

# Shadow Report

## to GREVIO on the Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in Ireland

by

specialist national DSGBV NGOs

**Rape Crisis Network Ireland (RCNI) & Safe Ireland (SI)**

and on behalf of Domestic Violence Services and member Rape  
Crisis Centres

**August 2022**



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## Abbreviations

An Garda Síochána (Irish Police Service)	AGS
Child and Family Agency (Tusla)	CFA
Director of Public Prosecutions	DPP
Rape Crisis Centre	RCC
Rape Crisis Network Ireland	RCNI
Safe Ireland	SI
Sexual Assault Treatment Unit	SATU
Domestic, Sexual and Gender-based Violence	DSGBV

## Specialist NGO DSGBV Ireland Shadow Report – RCNI & SI (August 2022)

### Foreword

This shadow report was prepared by two specialist-representative non-governmental organisations in Ireland for Sexual Violence and Domestic Violence. The report is based on data, research and publications, alongside other documents not in the public domain from collaborative and representative working groups on reform and advocacy as well as drawing on the experience of those working in the sector and collated by an independent researcher.

Safe Ireland is the national development and co-ordination body working to eradicate Domestic Violence and Coercive Control. We have four distinct functions: investigating the causes and effects of coercion and violence based on sex, gender and sexuality, particularly against women and against children; delivering frontline refuge, support and outreach services; developing best practice guidelines for skilled community-led domestic violence response; and influencing civil society and national strategic policy. This is achieved through our network of affiliated independent frontline DV services as well as working directly with local communities; professionals; public bodies; academic institutions; philanthropists; and corporate partners. Safe Ireland has thirty-nine affiliate Domestic Violence Services across Ireland. Each deliver various combinations of services to women and children including national and local crisis helpline support; one-to-one therapeutic and practical support; information; advocacy; Garda and court accompaniment; and housing and welfare advice. Twenty of these services operate staffed refuges.

Safe Ireland's core strategic focus is to change culture, transform responses to sex, gender and sexuality-based violence in communities across Ireland, and to progress towards creating a safer Ireland for women, for young people, and for children.

Rape Crisis Network Ireland (RCNI) is a national level sexual violence specialist organisation that monitors victim experience of sexual violence and reporting and advocates on responses and prevention. RCNI evidences survivors' experience through data collection at a network of rape crisis centres and represents their interests to government and other fora. RCNI supports Rape Crisis Centres, develops and coordinates specialist programmes, partners and collaborates with government departments, agencies, civil society organisations, academics and institutions, engages in national interagency fora, and advocates change in legislation, responses and prevention approaches.

This shadow report draws on the expertise of both organisations and the almost 50 specialist civil society organisations who participate in their work but neither had capacity to conduct a wider consultation or engagement with our statutory and non-statutory partners and so we make no claim to this report being comprehensive. We recommend that this report should be read alongside other Irish civil society shadow reports which sought to capture both broader or more specialised civil society insights into DSV. We also have endeavoured to rely only on information we can evidence or have well developed and published analysis and policy positions upon. However, we fully acknowledge the limits of our knowledge and what we can know. We very much welcome any additional information from statutory and non-statutory partners that may better inform us and indeed challenge our assessment and conclusions below with a view to advancing our shared objectives of preventing and addressing DSGBV. We very much welcome the GREVIO representative and team engaging in Ireland's Country review and offer our full support to their endeavours in supporting us to that end.

## Introduction

RCNI and Safe Ireland have worked closely and continuously with government and have advocated for reform on most of the issues referred to within this report. Substantial progress has been made

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in the implementation of long-term and fundamental changes at the relevant statutory agencies. There has also been substantial positive legislative progress since ratification and there are more reforms forthcoming, yet there remains a significant gap between *de jure* and *de facto* implementation of the Istanbul Convention.

The Government, in the 3<sup>rd</sup> National Strategy on DSGBV (2022-2026), launched 28<sup>th</sup> June 2022, has committed to a new ‘zero-tolerance’ approach and is structured on the Istanbul Convention’s four pillars. The new strategy commits to establishing a new statutory agency dedicated to DSGBV, new legislation, a new prevention campaign, doubling refuge spaces, and generally leaving the current fragmented approach behind. The Government promises new structures and processes, in full collaboration with frontline services, and a ‘sustained and unrelenting’ focus on raising awareness and challenging outmoded attitudes. The new strategy emphasises the importance of data collection, and a new prevalence survey is already underway on sexual violence. Up-to-date national prevalence data on SV will soon be available to inform planning, a DV survey is planned.

This is the most ambitious strategy to date, proposing a sustained and collaborative vision towards an overall goal. The Government has committed €363 million to action the strategy over the five years. The Minister for Justice will lead the strategy, in collaboration with the support services on the frontline, with oversight from a high-level board including the Department of the Taoiseach and the Department of Justice. There is a clear implementation plan, with timelines and oversight, and the new statutory agency dedicated to tackling DSGBV is promised to be in place by 1<sup>st</sup> January 2024. The Minister acknowledged that doubling resources and shelter premises for frontline services may not be enough. She acknowledged that greater collaboration and coordination are needed, in tandem with new ways of helping, accepting and engaging. The 3<sup>rd</sup> National Strategy promises new co-design partnerships, collaborative Advisory Groups and other non-statutory co-ordination structures. A new child-centred approach will support children as victims and witnesses all the way to court. All actions and actors in the strategy will be obliged to take an intersectional approach to include women and children experiencing multiple discriminations and disadvantages.

This Government is to be commended for achieving very significant progress already towards fuller implementation of the Istanbul Convention, and the 3<sup>rd</sup> National Strategy will keep up the momentum. This Shadow Report describes the period leading up to this strategy and captures a moment in time that has been somewhat overtaken by the third strategy. However, this report aims to support progress by systematically identifying failures which have ramifications for the whole of implementation of the Convention which we hope will be of value to GREVIO and indeed our partners in government in realising the shared ambition to combat VAW and DV.

Training and education are key, as they impact so many other areas, and focus must be drawn to data collection and monitoring. The absence of reliable data has undermined the ability to develop policy, and to evaluate the efficacy of law and policy. The voices of the specialist-representative organisations, based on survivor and victim experience and evidenced by their research and administrative data, have not always been systematically supported with capacity to engage and integrated into policy development and budgeting priorities.

Demand for specialist support services is at an all-time high, as the country comes to terms with understanding the extent of the gender-based violence and the digital dimension of gender-based violence. According to the 2022 census, Ireland’s population grew by 7.6% since the 2016 census, and this population curve does not include approximately 45,000 refugees, primarily Ukrainian, who have arrived since census day. There is a climate crisis, a housing crisis, an energy crisis, and a cost-of-living crisis and the impact of Covid-19 is still felt in many households. Funding for services, and

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attention to training and regulation of professionals, failed to get enough attention for many years. The State failed to act upon the evidence to systematically close the known gaps in services, for all women in all geographic locations. Unknown gaps will remain unknown while waiting lists and resources are left at current levels, as hard-to-reach women are, by definition, hard-to-reach. What is known is that many cohorts are under-represented at services, and that specialist support services are under-resourced to reach out to them.

There is no question that the low level of funding provided by the State to specialist-representative NGOs and specialist civil society support services over a sustained period had an impact on the quantity of training, policy and prevention work that the services have been able to achieve. The legacy issue is that the State prioritised crisis service delivery in the decade of austerity (2008 - 2018) and beyond and failed to recognise, nurture and harness the local-level specialist services expertise on prevention, training and inter-agency initiatives. There has been a failure historically to encourage State Agencies to work with these local specialist support services and to harness their expertise to help prevent as well as deal with the consequences of DSGBV against women. There are now critical deficits that must be urgently address to enable the ambition of the 3rd National Strategy. The extent of the training deficits among general and specialist support services are now understood by the Government, and professional bodies are slowly addressing core and in-service curricula. However, the need is now, the expertise exists, yet the resources for specialist services to expand their training and curriculum consultancy are still absent.

In terms of the 4Ps, the greatest progress has been made in policy reform and the weakest link has been protection, followed by primary prevention, at a time when there are in increasing demands on services as survivors come forward to access their new statutory rights. Sufficient specialist trained professionals are not in a position at State or local civil society specialist support services to meet current demand, creating new levels of waiting lists and secondary traumatisation.

Women and girls face different and often more severe risks of becoming victims of DSGBV than do boys and men and need dedicated sex, gender, and sexuality-sensitive services and approaches. Civil society organisations have led the way in data collection, analysis and monitoring. The length of time required for criminal justice processes and independent inquiries into DSGBV against women mean that the data and evidence for violence committed against women in 2022 will not be available for analysis for many years. The evidence-base collected by the specialist-representative NGOs from specialist civil society support services and helplines is an early indication of trends and efficacy of measures and sanctions.

Prevalence data on sexual violence is 22 years old<sup>1</sup> and the findings of the 2000 sexual violence prevalence data, while impactful and responded to by government, were never translated into adequate provision of services or a national services development plan. A significant positive step in 2018 was to task the Central Statistics Office with responsibility for surveying SV prevalence.<sup>2</sup> The first survey has commenced and is on track to release statistics in 2024 and will be repeated every 10 years with the first DV survey planned in the alternate 5 years commencing 2029.

There are prevention gaps from primary school to third level and beyond, in education and awareness-raising. New legislation aims to tackle the producers and the companies hosting material aimed at children, young people and adults. State prevention programmes which have historically

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<sup>1</sup> Sexual Abuse and Violence in Ireland SAVI 2002; Hannah McGee, Rebecca Garavan, Mairéad de Barra, Joanne Byrne and Ronán Conroy, The SAVI report 2002 ([PDF](#)) [The SAVI report: sexual abuse and violence in Ireland | Bernadette OSullivan - Academia.edu](#)

<sup>2</sup> CSO Sexual Violence Survey (SVS) [Sexual Violence Survey - CSO - Central Statistics Office](#)

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tended to place responsibility on individuals have, in recent years, adopted a bystander approach focused on harmful cultural norms and behaviours adopted but remain weakest in addressing systemic cultural problems.

Finally, there are chronic delays at every level of intervention, exacerbating trauma and slowing recovery. There are delays in accessing specialist services, with waiting lists at many crisis and recovery services. There is systemic failure to act upon the detail of the evidence provided by specialist-representative organisations, to close the gaps for all women, at all services. In terms of legal protection, there are delays in getting to the end of an investigation, delays in waiting for a prosecution decision from the Public Prosecutor<sup>3</sup>, then long waits before a court hearing, and further waits for sentence after the hearing, if there has been a conviction. The pandemic increased pressure on both specialist services and protection processes and bold action by the Government is now needed more than ever to reduce waiting times at courts and other services.

## Overview

For the period under examination for this report, the 2nd National Strategy on Domestic, Sexual and Gender Based Violence (2016-2021)<sup>4</sup> was the whole of government plan for tackling gender-based violence and was drafted before Ireland signed (Nov 2015) and ratified (2019) the Istanbul Convention. There was no dedicated national statutory agency specifically mandated for the co-ordination and implementation of the Istanbul Convention during this period although the 2<sup>nd</sup> National Strategy did include the Istanbul Convention in its remit. There was no dedicated monitoring body, ombudsperson, or special rapporteur established specifically for or dedicated to the implementation of the Istanbul Convention.

The 2<sup>nd</sup> National Strategy on Domestic, Sexual and Gender-based Violence (2016-2021)<sup>5</sup> aimed to cover actions agreed by government to enable the ratification of the Istanbul Convention and actions relevant to the implementation of the EU Victims Directive. The strategy proposed to focus on changing societal attitudes, supporting victims and holding perpetrators to account. A 'whole of government' approach named all the Government agencies expected to deliver actions in the Strategy. The co-ordinating unit within the Dept. of Justice, the National Office for the Prevention of Domestic, Sexual and Gender-based Violence (Cosc) was closed under a Department-wide restructure. The co-ordinating and monitoring structure for the 2<sup>nd</sup> National Strategy continued as a stakeholder monitoring committee and 'a senior oversight group of senior officials', both groups constituted to meet twice a year.<sup>6</sup>

Responsibility for prevention, protection, prosecution, and co-ordinated policy development and the budget was split mainly between the Department of Justice and Equality and the Department of Children and Youth Affairs. These became the Department of Justice and the Department of Children, Equality, Disability, Inclusion and Youth (DCEDIY) after the 2020 General Election.

Care of victims and provision of specialist support services, and responsibility for administrative data collection was largely allocated to the statutory Child and Family Agency (Tusla) an independent

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<sup>3</sup> For sexual or domestic violence offences which are not summary in nature and therefore heard at the District Court

<sup>4</sup> 2nd National Strategy on Domestic, Sexual and Gender Based Violence [Publications Tusla - Child and Family Agency](#)

<sup>5</sup> RCNI and SI submissions on 2<sup>nd</sup> Nat Strategy and Mid-term review etc

<sup>6</sup> 2<sup>nd</sup> National Strategy for Domestic, Sexual and Gender-based Violence (2016-2021) [Layout 1 \(justice.ie\)](#)



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legal entity 'charged with supporting and promoting the development, welfare and protection of children, and the effective functioning of families'.<sup>7</sup> The Child and Family Agency (Tusla), which we will refer to as CFA, is an Agency overseen by the Department of Children, Equality, Disability, Inclusion and Youth (DCEDIY). The CFA delegated service delivery for DSGBV services to a range of public and civil society service providers. Sexual Assault Treatment Units<sup>8</sup> are run by the Health Services Executive under the Department of Health. Other governmental departments such as the Department of Education, the Department of Social Protection, the Department of Housing, Local Government and Heritage, and the Department of Children, Equality, Disability, Education, and Youth were also allocated actions under the 2<sup>nd</sup> National Strategy. The Department of Justice and Equality held a policy development role, and co-ordinated actions led by An Garda Síochána (national police force), Courts Service, Prison Service, Probation Service, Legal Aid Board and the Office of the Director of Public Prosecutions, and funded some research and specialist-representative NGOs actions. Specialist civil society organisations provided specialist support services for survivors of DSGBV, with funding primarily from the CFA. The monitoring function was partially assumed by the statutory independent national human rights and equality institution, Irish Human Rights and Equality Commission (IHREC)<sup>9</sup> and partially assumed by specialist-representative civil society organisations.

The detail of the financial resources dedicated to the implementation of the National Strategy was not available in a transparent way in advance of the actions. Civil society support organisations applied on an individual, annual basis for funding for core and programme or research activities, as well to specific tenders and calls for funding. The amount of financing to be allocated for each action (or its percentage of the total annual state budget) was not published and detailed spending plans were not publicly available. The Department of Justice implementation of the 'Supporting a victims' journey'<sup>10</sup> tasked the CFA with undertaking a mapping of services which was drafted in 2021, and to our knowledge this document is not published. The National Services Development Plan is an activity for the new statutory DSGBV Agency proposed in the 3<sup>rd</sup> National Strategy and expected in 2024.<sup>11</sup>

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<sup>7</sup> A statutory Agency operating under the Child and Family Agency Act 2013, 'comprising HSE Children and Family Services, the Family Support Agency and the National Educational Welfare Board as well as incorporating some psychological services and a range of services responding to domestic, sexual and gender-based violence' [About Us Tusla - Child and Family Agency](#)

<sup>8</sup> The six Sexual Assault Treatment Units (SATUs) in Ireland provide clinical, forensic and supportive care for those who have experienced sexual violence. These units are located in Dublin, Cork, Waterford, Mullingar, Galway and Letterkenny and, in 2020, these units provided care for 734 people who disclosed rape or sexual assault. An additional 24 people were cared for in the out-of-hours service at University Hospital Limerick, which has a slightly different structure and funding stream. SATU Annual Report 2020 [SATU Annual Report 2020 \(hse.ie\)](#)

<sup>9</sup> IHREC mandate established under the Irish Human Rights and Equality Commission Act 2014 (IHREC Act 2014) to protect and promote human rights and equality in Ireland. IHREC was appointed as the Independent National Rapporteur on the Trafficking of Human Beings and has designated monitoring roles for the Convention on the Rights of Persons with Disabilities and the Convention Against Torture, but not for the Istanbul Convention. The IHREC Strategy Statement 2022-2024 does not mention women, gender, gender-based violence, sexual violence, or domestic violence [IHREC Strategy Statement 2022-2024](#).

<sup>10</sup> [https://www.justice.ie/en/JELR/Pages/Supporting\\_a\\_Victims\\_Journey](https://www.justice.ie/en/JELR/Pages/Supporting_a_Victims_Journey)

<sup>11</sup> 3<sup>rd</sup> National Strategy "2.2.1 Put in place a National Services Development Plan with associated standards (informed and influenced by victims' and survivors' (both adults and children) needs and rights). Using a collaborative co-design approach between commissioners and providers. Develop a strategy to fill identified gaps in services that recognises the short medium and long-term support needs of victims/survivors. The plan will include a commitment to develop an evaluation framework and a review of current funding levels for court accompaniment. [re implementation:] This will be co-designed with the sector and Tusla as soon as the 2023



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The work of civil society was recognised and encouraged by ‘for example, tapping into their expertise and involving them as partners in multi-agency co-operation or in the implementation of comprehensive government policies which Article 7 calls for’<sup>12</sup> but the financial allocation did not meet the burden on resources. Consequently, the provision of specialist support services for survivors of domestic and sexual violence, which was almost entirely delegated to these civil society specialists, was under-funded and tested to breaking point. The capacity of services was not evenly geographically distributed and did not meet the need. Funding had become contingent on the specialist civil society support services signing complex legal service-level-agreements (SLA) which at times contained elements which risked survivor access and confidentiality, and curtailed the organisations’ advocacy and independence. Challenging these criteria and funder practices was a significant burden on civil society organisations. Primary prevention, already a weak area in the 2<sup>nd</sup> National Strategy, became a casualty of the obligation to deliver narrowly defined service hours under the SLAs which were only gradually expanded to recognise the breadth of work of the sector. This work remains incomplete. In addition, *Tusla* the Child and Family Agency (CFA) tasked in 2014 with national planning and service delivery was often misunderstood, across government, to have responsibility for primary prevention when in fact they had been allocated little by way of capacity in that area.<sup>13</sup> This was particularly problematic as statutory actors were slow to appreciate the distinction between primary and secondary prevention. CFA also, to date, has failed to establish the data and methodology to enable developing a national plan for services. Lastly, economic circumstance, coupled with political priorities, meant that the existing services experienced severe cuts to funding in 2008 with funding only returning to pre 2008 levels in 2019. Therefore, for domestic and sexual violence services, the first few years following the establishment of the CFA and into Ireland’s ratification of the Istanbul Convention, with Ireland still finishing out the 2<sup>nd</sup> strategy and carrying legacy infrastructure had little discernible positive impact for victims and survivors in terms of access to support services and responses.

In this context, the 3<sup>rd</sup> National Strategy for Domestic, Sexual and Gender Based Violence (2022-2026)<sup>14</sup> as the implementation plan for the Istanbul Convention, promises to correct many of the systemic issues and to finally establish a dedicated national DSGBV statutory agency to coordinate strategy.<sup>15</sup> It is hoped, and current indications are, that lessons have been learnt.

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*financial allocations become clear. Work to commence in Q1 2023 and will be finalised by the new agency. [re responsible actors:] Department of Justice/statutory DSGBV agency co- designed with other relevant Departments and the specialist DSGBV serviceprovider organisations; and other stakeholders (including organisations representing socially excluded groups as well as mental health and addiction services and supports).”*

<sup>12</sup> Council of Europe Treaty Series 210 (2011) Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence [CETS 210 - Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence \(coe.int\)](#) paragraphs 66 and 69

<sup>13</sup> The CFA (*Tusla*) is a statutory agency and can only do what it is empowered to do or obliged to do by statute. The relevant statutory provisions are not helpful in terms of primary prevention and could have been interpreted more widely. See Section 8 of the Child and Family Agency Act 2013 especially subsection 3 as amended. <http://revisedacts.lawreform.ie/eli/2013/act/40/revised/en/html#SEC8>

<sup>14</sup> 3<sup>rd</sup> National Strategy on Domestic, Sexual and Gender Based Violence (published 27<sup>th</sup> June 2022, after this research was completed)

<sup>15</sup> Other relevant strategies include: The National Strategy for Gender Equality, National Strategy on Bullying, National Strategy on Children etc

## Chapter I - Purposes, definitions, equality and non-discrimination, general obligations (Articles 1 to 6)

### Purposes of the Convention (Article 1)

1. Articles 1-6 describe the general obligations of the Convention, and each successive Article should be read in the light of these articles.
2. The Irish State is required to *protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence*.<sup>16</sup> The failure to give equal attention to all 4 Ps was predictable following the failure to provide a national action plan with clear timelines and sufficient budget to meet all the obligations. There were unambitious annual and multi-annual targets and timeframes for each year of the 2<sup>nd</sup> National Strategy and no dedicated exchequer budget line commitment to actions beyond core frontline services. Up to the advent of the 3<sup>rd</sup> National Strategy in late June 2022, there was no commitment to a National Services Development Plan. A significant gap was that the Department<sup>17</sup> with oversight of the statutory agency for specialist services<sup>18</sup> was not the DSGBV policy lead and was only minimally engaged in policy process in this area. Furthermore the 1<sup>st</sup> and 2<sup>nd</sup> strategies did not include children nor recognise them as victims in their own right.
3. Prevention, especially primary prevention, has not been prioritised. There was failure to design and co-ordinate impactful prevention campaigns that educate in non-violence and equality between women and men, challenge gender stereotypes, promote women's empowerment and identify the role of men and boys in prevention, although a long overdue review of curriculum content was initiated in this period. The first national campaign by government on domestic violence commenced in 2009 looking at societal attitudes and acceptance to DSV with the ambition of moving towards prevention action, and there is now an ongoing commitment to a national domestic and sexual violence campaign. The latest campaign focuses on SV #noexcuses<sup>19</sup>. Attention was directed to the Pandemic in 2020 – 2022 with the #stillhere campaign and is currently promoting the zero tolerance message of the 3<sup>rd</sup> strategy. However, campaigns have largely been led by public servants relying heavily on commercial non-specialist partners. Collaboration with the sector in development of the campaigns and messaging was minimal or very late in development. A primary prevention strategy would have significant benefits notwithstanding the detail contained within the 3<sup>rd</sup> strategy on this topic.
4. The State began the process of moving towards mandatory accredited specialist training and the regulation of professionals in 2005 with the Health and Social Care Professionals Act

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<sup>16</sup> Article 1a Istanbul Convention

<sup>17</sup> Department of Children and Youth Affairs, now Department of Children, Equality, Disability, Integration and Youth [gov.ie](http://www.gov.ie) - [Department of Children, Equality, Disability, Integration and Youth \(www.gov.ie\)](http://www.gov.ie)

<sup>18</sup> Child and Family Agency (Tusla) was established under the [Child and Family Agency Act 2013](http://www.legislation.gov.uk/uk/acts/2013/12) ([irishstatutebook.ie](http://irishstatutebook.ie))

<sup>19</sup> <https://www.gov.ie/en/campaigns/no-excuses/>

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2005<sup>20</sup> and the establishment of a statutory body, CORU. However, key health and social care professions, including counsellors, psychologists, psychotherapists and social care workers remain outside this remit and are still not regulated.<sup>21</sup> Specialist training is not mandatory or widely available at core and in-service levels. While all State institutions are active in reassessing training on gender-based violence, the provision of initial and in-service training is a long way from the standard required.

5. The design of a comprehensive framework, policies and measures for the protection of and assistance to all victims of sexual and domestic violence in the form of the 3<sup>rd</sup> National Strategy on DSGBV is sometimes gender neutral rather than sex differentiated, sexuality adaptive and gender sensitive.
6. Article 1b requires the State to *contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women.*<sup>22</sup> The State continues to face systemic challenges in education, where patriarchal institutions dominate patronage at all levels of formal education.<sup>23</sup> "Patriarchal dynamics persist which maintain power hierarchies"<sup>24</sup> To promote substantive equality between women and men in Ireland and tackle violence against women it is necessary to deconstruct patterns of coercion, dominance and inequality. The State's Equality and Human Rights infrastructure combines the multiple grounds for equality under the Equality Acts, which has impacted where rights are in conflict.<sup>25</sup>
7. Gender-based violence against women is an expression of historical unequal power relations resulting in coercive control and sexual exploitation and violence. Failure to remove the power of the dominant Roman Catholic Church over women's reproductive rights and all levels of formal education (through the patronage system and in healthcare) is responsible for systemic perpetuation of these legacy issues. Resolving current issues in our education and health systems requires a full analysis of the legacy and ongoing role of the Church, including control attached to Church ownership of real estate used for public health and education. Legacy issues relating to insufficient separation of State and Church in education and health services, have contributed to a lack of trust. With many examples confirming the problems that arise, the most publicly notable being the Tuam babies scandal<sup>26</sup> and subsequent responses, and the circumstances of Savita Halappanavar's death<sup>27</sup> which acted as a catalyst for Constitutional

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<sup>20</sup> Health and Social Care Professionals Act 2005 (as amended) [Health and Social Care Professionals Act 2005 \(irishstatutebook.ie\)](#)

<sup>21</sup> See Article 14 on Education in this report

<sup>22</sup> Istanbul Convention, Article 1b

<sup>23</sup> See Article 14 on Education for more detail

<sup>24</sup> Safe Ireland (2021) No Going Back [No-Going-Back-Discussion-Paper-Safe-Ireland-March-2021.pdf \(safeireland.ie\)](#) p6

<sup>25</sup> For example, where the IHREC is represented on a policy development body it will be by an IHREC member with a designated responsibility for one of the rights who is present, but it may be presumed that all rights were advocated for. This has not been the case in many recent policy development fora for example the LGBT + youth strategy and the gender recognition act review where women's rights were not present or represented despite Departmental, Equality division, and IHREC presence. Bridging the divide: the merger of the Irish Equality Authority and Human Rights Commission [Studies\\_Policy\\_29\\_web.pdf \(tcd.ie\)](#)

<sup>26</sup> [gov.ie - Timeline updates from the Mother and Baby Homes Commission of Investigation \(www.gov.ie\)](#) ; [gov.ie - Final Report of the Commission of Investigation into Mother and Baby Homes \(www.gov.ie\)](#)

<sup>27</sup> HIOA Patient Safety Investigation Report published by Health Information and Quality Authority (Savita Halappanavar) 09/10/2013 [Patient Safety Investigation Report published by Health Information and Quality](#)

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change through referendum. This situation was compounded by a top-down approach to consultation and transparency, which it is hoped will not continue into the lifetime of the 3<sup>rd</sup> National Strategy and beyond.

8. There are nine grounds for discrimination in Ireland, and this delineation of grounds excludes protection on the basis of class, socio-economic discrimination, other diversity, or cumulative discrimination.<sup>28</sup> The Equality Acts in Ireland are currently under review to determine whether the introduction of new grounds is necessary. Delineation of a finite number of grounds excludes or overlooks some grounds and fails to identify the complexity and intersectionality of discrimination. Intersectional discrimination and the diverse and changing nature of groups in various societies is better served by the inclusion of an open ground such as ‘membership of a particular social group’.<sup>29</sup>
9. The gender pay gap Ireland was estimated at 14.4% in 2017.<sup>30</sup> New legislation has introduced limited mandatory reporting on the gender pay gap to begin in 2022 with the aim of gradually eliminating the gender pay gap by 2035.<sup>31</sup> The failure of the State to provide parity of pay, pensions and working conditions for women working at specialist-representative and specialist-support organisations for the elimination of violence against women is a symptom of the failure to empower women. Not only are women less well paid for their work, victims of DSGBV against women do not have positive rights to paid leave or social welfare protection.
10. Article 1c requires the State to *design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence*.<sup>32</sup> “Domestic, sexual and gender-based violence continues the shameful history of misogyny and sex-gendered hierarchies in Ireland.” Up to this point, leadership has failed to produce a long-term strategic plan or vision for 2050 and offers tactical action plans in place of real strategy.

“We cannot continue to deal with this pervasive toxic pattern as in the past, or more recently, as if responding to this issue is a simply a matter of ‘efficient service thru-put’. A new model

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[Authority \(Savita Halappanavar\) | HIOA](#); Savita Halappanavar died in a State hospital in 2012 due to complications of a septic miscarriage after her repeated requests for an abortion in the days leading up to her death were denied. The case sparked nationwide controversy and acted as a catalyst for a constitutional referendum on abortion. The hospital was sued for negligence and the case was settled out of court.

<sup>28</sup> IHREC Submission on the Review of the Equality Acts [IHREC-Submission-on-the-Review-of-the-Equality-Acts.pdf](#) p20, 27

<sup>29</sup> UNHCR 2002 “A particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate, unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one’s human rights.” and “the term membership of a particular social group should be read in an evolutionary manner, open to the diverse and changing nature of groups in various societies and evolving international human rights norms” [Social Group Guidelines \(unhcr.org\)](#)

<sup>30</sup> The difference between average gross hourly earnings of male and female employees as % of male gross earnings, based on data published by the OECD-Eurostat 2019.

<sup>31</sup> Department of the Taoiseach (2020) Programme for Government, published 29 Oct 2020, last updated 21 April 2021 [gov.ie - Programme for Government: Our Shared Future \(www.gov.ie\)](#)

<sup>32</sup> Istanbul Convention Article 1c

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must be built which meets the journey and needs of survivors, which meets the demands of best-practice, transparency and genuine social change.”<sup>33</sup>

1. It appears that the State did not succeed in establishing and maintaining an inclusive, effective co-ordination body. *Tackling the pandemic that is DSGBV requires an integrated approach across all sectors of society.*<sup>34</sup> Neither did the State succeed in establishing an effective monitoring body up to this point. The effect of this was to hamper the monitoring of progress on implementation of the 4Ps. These gaps in co-ordination have impacted data collection, research, distribution of resources, geographical equity, integrated approach, prevention etc.
2. Specialist-representative organisations advocate for an evidence-based methodology and theory of change that identifies long-term objectives and works backwards to achieve measurable outcomes. Safe Ireland has advocated for a new sustainable framework for DSGBV that places DSGBV as a root cause of other social problems (for example homelessness, child protection issues and social exclusion) and works cohesively and does not silo advocates, experts and experience.<sup>35</sup>
3. During the period, there was no dedicated Government Ministry for women’s safety. The responsibility for the elimination of violence against women was fragmented and subsumed into a range of statutory locations and in the main split between the Departments of Children and Justice.
4. Specialist-representative organisations in Ireland have recorded and researched DSGBV in Ireland for decades and have consistently advocated for reform and societal change. The 3<sup>rd</sup> National Strategy will provide a more integrated approach recognising as it does that the evidence-based advocacy of specialist-representative organisations must be integrated into policy development. Non-specialist Government agencies and civil servants develop policy in isolation from specialist-representative organisations. Vested interests, religious interests and harmful traditional beliefs and practices continue to stand in the way of both supporting women out of violence and eliminating violence against women. The Government committed in the 2020 Programme for Government to examine the response infrastructure for DSGBV. This Department of Justice commissioned audit of DSGBV structures was completed in 2021<sup>36</sup> and informed the drafting of the 3<sup>rd</sup> National Strategy, published 27 June 2022. There are also negative factors identified in this report that leads to the requirement of a high level of crisis response and thus the weaknesses in the prevention pillar.
5. The role of the CFA in the implementation of the 2<sup>nd</sup> National Strategy and the implementation of the Convention has not been a success. It is arguable whether the mandate of the CFA means that it is not a good fit for adult women and that the CFA has not provided adequate development for child DSGBV victims either. The exclusion of children from the 1<sup>st</sup> and 2<sup>nd</sup> National Strategies is echoed in the structures of the CFA where the DSGBV services support unit is separate from the child protection and welfare work that occupies the bulk of the CFA’s work. This has meant that the child protection and child and family welfare work, so

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<sup>33</sup> Safe Ireland 2021 No Going Back [No-Going-Back-Discussion-Paper-Safe-Ireland-March-2021.pdf](#) ([safeireland.ie](#)) p21

<sup>34</sup> [https://www.justice.ie/en/JELR/Pages/DSGBV\\_Structures\\_Audit](https://www.justice.ie/en/JELR/Pages/DSGBV_Structures_Audit)

<sup>35</sup> Safe Ireland, No Going Back, 2021 [No-Going-Back-Discussion-Paper-Safe-Ireland-March-2021.pdf](#) ([safeireland.ie](#)) p5

<sup>36</sup> Department of Justice (2021) Domestic, Sexual and Gender Based Violence: An Audit of Structures, 2021 [gov.ie - Domestic, Sexual and Gender Based Violence: An Audit of Structures \(www.gov.ie\)](#)



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critical to DSGBV responses, has rarely if ever been involved in DSGBV policy and practice development and *vice versa*. Good and well evaluated programmes and initiatives have come from specialist-representative organisations but State-funded development for continuity of specialist support initiatives has been limited. Needs assessments and pilots developing appropriate responses to adolescents experiencing DSGBV have been ad hoc, not sustained and no national plan is in place. Emphasis has remained on the post-crisis phase of DSGBV and there are clear gaps in prevention, early intervention, crisis programmes and support for children and young people, particularly the very young and adolescent age groups.<sup>37</sup>

6. The reservations to the Convention on compensation and jurisdiction remain in place.<sup>38</sup>
7. Article 1d requires the State to *promote international co-operation with a view to eliminating violence against women and domestic violence*.<sup>39</sup> Inadequate resourcing of specialist-representative organisations has reduced their ability to co-operate internationally on the elimination of violence against women.
8. Lack of insight and leadership on data collection has resulted in wasteful expenditure on data collections systems that are not fit for purpose. There has been systemic failure to monitor; collection of non-comparable data; data collection practices that are not survivor-informed leading to risks to personal protection, safety, privacy and access opportunities of survivors; and loss of a viable systemic data collection. Statutory administrative data, especially report-to-court data, remains highly inadequate despite being a priority action in the 1<sup>st</sup> and 2<sup>nd</sup> National Strategies. Progress on this is expected in the 3<sup>rd</sup> National Strategy.

Administrative data from specialist civil society services has been positioned as the lowest form of data, limiting the State's ability to contribute robust timely statistics to international datasets. Arguably, in Ireland, civil society administrative data is the most important form of data as more women reach civil society frontline support services than report to authorities or reach the courts. The State delegated the majority of support services to civil society and then undermined the existing specialist-representative NGO system for robustly recording survivor data. Women often stay in contact with specialist civil society frontline services from crisis to healing and the specialist-representative NGOs are ideally placed to undertake holistic analysis of DSGBV. RCNI has led the way in robust data while protecting the privacy rights of survivors and has analysed and published the data year-on-year and used this empirical evidence to advance survivors rights and inform policy.<sup>40</sup> Safe Ireland has also initiated a frontline-services client relationship management system which does yield data. The system commenced post-pilot in 2021, has not been supported by State funding, is cost prohibitive for some services and has at times been resisted and undermined. Administrative data can and should be used to accurately inform analysis of barriers to justice, attrition rates, lack of reporting, fear of reporting, delays in court hearings, trial procedures, and other systemic inadequacies.

9. Population prevalence evidence in the past has been led by civil society and is now out of date. In 2018 the Government assigned this task to the Central Statistics Office who will be

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<sup>37</sup> [Safe Ireland Pathways visualisation](#)

<sup>38</sup> See Article 30 on Compensation and Article 44 on Jurisdiction for more detail

<sup>39</sup> Article 1d Istanbul Convention

<sup>40</sup> <https://eige.europa.eu/gender-based-violence/good-practices/ireland/rape-crisis-network>

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undertaking a prevalence study on sexual violence every ten years. The first survey is currently in the data gathering phase.<sup>41</sup>

10. Article 1e requires the State to *provide support and assistance to organisations and law enforcement agencies to effectively co-operate in order to adopt an integrated approach to eliminating violence against women and domestic violence*.<sup>42</sup> The cooperation of specialist organisations and the national law enforcement agency, An Garda Síochána, continues to improve. The uneven and insufficient access to local support services, refuge and therapeutic services of feminist and victim centred ethos limits the ability of law enforcement to play their part in referring victims to safety, protection and recovery. To protect all women against all forms of violence and prevent, prosecute and eliminate violence against women requires full geographical and intersectional reach of provisions and measures.<sup>43</sup>
11. Adequate support and assistance have not been provided to specialist organisations to analyse and tackle low levels of reporting of violence against women to authorities and high rates of attrition. Low rates of conviction and low uptake of protective schemes persist, and sanctions need to be more effective.<sup>44</sup>
12. There have been failures in child protection and risk assessment by both CFA and AGS and the publication of some damning investigations. There are substantial and continuous efforts to review, standardise and co-ordinate risk assessment procedures for child victims and witnesses of domestic and sexual violence by AGS and CFA.<sup>45</sup> Substantial work has been done in this area and standardised domestic violence risk assessment procedures are now being piloted by AGS in some geographical areas. Sexual violence risk assessment procedures by AGS will follow.
13. An integrated approach to eliminating violence against women demands a civil society resourced and strengthened not only to meet the evidence-based need, but also to channel survivor experience directly into policy and training at statutory agencies. An equal place at the table in the development of an integrated approach to eliminating violence against women has not been consistently provided. Law-enforcement liaison roles for specialist civil society support organisations to systematically engage in the development of law-enforcement policy and training are mandatory at local division level according to current AGS policy. Specialist local civil society support organisations provide many points of access for survivors through direct services and the level of resources available to them needs to be increased specifically to create liaison roles that will enable them to effectively channel survivor experience directly into policy, education and training reform in law-enforcement.

### Scope of the Convention (Article 2)

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<sup>41</sup> Central Statistics Office, Sexual Violence Survey (SVS) [Sexual Violence Survey - CSO - Central Statistics Office](#)

<sup>42</sup> Article 1e Istanbul Convention

<sup>43</sup> West Cork Violence Against Women, Crowley & Nagle (2022) 'List to me. Support me. Believe me. Help me: Listening to Survivors of Sexual Violence and their Supporters in West Cork' [listen\\_full.pdf](#) ([westcorkwomensproject.ie](#))

<sup>44</sup> See Article 45 on sanctions and measures in this report; See Article 56 Measures of Protection in this report

<sup>45</sup> See Article 51 on Risk assessment and management in this report; see also Annual Report CFA (Tusla) and AGS 2020; see also Farrelly Commission, HIQA report 2019.



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14. The Convention calls for particular attention to be paid to women victims of DSGBV when implementing provisions of the Convention, and to understand DSGBV as a “social mechanism to keep women in a subordinate position to men”<sup>46</sup>. Article 2.2 encourages States to apply the Convention to all victims and pay particular attention to women victims in implementing the provisions of the Convention. DSGBV support services report experiencing pressure from State funders to include men in programmes, to participate in perpetrator programmes, and to provide equal employment opportunities to men, undermining the survivor-led ethos and risk assessment.<sup>47</sup> While the State should provide services for male victims of domestic and sexual violence, the State must provide for and protect dedicated services for survivors of men’s violence against women. Firstly, it is not always appropriate for the State to link funding to the provision of gender-neutral services. Secondly, it is unhelpful for the State to disregard the expertise of specialist support services and undermine women’s safety in this way.
15. The Convention requires gender sensitivity and not gender neutrality. A gender-sensitive perspective must be integrated into the implementation of Convention and the evaluation of its impact. “Women are systematically disadvantaged in gaining independence and freedom not least because of the gender pay gap and unequal care work, which in abusive relationships become part of the trap, but also because of the rules and roles of gendering. Our position, therefore, is that ‘gender neutral’, as opposed to ‘sex and gender sensitive’, responses will directly undermine and subvert all efforts to eradicate and respond to DSGBV. ‘Gender neutrality’, or false sex-gender reversal, while intending to seem ‘equal’, simply ignores the actual causes and structural dynamics of DSGBV. This serves no one, regardless of their sex-gender identifications or sexualities. Ireland needs sex and gender sensitive responses to DSGBV.”<sup>48</sup>
16. There has been uneven attention applied to different forms of violence and different groups of victims in the 2<sup>nd</sup> and 3<sup>rd</sup> National Strategies. For example, the role of the CFA as the statutory funding body for specialist support services has meant that the focus has been on children and mothers (as protectors of children), to the inadvertent disadvantage of other women.

### Definitions (Article 3)

17. RCNI research ‘Breaking the silence: Terminology Guidelines for Data Collection on Sexual Violence Against Children’<sup>49</sup> analysed Irish legal definitions in relation to the Istanbul Convention and other international human rights obligations<sup>50</sup> and examined the application

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<sup>46</sup> Council of Europe GREVIO (2021) Mid-term Horizontal Review of GREVIO baseline evaluation reports p16

<sup>47</sup> Wilson, Niamh (2022) ‘The role of feminist participatory action research in anti-violence social change work: a case study; Wilson, Niamh (2022) [Thinking Together: A feminist collaborative inquiry into pedagogical approaches for domestic violence work in Ireland](#). PhD thesis, National University of Ireland Maynooth.

<sup>48</sup> Safe Ireland, No Going Back, 2021 [No-Going-Back-Discussion-Paper-Safe-Ireland-March-2021.pdf](#) ([safeireland.ie](#)) p6; see also

<sup>49</sup> Rape Crisis Network Ireland (2022) ‘Breaking the silence: Terminology Guidelines for Data Collection on Sexual Violence Against Children’ [RCNI-Breaking-the-Silence-1.pdf](#)

<sup>50</sup> CETS 185; CETS 197; CETS 201; CETS 210; UN Convention against Transnational Organized Crime, Annex 2: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (hereinafter Palermo Protocol), Res. 55/25 of 15 November 2000; UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, child

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of international definitions in the collection of administrative data from survivors of sexual violence.<sup>51</sup> The research found chaotic use of terminology and poor provision of standardised definitions to staff collecting data across State agencies and specialist civil society support services. Breaking the Silence Terminology Guidelines, which involved the collaboration of civil society and statutory partners, proposed a set of terminology, definitions and variables that would enable national and international comparability.

18. Current administrative data collection across State and State-funded specialist support services does not use a consistent set of definitions reflecting that of the Convention or use standardised tools to make comparison possible. Only RCNI systematically collects disaggregated data across all of the criteria required by the Convention. The research found inconsistent use of terminology and definitions across administrative forms and data collection in state and state-funded services and inconsistent and contradictory provision of glossaries for staff in general and specialist support services. There are no definitions for 'gender-based violence', 'domestic violence' or 'violence against women' in Irish legislation.
19. RCNI research found poor understanding of key definitions across state and state-funded specialist support services, resulting in non-comparability of data due to failure to harmonise definitions. The terminology used by state agencies is internally inconsistent across different services and with both Irish law and the Convention, causing confusion and distress to survivors and their families and hampering responses. The term 'gender-based-violence' is not commonly used in Irish specialist support services. Three out of 16 services were able to provide the Convention definition for the term, and 11 out of 16 services do not use the term. The lack of harmonisation of definitions across services results in confusion and a fragmented approach towards the implementation of the Convention, especially in terms of monitoring and data collection. State agencies and staff (including staff at specialist civil society support services) should understand concept and definitions; use terminology reflecting that of the Convention; ensure consistency; use same units of measurement for comparability; disseminate data for public while protecting confidentiality; use standardised tools to make comparison possible.<sup>52</sup>
20. The 2002 prevalence survey and the forthcoming prevalence survey define a child as under 17, where international law defines a child as under 18. This is Irish-centric in terms of Irish legislation on the age of sexual consent. The use of a non-standard definition presents the risk that the prevalence data will not be comparable with international data.
21. The Convention includes girls in the definition of women, and girls generally have higher protection standards in law, policy, special measures and services. Irish law provides for limited circumstances in which girls aged 15-16 may consent to sexual activity, but as victims, girls who are capable of consent cannot apply for an order in their own right under the Domestic Violence Act 2018. Statutory rights to legal advice and legal aid are not affected by

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prostitution and child pornography (hereinafter OPSC), A/RES/54/263 of 25 May 2000; UN General Assembly Convention on the Rights of the Child (UNCRC) (1989); UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, 1979).

<sup>51</sup> Rape Crisis Network Ireland (2022) 'Breaking the Silence: Terminology Guidelines for Data Collection on Sexual Violence Against Children' [RCNI-Breaking-the-Silence-1.pdf](#)

<sup>52</sup> GREVIO Group of Experts on Action against Violence against Women and Domestic Violence (2021) General Recommendation No.1 on the digital dimension of violence against women adopted on 20 October 2021 Council of Europe [1680a49147 \(coe.int\)](#)

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the victim's age. Specialist support services will try to prioritise children accessing services, however there are long waiting lists for counselling for child survivors of sexual violence. It is often not possible for a child to access services at the point of need. Data on counselling for girls over 14 and for women who were subjected to sexual violence before the age of 18 has been analysed in detail by RCNI.<sup>53</sup>

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

22. The lack of data on gender-based violence is a key issue in determining the cumulative impacts of multiple factors of discrimination. Failures to coordinate and resource data collection mean that we do not know which women face increased obstacles in relation to accessing supports due to discrimination on multiple intersectional grounds, including age, ability, education, sex, historic, geographic, socio-economic, ethnic and non-conformity in relation to every ground.<sup>54</sup>

The disaggregated data of the RCNI database is a model for how administrative data could be collected to research these issues.<sup>55</sup> The disaggregated data is a resource and important tool to understand the nuance of violence, and monitor the efficacy of policy. This model data system<sup>56</sup> struggled to survive in the period under examination largely due to the actions of statutory actors. Specialist-representative organisations who represent survivors who have experienced intersecting forms of discrimination have not been systematically and formally integrated into dedicated strategic bodies and intersecting initiatives. For example, the Dept. of Education Action Plan on Bullying contained no women's rights or DSV voices in its development structures and perhaps unsurprisingly as a result did not address sexual harassment. The design and formation of policy on the development of policies for education,

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<sup>53</sup> RCNI National Statistics 2020 [RCNI-Rape-Crisis-Statistics-2020-FINAL.pdf](#) p20, 36, 37. In 2020 basic analysis shows that 8% of survivors attending RCCs for counselling and support were aged 14 to 17. In that same year 61% of survivors attending RCCs for counselling and support disclosed that they had been subjected to sexual violence when under the age of 18. Detailed analysis shows the complexity of the situation behind these statistics. When we examine the median length of time between sexual violence being perpetrated and the survivor accessing RCCs for counselling and support we see stark differences between those subjected to sexual violence at different life stages. For those subjected to sexual violence in adulthood the median length of time between the beginning of the abuse and coming to an RCC is 3 years. For those subjected to sexual violence when aged 13 to 17 the median length of time between the beginning of the abuse and coming to an RCC is 8 years. For those subjected to sexual violence when under the age of 13 the median length of time between the beginning of the abuse and coming to an RCC is 33 years.

