



GREVIO

Baseline Evaluation Report Portugal

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



Istanbul Convention

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

It is composed of 10 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 Portugal. It covers the Istanbul Convention in its entirety¹ and thus assesses the level of compliance of the Portuguese 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”. The term “violence against women” used throughout this report thus refers to all forms of violence against women criminalised (or, where applicable, otherwise sanctioned) under Chapter V of the convention, which are psychological violence, stalking, physical violence, sexual violence – including rape – forced marriage, female genital mutilation, 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. 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. These are, in order of priority, “urge”, “strongly encourage”, “encourage” and “invite”. GREVIO uses the verb “urge” 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. The verb “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 the verb “encourages”, which is used for shortcomings that require attention, though possibly at a later stage. Lastly, the verb “invites” points to small gaps in implementation which the party is requested to consider closing or to proposals made to provide guidance in the implementation process.

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

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);
- a state dialogue with representatives of the party on issues emanating from the state report;
- an evaluation visit to the party under review to meet with governmental and non-governmental representatives working in this field;
- comments by the party on GREVIO's draft report;
- publication of GREVIO's report after its adoption together with any comments received from the party.

In addition, GREVIO collects additional information from various other sources, including non-governmental organisations (NGOs), other members of civil society, national human rights institutions and Council of Europe bodies (Parliamentary Assembly, Human Rights Commissioner and other pertinent bodies), as well as other international treaty bodies. Within the framework of the evaluation of Portugal, GREVIO received one written contribution from the Association of Women's against Violence (Associação de Mulheres Contra a Violência - AMCV), the Portuguese Platform for Women's Rights (Plataforma Portuguesa para os Direitos das Mulheres - PpDM), the National branch of the European Women's Lobby Observatory on Violence against Women, one from the Portuguese Association of Women in Legal Careers (APMJ) and one from the Associação para o Planeamento da Família (APF) together with the End FGM European Network. The state report, and the written contributions submitted by civil society, are generally made public and 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 October 2018. 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 the national authorities to translate this report into their official national language(s) and to ensure that it is widely disseminated, not only to the relevant state institutions at all levels (national, regional and local), in particular to the government, the ministries and the judiciary, but also to NGOs and other civil society organisations which work in the field of violence against women.

Executive summary

This report provides an assessment of the measures of implementation taken by the Portuguese 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 Portuguese authorities and additional information submitted by the Portuguese Platform for Women’s Rights and the Portuguese Association of Women in Legal Careers), a state dialogue between GREVIO and the Portuguese authorities on a select number of issues as well as a five-day evaluation visit to Portugal. A list of the bodies and entities GREVIO with which exchanged can be found in Appendices II and III.

The report highlights the significant commitment demonstrated by the Portuguese authorities over the years to tackle violence against women in parallel to efforts to promote equality between women and men. During the 2014 survey of the European Union Agency for Fundamental Rights (FRA) on violence against women, Portugal emerged as the EU country with the highest average level of awareness on preventive measures in the area of domestic violence. Domestic violence has been a long-term focus of the Portuguese authorities. Following the country’s ratification of the Istanbul Convention in 2013, the scope of public policies was widened beyond domestic violence and other forms of violence against women with a clear gendered connotation, such as stalking, female genital mutilation (FGM) and forced marriage were criminalised. Commendable efforts in the area of FGM have further resulted in three consecutive programmes of action specifically targeting FGM, making Portugal a pioneer in this area. Despite these endeavours, the report identifies margins of progress for policies to comprehensively address all forms of violence in terms of prevention, protection and prosecution, and thus contribute to raise low reporting levels. The report stresses the need for Portugal to continue to approach all forms of violence in a holistic manner and build on progress already achieved within the framework of the country’s new long-term strategy combining together measures pertaining to all forms of gender-based violence, gender equality and LGBTI rights.

The national co-ordination body in Portugal (CIG) established to ensure implementation, monitoring and evaluation of gender-equality policies and gender-based violence plans benefits from high political standing to promote interministerial co-operation. Nevertheless, GREVIO’s report finds that the implementation of national action plans on violence against women would benefit from a more robust co-ordination between the governmental agencies. At the operational level, the impact of Law No.112/2009 on domestic violence which codifies the duty of co-operation and communication between social services, child protection services, law-enforcement agencies and health officials could be improved, in particular by means of a greater involvement of local authorities. Accordingly, the report emphasises the need to confer upon the CIG the necessary powers and resources to improve interministerial co-ordination and interagency co-operation as a means to ensure equal access to support and protection for all women victims across the country and equal enjoyment of their human rights.

With the enactment of Law No. 112/2009, the National Support Network for Victims of Domestic Violence was created as a framework for multiagency response bringing together all relevant governmental and non-governmental entities. Further efforts are needed to ensure that the provision of protection and support services by both private and public entities composing the network is based on a gendered understanding of violence against women and follows a human rights-based approach. To this end, the report suggests further developing guidelines and ensuring regular initial and in-service training for all officials concerned on the different manifestations of violence against women, the prevention of secondary victimisation and the effects of violence on

child victims and witnesses. Moreover, the report suggests streamlining gendered approaches that follow the standards of the Istanbul Convention among all non-governmental entities dealing with violence against women. The effective implementation of the newly introduced national certification system to ensure compliance with the mandatory minimum standards developed by CIG is key to the achievement of this goal. Furthermore, such efforts need to be accompanied by measures to develop financial support mechanisms enabling access to sustainable funding for all women NGOs, including recently established organisations which have a fundamental role to play in filling the gaps in the provision of specialist services for all women victims of violence.

