



# GREVIO

## Baseline Evaluation Report Netherlands

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



**Istanbul Convention**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE



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

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

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## Foreword

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

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

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

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

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

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

GREVIO also collects additional information from various other sources, including non-governmental organisations (NGOs), other members of civil society, national human rights institutions, Council of Europe bodies (Parliamentary Assembly, Human Rights Commissioner and other pertinent bodies), as well as other international treaty bodies. Within the framework of the evaluation of the Netherlands, GREVIO received written contributions from the Netherlands Institute for Human Rights and from the following civil society organisations: Atria, COC Netherlands, the Federation of Somali Associations in the Netherlands (FSAN), the End FGM European Network, the

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



Dutch Cedaw Network, the Netherlands Organisation for Gender Diversity (NND), PHAROS, and the Transgender Network Netherlands (TNN).

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

The analysis, suggestions and proposals contained in this first baseline evaluation report were drawn up under the exclusive responsibility of GREVIO. It covers the situation as of May 2019. Developments since that date are neither covered in the analysis nor taken into account in the conclusions and proposals therein.

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

## Executive summary

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

This assessment has been carried out by the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), an independent human rights monitoring body mandated to monitor the implementation of the convention. GREVIO’s findings are based on the information obtained during the various steps of the first (baseline) evaluation procedure set out in Article 68 of the convention. These include written reports (a state report submitted by the Dutch authorities and additional information submitted by NGOs) as well as a 5-day evaluation visit to the Netherlands. A list of the bodies and entities which GREVIO had exchanges with can be found in Appendix II.

The report highlights the long history in the Netherlands of addressing domestic violence and other forms of violence against women through policy and legislation, and with a strong focus on the gendered nature of domestic violence. Political will to offer a holistic response to domestic violence has been demonstrated, and many promising initiatives have been launched to raise awareness of and address forms of violence as diverse as forced marriage, female genital mutilation, cyber violence, sexual harassment, including street harassment and sexual violence. There is strong commitment to reaching out to the younger generation in order to break social taboos and build healthy intimate relationships based on consent and the principle of equality between women and men. Important strides are thus being made to break with gender stereotypes in education but also in the labour market. Innovative approaches exist to ensure the support, protection and return of young women and girls from or residing in the Netherlands facing forced marriage and abandonment abroad.

Budget spending for services on domestic violence has increased significantly, and there is a clear desire to monitor, evaluate and re-assess existing policies and approaches. Policy making is generally based on evidence, and research on violence against women is widely available and frequently commissioned by the authorities. The report also highlights the current research efforts to identify various intersectional issues for groups at risk of violence who may not be adequately covered by existing policies and practices, in particular women with disabilities, irregular migrant women and those with dependent residence status.

Moreover, the potential offered by the health sector to identify women and girls at risk of the different forms of violence is utilised, in particular in relation to domestic violence and female genital mutilation. Equally, its role in reducing generational transmission of trauma and violent behaviour is recognised and standard trauma screening among children witnessing or experiencing domestic violence and child abuse is being introduced.

More recently, however, the firm recognition of the power imbalance between women and men and its impact on women’s exposure to and experiences of violence against women has given way to a more gender-neutral approach. It finds expression in the newly used term of “violence in dependency (i.e. close) relationships”, which intends to capture the different manifestations of domestic violence which any one individual – irrespective of age, gender, relationship, sexual orientation or other – may experience in intimate or family relationships. **The National Action Plan entitled “Violence does not belong anywhere” (2018-2021) gives substance to this concept and lays out action to be taken by professionals in all sectors. Despite its many positive elements, such as its emphasis on the need for a multi-agency approach and the Istanbul Convention’s core principles of prevention, protection and prosecution, it sets out a view of domestic violence that is gender neutral with no recognition for women as a group at particular risk from gender-based harm.** Gender-neutral policies bear the risk of interventions by professionals that lack gender sensitivity, lead to gaps in protection and support and contribute to the re-victimisation of women.

The approaches taken by the newly introduced one-stop municipality-based domestic violence support service (Safe Home), the centrepiece of the Dutch response to domestic violence as violence in dependency relations, illustrate the above. The report welcomes the efforts made to ensure that the home is a safe place for all and the recognition of linkages and overlap between child sexual abuse, intimate partner violence and other forms of domestic violence, but calls for the introduction of a strong gender perspective in the provision of such a cluster of services. It is vital for women's particular experiences as victims, the underlying power dynamics of domestic abuse and control, women's dependency on the abuser and the implications for custody of children to be recognised.

While the Safe Home prevention-focused intervention approach aims to offer a holistic approach to domestic violence, it does not seek to clearly establish responsibility for abuse and control and masks male intimate partner violence against women as a problem among equals. This stands in the way of ensuring criminal accountability, which is one of the main aims of the Istanbul Convention. There are no data available on violence against women and domestic violence offences disaggregated by gender, allowing no conclusions to be drawn on the number of complaints, what action was taken and whether prosecutions have been effective. Fast tracking exists for certain offences covered by the Istanbul Convention, and prosecution services are asked to determine within a few hours whether to charge and bring the defendant before the judge, offer an out-of-court settlement or impose a penalty order. Research, however, suggests that the actual outcome in most cases of intimate partner violence is a dismissal, and use of out-of-court settlements is high. This seems to be the result of attitudes espoused by prosecution services that alternatives to criminal proceedings can be more effective than traditional court hearings because victims often retract their statements and professionals are often better able to give a balanced view of the situation than victims. Effectively, this results in the decriminalisation of domestic violence and denies the victim a voice in the proceedings and the opportunity to claim their rights as victims.

This has a bearing on the situation of children who have witnessed or experienced domestic violence in the Netherlands. While this is generally recognised as child abuse and should be taken into account in custody decisions, there are no guidelines on how to take into account domestic violence targeted at the mother/victim in the decision-making process. Parental plans must be drawn up ahead of the divorce procedure in order to reach mutually acceptable decisions about the children, including where the relationship was marred by domestic violence. Family courts frequently take the view that the violence ends after separation and hence opt for joint custody. The report thus points to the need to take past behaviour into account and step up efforts to uphold the safety and well-being of children when determining custody and visitation rights.

While GREVIO welcomes the Netherlands' ratification of the Istanbul Convention and the efforts taken in its implementation, it has identified a number of priority issues requiring further action by the Dutch authorities to comply fully with the convention's provision. Drawing from the above and in addition thereto, these relate to the need to:

- enhance the application of a gendered perspective in the implementation of the Istanbul Convention, including its provisions in relation to domestic violence;
- ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3,;
- ensure, for all policies and measures which form part of the required comprehensive and co-ordinated approach to combating violence against women and domestic violence, stable and sustainable funding levels on the basis of separate budget and funding lines;
- assign the role of co-ordinating body to fully institutionalised entities, equip these with clear mandates, powers and competences and allocate the necessary human and financial resources to these entities in order to ensure, on the one hand, the co-ordination and implementation of policies and measures to prevent and combat all forms of violence against women, and, on the other hand, their independent monitoring and evaluation;
- introduce standardised data categories for mandatory use by law-enforcement agencies, the judiciary and all other relevant actors on the gender and age of the victim and perpetrator, their relationship, type of violence and the geographical location;

- introduce systematic, mandatory and gender-specific initial and in-service training on all forms of violence against women and domestic violence for all relevant professionals working with women and children who are victims of violence, including professionals covered by the Reporting Code Act, Safe Home and case workers, decision-makers and interpreters in the immigration service;
- ensure the provision of specialist women's support services with a gendered approach and expand the provision of shelters;
- align the regime of temporary restraining orders with the requirements of the Istanbul Convention and ensure its effectiveness, and
- review the criminal offences of psychological violence, sexual violence, sexual harassment, forced marriage and female genital mutilation.

Furthermore, GREVIO has identified a number of additional areas in which improvements are required in order to comply fully with the obligations of the convention. These relate, among others, to the need to encourage the rate of reporting by victims and the need to research the impact of diverting cases away from the criminal justice system on both recidivism rates and deterrence. They also point to the need to recognise, encourage and support women's NGOs active in preventing and combating violence against women, including in particular, black, migrant and refugee women's organisations. Moreover, they stress the need to ensure the practical facilitation of women's access to gender-specific victim support services in cases of domestic violence and other forms of violence against women, offering comprehensive support and avoiding secondary traumatising through repeat referrals.

## Introduction

The Netherlands ratified the Istanbul Convention on 18 November 2015. It is the most far-reaching international treaty to tackle violence against women and domestic violence. Its comprehensive set of provisions spans far-ranging preventive and protective measures as well as a number of obligations to ensure an adequate criminal justice response to serious violations of human rights. It covers new ground by asking that the root causes of violence against women (such as gender stereotyping, traditions harmful to women and general manifestations of gender inequality) be addressed.

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

In accordance with Article 68 of the convention, GREVIO initiated the baseline evaluation in respect of the Netherlands by letter and transmission of its questionnaire on 12 February 2018. The order of reporting to GREVIO is based on a combination of regional groupings and order of ratification. The Dutch authorities subsequently submitted their state report on 6 September 2018. Following a preliminary examination of the Dutch state report, GREVIO carried out an evaluation visit to the Netherlands which took place from 11 to 15 March 2019. The delegation was composed of:

- Rosa Logar, member of GREVIO
- Vesna Ratković, member of GREVIO
- Maria Moodie, expert
- Katinka Lünemann, expert
- Louise Hooper, Secretariat of the monitoring mechanism of the Istanbul Convention
- Cigdem Kaya, Secretariat of the monitoring mechanism of the Istanbul Convention

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

The evaluation visit was prepared in close co-operation with Ms Aaf Tiems from the Ministry of Health, Welfare and Sport who was appointed as contact person for the evaluation by GREVIO. GREVIO wishes to extend its gratitude for the co-operation and support provided throughout the entire evaluation procedure, and for the constructive approach adopted by the Dutch authorities.

As a first baseline evaluation, GREVIO has looked into the measures of implementation taken by the Dutch authorities with regard to all aspects of the convention and reviewed data from the years 2016, 2017 and 2018. For the sake of brevity, this report prioritises some provisions over others. While it addresses all chapters of the convention (except Chapter VIII), it does not present detailed assessments and conclusions on every provision in each of these.

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

### **A. General principles of the convention**

1. Chapter I of the Istanbul Convention sets out general principles which apply to all the substantive articles contained in Chapters II to VII. These include, among others, the assertion that it is a fundamental human right for everyone, particularly women, to live a life free from violence in both the public and the private sphere, that the convention must be implemented without discrimination on any ground including residence status and that the potential for, and effects of, multiple forms of discrimination should be borne in mind. Another principle which constitutes the backbone of the convention is that spelled out in Article 6 of the convention requiring the states parties to devise and implement gender-sensitive policies and to ensure that a gender perspective is applied not only when designing measures in the implementation of the convention but also when evaluating their impact. Forming part of the general obligations of the parties, the application of Article 6 extends to all other articles of the convention.

#### **1. Territorial application**

2. The Kingdom of the Netherlands consists of four autonomous countries: the Netherlands, Aruba, Curaçao and Sint Maarten. The country of the Netherlands consists of a territory in Europe and the islands of Bonaire, Sint Eustatius and Saba (BES) in the Caribbean. Only the Kingdom of the Netherlands is considered a state and only the Kingdom – not the individual autonomous countries or the public bodies – has international legal personality. Each of the countries has the obligation to promote human rights but safeguarding rights and freedoms, legal certainty and good governance is deemed a “Kingdom affair” and therefore the Kingdom can respond if an autonomous country fails to fulfil its duty adequately in this field.<sup>2</sup>

3. The Istanbul Convention was approved for the entire Kingdom of the Netherlands on 18 November 2015 while on 1 March 2016 the Kingdom of the Netherlands ratified the convention for the European part of the Netherlands only – on the grounds that a catch-up period was required to meet the convention obligations for BES. As independent countries within the Kingdom, Aruba, Curaçao and Sint Maarten decide how and within what timescale they want to implement the ratification of the convention. For the purposes of this report, “the Netherlands” or “the Dutch” thus refers solely to the European Netherlands.

#### **a) Aruba, Curaçao and Sint Maarten**

4. Despite some progress to ratification in Aruba, Curaçao and Sint Maarten, GREVIO has received concerning reports about significant violations of women’s human rights in these parts of the Kingdom of the Netherlands. It is recognised that violence against women and domestic violence constitutes a serious and urgent problem in all the countries, legislative reform and training is required and there is a significant lack of funding and/or prioritisation of violence against women and girls and domestic violence. GREVIO further notes specific human rights violations in respect of Venezuelan asylum-seeking women in both Aruba and Curaçao, including lack of access to the asylum procedures sometimes resulting in *refoulement* and inhuman and degrading treatment while in detention, including reported sexual abuse by prison guards.

5. Although GREVIO understands that these three countries are at different stages of the ratification process and that decisions on implementation are primarily a matter for the countries, Article 2 of the mutual arrangement within the meaning of Article 38, paragraph 1, of the Charter for the Kingdom of the Netherlands on co-operation between the countries in the implementation of treaties requires the countries to draw up an implementation plan. GREVIO also understands that all three countries are under budgetary control of the Kingdom of the Netherlands.

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<sup>2</sup>[www.government.nl/documents/leaflets/2015/06/05/kingdom-of-the-netherlands-one-kingdom-four-countries-european-and-caribbean](http://www.government.nl/documents/leaflets/2015/06/05/kingdom-of-the-netherlands-one-kingdom-four-countries-european-and-caribbean).

6. **GREVIO urges the Kingdom of the Netherlands to draw up an implementation plan and take all possible measures, including financial, to encourage and assist Aruba, Curaçao and Sint Maarten to ratify and implement the provisions of the Istanbul Convention.**

**b) Bonaire, Sint Eustatius and Saba (BES)**

7. The Government of the Netherlands aims to have the convention apply to BES in “due course”, although GREVIO were unable to establish a time frame for this process. To this end, an administrative agreement, “Approach to domestic violence and child abuse in Caribbean Netherlands 2017-2020”, was concluded in June 2017. It focuses on prevention, enhancing the expertise of professionals, strengthening assistance, including setting up safe shelters for victims of domestic violence and child abuse, and establishing a reporting structure and legal framework. The action plan is financed in the sum of EUR 1.3 million per year and the results will be reviewed in 2020.

8. In 2018, the Advisory Council on International Affairs recommended that as BES form part of the Dutch constitutional order and a divergent system of human rights cannot be justified by a “fundamental distinction” within the meaning of Article 132a of the Constitution, any such differences between the Caribbean and European parts of the Netherlands must be ended.<sup>3</sup> This position is echoed by the Netherlands Institute of Human Rights.<sup>4</sup>

9. **GREVIO welcomes the steps already taken to implement the Istanbul Convention in Bonaire, Sint Eustatius and Saba in preparation for ratification and recommendation given by the Advisory Council on International Affairs. In light of that recommendation, GREVIO urges the Dutch authorities to extend the application of the Istanbul Convention to Bonaire, Sint Eustatius and Saba.**

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

10. In light of the scope of the Istanbul Convention set out in its Article 2, paragraph 1, the first baseline evaluation focuses on measures taken in relation to all forms of violence against women including domestic violence, which affects women disproportionately. The term “violence against women” used throughout the GREVIO questionnaire and throughout this report thus refers to all forms of violence against women criminalised (or, where applicable, otherwise sanctioned) under Chapter V of the convention. These are psychological violence, stalking, physical violence, sexual violence, including rape, forced marriage, female genital mutilation (FGM), forced abortion, forced sterilisation and sexual harassment. It also refers to domestic violence against women, which is defined as physical, sexual, psychological or economic violence which occurs within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.

11. Key to understanding the Dutch approach to implementing the Istanbul Convention is the definition of domestic violence in Dutch legislation and policy, which is referred to as “violence in a dependency relationship”. The Social Support Act 2015 covers physical, mental or sexual violence or threat by a family member, housemate, spouse or former spouse or caregiver. In the Youth Act 2015, child abuse is defined as each form of threatening or violent interaction of a physical, psychological or sexual nature, with the parents or other persons – in respect of whom the child is in a relationship of dependence.<sup>5</sup>

12. The definition also specifies forced marriage, “honour-based violence”, female genital mutilation and senior abuse. Violence in dependency relationships is the subject of the National Action Plan (NAP) entitled “Violence does not belong anywhere” (2018-2021). Gender-based

3. <https://aiv-advice.nl/9rx/publications/advisory-reports/fundamental-rights-in-the-kingdom-of-the-netherlands-equivalent-protection-in-all-parts-of-the-kingdom#advice-summary>.

4. Submission to GREVIO by the Netherlands Institute of Human Rights, p.5.

5. [www.kindermishandeling.nl/pages/14tot18/definitie.htm](http://www.kindermishandeling.nl/pages/14tot18/definitie.htm).

violence (other than sexual violence) committed by strangers is not covered by any specific action plan or policy but is criminalised and actions to prevent violence through cultural change are implemented by the Ministry of Education and the Gender Equality Plan.

13. Until 2015, Dutch policy on domestic violence was based on a firm understanding of the gendered dynamic of domestic violence and violence against women. Following the “gender scan” of 2013 on domestic violence, a gender toolkit<sup>6</sup> was developed to ensure the gendered nature of domestic violence was properly and adequately taken into account and a range of instructions, guides and factsheets made available to the authorities. Since 2015, a gender-neutral approach has been adopted (see below, Article 6) resulting, unfortunately, in the removal of this focus and an increasing emphasis on all forms of violence in close (dependency) relationships.

14. Theoretically, a wide variety of violence covered by the convention is addressed and emphasis is placed on addressing various types of close/intimate relationships between perpetrator and victim. However, GREVIO is of the opinion that the definitions currently in use do not adequately reflect the scope of the convention which applies to all forms of violence against women, in both the public and the private sphere, including domestic violence, which affects women disproportionately. In order to tackle the problem and its root causes effectively, it has to be acknowledged that violence against women is a violation of human rights and a form of discrimination against women. Legislation and policy in the implementation of the Istanbul Convention must be rooted in the definition of violence against women as gender-based violence that is directed against women because they are women or that affects women disproportionately.

15. **GREVIO strongly encourages the Dutch authorities to ensure that all policy and legislative measures taken in implementation of the Istanbul Convention reflect more clearly the notion that violence against women – within and outside of dependency relationships – is gender-based violence directed against women because they are women or that affects them disproportionately.**

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

### 1. Gender equality and non-discrimination

16. The convention recognises that gender inequality between men and women is a root cause of violence against women and requires parties to condemn and prohibit all forms of discrimination against women, to ensure the practical realisation of the principle of equality and to promote and effectively implement policies of equality between women and men and the empowerment of women (Article 6). In order to effectively address violence against women, comprehensive policies and measures to achieve the *de jure* and *de facto* equality of women need to be in place alongside and in co-ordination with policies to prevent and combat violence against women and domestic violence.

17. The right to equal treatment is enshrined in Article 1 of the Dutch Constitution and a number of laws address gender inequality.<sup>7</sup> The Gender and LGBTI Equality Policy Plan 2018-2021 (the “Gender Equality Plan”) affirms that the Dutch Government stands unequivocally for gender and LGBTI equality. It also stands for equal treatment, for equal opportunities and for the right to live your own life in safety and notes that there is broad public support for principles such as equal employment rights and the right to form your own identity and determine your own personal life as well as to be safe from violence at home and in public space.<sup>8</sup> However, as discussed below, the policy and approach to domestic violence and most forms of violence covered by the Istanbul Convention is strictly gender-neutral.

6. “Voorbij vooroordelen en stereotypes” [Beyond prejudices and stereotypes], available at [www.movisie.nl/publicatie/voorbij-vooroordelen-stereotypes](http://www.movisie.nl/publicatie/voorbij-vooroordelen-stereotypes) (Dutch).

7. Equal Treatment Act, the Equal Treatment in Employment Age Discrimination Act, the Equal Treatment of Disabled and Chronically Ill People Act and the Equal Treatment (Men and Women) Act.

8. Gender and LGBTI Equality Policy Plan 2018-2021.



18. Despite important strides made towards equality between women and men, violence against women continues to affect women in the Netherlands. Forty-five per cent of women have reported experiencing physical and/or sexual violence at least once since the age of 15. At the societal level, violence against women costs the Netherlands an estimated EUR 7.5 billion per year through lost economic output, service provision and personal costs.

19. GREVIO welcomes the intention of the Dutch authorities to address the existing inequalities through targeted measures and to reduce the gender pay gap.<sup>9</sup> GREVIO notes in particular that the Netherlands has outlined an Employment Discrimination Action Plan and a Pregnancy Discrimination Action Plan. GREVIO further welcomes the strategic alliances with NGOs and programmes such as “Together it works” and “Work and the Future”, which seek to break down employment-related gender stereotypes in education, the labour market and government.

20. However, GREVIO is concerned that there is a significant lack of connection between the clear gendered understanding of the Dutch authorities as outlined in the Gender Equality Plan and the policy approach taken in the NAP “Violence doesn’t belong anywhere”, which is gender-neutral (see below, Section E. Gender-sensitive policies, Article 6). GREVIO considers this to indicate that the Dutch authorities do not sufficiently recognise violence against women and domestic violence as a form of discrimination against women and that integrated and co-ordinated policies and measures on gender equality and violence against women are missing. Rather, the Dutch response to violence against women does not take into account “gender-related inequalities and the importance of the emancipation of women, men and their children (daughters and sons), in a balanced and well-integrated way”.<sup>10</sup>

21. **GREVIO encourages the Dutch authorities to pursue its agenda of achieving equality between women and men in all areas of society. Furthermore, GREVIO encourages the Dutch authorities to recognise violence against women as a form of discrimination against women with a view to interlinking policies and measures on gender equality with those intended to respond to all forms of violence against women, including domestic violence, while applying a strict gender-based approach at all times.**

## 2. Intersectional discrimination

22. Article 4, paragraph 3, aims at ensuring the Istanbul Convention’s implementation without any discrimination. This means for instance that the availability of services and the support of law-enforcement agencies shall be offered without discrimination on any of the grounds listed.

23. GREVIO is concerned that there is a tendency towards a culturalisation of violence where violence directed at black, migrant and refugee women and other harmful practices is seen as a cultural problem requiring a gender and culture-sensitive approach but that the response to violence in white, non-migrant communities is gender-neutral. This approach extends to the view and treatment of the perpetrators by the authorities. This reinforces stereotypes that violence against black, migrant and refugee women is a problem stemming from a violent collective culture and is perpetrated by black, migrant or refugee men. This can mask some forms of violence; for example, research shows that headscarf-wearing women are particularly targeted by white men (72%).<sup>11</sup> The approach also fails to recognise the role that traditional gender roles and structural imbalances in power between men and women play in violence against white, non-migrant women.

24. GREVIO is also concerned about women victims of violence who do not possess a residence permit, for example because of overstaying the validity of their residence permit or visa, and asylum-seeking women who experience violence. GREVIO notes that steps are being taken to make support available to those who are currently excluded through the terms of the Social Support Act. Measures seem to exist that would allow irregular migrant women to report incidents of violence to law-

9. These include, for example, an increase in paid parental leave for partners and the introduction of a child-care allowance.

10. See [“Prevention of intergenerational violence in the Netherlands and Europe: Exploring what works”](#) (2016) Steketee et al.

11. “Joining Forces to break the Circle of Violence Against Women” (2018).

enforcement agencies without risking deportation (so-called firewall) but GREVIO is unsure as to its implementation in practice.

25. Another group of particular concern is women with intellectual disabilities. Multiple barriers to accessing protection exist for this group, including a lack of information available in a form that they understand. GREVIO is concerned that in cases of sexual violence, decisions are made to not investigate or prosecute because of the requirement that the victim must have the processes explained to them and be able to understand the information given, and because of the general lack of appropriate resources. GREVIO notes with satisfaction that the authorities in the Netherlands are aware of these difficulties and some steps are being taken to remedy them.

26. **GREVIO strongly encourages the Dutch authorities to ensure the implementation of the proposed measures for improving protection of women with disabilities, and asylum-seeking and irregular migrant women and to further ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3.**

#### **D. State obligations and due diligence (Article 5)**

27. Aspects in relation to the implementation of Article 5 of the convention are covered in Chapters V and VI of this report.

#### **E. Gender-sensitive policies (Article 6)**

28. GREVIO notes that the Istanbul Convention requires a gender-sensitive approach to combating all forms of violence against women. GREVIO is concerned that the Netherlands explicitly pursues a gender-neutral policy in respect of domestic violence and has no overarching policy or measures to address all forms of violence against women in a comprehensive and co-ordinated way. For example, the NAP “Violence does not belong anywhere” does not provide a definition of gender-based violence nor does it use the term “gender-based violence” or even recognise women to be a group at particular risk from gender-based harm despite clear evidence that this is the case. A gender-neutral policy does not sufficiently link the prevalence of domestic violence against women and girls to the unequal position of women in society and the power imbalance between women and men. GREVIO is concerned that this gender-neutral attitude in policy is also taken by professionals resulting in a lack of gender sensitivity in implementation and gaps in protection as a consequence.