<sup>54</sup> "scarcity of effective measures addressing the needs of women who are or might be at risk of intersectional discrimination and a general lack of awareness among national authorities and relevant professionals with regards to their specific need." Council of Europe, March 2022, Ensuring the non-discriminatory implementation of measures against violence against women and domestic violence: Article 4, paragraph 3, of the Istanbul Convention A collection of papers on the Council of Europe Convention on preventing and combating violence against women and domestic violence, Document prepared by Lorena Sosa, Assistant Professor Netherlands Institute of Human Rights (SIM) / Utrecht Center for European Research into Family Law (UCERF) Utrecht University (the Netherlands) and Ruth M. Mestre i Mestre, Assistant Professor, Women's Studies Institute and Faculty of Law University of Valencia (Spain), p5

<sup>55</sup> RCNI Annual National Statistics [National Statistics - Rape Crisis Network Ireland \(rcni.ie\)](#)

<sup>56</sup> EIGE, Rape Crisis Network: A secure online data base on gender-based violence [Rape Crisis Network | European Institute for Gender Equality \(europa.eu\)](#)

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prevention and other aspects of implementation, monitoring and evaluation of policies for preventing and combatting violence has suffered as a result.

23. Victim-centred equality means equal access to supports and services. Scarcity of resources has heavily impacted women living in rural or remote areas, especially those of lower socio-economic status (not a statutory equality ground in Ireland) and women with multiple grounds for discrimination. RCNI who currently run the volunteer-led national Court and Garda Accompaniment programme including training, has been advocating for the professionalisation of the advocacy and support role (National Advocacy Programme) to work with women who need support to access the justice process.
24. Ireland has not achieved gender equality in law and in fact. The Irish Constitution does not embody the principle of equality between women and men and still reads 'a woman's place is in the home'. The gender pay gap remains, alongside a gender pension gap, gender care gap, gender public representation gap, gender property gap,<sup>57</sup> and so on. The gender pay gap includes low-pay and lack of job security in specialist support services and organisations. Access to justice and equality provisions under the Equality Acts is mainly confined to the workplace.<sup>58</sup>
25. There have been proven initiatives to help women to overcome barriers specific to some hard-to-reach populations. By and large these are not sustainably funded or nationally rolled-out meaning resource intensive new initiatives are ad-hoc and short-term.
26. The 2<sup>nd</sup> National Strategy for DSGBV excluded children because a separate National Strategy for Children was developed for the same period. However, the 2<sup>nd</sup> National Strategy for Children (Brighter Outcomes Better Futures) has no resource or capacity in DSGBV and contains little on DSGBV against children. Children are inadequately served when it comes to gender-based violence and there is also a lack of adolescent appropriate services, especially outside of Dublin. A tailored long-term national counselling service is required for teenagers.
27. The 2<sup>nd</sup> National Strategy did not adequately reflect the needs of women facing multiple factors of discrimination or give due importance to all forms of gender-based violence against all women. There was a lack of focus on prevention of discrimination against women, let alone intersectional discrimination. There is a parallel Women and Girls' strategy which, like the Children's strategy, contains little regarding DSGBV.
28. A promising new development is the piloting of the Barnahus model in Ireland. However, it appears that Barnahus in Ireland is diverging from the European Barnahus model by developing along the lines of the emergency medical model, becoming a sexual violence referral service for children without long-term supports. RCNI research on survivors who experienced sexual violence during childhood identifies more complex patterns of disclosure and reporting by victims and the need for long-term supports.<sup>59</sup>

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<sup>57</sup> Central Statistics Office 'Of the 137,500 farms in Ireland in 2016, 137,100 (99.7%) were classified as family farms. Over 88% (121,100) of family farm holders were male. More than half of holders were aged 55 or over, while just 5% of farm holders were aged under 35. [Farm Ownership and Labour Input - CSO - Central Statistics Office](#)

<sup>58</sup> [IHREC-Submission-on-the-Review-of-the-Equality-Acts.pdf](#)

<sup>59</sup> In 2020 basic analysis shows that 8% of survivors attending RCCs for counselling and support were aged 14 to 17. In that same year 61% of survivors attending RCCs for counselling and support disclosed that they had been

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29. When there are competing rights there is a sense that a low priority is given to Article 4.4 which states that special measures that are necessary to prevent and protect women from gender-based violence shall not be considered discrimination under the terms of the Convention. Services report pressure from funders to provide services to men, to engage in programmes for perpetrators and to employ men in specialist women’s organisations. Where special measures are in place, such as the practice of sex segregation of the prison population or mental health hospital wards, women’s protection from men’s violence often does not appear to be at the top of the hierarchy of considerations in vindicating rights.

### State obligations and due diligence (Article 5)

30. The State has failed to refrain from engaging in any act of violence against women or to ensure that State authorities, officials, agents, institutions and other actors acting on behalf of the State act in conformity with this obligation. There are many fewer instances than historically and in general, State agencies are taking steps to address outstanding issues.
- Failure to separate church and state in education and health<sup>60</sup>
  - Failure to prevent violence against women in State hospitals<sup>61</sup>
  - Failure to prevent violence against children at risk under State supervision including in schools<sup>62</sup>
  - Failure to protect victims in the intersection of child protection, criminal and civil law<sup>63</sup>
  - Failures at An Garda Síochána<sup>64</sup>

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subjected to sexual violence when under the age of 18. Detailed analysis shows the complexity of the situation behind these statistics. When we examine the median length of time between sexual violence being perpetrated and the survivor accessing RCCs for counselling and support we see stark differences between those subjected to sexual violence at different life stages. For those subjected to sexual violence in adulthood the median length of time between the beginning of the abuse and coming to an RCC is 3 years. For those subjected to sexual violence when aged 13 to 17 the median length of time between the beginning of the abuse and coming to an RCC is 8 years. For those subjected to sexual violence when under the age of 13 the median length of time between the beginning of the abuse and coming to an RCC is 33 years. RCNI National Statistics 2020 [RCNI-Rape-Crisis-Statistics-2020-FINAL.pdf](#) p20, 36, 37.

<sup>60</sup> See Article 14 on Education; Article 15 on Training of professionals

<sup>61</sup> Repeal of constitutional prohibition on abortion, public outcry over new National Maternity Hospital connection to religious order, obstetric violence, limits to reproductive health autonomy.

<sup>62</sup> ECHR O’Keeffe v. Ireland ECHR 35810/09, 2014 <https://hudoc.echr.coe.int/eng?i=001-140235>; lengthy delays in implementing ruling

<sup>63</sup> Children Living with Domestic and Sexual Violence civil society coalition Submission to the Family Justice Oversight Group Consultation Topics - Phase 1 Consultation Feb 2021 [https://www.rcni.ie/publications/submissions-and-policy-papers/Joint CLwDSV Sub to the Family Justice OG FINAL](https://www.rcni.ie/publications/submissions-and-policy-papers/Joint_CLwDSV_Sub_to_the_Family_Justice_OG_FINAL). This is now being addressed. The Government has commissioned an independent report on this topic which will be published in 2022.

<sup>64</sup> Council of Europe (CoE), (2020). Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 September to 4 October 2019. [1680a078cf \(coe.int\)](#) p11-17, lack of faith in the individual complaints system among Garda members, complainants and GSOC itself; [Publication of the Future of Policing in Ireland - Commission on the Future of Policing in Ireland \(policereform.ie\)](#); 21 serving policemen were issued DV orders in 2021. It is not clear how have they been sanctioned and removed from positions where they will meet



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- Failures in Defence Forces<sup>65</sup>
  - Failures in the prison system and probation service<sup>66</sup>
  - Failures in immigration system and immigration related detention<sup>67</sup>
  - Failures in State care institutions (older women,<sup>68</sup> intellectual disabilities, disabilities, psychiatric and mental health<sup>69</sup>)
31. The State has failed to exercise due diligence to prevent, investigate, punish and provide reparations for legacy acts of violence and serving members of various institutions (church, education and other institutions). This indicates a lack of commitment to fundamental changes in society that are required to prevent and eliminate violence against women.<sup>70</sup> The lack of reliable data on how many allegations and reports lead to prosecutions or convictions highlights the lack of accountability when it comes to exercising due diligence.
- Reliance on whistleblowers<sup>71</sup>
  - Investigations not timely<sup>72</sup>

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victims of DSGBV. The status of a policeman as a perpetrator of gender-based violence against women impacts pathways to justice for women; [Garda analysts 'were belittled and disrespected when they tried to highlight inaccurate homicide figures' \(thejournal.ie\)](#); [Garda Homicide Statistics:....: 7 Mar 2018: Oireachtas Joint and Select Committees \(KildareStreet.com\)](#)

<sup>65</sup> Women of Honour, a group of former Defence Forces members who detailed allegations of sexual abuse, a culture of harassment and discrimination in the military; [Tom Clonan: Dozens have contacted me since Women of Honour with stories of sexual assault and bullying \(thejournal.ie\)](#)

<sup>66</sup> Irish Penal Reform Trust (IPRT) Progress in the Penal System (PIPS): The need for transparency (2021) [progress\\_in\\_the\\_penal\\_system\\_2021\\_-\\_final.pdf \(iprt.ie\)](#). "Five years of tracking and reporting indicates as much stagnation and regress as there is progress." "There is a consistent lack of data on the availability of gender-specific community sanctions and research on women in prison." "There is still no open prison facility for women."

<sup>67</sup> Council of Europe (CoE), (2020). Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 September to 4 October 2019. [1680a078cf \(coe.int\)](#) p17-18

<sup>68</sup> HSE statistics [National Safeguarding Annual Report 2021 \(hse.ie\)](#)

<sup>69</sup> Council of Europe (CoE), (2020). Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 23 September to 4 October 2019. [1680a078cf \(coe.int\)](#); [The Need for Regulatory Reform \(hiqa.ie\)](#) There is no overarching policy or legislation that outlines the State's role in the identification and addressing of the needs of more vulnerable populations in residential institutions and services.

<sup>70</sup> See Articles 29 and 50 in this report

<sup>71</sup> Transparency International Ireland [Speak Up Report 2017 | Transparency International Ireland](#) on whistleblower reprisal; Transparency International Ireland 'Speak up Report 2020' [Whistleblowing Law, Policy - Whistleblower Protection & Rights \(transparency.ie\)](#)

<sup>72</sup> Commission to Inquire into Child Abuse, *Committee Investigation Report* (Ryan Report 2009) an investigation into child abuse at religious-run schools [The Commission to Inquire into Child Abuse \(childabusecommission.ie\)](#); Commission of Investigation into Mother and Baby Homes [gov.ie - Interim Reports of the Commission of Investigation into Mother and Baby Homes and Certain Related Matters \(www.gov.ie\)](#); Commission of Investigation into sexual abuse in the Catholic archdiocese of Dublin (Murphy Report 2009); [Report by Commission of Investigation into Catholic Diocese of Cloyne](#) (2010); Survivors of DSGBV at the hands of State-actors can meet with cover-ups, delays and obfuscation. Independent inquiries are the usual form of investigation and the process can take years with findings are strictly confined to limited terms of reference of the inquiry or commission. Apologies can be belated and meaningless. Reparation schemes have been delayed and restricted.

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- HSE and Tusla cover-ups<sup>73</sup>
  - Failure to punish, and low rates of prosecution for legacy cases despite redress schemes amounting to billions of Euro<sup>74</sup>
  - Low rates of prosecution for trafficking (IHREC and TIP report)<sup>75</sup>
  - Low, if rising, rates of prosecution and high rates of attrition for sexual violence<sup>76</sup>
  - Still some failures in specific areas to avoid secondary traumatising in child protection, law enforcement and justice processes
  - Still some failures in effective enforcement of barring orders and lack of sanctions for breaches of barring (etc) orders, where a known perpetrator is not prevented from further violence to specific woman<sup>77</sup>
32. The State has failed to exercise due diligence to provide effective, proportionate and dissuasive sanctions, preventative and protective measures. This signals to perpetrators that committing violence against women, even repeatedly, is not a serious crime.<sup>78</sup>
33. The State has failed to provide for an independent body dedicated to the monitoring of the implementation of the Convention. The State, when responding to allegations of state-actors committing GBV in State institutions, continues to delay, obscure, cover-up and deny facts, destroy evidence and minimise reparations.<sup>79</sup> This situation combined with the lack of prosecutions or convictions of State actors leads to lack of trust and undoubtedly contributes to low levels of reporting and whistleblowing.

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<sup>73</sup> Whole system failure of HSE policy on disclosure of records to patients and patient data was exposed by the CervicalCheck scandal, where 198 women who were tested for cervical cancer in 2011, were not diagnosed with cervical cancer until 2014 were not informed of their diagnosis until 2017. [XScoping-Inquiry-into-CervicalCheck-Final-Report.pdf \(lenus.ie\)](#)

<sup>74</sup> Special Rapporteur on Child Protection, 13<sup>th</sup> Annual Report (2020) [gov.ie - Special Rapporteur on Child Protection 13th Report \(www.gov.ie\)](#) p26; Visit to Ireland: Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, 2019 <https://undocs.org/A/HRC/40/51/Add.2> p19 'The Government's suggestion that survivors of abuses have recourse to litigation and criminal complaints fails to acknowledge the obstacles presented in this regard, including difficulty in obtaining justice for historical cases and the apparent precondition that survivors agree to take no legal action against the State in order to benefit from the ex gratia scheme'

<sup>75</sup> Mary Immaculate College (MIC) UL, Victims of Human Trafficking are Hidden in Plain Sight Report, 2021 <https://www.mic.ul.ie/news/2021/human-trafficking-report>; IHREC Report to GRETA on Trafficking [The Council of Europe Group of Experts on Action against Trafficking \(GRETA\) - IHREC - Irish Human Rights and Equality Commission](#); US State Dept, 2021 TIP Report [2021 Trafficking in Persons Report - United States Department of State](#)

<sup>76</sup> RCNI Hanley (2009), Rape and Justice in Ireland

<sup>77</sup> <https://www.oireachtas.ie/en/debates/question/2022-01-19/1248/>

<sup>78</sup> See Article 45 on sanctions and measures in this report

<sup>79</sup> Annual Report of the Special Rapporteur on Child Protection 2020 [gov.ie - Special Rapporteur on Child Protection 13th Report \(www.gov.ie\)](#) 'There is no justification for further delays in vindicating the right of survivors of abuse in schools to an effective remedy' p26, 'The Irish Government appears to have developed a culture of denial and obstruction on the issue of State responsibility for historical violations of children's rights, even where international human rights bodies determine that State responsibility was engaged' p33.; Special Rapporteur on Child Protection 14th Report 2021 [gov.ie - Special Rapporteur on Child Protection 14th Report \(www.gov.ie\)](#)



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34. The State has provided a Special Rapporteur for Children but has failed to provide a Special Rapporteur for Domestic, Sexual and Gender-based Violence against Women. There is a need for an independent expert role, informed by international human rights law, mandated to seek and receive information on DSGBV against women and recommend ways to eliminate it through annual and thematic reports to government. The Special Rapporteur is independent and appointed by government for a term of 5 years. They have no formal power but there is an established norm of appointing people with significant expertise and of Government actively and earnestly responding to the findings of the annual reports.

### Gender-sensitive policies (Article 6)

35. The application of Articles 1 to 6 extends to all other articles of the Convention. This means that there is a requirement to include a gender-sensitive perspective in the implementation and evaluation of the impact of all the provisions of the Convention. There is a requirement to promote and effectively implement policies of equality between women and men and the empowerment of women. “*This means that a gender impact assessment needs to be carried out in the planning stage of any measure which a Party takes in the implementation of this Convention. It further means that during the evaluation stage, Parties are required to determine whether there is a gender differential in the impact of the provisions.*”<sup>80</sup> There appears to be no data strategy and no evaluation of the gender-sensitivity of policies and no evaluation of the impact of law and policy. There is no regulatory gender-sensitive impact assessment in place.<sup>81</sup>
36. There will always be a gap between *de jure* and *de facto* implementation of the Convention, and there needs to be a structure or independent body mandated to monitor and analyse this gap. The impact of many of the provisions from a gender-sensitive perspective could be best monitored by survivor-centred specialist-representative GBV organisations. This approach has already been adopted by the specialist-representative organisations in Ireland but has not been formally recognised by the State. The statistics and reports provided by the specialist-representative organisations include the gender-sensitive impact of policies and should be systematically and formally addressed by the State if *de jure* and *de facto* social and economic equality of women is to be achieved. Currently it is unclear how the DPER gender budgeting project will consult with DSV experts.
37. It must be clear what is meant by gender for any gender impact assessment and for equality and empowerment purposes. The meaning of gender is currently under consideration in the equality legislation review. Without this clarity it is not possible to know what is being impacted and measured. Policies, protocols and metrics to address gender inequality must

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<sup>80</sup> Council of Europe Treaty Series 210 (2011) Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence [CETS 210 - Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence \(coe.int\)](#)

<sup>81</sup> The equality budgeting process is not specific to DSGBV but includes some gender-sensitive analysis <https://www.gov.ie/en/policy-information/aec432-equality-budgeting/>; See also OECD Scan [OECD Scan: Equality Budgeting in Ireland \(assets.gov.ie\)](#)

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explicitly recognise sex as the protected characteristic and the metric of primary focus alongside others such as gender and gender identity.<sup>82</sup>

38. The prominent position of religious bodies in the educational patronage system continues to have an enormous effect on gender in Irish society as the education of children, training of teachers, medics and nurses, and the entire formal education system is influenced by Roman Catholic teaching. The Roman Catholic Church is a patriarchy where, historically and presently, the women are kept subordinate. The cumulative effect of the patronage system is that almost every public representative and senior civil servant has attended this education system and may or may not be aware of or challenge the connection between the cycle of gender-based violence and the patriarchal power dynamic and historic gender constructs that continue to be maintained.

## Chapter II - Integrated policies and data collection (Articles 7 to 11)

### Comprehensive and co-ordinated policies (Article 7)

39. The State is required *to take the necessary legislative and other measures to adopt and implement State-wide effective, comprehensive and co-ordinated policies encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of this Convention and offer a holistic response to violence against women.*<sup>83</sup> Comprehensive and co-ordinated policies require foundational structures, resources, standards, and training. This level of holistic cooperation does not exist yet. The legislative measures to mandate an agency to implement the Convention and an agency to monitor the implementation are not yet in place.
40. The State is required to *ensure that policies referred to in paragraph 1 place the rights of the victim at the centre of all measures and are implemented by way of effective co-operation among all relevant agencies, institutions and organisations.*<sup>84</sup> Women's rights organisations, civil society support services and specialist-representative DSGBV organisations do not have statutory rights to be included in the design and implementation of policies. Survivors are not systematically included in policy making. The rights of the victim are not systematically placed at the centre of all measures. It is unlikely that equality of outcomes for women can be realised using a top-down patriarchal methodology.
41. The State is required to ensure that *Measures taken pursuant to this article shall involve, where appropriate, all relevant actors, such as government agencies, the national, regional and local parliaments and authorities, national human rights institutions and civil society*

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<sup>82</sup> RCNI (2021) Breaking the Silence [Breaking the Silence: Preventing Sexual Violence against Children: shared purpose, shared language - Rape Crisis Network Ireland \(rcni.ie\); 2022-03-31\\_opening-statement-dr-cliona-saidlear-executive-director-the-rape-crisis-network-of-ireland\\_en.pdf \(oireachtas.ie\); RCNI-Gender-Equality-Submission.pdf;](#)

<sup>83</sup> Article 7.1 Istanbul Convention

<sup>84</sup> Article 7.2 Istanbul Convention

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*organisations.*<sup>85</sup> An appropriate body does not exist to provide a formal and continuous transparent consideration of evidence presented by civil society with respect to contributing to law and policy formation. It remains unclear how the co-operation of agencies will be brought about. We are not aware of any local authorities (County Councils and City Councils) preparing strategic plans or action plans on the elimination of DSGBV against women. The local authorities are well placed to cooperate with civil society and disperse funding for the holistic local response to DSGBV against women. The application of either municipal or other national strategies is not coordinated under one statutory body established for the protection of women's rights and equality or for the implementation of the Istanbul Convention.

42. The 2<sup>nd</sup> National Strategy for DSGBV (2016 – 2021) was focused more on other areas, including on implementing the EU Victims Rights Directive and failed to create the fundamental structures required by the Istanbul Convention. There has been progress on specific forms of violence. However, progress has not been uniform or based on the establishment of a lasting structure that would provide a holistic response and a safety net through changes of policy makers and periods of financial recession.
43. The 3<sup>rd</sup> National Strategy (2022 – 2026) proposes a new statutory DSGBV agency and indicates that it will systematically include survivors or their specialist-representative NGOs in a permanent policy development and decision-making structure. The development of policy should always integrate civil society comprehensively and not focus on one form of violence or one group of survivors to the exclusion of others. This requirement of the Convention calls for a central, cross-cutting forum based on sharing expertise from all specialist sections and sectors as standard practice across all policy development. Specialist-representative NGOs and specialist civil society support services have an important role in policy making and the current situation is either tokenistic or weighted in favour of generalist organisations or particular forms of violence.
44. Implementation of the Istanbul Convention is not evenly applied across all forms of violence and is spread across several National Strategies (for example, bullying, children, education) in a disjointed rather than a coordinated way.

### Financial resources (Article 8)

45. The Convention requires the allocation of adequate resources channelled to respond to violence against women across the four pillars. This in turn requires transparent allocation and monitoring and assessment of resources across public, specialist-representative NGO and civil society support organisations. This requires protected multi-annual funding for specialist-representative NGOs and specialist support services.
46. DSGBV specialist support services are chronically underfunded and are not equally funded. The fact that specialist-representative NGOs and specialist support services must constantly seek other sources of funding weakens their ability to offer or expand services to all victims, carry out advocacy work, raise awareness or train staff, collaborate across sectors, nationally or internationally, and provide expertise externally.
47. Transparency with respect to the budget for preventing and combatting DSGBV in each of the separate government ministries has not been provided. The amounts allocated were not sufficient to achieve and sustain the National Strategy or the specialist-representative NGO

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<sup>85</sup> Article 7.3 Istanbul Convention

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and civil society support services Strategic Plans for the period. The overall budget for implementing the Istanbul Convention is not openly monitored and the National Strategies have not been accompanied by a transparent budget or specific timely deliverables.

48. Transparency and equitable access to stable long-term funding for independent DSGBV specialist-representative NGOs providing specialist support services, under publicly accessible criteria with accountability for funding decisions made by statutory agencies, does not exist.
49. Primary prevention and early intervention were not adequately prioritized to break multi-generational cycles of violence and acceptance of misogyny and increase recognition of the issue in communities and homes. A high level and specialist approach was not systematically applied to reform education, from early intervention to CPD training for professionals, to embed the new attitudes in society.
50. The funding strategy that was proposed by specialist-representative NGOs required the urgent input of targeted funding to follow specific strategies as an investment with long-term savings in public expenditure on the effects of violence against women.
51. We believe that protection and recovery services must be rapidly increased for at least a generation to provide for the increase in disclosure that a holistic preventative approach will bring and support all women to recovery. Likewise, law enforcement and justice will see an increase in demands on their crucial role in investigating and prosecuting misogyny and violence against women.
52. Co-ordinated holistic policies are not comprehensively civil society and survivor-informed and do not equitably cover all forms of violence against women as is required to be relevant and effective. Multi-agency co-ordination and co-operation including civil society specialist support organisations is not standard in policy and practice.
53. The ability of local support services to advocate for financial resources is and should not be a deciding factor in how resources are distributed. While there are no autonomous regions in Ireland and funding is largely centralised, specialist-representative organisations are aware that support services in different geographical locations are unevenly resourced. The CFA was given responsibility for national planning of services in 2014, however, this has not been achieved. Existing services emerged largely from the voluntary sector in an ad hoc manner since the 1970s resulting in some areas, through historical legacy, having strong service provision where others have none. National Planning is now critical in terms of equality of access for all survivors. The CFA undertook a range of ad hoc needs assessments with no uniform methodology, but no national needs assessment. With some noted exceptions CFA distributed funding where capacity already existed thus likely exacerbating inequality rather than ameliorating it. The work of national planning under the 3<sup>rd</sup> National Strategy will now move to the policy lead Department of Justice and the proposed DSGBV Agency to ensure that policies combatting DSGBV are evenly implemented nationwide, alongside specialist, regional and local representation.
54. Civil society specialist support services are funded in advance, but not on a long-term basis in a way that ensures the sustainability of services. Long term, multi-annual funding is required to free the support services from service-level-agreements that bind them to providing services based on the previous years' service users and force them into an unequal power

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dynamic with hallmarks of coercive control.<sup>86</sup> Gaps in service provision are not pre-emptively funded. This narrow one-size-fits-all numeric approach fails to analyse barriers to services and cannot therefore provide for or recognise uncounted and invisible individuals and cohorts.

55. New research shows that a generalised fear exists at specialist support services that active engagement in advocacy that is critical of the Government will have a negative impact on funding. Research participants spoke of the fear of funding being withdrawn as a barrier to engaging with social change advocacy targeted at systemic change and transformative cultural change. Some services have disengaged from existing collective action or stayed 'neutral' in part at least driven by fear of being at odds with the funder. The research pointed to an ambiguity about specialist support services engaging in social change movements because of the implications for funding. *"I think everybody is afraid, there's a huge fear out there in relation to funding, you know, don't say anything or you'll get your funding cut, don't get up against them, they'll cut your funding and that's out there let's be honest about that. It is a huge fear. You are dependent on these people to fund you to provide the service and if you step out of line or too much outside the box, you are gone, or they will push you aside."*<sup>87</sup> The research also identifies a more specific fear or perception of pressure on services through funding relationships with state agencies to adopt gender neutral stances which could have the potential to impede, rather than progress women's journeys to safety and empowerment. The unequal power dynamic between funder and service pushed services in the direction of, for example, employment of men as frontline workers at specialist support services for women, engagement of women's domestic violence services with programmes for male perpetrators of domestic abuse, and provision of services for male victims of domestic abuse.<sup>88</sup>
56. The legal basis for funding for specialist support services is not clear or adequate to provide geographically even and long-term service provision. Financial resources are provided to specialist support services across the country but are insufficient to keep pace with demand for services. The level of funding has been inadequate over a long period, leading to inconsistent and inadequate service provision nationwide. Civil society specialist support organisations are obliged to tender for public contracts or apply for funding for every role and service, usually on an annual or bi-annual basis. The absolute lack of job-security in the sector, coupled with lower wages and pensions and conditions worse than equivalent roles in the public sector, has led to a high turnover, loss of skills, and low morale. In 2008, the sector organised a pay and standardisation process with the then statutory funder HSE, Ireland then went into a severe recession. Pay restoration in the public sector from 2018 onwards has not been passed on or honoured uniformly by the funders to the civil society organisations providing specialist support services on behalf of the State. Currently the sector has diverging pay and conditions from service to service and within services as well as lagging behind public

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<sup>86</sup> Child and Family Agency (Tusla) Service Level Agreement 2020 with a specialist support service "Section 6.4a: Failure to comply with these [reporting] requirements may adversely impact on any decision We may make about providing additional funding to You under this Agreement or any other subsequent funding assistance and shall be considered a breach of this Agreement which may lead to termination of the Agreement (at Our discretion)."

<sup>87</sup> Wilson, Niamh (2022) 'The role of feminist participatory action research in anti-violence social change work: a case study'; Wilson, Niamh (2022) [Thinking Together: A feminist collaborative inquiry into pedagogical approaches for domestic violence work in Ireland](#). PhD thesis, National University of Ireland Maynooth.

<sup>88</sup> Wilson, Niamh (2022) Thinking Together: A feminist collaborative inquiry into pedagogical approaches for domestic violence work in Ireland. [Niamh Wilson PHD thesis.pdf \(maynoothuniversity.ie\)](#) p203

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and private pay and conditions. This poses a serious risk to the sustainability of the skilled workforce and the services.

57. The lack of clarity around government resources and commitment to implementing the Istanbul Convention is concerning and has a secondary effect on the ability of support services and civil society to strategically plan for the future. This weakens the response and diverts energy away from consolidating progress to searching for elusive funding. Requiring specialist-representative and specialist support services to compete against each other for tenders or grants for everything, from core funding to research, data and outreach undermines and distracts the services as they vie for attention from a wide range of ministers and civil servants to plead their case.
58. Clear and transparent budget and dedicated funding lines for all policies, measures and activities were not in place. The limitations of the State commitment to fulfilling the requirements of the Istanbul Convention can be seen in the financial and human resource response to DSGBV. The State has failed thus far to initiate and resource and place on a statutory footing the best practice requirement for 2 or more dedicated statutory agencies for implementation and monitoring. Furthermore, the State has encouraged the situation where fundamental refuge, psychological, accompaniment through the criminal justice system and helpline services for survivors of DSGBV, across all pillars, are largely provided by civil society. These services maintain high standards and gain the trust of survivors where state services have repeatedly breached trust and caused tragedy (see Article 5). The fight to provide adequate and safe services has had the effect of distracting the strongest advocates for survivors towards fighting for resources for permanently threatened and funding-starved services and away from prevention, awareness raising, policy and reform. Both CEDAW and IHREC have called on the Government “to take appropriate measures to fully restore funding for civil society organisations working in the field of women’s rights, and to ensure that their resources are protected in future situations of economic recession and budgetary cuts.”<sup>89</sup>
59. Not only is the allocation of resources not clear and transparent, but it is also evidently insufficient to meet the need. Each year, data collected at specialist support services shows how many survivors were turned away from counselling, refuge and other services. Capacity at specialist organisations to fully train staff and volunteers is insufficient and prevention programmes are reduced or side-lined due to lack of human and financial resources. Article 8 requires states to finance civil society organisations that provide specialist support services at national, regional and local level on a long-term basis and in a way that ensures the sustainability of services. Sustainable funding must provide confidence in future capacity and improvements, not be rigidly tied to previous or current numbers of service users or staff. Sustainable funding should, by definition, remove threat and fear of loss of funding.
60. Under-investment in structural resources and human resources over the past decade has resulted in limited training opportunities and insufficient training of professionals, across all agencies and institutions. RCNI conducted research on the training levels of counsellors

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<sup>89</sup> IHREC 2019 citing Committee on the Elimination of Discrimination Against Women, [Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Ireland \(2017\)](#) at p. 5 and Irish Human Rights and Equality Commission, [Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women \(2017\)](#) at p. 75.



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(psychologists and psychotherapists) on sexual violence and found that 93% of counsellors wanted mandatory standardised training on providing counselling to survivors of sexual violence.<sup>90</sup>

61. State funding of National Helplines: In 2018, in compliance with the Convention a national helpline for sexual violence was established by bilateral agreement. Data from this Sexual Violence National Helpline is now published on an annual basis.<sup>91</sup> Rape Crisis Centres where possible continued to provide local helplines, although many operated reduced hours, relying on volunteers. Data collected at 6 of these Rape Crisis Centre Helplines shows that in the last 10 years (2010-2020), there was 100% increase in contacts to these local Helplines.<sup>92</sup> In comparison, in the last 10 years, (2010-2020), the National 24-hour Sexual Violence Helpline has seen a 16% increase in contacts.<sup>93</sup> This demonstrates a clear need for local Rape Crisis Centre Helplines, which are not currently supported by the State. RCNI estimate that that there are currently over 50,000 contacts (phone, text and social media) made to all the (sexual violence) Helplines in Ireland annually.<sup>94</sup> The 24-hour National Helpline answers approximately 13,500 or 27% of these, which means that approximately 73% of contacts to Helplines are not State-funded. These non-funded local Helplines are all situated outside of Dublin.

### Non-governmental organisations and civil society (Article 9)

62. The Istanbul Convention envisioned increased respect and systemic inclusion for the expertise and role of specialist DSGBV NGOs and specialist civil society organisations over generalist organisations. Specialist-representative NGOs and civil society organisations were to be empowered to collaboratively develop progressive policy. Instead, specialist civil society DSGBV support services have been reduced to a service industry struggling to maintain levels of services of the previous decade and century. Forward thinking activist feminist grassroots organisations have been forced, under threat of loss of funding, to sign contractual service-level-agreements that delimit progress and silo survivors onto waiting lists. Feminist activist leaders have become service managers and the emphasis has shifted from strategic reform to survival of services. The level of services required is far beyond what the State is paying. Civil society organisations providing specialist support services rely on philanthropy, donations and fundraising and are never able to raise sufficient funds to sustainably meet the need. Waiting lists remain an ethical and operational burden for those managing the delivery of service and the distribution of scarce resources. Lack of capacity and security of service are issues across all specialist support services.
63. RCNI and Safe Ireland are not satisfied that the evidence-base collected at specialist support organisations and published by the specialist-representative organisations is systematically used to inform drafting and evaluate policies. While the Government norm and culture is to establish fora and opportunities to facilitate specialist (and generalist) civil society input and by and large this happens, it is not the norm that civil society specialist-representative organisations and frontline support services are equipped, funded and resourced to engage in substantive ways at this level. In addition, where civil society is engaged in policy development

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<sup>90</sup> RCNI (2021) Clinical Innovation Project (CIP) pending publication

<sup>91</sup> Dublin Rape Crisis Centre (2021) Annual Report 'Navigating 2020' [1559\\_drcc\\_annualreport\\_web.pdf](#)

<sup>92</sup> In the same 10-year period 7 Rape Crisis Centres reported a 63% increase in appointments, and a 30% increase in the number of survivors and supporters attending RCCs for counselling and support. (The figures above refer to RCCs using the RCNI data collection system.)

<sup>93</sup> This figure is taken from DRCC annual statistics reports. [1559\\_drcc\\_annualreport\\_web.pdf](#)

<sup>94</sup> RCNI budget 2023 submission



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it is often at a very late stage of development with almost no opportunity to influence the content or direction in any substantive manner.

64. There is a profound lack of structures to support consultative dialogue between the statutory agencies and the specialist civil society organisations that provide the support services. State agencies are hard to hold to account. State agencies and specialist support services do not always develop mutually-held comprehensive survivor-centred standards and inter-agency protocols. There is also no requirement for specialist civil society support services to hold membership of a specialist-representative organisation that provides operational Standards and protocols.
65. There is a lack of framework for community and civil society involvement in implementation and monitoring of government policies and services standards.
66. There is a failure to actively create an environment that addresses the structural inequalities between men and women, state and civil society, funder and fundee, urban and rural, small and large organisations and agencies. Specialist DSGBV NGOs and civil society organisations working for the empowerment and equality of women are not in empowering or equal relationships with the State.

It has not been standard practice to systematically and/or formally include specialist-representative DSGBV NGOs as equal partners in all stages of the design, implementation and evaluation of National Strategies or policies. Local civil society frontline specialist support services have been even less included.

67. Inter-agency cooperation between statutory agencies and specialist-representative NGOs and civil society support organisations exists at all levels but is not systematic. While inter-agency co-operation is common it is maintained largely on a personal basis by the commitment of individuals without permanent structure. Cooperation is sometimes but not always formalised in a variety of inter-agency committees and bilateral relationships. The 3<sup>rd</sup> National Strategy seeks to address this.
68. Specialist-representative NGOs and specialist support services often are not consulted and find themselves responding to policy and protocol decisions through written submissions and public pressure. Specialist experts may be weighted the same as those from non-specialists in the interest of 'fairness' or 'equality'. Specialist-representative NGOs and support services routinely have their expertise disregarded and are often treated as representative only with expertise sought from academia to adjudicate and verify civil society frontline specialist expertise.
69. There are a limited number of forums where representatives of all the stakeholders have an equal place or voice with policy makers. Forums tend to be time-limited and created for the purpose of a single piece of legislation or service. Good examples of time-limited forums are Inter-agency legal reform committees, O'Malley Review Working Group, Citizen's Assemblies and Joint Oireachtas Committees.
70. The failure in exercising due diligence around specialist data collection systems means that the quality and accuracy of data and evaluation varies. The design, implementation and evaluation of policy is dependent on good data and good methodology. The only State evaluations of

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services in this period were ad hoc studies using non-comparable methodology, based on little available data that went largely unpublished until recently.<sup>95</sup>

71. The 2nd National Strategy was not developed cooperatively with specialist-representative or specialist civil society organisations or with the human rights of survivors at the centre of co-ordinated policies for a holistic response. A strategic document with set objectives on which to base inter-institutional co-operation does not exist. Co-ordination at inter-departmental level is not always obvious and civil society organisations are not considered equal partners. Specialist civil society organisations working in the field are not always supported and collaborated with.<sup>96</sup> At times generalist civil society organisations have been collaborated with over specialist NGOs and funded with DSGBV capacity, and have then sought to draw upon and collate specialist knowledge from the specialists who have not been funded.
72. Guidelines and protocols for collaboration, cooperation and information sharing on the implementation of the Istanbul Convention are not available for all agencies to follow. There is insufficient training of professionals on the use and benefits of guidelines and protocols in co-operation. Local area collaboration, cooperation and information sharing is not a structured and valued part of the coordination and implementation infrastructure.

### Co-ordinating body (Article 10)

73. During the period since ratification in 2019 until the present date, a dedicated co-ordinating body situated within government did not exist and an independent dedicated monitoring body did not exist. The absence of a strong co-ordinating body for the period meant that the State did not uphold all of her responsibilities to co-ordinate and implement, monitor and evaluate policies and measures to prevent and combat all forms of violence covered by the Convention. An internal National Strategy Monitoring Committee met quarterly. Agencies did not always attend, or answer questions, and the Committee did not have budgetary or other control mechanism. The monitoring committee could not monitor expenditure or practice, test veracity or hold to account. There was only occasional capacity to scrutinise and put that scrutiny on the record. It was largely a forum to monitor 'on track' or otherwise actions. In addition there was a high level monitoring body of officials within the Department of Justice but this had no control over the rest of government.
74. The State relied heavily on specialist-representative organisations and specialist support services for the implementation of the Convention, without considering pay reviews and conditions for the large specialist and professional workforce.

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<sup>95</sup> <https://www.tusla.ie/services/domestic-sexual-gender-based-violence/publications/> CFA commissioned up to 12 Needs Assessments from 2017 onwards, three are currently publicised here. See also Department of Justice (2021) Domestic, Sexual and Gender Based Violence: An Audit of Structures, 2021 [gov.ie](http://gov.ie) - [www.gov.ie](http://www.gov.ie) - [Domestic, Sexual and Gender Based Violence: An Audit of Structures \(www.gov.ie\)](http://www.gov.ie) which accessed and reviewed these NAPs (pg30).

[https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewiokcfqzqr5AhVMVsAKHWd8BGsQFnoECAoQAQ&url=https%3A%2F%2Fwww.justice.ie%2Fen%2FJELR%2FDOSGBV\\_Audit\\_Report.pdf%2FFiles%2FDOSGBV\\_Audit\\_Report.pdf&usq=AOvVaw2Fxbn074nxcnCIJH6XyR5E](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewiokcfqzqr5AhVMVsAKHWd8BGsQFnoECAoQAQ&url=https%3A%2F%2Fwww.justice.ie%2Fen%2FJELR%2FDOSGBV_Audit_Report.pdf%2FFiles%2FDOSGBV_Audit_Report.pdf&usq=AOvVaw2Fxbn074nxcnCIJH6XyR5E)

<sup>96</sup> For example RCNI are members of the Higher Education Authority Framework for Consent advisory and the Sexual Assault Treatment Units review implementation advisory but have no funded staff capacity in either area.

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75. The State did not ensure that the specialist-representative organisations had the capacity that they needed to bring their expertise to policy development. Specialist-representative organisations were left with insecure funding streams, required to reapply for every role on an annual or regular basis, with new government initiatives and advances not matched by new resources for the specialist sectors who were asked to continuously expand their availability, presence and contributions with no additional resources, in a climate of ever-expanding compliance, diverting energy from core responsibilities.
76. The specialist-representative organisations became, in the absence of State monitoring and regulation, the de facto independent monitoring and data collection bodies. RCNI collects data, provides protocols, some in-service specialist training on the law, court and garda accompaniment, data processing and supports self-regulation at high-quality, victim-led, services for survivors of sexual violence but is no longer resourced to employ dedicated staff in some core coordinating roles eg., service support and standards, primary prevention education, research. In 2020 Safe Ireland developed a bespoke and affordable Client Relationship Management (CRM) system called *eSafe* to facilitate the streamlining of work and data management processes and collection of high-quality data to inform service development, national policy and funder compliance. Both RCNI and Safe Ireland collate data from their respective sources to compile the *Ireland* country profile for the WAVE Network biennial Country Report.<sup>97</sup>
77. Before the Third National Strategy on DSGBV was introduced (27<sup>th</sup> June 2022), time and resources were not allocated to co-create a new co-ordination structure that supports all the specialist-representative organisations to collaborate on policy development and legislative reform. Specialist-representative organisations are not resourced to contribute as equals at the table.
78. A separate, dedicated, independent human-rights based body on violence against women with a victim-centred ethos has not been established and resourced to monitor and evaluate policies and measures, and fund and co-ordinate research and analysis of all forms of violence covered by the Convention.<sup>98</sup> Administrative data in key statutory locations is sorely deficient. The co-ordination and safeguarding of victims' rights in the context of data collection from 'report to court' and analysis of administrative data does not currently exist and is not held in a dedicated independent body.
79. A Special Rapporteur on DSGBV against women has not been established.<sup>99</sup>
80. There are 4 distinct functions described in Article 10 and although they may be amalgamated into a single body, there are good reasons to consider them separately. As it is not best practice to internally monitor and evaluate implementation, at least 2 separate national

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<sup>97</sup> [https://wave-network.org/wp-content/uploads/WAVE\\_Country-Report.pdf](https://wave-network.org/wp-content/uploads/WAVE_Country-Report.pdf)

<sup>98</sup> Council of Europe, German Institute for Human Rights Nov 2016 'Implementing Article 10 of the Council of Europe Convention on preventing and combating violence against women and domestic violence – establishing national co-ordinating bodies' [16806f6fc0 \(coe.int\)](https://www.coe.int/t/e/treaties/16806f6fc0/country_profiles/16806f6fc0_en.pdf) p28 "A situation in which close institutional ties exist between those who implement measures and bear political responsibility for them on the one hand and those who are supposed to evaluate the efficacy of those measures on the other, or even one in which the two groups are identical, provides fertile ground for conflicts of interests and can weaken the analysis."

<sup>99</sup> See Article 5 State Obligations and Due Diligence in this report

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dedicated bodies are still required to be established in Ireland. The body responsible for monitoring the implementation should be an independent non-State body.

81. All bodies need clear and publicised mandates, policy objectives, relevant expertise, integration of specialist expertise, and appropriate dedicated budgets to cover all forms of violence within the scope of the convention. All bodies need to be delegated statutory powers and to integrate the participation of civil society to be effective. Both State and non-State bodies can collaborate on different functions and collectively fulfil the co-ordination, implementation, monitoring and evaluation obligations with extensive specialist civil society participation. The distinction between generalist and specialist organisations is made in the Convention and must be honoured.
82. Article 10 must be read in conjunction with Articles 1, 2, 9 and 11 and Chapter VIII, relating to the four pillars of the Convention. This demands the recognition, encouragement and support of civil society active in combatting violence, data collection, analysis and research, monitoring, benchmarking and international cooperation.
83. The concept of partnership with specialist organisations and civil society<sup>100</sup> is fundamental and must be defined<sup>101</sup> prior to the establishment of the dedicated bodies. Specialist organisations and civil society should also participate in the processes that lead to the establishment of the co-ordinating, implementing, monitoring and evaluating state and non-state dedicated bodies:
  - I. Participatory planning for each separate body
  - II. Participatory implementation of the 4 tasks (co-ordination, implementation, monitoring, and evaluation) across the two (or more) new bodies
  - III. Participatory monitoring of implementation
  - IV. Participatory evaluation of policies and measures based on data

### Co-ordination Body:

84. A national dedicated co-ordination body with statutory powers, expertise, ring-fenced budget, and resources tasked with the co-ordination of policies relating to the Convention does not exist in Ireland.
85. Until now, national planning has not been based on transparent criteria. There has been no agency or collaborative mechanism for national DSGBV against women planning that starts with an issue and works on the ground with specialists. The modus operandi has at times been to simply take the status quo and add funding. Thus taking what is already unequal and augmenting it. National planning has not been supported by national needs analysis and data on the issue.
86. An external and independent scrutiny body has not yet been established. Specialist-representative NGOs and specialist civil society organisations are currently delivering scrutiny

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<sup>100</sup> Council of Europe Treaty Series 210 (2011) Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence [CETS 210 - Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence \(coe.int\)](https://rm.coe.int/CETS-210-Explanatory-Report-to-the-Council-of-Europe-Convention-on-preventing-and-combating-violence-against-women-and-domestic-violence-coe.int)

<sup>101</sup> Council of Europe's Code of Good Practice for Civil Participation in the Decision-Making Process, available at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802eed5c>.

and in the absence of protected funding, this contributes to the insecurity of civil society, and leaves organisations open to negative impacts.