The report outlines progress achieved in building a solid legislative framework to address violence against women and identifies a few remaining important gaps. A particular area of concern is the definition of rape which is not based only on the absence of freely given consent and requires the use of “constraint”. The very low rates of reporting and convictions for the offence of rape demonstrate the pressing need to place a firm focus on the absence of consent of the victim. Further amendments to the criminal legislation are required to ensure that the offence of sexual harassment is fully in line with the definition in Article 40 of the convention, as well as to ensure that all the aggravating circumstances foreseen in Article 46 of the convention are available for judges to consider when sentencing perpetrators.

Full accountability for all acts of violence against women requires adequate responses by law-enforcement agencies and the criminal justice sector. While recognising the merits of Portugal's central piece of legislation on domestic violence, Law No. 112/2009, for establishing domestic violence as a public crime, GREVIO's report outlines certain shortcomings in its implementation. An issue is found in relation to the subsidiary nature of domestic violence compared to more serious offences: when a more serious crime has been committed in an intimate relationship, such as rape, prosecution generally proceeds under the more serious criminal offence, a practice which obscures the gendered dimension of domestic violence. The conviction rates for domestic violence remain low and the limited data in relation to other forms of violence against women confirm a similar trend. Noticeable progress has been made in the past decades regarding the way investigations and prosecutions into cases of violence against women are carried out. Still, the report finds that legal processes continue to expose victims to the risk of secondary victimisation as a consequence of enduring stereotypes which convey the notion that victims lie about domestic violence and/or sexual abuse of their children and alienate their children from the violent parent. A further concern is raised in the report regarding a general lack of emphasis on achieving convictions in cases of violence against women, including as a consequence of the widespread use of suspended proceedings. Victims' protection and support during legal proceedings requires further strengthening, in accordance with the standards in Articles 52 and 53 of the convention, regarding respectively emergency barring and protection or restraining orders.

Despite initial steps taken by the legislator to ensure co-ordination between criminal courts and family courts, the report finds that family courts' decisions on custody and visitation rights fail to give sufficient consideration to the rights of victims and the impact of violence against women on child witnesses when seeking to determine the best interest of the child. GREVIO therefore points to the urgent need to ensure that all statutory agencies involved, including family judges, follow a unified approach which prioritises the need for protection and safety of the victims of domestic violence and which recognises that children witnessing abuse by one parent can be as affected as much as if they had experienced it themselves. Suggestions made in the report towards achieving this goal centre on the need for family courts to liaise with law-enforcement and prosecuting agencies, and to verify whether there are issues of violence which would warrant restricting custody and visitation rights.

While GREVIO welcomes Portugal's ratification of the Istanbul Convention, it has identified a number of priority issues requiring further action by the Portuguese authorities to comply fully with the convention's provisions. In addition to the above considerations, these issues relate to the need to:

- take measures to ensure that the offence of domestic violence is effectively prosecuted, including, where applicable, through the cumulative application of the criminal provisions related to several concurrent offences, and that sentencing adequately reflects whether the violence qualifies as domestic violence;
- adopt a definition of domestic violence which includes economic violence, in line with Article 3b of the Istanbul Convention and take measures to ensure that the offence of domestic violence is effectively prosecuted;
- review the definition of victim in their legislation to reflect the scope of the definition of victim given in Article 3e of the Istanbul Convention and examine the implications on victims' access to their rights of the current configuration of the formal status of victim;
- expand the number and types of perpetrator treatment programmes available and develop common minimum standards applying to these programmes;
- further develop and increase support to specialist support services and shelters to cover the needs of the victims of all forms of violence against women and their children, in close co-operation with women's NGOs;
- set up or support the functioning of a dedicated telephone helpline addressing women victims of all forms of violence;
- ensure that law-enforcement agencies' and courts' handling of cases of violence against women is strongly anchored to a gendered understanding of violence against women and centres on the safety and the human rights of women and their children, as well as to prevent the use in judicial proceedings of evidence related to the sexual history and conduct of the victim with no probative value;
- amend the Portuguese legislation in line with the rules regarding *ex parte* and *ex officio* prosecution set out in Article 55 of the convention, as regards in particular all offences of physical and sexual violence.

Furthermore, GREVIO has identified a number of additional areas in which improvements are necessary in order to comply fully with the obligations of the convention. These relate, among others to measures to strengthen co-operation mechanisms with NGOs to ensure consultation processes are inclusive and transparent; measures to improve data collection, in particular in the health and criminal justice sectors; and measures regarding migrant victims' right to an autonomous residence permit and asylum-seeking women's rights to obtain international protection for reasons of gender-based violence.

Introduction

Portugal signed the Istanbul Convention on 11 May 2011, the date on which the convention was opened for signature, and ratified it on 5 February 2013. Portugal ratified the convention with no reservations. The convention entered into force with respect to Portugal on 1 August 2014.