29. GREVIO recognises the underlying basis for this policy, including an assumption that violence against men is underreported because of the shame in admitting they are victims and an argument that men are more likely to engage if the policy is gender-neutral. However, such considerations lead to the problematic effect that violence against women is not recognised as a specific, widespread and gender-based form of violence. Even if the assumption that men underreport violence to the same or greater extent than women underreport violence is correct, the prevalence study designed to take into account some of these factors quite clearly shows evidence of the disproportionate impact on women of domestic violence, the difference in types and severity of that violence and that the vast majority of perpetrators (even where the victim is male) are men.<sup>12</sup>

30. It is GREVIO’s view that such policy choices combined with the use of non-gendered terminology in the most relevant policy documents and the absence of reliable gender-disaggregated data in crucial areas have led to the de-gendering of the discourse around violence against women in the Netherlands. This shift results in women’s experiences in seeking help, support and criminal justice for gender-based violence being masked and runs contrary to the obligation of paying particular attention to women victims of gender-based violence as set out in Article 2, paragraph 2. GREVIO is concerned that this deflects attention from persisting challenges in ensuring the safety of women and children who suffer violence and abuse at the hands of a male perpetrator in the

12. “Prevalence Study of domestic violence and child maltreatment in the Netherlands” (2019).

Netherlands as well as the need to ensure a comprehensive and co-ordinated approach to all forms of violence against women. GREVIO is also concerned that such policy choices are made without the benefit of systemically collated data disaggregated by gender and relationship notwithstanding the existing evidence showing the disproportionate impact on women of domestic violence.<sup>13</sup>

31. By way of contrast, the Gender and LGBTI Equality Policy Plan 2018-2021, in clear conformity with the requirements of the Istanbul Convention, recognises that “Sexual and gender-based violence against women is rooted in unequal power relations between women and men, reflecting the structural inequalities experienced by women in all aspects of their lives, from education to work. Such violence should not just be seen as a ‘woman’s problem’, the majority of the perpetrators are men, after all. They have to be part of the solution as well” (citing the fact that two thirds of sexual assaults on men aged 16 and over are also committed by men).

32. GREVIO welcomes the decision of the Dutch authorities, as a consequence of the findings in the prevalence study, to review the current strict gender-neutral approach to domestic violence. It also welcomes the adding of effects on gender equality as a new component to the Dutch Governments’ Integrated Assessment Framework (IAK) which seeks to assess how new policy and legislative proposals are likely to affect achievement of the Sustainable Development Goals (SDGs), including SDG 5 on Gender Equality.<sup>14</sup> In this context, GREVIO draws attention to the requirement, as set out in Article 6, of promoting and effectively implementing policies of equality between women and men and the empowerment of women. Such programmes are especially important for women and girls facing multiple discrimination, such as migrant and minority ethnic women and women asylum seekers and refugees.

33. **GREVIO urges the Dutch authorities to review the gender-neutral approach and implement the gender analysis of legislation and policy and ensure all policies relating to combating violence against women and domestic violence are gender-sensitive, based on a gendered understanding of violence against women and domestic violence, and to promote and effectively implement policies of equality between women and men and the empowerment of women.**

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13. Ibid.

14 “Quality requirements: Effects on gender equality”, approved by the Ministry of Foreign Affairs in 2018 and available at <https://www.government.nl/documents/publications/2019/02/27/iak-effects-on-gender-equality>.

## II. Integrated policies and data collection

34. Chapter II of the Istanbul Convention sets out the core requirement for a holistic response to violence against women: the need for state-wide, effective, comprehensive and co-ordinated policies sustained by the necessary institutional, financial and organisational structures. Further, the convention applies a human rights-based approach, requiring that the rights of the victims be placed at the centre of all measures (Article 7).

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

35. The policy of the Netherlands in respect of domestic violence (“violence in dependency relationships”) recognises that a criminal justice response alone is not sufficient to combat violence against women and domestic violence but a wider multi-agency approach encompassing prevention and root causes is required. GREVIO commends the Netherlands for this recognition and the extensive research and evaluation programmes conducted to improve knowledge, identify gaps in protection and service provision and to design and implement policy.

36. Moreover, GREVIO welcomes the fact that the approach to combating domestic violence is enshrined in legislation including the Social Support Act, which broadened the concept of social support to include safety in the domestic setting and decentralised responsibility to the municipalities, the Report Code Act (2013, amended in 2017) and the European Directive on minimum standards for the rights, support and protection of victims of criminal offences (2017). GREVIO further commends the Netherlands for the comprehensive multi-annual NAP “Violence does not belong anywhere” for 2018-2021, commissioned by the Ministry of Health, Welfare and Sport, the Ministry of Justice and Security and the Association of Dutch Municipalities.<sup>15</sup>

37. The overarching intention of the programme is to build a comprehensive national network of regional centres (Safe Home) to enable the co-operation of the police, the Public Prosecution Service and social workers. Safe Home’s statutory duties to provide prevention, protection and support are contracted out to and managed by non-state organisations. There is a total of 26 Safe Home organisations and the body running the service is chosen by the relevant municipality after putting the contract out to tender. The quality and range of services varies in each of the 26 organisations depending, for example, on whether the service is run by a woman’s organisation or another organisation, such as a health-care provider or social services, and the budget provided. It has the specific aims of improving knowledge in recognising the signs of domestic violence and child abuse, stopping the violence and, within the context of dependency relationships, covers sexual violence, victims of “loverboys”, honour-related violence and violence against the elderly. However, GREVIO has several specific concerns about the programme, namely the lack of a gendered and comprehensive co-ordinated approach, the consequences of the merger of the child protection and domestic violence services and the consequences of decentralisation.

38. First, “Violence does not belong anywhere” makes no reference at all to the gender dimensions of domestic violence or women as a specific risk group despite the fact that research demonstrates that women are overwhelmingly the victims of such violence.<sup>16</sup> GREVIO notes that previously the “gender scan” of 2013 on domestic violence resulted in the development of a gender toolkit<sup>17</sup> to ensure the gendered nature of domestic violence was properly and adequately taken into account and there are a range of instructions, guides and factsheets available to municipalities. However, it is not clear whether and how these guides are still used by the municipalities.

39. Second, while GREVIO understands that the merger of the child protection and domestic violence services arose owing to the Netherlands identifying that the two are often interrelated and

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15. Available at [www.rijksoverheid.nl/documenten/beleidsnota-s/2018/04/25/geweld-hoort-nergens-thuis-aanpak-huiselijk-geweld-en-kindermishandeling](http://www.rijksoverheid.nl/documenten/beleidsnota-s/2018/04/25/geweld-hoort-nergens-thuis-aanpak-huiselijk-geweld-en-kindermishandeling) (in Dutch, summary available in English).

16. Equality Monitor 2018.

17. “[Voorbij vooroordelen en stereotypes](#)” [Beyond prejudices and stereotypes].

there is a need to protect children to break the intergenerational cycle of violence,<sup>18</sup> concerns arise as to the impact of this merger on the protection of women from domestic violence and intimate-partner violence (IPV).<sup>19</sup>

40. GREVIO is concerned that the combination of these two factors can result in the specific gendered nature of violence against women being missed or reduced in importance. It may also result in an overconcentration on the situation of the child at the expense of the woman. Because the services are heavily weighted towards child protection and child witnesses of domestic violence are considered to be victims of child abuse, GREVIO understands that women lack trust in the systems in place and do not, necessarily approach them voluntarily (see Chapter V, Section A.3. Custody, visitation rights and safety, Article 31).

41. Third, following decentralisation, within the national legal framework, municipalities can make their own policies and set their own priorities. This is said to have resulted in both a loss of expertise and inconsistent service provision throughout the Netherlands, affecting the quality and availability of services. GREVIO thus welcomes the intention announced by the Netherlands to improve communication and co-operation at local and national level.

42. Although a wide variety of forms of violence covered by the Istanbul Convention seem to be addressed, GREVIO notes with concern that the NAP “Violence does not belong anywhere” does not set out a comprehensive approach and does not include all forms of violence against women. Measures on forms of violence against women other than domestic violence are contained in other action plans and policies, such as the Gender Equality and LGBTI Policy Plan. There is no state-wide, effective and co-ordinated policy or wider programme to prevent and combat all forms of violence against women and domestic violence as gender-based violence, for which the convention provides.

43. GREVIO recalls the obligation to ensure a holistic and co-ordinated approach to all forms of violence covered by the Istanbul Convention, in the public and private sphere. This requires addressing the structural issues affecting all victims and the specific gendered nature of such violence. Failure to do so may prevent recognition of the broader perspective on the different manifestations of violence against women and might also serve to perpetuate stereotypes.

**44. GREVIO urges the Dutch authorities to adopt and implement integrated, state-wide, effective, comprehensive and co-ordinated policies addressing all forms of violence against women and domestic violence – beyond dependency relations. To be effective, any such policy must recognise the gendered nature of the violence, address its root causes and fully reflect the specific needs of women who are or might be exposed to intersectional discrimination, and must ensure consistency of service provision across the municipalities.**

## **B. Financial resources (Article 8)**

45. In the Netherlands funding for services and measures to prevent and combat violence against women is made available in a variety of ways. Aside from the financial arrangements for the NAP “Violence does not belong anywhere”, few figures were provided to GREVIO. This is in part because help to victims and perpetrators is often considered part of the regular activities of the professionals involved. Long-term assistance may be financed by the Health Care Insurance Act or the Long-term Care Act. In addition, municipalities may use funds provided through the Social Support Act, the Youth Act and the Participation Act, for help, support and care, although there is no requirement for them to spend these funds on preventing and combating violence against women.

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18. See [“Prevention of intergenerational violence in the Netherlands and Europe: Exploring what works”](#) (2016) Steketee et al.

19. The potential problems caused by this merger have been raised by NGOs and by the Cedaw recommendation CEDAW/C/NLD/CO/6, paragraph 23(d).

46. Although some specific funds have been set aside in the annual budget for, among other things, projects, knowledge and research, very few ministries, departments or municipalities have a clear budget earmarked for preventing and combating domestic and gender-based violence. This does not allow any conclusions to be drawn on whether prevention and protection activities and services are appropriately and adequately funded. Furthermore, GREVIO notes that although most specialist services for women victims of violence do receive public funding, including for staff costs, it is widely considered insufficient to meet the demand.

47. GREVIO thus welcomes information from the Dutch authorities that the 35 central municipalities designated by the Social Support Act 2015 to provide domestic violence shelters will receive a substantial increase in structural funding for women's shelters and tackling domestic violence which will rise from EUR 11.8 million in 2016 and 2017 to 38.6 million starting in 2019 and until 2021. This funding is intended to serve as a contribution, to be topped up by the local authorities. However, this funding is primarily provided in connection with Safe Home and the Reporting Code and GREVIO notes that there is no disaggregation to show what proportion of funding is directed specifically at tackling domestic violence as opposed to child protection or what proportion will be directed to the shelters.

48. GREVIO also recognises the efforts made to fund specialist services such as the nationwide network of sexual assault centres. In 2016 and 2017, a total of EUR 4.2 million was paid to 16 municipalities as a financial bridge to jointly realise this network and guarantee structural offers of help for victims of sexual violence. However, the increased use of the centres is creating pressure on resources. Moreover, GREVIO notes with satisfaction that the Government of the Netherlands provides significant funding for eight NGO alliances, two of which work specifically on gender-based violence ("Change from Within" and "Act4Respect").

49. GREVIO welcomes the substantial and significant increase in the budget for child and domestic violence programmes and calls for the impact of this increase in spending to be monitored. As the child protection services and domestic violence services are merged it would also be important to identify what proportion of the budget is spent on women compared to that spent on children. GREVIO is also concerned that tender procedures for such services may have an impact on the quality and sustainability of services and thus on the safety of victims.

**50. GREVIO strongly encourages the Dutch authorities to ensure, for all policies and measures which form part of the required comprehensive and co-ordinated approach to combating violence against women and domestic violence stable and sustainable funding levels on the basis of separate budget and funding lines. Furthermore, GREVIO strongly encourages the Dutch authorities to research into the levels of difference in funding made available for services and measures to prevent and combat violence against women at local level and the reasons therefore.**

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

51. In the Netherlands NGOs working in the area of preventing and combating violence against women and domestic violence have a strong and collaborative relationship with government that has worked well over the years. A wide range of specialist support services for women victims of violence and domestic violence are operated by NGOs and civil society organisations. GREVIO further notes with satisfaction the good working relationship between government agencies, advisory bodies and the various ombudsmen.

52. As highlighted by the Cedaw committee<sup>20</sup> and various NGOs, GREVIO has concerns owing to the shift from institutional funding of women's NGOs to project subsidies, which has had a significant impact on those organisations. According to civil society, there is a disproportionate impact on black, migrant and refugee women's organisations, many of which are now only able to

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20. The United Nations Convention on the elimination of All Forms of Discrimination against Women (Cedaw) Committee, Concluding observations on the sixth periodic report of the Netherlands, 24 November 2016, CEDAW/C/NLD/Co/6.

operate on a voluntary basis. As a consequence, expertise has been lost particularly in respect of the integrated approach to harmful practices and the involvement of these groups in policy making, development of expertise among professionals and practice. GREVIO is concerned that this results in policies being implemented on minority groups rather than being designed with and for them. According to the authorities, steps have been taken to ensure more institutional subsidies for NGOs, including migrant and refugee organisations, offered by the Dutch Ministry of Education, Culture and Science.

**53. GREVIO strongly encourages the Dutch authorities to recognise the key roles that women's NGOs, including black, migrant and refugee women's organisations in particular, play in developing and implementing policy and ensure steps are taken to encourage and support their work and to maintain and protect their continued participation at local and national level in policy making. To achieve this, GREVIO strongly encourages the Dutch authorities to ensure that adequate financial support is provided in a method enabling the continued and sustainable existence and participation of women's NGOs active in combating violence against women, including black, migrant and refugee women's organisations.**

#### **D. Co-ordinating body (Article 10)**

54. Based on information from the Dutch authorities, the Ministry of Health, Welfare and Sport is the co-ordinating body designated in accordance with Article 10 of the Istanbul Convention. It works closely with the Ministry of Justice and the Association of Dutch Municipalities to devise and implement policy in respect of child abuse and violence in dependency relationships.<sup>21</sup> These are the ministries with primary responsibility for setting the policy agenda on domestic violence and facilitating consultation between the municipalities themselves, and with the Association of Dutch Municipalities and the Dutch Government.

55. Co-ordination is also ensured by the NAP "Violence does not belong anywhere", which requires a range of relevant actors to co-ordinate, such as the Ministry of Education, Culture and Science and a stakeholder steering group including members of civil society. The ministries additionally meet on a formal basis three times a year and have an escalation model in case specific problems arise. Progress on the NAP "Violence does not belong anywhere" will be reported to the Lower House on a voluntary basis.

56. Notwithstanding the involvement of civil society in the stakeholder meetings it was unclear whether this involvement is extended to the larger NGO community. GREVIO notes that a more formalised structure of consultation with NGOs in respect of both policy making and monitoring would help the Netherlands further realise an integrated approach to gender-related violence.

57. Co-ordination and implementation of the Istanbul Convention requirements in respect of other forms of violence against women apart from child abuse and violence in dependency relationships is less clear. As outlined in Section A. Comprehensive and co-ordinated policies (Article 7) there is no overarching policy or wider programme to prevent and combat violence against women as a form of gender-based violence outside dependency relationships. Nor is there a co-ordinating body for this. Sexual violence is dealt with by the Ministry of Justice and Security from a criminal law point of view, whereas the Ministry of Health, Welfare and Sport is responsible for support services for victims. Violence in public, including street harassment and security in public places, is dealt with by the Ministry of Education, Culture and Science in the Gender and LGBTI Equality Plan 2018-2021. However, GREVIO was informed that this part of the plan is not directed at gender-based violence.

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21. The Dutch definition of violence in dependency relationships is broad and includes most forms of violence covered by the Istanbul Convention except when perpetrated by someone not known to the victim.

58. At present there is no national monitoring body and no formal evaluation of the implementation of the Istanbul Convention. GREVIO welcomes the recognition by the Netherlands in the NAP “Violence does not belong anywhere” that, in respect of domestic violence, monitoring and evaluation is required and that it must be independent from policy making. GREVIO also notes the provision and funding for an advisory committee of experts has already been implemented and that the committee is currently researching and advising on the creation of a monitoring system and the best methods and forms of evaluation for the NAP. GREVIO also welcomes the recognition that the co-ordinating body has to resolve the issues around data (discussed in more detail below) to enable adequate monitoring and evaluation. GREVIO notes that unfortunately this will not include the wider aspects of gender-based violence.

**59. GREVIO strongly encourages the Dutch authorities to assign the role of co-ordinating body to fully institutionalised entities, to equip these with clear mandates, powers and competences and to allocate the necessary human and financial resources to these entities in order to ensure, on the one hand, the co-ordination and implementation of policies and measures to prevent and combat *all* forms of violence against women, and, on the other hand, their independent monitoring and evaluation. In so doing, the authorities should ensure that the functions of the co-ordinating body apply to all forms of violence against women and domestic violence covered by the Istanbul Convention, that they are exercised in close consultation with relevant NGOs and civil society and that they are supported by adequate and appropriate data.**

## **E. Data collection and research (Article 11)**

60. The Istanbul Convention requires public authorities such as the judiciary, law-enforcement agencies and social welfare services to set up data systems that go beyond the agencies’ needs for recording in order to collect data which are relevant for the purpose of ending violence against women in all its forms. As a minimum requirement, all recorded data on violence against women and domestic violence should be disaggregated by sex, age, type of violence, the relation of the perpetrator to the victim, geographical location and other relevant factors.

61. Recognising violence as gender-based violence means that efforts in research and data collection must give due regard to and aim at identifying the root causes, nature and impact of violence against women and the factors that drive it. These can be data on the type and severity of violence experienced, on help-seeking behaviour and in experiences with support services and the criminal justice system. If disaggregated by sex and other vital categories, data and research can give a clear picture of women’s experiences as victims of violence and are thus a precious source of evidence on which to base public policy and decision making.

62. In the Netherlands numerous efforts in the area of data collection exist and GREVIO notes with appreciation the clear tendency towards evidence-based policy making in the area of preventing and combating violence against women. However, GREVIO is concerned that overall the gender-neutral approach to data collection creates particular difficulties in understanding the different nature and severity of violence against women, the gendered nature of the majority of domestic violence in the Netherlands and the presentation of the conclusions of those data to the public.

### **1. Administrative data collection**

63. Although a wealth of statistical data is being collected in the Netherlands there are many factors that prevent a detailed picture emerging of the different forms of violence against women in relation to women’s victimisation, reporting to the police, help-seeking and how the victims are being responded to. GREVIO therefore recalls the importance of systematic and adequate data collection as an essential component of effective policy making in the field of preventing and combating all forms of violence covered by the convention.



64. The police and prosecution services are required to collect data under the Dutch Criminal Code but recording is inconsistent and incomplete and in many if not all cases reporting is not broken down by sex/age of the victim and perpetrator or their relationship. Intimate partner violence and domestic violence are recorded using the same code, making it impossible to distinguish between the two. Police officers do not adopt a gender-sensitive approach when dealing with and recording incidents of gender-based violence including domestic violence.

65. The current Safe Home Information Protocol is laid down in the 2015 Implementation Regulation for the Social Support Act and describes what data is submitted by Safe Home to Statistics Netherlands and in what way. Since 2015, the data collected are acknowledged by both the Central Bureau of Statistics and Safe Home to be unreliable, not sufficiently disaggregated and not collected in the same way in each municipality, partly caused by the use of different software systems. GREVIO welcomes the efforts under way to harmonise these.

66. In terms of current data-collection obligations, Safe Home is required to record the location and type of crime, the age and the gender, however it will not record the victim or perpetrator or the relationship between the two. The reason behind this decision lies with Safe Home's focus on ensuring access to help, protection and safety rather than identifying who the victim or perpetrator is. GREVIO is gravely concerned that this makes it impossible to identify and recognise violence against women and domestic violence in the first place. It has a knock-on effect throughout the entire system where intimate partner violence and domestic violence is seen as "a problem of two halves" rather than a form of violence against women. It is thus important to ensure, through better data collection, that patterns of victimisation and the underlying gender dynamics emerge.

67. Some steps towards identifying longer-term patterns and, as a second step, proper risk assessment, are being made, which GREVIO welcomes. For example, the aim of the amended requirements of the Reporting Code (see Chapter IV, Section I on reporting) is that all relevant information including reports and signals of domestic violence will be collated by Safe Home to develop a "radar function". GREVIO welcomes such an initiative, which offers considerable potential in terms of providing an overall picture of victims' pathways to escape the violence. Initiatives to join up data-collection systems across sectors must, however, comply with data protection safeguards as set out below.

68. Moreover, there is a known lack of data on access to and use of shelters at national level which prevents the Dutch authorities from being able to understand the cause of the lack of shelter availability. GREVIO welcomes the intention of the Dutch authorities to work with the municipalities and the women's shelters as outlined in the NAP "Violence does not belong anywhere" to take action in respect of this.

69. Equally, there is a lack of data at national level on the number of emergency barring and protection orders, the use of the temporary exclusion order or other restraining measures. Available data are neither broken down by sex nor relationship of the perpetrator to the victim.

70. Lastly, the immigration service in the Netherlands does disaggregate overall numbers of claims and family reunion claims by gender, however it does not offer any insight into their leaving their home country or into the grounds for asylum recognition.

71. GREVIO recalls the need to ensure appropriate safeguards for the protection of personal data. Establishing legal safeguards for the processing of personal data concerning health or sexual life is an obligation undertaken by the Netherlands under the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).<sup>22</sup> In the context of

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22. Article 5 of the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data sets out the obligation to ensure that personal data undergoing automatic processing shall be obtained and processed fairly and lawfully, stored for specified and legitimate purposes and not used in a way incompatible with those purposes and preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored. Article 6 explains that personal data revealing racial origin, political opinions or religious or other beliefs, as well as personal data concerning health or sexual life, may not be processed automatically unless domestic law provides appropriate safeguards.

an ongoing process of harmonisation, collection and storage of personal data, respect for privacy rights is vital. A further necessary precaution regards the need to respect specialist women's services' working methods and the core requirement that specialist services safeguard victims' confidentiality and anonymity. These standards have been developed and refined by the women's movement and have been comprehensively reviewed in Council of Europe publications.<sup>23</sup>

**72. In order to document the nature of the relationship of the perpetrator to the victim and the gendered nature of the violence more effectively, GREVIO strongly encourages the Dutch authorities to develop standardised data categories for mandatory use by law-enforcement agencies, the judiciary and all other relevant actors on the gender and age of the victim and perpetrator, their relationship, type of violence and the geographical location. GREVIO also encourages the Dutch immigration service to introduce a data-collection system that records asylum claims on the basis of gender-related persecution.**

## **2. Population-based surveys**

73. A number of recurring population-based surveys exist in the Netherlands which provide some information on the prevalence of different forms of violence against women. Notably, these are the Emancipation Monitor and the Safety Monitor. Furthermore, the Netherlands Working Conditions Survey conducted annually by the Dutch Organisation for Applied Scientific Research and commissioned by the Ministry of Social Affairs and Employment considers to what extent employees experience undesirable behaviour, including unwelcome sexual overtures from colleagues, supervisors or third parties (see Chapter III, Article 17). The Netherlands participated in the Fundamental Rights Agency (FRA) survey on the prevalence of violence against women in all member states of the European Union (EU).<sup>24</sup> However, no survey specifically dedicated to all forms of violence against women covered by the Istanbul Convention has been carried out since 2014.

74. The most recent prevalence study in respect of domestic violence was undertaken in 2018 and GREVIO notes with satisfaction that the Dutch authorities have attempted to respond to criticisms of the lack of a gendered approach taken in the previous study (2010), although there are concerns that the current study could still be improved.<sup>25</sup>

**75. GREVIO encourages the Dutch authorities to carry out surveys on forms of violence against women not previously covered, including stalking, harassment and psychological violence, to assess their prevalence. GREVIO further encourages the Dutch authorities to ensure that the gendered dimensions and different experiences of violence are considered.**

## **3. Research**

76. Over the years the Netherlands has commissioned and undertaken a significant number of research studies and uses the outcome of these studies to direct policy. Since 2016 various studies have been carried out to consider issues such as a cost-benefit analysis of domestic violence and child-abuse programmes, intergenerational transmission of violence, the effectiveness of the Temporary Domestic Exclusion Order and the prevalence of domestic violence. GREVIO welcomes the currently commissioned research covering various intersectional issues for groups at risk of violence who may not be adequately covered by existing policies and practices. These include women with disabilities (intellectual and sensory impairments), women with dependant residence status and irregular migrant women.

77. GREVIO commends the Dutch authorities for this programme of research and recognises the efforts made to identify gaps in knowledge and to commission research on what policy is then developed. GREVIO notes that most of these addresses domestic and intimate-partner violence.

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23. "Combating Violence against Women: Minimum Standards for Support Services", L. Kelly and L. Dubois, Council of Europe, 2008.

24. Available at [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2014-vaw-survey-main-results-apr14\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf).

25. ATRIA Comments on the prevalence of domestic violence and child abuse in the Netherlands (2019) (Shadow report).

78. GREVIO notes under Chapter III, Article 16, the research so far concluded in respect of domestic violence recidivism and perpetrator programmes, which recommends specific further research to evaluate the effect of the intervention programmes on rates of recidivism and the impact of the gender-neutral policy.