87. The future (2024) co-ordination body for the Convention, DSGBV will include the highest level of government and the communities it serves. It will span several ministries and departments, including the Ministries for Gender Equality, Equality, Justice, Education, Employment, Migration, Housing, Social Affairs, Health, and Children. The co-ordination body aims to avoid a top-down approach and will take direction from and formally integrate national and local civil society and community specialist expertise into strategy and policy formation, to remain representative of and responsive to the perspective and needs of people affected. Transparent, formalised and semi-permanent structures are required to allow specialist organisations representing all forms of violence and community development groups representing women to participate as equal members of authoritative and accountable decision-making action-focused and topic-specific working groups.

The 2024 co-ordinating body is also proposed to communicate directly and foster relations with counterparts in other countries, hold responsibility for drafting and co-ordination of long-term strategic plans and short-term or operational national action plans on gender equality and elimination of DSGBV in all its forms.

GREVIO, in 2016<sup>102</sup>, summarised co-ordinating mechanisms across various countries and identified that *“that in order for co-ordination to be effective the body that serves as the central actor must be provided with adequate funding, a high level of professionalism and (ideally) a statutory basis setting out its rights and duties, as well as its own budget.”*

The Convention requires that the State places the rights of the victim at the centre of all measures and creates and resources an appropriate infrastructure which centres women as the primary victim and intended beneficiary. In the period under examination much of the responsibility for it was situated within a structure designed for children and families and was at times inappropriate to fulfilling obligations to adult women.

#### Implementation Bodies:

88. A single national dedicated implementation body with statutory powers, expertise, ring-fenced budget, and resources tasked with the implementation of all policies relating to the Convention does not exist.

Currently, many statutory and community bodies take responsibility for implementation and delivery of national DSGBV strategic policy measures and actions. These include specialist-representative NGOS, specialist civil society support services, and non-specialist community bodies. The 3<sup>rd</sup> National Strategy proposes a new structure to resolve some of the fragmentation. The Department of Justice and the new statutory DSGBV co-ordination agency under its remit, will be supported by the Department of Rural and Community Development and the specialist-representative NGOs and community-based and civil society specialist and non-specialist support organisations. Once established, the new DSGBV co-ordination agency

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<sup>102</sup> GREVIO Heike Rabe, Nadiye Ünsal, German Institute for Human Rights, ‘Implementing Article 10 of the Council of Europe Convention on preventing and combating violence against women and domestic violence – establishing national co-ordinating bodies: Analytical report of common challenges and lessons learned from bodies set up under different international human rights treaties’ 7 Nov 2016, [16806f6fc0 \(coe.int\)](https://www.coe.int/t/e/treaties/10800/1080016066f6fc0.pdf)

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will work with the 31 existing Local Authority Community Development Committees (LCDC network) to put local arrangements in place for DSGBV service delivery.<sup>103</sup>

### Monitoring and Evaluation Bodies:

89. An independent body dedicated to monitoring, ensuring and evaluating the robustness and efficacy of policies on DSGBV does not exist. The independence of this body is important as it will be required to challenge and critique government and statutory bodies.
90. The Convention requires that the functions of monitoring, data collection and evaluation must not be carried out by the same body that is responsible for the coordination or implementation of policies and should be mandated to at least one body external to the State administration to avoid conflicts of interest.
91. GREVIO has noted that the tendency of states to add on tasks and workload to existing statutory bodies can be problematic and cast doubts on the ability of these bodies to effectively prioritise the implementation and monitoring of the Convention. GREVIO has also noted the tendency of states to aim to centralised data collection or to make funding for specialist organisations contingent on providing data.
92. Specialist-representative civil society organisations, experts and national human rights institutions have parallel roles in information and data, and in monitoring and evaluation, and in turn informing research, implementation and policy. Data from specialist support services has been collected and stored independently and separately, with respect to privacy rights of victims vindicating their right to access services without an obligation to report to the authorities. The NGO and civil society ability to collect, protect and process optimal data is limited by capacity, pressures exerted through funding relationships with Statutory actors and specific legislation that mandate reporting.<sup>104</sup> The nature of the survivor data from specialist support services is highly confidential and must be collected, stored and analysed with due regard to the privacy rights of individuals and not merged with other datasets, most especially those containing personal identification numbers, criminal justice or health data. Just prior to this period there was an attempt to effectively merge statutory administrative data needs with the frontline civil society data, the legacy of which can be seen in the fragmented and underdeveloped data systems in the DSGBV sector in this period. At present there is no consistent or secure state commitment to fund NGO information systems.
93. The role of data in identifying systemic causes and effects and identifying barriers and solutions is paramount. There is currently no existing statutory body or framework that the important work of ethical and secure management of data and research on and with survivors of DSGBV can be safely integrated into. Report-to-Court data does not exist either in one coherent data collection system or in comparative administrative data across justice agencies.
94. A long-term vision to 2050 is required to establish robust datasets and a strategic comprehensive collaborative research focus. There is significant international collaboration required to progress this aspect of the International Convention and the statutory mandate of an independent monitoring and evaluation body should include this international aspect of

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<sup>103</sup> 3<sup>rd</sup> National Strategy p.23 “The Department of Children, Equality, Disability, Integration and Youth, and TUSLA, will ensure the provision of child protection services, and facilitate wrap- around support services provision across all relevant agencies through the national network of Local Community Development Committees (LCDCs)”

<sup>104</sup> <https://www.tusla.ie/services/child-protection-welfare/children-first/>



comparative data collection and monitoring and evaluation of national policy and implementation.

### Data Collection and Research (Article 11)

95. Dedicated and independent bodies for a) data collection and evaluation of policy b) data analysis and dissemination, with representation of civil society do not exist. At present there are no dedicated independent bodies for DSGBV data collection and evaluation of DSGBV policy or for data analysis and dissemination, with or without representation of civil society. The 3<sup>rd</sup> National Strategy for DSGBV (2022-2026) promises a dedicated statutory agency for DSGBV will be in place by 01/01/24. The strategic plan for data is 'to be addressed by the new agency once established'. The establishment of dedicated independent bodies for DSGBV data collection and evaluation of DSGBV policy or for data analysis and dissemination is extremely important, and the concern is any future body will not be endowed with the long-term strategic targets, statutory mandate, or resources to ensure the full implementation of Article 11. The Central Statistics Office (CSO) has considerable expertise and capacity for data collection, analysis and dissemination.<sup>105</sup> The CSO currently receives, analyses and publicly presents headline statistics from the Garda data collection system (PULSE), in addition they are now undertaking national prevalence surveys on SV and soon DV.<sup>106</sup> However, the CSO does not currently evaluate policy or have representation from civil society, functions that may be more appropriate to a dedicated body.
96. The State does not systematically collect comparable data from all relevant administrative sources. Some statutory agencies collect some partial data pertaining to their specific focus. Strategic data management and governance plans have not been successfully implemented, reducing data quality and protection. The data is not comparable or collected centrally or across state departments and is not consistently in the public domain. Data that is collected is not usually designed to be comparable to other contemporary data or as a longitudinal dataset. It is usually collected for administrative purposes and may or may not be analysed for evidence-based policy-making.
97. The lack of publication of disaggregated data from the criminal justice system inhibits the understanding of diversity and equality. Domestic violence related criminal offences are not easily visible at any stage of the criminal justice process. The gender and relationship of the perpetrator to the victim and the gender of the victim are not disaggregated for such offences, including Section 39 DVA, coercive control, which is not a separately classified crime in CSO/AGS statistics. The same classifications are not used by the DPP and the Courts Service in their respective Annual Reports. The relevant statistical, investigative, prosecutorial and administrative professionals are not collaborating. This data is an important tool with which to

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<sup>105</sup> GDPR and therefore, our Data Protection Act 2018, do not apply to anonymised or pseudonymised data about individual survivors. The collection of statistics by the Central Statistics Office is governed by the Statistics Act 1993 – that is what gives the CSO its remit, and imposes a duty of confidentiality on it with regard to all individual information relating to persons or concerns – it must respect that, and it must use the information given to it only for statistical purposes.

<sup>106</sup> CSO defines a child as under 17 for the purpose of this survey

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recognise the need for, and achieve, evidence-based changes.<sup>107</sup> However, the high levels of attrition throughout the legal process combined with the relatively low levels of engagement with the process may make the data too easily identifiable to publish. On the other hand, the CSO engagement with the stakeholders allowed for the identification of additional categories<sup>108</sup> to be publicly released which transformed the value of the statistics available.

98. The process of collecting, storing and transforming collected data on the law enforcement Pulse system does not comply with standards, a situation that was identified in 2014<sup>109</sup> and is still under review. 'There is a need for An Garda Síochána to monitor and evaluate data quality, and, ultimately, to report on data quality in a transparent way to users'<sup>110</sup> The Central Statistics Office publishes quarterly data reports on the number of cases of violence recorded by law-enforcement and data on the number of charges brought, dropped, the number of protection orders requested, granted, and denied, the types of procedures initiated and their outcome.<sup>111</sup> In March 2018, having monitored the quality of the Pulse<sup>112</sup> system the CSO took the decision not to stand over data from law enforcement due to the poor standard.<sup>113</sup> 'In June 2021, the Garda Commissioner outlined to the Policing Authority details relating to the inappropriate cancellation of CAD calls, and, at the time of writing, an internal AGS investigation into the issue is ongoing.'<sup>114</sup> The widescale premature or improper cancellation of 999 calls<sup>115</sup> related to domestic violence means that records of reports to An Garda Síochána may not have been created on the PULSE system, and are therefore not counted in Recorded Crime Statistics. 'The CSO is awaiting clarification on the full impact of the issue from AGS, including the time periods involved (how far back this issue goes), the crime types impacted, and crucially, the estimated numbers of crimes which were not recorded on PULSE due to inappropriate cancellation of CAD calls, before it can determine the impact on

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<sup>107</sup> Safe Ireland (2020) Criminal Justice Strategy Submission [Microsoft Word - Safe Ireland Criminal Justice Strategy Submission 10th August 2020.docx](#)

<sup>108</sup> Age from 2019 and sex from 2018 of both perpetrator and victim were added  
<https://www.cso.ie/en/releasesandpublications/ep/p-rcvo/recordedcrimevictims2019andsuspectedoffenders2018/recordedvictims2019/>

<sup>109</sup> Garda Síochána Inspectorate (10 Nov 2012) Responding to Child Sexual Abuse; Garda Síochána Inspectorate (11 Nov 2014) Crime Investigation Report

<sup>110</sup> Central Statistics Office (2021) [Review of the Quality of Recorded Crime Statistics 2020 - CSO - Central Statistics Office](#)

<sup>111</sup> CSO Quarterly Recorded Crime and Justice series [Recorded Crime - Statistics Under Reservation - CSO - Central Statistics Office](#)

<sup>112</sup> Police Using Leading Systems Efficiently (PULSE) crime incident database

<sup>113</sup> Central Statistics Office (2021) [Crime and Justice - CSO - Central Statistics Office](#) "The publication by the Central Statistics Office (CSO) of Recorded Crime statistics is wholly dependent on the provision of PULSE data by An Garda Síochána (AGS)." There has been a number of data quality issues identified in relation to PULSE data, particularly in relation to crimes with discriminatory motives, domestic abuse, the use of weapons in crime, and homicide. "The CSO has taken the decision to resume publication of Recorded Crime statistics under a new category "Under Reservation". This categorisation indicates that the quality of these statistics do not meet the standards required of official statistics published by the CSO."

<sup>114</sup> Central Statistics Office (2021) [Recorded Crime Q4 2021 - CSO - Central Statistics Office](#)

<sup>115</sup> In June 2021, the public became aware that more than 3,000 domestic violence 999 calls were, according to its own internal investigation, "cancelled" by the Garda. This means that "some victims, including vulnerable women and children, called the Garda for help but were ignored. And in many cases, crimes were not captured in official crime data and referrals about at-risk people were not made to agencies such as Tusla." [Exploring femicide and the broader issue of violence against women in Ireland \(irishtimes.com\)](#)

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Recorded Crime statistics.<sup>116</sup> Data quality issues include non-recording of reported crimes, mis-classification of crimes, failure to adhere to principles relating to counting of individual incidents of crime, and inaccuracies in reporting dates. 'It is critical that An Garda Síochána ensure they have appropriate internal controls to mitigate against crime recording procedures not being followed.'<sup>117</sup>The accountability and transparency regarding ongoing failures and the various independent scrutiny mechanisms focused on these issues is to be commended.

99. The process of collecting, storing and transforming collected data at the CFA does not yet comply with standards on data protection<sup>118</sup> to ensure confidentiality and respect for the privacy of victims, perpetrators and other persons involved. In this period the CFA launched the National Childcare Information System (NCCIS) following piloting in July 2018<sup>119</sup> where assurances were given that all Child cases coming into the system including DSGBV were being input.<sup>120</sup> The CFA data hub which aims to lend transparency and consistency to the handling of Child abuse cases has a very limited and unwieldy set of statistics that it releases publicly although investment and prioritisation is now seeing ongoing expansion of publicly available data.<sup>121</sup> The NCCIS is not yet fully operational with fields that exist but are not being completed and that CFA does not collate. In addition no assurances have ever been given despite requests for same from NGO advocates, that administrative data on CFA funded DSGBV services, which at times constitute sensitive personal data are not now or in the future going to be amalgamated into the main NCCIS system.
100. Data that the CFA processes arising out of Mandatory Reporting under the Children First Act, contains sensitive personal data of adult survivors, many of whom have not consented to this use of their data. The handling of this data by the agency has caused deep distress, revictimization, put in jeopardy criminal investigations, and compromising survivors' access to services in this period (please see 212, 318, 319 & 320 below for more). NGOs have invested considerable capacity in advocating to resolve and ameliorate this matter. In addition, the CFA has stated that it will be building a data system to collect and hold this data, it is unclear if this system will be amalgamated with the NCCIS or be a siloed system. RCNI have informed the CFA of obvious risk of breaches, absence of protocols, use of commercial software, and other systemic failings to protect victims, perpetrators and other persons involved. The process of collecting the data has been insufficiently robust, leading to low quality data. The process of storing and transmitting the data has exposed the system to breaches. The process of transforming collected data into statistics is unclear and mainly unpublished.<sup>122</sup> The CFA Quarterly Surveys of specialist support services have been inconsistently published on the

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<sup>116</sup> Central Statistics Office (2021) [Recorded Crime Q3 2021 - CSO - Central Statistics Office](#)

<sup>117</sup> Central Statistics Office (2021) [Review of the Quality of Recorded Crime Statistics 2020 - CSO - Central Statistics Office](#)

<sup>118</sup> CETS 108 and CETS 108+, Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data

<sup>119</sup> Child and Family Agency (Tusla) <https://www.tusla.ie/news/tuslas-new-national-integrated-information-system-goes-live/>

<sup>120</sup> <https://www.irishtimes.com/news/social-affairs/450-000-child-protection-and-welfare-cases-now-accessible-in-new-tusla-it-system-1.3612603>; Tusla audit: 13% of suspected abuse cases not referred to gardai ([irishexaminer.com](http://irishexaminer.com))

<sup>121</sup> Child and Family Agency (Tusla) <https://data.tusla.ie/>

<sup>122</sup> Child and Family Agency (Tusla), [Tusla Performance and Activity Reporting Site](#) Tusla - Child and Family Agency some data now available, but not available during reporting period. See data hub which is improving over the period of examination but still remains utterly insufficient <https://data.tusla.ie/>

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website and the data is not always available, is very limited and is not analysed. It is difficult to see any evidence that the data collected is used to inform policy.

101. Limited and inconsistent disaggregation across CFA services and the specialist civil society support services that they fund has not always included sex, age, type of violence as well as the relationship of the perpetrator to the victim, geographical location, and rarely included other factors deemed relevant, for example disability.<sup>123</sup> There are no agreed data points, definitions and indicators, making accuracy, consistency and comparability impossible. All professional staff are not trained in the terminology and definitions of the Istanbul Convention or in standards of data protection.
102. The data collected by other State agencies is rarely analysed and disseminated and made available to the public (as appropriate) at national level. Recently some data has been made publicly available by the CFA,<sup>124</sup> but analysis is absent and while more data may be available online, the online location is unknown and has not been systematically disseminated to the specialist organisations (who provide some of the data). This is problematic as there is no overview or analysis of what level of accessible sexual violence services are available to survivors across the country. The data from 8 of the 15 local Helplines situated in Rape Crisis Centres (other than the National Helpline) is not centrally collected as these Helplines are not funded by the State. The gaps in data collection limit the ability to assess the impact of the response in health, law-enforcement, social services, and housing.

At the moment survivors' privacy and anonymity are not guaranteed in the process of collecting, storing and analysing data as data collection is completely fragmented and there is lack of systemic attention to the inherent risks in particular with regards to geographically granular data capture in this sensitive area.<sup>125</sup>

The CFA currently obliges specialist civil society support services to provide victim demographic and incident data on condition of funding. Civil society organisations raised concerns regarding the granularity of data, the small geographically distinct data capture areas amongst other aspects which posed a reidentification risk. NGO concerns were dismissed and minimised and no DPIA was conducted. A guarantee was sought that this dataset would not be combined with CFA or any other datasets. No guarantee was given. Civil society organisations have legal obligations not to share data if the processing is unknown and or unsound regardless of the SLA requirement by the funder to share data. It should be noted that for much of this period the CFA did not have a DPO and many of the decisions were being taken by those with responsibility for directing the processing of data who were not data protection specialists and not independent of the executive.

In 2021 there was a very serious breach of statutory health data through a malicious cyber-attack and the CFA system was compromised.<sup>126</sup> A review of the cyber-attack pointed to

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<sup>123</sup> See RCNI (2021) 'Breaking the Silence' [Breaking the Silence: Preventing Sexual Violence against Children: shared purpose, shared language - Rape Crisis Network Ireland \(rcni.ie\)](#)

<sup>124</sup> New Tusla data hub <https://data.tusla.ie/>

<sup>125</sup> Cyber Ireland (14 Dec 2021) [conti-cyber-attack-on-the-hse-full-report.pdf \(cyberireland.ie\)](#)

<sup>126</sup> Independent.ie (3 Dec 2021) [Tusla confirms its data among that stolen during HSE cyberattack - Independent.ie](#) The National Childcare Information System (NCCIS) was stolen during the attack among other sensitive personal data, and the event is still causing daily disruption. "Tusla's key IT portal, the National Childcare Information System which contains records of close to 500,000 child welfare cases for access by social

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challenges with out-of-date software systems and inadequate staff training, monitoring of networks, and weak cyber-security plans.<sup>127</sup> Civil society organisations and State agencies are easy targets for hackers, and inter-agency sharing can increase the risk for DSV survivors. Civil society organisations are largely not sufficiently resourced to achieve best practice in data protection.

103. Safeguards for specialist support services and specialist-representative or specialist-monitoring & advocacy organisations must be enshrined in law, to protect their right to criticise the state, to protect their status as experts on representative bodies/committees, to protect access to funding for delivery of services on behalf of the state, and to protect the rights of survivors (and perpetrators).
104. The national data on sexual violence that RCNI collects<sup>128</sup> is analysed and disseminated and made available to the public at national level as appropriate. RCNI data is disaggregated by sex, age, type of violence, the relationship of the perpetrator to the victim, geographical location, and many other relevant indicators, including disability. Public funding for supporting RCNI data management was entirely absent from 2015 - 2020. Funding for front line CVs was limited to covering licencing fees for software with no additional resources for data processing and analysis. RCNI research is only partially funded and in a fragmented manner by the State and RCNI research on root causes, incidence, conviction rates, effects on children, and efficiency of measures to implement international human rights obligations can only be undertaken following tender or grant application to a specific fund.
105. In 2017, in anticipation of the Istanbul Convention, Safe Ireland initiated a conversation to develop a data collection tech solution for frontline DV services. In collaboration with the technology donation charity Enclude, and the social services improvement charity Quality Matters, a cloud-based CRM application was designed with the technology, data management, data security and value for money requirements to collect, manage and report accurate and secure data. The system, titled eSafe completed its user acceptance phase and was piloted in a number of services across the country.<sup>129</sup> As the installation of the system had to be financed by each individual service from private donations, for many the installation cost of €33,000 was prohibitive. A philanthropic donation reduced the cost to services and design began in late 2019. The initiative is now entering practice within 21 domestic violence services.
11. Safeguards for survivor privacy are enshrined in law. Specialist-representative organisations and frontline services have sought formal assurances that survivor data will never be merged with other data or used for purposes beyond which the survivors have consented and the law permits. The CFA has not provided that assurance on the unsustainable argument that the data is anonymous.

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workers, was the system worst affected by the cyberattack, Mr Gloster said. "That system is very significant in terms of sensitivity. There is no evidence of data exfiltration from it, but it was severely damaged by the criminals' encryption and the HSE shutdown," he said." [HSE cyberattack 'brought Tusla to its knees' \(irishtimes.com\)](https://www.irishtimes.com/news/technology/hse-cyberattack-brought-tusla-to-its-knees);

<sup>127</sup> <https://www.hse.ie/eng/services/news/media/pressrel/hse-publishes-independent-report-on-conti-cyber-attack.html>

<sup>128</sup> Robust and comparable data was collected from 2008-2009 at 13 of the 16 RCC services, 14 services in 2010, 15 services from 2011-2013, 14 services in 2014, and from 2015-2022 at 7 services

<sup>129</sup> WAVE Country Report, Ireland 2020 [WAVE\\_Country-Report.pdf \(wave-network.org\)](https://www.wave-network.org/WAVE-Country-Report.pdf)



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106. During this period the Health Service Executive (HSE) entered into a public-private contract along with a not-for-profit serving vulnerable people. The project partnered the state agency and the not for profit with a US based parent commercial company who designed the programme software in order to collect, use and share the data collected from the service. A DPIA was pursued and the commercial and data mining aspect of the relationship severed. The parent not-for-profit in this partnership shortly after was embroiled in a scandal as they had sold vulnerable people's data to commercial interests.<sup>130</sup> One of the largest providers of cut-price database software to charities (Salesforce) is also one of the world's largest re-sellers of metadata. Civil society organisations are increasingly engaging in these types of partnerships with commercial organisations who harvest, process and sometimes profit from data and meta data from the services to vulnerable people that they provide.
107. The disaggregation of data to identify intersectional risks inevitably produces progressively smaller cohorts, ultimately increasing the possibility of individual survivors being identified. Not examining the data in this detail risks failing to understand the nuance of the situation and routes to solutions. The safest way to make small populations like this visible is through creating large pools of data. There are some practices of systems and structures of statutorily protected data collection (eg CSO, HRB) which can keep sensitive data siloed and protected from inappropriate accessing but the data systems landscape is severely underdeveloped with gaps in legislative protections.<sup>131</sup> Given DSGBV victim confidentiality concerns, currently civil society organisations are the only organisations whom many survivors engage with. These civil society organisations are neither resourced to effectively collectively gather this data or to responsibly manage its effective use for research purposes.
108. Administrative data from specialist support services is not sufficiently respected, funded or prioritised, despite it having the potential to be the most robust comprehensive longitudinal dataset for the largest number of victims.<sup>132</sup> Low levels of reporting and barriers to accessing justice mean that data collected by justice organisations will never represent more than a minority of victims, the publication or researching of which often risks loss of privacy for the victims. RCNI advocates for protection for good working data collection systems, to prevent these models from being dismantled by state agencies and for specialist support services to be supported in IT, data collection and protection and research ethics and standards.
109. The most appropriate place for specialist data collection is with specialist organisations with a survivor-led ethos and a mandate to set standards for data processing, provide training and data protection advice, and where there is specialist sectoral expertise. The many points of entry at specialist support services mean that more victims engage in less stressful interactions and data can be collected respectfully, accurately and safely. GREVIO maintains that administrative data should go beyond what is actually necessary for administrative purposes, and our recommendation is that this should be restricted to specialist-representative organisations (with appropriate independent oversight, privacy protections,

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<sup>130</sup> Crisis Text Line® <https://www.crisistextline.org/>; <https://text50808.ie/>;  
<https://www.politico.com/news/2022/01/31/crisis-text-line-ends-data-sharing-00004001>;  
<https://text50808.ie/data-update>;

<sup>131</sup> Irish Government, Department of Health Press Release 19 April 2022 <https://www.gov.ie/en/press-release/3d605-minister-donnolly-receives-cabinet-approval-to-develop-new-health-information-legislation/>

<sup>132</sup> EIGE Good practices in gender-based violence data collection <https://eige.europa.eu/gender-based-violence/good-practices/ireland/rape-crisis-network>



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and under GDPR) and not encouraged at law enforcement, justice or public health services where the mandate may be in conflict with a survivor's right to privacy.

110. Individual victim data should be protected from mandatory disclosure to justice process.
111. Law enforcement victim data is intrinsically tied to individuals and difficult to disaggregate and anonymise due to very low numbers of cases. NGOs provide services to a much largely pool of survivors and therefore this unique data set and research resource should be collected, protected and analysed at independent specialist organisations working in collaboration with specialist support services.
112. Cybersecurity and state and civil society organisations: The vulnerabilities of data to cyber-attack are increasingly evident. Training for staff, monitoring of networks, and cyber-security plans are needed, and the State must make the resources available for State agencies and civil society. Civil society organisations and State agencies are easy targets for hackers, and inter-agency sharing can increase the risk. Agencies need to establish proactive protocols for passwords, access, sharing information, and limit the amount of information that they collect. These recommendations have implications for the use of administrative data in analysis and policy development.
113. The information on prevalence was last captured in 2000<sup>133</sup> A National Survey on the Prevalence of Sexual Violence (NSPSV) has been approved and funded by government and has been in development since 2019. The survey will be rolled out by the Central Statistics Office in 2022. There has been very meaningful and active engagement with relevant stakeholders and specialist representative NGOs. This will be the first national survey on sexual violence for 20 years and the aim is to repeat the survey every decade. Results will be available in early 2023. A prevalence study on DV will then be developed and conducted in 2028.
114. National femicide data has not been collected by the state. In this period a review was established, Study on familiacide and domestic homicide reviews, commencing in 2019, the final report was submitted to government in July 2022.<sup>134</sup>
115. Much of the groundwork for the coordination and collation of the necessary data from all relevant administrative sources in a robust, timely and comparative way has been or could be achieved cooperatively. A substantial evidence-base has been published by RCNI and SI and brought to the attention of the relevant state agencies, but it is not always clear that the evidence and expertise is welcomed or used for policy making.<sup>135</sup> There is a lack of transparent processes for systematic inclusion of expertise or data from civil society and survivors and there is no evidence that the data provided by support services and all relevant sources is systematically used to inform evidence based policy making. The CFA collect quarterly data from the DSV support services, but only those that they fund. Any interrogation of this incomplete DSV services data is not public and experts are not invited to analyse the data in any forum or to discuss policy making. No sectoral structure has been created by the CFA to support ongoing engagement, transparency and accountability, instead the formal relations are through individual relationships with each service in isolation. Individual working relationships are formed between staff members of the CFA and managers of support services, however these inter-institutional relationships are easily lost through staff turnover.

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<sup>133</sup> Hannah McGee et al., The SAVI Report, DRCC, (2002) [SAVI report \(2002\) | Dublin Rape Crisis Centre \(drcc.ie\)](https://www.drcc.ie/savi-report-2002)

<sup>134</sup> <http://www.fsdhr.ie/>

<sup>135</sup> See Bibliography for full details of recent publications by specialist-representative organisations

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Civil society organisations are in a dependent relationship with CFA and annual funding streams. Support and advocacy services that are not funded by the CFA have even less access to having any role in policy making and the CFA has systematically excluded their data from data capture on DSV



## Chapter III – Prevention (Articles 12-17)

### General Obligations (Article 12)

116. The State has not taken all the *necessary measures 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.*<sup>136</sup> A national prevention strategy to tackle gender inequality and intergenerational trauma as a way to prevent violence against women is needed.
117. The whole area of prevention is underdeveloped. The review of the 2nd National Strategy<sup>137</sup> shows minimal development in preventative measures that were confined in very narrow ways to specific groups. Measures that were classified as preventative actions included once-off or periodic lectures to small audiences of social workers, judiciary, AGS and law society, with the delivery outsourced to specialist-representative organisations. Sustainability and reach were not built-in and measures were not comprehensive or comprehensively available.
118. The State has not fulfilled its prevention of violence obligations to identify different categories of or intersections of discrimination for vulnerable women and to address their specific needs in changing attitudes underlying DSGBV against women. There are no legal definitions and no legal basis for intersectional discrimination. The main legislation around discrimination is the Equality Acts,<sup>138</sup> which do not adequately provide for situations where discrimination occurred on the basis of a combination of equality grounds. Complaints on the basis of more than one equality ground require each ground to be proven separately. In practice, the delineation of distinct grounds of discrimination may exclude complaints of discrimination based on a vulnerable woman's identity, which is infinitely more complex than a single ground.<sup>139</sup>
119. In terms of intersectional discrimination, there have been little by way of prevention programmes, education or public awareness around intersectional discrimination for vulnerable women to address their specific needs in changing attitudes underlying DSGBV against women.
120. The absence of a strong co-ordination body, and an independent monitoring, research and evaluation body has reduced the opportunities and resources for the specialist-representative organisations to collaborate. The specialist-representative organisations need resources to create opportunities for co-creation of prevention programmes that address intersectional discrimination. Representatives from communities need opportunities to talk to each other and to the specialist-representative organisations to gain from each other's experience, in local and community settings, to feel inclusive for the hardest-to-reach women.
121. Specialist-representative organisations are ideally placed to collaboratively design preventive actions that a) address the specific needs of persons made vulnerable by particular circumstances and place the human rights of all victims at their centre b) encourage all

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<sup>136</sup> Istanbul Convention Article 12.1

<sup>137</sup> In the appendix to draft 2nd National Strategy [gov.ie](http://gov.ie) - [DSGBV Strategies \(www.gov.ie\)](http://www.gov.ie)

<sup>138</sup> The Equality Acts are: The Employment Equality Acts 1998 and 2004, The Equal Status Acts 2000 to 2004, The National Disability Authority Act 1999 [Irish Statute Book](#)

<sup>139</sup> ICTU Submission, Review of the Equality Acts Dec 2021 [ICTU Submission to the Review of the Equality Acts \(Dec 2021\) | ICTU](#)

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members of society, especially men and boys, to contribute actively to preventing all forms of violence, and c) include the promotion of programmes and activities for the empowerment of women. However, at this point, the specialist-representative bodies are not resourced to work on prevention programmes and prevention has not been a high priority in successive National Strategies on DSGBV. Initiatives undertaken in the absence of specialist DSV analysis can be wasteful at best and regressive at worst.

122. The State has been unable to ensure that religion is not considered as justification for any acts of violence against women. Religious domination of the education system, including professional training, remains an obstacle to ensuring that religion is not considered a justification for refusing to promote required changes to educational curricula at all levels of formal education towards the elimination of violence against women. The intersection between education, health, sexual violence and reproductive justice mean that the retention of the religious ethos loophole permits any single religious denomination to control the core professional training of staff, the content of the curricula within its institutions, the selective delivery of mandated curriculum and the medical procedures permitted in its hospitals. The majority of national and secondary schools are under the control of the Roman Catholic Church, with far reaching effects on the ability of the state to promote changes in the social and cultural patterns of behaviour or introduce gender equality and other preventative measures through education. The Government failed to enact legislation that would get sexual education past the patronage system in over 90% of primary schools. Other educational institutions and hospitals also remain under Roman Catholic patronage.
123. RCNI took active part in a civil society movement to repeal a constitutional restriction on the right to abortion because of the intersection of sexual violence and reproductive rights. The Constitution was amended in 2018 and new legislation was enacted permitting abortion in limited and specific circumstances. Doctors and hospitals have a right of conscientious objection and criminal liability was established for aiding or abetting abortion outside the terms of the law. Challenges remain in terms of access to safe and legal abortion. The recent constitutional repeal campaign and the current scandal over the patronage of the forthcoming national maternity hospital<sup>140</sup> are examples of how the population wish to remove the control of the Roman Catholic Church over health, education, professional training, reproductive and women's rights, but the State is unwilling or unable to complete that change.
124. Another example of how the State has failed to address discrimination against women is the failure to include misogyny as an aggravating factor in its proposed *Hate Crime* legislation or to recognise *Femicide*<sup>141</sup> as a distinct classification of homicide. In November 2020 Government initiated the *Criminal Justice (Hate Crime) Bill 2020* which sought to criminalise hatred as a motivation in crime, however the Bill failed to provide for misogyny as an aggravating factor or any expression of hatred towards women and girls might ultimately

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<sup>140</sup> 'Ireland does not have a good track record when it comes to religion and women's reproductive rights. People are rightly demanding that when it comes to our new National Maternity Hospital, there is, and there can be, no religious involvement, Donnelly said in his opening statement.' Government debate on [National Maternity Hospital: Health Committee asks Donnelly for further delay of Cabinet decision \(thejournal.ie\)](#); [Joint Committee on Health debate - Wednesday, 11 May 2022 \(oireachtas.ie\)](#)

<sup>141</sup> <https://www.irishtimes.com/life-style/people/2022/07/23/stolen-lives-239-violent-deaths-of-women-in-ireland-from-1996-to-today/>

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contribute to the development of a legal definition classification of femicide in Ireland. FGM and child marriage are included as aggravating factors but usually do not include adult women.<sup>142</sup>

125. A National Action Plan to prevent homelessness is needed that will respond to the integral relationship between domestic abuse and homelessness for women and children and ensure safety and short and long-term housing stability. "Spiralling rents and the complete lack of social housing stock and rental properties mean that women cannot find places to live with their children. Significant numbers of women are choosing to return to their abusive partners. Many others are making the decision to stay in abusive relationships because they predict that they will be faced with accommodation problems"<sup>143</sup>

### Awareness raising (Article 13)

126. The whole area of public awareness-raising on the various forms of violence that women experience on a regular basis, *in co-operation with national human rights institutions and equality bodies, civil society and non-governmental organisations, especially women's organisations*,<sup>144</sup> is under-developed. The Government began running a single national campaign on DSGBV in 2016. However, Safe Ireland found that public awareness-raising campaigns are periodic and not carried out in a sustained manner.<sup>145</sup> In the absence of a *Theory of Change* methodology there is also some evidence<sup>146</sup> awareness campaigns run the risk of being ineffective, harmful or may generate a backlash against those they seek to protect. Future campaigns must go beyond the obligatory 'marketing' of Violence against Women and move towards being a meaningful vehicle for social action and behaviour change.
127. In the period under examination the Government's national campaign focused for 2 years to engage the public, increase awareness of sexual harassment and sexual violence, activate bystanders and to promote changes in the social and cultural patterns of behaviour<sup>147</sup> from 2019-2021. The campaign aimed to prompt individual response to witnessing sexual violence and tackle the tendency to look away or excuse sexual violence. While a good start these campaigns do not fully meet the Convention's standards or criteria. The national campaign did not *increase awareness and understanding among the general public of the different manifestations of all forms of violence covered by the scope of this Convention, their consequences on children and the need to prevent such violence*.<sup>148</sup> The campaign did not *systematically address eradicating customs, traditions and other practices which are based on*

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<sup>142</sup> <https://www.oireachtas.ie/en/bills/bill/2020/52/?highlight%5B0%5D=criminal&highlight%5B1%5D=justice&highlight%5B2%5D=hate&highlight%5B3%5D=crime&highlight%5B4%5D=bill&tab=bill-text>

<sup>143</sup> Safe Ireland (2020) '#No More Excuses Safe Ireland - Election 2020: Manifesto for a Safe Ireland for All' [Safe-Ireland-Manifesto-Web.pdf \(safeireland.ie\)](#); Safe Ireland (2016) 'No place to call home: Safe Ireland's Consultation on Homelessness and Domestic Violence'. [https://www.safeireland.ie/policy-publications/#dfli-pdf\\_5100/1/](https://www.safeireland.ie/policy-publications/#dfli-pdf_5100/1/)

<sup>144</sup> Istanbul Convention, Article 13.1

<sup>145</sup> Safe Ireland (2019), Gender Matters 2019: Summary Findings on public attitudes to gender equality and roles, domestic abuse and coercive control in Ireland.

<sup>146</sup> [https://ssir.org/articles/entry/stop\\_raising\\_awareness\\_already](https://ssir.org/articles/entry/stop_raising_awareness_already)

<sup>147</sup> No Excuses Campaign, Department of Justice. (2019). 'Minister Flanagan launches major national awareness campaign on sexual harassment and sexual violence', 9th May: <https://www.justice.ie/en/JELR/Pages/PR19000131>

<sup>148</sup> Istanbul Convention, Article 13.1



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*the idea of the inferiority of women or on stereotyped roles for women and men,<sup>149</sup> or promote the empowerment of women, or place the human rights of all victims at their centre.<sup>150</sup> The campaign was criticised for including violence against men and not focusing exclusively on men’s violence against women. The State prevention campaign did not *take into account and address the specific needs of persons made vulnerable by particular circumstances*<sup>151</sup> or *promote programmes and activities for the empowerment of women.*<sup>152</sup> The risk in not involving the specialist-representative organisations closely in primary prevention is that the prevention action fails to tackle structural inequality and is based on personal responsibility which can lead to a retrenchment of DSV facilitative attitudes and norms. There is a hesitancy to tackle domestic and sexual violence core cause of sexual discrimination and the patriarchal and religious status quo.*

128. The obligation to run public awareness campaigns on a regular basis that address *the different manifestations of violence against women in a gender-sensitive manner, highlighting the consequences for children, methods of non-violent conflict resolution, and the need to prevent such violence* has not been met.<sup>153</sup>
129. The obligation to widely disseminate concrete information on available State or non-State *measures available to prevent acts of violence covered by the Convention* has only been partially met.<sup>154</sup>
130. Information on measures available to prevent such acts of violence are available to some extent for survivors and bystanders and there is some recent progress in this area, especially on websites aimed at 3<sup>rd</sup> level students.<sup>155</sup>
131. An online confidential bystander reporting and monitoring mechanism to log incidents of violence against women or discrimination against women does not exist. A new online reporting service was launched by Hotline.ie in August 2021 to help people report intimate images and videos being shared online without consent (in line with The Harassment, Harmful Communications and Related Offences Act 2020, commenced on 10 February 2021). In 2020 there were over 10,000 reports from the public. Hotline.ie has been collecting reports from the public for 22 years.
132. Online anonymous reporting tools has been launched across some Higher Education Institutions as part of the development of resources under the Framework for Consent for HEIs designed to combat sexual harassment and violence.<sup>156</sup>

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<sup>149</sup> Istanbul Convention, Article 12.1

<sup>150</sup> Istanbul Convention, Article 12.1

<sup>151</sup> Istanbul Convention, Article 12.3

<sup>152</sup> Istanbul Convention, Article 12.6

<sup>153</sup> Istanbul Convention, Article 13.1

<sup>154</sup> Istanbul Convention, Article 13.2

<sup>155</sup> A bystander intervention programme developed at University College Cork was piloted in 2021 with law, nursing and midwifery, and applied psychology students and will become available to all staff and students in 2022. [About - Bystander Intervention \(ucc.ie\)](https://www.consenthub.ie/)

<https://www.consenthub.ie/>

<https://www.sexualwellbeing.ie/>

<sup>156</sup> <https://www.gov.ie/en/publication/678fee-framework-for-consent-in-higher-education-institutions-safe-respect/>

<https://www.ucd.ie/equality/support/dignityrespect/reportandsupporttool/>

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133. Specialist-representative organisations and specialist support services have not been provided the resources to carry out local, regional or national awareness-raising activities. or consulted upon or given the financial means to design and implement, a national awareness-raising campaign to address underlying patriarchal/stereotypical attitudes and apply a gendered understanding of violence.
134. The absence of a strong national co-ordinating body has impacted development in this area of prevention.
135. Online information is available from specialist NGO and civil society support services and State websites; however, specialist organisations do not always have the resources required to keep the information constantly up-to-date. Additionally, the civil society specialist support services are under-resourced with long waiting lists and have to decide whether it is ethical to disseminate information for services where they cannot meet the demand.

### Education (Article 14)

136. There are legacy issues of the anachronistic education system include widescale sexual and other forms of violence against children at educational institutions run by Catholic management and funded by the Department of Education. There have been a series of investigations<sup>157</sup> identifying hundreds of abusers, a controversial redress scheme,<sup>158</sup> and a very limited number of convictions. In 2014 the ECHR ruled that Ireland had violated Article 3 by failing to implement effective measures to prevent and detect sexual abuse of children in Irish schools, and further, that Ireland had violated Article 13 by failing to provide the applicant with an effective remedy in domestic law on foot of the State's violation of her Article 3 rights.<sup>159</sup>
137. The Citizens' Assembly on Gender Equality 2020-21 published recommendations to the State for various reforms. Recommendations 26-31, 38 of the Citizens' Assembly on Gender Equality are related to norms and stereotypes and education.<sup>160</sup>
138. A significant legacy issue for the State in the implementation of her responsibility to *include teaching material on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity*<sup>161</sup> is the religious

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<https://www.pchei.ie/blog/speak-out-reporting-tool>

<sup>157</sup> Commission to Inquire into Child Abuse (Ryan Report) 2009 [gov.ie](http://www.gov.ie) - [The Report of the Commission to Inquire into Child Abuse \(The Ryan Report\) \(www.gov.ie\)](http://www.gov.ie);

<sup>158</sup> Council of Europe, Secretariat General DH-DD(2018)87, 29/01/2018, 'Action Plan O'Keeffe v. Ireland Application no 35810/09 Grand Chamber Judgment 28 January 2014 Information submitted by the Government of Ireland 28th January 2018' [Committee of Ministers \(coe.int\)](http://www.coe.int) By 2018 only 7 payments had been made to 349 known survivors. Conor O'Mahony, UCC Child Law Clinic, 'Official Ireland remains in denial about its child abuse legacy' RTE News 13<sup>th</sup> Feb 2018 [Official Ireland remains in denial about its child abuse legacy \(rte.ie\)](http://www.rte.ie)

<sup>159</sup> O'Keeffe v. Ireland ECHR 35810/09, 2014 <https://hudoc.echr.coe.int/eng?i=001-140235>; IHREC [Submission-to-UN-HR-Committee-on-the-LOIPR-on-Irelands-5th-periodic-examination.pdf \(ihrec.ie\)](http://www.ihrec.org) p.22; UCC Child Law Clinic Submission to the Committee of Ministers of the Council of Europe 2015 [Committee of Ministers \(coe.int\)](http://www.coe.int)

<sup>160</sup> [full-list-of-recommendations11.pdf \(citizensassembly.ie\)](http://www.citizensassembly.ie)

<sup>161</sup> Istanbul Convention, Article 14.1

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patriarchal and ideological control of the majority of schools. The patronage system permits each school to control the content and delivery of the relationships and sexuality education (RSE) curriculum according to the school's ethos. The state funds the schools, pays the teachers and the develops curriculum but control of how the teachers are trained and how the curriculum is taught is held mainly by religious orders through a patronage system.

139. A system of patronage allows the patron of each school to determine what they consider to be appropriate sexuality education, in line with the 'ethos' of the school and 'having regard to the characteristic spirit of the school'.<sup>162</sup> The school patrons are approximately 90% Roman Catholic<sup>163</sup> and ideologically opposed to objective sexuality education.<sup>164</sup> Under the Education Act (1998) the Patron (usually a Bishop) may appoint or remove the Board of Management, and appoint or remove teachers in accordance with the religious ethos of the patron.<sup>165</sup>
140. The Employment Equality Act (1998)<sup>166</sup> supports schools to discriminate on religious grounds in employment of teachers, to give "more favourable treatment, on the religion ground, to an employee or a prospective employee over that person where it is reasonable to do so in order to maintain the religious ethos of the institution." In practice most teachers in Ireland are trained at Roman Catholic teacher training colleges, perpetuating an ideological approach to the curriculum that does not match the community it serves or meet international human rights requirements.
141. Until religious control over state-funded education and the right of parents to opt-out of sex education are removed from legislation and the constitution,<sup>167</sup> some children will complete their school education either without any or without objective equality, anti-discrimination, prevention of gender-based violence against women or basic sexuality education.
142. There is no statutory obligation in Irish legislation to make compulsory education on "equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity, adapted to the evolving capacity of learners, in formal curricula and at all levels of education".<sup>168</sup> In fact, under the current legislation the State has no power to make any teaching material compulsory where it is not in accordance with the ethos of the patron.
143. There is no legal obligation to include mandatory sexuality education and freely given consent at primary or secondary levels to guarantee women's sexual and reproductive health.<sup>169</sup>
144. The system of patronage and the religious ethos exemption extends to third level education institutions and hospitals, including training for teachers and nurses, and has created a situation where the requirements of the Istanbul Convention to include gender equality and

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<sup>162</sup> Irish Statute Book, Education Act 1998, Number 51 of 1998, Section 12(4&5), Section 37 [Education Act, 1998 \(irishstatutebook.ie\)](#)

<sup>163</sup> [Ownership of primary schools \(citizensinformation.ie\)](#)

<sup>164</sup> IHREC [Submission-by-IHREC-to-the-UN-Committee-on-the-Rights-of-the-Child-on-the-LOIPR-July-2020.pdf](#)

<sup>165</sup> Irish Statute Book, Education Act 1998, Number 51 of 1998 [Education Act, 1998 \(irishstatutebook.ie\)](#)

<sup>166</sup> Irish Statute Book, Employment Equality Act 1998, Number 21 of 1998 [Employment Equality Act, 1998 \(irishstatutebook.ie\)](#)

<sup>167</sup> [Constitution on parental opt-out of RSE](#)

<sup>168</sup> Istanbul Convention, Article 14

<sup>169</sup> See UN Committee on the Rights of the Child 2016; UN Committee on Elimination of Discrimination against Women 2017 General recommendation No. 36 on girls' and women's right to education [CEDAW/C/GC/36 \(right-to-education.org\)](#)

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the prevention of discrimination and violence against women in all curricula in all levels of formal education can appear to be met without being available to all students in practice. The 'ethos' and 'characteristic spirit' loopholes also apply to the core and in-service training of teachers. The 'ethos' or 'characteristic spirit' are applied on a school-by-school basis and it is the detail of what is and isn't taught in each school is not publicly available.