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 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 Portugal by letter and transmission of its questionnaire on 9 May 2017. The order of reporting to GREVIO is based on a combination of regional groupings and order of ratification. The Portuguese authorities subsequently submitted their state report on 8 September 2017. Following a preliminary examination of the Portuguese state report and of the additional information submitted by a coalition of NGOs, GREVIO held a state dialogue with representatives of Portugal on 22 February 2018 in Strasbourg. A list of representatives of the Portuguese Government who participated in the state dialogue can be found in Appendix II. As a second step, GREVIO carried out an evaluation visit to Portugal which took place from 19 to 23 March 2018. The delegation was composed of:

- Simona Lanzoni, member of GREVIO
- Vesna Ratkovic, member of GREVIO
- Anthony Wills, independent expert
- Malek Wan Daud, barrister
- Christina Olsen, administrator at the Secretariat of the monitoring mechanism of the Istanbul Convention.

During the evaluation visit, the delegation met with a range of governmental and non-governmental representatives working in the area of preventing and combating violence against women, including legal and medical practitioners, social workers, representatives of the media and of international governmental and non-governmental organisations. A list of the national authorities, NGOs and others met is set out in Appendix III of this report. GREVIO is grateful for the valuable information provided by all of them.

The state dialogue and evaluation visit was prepared in close co-operation with Raquel Chantre 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 Portuguese authorities.

As a first baseline evaluation, GREVIO has looked into the measures of implementation taken by the Portuguese authorities with regard to all aspects of the convention and reviewed data from the years 2015 and 2016. 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, that it is a fundamental human right for everyone, particularly women, to live a life free from violence in both the public and the private sphere, that the convention must be implemented without discrimination on any ground and that the potential for, and effects of, multiple forms of discrimination should be borne in mind. They also spell out that a gender perspective must be integrated into the implementation of the convention and the evaluation of its impact.

B. Scope of the convention (Article 2)

2. The scope of GREVIO's first baseline evaluation is calibrated to reflect the scope of the Istanbul Convention, as defined in its Article 2, paragraph 1. It thereby extends to all forms of violence against women, including domestic violence, which affects women disproportionately. The term "violence against women" used for the purposes of the evaluation thus encompasses all forms of violence against women that are 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, forced abortion, forced sterilisation and sexual harassment.

3. The report submitted by the Portuguese authorities to GREVIO illustrates efforts taken across the full range of forms of violence against women. In terms of chronological succession, the first area to be addressed through integrated public policies was that of domestic violence, when in 1999, the Portuguese Council of Ministers adopted the country's first National Plan against Domestic Violence. The enactment of Law No. 112/2009 on domestic violence institutionalised statutory agencies' co-operation in this area. In terms of criminal law, domestic violence became a crime in 2007. Following the country's ratification of the Istanbul Convention in 2013, further steps were taken to widen the scope of public policies beyond domestic violence. Other forms of violence against women with a clear gendered connotation, such as stalking, female genital mutilation and forced marriage, were introduced in Portugal's Criminal Code (the PCC) by Law No. 83/2015. The V National Plan on Violence against Women (the V NAP) launched in 2014 was the first to aim at encompassing all forms of gender-based violence against women, including but not limited to domestic violence. It included a separate programme of action on female genital mutilation, the third to have been developed since 2010. The V NAP ran in parallel with Portugal's V National Plan for Gender Equality, Citizenship and Non-Discrimination.

4. Following the expiry in 2017 of these two national plans, the authorities have taken the new approach of combining measures pertaining to gender equality and gender-based violence under a broader long-term strategy. The strategy's timeline is framed on that of the United Nations 2030 Agenda for Sustainable Development and is divided into three four-year-long periods which will each be subject to evaluation. The new strategy is structured in three operational plans covering gender equality, violence against women and LGBTI rights. At the time of GREVIO's evaluation, the new strategy had just been finalised and GREVIO was not in a position to examine it. GREVIO was informed that the new National Strategy for Equality and Non-Discrimination (2018-30) (ENIND) was designed to address the multiple factors leading to intersectional discrimination and to adapt to the different territorial needs of the country, while promoting the development of strategic partnerships with academia, the private sector and civil society. GREVIO welcomes the integrated approach followed by the ENIND which can be of particular relevance to address those forms of violence which are prevalent among certain groups of women. GREVIO was, nevertheless, apprised of the concern expressed by civil society organisations working in the field of violence against women that the wide breadth of the new strategy might not allow for addressing

effectively the singularities of the different forms of violence against women. Considering that comprehensive measures to tackle forms of violence against women other than domestic violence have only recently been undertaken and are still in the making, GREVIO considers that sustained commitment and continued investments in this area remain crucial.

5. GREVIO strongly encourages the Portuguese authorities to ensure that their policies incorporate a long-term plan/strategy giving effective and due importance to all forms of violence covered by the Istanbul Convention and based on consistent and ongoing funding to allow for sustainable and comprehensive actions throughout the entire territory of the country.

C. Definitions (Article 3)

1. Definition of domestic violence

6. Domestic violence has been criminalised in Portugal since 2007. Under Article 152 of the PCC, “whoever, in a repetitive manner or not, imposes physical or mental abuses, including bodily punishments, deprivations of liberty and sexual offences to the spouse or ex-spouse; to a person of another or of the same sex with whom the agent maintains or has maintained a relationship equal to a relationship of spouses, even if without cohabitation; to a progenitor of common descendant in the first degree; or to a person particularly undefended, due to age, deficiency, disease, pregnancy or economic dependency, who cohabitates with him, is punished with a sentence of imprisonment from one to five years”. Harsher imprisonment terms apply if the domestic violence is committed “against a person who is particularly defenceless, because of age, disability, illness, pregnancy or economic dependency” (one to five years) or “against a minor, in the presence of a minor, in the common domicile or in the victim’s domicile” (two to five years). Further increases in the penalty apply where the violence causes grievous bodily injury or the death of the victim, in which cases the author of the violence incurs a prison term of two to eight years or three to ten years, respectively.

