violence, including by establishing strict guidelines for prosecution, in order to enable victims to obtain justice and to contribute to the effective deterrence of this form of violence (paragraph 249).

4. Sexual violence, including rape (Article 36)

44. GREVIO encourages the German authorities to monitor and further evaluate the implementation of the new sexual offences legislation, in particular Article 177 of the German Criminal Code, with a view to further aligning its definition of consent with that set out in Article 36, paragraph 2, of the Istanbul Convention (paragraph 253).

6. Female genital mutilation (Article 38)

45. GREVIO encourages the German authorities to criminalise the intentional conduct of coercing or procuring a woman to undergo female genital mutilation and the intentional conduct of inciting, coercing or procuring a girl to undergo the act as set out in Article 38b and c of the Istanbul Convention (paragraph 259).

7. Forced abortion and forced sterilisation (Article 39)

46. GREVIO strongly encourages the German authorities to ensure that in any procedures authorising the sterilisation of legally incapacitated women, less invasive birth control options are considered with due regard to the best interest and self-determination of the women concerned (paragraph 267).

47. GREVIO encourages the German authorities to ensure that women with disabilities who undergo consensual sterilisation can make their decision on the basis of sufficient information designed in a disability-accessible manner, which is presented to them by professionals who are trained on gender and disability issues. Furthermore, GREVIO encourages the German authorities to collect data on the number of forced abortions and forced sterilisations, in order to gain knowledge of their extent, and take any necessary action (paragraph 268).

8. Sexual harassment (Article 40)

48. GREVIO strongly encourages the German authorities to ensure that the relevant provisions of the Criminal Code include verbal and non-verbal sexual harassment, and in particular are able to capture a pattern of sexual harassment whose individual elements, if taken on their own, would not necessarily result in a sanction (paragraph 273).

49. GREVIO encourages the German authorities to remain vigilant of current forms of digital violence against women and girls and to take the necessary legislative and practical steps to efficiently counter existing as well as newly emerging forms of sexual harassment perpetrated via ICT (paragraph 274).

9. Aggravating circumstances (Article 46)

50. GREVIO strongly encourages the German authorities to (paragraph 282):

- a. take appropriate measures to ensure that all aggravating circumstances listed in Article 46 of the Istanbul Convention are, in practice, effectively applied by the judiciary;
- b. ensure that awareness of the dynamics of intimate partner violence and killings is raised among the judiciary through training and a deepened understanding of the causes and consequences of intimate partner violence.

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

51. GREVIO urges the German authorities to take the necessary legislative and other measures, such as training and awareness raising among the judiciary and all others involved in reaching decisions on child custody, to ensure that prohibition of mandatory dispute resolution and mediation in criminal and civil law is applied in practice for cases concerning any of the forms of violence covered by the Istanbul Convention. GREVIO urges the German authorities to further strengthen the level of awareness among all professionals involved in court proceedings of the power imbalances in relationships marred by violence, so they can take this into account when assessing whether to propose alternative dispute resolution measures. Attempts at settlements or mediation may never jeopardise the safety of a victim of violence or her children (paragraph 288).

VI. Investigation, prosecution, procedural law and protective measures

A. General obligations and immediate response, prevention and protection (Articles 49 and 50)

1. Reporting to, immediate response and investigations by law-enforcement agencies

52. GREVIO strongly encourages the German authorities to take the necessary measures to ensure the reporting to law-enforcement agencies of incidents of violence against women and domestic violence covered by the Istanbul Convention, in particular by (paragraph 296):

- a. increasing the degree of specialisation of law-enforcement officers across the country and ensuring their sensitivity towards women and girls at the intersection of discrimination, notably migrant women, women in prostitution, LGBTI women and homeless women;
- b. taking practical steps to enable women victims of violence to report to and be interviewed by a female officer;
- c. offering the necessary communication tools to enable law-enforcement officers to communicate effectively with women and girls with disabilities;
- d. equipping law-enforcement agencies with the means to respond to and investigate digital manifestations of violence against women and domestic violence.

2. Effective investigation and prosecution

53. GREVIO strongly encourages the German authorities to take legal or other measures to decrease the processing time by the prosecution services of cases of violence against women and domestic violence covered by the Istanbul Convention; to ensure that forensic evidence is ordered not only in cases of sexual violence, but also in domestic violence cases; and to ensure that audiovisual recordings of testimonies are made use of in a sensitive manner and nationwide (paragraph 302).

3. Conviction rates

54. GREVIO strongly encourages the German authorities to analyse the handling of criminal cases along the criminal justice chain from law-enforcement agencies to courts, relying on data, targeted research and case law, in order to identify and address the underlying causes of attrition, to identify possible systemic gaps in the institutional and judicial response to violence against women, and to make use of the findings to create evidence-based policies and/or make any necessary changes to legislation or practice (paragraph 305).