79. **GREVIO strongly encourages the Dutch authorities to evaluate:**

- i) **the impact of the merger of the child protection and domestic violence services and the lack of a specific gendered approach within the national programme and institutions to establish whether these are in fact creating barriers to women's access to prevention and safety mechanisms;**
- ii) **the implications for and impact on prevention, protection and prosecution of violence against women and domestic violence of the gender-neutral approach, given that the statistics make overwhelmingly clear that women are significantly more likely to be victims than men and that where men are victims of this violence the perpetrator is most likely to be male; and**
- iii) **to ensure research is undertaken assessing victim's experiences and satisfaction with the institutional response to the different forms of violence against women, including domestic violence.**

### III. Prevention

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

#### A. Awareness raising (Article 13)

81. The Dutch authorities report on numerous awareness-raising activities, past and present, targeted at both men and women and boys and girls. The subjects covered include sexual resilience, preventing unacceptable sexual behaviour, the White Ribbon Campaign (aimed at getting men to endorse a statement that they will never commit, condone or conceal violence against women), forced marriage and physical, sexual and cyber violence. There have been specific campaigns designed to break social taboos surrounding sexual violence aimed at potential victims, their friends, families and others. Campaigns have been aimed at both the general public and professionals. Many of these campaigns are run in alliance with NGOs and civil society. Movisie, a national knowledge institute, developed a methodology called “We Can”, which included modules on gender equality and gender violence and reached around 90 000 young people in 15 different municipalities.<sup>26</sup>

82. GREVIO welcomes the nationwide campaign “It doesn’t stop until you do something”, which commenced in February 2019 as part of the implementation of the NAP “Violence doesn’t belong anywhere”. The initial focus is on child abuse and will be followed by focusing on the abuse of elderly people and partner abuse. However, this awareness-raising campaign, including the information available on the website, is gender-neutral and not directed at women, which leads to a risk that it will contribute to the lack of awareness of the gendered nature of domestic violence.

83. GREVIO further commends the Netherlands for the stated aim of seeking to create a more equal balance of power in society and the significant emphasis placed on targeting the root causes of violence in the Gender and LGBTI Equality Policy Plan 2018-2021. GREVIO further notes that for the next five years the government will support the Work and Future Alliance, which focuses on combating stereotyping in education, government and the business community, and the Gender Diversity Alliance, which aims to influence current harmful gender norms and create more room for gender diversity.

84. Awareness-raising campaigns are also carried out by the municipalities. GREVIO welcomes in particular the “Hidden Women” campaign in Rotterdam which attempts to target women without residence permits who are experiencing domestic violence, thus targeting a particularly vulnerable group of women.

85. GREVIO welcomes such varied efforts to ensure that the different forms of violence against women are visible and to raise awareness of both the general public and professionals. GREVIO also commends the Dutch authorities for measuring the impact of these campaigns and the use of the results to guide policy. GREVIO is, however, concerned that awareness-raising efforts do not sufficiently emphasise the gendered nature of the different forms of violence against women and their pervasiveness in all aspects of women’s lives (public and private) and that specific forms of violence such as sexual violence are insufficiently addressed.

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26. See [www.movisie.nl/en/themes/can-young-people-be-made-sexually-resilient](http://www.movisie.nl/en/themes/can-young-people-be-made-sexually-resilient).

86. **GREVIO encourages the Dutch authorities to ensure that the gendered nature of violence against women and domestic violence is not overlooked in awareness-raising campaigns owing to the gender-neutral policy which appears to particularly affect domestic violence campaigns. GREVIO further encourages the Dutch authorities to ensure that more efforts are made to address sexual violence against women and that all these campaigns reach women with disabilities, those in addiction, those who are engaged in prostitution and those in hard-to-reach communities.**

## **B. Education (Article 14)**

87. The Dutch Government requires primary and secondary schools to address sexual education, sexual diversity and sexual resilience within the core objectives of relationships and sexuality. This education is mandatory until the age of 15. The core objective on citizenship is now more specific and requires schools to pay attention to gender equality and diversity (rather than equality in general). The national government coalition agreement states that a number of existing educational goals including those relating to sexuality and sexual diversity are to be refined by the end of 2019.<sup>27</sup> Teaching sex education and sexual resilience is included in the teacher training programmes and sexual and gender diversity training has also been explicitly included since 2018-19.

88. A wealth of material is produced for this purpose by the School and Safety Foundation and Rutgers, a knowledge centre on sexual and reproductive rights, covering a wide range of topics including relationships, intimate partner violence, sexting and grooming and it is pleasing to note that Rutgers are involved in revising at least one of those programmes for children with special educational needs. GREVIO is also pleased to note that within these programmes there is a specific concentration on gender equality and the gendered nature of violence. It is estimated that about 20-30% of schools use the material provided by Rutgers. Moreover, the National Youth Institute and the Centre for Healthy Living (linked to the Ministry of Health, Welfare and Sport) have an online database that schools can tap into if they want to find effective educational methods on topics such as health and sexuality and sexuality and relationships.

89. At the request of the Lower House of Parliament, the Inspector of Education carried out a study into the implementation of the core objectives of respectful treatment of sexuality and sexual diversity in 2016.<sup>28</sup> This study found that the difference in approach between schools and individual teachers is considerable, and although schools generally meet the legal requirements, improvements to quality could be made.

90. GREVIO recognises that Article 14 leaves it to the discretion of the parties to the convention to decide on the age groups and type of schooling to offer relevant teaching material to. Where such material is developed, however, it must be formally approved and form part of the official curriculum.<sup>29</sup> GREVIO is concerned that the lack of quality standards for the implementation of the core objectives, and the lack of knowledge as to how they are implemented in practice, could lead to some children not receiving education compliant with the requirements of the Istanbul Convention.

91. Gender and gender studies programmes are offered in the Netherlands. However, it is not known to what extent equality between women and men, gender-based violence against women and other aspects required by Article 14 are integrated into other study programmes.

92. GREVIO notes that there were significant criticisms of the privately run civic integration courses for migrants,<sup>30</sup> in particular that they endorsed and encouraged gender stereotyping. GREVIO welcomes the decision to bring these back under control of the municipalities from 2020.

27. "Gender and LGBTI Equality Policy Plan 2018-2021. The Netherlands putting principles into practice", p15.

28. "Dealing with sexuality and sexual diversity", available (in Dutch) at: [www.onderwijsinspectie.nl/documenten/publicaties/2016/06/01/rapport-omgaan-met-seksualiteit-en-seksuele-diversiteit](http://www.onderwijsinspectie.nl/documenten/publicaties/2016/06/01/rapport-omgaan-met-seksualiteit-en-seksuele-diversiteit).

29. Paragraph 95 of the Explanatory Report to the Istanbul Convention.

30. Algemene rekenkamer (Netherlands Court of Audit) (2017), "Inburgering eerste resultaten van de wet inburgering 2013" (Civic Integration, first results Integration Act 2013).

GREVIO also welcomes the training and education programmes developed in the reception centres by the Central Agency for the Reception of Asylum Seekers (Centraal Orgaan opvang asielzoekers, COA) aimed at prevention.

**93. GREVIO encourages the Dutch authorities to ensure that the teaching and implementation of the core educational objectives related to interpersonal relationships and sexuality is standardised across all schools.**

### **C. Training of professionals (Article 15)**

94. The standard set by the convention in its Article 15 is that of systematic initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence. The training that is required must cover the prevention and detection of such violence, equality between women and men, the needs and rights of victims and the prevention of secondary victimisation. The questionnaire drawn up by GREVIO lists, in the table appended to it, the professional groups which GREVIO considers relevant and in need of such training.<sup>31</sup> The lack of clear information provided makes it very difficult for GREVIO to assess the nature and extent of the level of training on violence against women undertaken by members of the various professions in the Netherlands and therefore whether it is effective.

95. Owing to the Reporting Code, organisations working in health care (including dentistry), education, childcare, social support, youth care and the justice sectors are provided with training in identifying and reporting domestic violence and child abuse (see Chapter IV, Section I. on reporting). GREVIO welcomes both the structural, systemic and multi-agency approach to training in identification of victims, risk assessment and response and the significant steps taken by the Dutch authorities to identify and address gaps in protection and training needs. However, GREVIO is concerned that the training does not have a gender perspective and does not cover all forms of violence against women as required by the convention. GREVIO was particularly concerned that it is not mandatory for Safe Home professionals to receive gender-specific training. Given the importance of this organisation to women seeking protection from domestic violence and the recognition in the statistics and research reports of the gendered nature of this work, this is, in GREVIO's view, a missed opportunity.

96. The police receive training in how to deal with domestic violence cases and "honour-related violence" and there is a police protocol on domestic violence. However, it is unclear whether this is mandatory or voluntary and whether it continues after initial basic training. The Dutch authorities noted that the protocols are not always properly implemented, and that further work is required in this regard. This indicates a need for further training.

97. There is mandatory training on domestic violence for incoming members of the prosecution service in the context of the training provided on the working methods for the Public Prosecution Service called "ZSM", which stands for "quick, smart, selective, simple together and socially aware", a fast track procedure to resolve domestic violence and other cases. Specialist Domestic Violence Public Prosecutors exist across the country and appointments are based on qualification. There are well-developed protocols and guidance covering issues such as secondary victimisation, however GREVIO does not have data to establish how many prosecutors are trained in the use of these protocols. Additionally, the protocols themselves do not consider violence or domestic violence from a gender perspective except in so far as they note that violence in the private sphere disproportionately affects women.

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31. These are, at a minimum, police and other law-enforcement officials, prosecutors, judges, social workers, medical doctors, nurses and midwives, psychologists (in particular counsellors and psychotherapists), immigration and asylum officials, educational staff and school administrators, journalists and other media professionals, servicemen and women.

98. Training on forms of violence other than domestic violence, however, seem to be lacking for professionals in the criminal justice system. The lack of systematic and mandatory training for law-enforcement officers, prosecutors and judges on all forms of violence against women can have serious ramifications for the responses to such violence and criminal investigations.

99. Immigration and asylum staff at the Immigration and Naturalisation Service (IND) receive very little training on the subject of gender. There is obligatory initial training on interviewing vulnerable migrants and asylum seekers, but this is not gender-specific. There is an optional module on gender and sexual orientation and gender identity (SOGI) but it is unclear how many staff take this option. Within reception centres, over 230 special-task employees have completed a five-day training course on recognising and addressing signs of domestic violence, sexual violence, child abuse, abandonment, forced marriage, honour-related violence and female genital mutilation.

**100. GREVIO strongly encourages the Dutch authorities to introduce systematic, mandatory and gender-specific initial and in-service training on all forms of violence against women and domestic violence for all relevant professionals working with women and children who are victims of violence, including professionals covered by the Reporting Code Act, Safe Home and case workers, decision-makers and interpreters in the immigration service. Such training should:**

- i) **be based on clear protocols and guidelines that set the standards staff are expected to follow in their respective fields;**
- ii) **ensure knowledge of the particular characteristics and needs of different vulnerable groups, the impact of multiple discrimination and how to avoid secondary traumatisation and discrimination on any ground.**

101. GREVIO commends the efforts undertaken in the field of prevention of FGM, including the compulsory training module for midwives, training of Youth Health Care Professionals on FGM risk assessments and working with parents, and the work undertaken by PHAROS and FSAN in training 110 key persons working in the community on female genital mutilation, undertaken as part of the “Chain Approach” to ending FGM. Although training is available for other members of the medical profession it is not mandatory.

**102. GREVIO invites the Dutch authorities to extend compulsory training on female genital mutilation to all relevant medical practitioners, including general practitioners who often play a key role in identifying victims and those at risk.**

## **D. Preventive intervention and treatment programmes (Article 16)**

### **1. Programmes for perpetrators of domestic violence**

103. There are no specific interventions or programmes for perpetrators of domestic violence who are in the prison system. The probation service offers a programme called “Termination of Relational Violence”, which is usually part of the sentence of a perpetrator. An additional probation service programme called “Caring Dads” includes a module on contact with the mother. It aims to show that non-violent, respectful contact and supportive co-parenting with the child’s mother are all parts of good paternity and fathers are expected to reflect on the messages they give their children through the relationship they have with the child’s mother. There are additional programmes for those under forensic care as a result of mental health disorders. The aim of these programmes is to work towards behavioural change in perpetrators on the basis of accepting responsibility for their acts.

104. There does appear to be considerable work done with perpetrators by Safe Home and the local neighbourhood teams in the community with the intention of preventing and stopping violence. These organisations work with perpetrators and the family towards a plan to stop violence. A specific programme, BORG, is designed for both perpetrators and victims (current or former partners) and is intended to deal with low to moderate risk of repetition. Additionally, there are several organisations that work with perpetrators of domestic violence including some active in mental health-care

provision and some as part of a family plan. Particular examples include De Waag, a centre for outpatient forensic mental health care in Utrecht and Dok.<sup>32</sup> GREVIO recalls that in any work with domestic violence perpetrators the safety of, support for and the human rights of victims must be of primary concern.

105. Research shows, however, that in practice it has been extremely difficult to reach perpetrators of partner violence and child abuse and motivate them to change their behaviour.<sup>33</sup> The same research also identifies potential failings of adopting a gender-neutral approach. It is unclear whether standard referral pathways exist and how attendance is promoted.

106. Moreover, GREVIO received repeated reports that the primary difficulty for women in the system is that domestic violence is seen as an issue between two parties rather than gender-based violence perpetrated against women. Most programmes seem to operate on a gender-neutral understanding of domestic violence. GREVIO is concerned that this approach risks failing to change gender inequality, which may therefore fail to have an emancipatory effect.

107. **GREVIO strongly encourages the Dutch authorities to:**

- i) ensure that all perpetrator programmes, including those outside of the prison and probation service, aim to teach perpetrators non-violent behaviour in interpersonal relationships by accepting responsibility for their acts and to ensure that the safety of, support for and the human rights of victims are of primary concern and that programmes are set up and implemented in close co-ordination with specialist support services for victims;**
- ii) evaluate the success of programmes for perpetrators of domestic violence, in particular the impact of the gender-neutral approach on rates of violence and recidivism; and to**
- iii) use all available means to ensure that such programmes are widely attended, including by incorporating them into the criminal justice system, including the probation service, as a tool to reduce recidivism.**

## **2. Programmes for sex offenders**

108. The Dutch sentencing system prioritises reducing reoffending. There is a system of retrospective retributive penalties on the one hand and prospective, preventive measures on the other. The safety element of a sentence is imposed either in addition to a penalty or instead of it and is intended to safeguard society from future harm.<sup>34</sup> In some cases courts can order offenders to undertake treatment.

109. While in prison, most sex offenders are placed in departments that provide specific structure and support and which offers scope for observation of sex offenders in order to determine or re-assess risk factors. For sex offenders with diagnosed mental health issues, programmes exist to teach healthy sexual relationships and intimacy. In addition, cognitive behaviour therapy interventions exist and are embedded in clinical treatment in particular for young sex offenders (aged 12-24). In addition, the Netherlands employs the COSA programme, which has been found to have reduced recidivism rates in the United Kingdom and Canada and has had a very high rate of success in the Netherlands – only one relapse in 130 people on the scheme since 2009. It aims to prevent recidivism by developing a community volunteer model in conjunction with professionals to provide support, guidance and assistance and prevent social isolation among sex offenders. It is offered to those who have already completed treatment and is long-term and voluntary.

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32. Work with Perpetrators, European Network, “National Report 2017, The Netherlands”, available at [www.work-with-perpetrators.eu/fileadmin/WWP\\_Network/redakteure/Resources\\_Activities/5\\_2\\_4\\_National\\_Report\\_Netherlands.pdf](http://www.work-with-perpetrators.eu/fileadmin/WWP_Network/redakteure/Resources_Activities/5_2_4_National_Report_Netherlands.pdf).

33. “Prevention of intergenerational violence in the Netherlands and Europe: Exploring what works”, (2016) Verwey Jonker Institute and Atria, Majone Steketee et al.

34. Sanne Struijk and Paul Mevis, *Erasmus Law Review*, December 2016, available at: [www.erasmuslawreview.nl/tijdschrift/ELR/2016/2/ELR\\_2016\\_09\\_02\\_005](http://www.erasmuslawreview.nl/tijdschrift/ELR/2016/2/ELR_2016_09_02_005).



110. There are programmes in existence for those who commit sex offences against children, including juvenile offenders. These include “Know your limits” (“Ken je grens”), provided by Rutgers for first-time adolescent offenders.<sup>35</sup>

#### **E. Participation of the private sector and the media (Article 17)**

111. The purpose of Article 17 is to encourage a broader involvement of private companies and the media in the effort to end gender-based violence.

112. In the Netherlands there are a broad range of obligations on the private sector to ensure respect for gender equality and women’s dignity at work and to curb sexual harassment in the workplace. These include the Dutch Working Conditions Act,<sup>36</sup> which obliges the employer to implement a policy to prevent and combat negative effects on the workforce resulting from any form of harassment, including sexual harassment. Compliance with this act is supervised by the Social Affairs and Employment Inspectorate.

113. Based on reports and analysis of the Social Affairs and Employment Inspectorate the Netherlands adopted the “Sustainable Employability” programme, which includes action to tackle harassment at work, aggression and violence by third parties and undesirable behaviour at work. Measures include the development of a guide providing a framework to deal with sexual harassment. GREVIO welcomes the intention of the Dutch Government, outlined in “Violence does not belong anywhere”, to assist employers and employers’ organisations to identify domestic violence by developing tools in accordance with the Reporting Code or by providing training.

114. The Dutch media continue to convey stereotyped and sexualised images of women<sup>37</sup> despite some level of self-regulation under the Advertising Code Foundation. Various campaigns aimed at tackling stereotyping and inappropriate images and language, including the #Limitedview campaign and “Image formation in the media”, were run in 2017 and 2018, however there is no evidence of the impact, if any, these measures have had. Although there are planned legislative changes to include sexual orientation and disability as grounds for discrimination in the constitution, no similar plans have been made to amend the Media Act so that gender-role stereotyping is considered discrimination.

115. GREVIO recognises the step taken in 2008 by the Dutch authorities to found the network for digital literacy, Mediawijzer.net, which aims to ensure all children and young people are media literate and attention is given to safe media use in connection with sexting.

**116. In order to reduce the dissemination of stereotyped and sexualised images of women, GREVIO encourages the Dutch authorities to investigate the effectiveness of self-regulation among the media in the area of violence against women, with due regard to relevant existing international standards.**<sup>38</sup>

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35. Information available here (in Dutch) [www.rutgers.nl/wat-wij-doen/seksueel-geweld/projecten-seksueel-geweld/ken-je-grens](http://www.rutgers.nl/wat-wij-doen/seksueel-geweld/projecten-seksueel-geweld/ken-je-grens).

36. <https://business.gov.nl/regulation/working-conditions-employees/>.

37. CEDAW/C/NLD/CO/6, no. 21b, 22b, and 22c.

38. Cf., *inter alia*, the following Council of Europe instruments: Recommendation No. R (84)17 of the Committee of Ministers to member states on equality between women and men in the media; Recommendation 1555 (2002) of the Parliamentary Assembly of the Council of Europe on the image of women in the media; Recommendation 1799 (2007) of the Parliamentary Assembly of the Council of Europe on the image of women in advertising; and Resolution 1751 (2010) and Recommendation 1931 (2010) of the Parliamentary Assembly of the Council of Europe on combating sexist stereotypes in the media. Reference is also to be made to UNESCO’s “Gender-Sensitive Indicators for Media” (GSIM).

## IV. Protection and support

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

### A. General obligations (Article 18)

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

119. GREVIO welcomes the strong emphasis that the detailed and comprehensive multi-year NAP “Violence does not belong anywhere” places on the need for a multi-agency approach and that seems to be based on the Istanbul Convention’s core principles of prevention, protection and prosecution. This NAP focuses on child abuse and domestic violence in the wider sense of violence in dependent relationships, thus covering a wide range of violence covered by the Istanbul Convention. It is aimed at developing holistic measures to combat child abuse and violence within dependency relationships and specifically designed with the intention of achieving a behavioural change in perpetrators that results in adopting non-violent behaviour, resolving conflict within dependency relationships and protecting children from intergenerational transmission. The primary method of achieving this is through the development of the Safe Home services in conjunction with the Reporting Code Act (see below, Section D: Specialist support services (Article 21); and Section I: Reporting of Professionals (Article 28)). There is a model co-operation agreement between Safe Home, public prosecution services and the police detailing co-operation in domestic affairs, violence and child abuse and care reports. However, the NAP and many of the associated programmes are gender-neutral and therefore fail to recognise or address the gendered nature of violence against women and domestic violence.

120. GREVIO has been informed that over the coming years the aim is to intensify the co-operation between Safe Home and judicial partners and tighten up roles and responsibilities in the network. A pilot project is being run to trial family justice centres in Tilburg and Rotterdam to consider the impact of all those directly involved in seeing clients being located under one roof. The benefits will be investigated and shared with other regions.

121. GREVIO further notes with satisfaction the existence of many additional policies and protocols designed to support the legislative framework and further this multi-agency, victim-centred approach. These policies, protocols and guidelines (some of which do include a gender-specific focus) cover many aspects of the convention, including domestic violence, sexual violence, forced marriage, FGM and “honour-related violence”.<sup>39</sup> GREVIO further commends the Netherlands for the processes put in place to provide consular and other protection to nationals and other victims entitled to such protection particularly in respect of forced marriage.

122. However, despite the policy efforts referred to above and the ongoing research on the effectiveness of the systems in place, GREVIO notes with concern that there are considerable gaps in the Dutch system of protection and support. Policies governing Safe Home programmes generally lack a gendered understanding of violence against women and do not even name victims as victims

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39. There are too many to list here but see for example “indicators of domestic violence and child abuse”, 2016A003, Model Reporting Code Action Plan for Responding to Signs of Domestic Violence and Child Abuse 3.

and perpetrators as perpetrators, by using the language “persons directly involved”. This masks not only the gender dimension, but also the violence itself and makes it difficult to focus on the human rights and safety of the victim, as the convention requires. To guarantee victims’ rights requires that women experiencing violence are recognised as victims of crime.

123. Moreover, GREVIO is concerned that significant obstacles remain that prevent women from obtaining protection. It is readily acknowledged that while professionals make good use of the services available in the Netherlands, most women victims are not approaching Safe Home voluntarily;<sup>40</sup> there seems to be a lack of trust of victims in the service and a fear of approaching it. GREVIO was provided with numerous examples of instances where victims have been expected to accommodate a perpetrator’s behaviour or change her own behaviour and/or risk losing access to her child for “non-co-operation”. In particular, many interventions by professionals from all sectors do not appear to place the rights and needs of women at their centre. Attitudes and beliefs about the nature of domestic violence as an argument between two parties persist. GREVIO is concerned that this focus risks victim blaming rather than recognising the gendered nature of the violence and the effect of the cycle of power and control. GREVIO is of the view it should be the woman who decides on the appropriate course of action in her case. GREVIO notes the Dutch authorities’ indication that they intend to listen more closely to the views of women victims in the future and considers that this will bring the system closer to the principles of Article 18. However, ensuring the human rights and safety of victims requires respect for their agency and for their right to be heard and to participate in decisions concerning them, ideally while being represented by specialist support services that they trust and that represent their rights.

124. GREVIO is also concerned that in providing protection and support to victims, the chosen conceptual framework is that of dependency relationships and does not address violence against women in the public and the private sphere. Thus, the widespread problem of violence against women outside dependency relationships is not covered as required by the Istanbul Convention. This approach fails to recognise women as a risk group or consider the gendered nature of the violence. The issue relating to gender-neutral policies is dealt with comprehensively in Chapter I, Article 6. GREVIO is also concerned that the problems outlined above may be a consequence of the lack of women-specific services following the merger of the domestic violence services with child protection services and the fears of women that their children will be taken away from them if they seek help. This is dealt with further in Section D. Specialist support services (Article 22) below.

125. **GREVIO urges the Dutch authorities to review the gender-neutral approach to the protection and support of victims and to ensure that all measures taken in this regard shall be based on a gendered understanding of violence against women and domestic violence while focusing on the human rights and safety of victims, as well as on their empowerment and economic independence.**

126. **Furthermore, GREVIO strongly encourages the Dutch authorities to ensure a higher degree of victim agency when deciding on measures concerning them or their children and facilitate their representation by independent support services while paying due regard to data protection.**

127. **GREVIO strongly encourages the Dutch authorities to investigate the reason for the low number of requests for assistance by Safe Home that come directly from victims themselves.**

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40. The authorities informed GREVIO that only around 1% of women victims found Safe Home themselves.

## **B. Information (Article 19)**

128. Information on available support services and legal measures is provided in various ways and often in multiple languages. This appears to be effective, with the Fundamental Rights Agency reporting that only 4% of Dutch women surveyed in 2014 reported no knowledge of any of three nationwide organisations offering services to victims of violence against women.<sup>41</sup> Some 98% of Dutch households have internet access and there is a significant amount of both general and specialist information in respect of all matters covered by the Istanbul Convention available online for free and with easily accessible contact points for further information via e-mail, WhatsApp or telephone if required.<sup>42</sup>

129. GREVIO notes the high levels of digital literacy in the Netherlands but also recognises that there are concerns that too much emphasis is placed on self-reliance to the extent that although information is theoretically available it may not in fact be accessible to victims at the time or in the manner they need.