7. The merit of this reform was to bring the issue of domestic violence out into the public domain and to define the offence as a public crime. Thus, public prosecutors may initiate criminal proceedings in cases of domestic violence regardless of whether or not the victim wishes to press charges and the crime may be reported by anyone. The aim to make domestic violence visible and to consider it a serious crime is, however, in part undercut by the conceptualisation of domestic violence as a subsidiary crime, which becomes inapplicable if the perpetrator incurs a heavier punishment under any other legal provision. Legal practitioners have reported to GREVIO that the effect of this clause is that where a more serious crime has been committed in an intimate relationship, such as rape, the criminal case and the sentencing might concentrate on rape without further proceeding with the offence of domestic violence. Judicial practices are reported to be inconsistent and in some cases, courts might for instance maintain proceedings on the offence of domestic violence: if however the sentencing for domestic violence is subsumed with the sentencing for the more serious offence such as rape, there will be no recording of the conviction for domestic violence. This raises the question of whether the courts’ approach to domestic violence against women is insufficiently linked to a gendered understanding of such violence. Another issue which was brought to the attention of GREVIO is that to escape from the pressure of the more stringent deadlines that apply for handling domestic violence cases, law-enforcement officials and magistrates might decide not to qualify the violence as domestic violence. Such practices result in the victim not receiving the full support to which she is entitled and in the creation of inaccurate data with recorded cases of domestic violence only representing a fraction of the actual cases.

8. GREVIO further notes that the definition of domestic violence given in Article 152 of the PCC falls short of capturing the full range of manifestations of such violence by failing to mention economic violence. Although economic violence as such is not included in the acts of violence parties are required to criminalise under Chapter V of the convention, it is included in the definition of domestic violence set out in Article 3b of the convention. It is often accompanied by

psychological violence. Acts of control and monitoring of the behaviour of a woman in terms of the use and distribution of money, and the constant threat of denying economic resources can constitute economic violence. The relevance of economic violence for the purposes of assessing the harm caused to the victim has been amply illustrated in previous GREVIO evaluations.² Law enforcement agencies in Portugal are aware of the relevance of economic violence which they can identify as such when compiling domestic violence reports.

9. GREVIO strongly encourages the Portuguese authorities to take all necessary measures to:

- a. adopt a definition of domestic violence which includes economic violence, in line with Article 3b of the Istanbul Convention;**
- b. take measures to ensure that the offence of domestic violence is effectively prosecuted, including, where applicable, through the cumulative application of the criminal provisions related to several concurrent offences, and that sentencing adequately reflects whether the violence qualifies as domestic violence.**

2. Definition of victim

10. Under Article 2 of Law No. 112/2009, a victim of domestic violence is defined as a person “who has suffered harm, namely an attack against his/her physical or mental well-being, moral or emotional harm or material loss directly caused by an action or omission, within the scope of the crime of domestic violence provided for in Article 152 of the Penal Code”. The definition of victim adopted for crimes other than domestic violence by the Portuguese Code of Criminal Procedure (the PCCP) follows the same logic. Legal practitioners point to the restricted scope of these definitions which are based on the notion of direct causality between the offending conduct and the harm suffered by the victim. They argue that the definitions leave out of their scope persons who would qualify as victims under the definition in Article 3e of the Istanbul Convention, namely persons who were exposed to a conduct that was likely to result in harm – regardless of the actual harm – and indirect victims including child witnesses.

11. In Portugal, legislation has been enacted to formalise the status of victim based on the aforementioned definitions. The specific status of victim of domestic violence is regulated by Law No. 112/2009, while the status of victim of crimes other than domestic violence is subject to Law No. 130/2015, which transposes the Victims’ Rights Directive 2012/29/EU into Portuguese legislation. The status of victim gives access to a series of rights, such as the right of the victim of domestic violence to become an assistant³ to the proceedings and to obtain a ruling on the case no later than eight months after the opening of the proceedings. Victim status further confers the right to receive information on available protection and support services, as well as on applicable conditions and procedures for accessing various legal remedies. Additional measures of protection are foreseen for victims of crimes, including victims of domestic violence, who qualify for the special status of vulnerable victim. They include, among others, the right to give testimony through videoconferencing, to submit a declaration for future use in a trial and to benefit from translation services in judicial proceedings. The special status of vulnerable victim applies to victims of violent crimes identified as such in the PCCP, including rape, sexual abuse, child pornography, human trafficking and female genital mutilation.

² See GREVIO’s baseline evaluation on Monaco, published in September 2017.

³ The status of assistant is explained in the following terms in the informative brochure “Know your rights as a crime victim”, of the Portuguese Association for Victim Support (APAV): “When private crimes are involved, it is compulsory for the victim to have the status of assistant since, at the end of the inquiry stage, the Public Prosecution Service, rather than deciding whether to charge the suspect or not, will send the evidence gathered to the assistant to decide whether or not they wish to press charges against the suspect, that is, whether or not to take the defendant to court. For other kinds of crimes, the status of assistant is optional but this status may be very useful and effective, especially for having a say in deciding on the provisional suspension of the case, for agreeing or otherwise to close the case, or for filing applications and lodging appeals”. If granted the status of assistant, the victim must pay the court a fee and a lawyer will be appointed to advise her, but legal aid benefits may be granted.