B. Risk assessment and risk management (Article 51)

55. GREVIO urges the German authorities to ensure that in cases of all forms of violence covered by the Istanbul Convention, including domestic violence and forced marriage, systematic and gender-sensitive risk assessment and safety management become standard procedure for all agencies involved, especially in the context of measures taken under the Act on the Protection from Violence. GREVIO further urges the German authorities to ensure that an effective multi-agency approach is taken to such risk assessment in order to ensure the human rights and safety of the individual victim while giving due consideration to the rights and needs of child witnesses of intimate partner violence (paragraph 311).

C. Emergency barring orders (Article 52)

56. GREVIO strongly encourages the German authorities to make use of emergency barring orders more frequently, in order to protect the right to safety of women victims of domestic violence and their children, including by enabling children to benefit from emergency barring orders and by ending the practice of allowing for exceptions to prohibitions on contact of the abusive parent with his child for the duration of the emergency barring order (paragraph 316).

57. In order to review the implementation of emergency barring orders, GREVIO strongly encourages the German authorities to collect administrative data on 1) the numbers of such orders issued by the police; 2) the number of perpetrators who did not comply with the orders; and 3) the number and type of sanctions applied as a result of non-compliance (paragraph 317).

58. GREVIO urges the German authorities to take the necessary measures to systematically take into consideration the safety concerns of women victims of domestic violence and their children, on a case-by-case basis, when deciding on rights of contact for the duration of orders issued under the Act on Protection from Violence (paragraph 324)

59. GREVIO strongly encourages the German authorities to take the necessary measures to ensure women victims of domestic violence are proactively informed of the legal possibilities of obtaining protection orders, including women asylum seekers living in reception facilities, as well as women and girls victims of forced marriage and female genital mutilation (paragraph 325).

60. GREVIO strongly encourages the German authorities to ensure the application of the Act on Protection from Violence to women with disabilities living in institutions and to women asylum seekers living in reception and accommodation facilities (paragraph 326).

E. Investigations and evidence (Article 54)

61. GREVIO encourages the German authorities to ensure that Article 68a of the Code of Criminal Procedure is applied in practice in line with the requirements of Article 54 of the Istanbul Convention, and to train judges in that respect (paragraph 329).

F. Ex parte and ex officio proceedings (Article 55)

2. Victim support in legal proceedings

62. GREVIO strongly encourages the German authorities to take legislative or other measures to ensure that governmental and non-governmental organisations and domestic violence counsellors are able to assist and/or support victims, upon their request, during investigations concerning any of the offences established in accordance with the Istanbul Convention (paragraph 335).

G. Measures of protection (Article 56)

63. GREVIO encourages the German authorities to ensure that all measures in place to protect victims during investigations and judicial proceedings are implemented accordingly, and in relation to victims of all forms of violence covered by the Istanbul Convention. Data collection and research on the implementation of these measures and their effectiveness should be carried out regularly, including from a victim's perspective (paragraph 337).

VII. Migration and asylum

A. Residence status (Article 59)

64. GREVIO strongly encourages the German authorities to enable all women in Germany, irrespective of the nature of the residence permit of their abusive sponsoring spouse, to apply for an independent residence permit. Furthermore, GREVIO encourages the German authorities to enable, through legislative and other measures, women and girls forced into marriage abroad to exercise their right to return, notably by offering a broad understanding of the requirement of "guaranteed reintegration" (paragraph 351).

B. Gender-based asylum claims (Article 60)

1. Gender-sensitive asylum determination procedure

65. GREVIO strongly encourages the German authorities to (paragraph 362):

- a. establish nationwide, uniform guidelines on procedures and criteria regarding the identification, in the asylum determination procedure, of women who have been victims of gender-based violence;
- b. ensure that all those involved in the asylum processes (interviewers, interpreters, lawyers) receive adequate training on gender-based persecution and gender-based violence;
- c. ensure the systematic provision of information to asylum-seeking women about their rights and grounds for asylum, prior to or in the context of the first interview with the Federal Office for Migration and Refugees (BAMF). This should include information provided by independent support services for asylum-seeking women on the possibility to request a female case worker and interpreter and to apply for asylum in their own capacity, as well as on the availability of legal counselling;
- d. incorporate specific gender-sensitive questions into the standard procedure for interviews in order to systematically assess whether a female asylum seeker has been exposed to or is at risk of gender-based persecution.

2. Accommodation

66. GREVIO urges the German authorities to ensure that all women and girls seeking asylum (paragraph 369):

- a. are offered adequate and safe accommodation through, among other things, the screening for vulnerabilities and the implementation of standard protocols for the prevention of and protection from gender-based violence in reception facilities;
- b. are granted access, de jure and de facto, to specialist support services and to counselling for experiences of gender-based violence.