130. Specific leaflets have been produced in different languages for parents originating from countries where female genital mutilation is practised and in 2018 a leaflet was published on forced marriage to help Dutch victims of abandonment who want to return to the Netherlands. Information campaigns and materials relating to FGM are available, however they would benefit from being simpler and more targeted at the communities they are designed to serve.

131. GREVIO welcomes the new women-specific website safewomen.nl, which is designed to provide information and support to women victims of intimate partner violence, and which is also running a research study to determine how effective the website is at providing advice and assistance.

**132. GREVIO encourages the Dutch authorities to ensure that any information made available is reaching particularly vulnerable women through outreach work and encourages the efforts made to carry out research to determine whether provision of information via digital means is effective. GREVIO also encourages the Dutch authorities to provide easily accessible information in all relevant languages to all women victims of all forms of violence, and to include information about rights and services for victims in information packages for migrant and refugee women.**

## **C. General support services (Article 20)**

133. General services are required to ensure victims have access to services facilitating their recovery from violence. These measures should include, when necessary, services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment. The drafters of the Istanbul Convention created a distinction between general and specialist services, indicating their respective roles in the process of victims' protection and recovery.

134. Article 20, paragraph 2, requires states parties to ensure victims' access to health care and social services and that these services be adequately resourced and staffed by professionals trained to assist victims, and to refer them to appropriate specialist services. In the Netherlands there is a large range of "general" support services, including social services, welfare and health care.

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

42. Households – level of internet access, Eurostat, available at [http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=isoc\\_ci\\_in\\_h&lang=en](http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=isoc_ci_in_h&lang=en).

## 1. Social services

135. Since 2015, the Social Support Act has included “safety” in the concept of social support, including safety in the sense of being free from the risk of violence within the domestic circle. Consequently, the requirement of the municipality to provide support services to victims of child abuse or violence in dependency relationships was established (see Section B, General obligations, above (Article 18)). These services are provided by Safe Home and the intention is that there will be a central agency at municipal level to manage the problem of violence in dependent relationships, to co-ordinate interventions and support and to refer victims to the appropriate services.

136. Safe Home was developed following the merger of the Domestic Violence Support Centres (Steunpunten Huiselijk Geweld) with the Advice and Reporting Centres on Child Abuse in 2015.<sup>43</sup> There are 26 regional Safe Home organisations (VTs) that work together under a National Network for Safe Home (LNVt). The legal obligations of Safe Home are set out in legislation and central government has also issued instructions aimed at harmonising standards and services to be provided by each Safe Home organisation. However, as the Dutch system is decentralised municipalities are free to agree contracts with whichever organisation it chooses to provide those services. For example, some are run by municipal health organisations and another is part of the women’s shelter movement. As a consequence, this results in varying service provision depending on the focus and budget of the service provider.

137. GREVIO understands that the merger of the child protection and domestic violence services arose owing to the Netherlands identifying that the two are often interrelated and there is a need to protect children to break the intergenerational cycle of violence. Although this merger has had some positive effects in that it has created a form of one-stop shop closer to the victims and a degree of standardisation, it has also had negative effects because women are not voluntarily seeking help for fear of having children removed from their care.<sup>44</sup> GREVIO is concerned that the merging of child protection and support for domestic violence may work against women in abusive relationships who have children with the abuser. Without a clearly gendered approach that recognises women as victims, Safe Home professionals may offer solutions that do not always respect the right of children to seek safety with the non-abusive parent, i.e. their mother.

138. Safe Home organisations have the legal duty to provide advice, receive notifications of domestic violence and child abuse under the Reporting Code, investigate whether there is domestic violence or child abuse, take follow-up steps, including transfer to voluntary assistance, reporting to the Child Protection Board and/or the police, and offering feedback on progress to the person who reported the violence.<sup>45</sup> Safe Home also provides advice and support to professionals, individuals and families, investigates allegations of child abuse and domestic violence and is responsible for follow-up and monitoring.

139. GREVIO welcomes the prevention-focused intervention approach of Safe Home, which is designed around the NAP “Violence does not belong anywhere” and is implemented in conjunction with all relevant partners in the intervention chain. Safe Home provides advice to professionals and receives and responds to notifications under the Reporting Code. As part of the holistic response, decisions will be made about whether emergency housing is required or not. If it is, the woman is directed to the shelter and an initial six-week programme undertaken to map out the situation, which includes being given advice on how to prevent violence in the future. This is usually followed by a programme of work with a social worker of between three to six months. If the situation is safe enough for the woman to live in her home supported by social workers and/or Safe Home, a different approach may be taken.

140. In other cases, work is done with all parties on prevention of violence and keeping the home safe, and, in appropriate cases, the “Take a Break” programme where one partner leaves the family home and the other remains at home with their children is used. In higher-risk and stalking cases, to

43. “The Protection of IPV victims: legal framework and criminal procedures”, Drost, Kooij and Lünemann.

44 Information provided to GREVIO during the evaluation visit.

45 <https://veiligthuis.nl/hoewerktveiligthuis/>.

enhance the woman's security, the Netherlands employs the "AWARE" system, which involves the use of a panic button linked to a GPS location device that can alert the relevant security agencies when activated by the individual.

141. This approach shows a strong commitment to addressing the problem in a structured manner. However, GREVIO is concerned that basic principles of the convention might not be sufficiently integrated, such as the need to apply a gendered understanding of intimate partner violence and also a lack of recognition of the impact of violence and victimisation on women and their children. According to NGO reports, women victims of violence frequently reported that perpetrators were granted custody based on the attitude that "if two fight, both are guilty". Such an approach can make it difficult for victims to be recognised as victims and to realise their rights as victims.

142. A further concern is that most victims of domestic violence seem to be dealt with by Safe Home or local neighbourhood teams, although it is difficult to determine without data. While GREVIO recognises that not all women victims of domestic violence will require accommodation in shelters, it recalls the need to ensure safety and counselling through other means, such as protection orders and referral to specialist support services that address domestic violence in a gendered manner.

143. Moreover, a highly structured and regulated approach might run the risk of becoming bureaucratic and of "managing victims" rather than empowering them and providing them with rights and opportunities. The human rights-based and empowering approach required by the convention requires that women victims of violence have immediate access to women's shelters when seeking help. It also recommends that they may choose the support they need and that repeat referrals be avoided in order to prevent secondary traumatisation caused by reliving the experience every time they are obliged to tell their story.

144. GREVIO was informed that at local level there can be a real lack of knowledge about the gendered experiences of women victims of violence and the context of power and control. This can result in women being put under significant pressure to comply with a programme prescribed for them that may well not meet their needs and put them and their children at risk. When a woman fails to comply, she is threatened with having her children taken away and GREVIO is aware of instances where this has happened. GREVIO is very concerned that the combined consequences of a gender-neutral approach, a refusal to determine who is the perpetrator and a lack of knowledge and understanding by those with the primary task of working with the women (as opposed to the policy makers) can lead to a very real gap in protection. GREVIO is particularly concerned that overall there is a lack of victim agency in the process and decisions are made about women which they are then expected to comply with without any real choice.

**145. GREVIO urges the Dutch authorities to ensure across that women victims of violence are directly referred to specialist women's support services and that repeat referrals are avoided. It also urges the Dutch authorities to ensure that social services are able to recognise violence against women as gender-based violence and offer support and protective services that pay regard to the underlying issues of power and control and that emphasise the human rights and safety of women victims, while duly promoting victim agency and empowerment.**

## **2. Health services**

146. The health system provides a range of important services to victims of various forms of violence against women and health-care professionals are subject to the Reporting Code obligations (see Article 26 below).

147. Research by the Health Council of the Netherlands has recognised the success of treating trauma caused by child abuse and domestic violence. GREVIO welcomes the stated intention to use trauma screening in cases where there is domestic violence and or child abuse to ensure treatment is provided.

148. GREVIO commends the Dutch authorities for making specific health provision for women affected by FGM and in particular for ensuring the appropriate mandatory training of midwives. In respect of FGM and in recognition of the fact that general practitioners are not equipped or trained to provide adequate general support services to women affected by FGM, there is a system in place called “Consultation hours on FGM” in 11 locations throughout the Netherlands. Medical treatment limiting functional impairments caused by FGM (such as in relation to the urinary tract or efflux of menstrual blood) are covered by the Healthcare Insurance Act. Discussions with the Dutch Association of Gynaecologists are currently under way regarding the effectiveness and safety of more far-reaching reconstructive surgery.

### 3. Housing

149. The provision of housing as a part of general services is crucial for victims to exercise their right to live free from violence. The Dutch Law on Housing grants victims of partner violence priority status. However, in practice it seems that not all municipalities and housing co-operations implement this regulation as they lack affordable housing, especially for low-income groups. Lack of affordable housing for victims of domestic violence, however, might lead to some victims staying in shelters longer than they would have wished, or feeling compelled to return to live with their abusive partner. GREVIO welcomes the Dutch authorities’ recognition that outflow from the shelters stagnates owing to the lack of suitable accommodation and issues relating to debts and accessibility of social welfare benefits and subsidies.<sup>46</sup> In this context, GREVIO welcomes programmes such as “The New Future”, which supports women residing in women’s shelters to become economically independent. However, GREVIO notes the need to ensure the sustainability of such programmes.

**150. With the aim of empowering victims and helping them to recover from violence, GREVIO encourages the Dutch authorities to step up measures to ensure wider levels of implementation of the Law on Housing to allow women victims of violence to benefit from priority status for any housing schemes available and to continue existing empowerment programmes aimed at economic independence, ensuring the inclusion of women exposed to or at risk of multiple discrimination.**

#### D. Specialist support services (Article 22)

151. The convention requires a wide range of immediate, short and long-term specialist support services to be made available and accessible to all victims of violence against women, in an adequate geographical distribution. Specialist services are aimed at empowering victims through optimal support and assistance catered to their specific needs which can be best ensured by women’s organisations and support services provided, for example, by local authorities or women’s NGOs with specialist and experienced staff with in-depth knowledge of gender-based violence. These would include non-residential services that provide counselling and advice, including long-term psycho-social counselling and trauma care, legal counselling, advocacy and outreach services, the collection of forensic medical evidence and specific services for children as victims or witnesses. To avoid secondary victimisation and repeat referrals, support should be holistic and include comprehensive services, preferably offered on the same premises.

152. In the Netherlands, a wide range of specialist support services are provided by the government, civil society and NGOs. Government often works in partnership with NGOs to ensure relevant expertise is incorporated into the various programmes. There is some concern that changes to funding structures will negatively impact on the involvement of black and minority groups, which is discussed above (Chapter II, Section B, Financial resources (Article 8)).

153. In addition to Safe Home and the Sexual Assault Centres the Netherlands has a well-developed system of recognising and assisting victims of specific forms of violence covered by the Istanbul Convention. Two national expertise and treatment centres for “honour-related violence” have been set up: EVA, housed at Kompaan and De Bocht (recently renamed Strong Home) in the

46. Report of the Ombudsman “Women in a tight squeeze” (2017).

south, and Zahir, part of Fier in the north. Both centres provide specialist shelters and assistance across the country. Strong Home provides a safe place for girls, men and women and their children. The national system of women's shelters works closely with the police National Expertise Centre for Honour-Related Violence (LEC EGG), which provides operational advice and support to the police.<sup>47</sup> Asja run by Fier is a small-scale safe-treatment setting for girls and young women aged 12 to 23 who are, or are at risk of, selling sex through coercion, deception and violence.

154. The Dutch Advice and Support Centre for Forced Marriage and Abandonment (LKHA) and the Ministry of Foreign Affairs are proactively distributing information to women and children about the availability of protection and support in cases of abandonment or a forced marriage abroad. Difficulties are however noted in the ability of women to reintegrate after their return and in particular to find shelter, safe accommodation, income, protection and legal and other forms of support, even if they have a Dutch passport.

155. PHAROS, the Dutch centre of expertise on health disparities, is the national knowledge centre for FGM. Since 2006 a "chain approach" to prevent, protect and prosecute and to provide services in respect of FGM has been adopted, guided by protocols, training and multi-agency work. GREVIO welcomes the lead taken by various community organisations, including FSAN, on this issue and commends the Netherlands for the inclusion of key workers from relevant communities as a central part of these services.

156. Notwithstanding the range and variety of services available to women victims of the different forms of violence covered by the Istanbul Convention, GREVIO notes that they do not necessarily incorporate the holistic and specialist approach which the convention calls for in Article 22.

157. **GREVIO strongly encourages the Dutch authorities to ensure that all women victims of violence and their children are provided with specialist women's support services offering empowering, comprehensive and holistic support in all regions. Such services need to be accessible to all women without any discrimination, in particular irregular migrant women and refugee and asylum-seeking women.**

## **E. Shelters (Article 23)**

158. Under the Social Support Act, local authorities have a responsibility to provide shelter for victims of domestic violence and co-operation between the various municipalities is required if necessary and beneficial. There are a set of national quality standards for shelters,<sup>48</sup> and a monitoring programme was set up in 2015 by the Association of Netherlands Municipalities and the Dutch Federation of Shelters, funded by the Ministry of Health, Welfare and Sport. .

159. The co-operation agreements between the women's shelters and the 35 central municipalities designated to provide these services are described in a national policy framework established in 2016 by the Association of Netherlands Municipalities and the Dutch Federation of Shelters.<sup>49</sup> These 35 central municipalities have special responsibilities and receive funding from the central government to provide shelter. As a consequence of the new model for the allocation of resources for shelters which was introduced in 2015 to match the distribution of shelter places with the demand, some regions have been required to reduce their number of shelter places and other regions to increase the number of places. Unfortunately, while some areas have reduced their number of places, others have not increased theirs, leading to an overall fall in the number of shelter places.<sup>50</sup> In some locations, shelters have had to reduce their budgets by 50%, which has had a significant impact on service provision.

47. A comprehensive book, *Focus on Honour: An exploration of cases of honour-related violence for police officers and other professionals*, by Janine Janssen (2018) provides a wealth of detail in respect of the Netherlands' practice and procedure in "honour-related violence" cases.

48. Quality document "Shelter of Victims of Domestic Violence, Regional Approach Safe Home" (2014).

49. Policy framework for national inflow, through-flow and outflow of crisis admission in acute crisis situations of victims of domestic violence in women's shelters, December 2016.

50. Information received from Federatie Opvang.



160. Figures produced in 2016 show a total number of 500 shelter places.<sup>51</sup> This is against a need for 1 700 beds to meet the target of one family place per 10 000 of the population, as suggested in the Explanatory Report to the Istanbul Convention. While crisis beds are frequently found (although these could be in hotels, which are unsuitable for long-term stays) it is estimated by the Dutch Federation of Shelters that two in three women seeking shelter are unable to access one. Safe Home confirmed this problem, explaining that significant time (“hours and hours”) was often spent trying to find shelter space, which takes away from time spent with the victim. While GREVIO recognises that the overall aim of the authorities is to keep women safe in their homes, this aim does not appear to be supported by a corresponding rise in barring orders (see Chapter VI, Articles 52 and 53), which are central to ensuring women’s safety at home.

161. The consequence of the lack of shelter provision is that the admission criteria for eligibility have become stricter. This in turn leads to women going to homeless shelters where they will not access appropriate assistance or being put under pressure to be accommodated in their home environment with friends, family or neighbours, where they are clearly at higher risk of being found and subjected to violence. If a woman is refused admission to a shelter by a municipality, lodging an objection is very difficult and usually leads to a negative decision by the court and can, in any event, take up to six weeks.

162. For women in domestic violence shelters a monthly rent is payable and financial difficulties can arise when a woman leaves her partner if the family welfare benefits are not in her name and do not “transfer” over to her in her own right. Financial difficulties can also impede access to mental health support owing to the requirement to pay a contribution towards insurance costs.

163. GREVIO notes that specific difficulties arise for irregular migrant and asylum-seeking women owing to their exclusion from the Social Support Act (which is the source of funding for shelter provision). A General Administrative Order requiring municipalities to provide shelter has been issued and an additional EUR 2 million set aside for its implementation, which began in the second half of 2019. Shelters for migrant women will be provided either as specialist shelters that will also be able to provide immigration advice or enable migrant women to access existing shelters. GREVIO welcomes this progress and is hopeful that it will help irregular migrant women in receiving support services and clarity regarding their residency status.

164. Separate shelters for male victims of violence in dependency relationships have been set up in Amsterdam, Rotterdam, Utrecht, The Hague, Tilburg and Zwolle, and attempts are made to include men and boys in the protection provisions of the Istanbul Convention. These facilities were opened in 2011 and more than 800 men have since turned to the institutions for assistance.

165. **GREVIO urges the Dutch authorities to ensure that their efforts to redistribute shelter places throughout the territory does not result in permanent loss of shelter provision. Moreover, GREVIO strongly encourages the Dutch authorities to expand the provision of shelters to reach the minimum standard of one family place per 10 000 head of population.**

## F. Telephone helplines (Article 24)

166. In the Netherlands the national helpline run by Safe Home is accessible 24 hours a day, seven days a week. It provides advice and assistance which can be on an anonymous basis, from professionals (subject to the Reporting Code requirements) to individuals affected by domestic violence and child abuse, including perpetrators. However, very few phone calls received are from women themselves, owing to the perceived fear that their children will be removed from their care (see also Articles 26 and 28). The advice line is not specifically aimed at women and there is no gender-specific training for the advisers. A further advice line called “Hear my voice”, run by victims of violence (mainly women), was set up by some shelter organisations but again is not a woman-specific service.

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51. WAVE Country Report 2017, available at: [http://fileservers.wave-network.org/researchreports/WAVE\\_CR\\_2017\\_180702\\_web.pdf](http://fileservers.wave-network.org/researchreports/WAVE_CR_2017_180702_web.pdf).

167. The network of Centres for Sexual Violence (see below) has a free 24-hour helpline for victims of rape and sexual assault that can be reached through one free national telephone number (or by e-mail or online chat; the website is also in both Dutch and English).

168. There are a significant number of other national helplines which seem to cover all forms of violence and particular risk groups referred to in the Istanbul Convention. While GREVIO recognises that on the face of it these helplines appear to comply with minimum standards, neither of the 24-hour national helplines are specifically for or aimed at women owing to the gender-neutral policy of the government, not all forms of gender-based violence are covered and they are not specialised in providing advice on the various forms of gender-related violence. It is also clear that the victims themselves are not using the national helpline for domestic violence. There are also many services and it may well be confusing for a woman to know where she should go.

**169. GREVIO encourages the Dutch authorities to provide a telephone advice line covering all forms of violence against women covered by the Istanbul Convention that is separate from the child protection service and that is operated by staff trained in the need for a gender-based approach to violence against women, including domestic violence.**

### **G. Support for victims of sexual violence (Article 25)**

170. The national network of 16 Centres for Sexual Violence focus their forensic services on acute victims of rape – where the rape took place within the past eight days – but provide treatment and other assistance to all victims of sexual violence. These are located in the Emergency Care departments of hospitals or in the municipal health service and are staffed by doctors, nurses, police, psychologists, social workers and sexologists. The centres, in conjunction with the police, coordinate the collection of forensic evidence and medical care so that they do not interfere with one another while also ensuring the least possible burden for the victim. The system is designed to prevent victims having to repeat their accounts to several different bodies on different occasions and to ensure that they obtain the support required. Although forensic services are free and funded by the Ministry of Justice, the medical health services (including counselling) are funded by insurance and therefore victims are usually required to pay a personal contribution.

171. Since 2011 the centres have seen a large increase in victims seeking help. However, despite a national awareness-raising campaign in 2017, the centres are not reaching all the women they should. It is estimated that less than 1% of the total number of acute victims go to a centre within a week of the rape/assault. This is attributed to a lack of knowledge of the existence of the centres and a lack of funding to run regional awareness-raising campaigns. Other factors identified have been a lack of information in different languages and shame, guilt and fear. However, the primary factor identified by the NGOs was the compulsory excess on health insurance. GREVIO is concerned that any financial contributions required by victims of sexual assault acts as a deterrent to women using the centres. GREVIO welcomes the Dutch authorities' recognition that this is acting as a disincentive to victims to attend the Centres for Sexual Violence and notes with satisfaction the authorities' intention to run a pilot scheme whereby the additional payment can be reimbursed.

172. The centres themselves report a significant increase in the numbers of victims seeking support (between 11 and 50% depending on the municipality). This increased use of the centres is resulting in funding constraints affecting the quality of the service and preventing regional awareness-raising work.

173. Women with intellectual disabilities have specific problems accessing redress for sexual violence and this is also recognised by the sexual assault centres who note that they do not have communication protocols to inform this group about the centres but rely instead on the care givers to make referrals.

174. **GREVIO strongly encourages the Dutch authorities in conjunction with relevant NGOs and the Centres for Sexual Violence to develop procedures, protocols and training to enable access to treatment and assistance to all victims of sexual violence, including women with disabilities, and particularly those with intellectual disabilities and women who might be discouraged by the additional payment required.**

#### **H. Protection and support for child witnesses (Article 26)**

175. In the Netherlands there is a strong focus on protecting child witnesses, which also forms part of the policy aim of preventing intergenerational transmission. When a child witnesses domestic violence it is considered child abuse and child abuse is dealt with under the umbrella of Safe Home. The Safe Home Handling Protocol and the Quality Framework of the Child Care and Protection Board state that the investigator always sees or speaks to the child and the guide “Participation of children in the reporting code for domestic violence and child abuse” was published in May 2018. Some criticism of the process has suggested that Safe Home refers too many complex cases to the social neighbourhood teams who are not always adequately equipped to address domestic violence adequately or assess the risks for children.<sup>52</sup>

176. Victim Support Netherlands provides support to parents whose child has witnessed a crime, including serious domestic violence, and has produced a leaflet entitled “Helping a Child”.

177. A report from the Mayor of Leiden found that child victims and witnesses of domestic violence were not being adequately catered for because there was a need for them to be seen as independent clients of shelters, a need that ensures that they are counted as individuals for funding purposes and can therefore be provided with adequate service provision. It was also noted that aid to children was not structurally embedded.

178. **GREVIO encourages the Dutch authorities to ensure that all relevant actors, statutory or non-governmental, including, for example, Safe Home, domestic violence shelters and social neighbourhood teams, give due consideration to the rights and needs of child witnesses, based on a gendered understanding of domestic violence against women, and develop measures to support child witnesses, such as risk assessments, applications for protection orders and referrals to specialist counselling. Such measures should be co-ordinated with measures taken in relation to the settlement of custody and visitation rights (see Chapter V, Section A3. Custody, visitation rights and safety, Article 31).**

#### **I. Reporting (Article 27) and Reporting by professionals (Article 28)**

179. GREVIO welcomes the information and encouragement to report given to witnesses of violence against women and domestic violence by the Dutch authorities. This information is available on the websites of Safe Home and the Sexual Assault Centres. Awareness-raising campaigns targeting friends, family and others who witness or have concerns about domestic violence will be run in 2019.

180. Professionals working in health care, veterinary practices, education, child care, social support, youth care and the justice sectors are subject to the requirements of the Mandatory Reporting Code Act (Domestic Violence and Child Abuse), which, in 2013, introduced a legal requirement for various professionals to establish and use a reporting code, to promote knowledge in cases of suspected domestic violence and child abuse, including sexual violence, female genital mutilation, honour-related violence, parent abuse (child-parent violence) and abuse of elderly people, including financial abuse and forced marriage, and to refer to appropriate specialist services where necessary.

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52. See written submission to GREVIO by the Netherlands Institute of Human Rights, p.16.

181. From 2015 there has been a statutory requirement placed on various professionals and state agents under the Social Support Act to report violence (including physical, mental and sexual violence) in the provision of facilities to the relevant statutory authority and violence in a care relationship to the Youth and Health Care Inspectorate. Since 2015, there has been a similar duty under the Youth Act to report violence in the provision of youth assistance, a child protection measure or juvenile rehabilitation to the Youth and Health Care Inspectorate.

182. The Reporting Code was revised in 2017 with the effect that as of 1 January 2019 it is now mandatory to report to Safe Home where there is a suspicion of either serious domestic violence or serious child abuse. The aim is for Safe Home to then carry out a risk assessment, take action within five working days and then research matters further if necessary. Two million euros has been set aside for spending on training professionals on the use of the Reporting Code in 2019.

183. GREVIO recognises the central importance of the Reporting Code to the Dutch policies designed to combat violence and domestic violence and the interrelationship between the code and the institutions such as Safe Home set up to record data and act where women are at risk. GREVIO commends the Netherlands for the comprehensive well-thought-out Reporting Code Act and accompanying policy documents and in particular the care and attention given to seeking to achieve the right balance between the obligation to report, the duty of the state to protect victims of domestic violence and child abuse in the absence of complaints from the victim provided by Article 3 of the European Convention of Human Rights and the confidentiality of the client.

184. GREVIO's concerns about the Reporting Code relate to implementation and the fact that women are failing to seek advice and assistance because of fears they will be reported under the code and their children will be removed from their care. As noted throughout this report there is a lack of focus on gender-based violence and as a consequence women's gendered experience of violence and support is sometimes overlooked. This can be both prejudicial and dangerous. If the reality is that women are not accessing protection because they fear their children will be removed from their care, then this requires urgent investigation.