12. The experience of actors in the field regarding the implementation of the norms on victim status is that its inherent formalism can at times act as an obstacle to accessing information and protection. Under Article 14 of Law No. 112/2009, the attribution of the status of victim of domestic violence requires, as a general principle, the prior submission of a complaint or a report by a law enforcement official. Victims who are unwilling to press charges or to approach law enforcement agencies are therefore prevented from receiving the status. GREVIO notes that in exceptional and duly justified situations, the status of victim can be conferred by the Commission for Citizenship and Gender Equality (the CIG). GREVIO was informed that since the introduction of this exception in Law No. 112/2009 by an amendment of 2011, no victim or NGO supporting victims had ever applied for the status on these exceptional grounds. Data provided by the authorities reveal that in 2016, as many as 8% of all victims of domestic violence waived the right to the status. GREVIO considers that there should be an analysis into the reasons why victims renounced the status and whether they would have opted for the status had they been given the choice to claim it from the CIG rather than from the law-enforcement agencies.

13. Furthermore, the aforementioned Article 14 of Law No. 112/2009 specifies that for the status of victim to be granted, there should be “no strong indication that [the complaint] is unfounded”. Although GREVIO was not provided with any data which would indicate that victims were denied the status on this basis, it is of the opinion that such a requirement, with no clear indication of the criteria which would justify withholding the status, answers no real purpose and can be interpreted as conveying the notion that victims might lie about the violence. Moreover, although women’s NGOs with experience in representing victims recognise that the law-enforcement agencies responsible for granting the status usually act promptly, they also indicate that practices vary throughout the country and that there have been cases where delays in the procedure for granting the status of victim have exposed women to repeat victimisation.

14. The authorities have informed GREVIO that with the exception of rights related to criminal proceedings, all victims of domestic violence, irrespective of whether they have been granted the status of victim, have access to general and specialist support services on equal grounds with women having the formal status of victims. GREVIO is however concerned that victims who waive the status might not have equal access to information on available support services, and therefore experience more difficulties in accessing them.⁴

15. GREVIO strongly encourages the Portuguese authorities to:

- a. review the definition of victim in their legislation to reflect the scope of the definition of victim given in Article 3e of the Istanbul Convention;**
- b. examine the implications on victims’ access to their rights of the current configuration of the status of victim and ensure access to support and protection for all victims, regardless of whether or not they have been conferred the formal status of victim.**

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

16. The Portuguese authorities have clearly expressed their understanding that specific measures are warranted to address the needs of particularly vulnerable groups of victims and/or victims who are exposed, or risk being exposed, to intersectional discrimination. Heightened difficulties faced by the aforementioned groups of women in accessing support and protection are examined further in this report in relation to measures taken in implementing Chapter IV of the Istanbul Convention.

⁴ More detailed considerations on the right to information are developed further in this report in connection with Article 19 of the convention.

17. By its very mandate, the CIG has been involved in devising policies and measures addressing multiple inequalities and targeting specific groups of victims who suffer or are at risk of suffering discrimination. A number of measures of this kind were set out in the V NAP. They included raising awareness of violence against the elderly, migrants, members of the Roma community and on intimate partner violence among LGBTI people; setting up support structures at local level for elderly and disabled victims; improving access to information on support services for migrant victims of domestic and gender-based violence; providing training for professionals working with these victims; and adopting a tool for collecting data on the number of victims of domestic violence in the migrant communities. The authorities acknowledge, however, that this is an area where there remains room for improvement and have accordingly placed the issue of intersectional discrimination at the centre of their new National Strategy for Equality and Non-Discrimination.

18. GREVIO suggests that in taking on the challenge of addressing intersectional discrimination, measures to prevent and combat violence against women should be mainstreamed within the broader strategies and policies targeting certain communities and groups of people, such as the National Roma Communities Integration Strategy or the Strategic Plan for Migration, and be part of comprehensive and co-ordinated policies involving all the stakeholders concerned. GREVIO notes furthermore that to increase the effectiveness of measures foreseen under their policies to prevent and combat gender-based violence, which aim at protecting women belonging to specific groups, such measures should integrate a gender perspective and distinguish the needs of women victims from those of other victims among the elderly, migrants, members of the Roma community and LGBTI people. To ensure that measures meet the real circumstances of these women, the design, implementation and monitoring of policies should be evidence-based and supported by data.

19. GREVIO encourages the Portuguese authorities to:

- a. develop studies and data regarding gender-based violence affecting groups of women who are discriminated against or at risk of being discriminated against, such as migrant, refugee and asylum-seeking women, women from ethnic minorities, including Roma women, women with disabilities, women from the LGBTI community, women in rural areas and women in prostitution;**
- b. integrate the perspective of such groups into the design, implementation, monitoring and evaluation of comprehensive and co-ordinated policies for preventing and combating violence against women;**
- c. mainstream preventing and combating violence against women in policies and programmes which are tailored to the specific needs of such groups.**

E. Gender-sensitive policies (Article 6)

20. Portugal's policies in the area of violence against women have been supported by decades of efforts to curb discrimination against women and promote equality between women and men. The authorities view the promotion of equality between women and men as an integral part of their duty to promote human rights for women and men alike. Their principal strategy for achieving this aim is mainstreaming gender equality and securing political commitment at all levels of public administration. To this end, public authorities at both the national and local level are encouraged to adopt gender equality plans and to nominate ministerial and municipal gender equality advisers. Portugal's latest action plan, which merges into one single policy document policies and measures to combat violence against women on the one hand and discrimination against women on the other, reflects the authorities' recognition of violence against women as gender-based discrimination.