145. The National Council for Curriculum and Assessment (NCCA) published sexuality education curriculum specifications for consultation<sup>170</sup> as this draft shadow report was being completed with content on issues such as gendered stereotypes, consent, pornography and gender-based violence. As this deals only with the curriculum rather than the whole school culture it does not fulfil the obligation to 'take proactive measures to eliminate gender stereotyping in education that perpetuates direct and indirect discrimination against girls and women'<sup>171172</sup> Guidance provided by the NCCA cannot be made mandatory until the Education Act (1998) is amended to remove the possibility of derogation based on ethos.<sup>173</sup>
146. School curricula do not currently challenge and change patriarchal ideologies and structures<sup>174</sup> that limit girls and women from fully exercising their human right and freedom to enjoy their rights to, within and through education<sup>175</sup> or *encourage all members of society, especially men and boys, to contribute actively to preventing all forms of violence covered by the scope of this Convention*.<sup>176</sup>
147. Where curriculum reforms have been progressed,<sup>177</sup> course guidance and training provided by the NCCA cannot be made mandatory in any level of formal education until the Education Act (1998) is amended to remove the possibility of derogation based on ethos or 'characteristic spirit'.<sup>178</sup>
148. In addition to the above points, there is no national policy for whole-of-school response to gender equality and prevention of violence against women. A national strategy needs to be developed to ensure that the teaching continues beyond the classroom into the corridors and ensures that the whole school environment is free from violence. It is crucial that children receive the correct response when they tell an adult about violence. If no action or the wrong

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<sup>170</sup> <https://ncca.ie/en/junior-cycle/curriculum-developments/social-personal-and-health-education-relationships-and-sexuality-education/>

<sup>171</sup> CEDAW 2017 General recommendation No. 36 on girls' and women's right to education [CEDAW/C/GC/36 \(right-to-education.org\)](https://www.ohchr.org/en/hrbodies/cedaw/cedawrc/36)

<sup>172</sup> Istanbul Convention Article 12

<sup>173</sup> [Sarah Harte: Male violence and the opt out from sex education \(irishtimes.com\)](https://www.irishtimes.com/news/education/sarah-harte-male-violence-and-the-opt-out-from-sex-education-2019-08-22)

<sup>174</sup> RCNI submission on NCCA Review of Relationships and Sexuality Education (RSE) 2019

<sup>175</sup> CEDAW 2017 General recommendation No. 36 on girls' and women's right to education [CEDAW/C/GC/36 \(right-to-education.org\)](https://www.ohchr.org/en/hrbodies/cedaw/cedawrc/36)

<sup>176</sup> Istanbul Convention Article 12

<sup>177</sup> NCCA Consultation Report on the Background Paper and Brief for the Review of Junior Cycle SPHE, February 2022 [sphe-background-paper-consultation-report\\_en.pdf \(ncca.ie\)](https://www.ncca.ie/en/consultation-process/2018-2022-on-post-primary-social-personal-and-health-education); NCCA Consultation process 2018-2022 on post-primary social, personal and health education [Senior Cycle Social, Personal and Health Education ... \(ncca.ie\)](https://www.ncca.ie/en/consultation-process/2018-2022-on-post-primary-social-personal-and-health-education); NCCA Report on the Review of Relationships and Sexuality Education (RSE) in primary and post-primary schools, Dec 2019 [report-on-the-review-of-relationships-and-sexuality-education-rse-in-primary-and-post-primary-school.pdf \(ncca.ie\)](https://www.ncca.ie/en/consultation-process/2019-report-on-the-review-of-relationships-and-sexuality-education-rse-in-primary-and-post-primary-school.pdf)

<sup>178</sup> Irish Statute Book, Education Act 1998, Number 51 of 1998 [Education Act, 1998 \(irishstatutebook.ie\)](https://www.irishstatutebook.ie/eli/1998/act/51)

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action is taken following disclosure, the child not only continues to be at risk, but learns that violence is tolerated.<sup>179</sup> The 3<sup>rd</sup> National Strategy on DSGBV promises to address these issues.

149. In 2020 research among 6,000 undergraduate and postgraduate students found that 29% of females, 10% of males, and 28% of non-binary students reported non-consensual penetration by incapacitation, force, or threat of force. Twenty per cent or less of the students reported that they received information on college services related to sexual misconduct.<sup>180</sup>
150. The National Action Plan on Bullying 2013<sup>181</sup> and the Anti-bullying Procedures for Primary and Post-Primary Schools<sup>182</sup> do not include provision for sexual harassment.<sup>183</sup> RCNI published research which found that adolescents reported high levels of sexual harassment within their school communities with 63% of respondents subjected to unwelcome sexual comments, jokes, or gestures to or about them in the previous year. 47% would not know how to report sexual harassment within their school, and 36% received no formal education pertaining to sexual harassment while at school.<sup>184</sup>
151. All schools (primary and secondary) must teach the Social Personal and Health Education (SPHE)<sup>185</sup> curriculum, which is a flexible framework provided at the school's discretion. SPHE contains a module on Relationships and Sexuality Education (RSE) and some content on substance use, bullying prevention and intervention, sexual orientation, and physical and emotional health. Schools have a lot of flexibility within the SPHE framework and not all schools provide dedicated scheduled time for SPHE, and parents are permitted to exempt their child from RSE if they wish. Consistency of application of the Social Personal and Health Education (SPHE)<sup>186</sup> curriculum and anti-bullying policies are not closely monitored, inspected and evaluated, and monitoring relies in part on school self-evaluation.
152. Adequate comprehensive RSE 'to enable adolescents to identify the social norms that support power and gender inequality, thus combatting desensitisation and normalisation of sexual harassment. This should include critical training on the negative impacts of pornography and

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<sup>179</sup> RCNI submission on NCCA Review of Relationships and Sexuality Education (RSE) 2019 in National Council for Curriculum and Assessment (2019) Written submissions: Phase two of the review of relationship and sexuality education (RSE) in primary and post primary schools. <https://ncca.ie/media/4318/written-submissions-phase-two-review-of-rse.pdf>; National Council for Curriculum and Assessment (2019) Report on the review of relationships and sexuality education (RSE) in primary and post primary schools. <https://ncca.ie/media/4319/report-on-the-review-of-relationships-and-sexuality-education-rse-in-primary-and-post-primary-schools.pdf>

<sup>180</sup> The Active\* Consent/ Union of Students in Ireland, (2020). Burke, L., O'Higgins, S., Mclvor, C., Dawson, K., O'Donovan, R., & MacNeela, P. (2020) Sexual experiences survey 2020: sexual violence and harassment experiences in a national survey of higher education institution. [SES-published-report.pdf \(usi.ie\)](#); Development, Implementation, and Evaluation of the SMART Consent Workshop on Sexual Consent for Third Level Students (2020) <https://www.nuigalway.ie/media/studentservices/SMART-Consent-Workshop-Report-Summary-WEB.pdf>

<sup>181</sup> Department of Education, National Action Plan on Bullying 2013

<sup>182</sup> RCNI (2021) School Bullying Submission to Government [RCNI-School-Bullying-Submission.pdf](#)

<sup>183</sup> Joint Committee on Education, Further and Higher Education, Research, Innovation and Science School Bullying and the Impact on Mental Health August 2021 [2021-08-23\\_report-on-school-bullying-and-the-impact-on-mental-health\\_en.pdf \(oireachtas.ie\)](#)

<sup>184</sup> RCNI (2021) Storm and Stress: An exploration of Sexual Harassment Amongst Adolescents <https://www.rcni.ie/wp-content/uploads/RCNI-Storm-and-Stress-FINAL.pdf>

<sup>185</sup> Department of Education and Skills 'Looking at Social, Personal and Health Education' 2013 [Main Findings and Recommendations \(assets.gov.ie\)](#)

<sup>186</sup> Department of Education and Skills 'Looking at Social, Personal and Health Education' 2013 [Main Findings and Recommendations \(assets.gov.ie\)](#)



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be tailored to each age group. Those delivering the training should receive standardised training and support.<sup>187</sup> Consideration should be given to having external facilitators with comprehensive knowledge delivering sensitive sexual material contained within the RSE module.<sup>188</sup>

153. Research conducted with the support of RCNI in 2013 formed the basis of a SMART Consent Workshop on sexual consent for third level students which was developed and piloted between 2016 and 2018.<sup>189</sup> 76% of students agreed that their sexual health education left out a lot of important and crucial information, indicating that students rely on informal sources of information.<sup>190</sup> An Active\* Consent programme was established in NUI Galway in 2019, and in 2022 the first national online resource on consent awareness in Ireland was launched.<sup>191</sup> The final report found that there was no coherent policy development across third level institutions in the organisation and resourcing of relevant student supports, posing a challenge to the establishment of a coherent, consistent, and evidence-based response to support students.<sup>192</sup> The report also noted the absence of routine data collection on sexual violence among third level students to understand prevalence and underpin prevention strategies and policy development.<sup>193</sup>
154. The Framework for Consent in Higher Education Institutions: Safe, Respectful, Supportive and Positive – Ending Sexual Violence and Harassment in Irish Higher Education Institutions is a government owned framework setting out obligations in prevention and response to all publicly funded higher education institutions. The Higher Education Authority in consultation with the HEI and SV sector have initiated a national base line survey and are developing monitoring mechanisms. The HEIs have worked collaboratively to build considerable policy and resources to support the framework which includes primary prevention initiatives.<sup>194</sup>

The HEI's have developed institutional committees to oversee implementation but there is largely no dedicated staffing in HEIs or NGOs to support the considerable undertakings. Nor is there sufficient resources, training or specialisation available to meet the secondary prevention needs arising. Many HEIs have been slow to partner with their community specialists and few have taken the step to resource the civil society organisations to meet the needs that arise within their institutions. There has been no capacity supported at ngo

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<sup>187</sup> National Council for Curriculum and Assessment (2019) Report on the review of relationships and sexuality education (RSE) in primary and post primary schools. Retrieved from <https://ncca.ie/media/4319/report-on-the-review-ofrelationships-and-sexuality-education-rse-in-primary-and-post-primary-schools.pdf>

<sup>188</sup> RCNI (2021) [RCNI-Storm-and-Stress-FINAL.pdf](#) p22

<sup>189</sup> McNeela, Breen, Byrnes, O'Higgins, Seery, Silke (2020) Development, Implementation, and Evaluation of the SMART Consent Workshop on Sexual Consent for Third Level Students [SMART-Consent-Workshop-Report-Summary-WEB.pdf \(nuigalway.ie\)](#)

<sup>190</sup> McNeela, Breen, Byrnes, O'Higgins, Seery, Silke (2020) Development, Implementation, and Evaluation of the SMART Consent Workshop on Sexual Consent for Third Level Students [SMART-Consent-Workshop-Report-Summary-WEB.pdf \(nuigalway.ie\)](#) p6

<sup>191</sup> The Consent Hub, NUI Galway [Active\\* Consent - NUI Galway; www.consenthub.ie](#)

<sup>192</sup> McNeela, Breen, Byrnes, O'Higgins, Seery, Silke (2020) Development, Implementation, and Evaluation of the SMART Consent Workshop on Sexual Consent for Third Level Students [SMART-Consent-Workshop-Report-Summary-WEB.pdf \(nuigalway.ie\)](#) p17

<sup>193</sup> McNeela, Breen, Byrnes, O'Higgins, Seery, Silke (2020) Development, Implementation, and Evaluation of the SMART Consent Workshop on Sexual Consent for Third Level Students [SMART-Consent-Workshop-Report-Summary-WEB.pdf \(nuigalway.ie\)](#) p18

<sup>194</sup> <https://hea.ie/policy/policy-development/unmuteconsent/>



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specialist level which would have helped in identifying these gaps and supported development although ngos have been asked to contribute to advisories nonetheless. Where local civil society organisations have been most successful is where they have existing dedicated education and training capacity. The state have selected some SV centres to resource in this manner and others not and have not sustained or guaranteed this capacity. This has contributed to widening postcode disparities and continuous loss of expertise.

155. There are recent additions of some relevant content on specific third level courses (for example the first cohort of social workers with core training on sexual violence against children will graduate in 2022). There are no compulsory or optional modules available for all students outside specific and limited fields.<sup>195</sup>
156. Article 14.2 extends the obligation to promote the principles of the Convention in all informal educational activities including organised activities such as scouting, sport and youth associations. In 2016 allegations of child sexual abuse were made to Scouting Ireland and in 2018 the state suspended funding to Scouting Ireland following a criminal investigation into alleged cover-up of sexual abuse. A report of the investigation was published in 2020<sup>196</sup> and in 2021 the chief scout, the chief commissioner and a board member were finally expelled after 275 alleged perpetrators were identified. Scouting Ireland was in contact with the CFA throughout the period and new safeguarding procedures were finalised in 2021. Two of the 275 alleged perpetrators have been convicted.

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<sup>195</sup> Sweden: Since 2018, men's violence against women has become an compulsory subject for university students in various fields

<sup>196</sup> RTE news report (14 May 2020) Historical Abuse in Scouting: A Learning Review [scouting-ireland-report.pdf](https://www.rte.ie/news/ireland/2020/05/14/scouting-ireland-report/) ([rte.ie](https://www.rte.ie/))

Training of Professionals (Article 15)

157. Significant progress has been made in the area of training for professionals especially by An Garda Síochána, the Office of the Director of Public Prosecutions, the Courts Service, the Bar Council, the Law Society, the Probation Service and the judiciary.
158. Specialist systematic and mandatory initial and in-service training has never been available for professionals who, in the course of their work, come across victims or perpetrators of violence against women. This means that the vast majority of the currently serving professionals across all categories have not had the required general training on prevention and detection of violence against women, equality and gender sensitivity, the needs and rights of victims, and the prevention of secondary victimisation. This majority cohort of professionals have also not had been provided with systematic and mandatory specialist training on all forms of violence within the scope of the convention.
159. Some specialist groups of law enforcement and judiciary have had more in-depth training, but again, training is not sustained, assessed, accredited or mandatory. Some groups of professionals have had ad-hoc or once-off access to some training, but this is not usually sustained, assessed, accredited or mandatory. Attendance at a single lecture or webinar, or a 1 or 2-day course is generally insufficient for public-facing professionals and may not include training on the Istanbul Convention. Standard initial and in-service curricula must be developed for each profession in collaboration with the specialist-representative organisations.
160. The lack of systematic and mandatory training on all forms of violence within the scope of the convention at initial and in-service levels for all relevant professionals continues to have serious implications for victims and for the professionals themselves. An action plan for developing standard Istanbul Convention curricula across all the professions, with respect to the independence of the professions, should be developed.

Each relevant professional body has by now recognised the deficiencies and is working towards including new curricula content. Specialist-representative organisations are usually but not systematically consulted to provide their experience in providing expert human-rights based, survivor-centred training content on all aspects of all forms of violence within the scope of the convention.

161. The new training curricula will need to be supported by online on-demand expertise and training resources for professionals to access as required. In order to provide the required training to all relevant professionals in an expedient way it is inevitable that there will be heavy reliance on online resources. However, the tendency towards the sole use of online resources for specialist DSGBV against women training must be discouraged as far as practicable.
162. The training of the relevant professionals also needs to be supported by clear protocols and guidelines that set standards for professionals in respective fields and inter-agency co-operation. The specialist-representative organisations advocate for inclusion of further training on disclosure and active referral to specialist organisations and active interagency cooperation. Specialist-representative organisations should be consulted to provide survivor-centred recommendations.

163. Clear protocols and guidelines are also required to set the standards for and on which to base the training for all professionals working with women or children who are victims of violence or exposed to violence, to ensure knowledge of the needs and characteristics of all vulnerable persons, particularly those with intersectional needs. Consultation between professional bodies and specialist organisations is also crucial for the development of clear protocols, guidelines, standards and training resources for all professionals working with women or children who are victims of violence or exposed to violence, to ensure victim centred approach consistent with Istanbul Convention.
164. The budget and human resources required to make up for the legacy of deficits in training to allow all serving personnel to undertake the required CPD and to overhaul the initial training for each profession is very significant. The most cost-effective, timely and conscientious approach may be to resource the specialist-representative organisations to immediately engage with pedagogical experts to design and produce online and face-to-face training resources, to be delivered by the professional bodies as part of their regular initial and in-service training modes and schedules. The design of MOCs (Massive Online Courses) should also be considered for rapid dissemination of expertise to relevant professionals. However, face-to-face and experiential learning should be the preferred methodology.
165. With respect for the independence of the judiciary, the lack of mandatory and continuous judicial education is unusual. Training obligations cannot be imposed on the judiciary or lawyers, despite the obligation on the State to provide training, due to the common-law principle that the judiciary must be independent of the executive and the legislature. According to a Council of Europe report in 2018, Ireland was one of 3 states in Europe without mandatory CPD for judges.<sup>197</sup> In 2019 a Judicial Council was established, and continuous education of judges became one of the functions of the new body.<sup>198</sup> Specialist-representative organisations were involved in 2 CPD trainings for small cohorts of judges in 2021, and have been invited to make suggestions for sustained input.<sup>199</sup> Judges were not released from court duties in order to take training and attendance may improve where judges are supported to attend.<sup>200</sup>
166. With respect for the independence of other professional bodies, including those members in state employ who work with victims, CPD for professionals already in-service on the full range of subjects required by the Convention should be mandatory and informed by specialist organisations. 'Any training initiative should be recognised as a necessary and legitimate use of employees' time across all State agencies and relevant professions; training time should be

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<sup>197</sup> [Formal training is needed to ensure judicial excellence \(lawsociety.ie\); https://rm.coe.int/rapport-avec-couv-18-09-2018-en/16808def9c](https://rm.coe.int/rapport-avec-couv-18-09-2018-en/16808def9c)

<sup>198</sup> Judicial Council Act 2019 <http://www.irishstatutebook.ie/eli/2019/act/33/enacted/en/html>

<sup>199</sup> In autumn 2021, the Judicial Council ran its first two intensive training sessions on sexual violence. In each, representatives from specialist civil society organisations were asked to lead off the session by explaining what it was like to be a victim of sexual violence going through the criminal justice system. The aim of this session was to train attending judges to pass on the training they had received to others. We understand that the first two sessions were very well received and that more sessions are planned.

<sup>200</sup> As with other independent legal practitioners, judges do not have adequate dedicated work time to attend training as the pressure of their work preparing for, hearing, and drafting judgements does not allow easily for time to be set aside for it. Our understanding is that at least pending the independent report on specialist training, now expected shortly, there is no Government funding provided for this purpose.

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built into the working year for all criminal justice professionals and should be paid – it should not be necessary for any such professional to undergo necessary training in their own time.<sup>201</sup>

167. Social Worker core training did not include specialist information on all forms of violence covered by the Convention during the period, and there is no evidence to show that awareness-raising or training material that fulfils the Convention obligations has been specifically and systematically targeted at the large cohort of serving social workers. The first cohort of social workers to have sexual violence against children included in their professional training will graduate in 2022.<sup>202</sup> *“Safe Ireland repeatedly calls for appropriate training for all those who decide on children’s futures and well-being. In particular, social workers, court assessors, legal representatives and the judiciary, must have depth-training in the dynamics of domestic violence in order to avoid further victimisation.”*<sup>203</sup>
168. Police and law enforcement (AGS An Garda Síochána): Law enforcement professionals’ core training does not include much specialist information on all forms of violence covered by the Convention, and there is no evidence to show that accredited CPD training that fulfils the Convention obligations has been specifically targeted at the large cohort already in service, though this is set to change in the near future. It is not clear that either specialist core or in-service training is yet available to all law enforcement professionals, beyond those in specific specialist roles. Relevant training has been made available, in collaboration with RCNI and other ngo collaborators, to a small cohort in certain specialist roles (Divisional Protective Services Units - DPSUs<sup>204</sup>). Specialist in-service training is not mandatory for any other role. Since 2017, specialist trained members of the police (DPSU) should all receive intensive training and up to the onset of Covid, this was provided face to face. Our understanding is face-to-face training will resume. In addition to these formal initiatives, members of An Garda Síochána regularly participate at both local and national level in events run by specialist-representative NGOs and specialist civil society support services on domestic and sexual violence related topics. At some of these events, they too are co-trainers. An Garda Síochána First Responders, prior to DPSU level, still lack the necessary training. For a recent rape or assault, a first responder may use a squad car, arrest a suspect, secure evidence and bring the victim to SATU, all before a DPSU is available. The roll-out of the required CPD to first responders and the majority of garda in every station is far from complete, but it is their aim to ultimately ensure that all AGS members outside of specialist roles should have training in DSGBV issues. This aim is supported by the 3rd National Strategy on DSGBV.<sup>205</sup>
169. Prosecutors (DPP): There is now a dedicated specialist Sexual Offences Unit within DPP’s office. We understand that there is some specialist training provided to members of the Unit and also within the office generally on domestic violence and abuse. While to the best of our

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<sup>201</sup> [Microsoft Word - Safe Ireland Criminal Justice Strategy Submission 10th August 2020.docx](#)

<sup>202</sup> ‘The service had completed a training needs analysis that identified training in the national model of social work practice and training in internet safety as the two greatest needs for the SAI teams.’  
<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiq2ppqVnsn5AhWMS0EAHaB5CTUQFnoECB8QAQ&url=https%3A%2F%2Fwww.hiqa.ie%2Fsystem%2Ffiles%3Ffile%3Dinspeccionreports%2F4404-CPW%2520Cavan%2520Monaghan-14%2520November%25202019.pdf&usg=AOvVaw04FPDKV7sa2NAfpKsSYxel>

<sup>203</sup> Safe Ireland (2021) No Going Back p7

<sup>204</sup> Since late 2021 there is one DPSU in each of the 28 Garda divisions, with 392 specially trained Garda personnel assigned to those units on a full time basis [Domestic, Sexual & Gender Based Violence - Garda](#)

<sup>205</sup> RCNI (2021) [RCNI-Garda-Strategy-Statement-2022-2024-Submission-April-2021-Final.pdf](#)

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knowledge DPP officers are not mandated to attend, they can and do attend workshops, conferences and other fora on both domestic and sexual violence regularly.

170. Legal professionals: accredited specialist DSGBV training for legal professionals is not in place at initial or in-service levels and a register of trained individuals is not available. Specialist in-service training is not mandatory. However, there is a detailed online training course available on victims' rights and related issues, including sexual and domestic violence, and over the last two years at least, both branches of the profession have run intensive training days on domestic violence and sexual violence.<sup>206</sup>
171. Counselling professionals, psychotherapists: Training for therapists, health and social care professionals is addressed by the professional bodies for each profession and is largely independent of the state.<sup>207</sup> A mandatory body for the regulation of these professions (CORU) was established<sup>208</sup> to regulate the standards and education and fitness to practice multiple health professions. CORU assesses, approves and monitors training courses for the relevant professions. Psychologists, psychotherapist and social care workers will fall under CORU's remit in future, but are not currently regulated.<sup>209</sup> Accredited specialist DSGBV training is not available or mandatory, inspection has not commenced, and a register of trained specialist counsellors does not exist.
172. As training for professionals is largely in the hands of the professional bodies, the State cannot ensure that specialist DSV NGOs have opportunities to progress specific and specialist recommendations into initial and core training for all categories of professionals. There is no formal obligation on any of these professionals, either statutory or contractual, to incorporate specific and specialist requirements of the Convention into the initial or core training for each one of these professions. With respect to the independence of the professions, the State has very little control over the CPD or in-service training for the professions. RCNI has been invited to deliver mostly non-compulsory, non-accredited CPD for a range of professionals on sexual violence. Further optional courses have been provided by other specialist-representative civil society organisations. Specialist training was developed by the SV sector under the RCNI in collaboration with civil society specialists where standards and curriculum were established and a register maintained. However, the statutory funded for this work ceased during the years of austerity and has not been reinstated. Current sectoral specialist training is irregular, fragmented and unaccredited. Today the sector faces a recruitment crisis.
173. Collaboration with professional bodies on training and curricula development for professionals provides specialist-representative organisations with opportunities to present recommendations, in particular as to how survivors should be treated, as well as trauma related issues. Safe Ireland have commenced an initiative with the Irish Pharmacy Union (IPU), and the pharmacy college have now indicated that they would like input into curricula.

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<sup>206</sup> In relation to sexual violence, the professional training bodies have approached RCNI and other specialist organisations to ask them to participate directly in the training over the last couple of years. In autumn 2021, RCNI was invited to (and did) attend to speak on the victim's perspective to a group of barristers (trial lawyers) on sexual violence, but the domestic violence specialist-representative organisation was not included and we are not aware of invitations for any other specialist-representative organisations for other forms of violence.

<sup>207</sup> RCNI (2021) Clinical Innovation Project (CIP) research, pending publication

<sup>208</sup> Health and Social Care Professionals Act 2005 (as amended) [Health and Social Care Professionals Act 2005 \(irishstatutebook.ie\)](#)

<sup>209</sup> CORU Strategic Plan (2022-2026) [coru-statement-of-strategy-2022-2026.pdf; What is CORU - Coru;](#)

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The specialist-representative organisations need additional financial and human resources to co-develop curricula at this level. RCNI provides training to various professional bodies and provides consultation on curricula and training development. However, RCNI urgently needs additional capacity in terms of educational development roles, especially as far as training for professionals in counselling<sup>210</sup> is concerned. Further, capacity across the sector to deliver specialist training is limited with only some rape crisis centres funded to support a trainer role. Education and training are resource-intensive, and the formal consultation and input phase of curriculum development is a rare opportunity as curricula are infrequently revisited. The Convention has created an impetus for the professions to include the required subjects for the first time, and the specialist-representative organisations, with current capacity, will struggle to keep up with the demand.

174. There are very limited opportunities for accredited training on domestic violence.<sup>211</sup>
175. Following a high-profile rape trial<sup>212</sup> in 2018 the Minister for Justice and Equality appointed a Working Group with representatives from key criminal justice agencies to review and report on protections available to vulnerable witnesses, during investigation and prosecution of sexual offences and access to specialist training for police, judiciary and legal professionals. At the time, many of the key procedural provisions were outdated and initial or continuous specialist training was not mandatory, accredited or even generally available for relevant professionals.
176. Specialist-representative organisations such as RCNI and SI advocated for specialist training for police, judges, barristers and solicitors for many years, including in the RCNI 2018 collaborative publication 'Hearing Every Voice – Towards a New Strategy on Vulnerable Witnesses in Legal Proceedings'.<sup>213</sup>
177. In 2020 the O'Malley report<sup>214</sup> recommended specialist training to sensitise relevant professionals (including law enforcement personnel and all those providing counselling,

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<sup>210</sup> RCNI CIP research (2021) found that 91% of counsellors surveyed wanted mandatory specialist CPD

<sup>211</sup> DKIT Level 8 Cert, UL Family Law module, LIT Level 6, TCD Micro credential 5Ects - DV & Child Protection. Most recently Carlow IT

<sup>212</sup> Belfast Rape Trial R vs Jackson & Olding et al [2018] NICC 20; The Irish Times (28 Mar 2018) [Inside Court 12: the complete story of the Belfast rape trial – The Irish Times](#)

<sup>213</sup> RCNI 'Hearing Every Voice – Towards a New Strategy on Vulnerable Witnesses in Legal Proceedings' 2018 advocated for the following. 1. Professional training, which already covers victim-related issues, should also emphasise that all advocates examining vulnerable witnesses in our criminal courts should ensure that they familiarise themselves with the best techniques to facilitate the witness (whether for the prosecution or the defence) to give their best evidence with the minimum risk of unnecessary confusion or distress; 2. Resources adequate to ensure that advanced advocacy training is made available to all solicitors as well as barristers working in our criminal courts, must continue to be provided by their professional bodies, their employers (where applicable) and by Government. 3. Continuing professional development (CPD) programmes now running for barristers who are members of the Law Library in Ireland include an advanced advocacy course which examines in detail such topics as how to cross-examine without repetition, without using multi-part questions, without putting tags on questions, without using obscure language and complicated structures, and without hectoring, lecturing, demeaning, or otherwise badgering the witness. This is especially important for vulnerable witnesses. 4. CPD programmes on issues relevant to vulnerable witnesses must also continue to develop and must be resourced adequately, for judges, members of An Garda Síochána and the Courts Service, so that it is feasible for each of these professions to attend this training.

<sup>214</sup> O'Malley report, [Review of protections for vulnerable witnesses in the investigation and prosecution of sexual offences \(justice.ie\)](#)



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support and services) to the trauma experienced by all victims of sexual violence, irrespective of age, gender or capacity and to counter rape myths.

The O'Malley recommendations tasked the State with responsibility for adequate training of those in State employ, and with State inspection of private and civil society organisations to ensure that all staff are adequately trained and qualified. These recommendations have been pursued and various committees established but progress has been slow. The Bar Council of Ireland and Law Society of Ireland programmes for initial and continuous training have not yet been implemented (May 2022). Some of the delays are due to delays in funding commitments from the State. Training for judges commenced in 2021 (8 x 2 judges attended a training by Feb 2022) however training has been delayed as judges have not been released from their court assignments to attend training. A consultant was engaged in April 2022 to map the provision of training and this exercise will be followed by an evaluation process to establish gaps and efficacy. Following this process, more progress should be made (2023). The 3<sup>rd</sup> National Strategy on DSGBV shows that the Department of Justice will lead on implementation of appropriate training for all personnel in State agencies who are likely to meet victims of sexual crime via a planning committee. The judiciary and legal professionals are independent of government, so statutory mandatory training is not possible.

In short, a State mapping exercise of training for law enforcement, prosecution, legal and judiciary professionals is in progress (August 2022). All of these professional bodies are currently active in examining and reforming provision of specialist DSGBV training. Currently all existing professionals in these professions are not adequately or systematically trained before taking up duties. Once in service, training is voluntary and limited in scope. Training may be further limited by failure to release professionals from duties to undertake training on paid time.

178. RCNI has formally participated in a committee on specialist training as State agencies move towards meeting some of the requirements of the Convention. The process is still in the mapping existing training phase, and not the content of future training, but a dedicated multi-agency sub-group is looking at Specialist Training. This will be a long process and individual State agencies will develop training separately. The State has not ensured that specific and specialist recommendations from specialist-representative organisations will be incorporated into initial or core training for any category of professionals. There is no formal obligation put on any of these professionals, either statutory or contractual, to incorporate specific and specialist recommendations into the initial or core training for each one of these professions. Published data on the availability and mandatory or accredited nature of specialist training for the other categories of professionals listed in the GREVIO Questionnaire Appendix is not available. We are not aware of the extent or quality of initial or in-service training on DSGBV against women for the following staff and professionals in general services. There are likely significant gaps at qualification and in-service levels.

- Immigration/asylum officials<sup>215</sup>
- Medical doctors
- Nurses and midwives

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<sup>215</sup> DCEDIY successfully tendered for some training to be developed in mid 2021

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- Educational staff and school professionals<sup>216</sup>
- Journalists and other media professionals
- Servicemen and women
- Social welfare
- Primary Care
- Interpreters<sup>217</sup>
- Carers in nursing homes and in home care by private providers.

### Preventive intervention and treatment programmes (Article 16)

179. Parties are required to provide programmes that prevent perpetrators from reoffending and continuing violent behavioural patterns. Programmes should work closely with specialist support services for victims and make the safety, human rights and support for victims a primary concern.
180. Paragraph 3 calls for Parties to *ensure that the safety of, support for and the human rights of victims are of primary concern and that, where appropriate, these programmes are set up and implemented in close co-ordination with specialist support services for victims.*<sup>218</sup>
181. Specialist-representative organisations and specialist support services are chronically underfunded for the services that they already provide and are not resourced to do this work. The expansion of specialist organisations to include new programmes requires dedicated funding and new roles.
182. State funders should not put pressure on specialist support services to engage with programmes that are not appropriate to their core ethos, that are not developed in close co-ordination with the specialist support services and their specialist-representative NGOs, and

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<sup>216</sup> IHREC 2019 [Statement-on-Ratification-of-CoE-Convention-on-Preventing-and-Comating-Violence-Against-Women-and-Domestic-Violence.pdf \(ihrec.ie\)](https://ihrec.org/2019/07/24/statement-on-ratification-of-coe-convention-on-preventing-and-comating-violence-against-women-and-domestic-violence.pdf) citing recommendation of the HRC Special Rapporteur on the sale and sexual exploitation of children for the Government to guarantee sexual education that is compulsory, comprehensive, evidence-based and inclusive. Human Rights Council, [Visit to Ireland: Report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material](https://www.ohchr.org/en/hrbodies/hrc/special-rapporteurs/special-rapporteur-on-sale-and-sexual-exploitation-of-children) (March 2019) at pp. 15-16

However the NCCA curriculum review does focus on teacher training and support <https://ncca.ie/en/senior-cycle/curriculum-developments/senior-cycle-social-personal-and-health-education-sphe/>

<sup>217</sup> IHREC 2019 [Statement-on-Ratification-of-CoE-Convention-on-Preventing-and-Comating-Violence-Against-Women-and-Domestic-Violence.pdf \(ihrec.ie\)](https://ihrec.org/2019/07/24/statement-on-ratification-of-coe-convention-on-preventing-and-comating-violence-against-women-and-domestic-violence.pdf) “With regard to legal interpretation services, there is no accredited training, regulations or quality assurance mechanisms in place. This has resulted in the lack of availability of appropriately trained Irish Sign Language and other interpreters with technical expertise for legal proceedings, as well as variations in the standard of interpretation services provided” citing Law Society Gazette, A matter of interpretation: Legal interpretation in Ireland (2017) and Joint Committee on Justice and Equality, Reform of Family Law System: Discussion (Resumed) (13 March 2019). The Irish Sign Language Act 2017 is due to come into operation by December 2020, three years after its enactment. It requires Irish Sign Language interpretation and translation services to be available in legal proceedings, as required.

<sup>218</sup> Istanbul Convention Article 16.3

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that do not ensure the safety of, support for, and the human rights of victims as the primary concern.

183. Recent research found that specialist support professionals, especially at refuges, felt obliged by State funders to take responsibility for co-facilitation at programmes for perpetrators without the required resources or time to develop a sector-wide response or adequate planning and training. Specialist support services train workers and trainers in specific ways to work with women survivors of DSGBV, and the expectation that these specialist trainers would be available to co-facilitate very different specialist programmes for male perpetrators is inappropriate.<sup>219</sup>
184. The research found that some domestic violence support workers had felt obliged to facilitate perpetrator programmes, provide partner support or sit on steering committees and subsequently resigned or become conflicted about the role after witnessing increased risk to women whose partners were following programmes. Rigorous standards and guidelines were not being consistently applied, and there were doubts about the capacity of the programme to hold participating perpetrators to account. Perpetrators were using meetings to share tips on how to control women, and evading accountability and supervision.<sup>220</sup>
185. Behavioural change programmes for perpetrators have rapidly become part of domestic violence work and therefore there must be training, supervision and other supports for specialist support workers, as women may have partners and ex-partners participating in them.<sup>221</sup>
186. The pressure from funders to take on the work with perpetrators came with fears that if the specialist domestic violence support services do not take on this work, then facilitators with no expertise in coercive control or DSGBV may take up the work. Domestic violence support services reluctantly undertook to co-facilitate on perpetrator programmes under pressure from funders and to ensure that an understanding of coercive control and perpetrator tactics was brought to the programme.<sup>222</sup>
187. Refuge workers have also been asked to provide partner support for women to attend perpetrator programmes with their (ex)partners. There must be additional focus on keeping women and children safe as women will attend to help the perpetrator and give him another chance, and perpetrators will abuse that vulnerability. Part of the tactics of the perpetrator will be to misuse these programmes, and understanding of coercive control is very important.
188. Restorative justice is to be considered by the new Agency under the third national strategy (3.3.12)

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<sup>219</sup> Wilson, Niamh (2022) Thinking Together: A feminist collaborative inquiry into pedagogical approaches for domestic violence work in Ireland [Niamh Wilson PHD thesis.pdf \(maynoothuniversity.ie\)](#) p205

<sup>220</sup> Wilson, Niamh (2022) Thinking Together: A feminist collaborative inquiry into pedagogical approaches for domestic violence work in Ireland [Niamh Wilson PHD thesis.pdf \(maynoothuniversity.ie\)](#) p206

<sup>221</sup> Wilson, Niamh (2022) Thinking Together: A feminist collaborative inquiry into pedagogical approaches for domestic violence work in Ireland [Niamh Wilson PHD thesis.pdf \(maynoothuniversity.ie\)](#) p207

<sup>222</sup> Wilson, Niamh (2022) Thinking Together: A feminist collaborative inquiry into pedagogical approaches for domestic violence work in Ireland [Niamh Wilson PHD thesis.pdf \(maynoothuniversity.ie\)](#) p208

### Participation of the Private Sector and the Media (Article 17)

189. The proliferation of online abuse, ‘harmful content’ and ‘age-inappropriate content’ has not been sufficiently controlled by self-regulatory codes in the absence of regulation, nationally and internationally.
190. The Government must take every possible measure, nationally and internationally, to restrict access to online material that juxtaposes sex and violence where sexual violence, misogyny and women’s degradation and pain is promoted as sexualised, normal and aspirational.
191. Article 17 para 1 requires States to encourage the media, ICT sector and the private sector to participate at policy level and implementation level of measures to prevent violence against women. Secondly it requires States to encourage these bodies, public and private, to establish internal protocols for sexual harassment and ethical codes of conduct for gender-sensitive non-sensationalist media coverage that combats gender stereotypes and violence against women.

The new Online Safety and Media Regulation Bill (2022) will go some way to regulate and hold to account online service providers, particularly those hosting ‘harmful content’, through the establishment of an Online Safety Commission<sup>223</sup> and a dedicated Online Safety Commissioner. However, the Bill has not found a way to tackle the easy availability to young people of so-called ‘legal’ pornography or ‘age-inappropriate content’ such as by the introduction of age-verification measures and automated means to detect, limit and remove content from the time-lines of minors.<sup>224</sup>

- The new Online Safety and Media Regulation Bill (2022) at present does not contain provisions for an individual complaints mechanism to ensure citizens have access to an effective remedy (An expert working group has been established to make recommendations, but the Bill has proceeded through pre-legislative scrutiny and Seanad debate without sight of the recommendations or any provision for an independent complaints mechanism). The Children’s Rights Alliance led coalition will continue to advocate for a dedicated independent complaints mechanism.
- It is worth noting that many of the private companies to be regulated have their European Headquarters in Ireland and the new Act will therefore have reach over the EU and Ireland may be handling complaints from all over the EU. The regulatory infrastructure is not yet in place and will require significant capacity.
- The real politic is that there is an economic imperative not to drive the private companies out of Ireland, or to carry the economic burden for the whole of Europe.
- The implementation and enforcement of GDPR through the Data Protection Commission needs to be significantly better resourced and improved to uphold the rights of survivors.

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<sup>223</sup> Coimisiún na Meán (The Media Commission) [Online Safety and Media Regulation Bill 2022 \(oireachtas.ie\)](https://www.oireachtas.ie/en/bills/2022/online-safety-and-media-regulation-bill-2022/)

<sup>224</sup> Deputy Catherine Martin, Minister for Tourism, Culture, Arts, Gaeltacht, Sport and Media, Seanad Éireann debate Online Safety and Media Regulation Bill 2022: Second Stage Vol. 283 No.1 [Online Safety and Media Regulation Bill 2022: Second Stage – Seanad Éireann \(26th Seanad\) – Tuesday, 22 Feb 2022 – Houses of the Oireachtas](https://www.oireachtas.ie/en/debates/debate/seanad/2022/02/22/online-safety-and-media-regulation-bill-2022-second-stage-seanad-26th-seanad-tuesday-22-feb-2022-houses-of-the-oireachtas/); [Online Safety and Media Regulation Bill 2022: Committee Stage \(Resumed\) – Seanad Éireann \(26th Seanad\) – Thursday, 26 May 2022 – Houses of the Oireachtas](https://www.oireachtas.ie/en/debates/debate/seanad/2022/05/26/online-safety-and-media-regulation-bill-2022-committee-stage-resumed-seanad-26th-seanad-thursday-26-may-2022-houses-of-the-oireachtas/)

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- The Online Safety and Media Regulation Bill (2022) has the potential to be hard-hitting on age-inappropriate online content. Progress on the Bill and decisions as to how tighten up regulation in this area are pending decisions at EU level on the way ahead based on the recommendations of the present large scale EU research project.<sup>225</sup>
192. On general reporting in the media, while the media is largely responsive to advocacy there remains challenge over language and headlines in particular, e.g., framing descriptions of violence against women.<sup>226</sup> Women’s sexual objectification remains a feature of Irish media and marketing. Work needs to be done with the Press Council, as press media is private sector and self-regulated. The BAI Broadcast Authority is charged with setting codes of compliance for radio and TV, and legislation could extend those codes to provide guidance/compliance, at least for those under that regulation.
193. The imperative of the reputable media to provide balance has sometimes translated into treating ‘both sides’ equally. This has at times been inappropriate, pitting facts and expertise against ignorance and misinformation to facilitate a ‘debate’. How the media responsibly reports and what if any regulation there might be to support same, continues to be a matter of ongoing debate.

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<sup>225</sup> EU Consent Project <https://euconsent.eu>

<sup>226</sup> For example, Rewriting headlines, [www.wefixedit.ie](http://www.wefixedit.ie); See Appendix 2 for recent reporting and media examples.

## Chapter IV –Protection and Support (Articles 18 to 28)

### General Obligations (Article 18)

194. The State has not taken all *the necessary legislative or other measures, in accordance with internal law, to ensure that there are appropriate mechanisms to provide for effective co-operation between all relevant state agencies, including the judiciary, public prosecutors, law enforcement agencies, local and regional authorities as well as non-governmental organisations and other relevant organisations and entities, in protecting and supporting victims and witnesses of all forms of violence covered by the scope of this Convention, including by referring to general and specialist support services as detailed in Articles 20 and 22 of this Convention.*<sup>227</sup> The failure of the State to provide the required co-ordination and monitoring of the implementation of the Convention has contributed to the failure to address inter-agency protocols. A committee or other mechanism must be established to collaboratively agree protocols that enable diverse professionals to cooperate on individual cases in a standardised manner. Specialist-representative organisations must be included in the co-ordinating mechanism to guarantee the rights of victims are safeguarded in protocols and practice. Protocols for multi-agency co-operation on individual cases need to include both short-term and long-term supports as standard, such as counselling, social welfare, housing, employment, and education, to support the long-term recovery, economic independence and empowerment of women. Both bilateral and multi-lateral protocols are required and must include specialist civil society support services and local authority services. It is very welcome, therefore, that this will be addressed in collaborative fashion in the new 3<sup>rd</sup> National Strategy.<sup>228</sup>
195. The State has not ensured that all protection and support measures shall be *based on a gendered understanding of violence against women and domestic violence and shall focus on the human rights and safety of the victim.*<sup>229</sup> The failure to provide professional training at core and in-service levels on domestic, sexual and gender-based violence against women has prevented a gendered understanding of the pathways out of violence for women. The impacts of the failings in training continue to impact women.<sup>230</sup>
196. The State has not ensured that all protection and support measures shall be *based on an integrated approach which takes into account the relationship between victims, perpetrators, children and their wider social environment.*<sup>231</sup> Training deficits among professionals at State agencies may mean that the structural, social and gender dimension of DSGBV against women is not well understood, with consequences for all protection measures. Legacy issues remain in the architecture and environment of some services, including many of the courts, where separate waiting areas for victims and perpetrators are not always in place.<sup>232</sup>

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<sup>227</sup> Istanbul Convention Article 18.2

<sup>228</sup> 3<sup>rd</sup> National Strategy on DSGBV, Implementation Plan 2.2.1

<sup>229</sup> Istanbul Convention Article 18.3

<sup>230</sup> This is being addressed in the new 3<sup>rd</sup> National Strategy on DSGBV which includes actions to improve professional training – see Implementation Plan actions under paragraph 1.4 generally.

<sup>231</sup> Istanbul Convention Article 18.3

<sup>232</sup> This is being addressed in the 3<sup>rd</sup> National Strategy on DSGBV – see actions under 2.2 in Implementation Plan.



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197. The State has not ensured that all protection and support measures shall *aim at avoiding secondary victimisation*.<sup>233</sup> Training deficits among all the professionals are a key source of secondary traumatisation. The justice system is a key source of secondary traumatisation.<sup>234</sup>
198. The State has not ensured that all protection and support measures shall *aim at the empowerment and economic independence of women victims of violence*.<sup>235</sup>
199. The State has not ensured that all protection and support measures shall *allow, where appropriate, for a range of protection and support services to be located on the same premises*.<sup>236</sup> In a sector so defined by the lack of resources and capacity, it is essential to balance the need for local, evenly distributed, discreet services carefully with the concept of the one-stop-shop. Small local survivor-centred services with outreach and accompaniment, can reach more survivors than large formalised one-stop-shops. It is not always appropriate for survivors to have all services in one location, and it is unlikely that they will need all the services at the same time. What matters to survivors is how good the liaison is between the various services and how victim-focussed it is. Rape Crisis Centres and Domestic Violence Resource Centres and Refuges hold a survivor-centred holistic or 'one-stop-shop' ethos in the sense that the survivor can discuss, understand and be referred to all the supports that she needs. However, this ethos is severely limited by resources. For example, where accommodation allows, reporting to An Garda Síochána can be arranged to take place in a counselling room at the Refuge or Rape Crisis Centre or for the survivor to be accompanied to the Garda Station. The complex nature of the needs of survivors of DSGBV against women and children are such that medical, forensic, therapeutic, law enforcement, legal, justice, refuge, housing, social welfare and education needs will be involved at different times.
200. The State has not ensured that all protection and support measures *address the specific needs of vulnerable persons, including child victims*.<sup>237</sup>
201. The State has not ensured that all protection and support measures are made available to survivors, victims and witnesses with specific additional needs, including child victims.<sup>238</sup>
202. The State has ensured that the *provision of services shall not depend on the victim's willingness to press charges or testify against any perpetrator*.<sup>239</sup> All general and specialist civil society support services are offered irrespective of the victim's willingness to press charges or testify against the perpetrator. However, reports of child sexual violence are subject to mandatory reporting to the CFA.<sup>240</sup> Where there is a current risk to any child or children it is difficult or impossible to access services without consideration of mandatory reporting. Where a survivor is over 18 and disclosing abuse which happened when s/he was a child, a mandated report will have to be made if the person to whom the abuse was disclosed is a mandated reporter,<sup>241</sup> so that any current risk to children may be assessed and action taken if necessary.