**185. GREVIO strongly encourages the Dutch authorities to investigate whether the high threshold (“serious risk”) that should be crossed prior to reporting a risk of violence to Safe Home under the Reporting Code without an individual’s consent is applied by professionals in practice and whether the fact that a report to Safe Home might be made by professionals is negatively affecting women’s behaviour in seeking help.**

## V. Substantive law

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

### A. Civil law

#### 1. Civil lawsuits (Article 29)

187. A core aim of the Istanbul Convention is to end impunity for acts of violence against women. This not only requires that individual perpetrators be held accountable through criminal law and other measures, but also that legal avenues be available to challenge and address any wrongdoing by state actors. If a state agency, institution or individual official has failed diligently to prevent, investigate and punish acts of violence (Article 5), victims and/or their relatives must be able to hold them accountable.

188. Dutch authorities can be subject to civil actions under the Civil Code including actions for compensation for breach of statutory duty and/or failing to take preventive and protective measures. A breach of statutory duty may also constitute an unlawful act by the state attracting criminal sanctions. It is also possible to challenge public authorities through the Administrative Courts in respect of their decision making and actions. The most important of the rules governing decision making and regulating relations between government and the citizen is the General Administrative Law Act (AWB).<sup>53</sup> No information was provided as to the number of times victims of any of the forms of violence against women covered by the convention resort to this measure and what the outcomes were.

189. It is in principle possible for a victim to make a complaint where a prosecutor decides to dismiss a case rather than pursuing it through criminal proceedings. Data shows that this is regularly made use of, with 2100 complaints in 2018 and 2800 in 2017.

#### 2. Compensation (Article 30)

190. Compensation for criminal acts can be claimed either by the victim filing a civil claim based on Section 6:162 of the Dutch Civil Code within the criminal proceedings (Sections 51f to 51h of the Dutch Code of Criminal Procedure) or through a claim for damages in civil proceedings. The majority of requests for compensation take place in the context of criminal proceedings.

191. Section 361, paragraph 3, of the Dutch Code of Criminal Procedure (DCCP) provides that the civil claim should not impose a disproportionate burden on the primary criminal procedure and difficulties seeking compensation have been known to arise where claims are not registered promptly.

192. A court can also impose a compensation order on any person convicted of a criminal act (Section 36f of the Dutch Penal Code) if and insofar as the suspect is liable under civil law for damage that was inflicted due to the criminal offence. Collection of the compensation order and its transfer to victims is arranged by the Central Judicial Collection Agency. If the perpetrator fails to comply with the compensation order, the victim can apply under the Advance Payment Scheme. The state then warrants the payment of the compensation order (Section 36f(6) of the DCCP).

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53. Information about the Dutch judicial system available here: [www.government.nl/topics/administration-of-justice-and-dispute-settlement/the-dutch-court-system](http://www.government.nl/topics/administration-of-justice-and-dispute-settlement/the-dutch-court-system).

193. Obstacles to obtaining compensation were investigated by the Utrecht Centre for Accountability and Liability Law (UCALL).<sup>54</sup> Late claims suffer from being declared inadmissible as a consequence of Section 361, paragraph 3, of the DCCP. There is a discrepancy between amounts claimed and those awarded. Prosecutors and the courts believe that claims are exaggerated and not adequately substantiated, whereas Victim Support and victim lawyers are concerned about the motivation for awarding low amounts. UCALL concluded that it was the lawyers who proved most critical to the likely success of a compensation claim.

194. In addition, a victim can file an application to the Violent Offences Compensation Fund. This fund pays anyone who has suffered serious physical or mental injury as a result of an intentional violent crime committed in the Netherlands. However, those interviewed by the Netherlands Institute for Human Rights have said that obtaining compensation in such a case is very difficult.<sup>55</sup>

195. According to the authorities, 877 applications for compensation were submitted in 2018 in connection with sex offences, of which over two-thirds were granted (659 in total). Compensation for such offences seem to range between EUR 84 000 and EUR 140 000.

196. GREVIO welcomes the comprehensive framework for claiming compensation available to women victims of violence, however it is unable to ascertain whether the system is effective owing to the lack of data.

**197. GREVIO encourages the Dutch authorities, through training of judges and prosecutors and other measures, to ensure that compensation claims are duly processed, including by removing any *de jure* and *de facto* barriers which prevent women victims of violence from claiming compensation for any of the offences established in accordance with the Istanbul Convention. Furthermore, GREVIO invites the Dutch authorities to collect data on the number of cases of violence against women (criminal and civil procedure) in which perpetrators have been ordered to pay compensation to the victim to assess whether the system is effective.**

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

198. Custody and visitation decisions in relation to families with a history of abuse require a careful balancing of the different interests at stake. Article 31 of the Istanbul Convention requires such decisions to take into account any incidents of violence covered by the convention, in particular incidents of domestic violence. Furthermore, it requires parties to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children while taking into account the parental rights of the perpetrator. In particular in cases of domestic violence, issues regarding common children often represent the only ties that remain between victim and perpetrator. For many victims and their children, complying with contact orders can be seen as a continuation of the violence and can also present a serious safety risk because it means meeting the perpetrator face to face.<sup>56</sup>

199. In the Netherlands, if a parent commits violence against a child, child protection measures can be taken by the family court with the assistance and advice of the Child Care and Protection Board. These can include placing the child under the supervision of a guardian or taking the child into care, temporarily or otherwise (see for example Article 1:255 of the Dutch Civil Code). If the interests of the child require immediate measures, the parental authority can be suspended in accordance with Article 1:268 of the Dutch Civil Code. In cases of violence committed against a child, parental authority can be terminated (Articles 1:26 and 1:267 of the Dutch Civil Code). Violence by an intimate partner can also be a reason to deny access or terminate parental authority, if that is in the child's interest. Contact between a parent and a child will not take place if the access would be a serious disadvantage for the child's mental or physical development or is otherwise in conflict with the child's major interests.

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54. "Civiel Schadeverhaal via het strafproces Eenverkenning van de rechtspraktijken regelgeving betreffende de voeging benadeelde partij" (Civil compensation in a criminal trial. An exploration of legal practice and regulations on the injured party joining proceedings), Utrecht, UCALL (Utrecht Centre for Accountability and Liability Law) R. S. B Kool et al.

55. Submission to GREVIO by the Netherlands Institute for Human Rights, p.21.

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

200. The Dutch authorities recognise a child witnessing or experiencing domestic violence as child abuse, which should be taken into account in custody decisions. However, there are no guidelines on how to take domestic violence targeted at the mother/victim into account in the decision-making process. In respect of migrant children there are two experts in the Child Protection Board who advise the Ministry of Justice on what is, in general, necessary for the child.

201. Before any divorce, parents have to make a “parental plan”. The aim is to reach mutually acceptable decisions about the children. Mediation is not obligatory in family matters, but where the judge has to decide about the divorce, parents are referred to mediation first, including where violence and abuse has marred the relationship. GREVIO is concerned that this might amount to mandatory mediation which the convention prohibits in cases with a history of abuse.

202. GREVIO is particularly concerned to learn that, in practice, not only is the domestic violence not always a contraindication for joint custody and rarely taken into account but that the consequence of this is that where a woman victim of domestic violence refuses to agree to contact with the father she will sometimes lose her child. NGOs reported that it was only very rarely where any decision other than joint custody was made and the view taken in family court is that when a couple have separated this ends the violence. The child is therefore no longer a witness to violence and therefore not suffering abuse. The court therefore will not take the past behaviour of the perpetrator and thus future risk of harm as a consequence of witnessing violence into account. It was also noted that family court judges often do not even know that there is also a criminal case for domestic violence, though this is something they ought to check.

203. GREVIO notes with grave concern that representatives of women’s support services and experts in this area consider that the child protection system as a whole puts women under severe pressure to “forget the domestic violence” and that many are warned that if they make “false accusations” their children will be taken away and told they must co-operate “in the interest of the children”. GREVIO is very concerned about reports that women are easily seen as “bad mothers” if they allow children to see their stress and prejudices, and gender stereotypes often lead to child protection measures being taken to the disadvantage of the mother. The lack of a gendered understanding and an approach of refusing to determine responsibility as referred to in Chapter II (Section A, Comprehensive and co-ordinated policies (Article 7)) can therefore lead to children being placed outside of the home because of violence between the parents. This seems to be one of the problematic outcomes of the gender-neutral system, which denies the violence and does not seek to identify victim and perpetrator but considers intimate partner violence as a “problem of both sides”.

204. GREVIO recalls that the safety of the parent and child must be a central factor when deciding if it is in the best interest of the child for there to be visitation or a change of custody; whether this is by agreement between parents together with youth agencies or the judge. A risk assessment of the current dangers of domestic violence to both parent and child in light of all the circumstances of the case is needed. This will ensure that the agreed arrangements are in the best interest of the child and in particular that the safety of the parent and the child are protected. While GREVIO fully supports the right of the child to maintain his/her ties with both parents as enshrined in Article 9, paragraph 3, of the UN Convention on the Rights of the Child, exposure to domestic violence – as a victim or witness – requires exceptions to be made in the best interest of the child. GREVIO recalls the need to ensure that the rights of access of parents to their children are not put before the child’s physical, emotional and psychological safety and well-being. To adequately ensure a child’s safety and well-being, behavioural change on the part of the perpetrator will be necessary in order to grant visitation rights in line with the convention.

205. **GREVIO urges the Netherlands to take the necessary measures, including any required legislative amendments, to ensure that courts are under an obligation to:**

- i) **consider all issues relating to violence against women and domestic violence when determining custody and visitation rights;**
- ii) **ensure that the risk of witnessing future violence against a close person is recognised as the perpetrator jeopardising the best interests of the child;**
- iii) **adopt gender-sensitive guidelines to ensure that the gender-based nature of the violence and the impact of any power imbalance in the relationship on the ability to negotiate fairly are recognised and that necessary support requirements for women victims of violence are in place in child procedures; and**
- iv) **restrict the custody and visitation rights where this is warranted to guarantee the safety and best interests of the child.**

#### **4. Civil consequences of forced marriages (Article 32)**

206. Article 32 of the Istanbul Convention requires that “marriages concluded under force may be voidable, annulled or dissolved without undue financial or administrative burden placed on the victim”. The aim of this provision is to ensure that where women and girls free themselves from marriages concluded without their free consent, they do not have to bear any consequences regarding their civil status.

207. To try to counteract forced marriages, the Forced Marriages (Prevention) Act entered into force on 5 December 2015 and regulates the civil consequences of a marriage concluded under coercion.<sup>57</sup> The Dutch Prosecution Service has the option of stopping a forced marriage going ahead if coercion is involved. Where such marriages have been concluded, annulment proceedings may be brought by either of the parties or the Public Prosecution Service. No data has been made available to enable GREVIO to assess whether these options are used in practice and if so to what effect. GREVIO notes that women subject to marriage abroad and/or religious marriages continue to have difficulties in obtaining annulments as the law only relates to civil marriages over which the Netherlands has jurisdiction. Moreover, GREVIO is concerned that the time limit of six months of marriage after which annulment is no longer possible unduly restricts the ability of women victims of forced marriage to seek annulment.

208. GREVIO welcomes the ability of the Dutch courts to require payment of a penalty in circumstances where an individual refuses to obey a court order to end a formal marriage (and some informal religious marriages).

209. **GREVIO invites the Dutch authorities to take measures to strengthen the legal remedies for women in situations of forced marriage in order to regain their unmarried civil status, in particular by removing the time limit on annulments and by offering the legal entitlement to void or dissolve a marriage.**

#### **B. Criminal law**

210. Several criminal law provisions exist in the Dutch Criminal Code to criminalise the forms of behaviour covered by Articles 33 to 40 of the Istanbul Convention. With the exception of stalking, these are general criminal provisions rather than specific offences. GREVIO’s review of their letter and spirit and their application in practice suggests that they do not always adequately cover all forms of violence against women. For example, domestic violence is not defined as a crime in and of itself and there is no specific offence that captures the course of conduct typical of domestic violence cases, namely the repeat nature of the violence and the dependence of the victim on the perpetrator. Instead the various offences are covered by the general provisions of the criminal law. Physical abuse in a relationship would fall under the criminal offences of assault (Section 300 of the

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57. By amending section 1:71 of the Dutch Civil Code.



Dutch Criminal Code), serious/aggravated assault (Section 302) or stalking (Section 285b). In Section 304, physical abuse against a wife and life partners, and from parents against a child, is an aggravated circumstance.

211. GREVIO welcomes the development of the Directive on Criminal Procedure for Domestic Violence (2015R049)<sup>58</sup> and instructions to prosecutors in respect of “Indications of Domestic Violence and Child Abuse” (2016A003).<sup>59</sup> The directive sets out recommended approaches to punishment in domestic violence cases and specifically in respect of breaches of restraining orders, threats (285 CC), stalking (285b CC), physical ill-treatment (300/304 CC), attempted or completed serious ill-treatment (302/45 and 302 CC) and destruction of property (350/353 CC).<sup>60</sup> It emphasises that perpetrators may have a deep underlying problem that requires addressing and that the starting point is that “the violence must stop”. It goes on to state that it is for these reasons that as far as possible suspended sentence should be used to ensure that the underlying problems are worked on and enable a “systems-based” approach to be taken. Consideration should be given to state bans or restraining orders as separate restrictions of freedom (38v CC) and consideration can be given to the possibility of requesting a longer probationary period (14b (2) CC).

212. Notwithstanding the above, GREVIO notes with concern that the actual outcome of most cases of intimate partner violence are dominated by dismissals or penalty orders issued by the Public Prosecution Service (see below, Section B, sub-section 8 of Chapter V and Chapter VI, Section A on Article 50) and there is a persistent gap between the number of complaints and the number of convictions.<sup>61</sup>

**213. GREVIO strongly encourages the Dutch authorities to ensure that offences of domestic violence are prosecuted and punished and that sanctions are effective, proportionate and dissuasive, taking into account the repeat nature of the offences and the dependency of the victims.**

### **1. Psychological violence (Article 33)**

214. According to the government, psychological violence is a criminal offence if it falls within the scope of Section 284 of the Criminal Code (coercion) and Section 285 (threatening). Coercion is when someone unlawfully compels another person to act or to refrain from certain acts, or to tolerate certain acts by an act of violence or by threat of violence or threat of any other act, either directed against that other or against others. It is criminal only if the perpetrator has the intention to compel the victim to act or refrain from acting. Threatening under Section 285 CC means threatening with either public violence, violence against an internationally protected person or their property or any serious offence against a person. This sets the threshold of conduct very high to be considered criminal behaviour. It does not encompass a course of conduct which might consist of several incidents of conduct of a lower intensity, which often form part of the pattern of abuse in domestic violence situations and which is what Article 33 of the Istanbul Convention seeks to define.

215. Some limited research<sup>62</sup> and the concerns raised by civil society organisations and lawyers during the course of the evaluation procedure suggest the limited use of the above criminal offences in practice. Concerns have also been raised as to whether they cover an abusive pattern of behaviour as required by the Istanbul Convention, and whether the level of awareness and knowledge of psychological violence among the criminal justice sector is sufficiently high. In addition, GREVIO was informed of the particularly high incidence of psychological harm perpetrated against transgender people.

58. Available at [www.om.nl/organisatie/beleidsregels/overzicht-0/jeugd-zeden/@88293/richtlijn-42/](http://www.om.nl/organisatie/beleidsregels/overzicht-0/jeugd-zeden/@88293/richtlijn-42/) (in Dutch).

59. Available at [www.om.nl/organisatie/beleidsregels/overzicht-0/jeugd-zeden/@97417/aanwijzing-huiselijk/](http://www.om.nl/organisatie/beleidsregels/overzicht-0/jeugd-zeden/@97417/aanwijzing-huiselijk/) (in Dutch).

60. At present it is not possible to commit a criminal offence of damage against property of a spouse. GREVIO understands that this law is under review and is likely to be changed.

61. Lunneman K., et al (2016), “The Protection of IPV victims: file analysis and victim interviews, The Netherlands”, Verwey-Jonker Instituut, INASC (Improving Needs Assessment and Victim Support in Domestic Violence-Related Criminal Proceedings), co-financed by the Criminal Justice Program of the EU, p. 14.

62. This was concluded in relation to violence against elderly persons, “Inleiding”, *Justitiële verkenningen*, Vol. (2015), No. 6, 2015, p. 5-6.

216. GREVIO is concerned that the definitions of the offences of coercion and threatening as described above may not be compliant with the standard set by the Istanbul Convention in that it requires a victim to be compelled to act or not to act and it may fail to address or target psychological violence employed against a victim in the early stages of the cycle of violence or abuse, or throughout, in order to control the victim. Women who are isolated, controlled, intimidated and threatened by their partners day after day would be more likely to report this behaviour if they knew that what they were experiencing was a crime. Without a criminal offence that adequately covers this type of conduct, law-enforcement agencies are ill-equipped to respond.

217. By contrast, GREVIO welcomes the recent development where, in the context of child abuse, the Court of Appeal decided that belittling or humiliating comments can constitute assault within the meaning of Section 300 of the Criminal Code. This constitutes a first step, but it will remain to be seen whether this interpretation will be applied in adult cases of domestic violence.<sup>63</sup>

218. In the absence of any data on the number of arrests, prosecutions and convictions for psychological violence in abusive relationships, or even the use of Sections 284CC, 285CC or 300CC in cases of domestic violence or psychological violence against women (other than the isolated example of children above), it is difficult to draw conclusions as to how effective these provisions are in holding domestic abusers accountable for psychological violence.

**219. GREVIO strongly encourages the Dutch authorities to investigate, prosecute and punish effectively acts of psychological violence.**

## **2. Stalking (Article 34)**

220. Stalking is criminalised under Section 285b of the Criminal Code. While GREVIO welcomes the fact that the police have a specific policy on stalking, in practice this is not always followed. Civil society organisations report a lack of professional competence in recognising and taking action in cases of stalking, resulting in practical difficulties for women seeking protection.<sup>64</sup>

221. GREVIO commends the Dutch for the implementation of innovative technological solutions aimed at protecting women from stalking, such as the AWARE system.

**222. In order to ensure the effective implementation of the criminal offence of stalking (Section 285b of the Criminal Code) GREVIO encourages the Dutch authorities to improve and implement investigation and prosecution guidelines and to conduct specialist training on the gendered and serious nature of stalking and to ensure the application of preventive operational measures to avoid reoffending.**

## **3. Sexual violence, including rape (Article 36)**

223. The current law provides for sexual offences to be criminalised in a number of provisions of the Dutch Criminal Code (rape in Sections 242-245, indecent assault in Sections 246-7 and other forms of sexual abuse of children in Sections 248-9). Criminal responsibility for rape and indecent assault is incurred if the victim is compelled to submit owing to the use of force, acts or threats of violence or threats of other acts and is punishable with a sentence of up to 12 years' imprisonment or a fine for rape and eight years or a fine for indecent assault. In cases where the perpetrator knows the victim to be unconscious or have diminished consciousness, to be physically or mentally unable to resist or express their will in the manner of offering resistance, the maximum term of imprisonment is eight years for rape and six years for sexual assault. Sexual intercourse with a child under the age of 16 is punishable with a sentence of up to eight years or 12 years if the child is under 12 and issues of consent do not arise (Sections 245-6).

224. As currently drafted, the provisions on rape (Section 242 CC) and indecent assault (Section 246 CC) require evidence of compulsion. This has been interpreted to mean the suspect deliberately

63. Court of Appeal, The Hague, 31 May 2017, ECLI:NL:GHDHA:2017:1539.

64. "Joining forces to break the circle of violence against women", p. 12, 26-7.

causing the victim to undergo acts against their will,<sup>65</sup> which would not be in line with Article 36 of the Istanbul Convention.

225. GREVIO thus welcomes the intention recently announced by the Government of the Netherlands to revise the law on rape and sexual assault to include non-consensual sexual acts. Rather than being based on coercion the proposed law is based on actions against the will of the victim and appears to include situations of acts against the victim's will where the perpetrator was not aware but ought to have recognised the situation. It is proposed that the new measure will be accompanied by an information campaign about respecting, verbally and physically expressing, recognising and discussing sexual boundaries and, in some circumstances, there may be a duty of investigation on the person instigating the sexual contact. GREVIO is of the view that this proposal if passed will ensure strong compliance with Article 36. It would represent a shift in perspective much needed to move away from case law that all too often focuses on the behaviour of the victim, including her appearance and actions prior, during and after the act. Moreover, it would help ensure full respect for a person's sexual integrity, which GREVIO would welcome.

**226. GREVIO encourages the Dutch authorities to speedily reform the Criminal Code provisions covering sexual violence and ensure they are based on the notion of freely given consent and to ensure appropriate sanctions for all sexual acts without the consent of the victim as required by Article 36 of the Istanbul Convention.**

#### **4. Forced marriage (Article 37)**

227. Forcing another person into marriage or to remain in a marriage is covered by the general criminal law provision on compulsion (Section 284 of the Criminal Code) and attracts a sentence of up to two years. The six-year statute of limitations only starts to run once the victim turns 18 and the Public Prosecutor's Office has various powers of investigation. During the period 2011-2012, 181 cases of forced marriage were registered. Current estimates range from 674 to 1 914 cases.<sup>66</sup> In 2013, the legislature tightened up the definition of coercion to tackle forced marriage more effectively and the maximum punishment for compulsion was extended from nine months to two years.

228. While GREVIO welcomes the possibility of criminalisation of forced marriage in the Netherlands, GREVIO was informed that no cases of forced marriage have been dealt with by a criminal court.<sup>67</sup> From the data provided it is impossible to tell whether anyone was arrested, or any criminal cases opened under Section 284 for forced marriage. A 2014 study on the extent of forced marriage in the Netherlands offers anecdotal evidence of at least 181 cases of forced marriage, although it remains unclear how many of these were reported to the police.<sup>68</sup> Prevalence might be much higher, and the fact that few cases seem to be reported and no criminal proceedings opened suggests that the current general offence of compulsion is lacking in operational clarity for the purposes of prosecuting cases of forced marriage and rarely applied in practice.

229. It is very difficult for victims and their relatives to come forward and report forced marriage and reporting carries a risk of reprisals. Specific training and awareness are required to enable the police and justice-sector professionals to identify and respond appropriately.

**230. GREVIO encourages the Dutch authorities to consider introducing a specific criminal offence of forced marriage to cover the special nature of this practice. This should be complemented by the provision of specialist training in order to make it operational for law-enforcement authorities and courts.**

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65. Supreme Court, NJ 2009, 307, paragraphs 2.5-2.6.

66. Written submission to GREVIO by the Netherlands Institute for Human Rights, p. 24.

67. Ibid, p. 25.

68 "That was not what we agreed on: A study into the extent and nature of forced marriage, abandonment and marital imprisonment"; 2014, Verwey-Jonker Institute.

## 5. Female genital mutilation (Article 38)

231. There is no specific offence criminalising female genital mutilation, however it is considered a form of aggravated assault under Sections 300-304 and 307-8 and is punishable by a prison sentence of up to 12 years or a fine of up to 76 000 euros. It applies to any person who coerces or forces a woman to undergo procedures either in the Netherlands or, since 2006, abroad. Coercion falls under Section 284 of the Dutch Criminal Code and the authorities also refer to the trafficking provisions in Section 273f of the Criminal Code, presumably to cover procurement. However, GREVIO notes that no successful prosecutions have been carried out on this basis in recent years. This is despite a chain approach involving a wide range of actors including influential civil society institutions, health services, child protection institutions, the police and municipalities and good involvement from representatives of the affected communities. It is unclear whether the extensive programmes and support aimed at prevention have reduced the incidence of FGM within the Netherlands or whether more action is required to enable successful prosecutions.

**232. GREVIO encourages the Dutch authorities to introduce a specific provision criminalising the intentional act of excising, infibulating or performing any other mutilation to the whole or any part of a woman's labia majora, labia minora or clitoris and ensuring that coercing or procuring a woman or girl or additionally inciting a girl to undergo any of those acts is also punishable, and to determine the incidence of cases of female genital mutilation that are reported and prosecuted to assess whether there is a gap in protection.**

## 6. Sexual harassment (Article 40)

233. Various provisions in the Dutch Criminal Code and civil law cover aspects of sexual harassment. GREVIO notes the additional efforts taken by the Netherlands to combat sexual violence in public spaces through the "Safe Cities" project (Veilige Steden), street harassment, sexual aggression and violence in nightlife as outlined in the Gender Plan 2018-2021.

234. As with the provisions in respect of rape, sexual harassment is under review and the Minister of Justice and Security announced a proposed change in law on 22 May 2019.<sup>69</sup> At present, piecemeal municipal by-laws make street intimidation a punishable offence. The proposed new law aims to remove the ambiguity and lack of certainty in respect of what constitutes an offence. It aims to cover physical sexual harassment and (non-) verbal sexual harassment in the Penal Code and will include conduct that is intended to intimidate. A private member's bill has also been submitted to make sexual harassment a punishable offence as a violation of public order. High levels of sexual harassment and intimidation, including in the workplace, seem to exist, and migrant women are particularly exposed to such behaviour. This points to the urgent need to amend criminal legislation.