21. The considerations developed further under several sections of this report will illustrate that despite such endeavours, not all statutory agencies' responses to violence against women follow an equally strong gender-sensitive approach. Besides pointing to the need to further mainstream such an approach within these agencies, the question is raised as to whether this might be

explained in part by the lack of a sufficiently strong gender perspective in policies framing their action. GREVIO notes in this respect that the central piece of legislation which has served to keep violence against women in check, namely Law No. 112/2009 on domestic violence, is not strongly anchored to such a perspective, despite having undergone several amendments after Portugal ratified the Istanbul Convention. The definition of the offence of domestic violence in Article 152 of the PCC also lacks such a perspective. Moreover, although the V NAP was built on the premise – quoted in its preamble – that violence against women is the “manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women”⁵ – this perspective is diluted in the main body of the document where the prevalence of domestic violence affecting women and girls is hardly acknowledged. GREVIO takes positive note of information provided by the authorities during the evaluation which would indicate that Portugal’s new Action Plan for Preventing and Combating Violence against Women and Domestic Violence (2018-21) - which is part of the latest National Strategy for Equality and Non-Discrimination – incorporates a gender perspective. Nevertheless, GREVIO wishes to underline in this connection the concern expressed by NGOs working in the area of violence against women that the new plan may lead to an insufficient recognition of the gendered aspects of the different forms of violence against women, owing to its integration into the wider issues of non-discrimination.

22. GREVIO encourages the Portuguese authorities to pursue their efforts to frame their laws, policies and measures to prevent and combat violence against women in a gendered perspective, and to incorporate such a perspective in the evaluation of their impact as well.

⁵ See the preamble to the Istanbul Convention.

II. Integrated policies and data collection

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

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

24. Portugal's first integrated strategy on gender equality and gender-based violence dates back to 1997 when the Portuguese Council of Ministers launched the country's Global Plan for Equal Opportunities. This initiative was decisive in breaking the silence surrounding domestic violence and opening the matter up to public debate. It laid the foundations for Portugal's First National Action Plan on Domestic Violence aimed at addressing comprehensively the so-called "4 Ps" of prevention, (integrated) policies, protection and prosecution. A first nationwide survey on violence against women took place in 1995, followed by a second survey in 2007. The surveys, and numerous other studies led by academics, reflected the authorities' concern for developing thorough, evidenced-based policies. Academic research laid the groundwork for reviewing the concept of domestic violence and extending it beyond marital relationships to encompass dating and other intimate relationships regardless of cohabitation. As mentioned earlier in this report, domestic violence became a crime in 2007 and, two years later, Law No. 112/2009, Portugal's first organic law on domestic violence, created the National Support Network for Domestic Violence, thus setting the framework for the authorities' multiagency response to domestic violence.

25. In 2015, the PCC was further amended to introduce the crimes of female genital mutilation, stalking and forced marriage. Until then, measures to tackle forms of violence against women other than domestic violence had received, to varying degrees, a certain amount of attention but had not been supported by an unequivocal condemnation under criminal law.

26. A manifestation of violence against women which stands out as having been addressed through articulated and co-ordinated policies is female genital mutilation (FGM). Advocacy by civil society groups is to be credited for placing this form of violence at the forefront of the political agenda. Three consecutive National Programmes of Action on FGM spanned the years 2007 to 2017, supported by an intersectoral working group bringing together members of government and representatives of national and international civil society organisations. GREVIO commends the political will which allowed carrying forward such bold action against this particular form of violence, as well as its distinctly participatory approach. By comparison, other forms of violence, such as sexual violence, forced marriage and stalking, have hardly been addressed and/or have only recently been taken up with a view to remedying this gap in policy.⁶

27. Starting in 2018, the authorities decided to merge into one single policy document measures to promote gender equality on the one hand and to combat gender-based violence on the other. The new national strategy ENIND is built around three pillars: 1) equality between women and men; 2) violence against women, including in particular domestic violence; and 3) LGBTI rights. Female genital mutilation is dealt with under the second pillar and will no longer be covered by a stand-alone programme of action. Specialist women's NGOs fear that this departure from previous practice will jeopardise achievements made under the three past programmes of action. They worry that the peculiarities of this specific form of violence against women might be overlooked within the broader spectrum of violence against women. While acknowledging that the new strategy comprises specific objectives relating to different forms of violence against women other than domestic violence, including FGM, GREVIO is concerned that an example of promising practice should have been discontinued, instead of serving as a model for similar targeted actions.

⁶ As regards sexual violence, see considerations developed further in this report in relation to Article 25 of the convention.

28. GREVIO strongly encourages the Portuguese authorities to pursue and develop long-term and co-ordinated programmes giving due importance to all forms of violence covered by the Istanbul Convention, which include effective and specific measures targeting such manifestations of violence as female genital mutilation and forced marriage and which are based on consistent and ongoing funding to allow for sustainable and comprehensive actions.