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<sup>233</sup> Istanbul Convention Article 18.3

<sup>234</sup> This is set to change under the 3<sup>rd</sup> National Strategy on DSGBV - see actions under 1.4 in Implementation Plan

<sup>235</sup> Istanbul Convention Article 18.3

<sup>236</sup> Istanbul Convention Article 18.3

<sup>237</sup> Istanbul Convention Article 18.3

<sup>238</sup> Istanbul Convention Article 18.3

<sup>239</sup> Istanbul Convention Article 18.4

<sup>240</sup> See Reporting (Article 27) and Reporting by professionals (Article 28) in this report

<sup>241</sup> See Irish Statute Book, Children First Act 2015, Section 14 for mandated reporter occupations

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The mandatory reporting requirement presents a conflict of interest for mandated reporters as the aim of protecting further children from harm can be in conflict with the best interests of the child (or adult survivor of violence as a child) currently seeking services. Mandatory reporting can be unsafe for survivors and can inhibit survivors from accessing counselling or disclosing child abuse or sexual violence against another child during their counselling. Counsellors cannot offer a completely confidential space to speak about child abuse.

203. There is clear distinction between criminal proceedings and mandated reporting to the CFA. Only in rare circumstances does anyone have to make a report to law enforcement (AGS) about an offence against a child or vulnerable person without the consent of that person, and those circumstances have to do with direct confessions of guilt (rare) and incapacity to decide whether to make a report (also rare). In any other circumstance, it is up to the victim to decide whether to make a report to law enforcement (AGS), and this is completely independent of their ability to access services. However, in the parallel non-criminal system in several supportive settings (including rape crisis, DV services) disclosing any information about a possible risk to a child or children means, under the mandated reporting rules, a report must be made to the CFA. So, although submission to the mandated reporting process is not a *de jure* condition of accessing therapeutic services and various support services, it is often a *de facto* one. Typically, between 50 and 60% of rape crisis centre clients are adult survivors of childhood abuse. The CFA policy on Child Abuse Substantiation Procedure (CASP) is critical to how survivors are impacted by mandatory reporting and indeed how service providers fulfil their obligations to the client and the law. CASP is the new policy to replace the out of date policy. This is in force since 27<sup>th</sup> June 2022. This policy was informed by detailed submissions from counselling organisations and SV specialist NGOs and from other professionals in this field although the initial iteration in 2020 had not consulted with the specialist service providers or victims or their representatives.

### Information (Article 19)

204. All women victims of all forms of violence covered by the Convention do not receive adequate, timely information on support services and legal measures available to them, in a language that they understand, as required by Article 19, if they do not approach AGS, who have a statutory mandate to provide this information<sup>242</sup>. Victims of violence can find it extremely difficult to gather the courage to approach An Garda Síochána, not simply because they are afraid of possible adverse consequences such as being shunned by their own communities but also because they feel that they have little chance of making themselves and their own situation understood. An understanding of how different cultures perceive and react to police and other authority figures, as well as an understanding of how acts of violence against women are perceived – is vital for members of An Garda Síochána.<sup>243</sup>
205. Specialist civil society support services and Court Services are under-resourced to provide information and advice to all women, including outreach programmes, interpretation and

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<sup>242</sup> See Irish Statute Book, Criminal Justice (Victims of Crime) Act 2017, Section 7. There is a separate obligation on Courts Service staff to provide information about support services for domestic violence victims, in the local area to applicants for any order under the Domestic Violence Act 2018, Section 28.

<sup>243</sup> [RCNI-Garda-Strategy-Statement-2022-2024-Submission-April-2021-Final.pdf](#) p.5 Specialist unit garda training commenced in July 2022.

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translation services. Specialist support services record the number of women on waiting lists or who are turned away from services, but are unable to record the number of women who do not approach services due to expectation of waiting lists, interpretation requirements or other barrier. Research by RCNI has identified numerous barriers other than waiting lists that prevented survivors from accessing counselling services.<sup>244</sup> We are not aware of statistics from Courts Services on the number of women unable to access Courts Services.

206. Legal advice (not representation): During the period there was no statutory right to legal advice for all forms of violence covered by the Convention. There is a limited right for the victims of some serious sexual offences to access legal advice from the Legal Aid Board free of charge once an accused person had been charged in their case. The relevant offences do not include the most commonly charged offence, sexual assault, but do include rape, aggravated sexual assault, sexual acts with a person under 15 and under 17 respectively.<sup>245</sup> Following advocacy from the specialist-representative organisations there is now ministerial commitment to the extension of the Civil Legal Aid Act to cover more women and a wider range of offences, including the introduction of the right to legal advice (not representation) from beginning to end of sexual violence cases in the criminal justice system. However, this will not extend to domestic violence related criminal offences unless the case includes certain serious sexual violence offences.<sup>246</sup>
207. Victims of crime sometimes still report feeling forgotten or experiencing difficulties in contacting An Garda Síochána following reporting a crime to access updates on their case or speak of concerns about privacy and safety. RCNI recommended that contact details and role of the Garda Victim Service Office are always provided to victims immediately following making an initial report and at least once soon afterwards, face-to-face, as is in effect already mandated by Section 7 Criminal Justice (Victims of Crime) Act 2017. RCNI further suggested that the importance of proactive regular and reliable contact between Garda and victim is stressed in core and in-service training, with protocols for pro-active contact regardless of significant new developments on case.<sup>247</sup>
208. In our view, the effects of sexual violence are so serious and far-reaching that its victims should be regarded as intrinsically vulnerable, whatever their age or capacity.<sup>248</sup>
209. An Garda Síochána should take every opportunity to appear on mainstream and social media to give general advice about what to do if a person (of any age) becomes a victim of online sexual abuse whether it takes the form of circulating intimate images without consent, grooming, sextortion, deep-faking, distribution of child sexual abuse material, or whatever.<sup>249</sup>
210. There is widespread lack of interpretive and translation services and a prohibitive cost attached to both. Professional interpreting and translation services staffed by those who have some training in DSGBV is not available for use by AGS and specialist support services as and when needed, even as a remote or online service. This encourages the inappropriate use of relatives, children and untrained, partisan people to interpret or translate. Independent,

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<sup>244</sup> RCNI (2021) Clinical Innovation Programme (CIP), pending publication

<sup>245</sup> See Section 26(3A) Civil Legal Aid Act 1995 as amended

<sup>246</sup> This commitment was made under the Implementation Plan for the O'Malley Review recommendations and is due 2022.

<sup>247</sup> RCNI (2021) [RCNI-Garda-Strategy-Statement-2022-2024-Submission-April-2021-Final.pdf](#) p.3

<sup>248</sup> RCNI (2021) [RCNI-Garda-Strategy-Statement-2022-2024-Submission-April-2021-Final.pdf](#) p4

<sup>249</sup> RCNI (2021) [RCNI-Garda-Strategy-Statement-2022-2024-Submission-April-2021-Final.pdf](#) p.5

proficient interpreters and translators that are trained in the context of DSGBV are not available. There is a lack of transparency with regard to what and how information is being communicated by authorities to victims who need interpretation and there are significant concerns about confidentiality, and the effects on children involved.

### General support services (Article 20)

211. All public authority services do not take the situation of women victims systematically into account, do not employ measures and interventions to ensure the safety of women victims, and are not equipped to meet their specific needs and to refer them to the appropriate specialist support services. It depends where the victim reports: just as the training of professionals at initial qualification stage and in CPD is variable, so is the service provided. The response is not consistent and until mandatory training is in place for all professionals is in place this will remain the case. For example, general practice doctors (GPs) are required to attend 50 hours CPD per annum but to date there are no requirements for GPs (who may practice for up to 50 years between initial training and retirement) to undertake specialist training on violence against women.<sup>250</sup> The professionals most likely to meet victims in the course of work are more likely to have specialist training, for example all Sexual Assault Treatment Unit nurses have undertaken specialist training. Housing services, social welfare services, employment services, financial support services, teachers, education and training services, psychological support services and other relevant public services are far less likely to have taken specialist training or to be trained in the areas required by the Istanbul Convention. The Children First Act, for example, requires certain child protection protocols of teachers, therapists and other professions (“mandated persons”), but training provided in this work by CFA does not include all the relevant requirements of the Convention.
212. Core training for public facing jobs in public service does not systematically include all the training required by the Convention.
213. The pandemic has reduced the availability of victim rights training and specialist DSGBV against women training for all public service professions.
214. There is widespread absence of referral protocols and lack of awareness among state employees of domestic violence services. Referrals are ad hoc and reliant on individual relationships between services in the absence of formal protocols. There is often an absence of targeted enquiry and recording.
215. Where protocols and national standards for general services have been created, specialist-representative organisations and specialist support services have been invited to be key partners in their development. A good example is the Garda Síochána collaboration with Safe Ireland on a domestic violence referral protocol, which is currently being piloted in some areas.

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<sup>250</sup> In 2022 the Irish College of General Practitioners produced detailed guidelines on how to handle domestic violence in general practice.

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216. There is no standardised compulsory training on recognising and responding to domestic violence for employees at general support services.<sup>251</sup>
217. Theoretically all women survivors can access and benefit from appropriate health care and social services, but in practice there are difficulties for women without bank accounts, without postal address, without personal identification number (PPSN), or whose residency or visa is tied to that of her husband and who is subject to coercive control or trafficked or in prostitution. Access to accident and emergency medical treatment is subject to €100 cash payment on presentation at the hospital or advance notice from the patient's doctor. There are women who are afraid to contact services because of their status or membership of a particular social group. There are civil society organisations and charities that provide services for women in such situations, but these services tend to be in Dublin and may not be accessible to women without freedom or access to travel. Access to certain healthcare services (audiology, dental etc) based on entitlement to the Treatment Benefit Scheme needs the consent of the adult paying the PRSI payment. Women who are dependent on men may not be eligible for the scheme or treatment.<sup>252</sup>
218. Migrants face procedural and practical barriers to accessing health and social services, in addition to discrimination and negative attitudes towards them. A lack of interpreting services also impedes access. In theory undocumented migrants can get healthcare and medical treatment although most health services are contingent on having a Personal Public Services Number (PPSN) and migrants do not always feel safe in applying for a PPSN or have sufficient identity documents. Without a PPSN many services are unavailable. Free medical check-ups are available for homeless and undocumented people through the Capuchin Day Centre or 4 other Safetynet (registered charity) services (4 in Dublin, 1 mobile clinic in Cavan/Monaghan).
219. The State has failed in the requirement to provide equal access to health services and psychological counselling for all survivors of DSGBV. This includes access to health services and psychological counselling for violence perpetrated by State actors, and around issues of sexual autonomy and lack of access to abortion for victims of DSGBV.<sup>253</sup> Access to abortion in Ireland continues to be restricted by law, by religious influence in hospitals and medical education, by conscientious objection by medical practitioners, and by stigma and vigilantes.<sup>254</sup> The State has not taken all the required additional measures to guarantee access to specialist support services and long-term psychological support, so that life-long trauma as a result of State coercion of the reproductive rights of victims and obstacles to self-determination for victims of sexual violence can be tended to.
220. It is not possible to say whether appropriate and up-to-date protocols and guidelines for clear referral pathways from general services to specialist support services are in place for all staff assisting women victims and for their referral to additional appropriate services, or whether referral protocols are routinely used and whether they work. Protocols are not publicly

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<sup>251</sup> General support services are as described in the Istanbul Convention, Article 20 – non-specialist services facilitating victim recovery from violence. These include services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment, health care and social services. States should take legislative and other measures to ensure that services are adequately resourced and professionals are trained to assist victims and refer them to the appropriate services.

<sup>252</sup> [Safe Ireland Citizens Assembly Submission](#)

<sup>253</sup> Council of Europe GREVIO (2021) Mid-term Horizontal Review of GREVIO baseline evaluation reports p87

<sup>254</sup> [Update required around safe space and access to abortion services?](#)

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available and have not been made available to the specialist services or specialist-representative NGOs.

221. Citizens Information Officers and Domestic Violence support services regularly do appeals against unfair or inconsistent social welfare decisions, with community welfare officers. However, different results occur in different counties, and each case has to be addressed with discretion across many different services. The National Housing Policy does not speak for women in all circumstances, for example, women seeking rental accommodation after leaving situations of violence must undergo a means test in order to be eligible for rent supplement. Safe Ireland advocates for waiving the means test for rent supplement for a period of 3 months in these circumstances.<sup>255</sup>
222. While there is excellent awareness of the needs of victims of gender-based violence in SATU or the Legal Aid Board, awareness is piecemeal but improving among medical staff, general practice doctors, solicitors and other professions. Training on services for trauma for solicitors who provide legal aid has begun in 2022. Likewise, private therapists will only be informed about specialist services if they have sought out specialist training. A HSE (state employed) psychologist (generalist) may or may not be able to refer to specialist services.
223. RCNI is funded by the Dept. of Justice to support legal policy work, as part of that service RCNI has produced a publication for legal practitioners<sup>256</sup> but needs updating with new legislation including some new statutory provisions implementing aspects of the Istanbul Convention and the forthcoming Sexual Offences Bill and the new offence of stalking have both been enacted.
224. RCNI has also produced a publication for survivors of sexual violence<sup>257</sup> which will also be updated once the Sexual Offences Bill and new offence of stalking have both been enacted.
225. We are not aware of published information on the annual number of women victims of violence who have been assisted by health, social worker or social welfare services.

### Specialist support services (Article 22)

240. Up to the advent of the 3<sup>rd</sup> National Strategy on DSGBV, there was no National Services Development Plan for the adequate geographical distribution, immediate, short- and long-term specialist support services to any victim subjected to any of the acts of violence covered by the scope of this Convention or specialist women's support services for all women victims of violence and their children.
241. There is no dedicated Minister and Ministry for DSGBV and there is no co-ordination of policy and services in the same location. However, there will be one dedicated Minister under the 3<sup>rd</sup> National Strategy on DSGBV and that Strategy will unite services and policy under the Minister for Justice and ultimately (2024) under the new DSGBV agency, also provided for under the 3<sup>rd</sup> National Strategy.

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<sup>255</sup> For example, a woman victim of domestic violence was turned down for a housing payment because she left a 'habitable house'. The Deciding Officer working off Housing Act or associated policy could not provide new housing. This was overturned on appeal, with discretion.

<sup>256</sup> RCNI (2012) Legal Information Pack for Practitioners Advising Survivors of Sexual Violence [RCNI Legal Information Pack for Practitioners Advising Survivors of Sexual Violence](#)

<sup>257</sup> RCNI (2019) Guide to the Legal Process for Survivors of Sexual Violence, 2<sup>nd</sup> Ed. [Guide to the Legal Process for Survivors of Sexual Violence 2nd edition \(lenus.ie\)](#)



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242. There are inadequate structural formations at every level, right up to frontline service provision. The State response to DSGBV has traditionally been inadequate, siloed and poorly resourced, and did not appear to take full account of the systemic widespread nature of the issue and the silence that surrounds it. The current Programme for Government acknowledges for the first time that there is an “epidemic of domestic, sexual and gender-based violence” and critically, that the infrastructure in place to address it has to be fully examined.<sup>258</sup>
243. Having acknowledged the epidemic of DSGBV, the State arranged for mapping some of the specialist support services including rape crisis centres, and for an audit of refuge accommodation.
244. Up to the advent of the 3<sup>rd</sup> National Strategy on DSGBV, the State had not taken adequate legislative or other measures to provide or arrange for specialist support services or specialist women’s support services in adequate geographical distribution to provide immediate, short- and long-term counselling for women and girl victims subjected to any of the acts of violence within the scope of the Convention.
245. Up to this point, the State has not taken any additional legislative measures to provide or arrange for any Rape Crisis Centres, other than the original provision giving the CFA responsibility for them.<sup>259</sup> Rape Crisis Centres in Ireland are autonomous, feminist, non-governmental, specialist sexual violence support centres which provide a range of services including short and long-term counselling, accompaniment to forensic, reporting and justice processes, specialist training, outreach, education, helplines and other supports to survivors and members of their families.
246. Civil society specialist women’s organisations have arranged for the establishment of most of the specialist support services and initiatives for victims subjected to any of the acts of violence covered by the scope of this Convention. These specialist support services are provided by independent civil society organisations relying on volunteers and voluntary donations, and are not 100% funded by the State. They include:
- 16 Rape Crisis Centres, some also operating outreach facilities. Rape crisis centres provide short and long-term psychological counselling, trauma care, police and Court accompaniment and support, advocacy, telephone helplines, research, information, education and outreach services to survivors, mostly those over 14 years old.
  - 41 Domestic Violence resource centres (including 20 refuges, see Article 23), some of these now have specialist sexual violence workers and are currently developing these services.
  - 2 specialist-representative and policy organisations for domestic and sexual violence, Rape Crisis Network Ireland (RCNI) and Safe Ireland
  - Other civil society specialist support services and organisations for victims of sexual violence against children and other forms of violence within the scope of the Convention

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<sup>258</sup> Safe Ireland, No Going Back, 2021 [No-Going-Back-Discussion-Paper-Safe-Ireland-March-2021.pdf \(safeireland.ie\)](#) p3

<sup>259</sup> Irish Statute Book, S8 Child and Family Act 2013, Section 8

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include One in Four,<sup>260</sup> CARI,<sup>261</sup> Ruhama,<sup>262</sup> Move Ireland.<sup>263</sup> Children's, addiction and homelessness, minoritised people's organisations are increasingly engaging directly in DSV also.

247. Inadequate geographical distribution and insufficient numbers: The geographical distribution of Rape Crisis Centres and Domestic Violence Resource Centres is uneven and inadequate.<sup>264</sup> There are 16 Rape Crisis Centres in Ireland, which is one RCC for approximately 310,000 inhabitants or one centre for approximately every 155,000 women and girls.<sup>265</sup> There are 41 Domestic Violence Resource Centres, which is one DVRC for approximately every 122,000 inhabitants or one centre for approximately every 61,000 women and girls.<sup>266</sup>
248. Non-governmental specialist support services are running beyond capacity and are turning away women on a regular basis.<sup>267</sup> Capacity is an issue for specialist sexual violence support services and specialist domestic violence services.<sup>268</sup>
249. The Government has taken some measures to assess the capacity of specialist support services to meet a limited number of GREVIO recommendations.
- a. The Government tendered for private consultants to conduct once-off regional reviews of domestic and sexual violence services in order to assess the capacity of specialist support services. Not all of the reports were published. The methodology was not standardised for comparison between regions and services, and the analysis is not publicly available. This once-off audit could have been very useful but weak methodology and lack of transparency undermined its usefulness. The regional reviews did not prioritise the voices of survivors. While not empirical academic research or data analysis, some consolidation of facts have been published. There have been no new roles created to meet the increased or recommended capacity.
  - b. The CFA Accommodation Review<sup>269</sup> counted the number of refuge units in relation to the population, and access to refuge within 30 minutes. The review did not assess other Convention requirements in terms of refuge accommodation or other domestic violence specialist services. Since the Accommodation Review there has been government commitment to provide 60 new units for domestic violence victims and ad hoc increases in funding across the services. There have been no new roles created to meet the increased or recommended capacity.

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<sup>260</sup> One in Four annual reports [Annual reports | One in Four \(Ireland\) Limited](#)

<sup>261</sup> Cari annual report (2019) [Scanned Document \(cari.ie\)](#)

<sup>262</sup> Ruhama annual report (2021) [Ruhama](#)

<sup>263</sup> Move Ireland Annual Report (2020) [MOVE-Ireland-Annual-Report-2020.pdf \(moveireland.ie\)](#)

<sup>264</sup> Link to RCNI map of RCCs [Rape Crisis Help - Information about the professional support and the choices available to survivors of sexual violence](#)

<sup>265</sup> Based on total population of 5 million. All figures are rounded

<sup>266</sup> Based on total population of 5 million. All figures are rounded

<sup>267</sup> RCNI Annual Statistics Report 2020 [Rape Crisis Network Ireland Annual Statistics Report 2020 - Rape Crisis Network Ireland \(rcni.ie\)](#), Safe Ireland Annual Report, RCNI (2022) Clinical Innovation Programme, publication pending; CFA Accommodation Review [Review of Accommodation for Victims of Domestic Violence Tusla – Child and Family Agency](#); Safe Ireland Response to Tusla Accommodation Review [Tusla Review of Refuge Accommodation Confirms Priority Needs - Safe Ireland](#)

<sup>268</sup> See Bibliography and Annual Reports

<sup>269</sup> Tusla accommodation review [Tusla Review of Refuge Accommodation Confirms Priority Needs - Safe Ireland](#)

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250. Inadequate funding: Rape Crisis Centres were set up by civil society and are funded by a combination of donations and State and non-State grants. They apply for and receive inadequate and conditional State funding for certain services and none for other services. The resources provided by the State to Rape Crisis Centres are tied to the provision of counselling<sup>270</sup> and related roles, such as administration and management - and accompaniment<sup>271</sup> or other programmes and is insufficient to meet the need. All Rape Crisis Centres fundraise and seek donations to supplement State funding and in order to provide core and additional services. These non-State sources of funding were significantly reduced during the pandemic, exacerbating the situation and directly leading to reduced services. This deficit in funding will be carried forward and continue to impact future services. No funding scheme has been announced to address this situation. Many Rape Crisis Centres do not have a paid fundraiser role and rely on volunteers to raise funds.
251. During the initial period of the Covid-19 pandemic the State made some additional financial resources temporarily available to specialist support services. This funding was to cover pandemic-related expenses such as facemasks and small alterations to reduce transmission at services. The funding did not address the shortfall in public fundraising opportunities, the increased pressure on capacity at services as a result of the pandemic, or the funding gaps that still remain as a result.
252. In July 2021 there were 967 survivors on waiting lists for counselling at 16 Rape Crisis Centres. Of these, 183 survivors were waiting for 1<sup>st</sup> assessment. The remaining 784 survivors were waiting for counselling following 1<sup>st</sup> assessment, and 556 of these survivors had been waiting more than one year.<sup>272</sup> There are long waiting lists for counselling at many of the Rape Crisis Centres, with some centres reporting waiting times of over one year and one centre closing its waiting list as waiting times were over 2 years.

Waiting lists are a symptom of lack of capacity, based on a lack of secure and sustainable funding to enable the specialist support services to provide the service. Rape Crisis Centres need permanent accessible and adequate premises to meet the need of all women. Rape Crisis Centres need safe, secure, quiet and nurturing space that is dedicated to the purpose and provides stability. Rape Crisis Centres urgently need funding just to maintain existing services. Rape Crisis Centres urgently need funding to increase the capacity of services and extend service hours to meet the need; improve accessibility and equality; improve coordination with general support services; ensure standardised supervision and self-regulation; and ensure ongoing availability of specialist in-service training and improve capacity to fundraise. Sufficient secure funding for Rape Crisis Centres needs to be made available immediately to provide or arrange for specialist training for counsellors. Rape Crisis Centres provide year-round specialist training to volunteers, staff and therapists to ensure that specialist counsellors exist, given the deficits in professional training. Specialist training for counsellors is crucial to build up capacity among professional counsellors for the

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<sup>270</sup> Rape Crisis Centres usually provide specialist trauma support and long-term psychological counselling and therapy services from the age of 14 upwards. One centre provides therapy from age 12 and one provides it from age 16.

<sup>271</sup> RCNI accompaniment services are delivered mainly by volunteers who accompany survivors of sexual violence to Sexual Assault Treatment Units (SATU), when survivors report sexual violence to An Garda Síochána, and also when a survivor is going to Court.

<sup>272</sup> RCNI (2022) Clinical Innovation Programme (CIP) research, publication pending

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immediate, short- and long-term specialist support needs of all survivors of sexual violence, in adequate geographical distribution.

253. Inappropriate and inaccessible premises: Rape Crisis Centres typically rent premises from private landlords to provide support services and are therefore subject to market forces including unaffordable rent hikes, and having to relocate at short notice. Rape Crisis Centres struggle to afford rented space which can accommodate adequate private rooms for counselling and the required space for reception, office, helpline staff, training, administrative staff, volunteers, staff lunch area and training. In 2022 one Rape Crisis Centre went from renting space with 7 counselling rooms, a waiting room, a training room, a staff area, and office space for 17 volunteers for a helpline, fundraising and admin, to renting 3 counselling rooms and office space for 5 volunteers, with no waiting room, no staff room and no volunteer or admin space. With no waiting room and no car-parking spaces, survivors are forced to wait for counselling appointments on the street. With less space, there were less counsellors and less counselling appointments, and far fewer volunteers. At the same time, the demand for the same support service is increasing. There has been an acute funding shortfall for Rape Crisis Centres since the 2008 recession and government funding for Rape Crisis Centres has not returned to 2008 levels in real terms.<sup>273</sup>
226. Trauma support and counselling: Rape Crisis Centres usually provide specialist trauma support and short and long-term psychological counselling and therapy services mostly from the age of 14 upwards. Two centres provide therapy from age 12 and one provides it from age 16.<sup>274</sup> Research by RCNI in 2021<sup>275</sup> among 3,000 survivors and 380 counsellors identified the following societal and resource barriers to specialist support services which the Government must address:
- Survivors spoke of ongoing social and family attitudes to sexual violence and to counselling that cause shame and stigma and prevent or delay survivors from accessing counselling. Counsellors spoke of insufficient society-wide and early education around myths, stigma, shame, gender-based violence, and the right to personal integrity and equality causing barriers to accessing counselling, indicating a need for public awareness campaigns.
  - Survivors approaching a range of general health, social support and psychological services found that their needs were not recognised or met and they were not systematically being referred to specialist support services, potentially exacerbating harm and damaging recovery. Counsellors said that initial and in-service training for psychological counselling failed to include, as standard, prevention and detection of sexual violence, needs and rights of survivors, prevention of secondary traumatisation, and multi-agency cooperation.

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<sup>273</sup> RCNI funding shortfall [Accountability and Salaries - Rape Crisis Network Ireland \(rcni.ie\)](https://rcni.ie)

<sup>274</sup> See Article 26 in this report for child specialist supports. In addition to the 16 Rape Crisis Centres there is one civil society organisation, Cari, which provides specialist therapy services for child victims below the age of 14, and two small state-run specialist therapy services, St Clare's and St Louise's, run by the HSE to which only the Child and Family Agency (Tusla) can refer clients – which also see children under age 14. Cari has huge waiting lists and at present is working to best of our knowledge only out of two sites, Dublin and Limerick.

<sup>275</sup> CIP research was not limited to survivors accessing Rape Crisis Centres or counsellors working at Rape Crisis Centres. The research was promoted online and open to all survivors of sexual violence accessing counselling services in Ireland.

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- Survivors spoke of poor response at or following first contact at general services and on national helplines causing: further damage; delay in accessing specialist support; and permanent drop-out from services facilitating recovery from sexual violence.
  - Survivors found waiting lists to be damaging and off-putting. Counsellors voiced concern that the lack of capacity and lack of funding for specialist support services are creating long waiting lists and shifting survivors to non-specialist services. This is causing additional harm and reducing recovery.
254. Inadequate training, accreditation and regulation: The State has failed to regulate professional standards for counselling. Professional counselling bodies have failed to include, as standard, initial and in-service training for therapists on detection of sexual violence, the needs and rights of survivors, prevention of secondary traumatisation, and multi-agency cooperation towards pathways and referrals for survivors. RCNI research in 2021<sup>276</sup> found that counsellors want specialised training, accreditation and regulation of specialist counselling for survivors of sexual violence in recognition of the specialist nature of counselling survivors of sexual violence. It is fair to say that many of the deficits described in this section should now be addressed via various activities listed in the 3<sup>rd</sup> National Strategy on DSGBV.
- Until relatively recently, RCNI had the capacity to provide a complete specialist sexual violence curriculum for counsellors and volunteers within the network to avail of training including but not limited to: legal information, other associated services, interventions, advocacy, initial RCNI training for new counsellors, volunteer training, SATU training, helpline support, Court and Garda accompaniment, SV related trauma for all staff. While some of these nationally standardised trainings have continued, largely the justice related trainings, the rest have become ad hoc and often unavailable in the absence of capacity. This level of capacity of specialist standardised training needs to be available and increased to meet demand from non-specialist counsellors and services. Specialist- representative organisations and specialist support services require sustainable funding to make available regular and clear training, protocols and guidance to all counsellors, staff and volunteers.
  - Inadequate access to training has damaged morale at rape crisis centres, and Managers have evolved strategies to deal with issues of waiting lists, burn-out, secondary traumatic stress, indirect trauma and vicarious trauma. Regular breaks, team and peer support, monitoring, meditation, additional personal therapy sessions, additional supervision, dedicated self-care programmes and specialised training programmes such as 'Crisis Fatigue' are organised for counsellors as required. Crisis management is not cost effective and shifts funding priorities from survivor supports to counsellor care.
  - The lack of training and lack of capacity at specialist services is increasing survivor reliance on untrained and unsupervised non-specialist private counsellors, who are in turn, reaching out to overstretched specialist services to supply them with training and supervision. Of 380 counsellors participating in RCNI research, despite 80% considering specialist training important for their current role, just 15% had more than one day's specialist training on sexual violence. A further 20% had one day or less and the remaining 65% had no specialist training at all. The concern among counsellors is evident, with 91% calling for mandatory standardised specialist training before working with survivors of sexual violence. Capacity for counselling within specialist support services must be increased, and specialist training is required to

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<sup>276</sup> RCNI CIP research, forthcoming publication

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increase capacity. As a matter of urgency, resources must be found to address the training deficits at initial and in-service levels.

- RCNI research found that 41% of survivors who were able to access any form of counselling were able to access some free counselling, and 23% of survivors paid €50 or more per session. Rape Crisis Centres are not able to provide free counselling to survivors. Survivor contributions are variable on a non-standardised and compassionate basis. Outside of Rape Crisis Centres, the lack of accredited training means that it is rarely possible for a survivor to know if a counsellor has any specialist training. Rape Crisis Centres face an ethical dilemma as to whether to increase visibility of services from a position of capacity deficit and in turn face increased demand and extended waiting lists.
  - RCNI research has identified very specific gaps in training for counsellors with all levels of experience and specialisation. New training curricula are being devised by a number of specialist Rape Crisis Centres in collaboration with RCNI as a result of this research. Strategies to increase training opportunities for non-specialist counsellors have also been identified.
  - The deficits at pre-accreditation level and in-service at counselling and support services need to be addressed on a nationwide basis and specialist support services need to be consulted to inform initial and in-service training, and to identify protocols for referrals and pathways between services.
  - RCNI research identified that survivors have low levels of confidence in counsellor expertise across public and private non-specialist counselling services in Ireland. The research identified that survivors were not able to access the specialist therapeutic support that they need at the time they need it. RCNI research identified the detail of the skills deficits and found that counsellors are actively seeking specialist training at all levels. The Rape Crisis Centres and RCNI are in the process of developing new curricula on the basis of this research and must now be provided with the resources to prioritize the delivery of this important specialist training.
  - The pandemic and the associated travel restrictions forced all counselling services to rapidly move to remote counselling in order to maintain therapeutic services. RCNI research in April 2021, after one year of remote counselling, found that 93% of survivors felt less supported during remote counselling. RCNI responded to this finding by developing specific specialist training and protocols for providing short and long-term remote therapy safely to survivors of sexual violence. It is not clear whether protocols and training to protect survivors who are engaged in remote counselling are in place at State and other counselling services.
255. The State has failed in the requirement to provide equal access to psychological counselling for all survivors of DSGBV. The State has not taken all the required additional measures to guarantee all victims of DSGBV access to long-term psychological support, so that life-long trauma and obstacles to self-determination for victims of DSGBV can be tended to.
256. The State has not systematically and formally accepted and acted upon the annual reports and research provided by the specialist-representative organisations or specialist support services as evidence of survivor need for increased access to specialist services.<sup>277</sup>

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<sup>277</sup> West Cork Violence Against Women Project, Crowley, Mulholland & Ryan (2021) 'We say it's not their fault – we do nothing to make it easy for them: Need and design of sexual violence supports in West Cork' ["We Say it's Not their Fault – We Do Nothing to Make it Easy for Them" \(westcorkwomensproject.ie\)](https://westcorkwomensproject.ie)



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257. The State has been regularly provided with the annual number of women **unable** to get help from specialist support services (the number of women and children turned away from services does not reflect the number of women who need specialist services).
258. Specialist support services for all forms of violence within the scope of the Convention are not evenly geographically distributed and the majority of the population are not able to access services within 30 minutes or even 1 hour distance on public transport. Some services are only available in the capital city. The geographic spread of specialist support services is inadequate with some geographic areas less well served. Rural public transport is minimal and there is inadequate support in large dispersed and predominantly rural large counties. Some SV services have closed their waiting lists for therapeutic services as they are unable to commit to providing within 2 years. The State has not increased the number of paid staff per specialist support service to meet GREVIO capacity or other recommendations. The State has not taken other measures to increase capacity of sexual violence specialist support services to meet the GREVIO recommendations.
259. Services which are funded by the state are subject to some monitoring under service-level-agreements, however the data is not uniform or routinely publicly available. RCNI has conducted research among survivors of sexual violence and harassment and documented capacity gaps and systemic barriers.<sup>278</sup>
260. The State has not provided specialist support services with adequate resources to proactively or responsively develop, offer and disseminate information that is tailored to serve all groups and languages of victims who are at risk of social exclusion or who have difficulties accessing services. Resources are needed for specialist organisations to proactively engage with community groups about intersectional needs and barriers to services to develop and disseminate tailored information for all groups and languages on all forms of supports covered by the scope of the Convention.<sup>279</sup> The 3rd National Strategy acknowledges this deficit in relation to minority groups of survivors and promises to improve services for particularly vulnerable diverse groups of survivors.
261. There have been recent evaluations of specialist support services which give priority to the voices of survivors, ranging from academic research initiatives by specialist-representative organisations<sup>280</sup> to feasibility studies and strategic plans prepared by individual services. These studies have found that survivors want and need additional capacity at all services, especially the provision of therapeutic services which falls far below levels recommended by the Convention.<sup>281</sup>
262. Specialist support services are not entirely free of charge to all women, irrespective of income. In some instances, rape crisis centres request financial contributions from survivors for therapeutic services and this is not standardised. Rent contributions usually apply to refuges, safe homes and supported housing although waivers may be applied.

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<sup>278</sup> RCNI (2021) Michelle Walsh, Storm and Stress [Storm and Stress: An Exploration of Sexual Harassment Amongst Adolescents - Rape Crisis Network Ireland \(rcni.ie\)](#)

<sup>279</sup> West Cork Violence Against Women Project, Crowley, Mulholland & Ryan (2021) 'We say it's not their fault – we do nothing to make it easy for them: Need and design of sexual violence supports in West Cork' ["We Say it's Not their Fault – We Do Nothing to Make it Easy for Them" \(westcorkwomensproject.ie\)](#) p39 Focus on Travellers and marginalised communities

<sup>280</sup> RCNI (2022) Clinical Innovation Project, research pending publication [www.rcni.ie](http://www.rcni.ie)

<sup>281</sup> RCNI (2022) Clinical Innovation Project, research pending publication [www.rcni.ie](http://www.rcni.ie)

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263. Specialist support services are very often housed in older rented buildings without additional measures needed for those with disabilities. Some forms of disability are less well served.
264. Pressure groups have applied low-level pressure to provide gender-neutral services to include men and boys, intersecting with Trans debate. SI and RCNI recognise that presenting needs are different and may necessitate separate services and waiting areas. As most sexual violence services are provided to individual survivors, the logistics of providing these services to trans survivors are generally quite simple. The situation becomes more complicated wherever services must be offered on a group basis. There is one domestic violence service that provides services to men in addition to women which they are primarily aimed at, while sexual violence services support male survivors.
265. "All regions of the country do not have access to a rape crisis centre, and the geographical coverage across the 26 counties is approximately 60%. A significant void exists in the Midlands Region and along the political border with Northern Ireland."<sup>282</sup> Rural bus and train services are limited and do not run regularly, with many areas having no public transport or one or two services a day. Survivors in many parts of the country would be 2 or more hours by public transport to the relevant specialist service. The cost of travel by public transport might be €50, and an overnight stay could be required for a morning appointment.<sup>283</sup> Wheelchair accessible public transport is very limited. Specialist support services operate outreach services where funding is available, but outreach services are particularly vulnerable to funding cuts.
266. The model whereby the Government delegates support services to specialist civil society organisations needs to be resourced appropriately and securely to respond in full to all forms of violence within the convention, in all geographical areas, and for all women.<sup>284</sup>
267. The State has not supported the data collection, analysis and research required to fully understand how different groups of victims (for example women with children, migrant status, disabilities, other grounds) have access or barriers to services. Numerous issues with the State failures in co-ordination of data collection on DSGBV have impacted the amount of robust data available for analysis and research. There is no comprehensive dataset for DSGBV in the criminal justice processes or at specialist support services or other administrative data collection. The state agencies involved do not have a history of publishing or providing access to researchers to data (for valid reasons) and there is not a huge body of research on DSGBV in Ireland. The high-quality data that is collected by RCNI on sexual violence has not received enough or consistent funding for research.
268. There are barriers to accessing specialist domestic violence services, although specialist services will always try to overcome these on an individual basis. These include the Habitual

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<sup>282</sup> WAVE Network Country Report, Ireland [WAVE\\_Country-Report.pdf \(wave-network.org\)](#) pp115-7

<sup>283</sup> West Cork Violence Against Women Project, Crowley, Mulholland & Ryan (2021) 'We say it's not their fault – we do nothing to make it easy for them: Need and design of sexual violence supports in West Cork' "[We Say it's Not their Fault – We Do Nothing to Make it Easy for Them](#)" ([westcorkwomensproject.ie](#)) p12, 13, 19

<sup>284</sup> West Cork Violence Against Women Project, Crowley & Nagle (2022) 'List to me. Support me. Believe me. Help me: Listening to Survivors of Sexual Violence and their Supporters in West Cork' [listen\\_full.pdf \(westcorkwomensproject.ie\)](#); West Cork Violence Against Women Project, Crowley, Mulholland & Ryan (2021) 'We say it's not their fault – we do nothing to make it easy for them: Need and design of sexual violence supports in West Cork' "[We Say it's Not their Fault – We Do Nothing to Make it Easy for Them](#)" ([westcorkwomensproject.ie](#))

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Residency Condition,<sup>285</sup> citizenship, PPSN, documentation, alcohol and substance abuse and homelessness, character and conduct. For anybody outside of EU there are always difficulties. In 2022 the Government swiftly put in place measures to assist Ukrainians to access specialist DSGBV services, which has highlighted the measures, awareness raising and information that should have always been in place for all. There was some additional funding made available during the Covid19 pandemic restrictions to expand service provision remotely, but this funding has now ceased while the costs remain.

269. Up to the advent of the 3<sup>rd</sup> National Strategy on DSGBV, the State had not considered Standards and criteria defining a service as a specialist women's service or Standards for intervention, protocols, or any guidelines which are applied in order to ensure a gendered understanding of violence against women and a focus on the safety of the victims. The specialist-representative organisations have developed their own frameworks and Standards, and members of the specialist-representative networks adhere to these Standards. In the absence of accredited training, self-regulation is especially important.
270. Not all aspects of specialist services have a legal basis for State funding:
- a. Counselling: The CFA has a statutory mandate to provide funding therapeutic counselling<sup>286</sup> in Rape Crisis Centres, and also funds the associated management and administration. These funds are tied to service-level-agreements and are annual funding agreements, generally based on the capacity of the previous year.
  - b. Refuges: Funding for refuges in Ireland is administered as a *housing and homelessness* support however, most women seeking refuge do not meet the qualifying criteria for homelessness under the Housing Act, 1988<sup>287</sup>
  - c. Criminal Justice System accompaniment and support: The Department of Justice funds Court and Garda accompaniment and other criminal justice support on an administrative (non-statutory) basis. This includes out-of-pocket expenses of volunteers and for the training of volunteers and is provided on an annual basis (although there is commitment to move to multi-annual funding in future).
  - d. The remainder of the specialist support services, including primary prevention, education, information, interpretation and translation, development of inter-agency relationships, referrals and protocols; outreach for activities other than counselling, including into institutions, direct provision and prisons; data collection and analysis; policy development and advocacy; premises, utilities and human resource costs do not have a legal basis for funding. Local, as opposed to national, helplines: Local helplines are not funded by the State and collectively provide specialist localised support services to as many callers as the national helplines. They are funded by local fundraising and volunteers.

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<sup>285</sup> The Habitual Residency Condition (HRC) is a condition that must be satisfied for certain welfare payments [gov.ie](http://www.gov.ie) - [Habitual Residence Condition \(www.gov.ie\)](http://www.gov.ie)

<sup>286</sup> Irish Statute Book, CFAA 2013, Section 8

<sup>287</sup> <http://www.irishstatutebook.ie/eli/1988/act/28/section/2/enacted/en/html>

Shelters (Article 23)

271. In 2021 Safe Ireland presented to parliament a status report on shelters (refuge) which captured the capacity deficits in the national infrastructure. On average, 180 women and 275 children looked for emergency accommodation every month between March and December 2020. During that same time, 2,159 requests for refuge could not be met by services.<sup>288</sup> The findings were corroborated in by Tusla (CFA) in its 2022 review which found that refuges are running beyond capacity and are turning away women on a regular basis.<sup>289</sup> There are 139 family units in 20 refuges, which provide one family place for approximately 35,000 of the population. The current range of accommodation is significantly fragmented and needs additional resources to be able to accommodate all women with additional and intersectional needs. “Many refuges are severely restricted by the physical limitations of an old or poorly located building, or the absence of an option for on-site or co-located support services, nevertheless all of them do provide supports, though some under more difficult conditions than others.”<sup>290</sup> There are 139 family units in 20 refuges, which provide one family place for approximately 35,000 of the population. The Government has recognised the deficit in capacity and the geographical voids and in February 2022 identified priorities for the expansion of existing facilities and the development of new spaces.<sup>291</sup>
272. The State has taken some measures to assess the capacity of shelters to meet a limited number of GREVIO recommendations. The CFA Accommodation Review<sup>292</sup> counted the number of units in relation to the population and access to refuge within 30 minutes and did not assess other Convention requirements in terms of accommodation or other domestic violence specialist services.
273. Since the Accommodation Review the deficit has been acknowledged and there has been Government commitment prioritise 60 new units for domestic violence victims in priority areas.<sup>293</sup> There have also been ad hoc increases in funding across the services.
274. There have been no new roles created to meet the increased or recommended capacity.
275. The State has not taken legislative measures to provide for the setting up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out proactively to victims, especially women and children. Since 2014 the CFA has been the statutory body responsible for the core operational funding of refuges, administering Exchequer funding on an annual commission basis through local Service Level Agreements (SLA). “The level of funding in many instances is only adequate to finance a part-time operation and for this reason refuges rely heavily on additional funding from other statutory and non-statutory sources, and spend considerable time and effort fundraising and soliciting

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<sup>288</sup> Safe Ireland Submission to Oireachtas Justice Committee: Refuges 2021 [Refuge-Shelter-Submission-toCte-on-Justice\\_Final.pdf \(safeireland.ie\)](#) p4

<sup>289</sup> <https://www.tusla.ie/publications/review-of-accommodation-for-victims-of-domestic-violence/>

<sup>290</sup> Safe Ireland Submission to Oireachtas Justice Committee: Refuges 2021 [Refuge-Shelter-Submission-toCte-on-Justice\\_Final.pdf \(safeireland.ie\)](#) p6

<sup>291</sup> The 3<sup>rd</sup> National Strategy on DSGBV was published 27<sup>th</sup> June 2022, after the preparation of this report. The new National Strategy contains many commitments crisis accommodation.