Appendix II

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

National authorities

- *Bund, Länder* and Local Authority Round Table “Together against Violence towards Women”
- *Bund-Länder*-NGO Working Group to Eliminate Female Genital Mutilation
- *Bund-Länder* Working Group on Domestic Violence
- Federal Anti-Discrimination Agency
- Federal Criminal Police Office
- Federal Government Commissioner for Culture and the Media
- Federal Ministry of Family Affairs, Senior Citizens, Women and Youth
- Federal Ministry of Health
- Federal Ministry of Interior, Building and Community
- Federal Ministry of Justice and Consumer Protection
- Federal Ministry of Labour and Social Affairs
- Federal Office for Migration and Refugees
- Federal Statistical Office

Regional authorities

- Regional Government of Bavaria
- Regional Government of Brandenburg
- Regional Government of Lower Saxony
- Regional Government of North Rhine-Westphalia
- Members of the MUM Project (Munich support model against domestic violence)
- Police and public prosecutor’s office North Rhine-Westphalia
- Police and public prosecutor’s office Lower Saxony
- Public prosecutor’s office Berlin

Public bodies

- Asylum reception centre, Mönchengladbach
- Asylum accommodation centre, Hohenleipisch
- Members of the German Bundestag
- German Institute for Human Rights (Deutsches Institut für Menschenrechte)
- Representative of the Institute for Forensic Medicine at the Hanover Medical University (Medizinische Hochschule Hannover)

Non-governmental organisations

- Asylum Council Lower Saxony (Flüchtlingsrat Niedersachsen)
- Berlin Initiative against Violence against Women (BIG Berlin)
- Caritas
- Central Information Office of the Autonomous Women’s Shelters (Zentrale Informationsstelle Autonomer Frauenhäuser – ZIF)
- Co-ordination Centre against Domestic and Sexual Violence Bavaria (Koordinierungsstelle gegen häusliche und sexualisierte Gewalt Bayern)
- Co-ordination Centre Lower Saxony (Koordinierungsstelle der niedersächsischen Frauen- und Mädchenberatungsstellen gegen Gewalt)
- DaMigra - Umbrella Association of Migrant Women’s Organisations

- Federal Association of Women's Counselling and Rape Crisis Centres (Bundesverband Frauenberatungsstellen und Frauennotrufe – bff)
- Federal Association Trans (Bundesverband Trans)
- Federal Working Group of Feminist Organisations against Sexual Violence towards Girls and Women (BAG FORSA)
- Federal Working Group on Homeless Aid (BAG Wohnungslosenhilfe)
- Federal Working Group on Work with Perpetrators of Domestic Violence (BAG Täterarbeit Häusliche Gewalt)
- Gender Equality Media
- German Advertising Standards Council (Deutscher Werberat)
- German Association of Women Lawyers (Deutscher Juristinnenbund – djb)
- German Press Council (Deutscher Presserat)
- German Red Cross
- German Women's Council (Deutscher Frauenrat)
- HateAid
- Intercultural Initiative
- Intervention- and Co-ordination Centre against Domestic Violence Hanover (BISS - Interventions- und Koordinierungsstelle gegen Häusliche Gewalt)
- INVIA
- JUMEN (Juristische Menschenrechtsarbeit in Deutschland)
- Lara
- Lesbian Counselling Berlin (Lesbenberatung)
- LesMigras
- MIA
- Men's Office Hanover (Männerbüro)
- Alliance Nordic Model (Bündnis Nordisches Modell)
- Papatya
- ProAsyl
- Regional Association Women's Counselling Schleswig-Holstein (Landesverband Frauenberatung - LFSH)
- S.I.G.N.A.L.
- SOLWODI Bavaria
- SOLWODI Berlin
- Stop mutilation
- Terre des Femmes
- TIO
- UFA
- Weibernetz - Federal Network of Women Lesbians and Girls with Disabilities (Bundesnetzwerk von FrauenLesben und Mädchen mit Beeinträchtigung)
- Weisser Ring
- Wildwasser
- Women's Shelter Co-ordination (Frauenhauskoordinierung – FHK)
- Women's Shelter Hanover

Lawyers/Legal professionals

- Christina Clemm
- Oda Jentsch
- Adriana Kessler
- Anne-Kathrin Klug
- Navin Mienert
- Leonie Steinl
- Anne-Kathrin Wolf

GREVIO, the *Group of Experts on Action against Violence against Women and Domestic Violence*, is an independent human rights monitoring body mandated to monitor the implementation of the *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* (Istanbul Convention) by the Parties.

The Istanbul Convention is the most far-reaching international treaty to tackle violence against women and domestic violence. Its comprehensive set of provisions spans far-ranging preventive and protective measures as well as a number of obligations to ensure an adequate criminal justice response to such serious violations of human rights.

This report contains an overall analysis of the implementation of the provisions of the Istanbul Convention. It highlights positive initiatives in preventing and combating all forms of violence against women at national level and provides suggestions and proposals to improve the situation of women facing such violence.

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union.

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

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

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