29. Another consequence of the aforementioned change in policy which disquiets specialist women's NGOs is the dismantling of the intersectoral working group on FGM and its impact on the ability of expert NGOs to contribute their knowledge to the monitoring of policies. The exact configuration of the participatory mechanism under the latest national action plan was still not known at the time of GREVIO's evaluation. However, the perception among civil society was that there will be less room for different NGOs with different expertise in the various forms of violence against women to participate and make their views known.

30. In addition to the specific bodies set up under national action plans, the main channel for institutional co-operation with civil society is the NGOs section of the CIG's Consulting Board. This board acts as an advisory body for CIG on issues related to citizenship education, gender equality and gender-based violence, and is chaired by the Secretary of State for Citizenship and Equality. The widespread sentiment among NGOs is that consultation processes are used to inform NGOs about decisions on policies rather than to involve them constructively ahead of any decision making, and that the processes suffer from being scarcely inclusive. Thus, for instance, NGOs claim that the recent decision to rearrange the various national action plans into one global action plan was not the outcome of an inclusive debate with specialist women's NGOs.

31. GREVIO strongly encourages the Portuguese authorities to strengthen the co-operation mechanisms with NGOs, to ensure that consultation processes are inclusive and transparent and afford civil society organisations that are committed to promoting women's rights and preventing and combating violence against women the means to effectively contribute to policy shaping.

32. In Portugal, interministerial involvement in the promotion of policies on violence against women is secured in two ways: through the co-ordinated efforts of the CIG and the Portuguese National Human Rights Committee (the PNHRC). In its role as co-ordinator for the national action plans on gender equality and gender-based violence, the CIG convenes and oversees the meetings of the working group, bringing together the public institutions concerned. Under the V NAP, this group comprised, in addition to a representative from the Presidency of the Council of Ministers, representatives from the following ministries: the Ministry of Internal Affairs, the Ministry of Justice, the Ministry of Economy, the Ministry of Health, the Ministry of Education and the Ministry of Solidarity, Employment and Social Security. The group met four times a year at the level of technical experts. The CIG is also the driving force for mainstreaming gender across the ministries, via the governmental section of its Consulting Board, to which each ministry and ministry's cabinet are entitled to appoint a principal and an alternate member respectively. Moreover, gender equality focal points are appointed in each ministry to act as an operating link between the CIG and ministerial structures. Interministerial co-ordination is further driven by the PNHRC, which is tasked with supervising the implementation of Portugal's strategic human rights action plans and ensuring timely and effective reporting to international human rights bodies. The 2018 Strategic Human Rights Action Plan made explicit reference to Portugal's preparation for GREVIO's first (baseline) evaluation. Acting through an interministerial committee for co-ordination, chaired by the Ministry of Foreign Affairs, the PNHRC informs the ministries concerned of their role in ensuring that Portugal fulfils its undertakings under international human rights instruments.

33. GREVIO notes with appreciation that by attaching the CIG to the Presidency of the Council of Ministers, rather than to a particular ministry, the CIG enjoys strong political support to promote interinstitutional co-operation. Moreover, the fact that national action plans on gender equality and gender-based violence are approved by a decision of the Council of Ministers lends them a quasi-mandatory nature and expresses the strong political will to have them implemented. Despite measures to foster an interministerial approach, GREVIO finds that there is a tendency for certain

ministries to continue to act within their own individual area of control, according to long-standing policies, rather than mainstreaming innovative approaches which espouse a truly gendered understanding of the causes and consequences of violence against women. This tends to have an impact at the operational level, where co-ordinated responses are missing or are only partially effective and single institutions' handling of cases of violence against women does not always conform to the standards of the convention. GREVIO notes with satisfaction that Portugal's latest Action Plan for Preventing and Combating Violence against Women and Domestic Violence (2018-21) aims at strengthening co-ordination among and between ministerial agencies and the CIG, namely by foreseeing a more rigorous and regular monitoring of measures taken by each agency in implementing the action plan.

34. GREVIO strongly encourages the Portuguese authorities to enhance co-ordination among the ministries and governmental agencies involved in preventing and responding to violence against women, namely by effectively implementing measures foreseen to this end in Portugal's latest Action Plan for Preventing and Combating Violence against Women and Domestic Violence (2018-21). Strengthening interagency work should, as a matter of priority, be built into policies to prevent and combat gender-based violence and monitored against clear performance indicators. As the entity responsible for following up on interinstitutional co-operation, the CIG should have the necessary power and the appropriate financial and human means to guide and support interagency co-ordination and hold single agencies to account.

35. GREVIO was informed that, since 2016, the authorities have set in motion a decentralisation strategy designed to gain local authorities' adherence to their cause. National action plans on domestic violence and gender violence seek the involvement of local authorities by encouraging municipalities to adopt gender equality plans that include a component on gender-based violence. The adoption of such local gender equality plans is not mandatory but is left to the decision of local administrations. GREVIO was informed that out of a total of 308 municipalities throughout the country, approximately 90 had adopted such plans, although their sustainability in the long term depended very much on the outcome of local elections. To support local authorities, the CIG promotes joint networking between central and local administrations, namely through the conclusion of co-operation agreements with intermunicipal communities (the CIM). The national action plans do not apply to the autonomous regions, which have developed their own regional action plans.

36. This state of affairs is regarded by NGOs as highly unsatisfactory and a cause of unequal access to the right to support and protection for victims across the different geographical areas of the country. The fact that less than a third of municipalities in Portugal are developing measures against violence against women reveals the distance which remains to be covered to ensure uniform coverage throughout the country. Based on the new Action Plan for Preventing and Combating Violence against Women and Domestic Violence (2018-21), the authorities have announced that they would be launching a new generation of model co-operation agreements aimed at fostering stronger partnerships with municipalities and standardising interventions at local level.