<sup>292</sup> CFA Tusla accommodation review

<sup>293</sup> Priority areas identified in Feb 2022

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donations to subsidise their running costs.” In addition to the lack of resources at existing refuges there are currently nine counties with no domestic violence refuge accommodation units whatsoever.<sup>294</sup>

276. New refuge developments must be guided by the safe space aspect of the Sovereignty Project which is informed by learning from Covid-19 and public health guidance. These proactive measures are not yet in place.
277. There are no shelters dedicated for the use of women escaping trafficking, and Direct Provision Centres (a controversial form of long-term accommodation for asylum seekers that is in the process of being decommissioned), were used.<sup>295</sup> Direct Provision Centres are traumatising and unsafe places, usually accommodating between 100 and 400 asylum seekers and deeply unsuitable for women escaping trafficking.
278. There are no specialised shelters for victims of sexual violence or rape (only in cases of domestic violence)
279. It is hoped that the proposed new units will meet the needs of all victims including undocumented migrant victims and ensure that women victims and their children have access to adequate and appropriate living conditions, and be resourced with sufficient specialist support and empowerment services through multidisciplinary teams trained in the issue of violence against women. “at a basic level, there should be a minimum of dedicated indoor and outdoor trauma informed space for children and young people with dedicated child support staff that can support their journey from entrapment to freedom and safety engaging age, sex, gender and experience appropriate mediums and programmes on an individual and group basis as required.”<sup>296</sup>
280. The State has not exempted construction of refuge space accommodation from VAT (value added tax) or made public land available for construction of refuges. Years of underinvestment in structural and human resources mean that an investment of between €98-€161 million is needed for refuge in order to meet Convention requirements.<sup>297</sup>
281. Covid budget is discontinued while services are still bearing the expense of some measures eg. facemasks, sanitiser, social distancing additional space requirements
282. Safe Homes and Supported Housing are alternative routes to safety for survivors
283. Between September and December 2020, 808 requests for refuge could not be met due to lack of available space. This is an average of 7 requests per day. On average 167 women and

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<sup>294</sup> Safe Ireland Submission to Oireachtas Justice Committee: Refuges 2021 [Refuge-Shelter-Submission-toCte-on-Justice\\_Final.pdf \(safeireland.ie\)](#) p8, 9

<sup>295</sup> Ireland’s Human Trafficking Rapporteur Tells EU of Continuing Failings in Accommodation [Accommodation for Trafficking Victims Remains a Chronic Problem - IHREC - Irish Human Rights and Equality Commission](#)

<sup>296</sup> These are Carlow, Cavan, Laois, Leitrim, Longford, Monaghan, Offaly, Roscommon, and Sligo. Safe Ireland (2021) Submission to Oireachtas Justice Committee: Refuges 2021 [Refuge-Shelter-Submission-toCte-on-Justice\\_Final.pdf \(safeireland.ie\)](#) p10

<sup>297</sup> Safe Ireland (2021) Submission to Oireachtas Justice Committee: Refuges 2021 [Refuge-Shelter-Submission-toCte-on-Justice\\_Final.pdf \(safeireland.ie\)](#) p16

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265 children stayed in a range of domestic violence accommodation each month between September and December.<sup>298</sup>

284. Every month there are women and children who are ready to move on from a refuge, but are unable to as there is not suitable accommodation for them.<sup>299</sup>

### Telephone Helplines (Article 24)

285. There are two forms of helplines, State-funded national helplines which operate 24/7 and local ones run by individual Rape Crisis Centres and Domestic Violence Services for fixed, limited hours with no funding from the state. The State helplines are free of charge to the caller, and the local helplines are typically not. All helplines are dependent on large numbers of volunteers.
286. The State funds 2 national helplines (one specialist sexual violence helpline<sup>300</sup> and one specialist domestic violence helpline<sup>301</sup>). In addition to this there are 15 local rape crisis centre helplines<sup>302</sup> and 41 local domestic violence centre helplines.<sup>303</sup>
287. There are also helplines provided by other specialist gender-based violence against women services, for example:
- a. The specialised national CARI Careline for children or any person who has concerns about child sexual abuse (9-5pm).
  - b. The specialist service for women impacted by prostitution, sex trafficking and other forms of commercial sexual exploitation has a helpline and free text service.<sup>304</sup>
  - c. Hotline.ie - the Irish national reporting centre where members of the public can securely, anonymously, and confidentially report concerns in respect of illegal content online, especially child sexual abuse material (CSAM). The core work of Hotline.ie is the removal of child sexual abuse images and videos from the Internet.
288. There were 13,536 contacts to the national sexual violence helpline in 2020, of which 6,451 were first time contacts, 5,439 repeat contacts, with 1,638 hoax, abusive, hang-up or silent calls. This represents a 5% reduction in the number of contacts from 2019, despite the pandemic, a period when contact was increasing at other services. One third (33%) of the national helpline calls were referred to other rape crisis centres, half (49%) were referred to other specialist services, and 17% were referred to SATU or law enforcement.<sup>305</sup>

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<sup>298</sup> Safe Ireland 2021, Tracking the Shadow Pandemic [Microsoft Word - Tracking the Shadow Pandemic Lockdown 2 - Report.docx \(safeireland.ie\)](#) p2 This includes Refuges, Safe Homes and Supported Accommodation

<sup>299</sup> Safe Ireland 2021, Tracking the Shadow Pandemic [Microsoft Word - Tracking the Shadow Pandemic Lockdown 2 - Report.docx \(safeireland.ie\)](#) p10

<sup>300</sup> Dublin Rape Crisis Centre National 24-hr sexual violence helpline [National 24-Hour Helpline | Dublin Rape Crisis Centre \(drcc.ie\)](#)

<sup>301</sup> Women's Aid National Freephone Helpline [Women's Aid - Domestic violence service in Ireland \(womensaid.ie\)](#)

<sup>302</sup> RCNI website map of services [Find a Service - Rape Crisis Help](#)

<sup>303</sup> Safe Ireland website table of local helplines [Where to find help - Safe Ireland](#)

<sup>304</sup> Ruhama Annual Report [Ruhama-Annual-Report-2021-LR-9.pdf](#)

<sup>305</sup> All figures from DRCC [stats\\_2020\\_final.pdf \(drcc.ie\)](#) and DRCC Annual Report



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289. The 15 local sexual violence helplines operated by 15 rape crisis centres answered an estimated 30,000 contacts during the same period. In 2020, 13,068 contacts were made to just six of the 15 local sexual violence helplines, a 22% increase in contacts from the same period in 2019.<sup>306</sup> Of these contacts, 83% (10,823) were survivors of sexual violence, and 17% were professionals or supporters (1% were unknown). Of the survivors, 91% were women and girls.
290. The local specialist sexual violence helplines are not supported by the State and are funded by donations. Local helplines are an important resource for survivors as they can provide local information, support and appointments at first contact. Local helplines should be directly funded by the State as they provide appropriate local knowledge and represent an efficiency for survivors who are referred to call the local service anyway if they contact the national helpline. Local helplines require State funding to extend the hours of the helplines, provide interpreting, mobile, text and other services, and to make local helplines free to callers.
291. There are approximately 60 individual helplines, including the 2 national helplines and each helpline has responsibility for their own confidentiality policies, codes of practice and training for volunteers. In the absence of standardised training, the responsibility for training volunteers is also with the individual service. The exception to this is the 7 Rape Crisis Centres that are members of the Rape Crisis Network Ireland (RCNI). These Helplines are provided with and adhere to Standards, protocols and training provided by RCNI, and volunteer responders have all undertaken appropriate, specialised training.
292. The national domestic violence helpline and the 41 local helplines answered calls from an estimated 50,000 callers in 2020.<sup>307</sup> Again, the local specialist domestic violence helplines are not funded by the Government and require funding to extend the hours of the helplines and maintain the free access to local support and information.
293. The annual number of calls to all helplines in Ireland is therefore estimated to be 100,000 per annum.
294. There is a concerning tendency towards the use of public-private partnerships to develop helplines, apps and data collection where the model includes the ultimate harvesting of data for commercial purposes. The onus of assessing the legal consent and disclosure policy is placed on the person in crisis who is contacting the helpline. A (predictable) scandal on the selling of vulnerable people's data emerged in 2022, when data privacy experts exposed that the Crisis Text Line business model had relied on harvesting data for a for-profit company since 2018.<sup>308</sup> Survivors who had used Crisis Text Line in Ireland<sup>309</sup> were protected due to an independent DPIA and subsequent robust and effective data protection processes, which effectively siloed the Irish data from [www.crisistextline.com](http://www.crisistextline.com)'s commercial and data ambitions. The Irish text line is still advertised on the US site but not vice versa.<sup>310</sup> There were also questions about the sufficiency of training, inadequate screening, and the exploitation of volunteers in the Crisis Text Line model. There is no effective self-regulation of data mining,

<sup>306</sup> [RCNI-Rape-Crisis-Statistics-2020-FINAL.pdf](#)

<sup>307</sup> SI Pre-Budget Submission 2022 [Safe Ireland Pre-Budget Submission 2022](#)

<sup>308</sup> [Crisis Text Line ends data-sharing relationship with for-profit spinoff - POLITICO](#)

<sup>309</sup> A national mental-health and crisis helpline introduced to Ireland (and other countries) with a US not-for-profit parent company and connected to Loris.ai, a company that uses insights gleaned from the text line's millions of conversations. The Irish version of [crisistextline.com](http://www.crisistextline.com) is run by a charity in partnership with the national health service (HSE) and is still linked to the US version. [www.crisistextline.com](http://www.crisistextline.com)

<sup>310</sup> See Irish statement here vis a vis data scandal: <https://text50808.ie/data-update>

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training and consent practices in relation to public-private partnerships or civil society-private partnerships.

295. Issues of confidentiality and anonymity go beyond codes of practice for employees and extend to software contracts. In the absence of independent and expert capacity organisations, including civil society, in Ireland are not sufficiently aware of or protected against private, state and commercial interests in data, including anonymised data. By and large civil society organisations are not state funded to meet their obligations under the Data Protection Act eg funding for DPOs and other expert capacity for the sector. Some resources have instead been allocated to the statutory funder to support CSVs' processing with no acknowledgement of the conflict of interest inherent in this position or the gap this leaves in the services themselves having the appropriate expertise to meet the organisation's legal obligations. .

### Support for victims of sexual violence (Article 25)

296. The State has taken measures to provide for the setting up of appropriate, easily accessible Sexual Assault Treatment Units (SATUs) to provide for medical and forensic examination, although these are not in sufficient numbers or geographical spread and do not provide trauma support or counselling to victims. At all SATUs, Rape Crisis Centres provide psychological support workers to accompany victims. SATU statistics show that most survivors using SATU services are from the same county that the service is located in. However, nineteen out of 26 counties in Ireland do not have SATUs indicating that victims do not have equal access. "We need to ensure equitable awareness of and access to the service regardless of where or to whom a person reports an incident."<sup>311</sup>
297. SATUs are run by the HSE (national Health Service Executive) and provide forensic and health examinations and documentation for injuries and STIs immediately after sexual assault. There are currently 7 SATUs<sup>312</sup> for all genders and gender identities aged 14 years and over, open from 08.00-20.00, 365 days a year.
298. During the period there was one 24 hour formal Child and Adolescent Forensic Medical Assessment Services (CASATS)<sup>313</sup> in operation, the Barnahus-model service which was established in Galway. There are two other more limited CASATS services, in Dublin and Cork which are for young people aged 14 and under who have been sexually abused and can only be accessed by referral from a social worker. In cases where the abuse was more than 7 days prior, adolescents aged up to 16 years can be referred to the Child and Adolescent Forensic Medical Assessment Services for limited services. During the period there were also services for children available at the national Children's Hospital first in Crumlin, then in Tallaght (both Dublin suburbs) and in Temple Street Children's Hospital (Dublin) which provided a range of assessment and support services but not the physical FME, with referrals moving between

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<sup>311</sup> SATU Annual Report 2018 [SATU annual report 2018 \(hse.ie\)](https://www.hse.ie/eng/press/2019/01/satu-annual-report-2018)

<sup>312</sup> Cork, Dublin, Galway, Mullingar, Waterford, Limerick, Letterkenny [Where to find a Sexual Assault Treatment Unit - HSE.ie](https://www.hse.ie/eng/press/2019/01/where-to-find-a-sexual-assault-treatment-unit-hse.ie);

<sup>313</sup> Two new Barnahaus model services are in the process of being developed in Dublin and Cork alongside the existing Galway one.

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these three specialist services and occasionally other non-FME or non-specialist services (e.g. GPs or local hospitals) in this period.

299. There are currently 9 SATUs or CASATS in operation in Ireland, which is one forensic medical service for approximately every 555,000 inhabitants or one centre for approximately every 278,000 women and girls.<sup>314</sup> The geographical distribution of SATUs and CASATS is uneven.<sup>315</sup>
300. The SATUs and CASATS do not provide for the provision of long-term counselling. Provision of access to long-term counselling across Ireland is insufficient for survivors of DSGBV against women. All victims of sexual violence are not guaranteed access to specialist support services and longer-term psychological support. Women survivors of rape still do not have full self-determination to reproductive rights and continue to be subject to coercive control, stigma and restrictive legislation. The life-long consequences for women survivors of sexual violence require guaranteed access to long-term psychological support.

### Protection and support for child witnesses (Article 26)

301. States are required to *take the necessary legislative or other measures to ensure that in the provision of protection and support services to victims, due account is taken of the rights and needs of child witnesses of all forms of violence covered by the scope of this Convention.*<sup>316</sup> A child-friendly justice system is not yet in place in Ireland, and the needs of the individual child may or may not be to participate in a non-child friendly criminal justice system, where the rights of the defendant are often in conflict with the rights and needs of the child.
302. In the criminal justice system in Ireland the victim is called the witness throughout the process. However, Article 26 uses the term child witnesses to mean children who have witnessed violence, most relevant in domestic violence cases. 'The term "child witnesses" refers not only to children who are present during the violence and actively witness it, but to those who are exposed to screams and other sounds of violence while hiding close by or who are exposed to the long-term consequences of such violence. It is important to recognise and address the victimisation of children as witnesses of all forms of violence covered by the scope of this convention and their right to support. Paragraph 2 therefore calls for age and developmentally appropriate best evidence--based psychosocial interventions that are specifically tailored to children to cope with their traumatic experiences where necessary.'<sup>317</sup> Specialist supports for children are generally limited to supports for child victims and are not widely available for child witnesses under this definition. Specialist supports to recognise and address the victimisation of children as witnesses of all forms of violence covered by the scope of this convention and their right to support are not in place. Developmentally appropriate best evidence--based psychosocial interventions that are specifically tailored to children to cope with their traumatic experiences where necessary are not in place for child witnesses to violence.

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<sup>314</sup> Based on approximate total population of 5 million, all figures are rounded

<sup>315</sup> SATUs and CASATS [Where to find a Sexual Assault Treatment Unit - HSE.ie](#)

In addition to the 6 HSE listed services there is an out of hours service in Limerick city and the two children's services in Galway and Dublin

<sup>316</sup> Istanbul Convention Article 26.1

<sup>317</sup> Council of Europe GREVIO (2021) Mid-term Horizontal Review of GREVIO baseline evaluation reports p87

303. In cases of sexual violence against children, the new protocol for specialist joint interviewing is not being consistently applied. An Garda Síochána have now specially trained officers whose role is specialist joint interviewing, but the responsibility for ensuring that the interviews happen jointly is not clear and the Gardai continue to proceed without specialist social worker counterparts. No tracking and data system exists to report on this and specialist organisations are relying on questions to parliament, Freedom of Information requests or ad-hoc reports to find out what is happening.
304. During the period, where concerns or allegations of sexual violence against children arose, children were still being sent for 'credibility testing'. The "credible/not credible" finding was then returned to the statutory agency with responsibility, the CFA, who then made a separate determination of "founded/unfounded".<sup>318</sup> The CFA has to date been unwilling or unable to disclose what percentage of the child abuse allegation cases it handled were deemed 'founded' or 'unfounded' and has committed to releasing this data in 2023.<sup>319</sup>
305. It is clear that some of the most egregious cases of long-term child abuse have happened in the care of the state, in institutions, schools and foster families, often to children already brought to the attention of social workers and social services.<sup>320</sup> The State actors that have failed so many children now recognise systemic failings and are taking steps to respond correctly in future, including in more open and collaborative communication with the specialist services that support the victims, collect and analyse the evidence base and advocate for reforms.
306. The State is required to ensure that *measures taken pursuant to this article shall include age-appropriate psychosocial counselling for child witnesses of all forms of violence covered by the scope of this Convention and shall give due regard to the best interests of the child*<sup>321</sup> The availability of specialist counselling, specialist intermediaries and other specialist supports is currently extremely resource limited and wait-listed. These specialist services are often impossible to access when they are needed because they do not have enough resources.
307. The specialist training on supporting child survivors of and witnesses to DSGBV that is currently available for professionals in state employ is unregulated, ad hoc, of limited duration, and not mandatory. Short and long-term specialist counselling and other supports are currently not adequately provided for. Limited and wait-listed services are provided by rape crisis centres and specialist support services, as well as state and private services. These supports need to be resourced, regulated and in place for child victims and witnesses before

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<sup>318</sup> 'Founded' is defined clearly in CASP (CFA Child Abuse Substantiation Procedure) as identical to the test for civil liability: ie. a report is "founded" if on the balance of probabilities, it took place - that is, it is judged to be more likely than not to have happened.

<sup>319</sup> 'The assessment examines and weighs up all the evidence and decides if the allegation is founded or unfounded on the balance of probabilities. In that context we expect to report outcomes on CASP investigations from 2023 onwards.' CFA 5<sup>th</sup> June 22 response to journalist Noel Baker of the Examiner

<sup>320</sup> For example (1), The Farrelly Commission of Investigation 2017-2022 (Grace) [gov.ie - The Farrelly Commission of Investigation \(Certain matters relative to a disability service in the South East and related matters\) \(www.gov.ie\)](https://www.gov.ie/en/the-farrelly-commission-of-investigation-certain-matters-relative-to-a-disability-service-in-the-south-east-and-related-matters/). The Farrelly Commission of Investigation, established to investigate the abuse of a girl with intellectual disabilities in a foster home for 20 years, was expanded in 2021 to include 46 other children. Example (2), CFA (Tusla) Internal Case Review, known as the 'Alice Report' 2020.

<sup>321</sup> Istanbul Convention, Article 26.2

they are referred into a more streamlined version of the current state institution and the criminal justice system without them.

308. Child contact centres have not been provided for or nationally planned by government. Currently their development is not included in the 3<sup>rd</sup> national strategy. Some very limited ad hoc services have been established by ngos but their funding unsecure and unsustainable.<sup>322</sup>
309. The Barnahus Model is a means through which a coordinated, interagency response can be provided to child victims of violence. The Barnahus model is in pilot phase in Ireland, with 3 Onehouse centres,<sup>323</sup> so it remains to be seen whether the coordination and cooperation between the multiple actors involved in Barnahus/Onehouse will serve the whole country and provide holistic services to all child victims under 14 years of age. The good reputation of the Barnahus model precedes it and the Barnahus model is broadly welcomed. However, in line with the Convention, transparent coordination and collaboration with civil society specialist expertise and solid inter-agency relationships must be integrated from the outset. A referral plan for Barnahus/Onehouse has not been shared with all the existing specialist services who have children on waiting lists, and it is not known whether there are also plans for multi-agency resource centres for survivors of DSGBV who are over 14 years of age. It is not known whether the Barnahus model will provide for child witnesses under the Convention definition.
310. The Barnahus model being adopted in Ireland increasingly looks like a medical model approach rather than a fully multidisciplinary child-centred model. A medical and justice-oriented model runs the risk of not being child-centred, victim-centred or witness-centred. Not all victims or witnesses will benefit from immediate or close to immediate referral to all services and some will want to defer elements of the reporting, investigation, prosecution and therapeutic processes to reduce re-traumatisation. Where all services are provided on one site the risk is increased that the whole service defaults to a medical model which takes no account of individual characteristics and wishes of young survivors. The other concern is that if everything is provided by the State and the State gives you the message that you ought to avail of all services, it is hard to assert one's own individuality and independence as a young survivor. In short, the risk of disempowerment (though intended by no-one) increases where there is a convergence of services – though of course there can be benefits also.<sup>324</sup> In order for the Barnahus model to be fully realised in Ireland, the voice and the best interests of children need to be at the forefront of Irish legislation and policy:
- a. A fully multidisciplinary child-centred Barnahus model needs to be embraced as the national model for responding to child victims. This requires the full support of the Minister for Children, Equality, Disability, Integration and Youth, Minister for Health and the Minister for Justice. We need to move from praising Barnahus as an ideal to real action to implement change. The Barnahus should primarily be a child-centred

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<sup>322</sup> <https://www.rcni.ie/wp-content/uploads/Joint-CLwDSV-Sub-to-the-Family-Justice-OG-FINAL.pdf>

<sup>323</sup> Barnahus West, based in Co. Galway, offers a response to child victims of sexual abuse living in the West of Ireland through coordination of the Child and Family Agency (Tusla), An Garda Síochána and HSE services for children. The overall aim is to reduce the retraumatisation caused to children through multiple interviews, lengthy investigation processes and lack of cooperation between agencies. All three agencies work together under one roof to share information and aim to provide joint specialist interviews, forensic medical examination and therapeutic supports without delay. Barnahus services are also being developed in Dublin and Cork in order to offer a national coordinated response to all child victims.

<sup>324</sup> See RCNI publication [RCNI-Opening-Statement-on-Victims-Testimony-in-Cases-of-Rape-and-Sexual-Assault-JOCJ-23-March-2021-Final-2-1.pdf](#) and [RCNI-Appendix-3-to-Submission-on-Victims-Testimony-Special-Measures-Table-March-2019-SI-Final.pdf](#)

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specialist psycho-social resource, where the child-friendly environment may also be used by law enforcement and other statutory agencies to carry out interviews/assessments with children who have experienced or witnessed DSGBV against women.

- b. The practice of Specialist Interviewing of Children requires full review with a view to the establishment of joint ownership of interviewing and training practices between the CFA and An Garda Síochána using an evidence-based national protocol.
  - c. National guidance is required to support data sharing between the CFA, An Garda Síochána and the HSE in the specific context of Barnahus in order to ensure that the best interests of children are served at all times and without undue delay.
  - d. A national review of therapeutic responses to child victims of sexual abuse needs to be completed with a view to properly resourcing crisis supports, therapeutic intervention, specialist supports for child witnesses and advocacy services. While Barnahus is one aspect of this response, it may not meet the longer term needs of child-survivors of sexual violence. It is fair to say that the national review is addressed in the 3<sup>rd</sup> National Strategy on DSGBV.
311. With regard to support for victims during the criminal justice process, ASSC provides a full specialist service to children of all ages and Rape Crisis Centres provide services to children over the age of 14 who are victims and going through the criminal justice process.
312. The Special Rapporteur for Children produces annual reports covering in some detail many of the issues for child victims and witnesses.<sup>325</sup>
313. Developmentally appropriate psychosocial supports for children in shelters are not routinely provided, and these supports are not routinely available to the children in the longer-term so that departure from the shelter does not necessitate the termination of essential specialist support. These supports should be structurally supported by the State for all forms of violence throughout the country, in conditions that ensure continuity and quality.<sup>326</sup>
314. It is not expressly stated, but is permissive, in the relevant family law statutes that committing violence against women in the presence of a child is equated to a form of DSGBV against that child. A child witnessing a crime of violence against a woman is unlikely to be regarded as a child victim of that crime, but the likely impact of such violence must be considered as part of the determination of what the child's best interests are in relation to family law issues (such as custody or access). If the child is considered a witness and not a victim in the criminal courts, s/he will not be entitled to all of the special measures available to a child victim of DSGBV.
315. Legislation defines all women who have been the object of DSGBV as well as their children under-18 as 'witnesses' (not 'victims') and they can be granted the right to social, psychological and medical support. Certain supports will depend on their age or mental state.

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<sup>325</sup> Annual Report of the Special Rapporteur on Child Protection 2020 [gov.ie - Special Rapporteur on Child Protection 13th Report \(www.gov.ie\)](https://www.gov.ie/publications-and-resources/publication/special-rapporteur-on-child-protection-13th-report); Special Rapporteur on Child Protection 14th Report 2021 [gov.ie - Special Rapporteur on Child Protection 14th Report \(www.gov.ie\)](https://www.gov.ie/publications-and-resources/publication/special-rapporteur-on-child-protection-14th-report)

<sup>326</sup> Council of Europe GREVIO (2021) Mid-term Horizontal Review of GREVIO baseline evaluation reports p89



## Reporting (Article 27) and Reporting by professionals (Article 28)

316. The State is required to *take the necessary measures to encourage any person witness to the commission of acts of violence covered by the scope of this Convention or who has reasonable grounds to believe that such an act may be committed, or that further acts of violence are to be expected, to report this to the competent organisations or authorities.*<sup>327</sup> The aim is to ensure that victims, bystanders and members of the general public who survive or witness DSGBV against women are empowered to report to the competent organisations or authorities. There is no dedicated hotline to log or record acts of violence against women. The responsibility is placed on individuals to report situations to the competent organisations or authorities without systemic specialist supports in place. In practice reporting of DSGBV is low and multiple barriers to reporting have been identified by specialist-representative organisations, evidence for which has been brought to the Government.
317. The reporting of domestic and sexual violence within families (particularly where children are also victims) involves a set of intersecting rights that are tackled principally by three separate statutory response systems - the child protection response (led by CFA), the Prosecution response (the criminal justice system) and the Civil response (civil courts including family law). A set of complex discriminations arise for the victims as often these three systems are activated simultaneously, operate with different imperatives and thresholds, place a different set of responsibilities on victims and do not effectively communicate with each other. These leaves victims with serious violations of rights with no recourse for redress, for example a court may grant an order stating the perpetrator cannot contact the victim while another court orders that same victim to facilitate and supervise access for the perpetrator to the child who may also be a victim, breach of which may be sanctioned.
318. The State is required to *take the necessary measures to ensure that the confidentiality rules imposed by internal law on certain professionals do not constitute an obstacle to the possibility, under appropriate conditions, of their reporting to the competent organisations or authorities if they have reasonable grounds to believe that a serious act of violence covered by the scope of this Convention, has been committed and further serious acts of violence are to be expected.*<sup>328</sup> The aim is to ensure that where confidentiality rules are imposed on certain professions, such rules do not present barriers to appropriate reporting to law enforcement or other authorities if they have “reasonable grounds” to believe that a serious act of violence has been committed and further serious acts of violence are to be expected. The unintended consequences of Article 28 (reporting by professionals) in conjunction with Article 18.4 (services must not be made conditional on reporting or testifying) is the potential to impact victim help-seeking behaviour, victim autonomy and consent. Specialist training and protocols on reporting need to be developed by all professional bodies, in partnership with specialist survivor-centred organisations. In this regard, CFA have just published a new CASP – Child Abuse Substantiation Procedure (June 2022), which was developed collaboratively with the relevant specialist-representative organisations and does take account of victim rights and needs to a much greater extent than its predecessors.<sup>329</sup>
319. During the period, the CFA were operating the unpublished 2014 Policy for Responding to Allegations of Child Abuse and Neglect, and a 2019 version of CASP, both of which were finally

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<sup>327</sup> Istanbul Convention Article 27

<sup>328</sup> Article 28 Reporting by professionals

<sup>329</sup> [Child Abuse Substantiation Procedure \(CASP\)Tusla - Child and Family Agency;](#)

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replaced in June 2022. The policy in place during the period did not take sufficient account of victims' rights, interests, or trauma. The policy was not in the public domain and was not implemented inconsistently. There was a period of confusion with respect to protocols for, and immediately following, mandatory reporting of sexual violence against children (2019-2022). According to policy, personal data of both victims and mandated reporters could be passed to the alleged perpetrator regardless of whether the victim was willing, or even able, to participate fully in the investigation process ("substantiation"),<sup>330</sup> a serious risk that disincentivised reporting and affected victims' help seeking behaviours.<sup>331</sup> Many victims had not consented to having their allegations disclosed to their abuser and were highly reluctant participants in a re-traumatising system.<sup>332</sup> Notifying the perpetrator in circumstances where there will not be a full investigation process is not always in the best interest of the victim, as it increases the risk of re-traumatisation and potentially puts the victim at risk of retribution. Mandatory reporting obligations appear to have been applied during the period inconsistently, often without due regard for some legitimate interests and concerns of both victims and mandated persons.<sup>333</sup> Mandated reporting is rarely straightforward and is mostly fraught with anxiety and risk for the survivor.<sup>334</sup> Following concerted advocacy, the specialist-representative organisations were consulted formally and made submissions on CASP 2022. The new CFA CASP 2022 represents a serious and very welcome attempt to address these legitimate concerns and will be monitored and reassessed until 2023.

320. Concerns remain that the rights of the victim may still be not fairly balanced with the rights of the perpetrator.<sup>335</sup> Historically, the policy, processes and implications of the legislation and accompanying policy were not centred on victims or their interests.<sup>336</sup> The Special Rapporteur on Child Protection has warned that the legislation underpinning CFA policy on mandated reporting of and investigations into sexual violence against children is "arguably unfit for purpose" and potentially "fails to protect children".<sup>337</sup> The legislation sets the rights of perpetrators and the rights of victims against each other without legislative guidance on how the competing rights should be balanced. The new CASP 2022 will help, but it cannot fill all the

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<sup>330</sup> CFA terminology: 'Person Subject to Abuse Allegations PSAA'

<sup>331</sup> In 2020 The Child and Family Agency (Tusla) was fined by the Irish Data Protection Commission for personal data breaches that provided an individual who was accused of child sexual abuse with the address of the child who made the complaint and with her mother's telephone number. The data was subsequently posted on social media. [Data Protection Commission Fine on Tusla Child and Family Agency Confirmed in Court | 04/11/2020 | Data Protection Commission](#)

<sup>332</sup> <https://www.irishtimes.com/news/crime-and-law/alleged-child-abusers-to-be-allowed-interview-complainants-1.4160746>

<sup>333</sup> Data Protection Commission 2020, [Data Protection Commission Fine on Tusla Child and Family Agency Confirmed in Court | 04/11/2020 | Data Protection Commission](#), 04/11/2020

<sup>334</sup> Joseph Mooney (2021) Adult disclosures of childhood sexual abuse and section 3 of the child care act 1991: past offences, current risk [Child Care in Practice](#), Volume 24, Number 3, 3 July 2018, pp. 245-257(13)

<sup>335</sup> Special Rapporteur on Child Protection, 13<sup>th</sup> Annual Report (2020) [gov.ie - Special Rapporteur on Child Protection 13th Report \(www.gov.ie\)](#) p35-51; Special Rapporteur on Child Protection, 14<sup>th</sup> Annual Report (2021) [gov.ie - Special Rapporteur on Child Protection 14th Report \(www.gov.ie\)](#) p44-60;

<sup>336</sup> <https://www.tusla.ie/services/child-protection-welfare/children-first/>; <https://www.tusla.ie/CASP/>; Special Rapporteur on Child Protection, 14<sup>th</sup> Annual Report (2021) [gov.ie - Special Rapporteur on Child Protection 14th Report \(www.gov.ie\)](#) p44-60

<sup>337</sup> Irish Times (16 Dec 2020) Legislation for child abuse unfit for purpose [Irish Times](#); Special Rapporteur on Child Protection, 13<sup>th</sup> Annual Report (2020) [gov.ie - Special Rapporteur on Child Protection 13th Report \(www.gov.ie\)](#) p35-51; Special Rapporteur on Child Protection, 14<sup>th</sup> Annual Report (2021) [gov.ie - Special Rapporteur on Child Protection 14th Report \(www.gov.ie\)](#)

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existing gaps in the legislation. The Child Care Act 1991 is currently under review, however the critical Section 3 is not the subject of this review as it has already been considered in a separate consultation process in 2018 but so far, no new legislative proposals have emerged with regard to Section 3.<sup>338</sup>

321. The CFA is mandated, under the Children First Act 2015,<sup>339</sup> to receive disclosures from counsellors, teachers and other mandated reporters<sup>340</sup> of sexual violence against children, regardless of the wishes or the age of the person disclosing, or whether the perpetrator is identified. Having received notification of a disclosure of sexual violence the CFA follows an inter-agency protocol to inform An Garda Síochána and an internal protocol to assess further required child protection actions. This protocol is supported by an information sharing agreement between the two agencies.
322. The inter-agency protocol or joint protocol between An Garda Síochána and the CFA (Tusla) dates from 2017 and is out of date.<sup>341</sup> *There are approximately 22,000 notifications from An Garda Síochána (AGS) to Tusla annually, and approximately 8,000 notifications from Tusla to AGS annually. A reasonable estimate is that approximately 500,000 records are exchanged between AGS and Tusla during the notifications process and subsequent exchanges of information between the social worker and Garda such as receipt confirmation, contact details, meeting notes, action forms and status changes. Streamlining the exchange of information is an important and tangible efficiency that will improve outcomes for children.*<sup>342</sup> The joint protocol between An Garda Síochána and the CFA (Tusla) is currently under review.

## Chapter V – Substantive Law (Articles 29 – 48)

### Compensation (Article 30)

323. Ireland has a reservation to Article 30.2<sup>343</sup> on the right to adequate State compensation for injuries. To promote uniform implementation of obligations, reservations are subject to a limited period of validity (5 years from entry into force of the convention in respect of the party concerned) and the party must justify its continuance.<sup>344</sup>
324. Compensation schemes do not provide timely State compensation for victims of DSGBV.

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<sup>338</sup> [gov.ie](http://www.gov.ie) - Review of the Child Care Act 1991 ([www.gov.ie](http://www.gov.ie))

<sup>339</sup> Children First Act 2015 [Children First Act 2015 \(irishstatutebook.ie\)](http://irishstatutebook.ie)

<sup>340</sup> As defined under the act [Children First Act 2015 \(irishstatutebook.ie\)](http://irishstatutebook.ie)

<sup>341</sup> Joint Working Protocol for An Garda Síochána/Tusla – Child and Family Agency Liaison 2017 [CF\\_Joint\\_Protocol.pdf \(tusla.ie\)](http://tusla.ie). This document should be read in conjunction with Children First: National Guidance for the Protection and Welfare of Children (2017).

<sup>342</sup> Child and Family Agency (Tusla) (2019) Tusla Strategic Action Plan arising from the HIQA Investigation into the management of allegations of child sexual abuse against adults of concern by the Child and Family Agency [Tusla\\_Strategic\\_Action\\_Plan\\_version\\_3\\_July\\_19.pdf](http://tusla.ie)

<sup>343</sup> Article 30.2 *Adequate State compensation shall be awarded to those who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources such as the perpetrator, insurance or State-funded health and social provisions. This does not preclude Parties from claiming regress for compensation awarded from the perpetrator, as long as due regard is paid to the victim's safety.*

<sup>344</sup> *First general report on GREVIO's activities of the Council of Europe (Article 79(3)).*

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325. There is no case in which compensation for pain and suffering is payable by the State, other than for fatal cases, where a fixed sum may be payable to a family member of the deceased victim.<sup>345</sup>
326. Administrative and other barriers, including low levels of reporting and convictions, restrict access to State compensation.
327. There is no dedicated compensation fund for victims of violence against women or trafficking.<sup>346</sup> Difficulties for victims of trafficking in accessing compensation<sup>347</sup> can lead to secondary victimisation, prevent victims of trafficking from accessing justice and an effective remedy for the violation of their rights.<sup>348</sup>
328. Ireland's reservation on State compensation (art 30.2) impacts survivors in that no compensation is payable by the State for damage which is 'pain and suffering'. The only scheme for compensation is limited to the reimbursement of specific, quantified and vouched expenses related directly to the injury suffered (i.e. the scheme excludes compensation for damage to property, maintenance of any child born to any victim of a sexual offence, as well as damages for 'pain and suffering'). As much of the harm caused to survivors of DSGBV is psychological, and State-funded counselling may be available, it means that most claims through the non-statutory (administrative) scheme (Criminal Injuries Compensation Scheme CICS) are for lost earnings and out of pocket expenses such as travel costs to specialist services. Applications must be made within 3 months of the event giving rise to the injury, awards are subject to long delays, and the scheme has a limited annual budget. When the administrative scheme awards a payment and there are not sufficient funds left within the annual budget to make the payment then the victim will have to wait until the following year's budget becomes available. Compensation is neither granted nor paid on a reasonable timescale. The CICS scheme is the only compensation scheme for State compensation.
329. The latest Annual Report from the Criminal Injuries Compensation Scheme is publicly available and refers to 2020.<sup>349</sup> Less than €7,000 was paid by the Tribunal to 113 claimants in 2020, an average of €60 per claimant. Legal costs are not covered and there is no right to legal aid. There is no requirement that the Tribunal must make a financial award in the event of a successful claim. Paragraph 10 which was excised from the CICS rules in April 2021, excluded compensation where the offender and the victim were living together as members of the same household at the time the injuries were inflicted. Paragraph 13 excludes compensation where the Tribunal considers that the victim provoked or was partially responsible for the offence. Paragraph 14 of the Scheme permits the Tribunal to consider whether 'the conduct of the victim, his character or his way of life make it inappropriate that he should be granted an award', although in 2020 the Court of Appeal found that the inability of appellants to access

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<sup>345</sup> See RCNI publication [RCNI-Compensation-for-Victims-of-Crime-LRC-consultation-response-April-2022-LD-Final.pdf](#)

<sup>346</sup> GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Ireland (2017) p. 55. [168074b426 \(coe.int\)](#)

<sup>347</sup> Victims of trafficking can obtain compensation through a court order, civil action, the Criminal Injuries Compensation Tribunal, and State bodies dealing specifically with work-related rights, including the Workplace Relations Commission. IHREC, Submission to the Committee on the Elimination of Racial Discrimination (2019) p. 133. [IHREC\\_CERD\\_UN\\_Submission\\_Oct\\_19.pdf](#)

<sup>348</sup> IHREC (Aug 2020) Submission to the United Nations Human Rights Committee on the List of Issues for the Fifth Periodic Examination of Ireland [Submission-to-UN-HR-Committee-on-the-LOIPR-on-Irelands-5th-periodic-examination.pdf \(ihrec.ie\)](#) p38

<sup>349</sup> [gov.ie - Criminal Injuries Compensation Tribunal Annual Report 2020 \(www.gov.ie\)](#)

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information on how paragraph 14 had been applied in the past was in breach of rights to fair procedures and effective protection.

330. There is no dedicated process for women victims of DSGBV to claim compensation from the State. Women's right to compensation and redress is not ensured.
331. Children who witness violence do not have explicit access to compensation from the State unless they have themselves suffered personal injury, regardless of the severity of crime witnessed.
332. Dependents and family members of surviving victims are not eligible to claim compensation from the State.
333. If Ireland's reservation on compensation is not renewed after the 5-year validity period, a new scheme will be needed to meet the obligations of the Convention (Article 30.1). Victims (or their dependents) will still not be able to receive timely or adequate State compensation for serious bodily injury, trauma, or impairment of health until the restriction on payment for 'pain and suffering' is abolished and the budget for the scheme increased to cover awards. The current scheme is subject to chronic delays and does not cover compensation for cases of historical DSGBV by State actors. In the civil courts, personal injury guidelines set out amounts in compensation for various types of injuries and these guidelines could be similarly applied to criminal courts and to the CICS, to create a transparent, timely procedure for compensation for survivors of DSGBV.
334. There is a statutory criminal justice provision under which a prosecutor may apply to the Court at sentence for an order for compensation for the victim from the perpetrator (Section 6, Criminal Justice Act 1993). This statutory scheme is only applicable after conviction (if there is a conviction), and criminal cases may take many years to reach the point of sentence. Under the Section 6 provision, prosecutors are empowered to apply to the Court at sentence of a convicted perpetrator for compensation from the perpetrator, but not from the State. The only other alternative is for victims to sue the perpetrator through the civil courts in the ordinary way for damages caused by the sexual violence. This is a lengthy and expensive process if the victim does not qualify for legal aid from the State. There is also no point in looking for monetary compensation from the perpetrator if they do not have the means to pay it, even though his means will not be taken into account in deciding either liability or quantum.
335. There is insufficient data available on the extent to which victims receive compensation in practice, to evaluate the effectiveness of compensation mechanisms. It is not possible to provide information on women who sought redress/compensation from perpetrators and who did not obtain it or waited a long time or received an unsatisfactory amount. Some information was provided by the Law Reform Commission Consultation Report on Compensation for Victims of Crime, published February 2022 on this topic. However, there is only limited statistical information in this Report. There is also no information made available in Courts Service Annual Reports on Section 6 orders.
336. Where a State actor has been found responsible for the DSGBV or the State has failed in their duty to take all necessary preventive or protective measures, several time-limited State redress schemes have been implemented following long delays and immense pressure from civil society. In one test case the State initially denied liability for redress and then withheld redress for 7 years after the ECHR found in 2014 that the State had failed to protect (children



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from a primary school teacher under state employ, convicted for sexual violence against 5yr olds).<sup>350</sup> A review of the redress scheme in 2019 found that the criteria to qualify for a redress payment was too restrictive, including a requirement for evidence of prior complaint against the abuser. The redress scheme was finally revised and reopened in July 2021. However, the Irish Human Rights and Equality Commission has expressed its continuing concerns about the terms of this revised Scheme in a detailed submission to the ECHR dated 1 December 2021.<sup>351</sup>

337. A previous redress scheme for former child residents who experienced abuse at State institutions operated from 2002-2011 and cost the State an estimated €1.5bn. The scheme was not reopened in 2017 following further evidence of extensive institutional abuse in State Mother and Baby Homes.<sup>352</sup> For decades, thousands of women and children were incarcerated in workhouses in inhumane conditions, where they were violently and sexually abused, starved and babies were sold, and the offenders (religious orders) were protected. In 2021 a new inter-departmental group was established to design a new redress scheme worth €800 million (Restorative Recognition Programme) for former residents of State Mother and Baby Homes.<sup>353</sup> Other significant redress schemes for DSGBV in State institutions were the Residential Institutions Redress Scheme (RIRS) and the Magdalene Laundries Scheme covering residents of industrial schools, orphanages and workhouses operating in some cases up until 1990s. The compensation procedures available for women victims against State authorities which failed in their duties to prevent and protect women and children from DSGBV have been limited to these restrictive and delayed redress schemes. Time-limited restrictions are widely used to invalidate delayed applications. Some 34,000 women are estimated to be currently waiting for redress.
338. Survivors of DSGBV need a range of supports as they recover from physical injuries and psychological suffering and the need may become urgent or acute, negatively impacting employment and relationships. The determination of the victim compensation claim needs to go beyond quantifiable loss or expense related to the injury, to include damages for pain and suffering and needs to be expedited in cases of financial or psychological need.<sup>354</sup> A fast-track process or interim payment is recommended in these circumstances. RCNI and SI have also recommended legislating for transparent and consistent victim compensation as administrative schemes have not always worked very well for victims in the past. Children who witness violence do not have access to compensation from the State, without threshold as to the severity of crime, as recognition of the suffering of the children who witness violence, unless they have themselves suffered a personal injury.