235. NGOs and civil society identified a lack of political engagement during the #metoo movement when it proved difficult to get politicians to engage. They have also identified a lack of knowledge of professionals in identifying and dealing with newer forms of sexual harassment including sexting (publication of sexual photographs or videos without consent), revenge porn (sexting with the motive of revenge), sextortion (using sexually oriented material often obtained under false pretences, grooming, spreading recordings of sexual violence online and posting abusive sexual messages online) and "slut shaming".

**236. GREVIO encourages the Dutch authorities to pursue the review of the Criminal Code to include an adequate criminal response to all forms of sexual harassment, including newer forms of harassment, and to ensure that sexual harassment including online harassment is adequately criminalised.**

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69. Letter available in Dutch at: [www.rijksoverheid.nl/documenten/kamerstukken/2019/05/22/kamerbrief-over-strafbaarstellingen-van-seks-tegen-de-wil-en-seksuele-intimidatie](http://www.rijksoverheid.nl/documenten/kamerstukken/2019/05/22/kamerbrief-over-strafbaarstellingen-van-seks-tegen-de-wil-en-seksuele-intimidatie).

## 7. Aggravating circumstances (Article 46)

237. Section 304 of the Dutch Criminal Code provides for sentences of imprisonment to be increased by one third where a person is convicted of causing serious bodily harm (including intentional harming of health) or death (Sections 300-303) if the offence is committed against their mother, legal father, spouse, life partner, child, a child over which he or she exercises parental authority or a child which he or she cares for or is bringing up as part of his or her family.

238. GREVIO welcomes the general and specific instructions issued pursuant to Article 130(6) of the Judicial Organisation Act by the College of Procurators General to the Public Prosecutor's Office containing binding normative rules on criminal procedure, including punishment and aggravating circumstances.<sup>70</sup> GREVIO also welcomes the fact that specific instructions are set out in relation to various offences, including domestic violence,<sup>71</sup> which refer to other forms of violence against women covered by the Istanbul Convention, including "honour-related" crimes, sexual offences including rape (Instruction on Designation of Morals (2016A004)),<sup>72</sup> cybercrime, including an element of stalking against partners/ex-partners,<sup>73</sup> and many others. A guide on domestic violence committed in the presence of a child has been issued by the Public Prosecution Service, requiring this to result in charges where possible.

239. GREVIO notes that guidelines have the status of law for the purposes of Section 79 of the Judiciary (Organisation) Act and therefore a failure to follow them without good reason may result in an appeal.<sup>74</sup> However, it would seem that whether or not they are brought to the attention of the judge depends on the prosecutor in a given case.

**240. GREVIO strongly encourages the Dutch authorities to ensure that the presence of children is considered as an aggravating circumstance by the judiciary, together with all other aggravating circumstances listed in Article 46 of the Istanbul Convention.<sup>75</sup> This would include ensuring the understanding among the Public Prosecution Service and judiciary that dismissals or short sentences in domestic violence cases and other forms of violence against women do not serve the principles of ensuring justice for victims, ending impunity for perpetrators or deterrence.**

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

241. In the Netherlands two types of mediation occur: mediation between a victim and a perpetrator in criminal law and mediation between two parents in disagreement over custody and visitation arrangements. The Dutch Civil Procedural Code provides in Article 818 paragraph 2 that courts may refer parties in divorce cases to mediation as a voluntary measure. Where the divorce concerns custody arrangements for underage children, a parental plan must be drawn up, which in some cases is achieved through mediation (see Section A, sub-section 3 on Custody, visitation and safety in Chapter V)).

242. Mediation in criminal law is a voluntary process intended to supplement the criminal justice process by offering the victim the opportunity to reach closure in a way that the formal criminal justice process cannot. Mediation is carried out by trained mediators, although they may not have had specialist training in domestic violence,<sup>76</sup> and is paid for by the state. Both victim and perpetrator must consent to the process and may withdraw their consent at any time. Mediation is only offered

70. Designation of framework for criminal procedure for adults (2019A003), available at [www.om.nl/organisatie/beleidsregels/overzicht-0/index/@105430/aanwijzing-kader/](http://www.om.nl/organisatie/beleidsregels/overzicht-0/index/@105430/aanwijzing-kader/) (Dutch only).

71. Available in Dutch at [www.om.nl/organisatie/beleidsregels/overzicht-0/index/@88293/richtlijn-42/](http://www.om.nl/organisatie/beleidsregels/overzicht-0/index/@88293/richtlijn-42/).

72. Available in Dutch at [www.om.nl/organisatie/beleidsregels/overzicht-0/jeugd-zeden/@94030/aanwijzing-zeden/](http://www.om.nl/organisatie/beleidsregels/overzicht-0/jeugd-zeden/@94030/aanwijzing-zeden/).

73. Available in Dutch at [www.om.nl/organisatie/beleidsregels/overzicht-0/index/@101753/richtlijn-8/](http://www.om.nl/organisatie/beleidsregels/overzicht-0/index/@101753/richtlijn-8/).

74. Available in English at [www.dutchcivillaw.com/judiciaryact.htm](http://www.dutchcivillaw.com/judiciaryact.htm).

75. See also the emerging case law of the European Court of Human Rights, which states that under the Istanbul Convention "more severe sentences are required when the offence is committed against or in the presence of a child" (*D.M.D. v. Romania*, Judgment, 3 October 2017, p. 9, paragraph 27).

76. Wolhuis, Lünemann en Claes, 2019.

where the perpetrator has admitted guilt, thereby indicating the will to take responsibility for his actions.

243. GREVIO notes, however, the increased reliance on out-of-court settlements. In the Dutch criminal justice system, cases may be settled out of court by means of a “transaction” (“transactie”), an out-of-court settlement in which the suspect/defendant agrees to meet certain conditions in order to avoid being prosecuted and to which the court is not a party. This is a consensual agreement between two parties that, if rejected by the defendant, will result in charges being brought by the prosecutor.

244. The Public Prosecutor Service (PPS) can also issue a non-consensual “penalty order” in less serious cases (Law of 7 July 2006, Staatsblad 2006, 330). This could include a form of hearing even if the victim is not present. The intention is to resolve cases quickly and this can result in the imposition of a penalty of, among other things, an award of compensation, community service (up to 180 hours) or a fine. A prison sentence is not an option under this process.

245. GREVIO further notes the research indicating that victims often want the violence to stop and want the perpetrator to get help instead of a punishment.<sup>77</sup> GREVIO is concerned, however, that this wish stems from the victims’ dependence on the perpetrator which should not result in leniency by the criminal justice system (prosecution and judiciary). GREVIO further notes with concern the attitudes espoused by prosecution services that alternatives to criminal proceedings can be more effective than traditional court hearings because victims often retract their statements and professionals are often better able to give a balanced view of the situation than victims. Effectively, this results in the decriminalisation of domestic violence and denies the victim a voice in the proceedings and the opportunity to claim their rights as victims.

246. Moreover, GREVIO is very concerned that decisions to defer prosecution are made exclusively by the prosecutor (with the perpetrator’s consent) without consulting or obtaining the consent of the victim. This sends the worrying message that domestic violence is not a crime fit for criminal conviction, which is contrary to the purposes of the convention. It appears that overall there is a lack of victim participation in those decisions made to bring and continue prosecutions. GREVIO is concerned that this amounts to a form of alternative dispute resolution which should only be used in circumstances where the victim voluntarily consents and when victim’s rights, including the right to compensation, are guaranteed.

**247. GREVIO urges the Dutch authorities to review and adapt legislation and guidance on alternative dispute resolution in all criminal cases of violence against women and domestic violence, to ensure that such practices do not lead to their decriminalisation and that the rights of victims are upheld. GREVIO also strongly encourages the Dutch authorities to introduce clear protocols and guidance in all areas of law where mediation is used, to ensure all offers of mediation are accepted entirely voluntarily and that no inappropriate pressure is placed on women to accept any form of mediation or alternative dispute resolution.**

248. In addition, GREVIO strongly encourages the Dutch authorities to research the impact of diverting cases away from the criminal justice system on both recidivism rates and deterrence.

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77. Lünemann et al. (2016).

## **VI. Investigation, prosecution, procedural law and protective measures**

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

### **A. Immediate response, prevention and protection (Article 50)**

#### **1. Reporting to and investigations by law-enforcement agencies**

250. There are roughly 35 000 police officers in the Netherlands. In 2012, a decision was taken to reorganise the police service. GREVIO received reports that prior to this reorganisation the police response to domestic violence and violence against women was better than it is now and understands that a cause of this is a loss of specialism throughout the country. Although there are specialist officers for sexual offences there are no similar specialist officers for domestic violence.

251. In the past, domestic violence and child abuse had been viewed as criminal issues but the current emphasis seems to be on social interventions in conjunction with Safe Home rather than on criminal justice interventions. The police regularly inform Safe Home of cases of domestic violence and child abuse. They identified a need to rebuild knowledge and learn how to respond to domestic violence within the new framework. GREVIO was also informed that the restructuring was a possible cause of the drop in the number of Temporary Domestic Exclusion Orders (see below), although other possible reasons for this, such as the length of time it takes to complete the paperwork, were also put forward.

252. No statistics or data were available to enable GREVIO to assess the most common interventions taken by police and this appears to depend on the individual police officer. Therefore, while some police officers are clearly very knowledgeable about issues such as domestic violence and “honour-related violence”, NGOs reported that at local level there can be a real lack of knowledge about gender-based violence and this results in domestic violence being seen as a fight between a couple as opposed to a manifestation of unequal power relations and/or power and control. Concerns were also raised about a lack of awareness of safety risks and a failure to take matters seriously when reports are made.

253. GREVIO notes that women who want to press charges have difficulties getting their cases taken up by police without NGO support.<sup>78</sup> Although laws and policies exist, in practice GREVIO was informed that pressure is being put on women to accept action they do not want, such as referral to Safe Home rather than barring orders and dismissals without prosecution (see below). This results in very little opportunity for self-determination.

254. Research by Regioplan<sup>79</sup> suggests that only very few women who experience sexual offences report these because victims are discouraged by the police because the police set out all the obstacles they will experience in conducting an effective investigation. This appears to be particularly the case in respect of sexual offences taking place more than eight days prior to the report being made to the police. In addition, there can be delays of an average of two years before a case is dealt with in court.

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78. Drost Koolj, Lunneman, “The Protection of IPV victims: legal framework and criminal procedures”.

79. Regioplan, Slachtoffers van zedenmisdriven Een verkenning van de overwegingen voor contact met politie en/of hulpverlening (Victims of sexual offences. A study of the considerations for contacting police and/or support services) (2017), available at [www.regioplan.nl/wp-content/uploads/data/file/2016/16098-Slachtoffers-van-zedenmisdriven-Regioplan.pdf](http://www.regioplan.nl/wp-content/uploads/data/file/2016/16098-Slachtoffers-van-zedenmisdriven-Regioplan.pdf) (in Dutch).

255. GREVIO was pleased to note that the police have responded to such concerns by consulting with experts on sexual violence and victims' organisations following the Regioplan research to take steps to improve this situation.

256. GREVIO is particularly concerned that following the loss of specialisation there has been a deprioritisation of domestic violence and there may be a developing tendency to view domestic violence as "mutual violence" and to consider both parties as perpetrators and not take into account the context and history of violence and a primary aggressor analysis. This can pose a safety risk for victims. Moreover, GREVIO is concerned that there is no specific plan in the criminal justice institutions nor a co-ordinated approach across the criminal justice sector as to how to reconcile the requirements of the Istanbul Convention in the area of criminal justice for victims of violence, save for a possible referral to Safe Home. GREVIO is of the view that more must be done to ensure a prompt and appropriate response from the responsible law-enforcement agencies in relation to all forms of violence covered by the Istanbul Convention. This would require a variety of measures, including clear gender-based guidelines and the targeted training and specialisation of law-enforcement agencies on the different forms of violence. These should stress the importance of a thorough police investigation and evidence collection: since victims of violence might have and might exercise the right not to testify, it is all the more important that all available evidence is collected, including the comprehensive documentation of injuries, forensic evidence and damage to property, as well as interviews with possible witnesses and the identification/confiscation of any weapons used.

257. Another concern GREVIO wishes to express is that migrant women, particularly irregular migrant women, might not report experiences of violence because of fears that their data will be shared with third parties, possibly resulting in their deportation. In order for irregular migrant women victims of violence to report, it is of great importance to ensure their trust in law-enforcement agencies through all possible means and to minimise any negative consequences for their status in the country.

**258. GREVIO strongly encourages the Dutch authorities to take further action to develop binding guidelines and training to encourage the rate of reporting and improve the effectiveness of investigations by ensuring law-enforcement agencies have the capacity and skills to deal with all victims of violence, including victims of sexual violence, while applying a victim-centred and gender-sensitive approach. This includes offering safe reporting, protection and respect to all women victims of violence and their children.**

**259. GREVIO encourages the Dutch authorities to review the impact of the police reform and the resulting loss of specialist domestic violence officers on reporting and investigation of offences. This will require the collation of properly recorded and disaggregated data to enable the relevant authorities to determine whether and what crimes are being reported and what outcome is achieved.**

## **2. The role of the prosecution services and conviction rates**

260. Since 2016, multi-agency work has taken place at the national level between the public prosecutor, the police, Safe Home, probation services and the Child Care and Protection Board to tackle domestic violence and child abuse.

261. There are no data available on violence against women and domestic violence offences disaggregated by gender to enable GREVIO to determine how many complaints were made, what action was taken and whether prosecutions have been effective.

262. The Dutch Public Prosecution Service operates the working method ZSM, which stands for "quick, smart, selective, simple together and socially aware". The aim is to fast track frequently occurring cases while paying due attention to the interests of defendants, victims and society alike. The purpose is to decide within six hours whether to charge and bring the defendant before a trial



judge (one judge) or a court (three judges), offer a “transaction” or impose a penalty order. Some cases will require more time and additional evidence.

263. There are guidelines in respect of all the offences in the Dutch Criminal Code. GREVIO welcomes in particular the Public Prosecution Service (PPS) Instructions concerning Domestic Violence and Child Abuse (Bulletin of Acts and Decrees 2016, 19416)<sup>80</sup> and the PPS Instruction on sexual offences (2016 A0004),<sup>81</sup> which provide detailed rules on the detection and prosecution of this type of violence. These instructions explicitly refer to the rights of the victims and the need to balance these against the rights of the accused and recognise the evidential difficulties faced by victims and the possible consequences of trauma and secondary victimisation.

264. GREVIO is also pleased to note that *ex officio* prosecutions where available are continued without victim consent and without victim statements, although there are no data available to show how many times or to what effect *ex officio* prosecutions are used.

265. Research, however, suggests that the actual outcome in most cases of intimate partner violence is a dismissal and there is a persistent gap between the number of complaints and the number of convictions.<sup>82</sup> The dismissal of a case does not, however, mean that there have been no interventions. The prosecutor has the discretion to take measures including, for example, imposing a protection order. Protection orders can be imposed conditionally, and these conditions can apply at different phases throughout the criminal proceedings.<sup>83</sup> If the conditions are breached the criminal proceedings are resumed. GREVIO’s concerns in respect of alternative dispute resolution are set out in Chapter V, Section B.8. on Article 48.

266. GREVIO welcomes the recognition in the Directive on Criminal Procedure for Domestic Violence (2015R049) that a fine is an undesirable punishment in domestic violence cases on the grounds that it “often weighs on the family budget”.

267. A penalty order is recorded on the criminal record as equivalent to a conviction. A suspended order goes into the criminal record but is not a conviction. The authorities believe this is an effective tool in domestic violence cases, in particular where victims retract statements or make use of their right not to testify.

268. Although there are some examples of good practice, GREVIO is particularly concerned about the low level of prosecutions, the high level of dismissals and low conviction rates in light of the high number of incidents of domestic violence. GREVIO is also concerned about the lack of victim involvement in the decision-making process. While GREVIO recognises that there may be instances where this is the best outcome for the parties, GREVIO is further concerned that this undermines the message that domestic violence is a crime fit for criminal conviction.

**269. GREVIO encourages the Dutch authorities to ensure that all acts of violence against women and domestic violence covered by the Istanbul Convention are prosecuted and sanctioned swiftly, and that effective measures to reduce high dismissal rates are set in place, including the further improvement of evidence collection and the use of forensic documentation and evidence. GREVIO further strongly encourages the Dutch authorities to collate data disaggregated by gender to enable a proper assessment and analysis of the prosecution and protection systems and swiftly identify and address any factors which reduce and/or remove women’s participation in and access to justice.**

80. Available at [www.om.nl/organisatie/beleidsregels/overzicht-0/jeugd-zeden/@97417/aanwijzing-huiselijk/](http://www.om.nl/organisatie/beleidsregels/overzicht-0/jeugd-zeden/@97417/aanwijzing-huiselijk/) in Dutch.

81. Available at [www.om.nl/organisatie/beleidsregels/overzicht-0/jeugd-zeden/@94030/aanwijzing-zeden/](http://www.om.nl/organisatie/beleidsregels/overzicht-0/jeugd-zeden/@94030/aanwijzing-zeden/) in Dutch.

82. Lünemann K. et al (2016), “The Protection of IPV victims: file analysis and victim interviews, The Netherlands”. Verwey-Jonker Instituut, INASC (Improving Needs Assessment and Victim Support in Domestic Violence-Related Criminal Proceedings), co-financed by the Criminal Justice Programme of the EU, p. 14.

83. Drost L. et al. (2014), “Country Report: Criminal justice and Domestic Violence in the Netherlands”, Verwey-Jonker Instituut, INASC, co-financed by the Criminal Justice Programme of the EU, pp. 25 and 28.

## **B. Risk assessment and risk management (Article 51)**

270. GREVIO notes with satisfaction that the Dutch authorities generally seem to take a multi-agency approach to risk assessment and management. Different approaches seem to be taken, depending on the type and severity of risk. In 2018, the police began to use SASH<sup>84</sup> (Screening Assessment for Stalking and Harassment), a risk-assessment tool for stalking. Implementation has just started, and SASH is being used in some regions. It is too early to assess how effective this has been. In high-risk situations involving “honour-related violence” and stalking specialist police forces carry out the assessments. In the framework of the “Guard and Protect” system, an assessment of the threat or a threat analysis is made if there is a fear of crimes aimed at the life or the physical safety of persons, or in cases of other serious crimes.

271. Use is also made of the RIHG (Risk Assessment Domestic Violence), which assesses risks of dangers of violence in the relationship (IPV) and must be used before deciding whether to issue a temporary restraining order (TRO). The risk assessment consists of a structured questionnaire on 20 variables that were selected as indicators of future risk of perpetrating domestic violence (indicators regarding the nature and severity of the violence, the individual characteristics of the perpetrator and the characteristics of the social and relational context of the couple). The police must interview both perpetrator and victim (separately) before making a final risk assessment and deciding on whether to issue a TRO. In some municipalities like Rotterdam social services take on part of the risk assessment. In some regions Safe Home accompany the police to see the family and fill in the RIHG.

272. GREVIO notes that there are many risk assessments being performed by different agencies which appear to differ from each other because they have different goals. How all these assessments relate to each other is unclear. Moreover, the risk assessment required for obtaining an emergency barring order is a lengthy procedure which can discourage the police from seeking such an order. This may result in women being diverted to shelters that already lack capacity, which runs contrary to the aim of enabling the woman to stay in her home.

273. GREVIO welcomes the developments in risk assessment in the Netherlands. However, GREVIO is concerned that while risk assessment seems to be common for specific types and severity of risk, general risk assessment does not seem to be part of the standard response to domestic violence and violence against women. Even if many reported cases of domestic violence against women amount to minor offences only, they might form part of a pattern of more serious abuse – reported and unreported – and might be accompanied by factors that are known to cause violence to escalate, such as separation.

274. Furthermore, GREVIO recalls that risk assessment is not a goal in and of itself, but a first step to ensuring co-ordinated safety measures and support to victims. According to the convention, the human rights and safety of the victims must be at the centre of all measures, including of multi-agency initiatives, and that all women victims of violence should be able to enjoy the right to be supported by specialist women’s support services and represented by those services in multi-agency procedures.

**275. GREVIO strongly encourages the Dutch authorities to ensure that in all cases of violence against women and domestic violence systematic and gender-sensitive risk assessment and co-ordinated safety management become standard procedure for all agencies involved, especially criminal justice agencies. In addition, GREVIO strongly encourages the Dutch authorities to:**

- i) take action to reduce the length and/or complexity of the risk assessment at the initial administrative stage when obtaining a temporary restraining order (TRO) to improve the numbers applied for;**
- ii) identify whether risk assessments are being appropriately and effectively used throughout the regions to ensure proper and adequate use of TROs and that cases of**

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84. Available at: [www.stalkingriskprofile.com/stalking-risk-profile/sash](http://www.stalkingriskprofile.com/stalking-risk-profile/sash), accessed 20 May 2019.

**violence against women and domestic violence are swiftly referred to specialist women's support services, avoiding repeat referrals.**

### **C. Emergency barring orders (Article 52)**

276. In the Netherlands, the emergency expulsion of a domestic violence perpetrator from a shared residence is possible in a situation of immediate danger or threat of danger. Since 2009, senior police officers have been able to impose a 10-day temporary restraining order in accordance with the Temporary Restraining Order Domestic Violence Act. Such orders may be extended to 28 days by mayors, for actual or potential perpetrators of domestic violence. These orders can be given in writing but also orally if the situation is so urgent that the order cannot be put in writing in advance. The TRO prohibits perpetrators from entering their own house and contacting their partner and/or children. When the victim reports the incident to the police, a restraining order can be imposed within 24 hours. The violent behaviour in particular does not need to meet the criminal legal definition of violent abuse as the TRO is intended to be a preventive measure. The TRO can then be issued before the violence has had the chance to escalate to a form where it would be considered a criminal act.

277. According to the authorities, a TRO must satisfy three criteria to be imposed: that there is a situation of serious and immediate danger or threat of danger; the (potential) perpetrator must be of age; and the perpetrator must live regularly (more than incidentally) in the home of the (potential) victim. The temporary restraining order can only be issued after a formal standardised risk assessment by senior police officers has been made. The police are responsible for determining whether there is immediate threat and, if so, an acute response is implemented. This order goes hand in hand with the provision of aid to those victims, including children who have been left behind or were removed from the home. The perpetrator is also offered support. In the Netherlands this combined offer to victims, children and perpetrators is called a system approach<sup>85</sup> and is co-ordinated by Safe Home.

278. It is a criminal offence to breach a TRO, punishable with a prison sentence of up to two years or a fine of up to EUR 20 500. However, there is very limited information about whether these measures are used. GREVIO is concerned that the failure to enforce a violation can lead to a sense of impunity in the perpetrator.

279. Legal aid is available to a perpetrator who wishes to apply to revoke a TRO within three days of its issue. The victim may be invited to the appeal but is not considered a party and is therefore not eligible for legal aid. This limits their ability to participate in the appeal hearing. If a victim requests a temporary restraining order and it is denied the victim must request a court hearing for reconsideration of the negative decision. There is no legal aid available for this and victims are often unaware of the right to take this action.

280. Apart from the issues raised above, GREVIO has a number of concerns about TROs and how they work in practice and wishes to address these in more detail. From the available statistics it appears that fewer than 2 000 TROs were issued in 2018 despite estimates suggesting that there are 200 000 incidents of domestic violence annually.

281. GREVIO is concerned about the level of implementation of TROs or emergency barring orders, as only very few victims seem to benefit from the immediate protection they offer. While GREVIO is aware that evicting a perpetrator from a shared residence with the victim is only one of many measures available, it is a core requirement of the Istanbul Convention to ensure the safety of domestic violence victims in their home. GREVIO is concerned that this may not be realised for many victims. This causes concern, as victims of domestic violence often face repeat victimisation, especially if they report the violence, and emergency barring orders are highly necessary measures

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85. Vaan, K.B.M. de, Homburg, G.H.J. and Schreijenberg, A. (2013). *Knelpunten in de uitvoering van de wet tijdelijk huisverbod*. Amsterdam: Regioplan. [www.burgemeesters.nl/sites/www.burgemeesters.nl/files/File/2193-eindrapport-effectief-uit-huis-geplaatst.pdf](http://www.burgemeesters.nl/sites/www.burgemeesters.nl/files/File/2193-eindrapport-effectief-uit-huis-geplaatst.pdf).

of protection. The under-use of the measure points to a failure in exercising due diligence to prevent violence and to protect victims.

282. Among the shortcomings GREVIO identified and which may be contributing to the low number of TROs are the following. First, the scope of application is limited to a victim and perpetrator who live together on a regular basis, which is not in line with the requirements of the convention. Second, if the perpetrator has left the home and there is no new address or phone number for the perpetrator, the court cannot validly send him the TRO and if he cannot be contacted he cannot be provided with any assistance within the time period of the TRO (10-28 days). GREVIO was informed that a change of law is necessary.

283. One problem is that a TRO applies only to the home of the victim, instead of the victim herself. This is a particular problem in cases of stalking, when the victim and perpetrator do not live together or when the perpetrator is not living with the victim “more than incidentally”, in which case a TRO is not possible. This is one example of the problems caused by the restrictive nature of the Dutch policy on violence in dependency relationships rather than all forms of violence against women as required by the Istanbul Convention.

284. GREVIO welcomes the jurisprudence determining that a TRO can be imposed in cases where the victim has fled the house (to avoid further violence) and when the incident has taken place in the victim’s temporary place of residence. However, GREVIO believes that legislative change is required to ensure universal understanding and acknowledgement of the need to ensure protection in situations where victim and perpetrator do not or no longer share a residence.