### Custody, visitation rights and safety (Article 31)

339. The child's journey through the justice system is fraught and difficult and does not always understand children as victims in their own right, and not simply witnesses to DSGBV. The

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<sup>350</sup> ECHR Louise O'Keefe 2014

<sup>351</sup> <https://www.ihrec.ie/app/uploads/2021/12/OKeefe-Submission-to-the-ECHR-03122021F.pdf>

<sup>352</sup> Special Rapporteur on Child Protection (2021), O'Mahony, Annual Report of the Special Rapporteur on Child Protection [214234\\_9e893871-ecb7-4a28-879a-d0a83d5bc7e2 \(1\).pdf](#) p69-129

<sup>353</sup> Interdepartmental Group on Restorative Recognition for Former Residents of Mother and Baby Homes Terms of Reference [b5f5a82f-b606-4a70-bd0c-266bae6034c4.pdf](#) ([www.gov.ie](http://www.gov.ie));

<sup>354</sup> For more detailed information see RCNI 'Compensation for Victims of Crime Consultation by Law Reform Commission – RCNI Responses' April 2022 [RCNI-Compensation-for-Victims-of-Crime-LRC-consultation-response-April-2022-LD-Final.pdf](#)



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child has no legal agency as a separate party to proceedings. Safe Ireland has mapped the child's journey and the inadequate structures of support and referral in place for children living with domestic violence.<sup>355</sup>

340. The shortcomings in the application of the legal framework are many, for example the lack of obligation to ensure the safety of victims and their children in the decision on and exercise of custody and visitation rights. Article 31 requires States to take equally into account incidents of violence against the non-abusive parent and the child, and to ensure that the rights and safety of the victim and children come before the rights to visitation or custody. Visitation rights are rarely denied. Children are overruled in terms of age or capacity if they do not want contact, as it is presumed that parental contact is always in their best interests, regardless of whether there is evidence that either the other parent was abused, or the child or children were abused in any way. The views of the children are generally sought via an expert assessor's report so that it cannot be said that their views are not part of the assessment. However, not much weight is attached to them in many cases in which there is evidence of abuse against the other parent and/or the child or children.
341. The current system gives no legal agency to the child as a party to the proceedings in their own right. "Firstly, as a child's fate is entirely dependent on their parents, guardians or the State, the pathway from violence is legally determined and/ or influenced by a range of third-party decision makers. Secondly, as the circumstances of violence that a child is exposed to can vary greatly from one case to another, there is no single easily defined preferred stated outcome."<sup>356</sup>
342. It is unethical not to listen to the voice of the child in the development of policy for the child. See Barnardos, Childhood and domestic violence work<sup>357</sup> This applies equally to specialist support services, generalist services and national policy makers. Not only have children's voices through research not been translated to policy, but children's individual rights to be heard are not respected in policy.<sup>358</sup> This requires that each child has the opportunity to express their feelings to a professional and be facilitated to engage with the process in a meaningful way that helps them find solutions on their own terms.
343. "Parental Alienation Syndrome"<sup>359</sup> is currently being researched by Government as it can result in women losing custody of children. *"For example, when allegations of domestic abuse are brought forward in court, perpetrators are increasingly asserting Parental Alienation in direct response. In effect, the abusers are extending their abuse through our legal system because various representatives do not hold, or use, a robust understanding of domestic violence. It is our considered opinion that Parental Alienation is best positioned as a manifestation of criminal coercive control, rather than any semi-medical condition, notwithstanding caveats about the presence of domestic violence."*<sup>360</sup>

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<sup>355</sup> Safe Ireland 2021 No Going Back [No-Going-Back-Discussion-Paper-Safe-Ireland-March-2021.pdf](#) ([safeireland.ie](#)) p14-17

<sup>356</sup> Safe Ireland 2021 No Going Back [No-Going-Back-Discussion-Paper-Safe-Ireland-March-2021.pdf](#) ([safeireland.ie](#)) p14

<sup>357</sup> Barnardos, 'Our rights your responsibility' infographic, 'Hear me See me Keep me Safe',

<sup>358</sup> Leahy, Susan, 2002, Squaring the Circle

<sup>359</sup> RCNI 2022 Submission to the Consultation on Parental Alienation [Submission to the Consultation on Parental Alienation \(June 2022\)](#)

<sup>360</sup> Safe Ireland No Going Back p7 [No Going Back Discussion Paper 2021](#)

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344. Legislation is not routinely applied to prevent custody and visitation (known as “access” in Irish law) in recognition of harm to the child of witnessing violence against a close person.
345. Separate waiting areas are not always provided in courts. The Courts Services does do its best to separate abusers from victims and other witnesses and this is the aim of official policy but given the age of many courthouses and the over-crowding which was the norm before Covid, it has been very difficult sometimes to provide safe spaces for victims and witnesses to wait for their court hearing. Another important cause of this problem is the relatively low numbers of judges, including at the District Court, where these cases are usually heard. Space would not be such an issue if there were more judges hearing these cases on different days outside of the cities, as there is no court which sits every day in the same courthouse.
346. A Family Law Court Bill is due to be published in 2022, and separately there is family justice oversight group (mostly a State agency interagency group, with civil society and solicitor consultation) to make sure that family justice works together smoothly. Both Safe Ireland and RCNI have advocated for the introduction of specialist Family Law Courts on behalf of survivors.<sup>361</sup> ‘Specialist Family Law Courts are needed because the nature of the work is specialist and the impact of non-specialist approaches can result in harm to vulnerable court users, especially but not limited to, children.’<sup>362</sup>
347. Fathers who are perpetrators of domestic violence having visitation rights with children (known as “access” in Irish Law) is not always in the best interests of the child and does not contribute to empowerment of women.<sup>363</sup> Legislation to recognise the harm to the child of witnessing violence against a close person exists but may be inconsistently applied in custody and visitation decisions. For example, the court on any custody or access application must consider any household violence and also (separately) any risk of harm to children. However, the conclusion reached routinely includes some form of access, albeit restricted (rare, short and/or supervised).
348. There is a prohibition<sup>364</sup> on the use of mediation to resolve a dispute which is the subject of Domestic Violence Act 2018 proceedings and public law child care proceedings, but no other prohibition on the use of mediation in the area of private family law, such as custody or access or guardianship. To the contrary, there is a duty on solicitors in judicial separation and divorce proceedings to advise their clients to consider mediation before embarking on either type of proceedings. ‘Those who have suffered or are at risk of suffering, sexual or domestic violence should not be encouraged, much less required, to consider any form of mediation as a resolution of their predicament. The potential for subversion of the mediation process, leading to further victimisation of the victim and/or any dependent children, is always present where there is evidence that one partner has already subjected the other to abuse, and any victim of such abuse needs the protection of a court order which may be enforced against the perpetrator.’<sup>365</sup>

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<sup>361</sup>Safe Ireland Family Law Courts Submission

<sup>362</sup>[RCNI-Family-Law-Courts-Submission-to-JOCJE-Final-April-2019.pdf](#)

<sup>363</sup>[Microsoft Word - Tracking the Shadow Pandemic Lockdown 2 - Report.docx \(safeireland.ie\)](#) p12

<sup>364</sup>Mediation Act 2017, Section 3

<sup>365</sup>RCNI (2019) Family Law Courts Submission [RCNI-Family-Law-Courts-Submission-to-JOCJE-Final-April-2019.pdf](#)

### Civil consequences of forced marriages (Article 32)

349. Violence is not a reason for fast-tracking a divorce. Regular judicial separation/divorce proceedings procedures must be followed. Barring or safety orders can be sought ancillary to Judicial Separation or Divorce proceedings if they are needed.
350. Separate waiting areas are not always provided in courts due to the age of many of the buildings. The situation is not different for women seeking to escape a forced or violent marriage.
351. Victims of violence who wish to separate are not required to undergo mediation but their lawyers are required to advise them about mediation before proceedings are started. In practice, this may be a formality.
352. Women are able to free themselves from marriages concluded without free consent or where there is violence, but there is no fast-track procedure that would be quicker than “normal” judicial separation or divorce processes. Forced marriage is now a criminal offence under the Domestic Violence Act 2018.
353. Where a woman’s civil status was dependent on her husband prior to separation she can remain in Ireland, for example for migrants who are on so-called ‘dependent immigration permission’ or spousal dependent visas (Stamp 3), it is technically possible to apply for an independent immigration visa status as a victim of domestic violence. Dependent immigration permission refers to a right of residence granted to non-EU citizens based on their marriage to or relationship to an Irish, EU or non-EU national who has the right of residence in the State. The applicant must be in possession of a valid immigration visa which is dependent on a family member. The application may require proof of domestic violence in the form of a Court Order (barring, protection or safety), medical reports indicating injuries consistent with DV, Garda reports, letters from DV support groups or HSE, other relevant evidence of DV. The Irish immigration authorities (at the discretion of the Minister of Justice) may issue an independent visa to remain in the State similar to the dependent visa held. If the dependent visa held did not provide the right to work, an application can be made for the right to work.

### Psychological violence (Article 33)

354. In Ireland, psychological violence has been criminalised as ‘coercive control’ in the Domestic Violence Act 2018. Section 39 Domestic Violence Act 2018 effectively criminalises coercive control by a partner in intimate or formerly intimate personal relationships as a stand-alone crime without evidence of any other violence. The legislation defines coercive control as ‘psychological abuse in an intimate relationship that causes fear of violence, or serious alarm or distress that has a substantial adverse impact on a person’s day-to-day activities.’ There is no need for any physical violence, or threat of same in order to prove this offence.
355. There are shortcomings in training for professionals on psychological violence.<sup>366</sup> Law-enforcement personnel are not all adequately trained to respond to this type of violence. At the specialist and managerial levels within Garda, the training has been done and the results are by and large impressive following intensive training on coercive control which included

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<sup>366</sup> See Article 15 in this report on Training for professionals

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Safe Ireland and other international experts as co-trainers in some of the sessions. Rank and file first responder Garda officers need more training in this area.

356. As with all legislation, it is difficult without dependable data to draw conclusions about how effective the provisions are in protecting survivors of DSGBV and holding perpetrators to account.

### Stalking (Article 34)

357. Stalking is not yet criminalised in a way that satisfies the requirements of the Convention. The Government will soon (2022) publish its Bill with a long and open list of forms of stalking, following much advocacy and public pressure. The Minister has committed to enacting the standalone offence of stalking and the offence of non-fatal strangulation. In recent weeks, she has announced that this will happen via the forthcoming Criminal Justice (Miscellaneous Provisions) Bill 2022, but the Bill is not yet published as of August 2022. There will be no restriction to intimate or formerly intimate partners only, in the draft and it will be possible to get a form of non-contact order under this legislation, and violation of that order once granted, will be a criminal offence.
358. There is good understanding among Garda management and in specialised units of what constitutes stalking in general and it is already prosecutable in some of its forms under general legislation. However, there needs to be more education and training of Garda rank and file officers as they will be the ones to whom victims of stalking will first report the crime and who will undertake the investigations. Victim-blaming is not an issue at senior specialised levels but can still crop up at rank and file level. There are gaps in training at this level. Our understanding is that these gaps are now being addressed.
359. The draft bill has not yet been published and adequate guidance has not yet been provided to law enforcement and criminal justice professionals on how to handle the complex and gendered nature of stalking and avoid placing a disproportionate weight on the victims' behaviour.
360. There is no data on stalking as stalking, including its online dimension which will be included in the forthcoming Bill, is not a dedicated offence yet. However, many activities which constitute stalking may be, and often are, prosecuted as individual offences, depending on the facts of the individual case - for example, harassment, attempted burglary, attempted rape, blackmail, distributing an intimate image without consent, making threats to kill or cause serious harm.

### Sexual violence, including rape (Article 36)

361. It is time that the defence of honest but not necessarily reasonable belief in the consent of a woman to sexual intercourse was changed by statute to become more objective – i.e. it should be both honest and reasonable. This defence of “honest belief in consent” applies only to rape contrary to Section 2 of the Criminal Law (Rape) Act 1981, i.e. vaginal penetration of a woman by a man's penis without her consent and with the man either knowing she does not consent or being reckless as to whether she consents or not. It is expected that this legislation will be amended so that belief in consent must be both honest and reasonable, in the

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forthcoming Sexual Offences Bill (which has now been published in preliminary form as a “General Scheme” in August 2022).).

362. Another area which could be examined is that of digital<sup>367</sup> penetration of the vagina or anus without consent. That is not rape under our current laws, but sexual assault, a lesser offence in terms of maximum penalty – 10 years as opposed to life for rape.
363. Our recommendation is that the Sentencing Information and Guidelines Committee should look at sexual offences outside of rape first of all. There are effectively guidelines for rape in various cases and sentences for rape have got longer over the years, but the more variable and inconsistent sentencing patterns happen in relation to sexual assault, by the far the most commonly charged offence.
364. The key areas where legislative reform is still required to comply with Istanbul Convention are in victim support. ‘Victims of sexual violence should be seen as inherently vulnerable witnesses; of these, some are additionally vulnerable, for example because of their young age or because of a disability – and all victims should be seen as individuals in need of individual supports.’<sup>368</sup>
365. The issues of low reporting and conviction rates require:
  - a. work on reducing delays<sup>369</sup>
  - b. piloting pre-recorded cross examination and re-examination for victims and witnesses of sexual offences
  - c. provision of a standardised high quality professionalised advocacy and support service to victims of sexual offences going through the criminal justice system from the beginning to the end, ideally through a professionalised National Advocacy Programme;
  - d. make both protective and special measures more readily accessible to victims of both DV and SV over 18 with full capacity.

### Sexual harassment (Article 40)

366. The State is required to *take the necessary legislative or other measures to ensure that any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, is subject to criminal or other legal sanction.*<sup>370</sup> There is a need for timely application of existing sanctions and it should be possible to fast-track an order wherever necessary, and breach of any order restraining harassment or stalking behaviour(s) should be an arrestable offence. Civil restraint orders that include constraint on the behaviour of the accused, and that are designed to be used without

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<sup>368</sup> [RCNI-Opening-Statement-on-Victims-Testimony-in-Cases-of-Rape-and-Sexual-Assault-JOCJ-23-March-2021-Final-2-1.pdf](#)

<sup>369</sup> Lengthy delays are not only retraumatising in themselves but affect quality of victims’ memory [RCNI-Opening-Statement-on-Victims-Testimony-in-Cases-of-Rape-and-Sexual-Assault-JOCJ-23-March-2021-Final-2-1.pdf](#)

<sup>370</sup> Article 40 Istanbul Convention

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delay or legal assistance, are required.<sup>371</sup> The draft provisions on stalking which will be introduced by the Minister also include provisions on civil orders in respect of stalking behaviours. This is very welcome.

367. The Harassment, Harmful Communications and Related Offences Act 2020 has significantly expanded the range of available offences to include offences of recording, distributing and publishing intimate images without the consent of their subject, which are carried out mostly online, and has increased the maximum penalty for the offence of harassment itself from 7 to 10 years.
368. There are different protections in workplaces (Workplace Relations Commission) and schools/places of education (pupils) and homes or public places. Systems of reporting need to be standardised and formalised in places of education, workplaces and elsewhere and all adolescents should know how to report sexual harassment. RCNI research indicates that 80% adolescents experience sexual harassment.<sup>372</sup> The Irish Congress of Trade Unions undertook research on sexual harassment at work that showed that 81% of workers experiencing sexual harassment at work do not report the incident to their employer. 72% of the responses were from women.<sup>373</sup> Employees need to be supported to report, taken seriously when they do report, and sanctions applied to perpetrators. Under the Employment Equality Acts,<sup>374</sup> the onus is on employers to prevent sexual harassment in the workplace. Under the Istanbul Convention, the onus is on the State to exercise due diligence prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are perpetrated by non-State actors.
369. RCNI has indicated that there is need for a new standalone<sup>375</sup> civil restraint order with power of arrest OR emergency *ex parte* procedure for sexual harassment that can be applied for by members of An Garda Síochána. The Minister's proposals as outlined in paragraph 369 above are confined to stalking activities only and so far, do not include any power of arrest or dedicated *ex parte* procedure.
370. There is a separate provision under which Harassment Orders can be made against convicted sex offenders at sentence, but only for a maximum of 12 months after their release from prison. (See Section 46 of the Criminal Law (Sexual Offences) Act 2017). Significantly, a judge can make a Harassment Order on the grounds of a genuine fear of unwanted contact or intimidation from an offender, in advance of harassment.
371. RCNI has recommended that a new statutory provision is introduced whereby it is possible for a person subjected to unwanted sexual (or indeed other) attention amounting to harassment to apply to the District Court or Circuit Court for an order restraining that behaviour. These provisions should include a very simple and swift application procedure which allows for *ex*

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<sup>371</sup> RCNI and Michelle Walsh (2021) Storm and Stress [RCNI-Storm-and-Stress-FINAL.pdf](#) p27

<sup>372</sup> [RCNI-Storm-and-Stress-FINAL.pdf](#)

<sup>373</sup> Irish Congress of Trade Unions, November 2019 [ICTU Survey reveals Shockingly High Levels of Under-Reporting of Sexual Harassment at Work | ICTU](#)

<sup>374</sup> Irish Statute Book, Employment Equality Acts 1998-2015. Sexual harassment is defined in the Employment Equality Acts 1998-2015 as any form of unwanted verbal, non-verbal or physical conduct of a sexual nature which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. Sexual harassment is prohibited under the Acts.

<sup>375</sup> Independent of any criminal or civil proceedings



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*parte* hearings to be held when necessary. Breach of a civil restraint order should be an arrestable offence, just as breach of an order under the Domestic Violence Act 2018<sup>376</sup> is.

Civil restraint orders are an important means of protection from unwanted attention and communication for survivors of sexual violence who have taken the courageous step of reporting the offence to the Gardaí and are likely to have to wait several months for the investigation to be concluded and for the case to be considered by the Director of Public Prosecutions before there is any possibility that charges will be brought. Meanwhile, the accused person is not under the supervision of the court, i.e. not restrained by bail conditions. Indeed, if there is no decision to prosecute, he never will be. If he is a former or current intimate partner, a protection order and eventually a safety order, may be sought against him by the complainant under the Domestic Violence Act 2018. If he is not, and his victim is not otherwise eligible to apply for an order under DVA 2018, he will not be under the restraint of the court at all unless and until such time as he is charged with a criminal offence and thereupon becomes subject to bail conditions, i.e. to the restraint of the court. (Breach of a bail condition is an arrestable offence and may result in the withdrawal of bail, though this is rare).

372. However, many survivors of sexual violence have no such prior relationship with the accused person and so cannot benefit from this Act. They need to be protected from unwanted attention and communication (direct or indirect) emanating from the accused, designed to intimidate or punish them or simply part of a longer campaign of harassment which might be better described as stalking.<sup>377</sup> Civil restraint orders are a necessary additional protection from sexual harassment behaviours, and especially useful in any situation in which an order may not be sought under Domestic Violence Act 2018 restraining such behaviour. For this reason, RCNI and Safe Ireland welcomed the Minister for Justice's recent announcement that she would include a form of civil order preventing stalking behaviours independently of other proceedings, in the forthcoming Criminal Justice (Miscellaneous Provisions) Bill 2022 which is not yet published as at August 2022. Social norms need to be explored and gender inequality challenged across society and in particular through school curriculums and school wide culture to empower adolescents and promote egalitarian interpersonal relationships.
373. Professional bodies engaged in updating curricula need to partner with specialists in order to address intersectional characteristics and vulnerabilities such as sex, gender, sexuality and disability.
374. Sexual harassment was not included in the National Action Plan on Bullying<sup>378</sup>. However, it is fair to say that it is addressed in the 3<sup>rd</sup> National Strategy on DSGBV in some detail through the following actions in the Implementation Plan: in relation to primary and secondary education (1.4.5 which will ensure that it is included in the NAP on Bullying insofar as this relates to schools), employers (1.7.2), the defence forces (1.7.4), 3<sup>rd</sup> level education (1.2.1,2,4), the night-time economy (1.6.2), international law (1.7.5), and criminal law (3.3.13).

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<sup>376</sup> Available online: <https://revisedacts.lawreform.ie/eli/1996/act/1/front/revised/en/html>

<sup>377</sup> [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf](#) p.12

<sup>378</sup> RCNI (2021) [RCNI-School-Bullying-Submission.pdf](#); [OCO\\_Submission\\_Bullying-in-Schools-and-Impact-on-Mental-Health\\_Feb-2021.pdf](#)

375. It is often not possible to punish an isolated incident of sexist insult. (In France, verbal and non-verbal conduct of a sexist, as well as sexual, nature, even when not repeated, is punishable by law). Sexual harassment which does not involve physical assault can generally only be prosecuted if it is persistent under the general offence of harassment.<sup>379</sup> However, if the sexist harassment amounts to a single act of distribution or publication of an intimate image of another person without that person's consent, it can now be prosecuted as an offence contrary to Section 2 or Section 3 of the Harassment, Harmful Communications and Related Offences Act 2020.
376. Non-disclosure clauses in settlement agreements by employers in cases of sexual harassment and discrimination are still legal and commonplace. There is a Private Members' Bill now going through Parliament which seeks to restrict this practice: the Employment Equality (Amendment) (Non-Disclosure Agreement) Bill 2021<sup>380</sup>. So far, it has not been opposed by Government and it has been agreed that there will be co-operation on future amendments<sup>381</sup>.
377. Sexual harassment (and all crimes in Ireland) must be proved against each individual accused individually. This is not to say that it cannot include acts imposed by a plurality of individuals, acting in isolation or together. Multi-handed crimes can be prosecuted.

#### Aiding or abetting and attempt (Article 41)

378. In Irish criminal law, attempt carries the same maximum penalty as the principal offence provided that the offence is "indictable", ie serious enough to be tried at the middle Circuit Court level or above. See Section 7 Criminal Law Act 1997

#### Unacceptable justifications for crimes, including crimes committed in the name of so-called "honour" (Article 42)

379. Defence lawyers in Ireland often try to introduce unsworn written statements purporting to provide "good character references" at sentence. RCNI welcomed the recent commitment in the 3<sup>rd</sup> National Strategy on DSGBV (Action 3.3.3) to the reconsideration of "character references" on behalf of the accused. Indeed, the judges are now taking a more robust view of them also.<sup>382</sup> There is a Private Members' Bill to this effect which has not been opposed by

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<sup>379</sup> Some acts of harassment which are not repeated may satisfy the definition in Section 45 Criminal Law (Sexual Offences) Act 2017 – offensive conduct of a sexual (but not sexist) nature.

<sup>380</sup> Accessible via this web-link (as initiated text):

<https://data.oireachtas.ie/ie/oireachtas/bill/2021/82/eng/initiated/b8221s.pdf>

<sup>381</sup> Seanad Committee stage debate is accessible via this web-link:

<https://www.oireachtas.ie/en/debates/debate/seanad/2022-07-06/39/>

<sup>382</sup> <https://www.irishtimes.com/crime-law/courts/2022/06/24/judge-says-those-who-give-character-references-in-criminal-cases-should-be-available-for-cross-examination/>

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Government. It would outlaw the assertion of positive aspects of the convicted person's character and other attributes in mitigation for the offences on which he was convicted, unless this information is proved by way of sworn oral testimony.<sup>383</sup> It should not be possible for the defence to introduce character-'evidence' which contradicts the evidence given at the trial or the convicted person's known antecedents, including any criminal record. Further, it seems to us that no injustice would be done to the convicted person if any proposed defence character reference had to be formally disclosed to the prosecution and the victim in advance and the person providing that reference had to make him or herself available for cross-examination by the prosecutor during the sentencing hearing.

380. This Bill also proposes that victims should be given separate legal representation for the purpose of cross-examining defence character witnesses at sentence.
381. RCNI has recommended, in line with the recommendation to that effect in "The Realities of Rape Trials",<sup>384</sup> that judges should give model directions to the jury in general terms aimed at dispelling rape myths, both at the beginning of the trial and at the end, during the charge. Some members of the jury at least may take them on board. Our concern is that rape myths are so deeply embedded that these directions may be only really effective for many jurors when they are accompanied by strict evidential restrictions.<sup>385</sup> While judicial directions aimed at dispelling rape myths would help, a concern is they may not be likely to work as well as excluding irrelevant but deeply prejudicial evidence altogether.

### Sanctions and measures (Article 45)

382. Prevention and punishment measures are not always effective, proportionate and dissuasive, sending a counter-productive message to perpetrators implying that committing violence against women, even repeatedly, is not a serious crime.<sup>386</sup>
383. There is a tendency to rely on suspended or conditional sentences for more minor offences of DV (especially breach of a DVA order or the least serious form of assault). This tendency is rarer in sexual offences but what is quite common re sexual offences is a part-suspended sentence, where the last year or last few years of the sentence are suspended on certain conditions (which may include orders equivalent to protection orders).
384. Specialist preventative operational measures, such as electronic bracelets and bail conditions are only available post-conviction.

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<https://www.newstalk.com/news/judge-refuses-to-accept-character-references-unless-authors-testify-in-court-1364848>

<sup>383</sup> Criminal Justice (Amendment) Bill 2022

<https://data.oireachtas.ie/ie/oireachtas/bill/2022/24/eng/initiated/b2422s.pdf>

<sup>384</sup> <https://www.drcc.ie/assets/files/pdf/leahyrealitiesreport.pdf>

<sup>385</sup> See [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf](#): Prohibition on defence cross-examination of complainants on their clothing and/or demeanour which is likely to imply that they were consenting to the sexual activity at issue because of how they were dressed and/or behaved immediately before or during that activity and is not relevant to any issue of fact.

<sup>386</sup> "Ultimately, this leads to a high danger of repetition and escalation of violence, to the detriment of girls' and women's right to live free from violence. Further, such a practice goes against the due diligence obligation enshrined in Article 5, paragraph 2 of the convention."

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- a. Electronic bracelets (electronic tags) are not currently used. They were used for over a decade on convicted prisoners on temporary release, but Irish Prison Service decided not to renew the contract as it did not offer great value for money<sup>387</sup> The statutory provisions which would have allowed electronic tags to be used on un-convicted persons subject to bail in criminal proceedings – were never brought into force. A provision to use electronic tags for convicted sex offenders released back into the community after a prison sentence will be included in the Sex Offenders (Amendment) Bill now going through the Oireachtas.
  - b. Bail conditions, once the accused has been charged, may restrict all contact with the victim or otherwise address any distressing and/or threatening behaviour of the accused towards the victim.
385. Protection orders may be available prior to the conviction where the victim is eligible to apply under the Domestic Violence Act.<sup>388</sup>
- a. Protection orders are only available pre-conviction if a victim is eligible to apply for, and is granted, an order under DVA 2018<sup>389</sup>
  - b. Protection orders are available post-conviction in certain limited circumstances:
    - o A post-conviction anti-harassment order against sex offenders only<sup>390</sup>
    - o Post acquittal OR conviction orders restricting contact with, or any approach to, the victim may be made for harassment in certain limited circumstances<sup>391</sup>
    - o There may be conditions put on an offender’s post release supervision order OR on the part-suspension of his sentence, restricting his behaviour towards the victim in similar ways.
    - o Proposed civil restraint orders would allow for victims to be protected outside of any other proceedings
386. There is recourse to stereotypes of rape and domestic violence victims, mostly from defence counsel in court. No research has been done directly on juries in Ireland which supports this, but the anecdotal evidence is that juries are more sophisticated and less susceptible to rape and DSV stereotypes than once they were, at least in Dublin and the specialist Central Criminal Court.
387. Public discourse can be unhelpful in the adversarial system where the *presumption of innocence* enjoyed by an un-convicted accused person is strongly protected. The defence team will not fail to bring any adverse publicity to the attention of a judge and ask for an order quashing the proceedings altogether on the basis that the prejudice against the accused which has been generated by the media attention to the case means that the accused cannot have a

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<sup>387</sup> Article in RTE: <https://www.rte.ie/news/ireland/2022/0429/1295029-tagging/>

<sup>388</sup> [Domestic Violence Act 2018 \(irishstatutebook.ie\)](https://www.irishstatutebook.ie/eli/2018/act/29/section/1)

<sup>389</sup> [Domestic Violence Act 2018 \(irishstatutebook.ie\)](https://www.irishstatutebook.ie/eli/2018/act/29/section/1)

<sup>390</sup> Criminal Law (Sexual Offences) Act 2017, Section 46

<sup>391</sup> Harassment contrary to Section 10 NFOAPA 1997

fair trial. In addition, as far as serious sexual offences are concerned, accused persons are entitled to anonymity until the case is proved against them in a criminal court.

388. There is insufficient data available to assess whether, in practice, courts impose sanctions that are proportionate to seriousness of offence. However, the Sentencing Information and Guidelines Committee of the Judicial Council has commissioned independent research on the best way forward to gather and make available, sentencing information.<sup>392</sup>
389. There is insufficient or ineffective training of judiciary and prosecution services on the counter-productive message that omitting to use proportionate and dissuasive sanctions can send to perpetrators, implying that the crime is not serious. 'Ultimately, this leads to a high danger of repetition and escalation of violence, to the detriment of girls' and women's right to live free from violence. Further, such a practice goes against the due diligence obligation enshrined in Article 5, paragraph 2, of the convention.'<sup>393</sup> An independent audit of all the training provided by each one of the criminal justice professions dealing with survivors of both sexual and domestic violence has been commissioned.<sup>394</sup> The various independent professions (judiciary, barristers, solicitors) and State agencies have progressed training on the nature and impacts of sexual violence and to an extent for some of them also, on domestic violence but more needs to be done in respect of all the professions.

#### Aggravating circumstances (Article 46)

390. The State is required *to take the necessary legislative or other measures to ensure that the following circumstances, insofar as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration as aggravating circumstances in the determination of the sentence in relation to the offences established in accordance with this Convention:*
- c. the offence was committed against a former or current spouse or partner as recognised by internal law, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority;*
  - d. the offence, or related offences, were committed repeatedly;*
  - e. the offence was committed against a person made vulnerable by particular circumstances;*
  - f. the offence was committed against or in the presence of a child;*
  - g. the offence was committed by two or more people acting together;*
  - h. the offence was preceded or accompanied by extreme levels of violence;*
  - i. the offence was committed with the use or threat of a weapon;*

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<sup>392</sup> See further [www.judicialcouncil.ie](http://www.judicialcouncil.ie)

<sup>393</sup> GREVIO (2021) Mid-term horizontal review p112

<sup>394</sup> On foot of the Implementation Plan, Supporting a Victim's Journey, which set out the practical steps to be taken to implement the recommendations of the Tom O'Malley Review Report (TOMRR) on the protections for vulnerable witnesses in the investigation and prosecution of sexual offences

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- j. the offence resulted in severe physical or psychological harm for the victim;*
- k. the perpetrator had previously been convicted of offences of a similar nature.<sup>395</sup>*

391. We do not have data to tell if the relevant legislation is being used systematically and to effect, as set out in the statute.
392. The Domestic Violence Act 2018, Section 40<sup>396</sup> says that the existence of an intimate or formerly intimate relationship is an aggravating factor when it comes to sentencing for a range of offences against the person and for a short list of sexual offences also.
393. There is no statutory provision saying that the perpetrator's specific motivation for his actions such as gender bias and misogyny should be regarded as aggravating factors, in order to ensure that the gendered nature of violence against women is reflected in criminal justice outcomes.
394. There is no statutory provision establishing the ground of sex as an aggravating circumstance to take into account the gendered aspect of various manifestations of violence against women. In an appropriate case, the ground of sex could make the sentence longer.
395. Stronger sanctions are sometimes considered in cases of offences committed during the period of validity or after the issuance of a protection order, but this is not a statutory obligation on sentencing judges.
396. To the best of our knowledge, sufficient efforts through sentencing guidelines or training, have not been made to make the judiciary aware of and effectively and consistently apply Art 46 aggravating circumstances, but we do not have definite information on this point.

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

397. There is no express statutory prohibition on mandatory participation in any alternative dispute resolution (ADR) processes, including mediation and conciliation, in relation to cases of all forms of violence against women covered by the convention in our civil courts, other than those in relation to applications under the Domestic Violence Act 2018, and those in relation to public family law applications (by CFA under the Child Care Act 1991). The issue does not arise in our criminal courts as these are of their nature necessarily adversarial, with the sole exception of the Youth Diversion Programme, whereby the DPP may decide that in the case of a defendant under the age of 18, it may be better to "divert" the case from prosecution and address it by other means, which may or may not involve an element of ADR vis a vis the victim. This is not usually done for very serious crimes, such as rape.
398. To the best of our knowledge, legal professionals, including judges, prosecutors, law enforcement, and legal professionals do not always have clear protocols, guidance and training to ensure that they understand the dynamics of violence and appreciate that a victim may not be able to refuse mediation for fear of reprisal. Most family law mediation is

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<sup>395</sup> Article 46 Istanbul Convention

<sup>396</sup> Domestic Violence Act 2018



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undertaken by the Family Law Mediation Service provided by the Legal Aid Board. They do have protocols in this area and their policy is not to pursue mediation once domestic or sexual violence does come to light in the course of the mediation. In our experience, family law mediators and legal professionals who are also trained as mediators are generally very good at this, and the judges are getting better. However, some judges are still persisting in sending cases off for mediation where it is clearly unsuitable. The family law mediation services simply send these cases back to court. Prosecutors and police don't get involved in recommending mediation for victims of sexual or domestic violence. In the family law courts, mediation may be regarded sometimes by judges as a hurdle: you have to "try it" before they will hear a contested application. This may be utterly inappropriate, and especially so whenever there is domestic or sexual violence or both, in the background to the case. In Family Law, the courts may appoint assessors. These assessors are unregulated. However, we are also aware that the new 3<sup>rd</sup> National Strategy on DSGBV will address the whole area of the regulation of training for assessors and their use in family law courts. The current situation is that family law courts often have to depend on assessors without appropriate training or regulation in order to make decisions about custody, access, guardianship, care or supervision orders and related matters.<sup>397</sup>

399. There is no provision to ensure that any fine that a perpetrator is ordered to pay will not indirectly lead to financial hardship on the part of the victim, or to prevent the unintended consequence that legal measures may have on the victim.
400. In criminal justice, alternative dispute resolution (ADR) is not barred by statute at any stage of the proceedings, however as indicated above, the DPP may decide to "divert" the case from prosecution in the case of young defendant (under 18). In civil proceedings, however, the Mediation Act 2017 specifically excludes two kinds of relevant proceedings: (1) applications for some form of protection order under the Domestic Violence Act 2018, and (2) applications by CFA for a care or supervision order under the Child Care Act 1991. However, the Mediation Act 2017 does NOT preclude ADR in private family law proceedings with a background of domestic and/or sexual violence.

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<sup>397</sup> <https://www.rcni.ie/wp-content/uploads/Joint-CLWDSV-Sub-to-the-Family-Justice-OG-FINAL.pdf>

## Chapter VI – Investigation, prosecution, procedural law and protective measures (Articles 49 – 58)

### General obligations (Article 49)

401. The State is required to *take the necessary legislative or other measures to ensure that investigations and judicial proceedings in relation to all forms of violence covered by the scope of this Convention are carried out without undue delay while taking into consideration the rights of the victim during all stages of the criminal proceedings.*<sup>398</sup> While there has been significant progress in recent years, there are still outstanding legislative gaps and procedural barriers resulting in delays, low reporting and conviction rates, and secondary traumatising. RCNI and Safe Ireland continue to advocate for delays to be reduced at every stage of investigation and prosecution.
402. RCNI advocated to improve and streamline processes and case management, to optimise the use of technology, and to provide hard copies of court orders.<sup>399</sup> In criminal proceedings the Garda has an obligation to make sure the victim understands all the orders made, but in civil proceedings, the woman may not be represented and may not capture the order in writing as it is being made. The provision of a hard-copy of any order made which concerns them (regardless of the type of proceeding, civil or criminal) is a basic requirement for the victim.
403. Annual publication of administrative and judicial data on orders<sup>400</sup> and other aspects of victims' rights in investigations and judicial proceedings is quite limited. No large scale research has taken place since 2009.<sup>401</sup> The lack of data and analysis is an impediment to understanding the efficacy of measures and progressive reform.
404. RCNI and Safe Ireland continue to advocate for attention to be paid to the following issues, in order to encourage reporting, reduce trauma, and ultimately increase conviction rates
- Reducing delays
  - Increasing the provision of support, information, advice and other specialist support services including accompaniment, from the beginning to end of journey (2-5 years).
  - Looking after other needs, such as keeping complainants feeling safe and allowing victims to use any special measure which would help at their own discretion is not contrary to the interests of justice.
  - Ensuring all CJS professionals understand the nature of sexual trauma and how to avoid re-traumatising vulnerable survivors and witnesses.
  - Allowing survivors to give all their evidence at an early stage so their lives don't go on hold for years.
  - Ensuring Garda members are contactable and answer queries fully.
  - Treating survivors with care and compassion.

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<sup>398</sup> Article 49.1

<sup>399</sup> [RCNI-Courts-Service-Long-Term-Strategy-2019-2025-February-2019-submission-final.pdf](#)

<sup>400</sup> A limited selection of data is published in the Courts Service Annual Reports on numbers of applications for orders and orders granted under DVA 2018. The latest published report which relates to 2020.

<https://www.courts.ie/content/annual-report-2020> see printed pages 62 and 63

<sup>401</sup> RCNI, Hanley, Conor (2009) Rape and Justice in Ireland, Liffey Press [Rape and Justice in Ireland \(rcni.ie\)](#)

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- Collecting and publishing relevant data and supporting local specialist support services to contribute to data collection, research and policy development.

405. The State is required to *take the necessary legislative or other measures, in conformity with the fundamental principles of human rights and having regard to the gendered understanding of violence, to ensure the effective investigation and prosecution of offences established in accordance with this Convention.*<sup>402</sup> The effective investigation and prosecution of offences is stymied by low reporting rates, which in itself is influenced by low conviction rates.<sup>403</sup>
406. RCNI advocated in 2019 to improve court accommodation and facilities.<sup>404</sup> There are some very pressing concerns here that remain unresolved in many areas: (1) separating victim from abuser in all courts – there are just not enough private witness rooms accessible from the public areas, and too much of the time in court, the victim has no choice but to be seated very close to the accused person/respondent who is the abuser (2) Basic hospitality is needed. A water fountain, a hot drinks machine, a vending machine for snacks – nothing fancy but enough to keep people from becoming dehydrated and exhausted. (3) Having plentiful power points at which to charge mobile phones and adequate broadband would each help too. Small gender-sensitive changes would make a great deal of difference to victims' experience at court.
407. RCNI continues to advocate for resources for specialist support organisations at local level to be available for leadership, interagency work and development of protocol. At present many specialist support services are funded for narrowly defined service delivery roles, undermining their ability to be available for input into policy and procedure development.<sup>405</sup> The victim's voice is most often heard at local support services, and listening to what survivors say about the barriers they meet on their journey through the criminal justice system makes these specialist professionals the most up-to-date source on procedural barriers and legislative gaps. The ability to attend inter-agency forums and to contribute local input to shaping policy and procedure should not be a luxury or confined to specialist-representative or generalist organisations. This access should be more widely available to all front-line service providers.
408. RCNI advocated in 2019 for a Specialist Circuit Court for Sexual Offences<sup>406</sup> However, the landscape has changed with the introduction of the Family Court Bill proposing to introduce specialist family law courts at every level. There is not likely to be enough resources or judges for both kinds of specialist court and the priority is now to ensure that judges at all levels (not just those who already specialise in the Circuit Criminal Courts) get training in the nature and impacts of sexual violence. Two intensive training sessions on trauma-informed and victim-related sexual violence training were held for judges at all levels in 2021, including input from civil society, and more are planned. The judges need to be allowed to attend training within

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<sup>402</sup> Article 49.2 Istanbul Convention

<sup>403</sup> See RCNI publication [RCNI-Garda-Strategy-Statement-2022-2024-Submission-April-2021-Final.pdf](#)

<sup>404</sup> [RCNI-Courts-Service-Long-Term-Strategy-2019-2025-February-2019-submission-final.pdf](#)

<sup>405</sup> [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf](#)

<sup>406</sup> [RCNI-Courts-Service-Long-Term-Strategy-2019-2025-February-2019-submission-final.pdf](#)

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their working time with high quality training available to them and frequently.<sup>407</sup> The new Judicial Training Committee of the new Judicial Council is now empowered under statute to organise training for judges and has made a fine start, but we understand that they do not have much in the way of resources.

409. RCNI continues to advocate for more effective data collection, research and analysis, especially on the provision of and recourse to protective and special measures, gaps in measures and barriers to prosecution.<sup>408</sup> Since Rape and Justice in Ireland<sup>409</sup> there has been no large-scale study in this area. The statistics that are publicly available from statutory services are not broad enough in scope or scale.
410. RCNI continues to advocate for the Victims' Commissioner to receive, investigate and make decisions on individual complaints from victims on breaches of rights under Victims' Charter or Criminal Justice (Victims of Crime) Act 2017<sup>410</sup> There has been no substantive progress on this legislative reform to date.
411. RCNI continues to advocate for professional advocates for victims of sexual violence, based in rape crisis centres to provide continuous practical support throughout the criminal justice process, from the point at which the decision is made to report the crime to bridge to other supports.<sup>411</sup> Legislative reform is not needed, financial resources for the co-ordination and expertise are what is required.

### Immediate response, prevention and protection (Article 50)

412. The State is required to *take the necessary legislative or other measures to ensure that the responsible law enforcement agencies respond to all forms of violence covered by the scope of this Convention promptly and appropriately by offering adequate and immediate protection to victims.*<sup>412</sup> Delays are lengthy at every stage of the criminal justice process – this is a source of huge trauma in itself for survivors 'stuck' with horrible events until the trial is over, which is years after the offence. New measures are required to enable law enforcement agencies to react promptly and appropriately to DSGBV by offering adequate and immediate protection.<sup>413</sup> The new preliminary trial hearing system, expanded specialist training and interagency protocols should go some way at least to addressing unnecessary trauma for some survivors.
413. An Garda Síochána has taken the welcome step of introducing specially trained units of up to 15 personnel in each of the 29 Divisions. The lack of systematic and mandatory training for law enforcement and criminal justice professionals on all forms of DSGBV against women has

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<sup>407</sup> [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf](#)

<sup>408</sup> [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf](#)

<sup>409</sup> RCNI Hanley, Conor (2009) Rape and Justice in Ireland, Liffey Press [Rape and Justice in Ireland \(rcni.ie\)](#)

<sup>410</sup> [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf](#)

<sup>411</sup> [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf](#)

<sup>412</sup> Article 50.1

<sup>413</sup> [Microsoft Word - Safe Ireland Criminal Justice Strategy Submission 10th August 2020.docx](#)

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already been highlighted and there is progress on this. Over the coming months, there will be intensive face to face training in DSGBV matters for all Garda members of specialist DPSU units. The shortcomings of standard operating procedures and interagency protocols have also been highlighted and are being addressed. There is no doubt that more specialist investigators,<sup>414</sup> DPP staff, Courts Service staff, and judges are needed to ease the delays. During the period of Covid restrictions, there were far fewer jury trials, so now there is an increased backlog of these cases, especially the lengthy, complex cases.

414. In 2009, RCNI commissioned and published Rape and Justice in Ireland (RAJI)<sup>415</sup> a comprehensive piece of research and data analysis that identified solutions for the bottlenecks, delays and high rates of attrition in the criminal justice system by tracking the experience of rape survivors up to the point where any file goes to the Office of the Director of Public Prosecutions (DPP). It also explores the factors that influence the DPP's decision to prosecute and those put forward in successful and unsuccessful court cases. Rape and Justice in Ireland concludes with recommendations for comprehensive reform of the justice system to lead to more effective prosecution of rape cases, and concrete suggestions to help in the prevention of the crime.<sup>416</sup>
415. The State is required to *take the necessary legislative or other measures to ensure that the responsible law enforcement agencies engage promptly and appropriately in the prevention and protection against all forms of violence covered by the scope of this Convention, including the employment of preventive operational measures and the collection of evidence.*<sup>417</sup> This requires prompt, appropriate engagement in the prevention of and protection from DSGBV, including use of preventative operational measures and collection of evidence. It requires measures at 4 key stages of the criminal justice process: reporting and investigation, prosecution and conviction. An Garda Síochána do not yet have powers to apply to any court to apply for restraining orders, pending something or indefinitely but they will have in relation to civil orders to restrain stalking, if the current draft proposals which will be in the forthcoming Criminal Justice (Miscellaneous Provisions) Bill 2022, are enacted.
416. For a measure to be effective, breach of the measure must be an arrestable offence. RCNI and Safe Ireland advocate for a power of arrest to be attached to the forthcoming statutory amendments.
417. The criminal justice system depends largely on oral evidence and rules of evidence and procedure need to be further reformed to overcome the limitations and dangers of face-to-face oral evidence, to reduce the number of victims withdrawing from the process or finding themselves unable to report.<sup>418</sup> There is no doubt that, in Ireland, the rights of the accused have priority over the rights of others concerned in the criminal justice process, where conflict

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<sup>414</sup> There are 29 Divisional Protection Services Units (DPSUs)

<sup>415</sup> RCNI, Hanley, Conor (2009) Rape and Justice in Ireland, Liffey Press [Rape and Justice in Ireland \(rcni.ie\)](https://www.rcni.ie)

<sup>416</sup> RCNI, Hanley, Conor (2009) Rape and Justice in Ireland, The Liffey Press [Rape and Justice in Ireland \(rcni.ie\)](https://www.rcni.ie)

<sup>417</sup> Article 50.2 Istanbul Convention

<sup>418</sup> [RCNI-submission-to-UN-Special-Rapporteur-on-Sexual-Violence-May-2020.pdf](#) The figures for rapes reported, prosecuted and convicted are published quarterly by the Central Statistics Office 'under reservation' since March 2018 because of concerns with the quality of recorded crime data on the PULSE system. [Statistics Under Reservation FAQs - CSO - Central Statistics Office](#); [Review of the Quality of Recorded Crime Statistics 2020 - CSO - Central Statistics Office](#)

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exists.<sup>419</sup> In 2018 an independent group of experts researched and RCNI published the report 'Hearing Every Voice' recommending legislative and procedural reforms to enhance the protection of vulnerable witnesses.<sup>420</sup> However, despite much progress in this area, legislative and procedural reform is not complete.<sup>421</sup>

418. Victims of sexual violence have limited special measures available to them, and these special measures are not as readily (or sometimes at all) available to victims of other forms of DSGBV. Victims who are over 18 or who have passed their 18<sup>th</sup> birthday before the trial comes to court cannot give evidence by video-link and must present evidence to the court and be cross-examined in person. The principal limitation on cross-examination of witnesses by defence lawyers is relevance, in relation to the sexual history of a complainant in a rape case, provided always that leave to cross-examine a complainant victim on her sexual history has been granted in the first place. It is also possible to apply to the court in any case involving a sexual offence for an order preventing accused from cross-examining the victim in person, ie without a lawyer. Intermediaries are rarely used in Irish courts as the resource is only available anyhow to those under 18 and those who have a mental disorder as defined in the legislation. Under the relevant statute, strictly speaking intermediaries may only be used to convey questions to the witness, but not to convey the answer back to the court. Thankfully, the gaps in our intermediary procedures are now being addressed. Training for intermediaries in Ireland is due to commence in September 2022.

### Risk assessment and risk management (Article 51)

419. There is no standardised gender-sensitive risk assessment for both domestic violence and sexual violence (each incorporating other gender-based violence). To the best of our knowledge, the new Garda domestic violence standardised risk assessment tool is being piloted currently in 3 Divisional Protective Services Units (DPSUs), and the sexual violence risk assessment tool is still a work in progress.
420. During the period the joint protocol between Gardai and the CFA for formally notifying and investigating child sexual abuse or other abuse against children was under review. However, the new Child Abuse Substantiation Procedure (CASP 2022) is a significant improvement. See Article 28 on Reporting by professionals for more detail.
421. Risk assessment is reliant on efficient and expedited processes by Garda. The speed of victim assessments in terms of safety, protection needs, language, intersectional needs, and contact

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<sup>419</sup> RCNI 'Hearing Every Voice' 2018, p8, citing *D v DPP* [1994] 2 IR 465, Article 38(1) of the Constitution of Ireland, the volume of case-law interpreting that Article, and Article 6(1) of the European Convention on Human Rights and case-law based upon it.

<sup>420</sup> [210807-Rape-Crisis-Network-Ireland-Hearing-Every-Voice-Report-3.pdf \(rcni.ie\)](#)

<sup>421</sup> For instance: There is a gap in the criminal justice system which particularly affects victims of perpetrators convicted in the District Court. It allows abusers who plead guilty and who are sentenced, to appeal straight away and escape an immediate custodial sentence till the appeal is heard at least, continuing to put the woman in fear, unless the original bail conditions are continued until that appeal is heard. These conditions are usually no contact with, and no approach to, the victim's home or place of work. As judges have wide discretion when it comes to bail at any stage of criminal justice proceedings, the best way to address this is likely to be through high quality judicial education.



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with co-ordinated service provision, needs to be prioritised to be consistently completed within 3 days.