**285. GREVIO strongly encourages the Dutch authorities to ensure that the legal provision on temporary restraining orders complies with the Istanbul Convention, regardless of the relationship of the perpetrator to the victim or the residence of the perpetrator, and further strongly encourages the Dutch authorities to step up efforts to increase the use of temporary restraining orders by ensuring the police have clear guidelines and are properly trained in ensuring their vigilant enforcement.**

**286. In this regard, GREVIO strongly encourages the Dutch authorities to collect data on the use of temporary restraining orders and assess the level of implementation of the Temporary Restraining Order Domestic Violence Act.**

#### **D. Restraining or protection orders (Article 53)**

287. Beyond an immediate situation of danger, a contact ban may be applied for under civil law in the context of domestic violence, but it is unclear to what extent use is made of this. Moreover, no links seem to exist with the 28-day temporary restraining order, leaving victims without uninterrupted protection.

288. Within the criminal procedure it is possible to impose a restraining or protection order in different ways. Criminal behaviour orders are issued by prosecutors under Article 509hh of the Criminal Procedural Code. There has to be a concrete suspicion of a criminal act committed or about to be committed to prohibit someone from going to a certain place or from contacting the victim. The order could include a reporting requirement, an order to attend court or a code of conduct. Measures imposed can include an eviction order where, for example, the suspect is not allowed to contact the victim and/or is not allowed to go home, or an order prohibiting the perpetrator from contacting the victim or going to a certain area. They are valid for 90 days and can be extended three times (up to a maximum of one year). If a case does not go to trial in that period, the order cannot be extended further.

289. Although these orders were originally effective only from the date of a sentence, GREVIO is pleased to note that they can now be imposed immediately. GREVIO was informed that they are used quite often, mainly in cases of stalking, but data on the numbers, types and duration of protective measures issued do not exist.

290. GREVIO notes that this process takes place irrespective of the wishes of the victim who cannot object to the imposition of such an order by the prosecution. A victim can, however, contact a prosecutor to request such a ban and Victim Support has information and a sample letter in Dutch and other languages available for a woman to use.<sup>86</sup>

291. The judge can impose an eviction or no-contact order as a condition for the suspension of pretrial detention or as a custodial measure (Section 38v of the Criminal Code). The judge can also impose an eviction order as a condition for the suspension of detention.<sup>87</sup>

**292. GREVIO encourages the Dutch authorities to ensure that the measures available under the Temporary Restraining Order Domestic Violence Act are combined with easy access to civil court restraining orders, which victims may apply for, and to ensure that victims receive proactive support from specialist women's support services as soon as an emergency barring order has been issued, including support for applying for a civil law protection or restraining order. Moreover, GREVIO encourages the Dutch authorities to provide the legal right to victims to apply for restraining and protection orders during criminal proceedings and to collect data on the number, type and duration of such orders issued annually.**

#### **E. Victim support in legal proceedings (Article 55, paragraph 2)**

293. GREVIO welcomes the extensive range of support available to victims in the Netherlands. The provision of information to victims is laid out in Sections 51ab and 51ac of the Dutch Code of Criminal Procedure. The provision of information is further detailed in the instructions for the care of Victims of the Public Prosecution Service (Bulletin of Acts and Decrees 2017, 23473) and further codified within the Dutch Code of Criminal Procedure giving victims the option of being heard, submitting evidence and having themselves represented.

294. Detailed information is available about these rights and the obligations of the Dutch authorities is available in Dutch and English. Victims of crime have a right to be informed about their rights and what is happening in their case. There is a right to free assistance from Victim Support who can assist with legal, practical and emotional issues. A victim always has the right to be legally represented and in some cases is not required to pay a lawyer's fee. Victims' lawyers report that the police and prosecution service could refer more victims to the victim support service. A duty service has been set up in three regions to provide assistance to victims of serious crimes or sex offences.<sup>88</sup> Interpreters are provided. Victim offender meetings can be arranged. Victims can request to see the documents and records of their case but will need to ask a judge or prosecutor to do this and can also ask the public prosecutor to add information or documents. If there is a court hearing, victims of serious offences have the right to address the court in respect of punishment of the perpetrator or of the consequence of the offence for the victim. The victim should also be informed about any leave from prison, escape or release of the offender.<sup>89</sup>

295. Victim Support Services are generally available and provide help with emotional and physical complaints and dealing with stress, compensation (see also Chapter V, Section A.2 Compensation, Article 30) and support in criminal proceedings. While GREVIO acknowledges that some counsellors have developed extensive specialist expertise in particular in sexual violence cases, it notes with concern that Victim Support is a general victim support service and not a specialist women's support service. In cases of violence against women and their children, such specialist services should be able to offer comprehensive support in order to ensure that repeat referrals of victims are avoided. With the support of specialist, gender-sensitive, comprehensive and empowering services, victims

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86. Available at [www.slachtofferhulp.nl/english/](http://www.slachtofferhulp.nl/english/).

87. Drost L. et al. (2014), "Country Report: Criminal justice and Domestic Violence in the Netherlands", Verwey-Jonker Institute, INASC.

88. Elbers et al. (2018), "Victim representation: The role of lawyers representing victims in severe crime and sexual offences".

89. Information available in English on Ministry of Justice website "Rights of Victims of Criminal Offences"; see also "Victim representation: The role of lawyers representing victims in severe crime and sexual offences" (2018).

of violence against women and domestic violence are more likely to report violence, obtain protective measures and to pursue complaints and are less likely to agree to mediation.

296. Considering the stress and trauma victims experience as a consequence of violent crimes against women and as a consequence of the judicial process, GREVIO notes that Victim Support plays an important role in facilitating victims' access to protection measures, reducing stress and ensuring victims access to rights and justice.

297. **GREVIO strongly encourages the Dutch authorities to ensure the practical facilitation of women's access to gender-specific victim support services offering comprehensive support and avoiding secondary traumatisation through repeat referrals in cases of domestic violence and other forms of violence against women.**

#### **F. Legal aid (Article 57)**

298. In serious criminal cases, including sexual assault and rape, structural serious domestic violence and serious physical damage, the victim has the right to legal aid and state representation. Lawyers assisting victims of serious crimes and sexual offences work on the basis of the Legal Aid Council Remuneration. This is an overall fee of 11 hours. Some lawyers work on the basis of legal expenses' insurance at an hourly rate. GREVIO is concerned that 11 hours is usually insufficient for the required work and results in lawyers making difficult choices about which court sessions to attend. Moreover, GREVIO was informed that persistent cuts over the last 10 years have resulted in fewer specialist lawyers willing to take up state-funded cases.<sup>90</sup>

299. In administrative and civil law procedures, legal aid is available for low earners. Otherwise, victim support services are relied upon. Applications may be submitted to the Legal Aid Council, which is usually done with the help of a lawyer or mediator who are ready to take on the case. Eligibility is income-based, and where granted, recipients are required to contribute to the costs to some extent, unless it is a serious case.<sup>91</sup>

300. GREVIO has specific concerns about the proposed removal of legal aid for migrant women in the asylum procedure which is currently capped at eight hours. Specific recommendations in this respect are made under Chapter VII, Section B. Article 60.

301. **GREVIO encourages the Dutch authorities to investigate the impact of legal aid cuts on women's access to justice in criminal and family courts and in respect of claims for and awards of damages.**

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90. "Victim representation: The role of lawyers representing victims in severe crime and sexual offences" (2018).

91 For more information: <https://www.rijksoverheid.nl/onderwerpen/rechtspraak-en-geschiloplossing/vraag-en-antwoord/hoe-verloopt-het-aanvragen-van-gesubsidieerde-rechtsbijstand>

## VII. Migration and asylum

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

### A. Residence status (Article 59)

303. The Aliens Act, Aliens Decree and Aliens Act Regulations govern issues of residence in the Netherlands and are supplemented by guidance from the Immigration and Naturalisation Service (IND).

304. Ordinarily, a migrant woman living in the Netherlands on a derivative residence permit tied to her spouse or partner must establish five years of continuous residence on family migration grounds and pass the civic integration test before obtaining an autonomous residence permit (Article 14 of the Aliens Act). Civil society informed GREVIO that some women are being prevented from sitting the civic integration test by their abusers who are reported to prefer repeatedly paying the large fine for their partner's failure to do so within three years than permit them to obtain the permit and/or attend integration lessons and/or learn Dutch.

305. In cases of domestic violence an application can be made for a permanent humanitarian residence permit before the expiry of the five-year period and there is no requirement to pass the civic integration test.<sup>92</sup> For all other migrant women, including irregular migrant and asylum-seeking women, providing, in addition to proving domestic violence or the threat of "honour-related violence" in the Netherlands, they can demonstrate they cannot escape the threat of domestic violence or "honour-related violence" in their home country, an application for a one-year temporary humanitarian permit can be made, followed by an application for a permanent humanitarian residence permit.<sup>93</sup> If the threat no longer exists, these provisions coupled with Part 2, section 13 (c) of the Aliens Act provide for a permit to be granted on compelling humanitarian grounds, which could include the situation of single women or the social situation of women generally in the country of origin, the lack of proper reception arrangements in the country of origin or owing to established ties with the Netherlands, including children born in the Netherlands or who go to school there.

306. Although GREVIO welcomes the establishment of these measures, it expresses some concern about the ability of victims to access this protection. According to data provided by the authorities, there is a stark difference between the success rates of applications made by women who previously held a dependency permit (86%) and irregular migrant women (25%). The actual number of applications is very low compared to the likely number of migrant women believed to be experiencing domestic violence.<sup>94</sup> In addition to the extension of the residence period and the civic integration test, the evidential requirements encompass evidence of domestic violence from both the police/prosecution service *and* a care provider (for example, from a shelter, the health-care sector or a support service) (Chapter B8(2), Section 2.3 of the Aliens Act Implementation Guidelines). It is understood that the cumulative effective of these changes has had a significant effect on migrant

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92. Section 1 ("Partners") of the IND Leaflet "Domestic violence, honour-related violence, human trafficking, abandonment and your residence permit" (October 2018) <https://ind.nl/en/Forms/3092.pdf>.

93. See Article 14 of the Aliens Act, Section 3.48(1)(e) (honour-based violence) and Section 3.48(1)(f) (domestic violence) of the Aliens Decree, and Chapter B8(2) Section 2.1 of the Aliens Act Implementation Guidelines for fixed-term permits and Chapter B9 (11) for extension of permit on humanitarian grounds where the threat continues.

94. Exact figures are not available. This assessment is based on the estimate of the number of women entering shelters and the belief of service providers that many of those women are migrants or from migrant backgrounds.

women and in particular irregular migrant women who may have particular difficulties accessing support providers (see Chapter IV, Section E. Shelters, Article 23) or fear approaching law-enforcement agencies. Women are not given information about their rights in the event of domestic violence when they receive a permit or at the point of entry to the Netherlands. There is an information leaflet produced by the Ministry of Social Affairs and Employment, "Joining your partner in the Netherlands",<sup>95</sup> produced in several languages, but this is provided in the context of integration rather than through the IND and it does not appear to be reaching the women who need this information.

**307. GREVIO encourages the Dutch authorities to continue the practice of granting independent residence permits to migrant victims of domestic violence. GREVIO also invites the Netherlands to evaluate the impact of the extension of the qualifying period, the requirement to pass the civic integration test and changes to the evidential requirements for victims of domestic violence on the practical ability of migrant women to access and benefit from the autonomous residence permit provisions.**

308. GREVIO welcomed the Dutch policy in cases of abandonment abroad. Guidelines on identifying and dealing with forced marriage and abandonment abroad were issued in 2017 by the Dutch Centre of Forced Marriage and Abandonment, who have also conducted training for professionals on this issue. Victims can apply for a provisional or humanitarian residence permit enabling their return to the Netherlands. There are awareness-raising campaigns, advice leaflets and a ticket fund to pay for a return ticket. Some NGOs were of the view that the fund is insufficient to meet the need.<sup>96</sup>

## **B. Gender-based asylum claims (Article 60)**

309. Women constituted 28.9% of the total number of applicants for asylum in 2018.<sup>97</sup> There are no statistics on the number of claims granted or on the number of those who obtained status on the basis of gender-based persecution.

310. GREVIO welcomes the explicit recognition of gender-based violence as a form of persecution by the Netherlands, including sexually discriminatory social practices, religious rules or cultural norms, penal provisions that violate universal human rights and FGM (Aliens Act Implementation Guidelines 2000, C2/3.3, Article 3.36(2)(a) and (f) of the Regulations on Aliens 2000). A residence permit may also be granted as a result of trauma suffered in the country of origin if it is not reasonable to require the asylum seeker to return (Article 29(1)(b) of the Aliens Act). For certain specific countries, additional categories of women, for example "Westernised women in Afghanistan", are also recognised. However, women per se are not recognised as a particular social group (Aliens Act Implementation Guidelines 2000, C2/3.2) and the categories of women recognised as being at risk of persecution are often inconsistent with relevant UNHCR country guidelines (in particular in respect of married women and those with solid family ties in Afghanistan, Iraq and Somalia). Furthermore, there are no gender guidelines or training in respect of the application of the 1951 Convention relating to the Status of Refugees in a gender-sensitive manner outside the Interviewing Vulnerable Persons training provided by the European Asylum Support Office (EASO). There are, however, gender contact staff available at four branches of the Immigration and Naturalisation Service spread across the country, with more than one such officer per branch.

311. Applications for asylum are made to the Aliens Police, located in the centre and north of the Netherlands. Accommodation is provided by the Central Agency for the Reception of Asylum Seekers (COA) after an initial interview. GREVIO observed a number of positive gender-sensitive procedures implemented in the COA reception centre of Utrecht, including a separate

95. Available here: <http://cdn.naarnederland.nl/naarnederland/website/brochure-basisexamen-inburgering-in-het-buitenland-engels.pdf>.

96. Currently EUR 25 000 per year; information provided during the GREVIO evaluation visit.

97. Eurostat, IND asylum trends, AIDA Asylum Information Database "Country Information Report Netherlands", March 2019 update available here: [www.asylumineurope.org/sites/default/files/report-download/aida\\_nl\\_2018update.pdf](http://www.asylumineurope.org/sites/default/files/report-download/aida_nl_2018update.pdf); statistics and raw data in Dutch available from IND: <https://ind.nl/over-ind/Cijfers-publicaties/Paginas/Asieltrends.aspx>.



accommodation wing within close proximity of the main offices, education and integration classes that women are encouraged to attend and significant safeguarding procedures. Staff work closely with the on-site medical team and are trained in the identification of vulnerable individuals and those at risk of gender-based violence. There is at least one trained social worker who specialises in violence against women.<sup>98</sup> Procedures are in place to relocate women to shelter accommodation in the event of domestic violence. The centres operate a multi-agency approach in conjunction with Safe Home, the police and IND, and accommodation centres are subject to the Reporting Code (see Chapter IV, Section I, Reporting (Articles 27 and 28)). It is unclear, however, if this is done consistently by all reception centres throughout the country.

312. The Netherlands operates a rapid asylum procedure wherein all applications are processed within a maximum of eight days<sup>99</sup> (unless it is not possible to gather the necessary information within this period, which may lead to an extension of up to six months). Applicants subjected to the accelerated procedures or Dublin Regulation procedures are dealt with more speedily. According to the authorities, asylum-seeking women who are subject to domestic violence while in the Netherlands have the opportunity to apply for a residence permit on those grounds, although this happens rarely in practice.

313. Unless subject to Dublin<sup>100</sup> (Track 1) or accelerated procedures<sup>101</sup> (Track 2), an initial medical assessment is conducted by the Forensic Medical Society Utrecht. This determines whether the individual is fit to be interviewed and whether he or she requires special procedural guarantees or referral to individual treatment. IND are required to examine from the start of the procedure whether an individual applicant is vulnerable and in need of special care or is in need of special procedural guarantees on account of torture, rape or other serious forms of psychological, physical and sexual violence (Article 3.108b of the Aliens Decree and IND Work Instructions 2010/13 and 2015/8).

314. Work Instruction 2015/8 provides a list of indications on the basis of which it may be concluded that the asylum seeker is a vulnerable person, which includes disabilities, pregnancy and psychological difficulties. It is explicitly noted that this is not an exhaustive list and the decision is based on medical advice, IND observations and those of the lawyer and asylum seeker him or herself.<sup>102</sup> In most of these cases the applicant is not subject to the short eight-day procedure but instead, since more investigation is needed, they are dealt with through the extended procedure.<sup>103</sup>

315. In terms of gender-sensitive asylum procedures, GREVIO welcomes the fact that female applicants are able to make their own claims and are interviewed separately from their family. They have the opportunity to request female interviewers and interpreters (Aliens Act Implementation Guidelines 2000 C1/2.11). However, there are several obstacles preventing female asylum seekers from disclosing information in a manner that would assist their application.

316. First, no information about gender-based persecution is provided to women to enable them to make decisions about what information to provide to IND for their asylum claim, including information about domestic violence, forced marriage or female genital mutilation. Although information is provided by the Dutch Council for Refugees to asylum seekers before the substantive asylum interview takes place, about their rights and the procedures (available in many languages), none of this information is gender-specific and it does not include information on the forms of gender-based harm the women may have suffered. It is not known to what extent these issues are

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98. Since 2016 all new COA staff have been qualified social workers (and staff employed before this date are encouraged to train in this area).

99. Pursuant to Article 3.109 (1) Aliens Decree 2000, asylum seekers within the general asylum procedure (Track 4) are granted a minimum period of six days for rest and recuperation prior to the asylum determination being made within the eight-day time limit specified by Article 3.110(1) of the Aliens Decree 2000.

100. See Article 3.109c of the Aliens Decree. The European Union Dublin regulation (Regulation No. 604/2013) sets out the procedure for rapid determination by the EU member state responsible for an asylum claim and provides for the transfer of the asylum seeker to that member state, usually the first EU member state entered.

101. See Article 3.109ca of the Aliens Decree.

102. Asylum in Europe, Country Report Netherlands, 2018 Update, p. 42, available at <http://www.asylumineurope.org/reports/country/netherlands>.

103. Ibid, p. 45, March 2019.

considered at interview unless raised by the woman. According to the authorities, IND proactively address the issue of female genital mutilation in follow-up interviews where this seems appropriate.

317. Second, the speed of the process itself has been identified by NGOs as a real barrier to both disclosure and the ability to obtain medical evidence. GREVIO understands that access to medical evidence and/or psychotherapy or psychiatric care is limited and often disrupted by the asylum seeker being transferred from one location to another. This leads to a risk that women traumatised by sexual abuse will be prevented from presenting crucial evidence to substantiate their claims either because of an inability to disclose or because of an inability to obtain supporting evidence. Although it is possible for an applicant to present additional information after the initial asylum application, it is not assured that this information will be taken into account.

318. Third, legal representation is currently capped at eight hours per applicant regardless of the complexity of the case or vulnerability of the applicant, which leads to inadequate representation in some cases. GREVIO is concerned by the plans announced to remove all legal aid prior to a notice of intent to reject the asylum application, which will create barriers to women seeking access to a fair determination of their claim. GREVIO understands that removal of legal aid has not been implemented in part because of objections by lawyers and is concerned that capping or removing legal aid will present a further barrier to victims of gender-based violence accessing their legal rights.

**319. With the purpose of ensuring effective gender-sensitive procedures, GREVIO invites the Dutch authorities:**

- i) to ensure the systematic provision of information to asylum-seeking women about their rights, as women, prior to their interview with the Immigration and Naturalisation Service (IND). This should include information about the forms of gender-based persecution and ensure women have timely and effective access to medical and other support services to enable them to provide supporting evidence for their claims and evidence of their vulnerability.**
- ii) to develop and implement gender guidelines and training to ensure that a gender-sensitive interpretation is applied to each of the grounds of persecution as required by Article 60 of the Istanbul Convention.**
- iii) to ensure that legal representation within the immigration and asylum system is of adequate quality and that any reforms to legal aid do not reduce either availability, quality of representation or accessibility.**

**320. GREVIO encourages the Dutch authorities to collect disaggregated data on the grounds of persecution accepted for women fleeing gender-based violence.**

### **C. *Non-refoulement* (Article 61)**

321. GREVIO notes with concern that domestic violence, other forms of violence and discrimination against women is common in some of the countries on the list of safe countries. Women from these countries whose claims are likely to be complex are subject to accelerated procedures. On 20 July 2016 the Dutch Council of State delivered an opinion (2016) regarding the interpretation of the safe countries concept in Dutch law, concluding that a country cannot be regarded as a safe country if for clearly identifiable (minority) groups of a certain size, such as LGBTI people, a systematic risk of persecution or inhumane treatment exists and that it is, additionally, possible for the Secretary of State to designate a country as a safe country with the exception of clearly identifiable (minority) groups, such as LGBTI people.

**322. GREVIO welcomes the recognition that a country that is generally safe may not be so for clearly identifiable minority groups and invites the authorities of the Netherlands to review the “safe country” list for all women, particularly those fleeing domestic and gender-based violence and LBT women.**

## Concluding remarks

323. GREVIO welcomes the many innovative policies and measures introduced in the Netherlands in order to prevent and combat the different forms of violence against women, including domestic violence. Important strides have been made towards the primary prevention of gender-based violence, in particular by seeking to break down gender stereotypes in education and the labour market, but also by way of a proactive approach to preventing forced marriage within and outside of the Netherlands. Much effort has also been made to ensure that the home is a safe place for all. Linkages and overlap between child sexual abuse, intimate partner violence and other forms of domestic violence have been recognised, and, in response, holistic protection and support services for experiences of violence in any dependency relationship have been introduced. Moreover, the potential offered by the health sector to identify women and girls at risk of the different forms of violence is utilised, in particular in relation to domestic violence and FGM. Equally, its role in reducing generational transmission of trauma and violent behaviour is recognised and standard trauma screening among children witnessing or experiencing domestic violence and child abuse is being introduced.

324. Policy making is generally based on evidence, and research on violence against women is widely available and frequently commissioned by the authorities. GREVIO welcomes the current research efforts to identify various intersectional issues for groups at risk of violence who may not be adequately covered by existing policies and practices, in particular women with disabilities, irregular migrant women and those with dependent residence status.

325. GREVIO's review of Dutch policy choices in the area of preventing and combating violence against women has revealed, however, the need to enhance the application of a gender perspective. Not all policy documents, guidelines and protocols make connections between gender inequalities and violence against women. The support services available mainly operate with a view to providing services to both men and women victims without necessarily viewing the different forms of violence against women as a manifestation of gender-based violence against women because they are women. The newly introduced one-stop municipality-based domestic violence support services (Safe Home) do not set out to establish the primary aggressor but view intimate partner violence as a problem of two individuals which needs to be resolved. This stands in the way of ensuring criminal accountability, which is one of the main aims of the Istanbul Convention. Moreover, those in the criminal justice system do not undergo mandatory training on domestic violence that is gender-specific, resulting in a failure to understand the power dynamics of gender-based domestic violence.

326. Reluctance to decide who the aggressor is in domestic violence has ramifications not only for criminal justice but can also have serious implications for child custody issues. Although it is recognised that a child witnessing or experiencing domestic violence amounts to child abuse, which should be taken into account in custody decisions, this is not always done in practice, and many women victims of violence share custody and visitation rights with their abusers. Family courts do not routinely take into account past episodes of violence, and frequently consider the dissolution of a relationship to end the violence.

327. The evaluation has thus shown a greater need to ensure a wider understanding of the cycle of domestic violence and its power dynamics, which often continue to operate after the relationship ends. More efforts must be made to ensure that individual responses at all levels, including by Safe Home, the criminal justice system and family courts, work towards upholding the human rights and safety of all victims, including children.

328. With this report, GREVIO wishes to support the Dutch authorities in this endeavour and invites them to keep it regularly informed of developments as regards the implementation of the Istanbul Convention. GREVIO looks forward to continuing its fruitful co-operation with the Dutch authorities.

329. With a view to facilitating the implementation of its suggestions and proposals, GREVIO requests that the national authorities translate this report into their official national language(s) and ensure that it is widely disseminated, not only to the relevant state institutions at all levels (national, regional and local), in particular to the government, the ministries and the judiciary, but also to NGOs and other civil society organisations which work in the field of violence against women.

## **Appendix I**

### **List of proposals and suggestions by GREVIO**

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

##### **A. General principles of the convention**

###### **1. Territorial application**

###### **a) Aruba, Curaçao and Sint Maarten**

1. GREVIO urges the Kingdom of the Netherlands to draw up an implementation plan and take all possible measures, including financial, to encourage and assist Aruba, Curaçao and Sint Maarten to ratify and implement the provisions of the Istanbul Convention (paragraph 6).

###### **b) Bonaire, Sint Eustatius and Saba (BES)**

2. GREVIO welcomes the steps already taken to implement the Istanbul Convention in Bonaire, Sint Eustatius and Saba in preparation for ratification and recommendation given by the Advisory Council on International Affairs. In light of that recommendation, GREVIO urges the Dutch authorities to extend the application of the Istanbul Convention to Bonaire, Sint Eustatius and Saba (paragraph 9).

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

3. GREVIO strongly encourages the Dutch authorities to ensure that all policy and legislative measures taken in implementation of the Istanbul Convention reflect more clearly the notion that violence against women – within and outside of dependency relationships – is gender-based violence directed against women because they are women or that affects them disproportionately (paragraph 15).

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

###### **1. Gender equality and non-discrimination**

4. GREVIO encourages the Dutch authorities to pursue its agenda of achieving equality between women and men in all areas of society. Furthermore, GREVIO encourages the Dutch authorities to recognise violence against women as a form of discrimination against women with a view to interlinking policies and measures on gender equality with those intended to respond to all forms of violence against women, including domestic violence, while applying a strict gender-based approach at all times (paragraph 21).

###### **2. Intersectional discrimination**

5. GREVIO strongly encourages the Dutch authorities to ensure the implementation of the proposed measures for improving protection of women with disabilities, and asylum-seeking and irregular migrant women and to further ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3 (paragraph 26).

##### **E. Gender-sensitive policies (Article 6)**

6. GREVIO urges the Dutch authorities to review the gender-neutral approach and implement the gender analysis of legislation and policy and ensure all policies relating to combating violence against women and domestic violence are gender-sensitive, based on a gendered understanding of

violence against women and domestic violence, and to promote and effectively implement policies of equality between women and men and the empowerment of women (paragraph 33).

## **II. Integrated policies and data collection**

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

7. GREVIO urges the Dutch authorities to adopt and implement integrated, state-wide, effective, comprehensive and co-ordinated policies addressing all forms of violence against women and domestic violence – beyond dependency relations. To be effective, any such policy must recognise the gendered nature of the violence, address its root causes and fully reflect the specific needs of women who are or might be exposed to intersectional discrimination, and must ensure consistency of service provision across the municipalities (paragraph 44).

### **B. Financial resources (Article 8)**

8. GREVIO strongly encourages the Dutch authorities to ensure, for all policies and measures which form part of the required comprehensive and co-ordinated approach to combating violence against women and domestic violence stable and sustainable funding levels on the basis of separate budget and funding lines. Furthermore, GREVIO strongly encourages the Dutch authorities to research into the levels of difference in funding made available for services and measures to prevent and combat violence against women at local level and the reasons therefore (paragraph 50).

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

9. GREVIO strongly encourages the Dutch authorities to recognise the key roles that women's NGOs, including black, migrant and refugee women's organisations in particular, play in developing and implementing policy and ensure steps are taken to encourage and support their work and to maintain and protect their continued participation at local and national level in policy making. To achieve this, GREVIO strongly encourages the Dutch authorities to ensure that adequate financial support is provided in a method enabling the continued and sustainable existence and participation of women's NGOs active in combating violence against women, including black, migrant and refugee women's organisations (paragraph 53).

### **D. Co-ordinating body (Article 10)**

10. GREVIO strongly encourages the Dutch authorities to assign the role of co-ordinating body to fully institutionalised entities, to equip these with clear mandates, powers and competences and to allocate the necessary human and financial resources to these entities in order to ensure, on the one hand, the co-ordination and implementation of policies and measures to prevent and combat all forms of violence against women, and, on the other hand, their independent monitoring and evaluation. In so doing, the authorities should ensure that the functions of the co-ordinating body apply to all forms of violence against women and domestic violence covered by the Istanbul Convention, that they are exercised in close consultation with relevant NGOs and civil society and that they are supported by adequate and appropriate data (paragraph 59).

### **E. Data collection and research (Article 11)**

#### **1. Administrative data collection**

11. In order to document the nature of the relationship of the perpetrator to the victim and the gendered nature of the violence more effectively, GREVIO strongly encourages the Dutch authorities to develop standardised data categories for mandatory use by law-enforcement agencies, the judiciary and all other relevant actors on the gender and age of the victim and perpetrator, their relationship, type of violence and the geographical location. GREVIO also encourages the Dutch

immigration service to introduce a data-collection system that records asylum claims on the basis of gender-related persecution (paragraph 72).

## **2. Population-based surveys**

12. GREVIO encourages the Dutch authorities to carry out surveys on forms of violence against women not previously covered, including stalking, harassment and psychological violence, to assess their prevalence. GREVIO further encourages the Dutch authorities to ensure that the gendered dimensions and different experiences of violence are considered (paragraph 75).

## **3. Research**

13. GREVIO strongly encourages the Dutch authorities to evaluate (paragraph 79):

- i) the impact of the merger of the child protection and domestic violence services and the lack of a specific gendered approach within the national programme and institutions to establish whether these are in fact creating barriers to women's access to prevention and safety mechanisms;
- ii) the implications for and impact on prevention, protection and prosecution of violence against women and domestic violence of the gender-neutral approach, given that the statistics make overwhelmingly clear that women are significantly more likely to be victims than men and that where men are victims of this violence the perpetrator is most likely to be male; and
- iii) to ensure research is undertaken assessing victim's experiences and satisfaction with the institutional response to the different forms of violence against women, including domestic violence.

## **III. Prevention**

### **A. Awareness raising (Article 13)**

14. GREVIO encourages the Dutch authorities to ensure that the gendered nature of violence against women and domestic violence is not overlooked in awareness-raising campaigns owing to the gender-neutral policy which appears to particularly affect domestic violence campaigns. GREVIO further encourages the Dutch authorities to ensure that more efforts are made to address sexual violence against women and that all these campaigns reach women with disabilities, those in addiction, those who are engaged in prostitution and those in hard-to-reach communities (paragraph 86).

### **B. Education (Article 14)**

15. GREVIO encourages the Dutch authorities to ensure that the teaching and implementation of the core educational objectives related to interpersonal relationships and sexuality is standardised across all schools (paragraph 93).

### **C. Training of professionals (Article 15)**

16. GREVIO strongly encourages the Dutch authorities to introduce systematic, mandatory and gender-specific initial and in-service training on all forms of violence against women and domestic violence for all relevant professionals working with women and children who are victims of violence, including professionals covered by the Reporting Code Act, Safe Home and case workers, decision-makers and interpreters in the immigration service. Such training should (paragraph 100):

- i) be based on clear protocols and guidelines that set the standards staff are expected to follow in their respective fields;

- ii) ensure knowledge of the particular characteristics and needs of different vulnerable groups, the impact of multiple discrimination and how to avoid secondary traumatisation and discrimination on any ground.

17. GREVIO invites the Dutch authorities to extend compulsory training on female genital mutilation to all relevant medical practitioners, including general practitioners who often play a key role in identifying victims and those at risk (paragraph 102).

#### **D. Preventive intervention and treatment programmes (Article 16)**

##### **1. Programmes for perpetrators of domestic violence**

18. GREVIO strongly encourages the Dutch authorities to (paragraph 107):

- i) ensure that all perpetrator programmes, including those outside of the prison and probation service, aim to teach perpetrators non-violent behaviour in interpersonal relationships by accepting responsibility for their acts and to ensure that the safety of, support for and the human rights of victims are of primary concern and that programmes are set up and implemented in close co-ordination with specialist support services for victims;
- ii) evaluate the success of programmes for perpetrators of domestic violence, in particular the impact of the gender-neutral approach on rates of violence and recidivism; and to
- iii) use all available means to ensure that such programmes are widely attended, including by incorporating them into the criminal justice system, including the probation service, as a tool to reduce recidivism.

#### **E. Participation of the private sector and the media (Article 17)**

19. In order to reduce the dissemination of stereotyped and sexualised images of women, GREVIO encourages the Dutch authorities to investigate the effectiveness of self-regulation among the media in the area of violence against women, with due regard to relevant existing international standards (paragraph 116).<sup>104</sup>

### **IV. Protection and support**

#### **A. General obligations (Article 18)**

20. GREVIO urges the Dutch authorities to review the gender-neutral approach to the protection and support of victims and to ensure that all measures taken in this regard shall be based on a gendered understanding of violence against women and domestic violence while focusing on the human rights and safety of victims, as well as on their empowerment and economic independence (paragraph 125).

21. Furthermore, GREVIO strongly encourages the Dutch authorities to ensure a higher degree of victim agency when deciding on measures concerning them or their children and facilitate their representation by independent support services while paying due regard to data protection (paragraph 126).

22. GREVIO strongly encourages the Dutch authorities to investigate the reason for the low number of requests for assistance by Safe Home that come directly from victims themselves (paragraph 127).

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104. Cf., *inter alia*, the following Council of Europe instruments: Recommendation No. R (84)17 of the Committee of Ministers to member states on equality between women and men in the media; Recommendation 1555 (2002) of the Parliamentary Assembly of the Council of Europe on the image of women in the media; Recommendation 1799 (2007) of the Parliamentary Assembly of the Council of Europe on the image of women in advertising; and Resolution 1751 (2010) and Recommendation 1931 (2010) of the Parliamentary Assembly of the Council of Europe on combating sexist stereotypes in the media. Reference is also to be made to UNESCO's "Gender-Sensitive Indicators for Media" (GSIM).



## **B. Information (Article 19)**

23. GREVIO encourages the Dutch authorities to ensure that any information made available is reaching particularly vulnerable women through outreach work and encourages the efforts made to carry out research to determine whether provision of information via digital means is effective. GREVIO also encourages the Dutch authorities to provide easily accessible information in all relevant languages to all women victims of all forms of violence, and to include information about rights and services for victims in information packages for migrant and refugee women (paragraph 132).

## **C. General support services (Article 20)**

### **1. Social services**

24. GREVIO urges the Dutch authorities to ensure across that women victims of violence are directly referred to specialist women's support services and that repeat referrals are avoided. It also urges the Dutch authorities to ensure that social services are able to recognise violence against women as gender-based violence and offer support and protective services that pay regard to the underlying issues of power and control and that emphasise the human rights and safety of women victims, while duly promoting victim agency and empowerment (paragraph 145).

### **3. Housing**

25. With the aim of empowering victims and helping them to recover from violence, GREVIO encourages the Dutch authorities to step up measures to ensure wider levels of implementation of the Law on Housing to allow women victims of violence to benefit from priority status for any housing schemes available and to continue existing empowerment programmes aimed at economic independence, ensuring the inclusion of women exposed to or at risk of multiple discrimination (paragraph 150).

## **D. Specialist support services (Article 22)**

26. GREVIO strongly encourages the Dutch authorities to ensure that all women victims of violence and their children are provided with specialist women's support services offering empowering, comprehensive and holistic support in all regions. Such services need to be accessible to all women without any discrimination, in particular irregular migrant women and refugee and asylum-seeking women (paragraph 157).

## **E. Shelters (Article 23)**

27. GREVIO urges the Dutch authorities to ensure that their efforts to redistribute shelter places throughout the territory does not result in permanent loss of shelter provision. Moreover, GREVIO strongly encourages the Dutch authorities to expand the provision of shelters to reach the minimum standard of one family place per 10 000 head of population (paragraph 165).

## **F. Telephone helplines (Article 24)**

28. GREVIO encourages the Dutch authorities to provide a telephone advice line covering all forms of violence against women covered by the Istanbul Convention that is separate from the child protection service and that is operated by staff trained in the need for a gender-based approach to violence against women, including domestic violence (paragraph 169).

## **G. Support for victims of sexual violence (Article 25)**

29. GREVIO strongly encourages the Dutch authorities in conjunction with relevant NGOs and the Centres for Sexual Violence to develop procedures, protocols and training to enable access to treatment and assistance to all victims of sexual violence, including women with disabilities, and

particularly those with intellectual disabilities and women who might be discouraged by the additional payment required (paragraph 174).

## **H. Protection and support for child witnesses (Article 26)**

30. GREVIO encourages the Dutch authorities to ensure that all relevant actors, statutory or non-governmental, including, for example, Safe Home, domestic violence shelters and social neighbourhood teams, give due consideration to the rights and needs of child witnesses, based on a gendered understanding of domestic violence against women, and develop measures to support child witnesses, such as risk assessments, applications for protection orders and referrals to specialist counselling. Such measures should be co-ordinated with measures taken in relation to the settlement of custody and visitation rights (see Chapter V, Article 31) (paragraph 178).

## **I. Reporting (Article 27) and Reporting by professionals (Article 28)**

31. GREVIO strongly encourages the Dutch authorities to investigate whether the high threshold (“serious risk”) that should be crossed prior to reporting a risk of violence to Safe Home under the Reporting Code without an individual’s consent is applied by professionals in practice and whether the fact that a report to Safe Home might be made by professionals is negatively affecting women’s behaviour in seeking help (paragraph 185).

## **V. Substantive law**

### **A. Civil law**

#### **2. Compensation (Article 30)**

32. GREVIO encourages the Dutch authorities, through training of judges and prosecutors and other measures, to ensure that compensation claims are duly processed, including by removing any de jure and de facto barriers which prevent women victims of violence from claiming compensation for any of the offences established in accordance with the Istanbul Convention. Furthermore, GREVIO invites the Dutch authorities to collect data on the number of cases of violence against women (criminal and civil procedure) in which perpetrators have been ordered to pay compensation to the victim to assess whether the system is effective (paragraph 197).

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

33. GREVIO urges the Netherlands to take the necessary measures, including any required legislative amendments, to ensure that courts are under an obligation to (paragraph 205):

- i) consider all issues relating to violence against women and domestic violence when determining custody and visitation rights;
- ii) ensure that the risk of witnessing future violence against a close person is recognised as the perpetrator jeopardising the best interests of the child;
- iii) adopt gender-sensitive guidelines to ensure that the gender-based nature of the violence and the impact of any power imbalance in the relationship on the ability to negotiate fairly are recognised and that necessary support requirements for women victims of violence are in place in child procedures; and
- iv) restrict the custody and visitation rights where this is warranted to guarantee the safety and best interests of the child.

#### **4. Civil consequences of forced marriages (Article 32)**

34. GREVIO invites the Dutch authorities to take measures to strengthen the legal remedies for women in situations of forced marriage in order to regain their unmarried civil status, in particular by

removing the time limit on annulments and by offering the legal entitlement to void or dissolve a marriage (paragraph 209).

## **B. Criminal law**

35. GREVIO strongly encourages the Dutch authorities to ensure that offences of domestic violence are prosecuted and punished and that sanctions are effective, proportionate and dissuasive, taking into account the repeat nature of the offences and the dependency of the victims (paragraph 213).

### **1. Psychological violence (Article 33)**

36. GREVIO strongly encourages the Dutch authorities to investigate, prosecute and punish effectively acts of psychological violence (paragraph 219).

### **2. Stalking (Article 34)**

37. In order to ensure the effective implementation of the criminal offence of stalking (Section 285b of the Criminal Code) GREVIO encourages the Dutch authorities to improve and implement investigation and prosecution guidelines and to conduct specialist training on the gendered and serious nature of stalking and to ensure the application of preventive operational measures to avoid reoffending (paragraph 222).

### **3. Sexual violence, including rape (Article 36)**

38. GREVIO encourages the Dutch authorities to speedily reform the Criminal Code provisions covering sexual violence and ensure they are based on the notion of freely given consent and to ensure appropriate sanctions for all sexual acts without the consent of the victim as required by Article 36 of the Istanbul Convention (paragraph 226).

### **4. Forced marriage (Article 37)**

39. GREVIO encourages the Dutch authorities to consider introducing a specific criminal offence of forced marriage to cover the special nature of this practice. This should be complemented by the provision of specialist training in order to make it operational for law-enforcement authorities and courts (paragraph 230).

### **5. Female genital mutilation (Article 38)**

40. GREVIO encourages the Dutch authorities to introduce a specific provision criminalising the intentional act of excising, infibulating or performing any other mutilation to the whole or any part of a woman's labia majora, labia minora or clitoris and ensuring that coercing or procuring a woman or girl or additionally inciting a girl to undergo any of those acts is also punishable, and to determine the incidence of cases of female genital mutilation that are reported and prosecuted to assess whether there is a gap in protection (paragraph 232).

### **6. Sexual harassment (Article 40)**

41. GREVIO encourages the Dutch authorities to pursue the review of the Criminal Code to include an adequate criminal response to all forms of sexual harassment, including newer forms of harassment, and to ensure that sexual harassment including online harassment is adequately criminalised (paragraph 236).

### **7. Aggravating circumstances (Article 46)**

42. GREVIO strongly encourages the Dutch authorities to ensure that the presence of children is considered as an aggravating circumstance by the judiciary, together with all other aggravating

circumstances listed in Article 46 of the Istanbul Convention.<sup>105</sup> This would include ensuring the understanding among the Public Prosecution Service and judiciary that dismissals or short sentences in domestic violence cases and other forms of violence against women do not serve the principles of ensuring justice for victims, ending impunity for perpetrators or deterrence (paragraph 240).

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

43. GREVIO urges the Dutch authorities to review and adapt legislation and guidance on alternative dispute resolution in all criminal cases of violence against women and domestic violence, to ensure that such practices do not lead to their decriminalisation and that the rights of victims are upheld. GREVIO also strongly encourages the Dutch authorities to introduce clear protocols and guidance in all areas of law where mediation is used, to ensure all offers of mediation are accepted entirely voluntarily and that no inappropriate pressure is placed on women to accept any form of mediation or alternative dispute resolution (paragraph 247).

44. In addition, GREVIO strongly encourages the Dutch authorities to research the impact of diverting cases away from the criminal justice system on both recidivism rates and deterrence (paragraph 248).

## **VI. Investigation, prosecution, procedural law and protective measures**

### **A. Immediate response, prevention and protection (Article 50)**

#### **1. Reporting to and investigations by law-enforcement agencies**

45. GREVIO strongly encourages the Dutch authorities to take further action to develop binding guidelines and training to encourage the rate of reporting and improve the effectiveness of investigations by ensuring law-enforcement agencies have the capacity and skills to deal with all victims of violence, including victims of sexual violence, while applying a victim-centred and gender-sensitive approach. This includes offering safe reporting, protection and respect to all women victims of violence and their children (paragraph 258).

46. GREVIO encourages the Dutch authorities to review the impact of the police reform and the resulting loss of specialist domestic violence officers on reporting and investigation of offences. This will require the collation of properly recorded and disaggregated data to enable the relevant authorities to determine whether and what crimes are being reported and what outcome is achieved (paragraph 259).

#### **2. The role of the prosecution services and conviction rates**

47. GREVIO encourages the Dutch authorities to ensure that all acts of violence against women and domestic violence covered by the Istanbul Convention are prosecuted and sanctioned swiftly, and that effective measures to reduce high dismissal rates are set in place, including the further improvement of evidence collection and the use of forensic documentation and evidence. GREVIO further strongly encourages the Dutch authorities to collate data disaggregated by gender to enable a proper assessment and analysis of the prosecution and protection systems and swiftly identify and address any factors which reduce and/or remove women's participation in and access to justice (paragraph 269).

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105. See also the emerging case law of the European Court of Human Rights, which states that under the Istanbul Convention "more severe sentences are required when the offence is committed against or in the presence of a child" (*D.M.D. v. Romania*, Judgment, 3 October 2017, p. 9, paragraph 27).

## **B. Risk assessment and risk management (Article 51)**

48. GREVIO strongly encourages the Dutch authorities to ensure that in all cases of violence against women and domestic violence systematic and gender-sensitive risk assessment and co-ordinated safety management become standard procedure for all agencies involved, especially criminal justice agencies. In addition, GREVIO strongly encourages the Dutch authorities to (paragraph 275):

- i) take action to reduce the length and/or complexity of the risk assessment at the initial administrative stage when obtaining a temporary restraining order (TRO) to improve the numbers applied for;
- ii) identify whether risk assessments are being appropriately and effectively used throughout the regions to ensure proper and adequate use of TROs and that cases of violence against women and domestic violence are swiftly referred to specialist women's support services, avoiding repeat referrals.

## **C. Emergency barring orders (Article 52)**

49. GREVIO strongly encourages the Dutch authorities to ensure that the legal provision on temporary restraining orders complies with the Istanbul Convention, regardless of the relationship of the perpetrator to the victim or the residence of the perpetrator, and further strongly encourages the Dutch authorities to step up efforts to increase the use of temporary restraining orders by ensuring the police have clear guidelines and are properly trained in ensuring their vigilant enforcement (paragraph 285).

50. In this regard, GREVIO strongly encourages the Dutch authorities to collect data on the use of temporary restraining orders and assess the level of implementation of the Temporary Restraining Order Domestic Violence Act (paragraph 286).

## **D. Restraining or protection orders (Article 53)**

51. GREVIO encourages the Dutch authorities to ensure that the measures available under the Temporary Restraining Order Domestic Violence Act are combined with easy access to civil court restraining orders, which victims may apply for, and to ensure that victims receive proactive support from specialist women's support services as soon as an emergency barring order has been issued, including support for applying for a civil law protection or restraining order. Moreover, GREVIO encourages the Dutch authorities to provide the legal right to victims to apply for restraining and protection orders during criminal proceedings and to collect data on the number, type and duration of such orders issued annually (paragraph 292).

## **E. Victim support in legal proceedings (Article 55, paragraph 2)**

52. GREVIO strongly encourages the Dutch authorities to ensure the practical facilitation of women's access to gender-specific victim support services offering comprehensive support and avoiding secondary traumatising through repeat referrals in cases of domestic violence and other forms of violence against women (paragraph 297).

## **F. Legal aid (Article 57)**

53. GREVIO encourages the Dutch authorities to investigate the impact of legal aid cuts on women's access to justice in criminal and family courts and in respect of claims for and awards of damages (paragraph 301).

## **VII. Migration and asylum**

### **A. Residence status (Article 59)**

54. GREVIO encourages the Dutch authorities to continue the practice of granting independent residence permits to migrant victims of domestic violence. GREVIO also invites the Netherlands to evaluate the impact of the extension of the qualifying period, the requirement to pass the civic integration test and changes to the evidential requirements for victims of domestic violence on the practical ability of migrant women to access and benefit from the autonomous residence permit provisions (paragraph 307).

### **B. Gender-based asylum claims (Article 60)**

55. With the purpose of ensuring effective gender-sensitive procedures, GREVIO invites the Dutch authorities (paragraph 319):

- i) to ensure the systematic provision of information to asylum-seeking women about their rights, as women, prior to their interview with the Immigration and Naturalisation Service (IND). This should include information about the forms of gender-based persecution and ensure women have timely and effective access to medical and other support services to enable them to provide supporting evidence for their claims and evidence of their vulnerability.
- ii) to develop and implement gender guidelines and training to ensure that a gender-sensitive interpretation is applied to each of the grounds of persecution as required by Article 60 of the Istanbul Convention.
- iii) to ensure that legal representation within the immigration and asylum system is of adequate quality and that any reforms to legal aid do not reduce either availability, quality of representation or accessibility.

56. GREVIO encourages the Dutch authorities to collect disaggregated data on the grounds of persecution accepted for women fleeing gender-based violence (paragraph 320).

### **C. Non-refoulement (Article 61)**

57. GREVIO welcomes the recognition that a country that is generally safe may not be so for clearly identifiable minority groups and invites the authorities of the Netherlands to review the “safe country” list for all women, particularly those fleeing domestic and gender-based violence and LBT women (paragraph 322).

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## **Appendix II**

### **List of the national authorities, other public bodies, non-governmental organisations and civil society organisations with which GREVIO held consultations**

#### **National authorities**

- Ministry of Health, Welfare and Sport
- Ministry of Justice and Security
- Ministry of Education, Culture and Science
- Ministry of Social Affairs and Employment
- Ministry of Foreign Affairs
- Ministry of Finance

#### **Local authorities**

- Municipality of Utrecht

#### **Public bodies**

- Safe Home organisations
- Centres for Sexual Violence
- National Ombudsman
- Ombudsman of Children
- Netherlands Institute for Human Rights (NHRI)
- Association of Dutch Municipalities
- Statistics Netherlands

#### **Non-governmental organisations**

- Amnesty International Netherlands
- Arosa
- Atria
- Dutch Association Women and Law Clara Wichmann (VVR)
- Association of Moroccan Women in the Netherlands (MNVN)
- Blijf Group
- Bureau Clara Wichmann
- Dutch NGO Coalition for Children's Rights
- Dutch Federation of Shelters (Opvang Federation)
- Dutch CEDAW Network
- Dutch Gender Platform Wo=MEN
- Dutch Organisation for Sex Diversity (NNID)
- Dutch section of the International Commission of Jurists (NJCM)
- Dutch Women's Council
- Federation of Somali Associations in the Netherlands (FSAN)
- Femme for Freedom
- Respect Network Europe
- Rutgers – Centre for expertise on sexual and reproductive health and rights
- Stichtinglos
- Shelter for Women Rosa Manus
- Transgender Network of the Netherlands (TNN)
- TIYE International







GREVIO, the *Group of Experts on Action against Violence against Women and Domestic Violence*, is an independent human rights monitoring body mandated to monitor the implementation of the *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* (Istanbul Convention) by the Parties.

The Istanbul Convention is the most far-reaching international treaty to tackle violence against women and domestic violence. Its comprehensive set of provisions spans far-ranging preventive and protective measures as well as a number of obligations to ensure an adequate criminal justice response to such serious violations of human rights.

This report contains an overall analysis of the implementation of the provisions of the Istanbul Convention. It highlights positive initiatives in preventing and combating all forms of violence against women at national level and provides suggestions and proposals to improve the situation of women facing such violence.

[www.coe.int/conventionviolence](http://www.coe.int/conventionviolence)

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union.

All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law.

The European Court of Human Rights oversees the implementation of the Convention in the member states.

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