422. Risk assessment relies on contact with the victim, including call-backs to victims following reporting. Currently 20% of victims are not contacted for risk-assessment within 7 days. “Call-backs to victims of domestic abuse (made within 7 days of reporting) increased from approximately 36% in 2019 (which was up 15% from 2017) to approximately 80% by the end of 2021.”<sup>422</sup>
423. Adequate risk assessment needs to be repeated at regular intervals throughout the investigation and criminal proceedings.
424. A new risk assessment tool is being developed and piloted by An Garda Síochána and specialist services are concerned that the implementation will appear adversarial and that the tool should only be used by specialist trained Gardaí. The risk assessment tool is a recent innovation, not yet fully operational and the tool has not been made public.
425. Greater awareness of domestic violence and coercive control and detailed understanding of all forms of protective orders and what constitutes a breach of these orders is required by all public-facing Gardaí. Any protocol is only as good as the application of it is consistent.
426. Article 51 requires parties to take measures, through legislation and by other means, to ensure that victim safety is central to any intervention in cases of violence against women. All relevant professionals, not only law enforcement, are obliged to assess and take steps to manage the safety risks to a particular victim on a case-by-case basis, including the risk of repeated and lethal violence and, if necessary, to provide co-ordinated support. Such assessment must also duly take into account at all stages of the investigation and application of protective measures, the fact that the perpetrator possesses or has access to firearms.
427. The CFA show a concerning tendency to fail to see women as rights holders or mothers. Following an allegation or report of child abuse, both the CFA and AGS want to interview the child. Failures in successive joint protocols and training have not resulted in prompt and sensitive shared interviews. Instead, delays of many months between the disclosure and the interview(s) have occurred. In an attempt to prevent the child’s evidence becoming distorted during the delay period, women have been threatened with case closure if they discuss the allegations or events with their child. The CFA have also left responsibility for providing safe housing for the children at risk with women at risk, with failing to provide housing may result in children being taken into care. In already traumatic circumstances a more holistic care policy that takes women’s and victim’s rights into account is required.
428. The Sex Offenders (Amendment) Bill (going through the Oireachtas Autumn 2022) aims to put the risk assessment and risk management of convicted sex offenders released from prison into the community on a statutory basis. There will be an obligation on sex offenders once released to notify their address within 3 days instead of the current 7, including any change of address and other personal details to AGS, including any change of name. As sex offenders, they will stay subject to these notification obligations for a lengthy period, often their entire lives.

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<sup>422</sup> Policing Authority, Assessment of Policing Performance 2019-2021, April 2022  
[Assessment of Policing Performance 2019\\_2021.pdf \(policingauthority.ie\)](#) p9

429. With regard to domestic violence offenders, there is no notification obligation at present, but there are moves afoot in AGS to ensure that all DPSUs use a standardised risk assessment tool to assess and manage risk from perpetrators in the community (convicted or un-convicted). As women and children can be at risk from released or un-convicted perpetrators (and their extended family) these potential reforms and their consistent application are welcomed.
430. Under Section 8 Criminal Justice (Victims of Crime) Act 2017, An Garda Síochána must advise the victim that if she wants to know when the convicted perpetrator of the crime(s) against her is released/transferred/dies/escapes custody, she must inform the Irish Prison Service Victims Liaison Unit. A Garda member can facilitate this.

### Emergency barring orders (Article 52)

431. Emergency barring orders have recently become possible,<sup>423</sup> but there is not much take-up as yet. The Convention requires that emergency barring orders are long enough to provide effective protection to the victim although the decision as to the length of period is left to each Party. The Explanatory Report states that existing examples range from 10 days to 4 weeks, with possibility of renewal.<sup>424</sup> Emergency barring orders in Ireland are for a maximum of 8 working days and can only be renewed after a 28-day period, unless exceptional circumstances apply. There is no possibility of applying for a full barring order when this period ends. It is considered that 8 days is too short to be useful and this may be a reason for low rates of use. The data needs to be collected and analysed and reasons for low rates of use researched.
432. Emergency barring orders may only be obtained by an intimate cohabiting partner who is not a spouse or civil partner, or by a parent of a non-dependent child, and are only granted when the applicant has no rights or less rights to the property than the perpetrator and there is immediate risk of significant harm. The order will prohibit the perpetrator from using or threatening violence, molesting or causing fear, watching, following or communicating with the applicant.
433. Emergency Barring Orders cannot be issued by the police, and there is no on-the-spot intervention available other than general powers of arrest and detention, where these apply. Emergency Barring Orders must be applied for at court.
434. There is a need for a new civil restraint order with power of arrest OR an emergency *ex parte* procedure for situations of immediate danger.
435. Continuity is not ensured with Emergency Barring Orders. An EBO expires after 8 working days and then there is a 28-day hiatus, unless the circumstances are exceptional. An EBO is strictly a short-term order as applicants are not eligible for Barring Orders. Eight days is a very short time to arrange alternative accommodation – a month with the possibility of 6 months would be better – to give real chance to move away (with dependent kids etc). Emergency Barring Orders need to be renewable as the perpetrator has a constitutional right to enjoy his own

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<sup>424</sup> Council of Europe Treaty Series 210 (2011) Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence [CETS 210 - Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence \(coe.int\)](https://www.coe.int/t/treaties/ETS/210/Explanatory_Report_to_the_Council_of_Europe_Convention_on_preventing_and_combating_violence_against_women_and_domestic_violence_(coe.int).pdf)

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- property. Women with no/less property interests or marriage/civil partner status have far fewer rights.
436. Interim barring orders are immediate temporary orders that can be put in place for the period from the application until the hearing for a full barring order (up to 8 working days) and are available where there is immediate risk of significant harm during this period, and where a protection order will not suffice. Interim barring orders are available to applicants with an legal interest equal to or greater than, that of the perpetrator, in the shared home.
  437. Barring orders can be issued for up to 3 years or more and are available to all cohabitants in danger of significant harm from an intimate partner or non-dependent child, provided the applicant has an equal or greater legal interest in the shared home.
  438. During 2020 there was a 12% increase in all domestic violence related cases, but the data on emergency barring orders is not available. Statistics on emergency barring orders are excluded from the Courts Service annual report. Applications for interim barring orders increased by 17% (1,918 as compared to 1,643 in 2019) while applications for barring orders increased by 8% (3,577 as compared to 3,323 in 2019).<sup>425</sup> Of the 1,918 valid applications for interim barring orders, 1,251 were granted (65%). Of the 3,577 valid applications for barring orders in 2020, 1,159 were granted (32%). Figures for 2021 have not been published yet.
  439. Between 2019 and 2021 at least 21 serving members of the police were issued with barring orders under the Domestic Violence Act 2018.<sup>426</sup>
  440. The current housing crisis has been cited as a possible reason for low numbers of applications, as some women do not want to see their partners homeless despite violence. Breaches of barring orders are common and are an arrestable offence, with a fine or prison sentence.<sup>427</sup>
  441. Uptake and efficacy of emergency and protection orders may correlate with levels of training of police on understanding cycles of abuse and issues of power and control on victims. Orders should provide temporary respite from physical and emotional abuse and exceptions related to visitation rights must not be made.
  442. There is a need to assess the uptake of emergency barring and protection orders, identify barriers, and aim to increase the use of orders by promoting their usefulness to AGS and ensuring their vigilant enforcement.

### Restraining or protection orders (Article 53)

443. A victim cannot get an order under civil law irrespective of reporting. There is the exception of a general civil injunction in civil proceedings, however this is generally only granted in conjunction with other proceedings and is a process not suitable for DSGBV. This is a protection gap and illustrates why the introduction of civil restraint orders is needed.
444. If a survivor is not eligible to apply for a Protection/Safety and/or Barring Order of some kind under Domestic Violence Act 2018, she has at present no practicable recourse to the courts for an equivalent order restraining his behaviour.

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<sup>425</sup> Courts Service Annual Report 2020 [https://www.courts.ie/viewer/pdf/b47652ff-7a00-4d1f-b36d-73857505f860/Courts\\_Service\\_Annual\\_Report\\_2020.pdf/pdf#view=fitH](https://www.courts.ie/viewer/pdf/b47652ff-7a00-4d1f-b36d-73857505f860/Courts_Service_Annual_Report_2020.pdf/pdf#view=fitH) p.62

<sup>426</sup> [At least 21 barring orders issued against gardaí since start of 2019, figures show \(irishtimes.com\)](https://www.irishtimes.com/news/courts-law/courts-at-least-21-barring-orders-issued-against-garda-since-start-of-2019-figures-show)

<sup>427</sup> ['Shocking' breaches of protection and barring orders in Clare - The Clare Champion](https://www.clarechampion.com/news/shocking-breaches-of-protection-and-barring-orders-in-clare)

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445. Sanctions for breaches of orders are not effective and compliance is not ensured. There is not always pro-active checking by the police to see if the order is being followed and no electronic monitoring. The onus is on the victim to report a breach and ask for intervention, and fear of retribution or escalating violence may prevent reporting. A perpetrator may breach an order multiple times and might be on bail for each breach, but will never be remanded on custody as custody is generally only used in order to prevent the commission of [more] serious offences, unless there is a risk of flight or reason to believe that he will intimidate witnesses.
446. The only statutory obligation on the Courts Service to coordinate protection orders with specialist support (under Section 26) is to tell the applicant about specialist services and national 24 hour helplines. Under the Criminal Justice (Victims of Crime) Act Section 7, Garda must inform victims about appropriate, specialist services. As only Gardaí can call the district court, they are always involved in urgent out of hours applications. A higher level of co-ordinated support would be more appropriate for the victim during this period of relative safety, and might improve the efficacy of the order.
447. The only complementarity between orders and ways to assist women to achieve long-term empowerment and recovery is the right to be told about specialist services. Whether that service can meet your needs is moot. Refuge spaces are limited, counselling is limited, recovery and empowerment is ad hoc. Practical and emotional assistance during investigations and judicial proceedings to empower and support victims (e.g. Court accompaniment and Garda accompaniment) is provided by civil society organisations and funded by the State, but in practice, may not always be available due to lack of resources for training, outreach and capacity.
448. There are gaps in training of law enforcement and legal professionals in the importance of orders to break cycle of violence. GREVIO notes lack of training may contribute to low use. The eligibility for orders is not always straightforward, and while there are training gaps for Garda there is a risk that the wrong advice may be given. This situation is compounded by insufficient public awareness and information on orders, and insufficient resources for specialist supports.
449. There is sufficient data, monitoring and analysis on orders to track patterns in requests, grants and violations of orders.

*Ex parte and ex officio proceedings (Article 55)*

450. The Convention requires that investigations into and prosecutions of offences of sexual violence including rape, forced marriage, female genital mutilation, forced abortion and forced sterilisation<sup>428</sup> are not entirely dependent on a report or complaint filed by a victim and that the proceedings may continue even if the victim withdraws her statement or complaint. Criminal proceedings should not put the onus on the victim to either initiate investigation or secure a conviction, due to the particularly traumatising nature of these offences.
451. The prosecution of offences in the public interest, without reliance on the victim's testimony in accordance with the right of the victim to refuse to testify, is unusual. It is possible to mount a prosecution without the evidence of the victim, however in practice the victim's evidence is usually necessary to prove a prosecution's case 'beyond reasonable doubt'<sup>429</sup>.
452. A potential barrier to *ex officio* or *ex parte* proceedings would be where law enforcement has the power to assess (or otherwise prevent) whether a crime is reported or charge is made or whether the case should be passed to the office of the public prosecutor.<sup>430</sup> The concern is that law enforcement and the CFA have the (*de jure* and *de facto*) power to close, not file, or otherwise prevent a report, and the prosecutor may never see the case.<sup>431</sup> Note, however, that this does not apply to sexual offences reported to An Garda Síochána, which must always be notified to the DPP who alone will make the decision on prosecution.
453. *Ex officio* and *ex parte* proceedings rely on pro-active and thorough collection of evidence by law enforcement, documentation of injuries (with victim's consent), DNA samples, statements from potential witnesses, camera evidence, and other measures to improve the collection of multiple forms of evidence so that reliance on the victim's testimony is reduced to nil if necessary. In June 2021 the Garda Commissioner publicly apologised to domestic violence victims who made 'harrowing' emergency calls for help which were cancelled.<sup>432</sup> A victim of domestic violence raised concerns prompting an internal Garda inquiry into how Gardaí dealt with domestic violence calls in 2019 and 2020. More than 1,400 emergency 999 calls to Gardaí had been inappropriately cancelled and not been recorded electronically or followed up. Individual Gardaí were not adhering to procedures and policies to ensure that callers were protected. The independent Policing Authority expressed "deep dissatisfaction" and "significant concern" with the responses it received from senior Gardaí in relation to the investigation, and the 6-month delay in reporting concerns. It emerged that emergency calls related to sexual violence were also cancelled. "An outdated societal view of domestic abuse as a 'private/family matter" was recognised.<sup>433</sup> We understand that since then, great efforts

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<sup>428</sup> Article 55.1 *Parties shall ensure that investigations into or prosecution of offences established in accordance with Articles 35, 36, 37, 38 and 39 of this Convention shall not be wholly dependent upon a report or complaint filed by a victim if the offence was committed in whole or in part on its territory, and that the proceedings may continue even if the victim withdraws her or his statement or complaint.*

<sup>429</sup> [There are no official statistics published on this to best of our knowledge, but anecdotally we are aware of one sexual case which was prosecuted in the absence of the victim (she had died since she made the report). It did not proceed to conviction]

<sup>430</sup> Mid-term evaluation p.8

<sup>431</sup> Allegations of Gardaí not answering 999 calls

<sup>432</sup> RTE News Headline, Paul Reynolds, 'Harris apologises to domestic violence victims over handling of 999 calls' 24 June 2021 [Garda Commissioner apologises for handling of 999 calls \(rte.ie\)](https://www.rte.ie/news/2021/06/24/garda-commissioner-apologises-for-handling-of-999-calls/)

<sup>433</sup> Policing Authority, Assessment of Policing Performance 2019-2021, April 2022 [Assessment of Policing Performance 2019 2021.pdf \(policingauthority.ie\)](https://www.policingauthority.ie/publications/assessment-of-policing-performance-2019-2021.pdf) p9

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have been made by An Garda Síochána to get to the bottom of this issue, including through the use of an independent outside expert.

454. The independent Policing Authority notes inconsistency in Garda service to victims of both sexual and domestic violence, and individual Garda understanding of both domestic violence and existing protection measures. *“ There remains scope for improvement and this primarily relates to consistency in the service provided to victims, greater knowledge and understanding of the various legal orders available to victims and what constitutes a breach of these orders. Also some work remains to be done in the provision of a service to those who are suffering domestic abuse who may also be battling addiction or from members of some communities, for example the Traveller Community where a lack of trust in the police service can deter a victim of abuse from seeking help from the Garda Síochána.”*<sup>434</sup>
455. The collection of evidence increasingly involves electronic evidence, and one concern is the amount of time that it takes to analyse a device for evidence, “the current backlog for device analysis is in the region of 3 years”. This impacts victims, perpetrators, investigation timelines and potentially court outcomes.<sup>435</sup>
456. In theory, the DPP (public prosecutor) can initiate prosecutions without a victim’s participation in (at least) the serious offences for Articles 35-39 . In practice this happens very rarely, because in general, a Garda investigation starts when a victim reports a crime, and the Garda investigation file is what the DPP examines to determine whether the evidence is (a) strong enough to prosecute and (b) if it is, whether it is in the public interest to prosecute.

### Ex parte Orders

457. Temporary orders known as protection orders restraining perpetrator’s behaviour but not barring him or excluding him from the home – are usually first obtained *ex parte*. A Protection Order will then generally last until the full hearing of the more permanent Safety Order which also is confined to restraining the perpetrator’s behaviour, not his access to the family home.
458. *Ex parte* protection orders are limited to survivors of domestic violence who are or were in an intimate relationship or other close family or other close cohabiting relationship covered under Domestic Violence Act 2018. They are often strongly contested at *inter-partes* hearing and do not always survive, but they remain much easier to obtain than (any form of) Barring Order.
459. *Ex parte* orders are currently only available under the Domestic Violence Act 2018. *Ex parte* orders are not available to all survivors of gender-based violence as the risk of threat, assault or intimidation to the survivor or her family may be a barrier to seeking protection or she may be persuaded to withdraw a report or application for protection.
460. At present *ex parte* orders are only available<sup>436</sup> to parents of a non-dependent adult perpetrator or an intimate partner (or former intimate partner) of a perpetrator. In addition, protection and safety orders (which do not exclude perpetrators from the family home) are

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<sup>434</sup> Policing Authority, Assessment of Policing Performance 2019-2021, April 2022 [Assessment\\_of\\_Policing\\_Performance\\_2019\\_2021.pdf \(policingauthority.ie\)](#) p10

<sup>435</sup> Policing Authority, Assessment of Policing Performance 2019-2021, April 2022 [Assessment\\_of\\_Policing\\_Performance\\_2019\\_2021.pdf \(policingauthority.ie\)](#) p11

<sup>436</sup> Under the Domestic Violence Act 2018 [Domestic Violence Act 2018 \(irishstatutebook.ie\)](#)



also available to parents of a child in common and to those living with the perpetrator in a relationship which is not primarily contractual. The Act does not cover any casual or acquaintance or stranger-to-stranger relationship which is not or was not at one time, intimate in nature. Dependent children (FGM cases) therefore would be excluded as parties applying for these orders. Stalking arising outside the context of intimate partners and certain other close family member or accommodation sharing relationships, is therefore excluded under this legislation. [As indicated above, at present there are no generally applicable *ex parte* civil restraint orders].

461. Emergency barring orders which last for a maximum 8 days are of their nature generally sought *ex parte* (and obtained more rarely than Protection Orders), whereas interim barring orders may also be sought *ex parte* but, if granted, will not last for more than 8 days without an *inter-partes* hearing. They also are granted much more rarely than Protection Orders. However, if an Interim Barring Order is granted at that stage, it will last until the full hearing of the Barring Order itself – which if granted, will last for up to 3 years. Every form of barring order excludes the perpetrator from the family home, and can have orders included that are equivalent to orders made in Protection Order or Safety Order proceedings.
462. The State is required to *take the necessary legislative or other measures to ensure, in accordance with the conditions provided for by their internal law, the possibility for governmental and non-governmental organisations and domestic violence counsellors to assist and/or support victims, at their request, during investigations and judicial proceedings concerning the offences established in accordance with this Convention.*<sup>437</sup> Governmental and civil society organisations do provide services to assist and support victims during proceedings, however they are subject to resource constraints.
463. The statutory basis for civil society to assist or support victims in legal proceedings depends on the nature of the support needed and the nature of the proceedings (mostly criminal proceedings only), the stage of the proceedings and the characteristics of the victim. It is unnecessarily confusing and restrictive. Support is sometimes an enumerated right under the relevant act and sometimes a matter of protocol. There are different rules for all special measures in court, with different conditions attached.<sup>438</sup> The special measures regime needs to be streamlined and individual and made more available especially to women with no capacity issues.
- a. Victims have an enumerated right to Garda accompaniment by support worker or other person of victim's choice, in the Criminal Justice (Victims of Crime) Act 2017, subject to few exceptions.<sup>439</sup>

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<sup>437</sup> Article 55.2 Istanbul Convention

<sup>438</sup> The main statutes are: Criminal Evidence Act 1992 Part III - video-link evidence, giving evidence from behind a screen, use of intermediary, no wigs or gowns, allowing evidence pre-recorded in correct manner by Garda or other agency to stand as evidence in chief subject to certain conditions, as amended *inter alia* and most significantly by Criminal Justice Act (Victims of Crime) Act 2017, which itself introduces two new special measures under Sections 20 (exclusions from court) and 21 (restrictions on defence questioning on victim's private life which is unrelated to the offence); also Criminal Law (Rape) Act 1981 as amended and Criminal Law (Sexual Offences) Act 2017 each introduce certain special measures, mostly relevant only to victims of sexual offences (anonymity, in camera hearings, restrictions on "other sexual experience" evidence, right to object to disclosure of counselling records – but Section 36 of CLSOA 2017 also includes restrictions on personal cross-examination of victims of domestic as well as sexual offences, in effect – provided those victims are under 18.

<sup>439</sup> [Criminal Justice \(Victims of Crime\) Act 2017 \(irishstatutebook.ie\)](https://www.irishstatutebook.ie/eli/2017/act/34/section/1)

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- b. The right to support at a Sexual Assault Treatment Unit (SATU) by a specialist rape crisis centre support person, is not an enumerated right but does form part of the agreed inter-agency guidelines on SATUs.
  - c. Support in court as an applicant in DVA proceedings is an enumerated right under DVA 2018.
464. In the area of sexual violence, some small agencies are already providing dedicated support workers to accompany victims from beginning of journey to end (2-5yrs). RCNI are co-ordinating an application for funding of a pilot Advocacy and Support Worker in two locations, with a view to the pilot being scaled up to a National Advocacy Project (NAP) if it succeeds. This is a question of resources and not legislative gaps or procedural barriers.
465. Appropriate support services are under-resourced, but available and free of charge.<sup>440</sup>

### Measures of protection (Article 56)

466. There is no statutory presumption in favour of the grant of special measures such as video-link, screens, pre-recorded testimony for all survivors of sexual violence.<sup>441</sup> RCNI advocate that all survivors of DSGBV should be allowed to give evidence by video-link OR with a screen OR have it pre-recorded, if that is what would help them. Legislation needs to be amended to make it much easier for adult victims with full capacity to access measures such as video-links, screens or pre-recorded statements.<sup>442</sup>
467. A presumption of need for special measures, is restricted to under 18s and for certain special measures, and people over 18 with a “mental disorder” as defined in the legislation (mental illness, mental disability, dementia or any disease of the mind).
468. There is weak access to special measures of protection for over 18’s, including very importantly, victims of sexual (and other) crimes who gave their statements to Garda before they turned 18 and therefore, had it pre-recorded with the expectation that their statement would be played back in court and allowed to stand as their evidence in chief. There is no statutory provision for ‘aged-out minors’ to ensure that entitlements to special provisions at the time of reporting are maintained throughout the full justice process. Regardless of the cause of delays, should a child victim come to court aged over 18 they cannot retain the benefit of pre-recorded evidence, but must give evidence live, either physically present in court or from a video link room within the court precincts (if permission for that has been sought and granted in advance – this is by no means a formality. There is no presumption that because a victim was a child both when abuse happened and when she reported it to Garda and her statement was recorded – that she will be allowed to give evidence by video-link at trial. Among these measures, being able to give evidence by video-link is viewed by many

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<sup>440</sup> The rights to be told about these specialist services and to be referred to them if you consent as a victim are in [Criminal Justice \(Victims of Crime\) Act 2017 \(irishstatutebook.ie\)](#) S7

<sup>441</sup> [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf](#)

<sup>442</sup> See RCNI publication [RCNI-Briefing-note-on-key-aspects-of-forthcoming-Criminal-Law-Sexual-Offences-Bill.pdf](#)

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survivors as an important protection, without which they would find it very difficult (or even in some cases, impossible) to give their evidence to the court.<sup>443</sup> This issue sometimes leads to young complainants refusing to give evidence at all once they realise (1) that they will not be allowed to have their DVD of interview with Garda stand as their evidence in chief and (2) that they will not necessarily be allowed to give evidence by video-link, either.

469. Victims of violence with full capacity and over 18 are not presumed to be entitled to any special measure in court but must depend on the prosecutor making the case to the judge on their behalf for right to special measures (at discretion of judge, at the mercy of the prosecutor). This is much easier done if the prosecutor has an individual assessment report from the Garda in the case setting out the specific protection needs of the victim and also recommending particular measures which would address those needs at the hearing itself.<sup>444</sup>
470. There is no universal access to intermediaries to assess the communication needs of all witnesses.<sup>445</sup> At the moment access to intermediaries is confined. There is no concept that it is not only people under 18 and those whose “mental condition” warrant it, who need to access the support of a skilled intermediary in order to give their best evidence. Adult witnesses with full mental capacity are not entitled to the services of an intermediary in any circumstances under statute. For example, an adult victim with a physical difficulty in speaking, an acquired brain injury, or on the autism spectrum will not qualify for an intermediary. The use of intermediaries applies to limited categories of victims and others.<sup>446</sup>
471. At present an intermediary puts the questions to the witness but does not interpret the witness’s answers. RCNI advocate that Section 14 of the Criminal Evidence Act 1992 should be amended to put it beyond doubt that not only the questions put to the witness but also the witness’s answers, should be interpreted by the intermediary. Other parts of court proceedings should be included in the intermediary’s remit, beyond the witness’s own evidence, to include at a minimum the details of the court’s rulings and the verdict of any jury.<sup>447</sup>
472. There is no statutory provision to allow new or unusual special measures to be used to facilitate any survivor of DSGBV to give evidence in any court, provided that its use is not contrary to the interests of justice. An example of such an unusual special measure is the use of Court dogs to reduce the stress levels of anxious child witnesses who must give live evidence in court.<sup>448</sup> Court dogs can make an enormous difference to children facing giving evidence and the general principle is important, i.e. that in any court, not just the High Court level (CCC), there should be an **inherent jurisdiction** which the court can exercise in order to allow something novel provided of course it is not contrary to the interests of justice to do so.

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<sup>443</sup> [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf](#)

<sup>444</sup> Criminal Justice (Victims of Crime) Act 2017, Sections 15 and 16

<sup>445</sup> [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf](#)

<sup>446</sup> CEA 1992, Section 14 as amended by Criminal Justice (Victims of Crime) Act 2017

<sup>447</sup> [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf](#)

<sup>448</sup> [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf](#)

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473. Contact between victims and perpetrators in court premises is sometimes unavoidable.
474. Special measures for vulnerable victims are only invoked after at least an initial court appearance, often only just before the trial itself court, however their possible usefulness should have been signalled already in the Garda individual assessment of the victim's specific protection needs under Section 15 of the Criminal Justice (Victims of Crime) Act 2017<sup>449</sup>
475. There is very little data publicly available on recourse to any of the existing special measures. Sufficient data is not collected and published on the use of available remedies and their outcomes in order to monitor progress and identify barriers and address them. The State does not systematically collect and regularly publish this data. It has been up to specialist-representative orgs to ask Parliamentary Questions (PQs) and statistics have not always been made available. In the absence of that data there is an over-reliance on using the PQ mechanism to compel State Departments to publish statistics, which is an inefficient use of State resources. Data is patchy and non-comparable where it is collected. The Courts Service Annual Reports<sup>450</sup> and the DPP Annual Reports<sup>451</sup> are available online.
476. There is no presumption in favour of the grant of special measures for adult victims of domestic or sexual violence. Women who have experienced DSGBV need a presumption in favour of granting any special measure that might reduce the risk of re-traumatisation. For example:
- a. Cross examination by defendant: Section 16 of the DV Act 2018 offers the possibility of cross-examination by the respondent/abuser to be replaced by cross-examination by a professional lawyer to applicants for DV orders (barring, protection, safety etc). However, there is no presumption in favour of this special measure being granted to a person over 18. There is a separate but similar age-restricted provision in relation to non-sexual and sexual violence in the criminal courts.
  - b. Pre-recorded evidence: The right to pre-record evidence is only available to under-18s. However, should a child age-out during the (lengthy) legal process, evidence that has been pre-recorded cannot stand as evidence-in-chief after her 18th birthday.
  - c. Pre-recorded cross-examination is not used and has not been piloted as there is no statutory power which would enable such pre-recordings to stand as evidence at court. This could save huge amounts of court time and trauma and delay and costs and uncertainty.

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<sup>449</sup> Special measures applications up to now have been dealt with mostly at the start of the trial, but this will be alleviated somewhat by the new Criminal Procedure Act 2021, just very recently commenced, which provides for preliminary trial hearings in any serious case. Special measures can be considered at PTH stage and importantly, the court now has the power to make rulings which would, subject to certain exceptions, then be binding at trial.

<sup>450</sup> Courts Service Annual Report 2020, printed page 96: 4 x witnesses gave evidence by video-link, 2 x witnesses from behind a screen, and in 3 x cases witness had an intermediary. NOTE: there is no information as whether first two measures were made available to adult victims as opposed to children.

<sup>451</sup> Department of Public Prosecutions Annual Reports [Publication Category: <span>Annual Reports</span> - Office of the Director of Public Prosecutions \(dppireland.ie\)](#)

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- d. Video-link: At present there is no presumption in favour of the right to give evidence by video-link for women over 18 with full capacity. A case must be made for this measure to be granted to over-18s, and it is purely at the discretion of the court.
- e. Pre-court protective orders: Women are not able to get protective orders pre-court (with the exception of the new proposed stand-alone civil order in respect of stalking offences) and the grounds for orders are restrictive to the point of allowing violence to escalate to serious risk to the woman.
- f. Sanctions for breaches of protection: Breach of bail conditions and breach of DVA orders are arrestable offences.

### Legal Aid (Article 57)

- 477. Criminal legal aid and civil legal aid are separate services. Criminal legal aid is granted by the Courts. Civil legal aid and advice is provided by the Civil Legal Aid Board.<sup>452</sup> The legislation that underpins the provision of legal advice and legal aid to victims is found here.<sup>453</sup>
- 478. Legal Advice is provided by the Legal Aid Board for civil cases, if the means test is satisfied and the merits test is fulfilled. Criminal cases are excluded from the provision of civil legal advice **except** for victims of a serious sexual offence, rape or trafficking. Victims of violence in a close relationship are not entitled to free legal advice from State on the criminal justice system.<sup>454</sup> Free legal advice on criminal matters encourages vulnerable victims to come forward to make a complaint to law enforcement and stick with it.<sup>455</sup>
- 479. The cut-off threshold for free legal advice for civil family law matters where domestic violence is involved (e.g. custody, access, maintenance, divorce) is very low (disposable income less than €18,000/annum). This often forces people on very low incomes above this threshold to conduct their own case without advice or representation against their ex-partner who may be eligible for legal aid, or able to afford private legal representation. The list of proceedings eligible for legal aid 'regardless of means' should be extended to include these vulnerable women.
- 480. Free legal advice in civil matters including waiving of court fees without threshold, is not available for all victims of DSGBV. Civil legal advice and legal aid (representation) is means tested but is available without a contribution being payable, to applicants for orders under Domestic Violence Act 2018 and to women responding to an application for a care or supervision order by CFA under the Child Care Act 1991
- 481. However, neither is available without regard to means, or with a nil contribution, to anyone who is a victim of domestic or sexual violence and who is applying for, or responding to, an application in private family law proceedings where DV/SV is part of the background. If the victim's means are low enough, they may qualify for legal aid, and depending on their level of income and whether any waiver of contribution applies, they may be also eligible for a waiver

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<sup>452</sup> [Differences Between Criminal and Civil Legal Aid - LAB \(legalaidboard.ie\)](#)

<sup>453</sup> [Legislation - LAB \(legalaidboard.ie\)](#)

<sup>454</sup> Oireachtas Committee on Justice and Equality debate for 13th November 2019 see [www.oireachtas.ie/https://www.oireachtas.ie/en/debates/debate/joint\\_committee\\_on\\_justice\\_and\\_equality/2019-11-13/](http://www.oireachtas.ie/https://www.oireachtas.ie/en/debates/debate/joint_committee_on_justice_and_equality/2019-11-13/)

<sup>455</sup> Safe Ireland (2020) Criminal Justice Strategy Submission [Microsoft Word - Safe Ireland Criminal Justice Strategy Submission 10th August 2020.docx](#) p7

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of any contribution they may have to make otherwise. SI call for the means test qualification to be abolished and legal aid fees to be waived for the first six months for all victims of domestic violence to create access to legal processes necessary to execute a safe exit.<sup>456</sup>

482. There are insufficient free legal aid practitioners across the country and there may be only one in each district. This can lead to a situation where the perpetrator has access to the only available free legal aid solicitor, and the woman has no access at all to any local Legal Aid Board lawyer. In the absence of free legal advice or aid women may be persuaded not to pursue a court order. Safe Ireland calls for an additional 80 solicitors to be proportionately across the country. There is insufficient specialised training for legal aid practitioners on DSGBV against women.
483. A limited range of complainants is eligible for Legal Aid Board provision of legal aid, subject to a means test and a merit test.<sup>457</sup> Victims who qualify for legal aid are required to make a contribution, with the exception of domestic violence cases. Legal aid does not apply to every stage of the criminal justice process.
484. RCNI supports without reservation the recommendation in the O'Malley Review<sup>458</sup> to the effect that free legal advice should be provided to survivors of sexual violence from the earliest stages of a criminal investigation (not just post charge) through to sentence (and sometimes, beyond).<sup>459</sup> The O'Malley proposal<sup>460</sup>, is that legal advice should be available from the point of reporting to An Garda Síochána and should be extended to all sexual offences (sexual assault is the most commonly charged offence and is not currently eligible for advice). The Government has committed to implementing this change.
485. There is very poor uptake of this scheme because very few serious cases are prosecuted. RCNI advocates that there should be no restriction on the availability of this free legal advice service which is currently restricted by the nature or category of the sexual offence. RCNI recommends that this free legal advice service should also be available to (non-accused) parents or guardians or other appropriate adults responsible for the care and welfare of any child or otherwise vulnerable survivor.<sup>461</sup>
486. Civil Legal Aid Act, 1995, Section 26,<sup>462</sup> grants legal advice (primary) to criminal complainants, for a limited list of serious sexual offences, only from point of charge, not at reporting or during investigation or when at DPP. Many offences are omitted.

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<sup>456</sup> [Policy & Publications - Safe Ireland](#) p19

<sup>457</sup> [Civil Legal Advice and Legal Aid \(citizensinformation.ie\)](#)

<sup>458</sup> O'Malley Review of Protections for Vulnerable Witnesses Other Developments of Significance in the Investigation and Prosecution of Sexual Offences [gov.ie - Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences \(O'Malley\) \(www.gov.ie\)](#)

<sup>459</sup> The Government has now committed to this, and we are promised that as part of the TOMRR Implementation Plan (Supporting a Victim's Journey), amendments to existing legislation will be made either as part of the forthcoming Sexual Offences Bill or otherwise, to ensure that existing rights to legal advice from the Legal Aid Board for survivors of sexual violence are extended to cover all sexual offences and from the beginning of the criminal justice process (not just post charge) to the end.

<sup>460</sup> [gov.ie - Review of Protections for Vulnerable Witnesses in the Investigation and Prosecution of Sexual Offences \(O'Malley\) \(www.gov.ie\)](#)

<sup>461</sup> See RCNI publication [RCNI-Criminal-Justice-System-and-Survivors-of-Sexual-Violence-3rd-National-Strategy-on-DSGBV-September-2021-LPD-Final-4.pdf \(p.10,11\)](#)

<sup>462</sup> [Civil Legal Aid Act, 1995, Section 26 \(irishstatutebook.ie\)](#)



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487. The free legal aid that is provided is not always at the same level of experience or seniority as the prosecution and defence. The risk attached to this aspiration is that it could limit the availability.
488. The threshold for free legal aid does not claim to take into account the unequal position in society of women and children and financial dependencies. The threshold is having a disposable income (less certain specified allowances) of less than €18,000 and disposable capital of less than €100,000.
489. The Legal Aid Board provides legal services to victims of human trafficking and there are no eligibility criteria for these cases. In 2020 14 victims of human trafficking for sexual purposes were referred to the Board by An Garda Síochána.<sup>463</sup>
490. Data relating to the number of applicants applying for legal services in relation to DSGBV is not disaggregated and published.
491. In sexual violence cases in the criminal courts the issue of disclosure of all sorts of records (social workers, therapists, addiction services, housing, other) arises and it would be very resource intensive to provide separate legal aid for each disclosure request. A more productive use of resources would be to impose statutory restrictions on what it is possible to ask for, for instance by asking the defence team to provide an outline of the defence they propose to use in court, in advance. This solution requires primary legislation and is not resolved.
492. It is time for Government to consider some kind of onus on defence to disclose a broad outline of the defence in advance (as in UK) and the defence should be restricted to what is relevant. Disclosure of digital records may be vast and has the potential to slow down the whole criminal justice process. The attitude to disclosure is still quite conservative in some official quarters and there is a real need to examine this. A statutory regime with detailed guidelines by DPP and AGS on what is necessary and relevant to disclose must be provided. Our latest information is that both AGS and DPP are working on a protocol on disclosure along these lines.

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<sup>463</sup> Legal Aid Board Annual Report 2020 [legal-aid-board-annual-report-2020.pdf \(legalaidboard.ie\)](https://www.legalaidboard.ie/legal-aid-board-annual-report-2020.pdf) p39

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RCNI 2022 Breaking the Silence: Terminology guidelines for data collection on Sexual Violence Against Children <https://www.rcni.ie/wp-content/uploads/RCNI-Breaking-the-Silence-1.pdf>

## Appendix 1 – Data on gender-related killings (femicide)

Acknowledged difficulties with the crime data as recorded on the An Garda Síochána PULSE system and published by the Central Statistics Office<sup>464</sup> quarterly, have limited the publication of accurate data on gender-related killings (femicide).

Femicide Watch by Women's Aid<sup>465</sup> shows that women who are murdered are most likely to be murdered by an intimate partner, ex-intimate partner or family member. According to the civil society organisation, 249 women and 18 children died violently between 1996 and May 2022. 79% of cases were resolved. 87% of the resolved cases were killed by a man known to them and 55% (resolved cases) of female femicide victims were killed by a current or former intimate partner. Women under 35 make up 50% of femicide cases in Ireland.<sup>466</sup> According to data recorded by An Garda Síochána, more than two thirds of victims of incidents classified as harassment and related offences were female (67.0%) and around four in every five (79.2%) victims of sexual violence incidents reported in 2020 were female.

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<sup>464</sup> The official An Garda Síochána statistics as published by the Central Statistics Office remain under reservation. [Review of the Quality of Recorded Crime Statistics 2020 - CSO - Central Statistics Office](#)

<sup>465</sup> [Femicide Watch | Women's Aid - Domestic violence service in Ireland \(womensaid.ie\)](#) (12<sup>th</sup> May 2022)

<sup>466</sup> [Exploring femicide and the broader issue of violence against women in Ireland \(irishtimes.com\)](#)

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### 2021

- January: CLARE: [Sharon Bennett](#) (29) died 13 days after being found with head injuries after an attack by her partner.
- January: DUBLIN: [Urantsetseg Tserendorj](#) (48) was attacked while she walked in Dublin 1. She died of her injuries two weeks later in hospital. A 14-year-old boy was charged in relation to the attack. Trial in April 2022, no verdict
- April: DUBLIN: [Jenny Poole](#) (24), mother of 2, was killed at her home by her ex-boyfriend who, unknown to her, had previous convictions
- September: KERRY: [Eileen O’Sullivan](#) (56) was shot dead along with her son Jamie (24) by her partner Mossie O’Sullivan (63). He then took his own life.
- October: CORK: [Mary O’Keefe](#) (72) was found in a burnt-out car in Doneraile, Co Cork.
- November: DUBLIN: [Fabiola Camara de Campos](#) (32) was found dead at her home having suffered several stab wounds. Her husband has been charged with murder.
- December: WICKLOW: [Zeinat Bashabsheh](#) (42) was violently killed at her home. Her partner has been charged with murder.

### 2020

There were 6 female victims of murder or manslaughter in Ireland in 2020

- March: KILKENNY Anne Butler (71) was stabbed, beaten and mutilated in March 2020 by [Trevor Rowe](#).
- June: DUBLIN Jean Eagers (57) murdered in a samurai sword attack in June 2020. [Her husband](#) has been charged with her murder.
- August: NEWRY: Patrycja Wyrebek (20) [murdered](#) by her partner on 2 August 2020
- October: DUBLIN: Seema Banu (37), daughter Asfira Riza (11) and son Faizan Syed (6) [murdered](#) on 28 October 2020.

### 2019

- March: [Catherine Doyle](#) as another case in the conveyor belt of "tragic cases which spring from domestic violence"
- June: [Saidrite Valdgeima](#) mother of 3 stabbed 50 times
- December: [Nadine Lott](#): mother of 1 beaten to death by her former partner to the point where she was "completely unrecognisable". Ex-partner had 9 previous convictions.

### 2018

CSO found that out of 9 murders/manslaughters of women, 7 of the suspects were male



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- June: [Ana Kriegel](#) 14 year old girl sexually assaulted and murdered by two 13 year old boys
- April: [Natalia Karaczyn](#) Mother of 3 strangled by husband
- May: [Jastine Valdez](#) 24 year old abducted and murdered by Mark Hennessy

## Appendix 2 - Sample of media reports on gender-based violence against women

### Non-State Actors

- Sinead Connolly: attempted murder on March 6, 2021 <https://www.irishtimes.com/news/crime-and-law/courts/criminal-court/paralysed-mum-describes-moment-evil-sadistic-neighbour-tried-to-murder-her-1.4848346>
- Girl thrown under DART <https://www.irishmirror.ie/news/irish-news/crime/two-dublin-teenagers-charged-over-25416256>
- 2017 Midlands Rape
- <https://www.thejournal.ie/sexual-assault-statistics-ireland-victims-5481340-Jun2021/>
- <https://www.irishtimes.com/news/crime-and-law/one-third-of-homicide-victims-in-2021-were-women-1.4775949>
- [The story of the Sophie Toscan du Plantier murder investigation: a chronology – The Irish Times](#)

### State Actors – DSGBV against women

- 2022: Fergus O'Dowd, 10<sup>th</sup> Feb 2022, sexual violence against older people in care institutions, HSE figures, 18 cases 2020, 32 cases 2021, and 5 cases in first 2 months of 2022
- 2021: HSE apologises as review finds residents suffered 'sustained sexual abuse' in Donegal facility [The Journal](#); <https://www.irishtimes.com/news/ireland/irish-news/devastating-sexual-abuse-of-18-residents-in-hse-run-centre-in-donegal-1.4701004>
- 2021: The former army officer who blew the whistle on sexual abuse in the Defence Forces 20 years ago says the military still has not moved out of the last century. "Bullying, harassment, sexual assault and rape of female soldiers, sailors and air crew was widespread throughout the organisation," he claimed. [Irish Examiner](#)
- 2019: Women employed by the HSE made allegations of sexual harassment or sexually assault more than 120 times in hospitals over the last decade, according to official HSE investigations. [Extra.ie](#)
- 2017: A settlement between the HSE and a woman who was left in foster care despite years of abuse has been approved by the High Court this afternoon. [The Journal](#)
- 2016: A Garda investigation has been launched after a HSE storage facility containing highly sensitive files was found unlocked with its doors open and without any security. [Independent](#)

### Poor/offensive media headlines/discourse

- 2017: On air on 8 September 2017, broadcaster George Hook made remarks about the “personal responsibility” of rape victims and asked, “[is there no blame now to the person who put themselves in danger?](#)”. Rape Crisis Network Ireland complained about the segment [Link](#) [The Journal](#), [Irish Times](#), [Irish Examiner](#)
- 2021: The National Women's Council of Ireland says it is a “mistake” for the HSE to replace the word “woman” with “anyone with a cervix” in its national cervical screening advice. [Times Ireland](#)
- 2022: Comedy duo The 2 Johnnies have issued a lengthy apology in a video posted online in the wake of controversy over “sexist” comments made on their podcast. Johnny B and Johnny Smacs came under fire after they were accused of airing “sexist and insulting comments” in their podcast and clips used to promote their new 2FM radio show. [Irish Mirror](#)
- 2022: TV personality Brian Dowling refers to a surrogate mother as ‘it’. “The fact that the female egg is put into the surrogate, and then the surrogate is named as the biological mother just isn't right - it's not even related to the child.” [Mirror](#)
- 2022: Irish media refer to a trans-identified male convicted of threatening to rape and kill mother as ‘woman’ [Irish Times](#), [The Journal](#)

### Homelessness and DSGBV

- More than a third of homeless people have been sexually assaulted and more than half sexually harassed, a landmark report published on Monday indicates. The report, Empowerment to Rights, draws on detailed interviews with 100 homeless adults in Dublin, conducted between September and October 2020. From [Irish Times](#) (report commissioned by ICCH)
- A rape crisis shelter is urgently needed for the people who are viciously raped on Cork’s streets every night, a leading homeless advocate has said. [Irish Examiner](#)
- Merchants Quay Ireland (MQI) is launching a campaign for gender-specific services, while a new report outlines the extent of the issues facing vulnerable women in trying to access addiction and homeless services. [Irish Examiner](#) A Space of her Own – Report by MQI [here](#)
- Pre-existing inequalities dictate that women’s experience of multiple forms of disadvantage is radically different from that of men. [Responding to Women with Complex Needs Who Use Substances](#) 2020 report

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### Online (DSGBV) abuse of women in politics as obstacle to equal representation

- Eliza O'Donovan: A Limerick councillor has shared an example of the misogynistic videos that have been posted about her on YouTube. [Irish Examiner](#)
- "It changed the way I lived, I wished I never went into politics, I didn't want to go on TV." Female TDs stalked [Irish Examiner](#)
- 45% of female TDs and senators say they have been followed while walking alone after dark. [Newstalk](#)
- [Fine Gael's Regina Doherty](#) has said that if she had a euro every time she was called the "c word" she wouldn't have to retire from politics. [Irish Mirror](#)

### Online abuse (DSGBV) and gender-related suicide

- Number of women dying by suicide rose almost 50% in 2019 [Irish Times](#)
- Domestic violence (and housing, drugs and social media) linked to suicide amongst women in West Dublin [Irish Times](#), [HSE Report](#)
- The suicide rate for Traveller women is five times higher than women in the general population. Traveller women account for the largest group in admissions to domestic violence refuges, with 49% of refuge admissions being Travellers and 57% of Traveller women recorded as repeat admissions. [Women's Health in Ireland Report](#) 2019
- Coco's Law – Nicole Fox suicide [RTE](#), [Irish Independent](#)

### Image based abuse

- A victim of image-based abuse has said she is lucky to be alive, as she gave her backing to a new Government campaign that will try to tackle the sharing of sexual and intimate images without consent. Alexandra Ryan, a journalist and publisher shared her story of how several years ago a man she was in an intimate relationship with secretly recorded a video of them together. [Irish Independent](#)