37. GREVIO urges the Portuguese authorities to devise measures aimed at harmonising and monitoring the implementation of local plans to prevent and combat domestic violence and violence against women. Such efforts should be supported by the allocation of appropriate financial resources and the promotion of best practices.

B. Financial resources (Article 8)

38. Portugal recently enacted legislation obliging all concerned ministries to communicate to the CIG the amounts in their budget earmarked for preventing and combating domestic and gender-based violence⁷. Exhaustive figures resulting from the first budgetary exercise in which this obligation applied are not available⁸. However, GREVIO was informed that the funds allocated in the 2018 state budget to policies to prevent and combat violence against women totalled 25 million euros.

39. The principal sources of public funding for which financial figures were provided to GREVIO are:

- the Portuguese Social Security Institute (ISS);
- the revenue from state-licensed gambling;
- international funding from the European Social Fund (ESF);
- the Financial Mechanism of the European Economic Area (EEA);
- the small grant scheme for NGOs.

40. The ISS, operating under the Ministry of Social Security, financially supports a network of support services throughout the country, mostly run by civil society organisations. The services include 31 shelters and 17 victim support centres providing specialist services to victims and their children in continental Portugal. In 2016, ISS funding for shelters and victim support centres totalled 4 568 008 euros and 741 696 euros respectively.

41. Since 2012, the CIG receives a percentage of the national revenues from state-licensed gambling which it uses to support the country's National Support Network for Victims of Domestic Violence. In 2016, the sum of 8 270 309 euros was drawn from this source to finance two shelters in the city of Lisbon, emergency accommodation, transportation, teleassistance and other support services for victims of domestic violence.

42. In the last decade, considerable amounts from the European Structural Investment Funds have been destined to promote gender equality and combat gender-based violence. Under the ongoing Partnership Agreement between Portugal and the European Commission, labelled as "Portugal 2020", more than 50 million euros will be available to support NGOs, employer associations, trade unions, local authorities, businesses and other private and public entities, mainly for awareness-raising activities and training.

43. Small NGOs who do not qualify for international funding can apply under the small grant scheme. The CIG's annual budget under this scheme for projects related to violence against women is approximately 50 000 euros. GREVIO was further informed that under the programmes to combat female genital mutilation, the authorities have established a biannual award offering NGOs and community-based associations financial incentives to carry out preventive actions in the communities at risk. To date, a total amount of 90 000 euros has been distributed under this programme line. Local municipalities also contribute funding, but the amounts involved were not communicated to GREVIO.

44. In Portugal, several different types of organisations are engaged in preventive work and victim support. They include associations, foundations, charitable organisations (or social solidarity institutions) and NGOs which have developed over different periods in time and under different sets of laws. The differences in legal status have a bearing on funding opportunities, as well as on tax regimes, and this has been quoted by those on the ground as a cause of unequal treatment. Social solidarity institutions funded by ISS have access to a public funding scheme based on the conclusion of ad hoc co-operation agreements (the programme for the conclusion or extension of

⁷ Law No. 129/2015 amending Law No. 112/2009.

⁸ According to the state report, seven ministries reported their budgetary expenditure on gender-based violence in 2016, totalling 13 885 274 euros.

co-operation agreements for the development of social responses (PROCOOP)). Under such a programme, public funding is predictable and contributes to the economic sustainability of the beneficiaries. Although funding through the PROCOOP is in principle available to all NGOs, not all NGOs are in a position to fulfil the programme's requirements. Other organisations, including women's NGOs, rely to a large extent on EU funds and project grants in order to obtain public funding. Such funding solutions are subject to eligibility criteria, calendars and implementation procedures which generate transaction costs and work against achieving sustainability. Smaller NGOs hardly have the capacity to compete for such funding. Women's NGOs are vocal in expressing the need to harmonise funding options to provide an adequate level and a guaranteed duration of funding for all specialist support providers.

45. GREVIO also 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. As this report will illustrate further in detail⁹, the number and the skills of staff in shelters do not tally with the needs of victims. More resources are required to provide victims and their children with long-term support, over and above any short-term crisis intervention. The provision of specialist services tends to be concentrated in the major cities and in district capitals, thus raising an issue of accessibility for all victims across the country. As a reflection of a general overemphasis of funding for domestic violence services, there are only a few support services that reach out to more vulnerable groups of women, such as migrant women, elderly women and women with disabilities, and that cater to the needs of women suffering from specific forms of violence such as sexual violence and female genital mutilation.

46. GREVIO strongly encourages the Portuguese authorities to:

- a. **review existing funding opportunities and/or develop further such opportunities, to ensure fair and equitable access to appropriate and sustainable funding for all specialist support service providers, including in particular women's NGOs, *inter alia*, by developing transparent procedures such as public calls for tenders where the results are made available to the public;**
- b. **review spending levels to remedy existing gaps in the provision of specialist support services for victims of all forms of violence against women, including more vulnerable groups of victims such as girls, elderly women, women with disabilities, women from ethnic minorities – including Roma women – and migrant, refugee and asylum-seeking women;**
- c. **guarantee equal access to services for all victims throughout the national territory by ensuring that appropriate human and financial resources are allocated at all levels of public responsibility;**
- d. **pursue and step up efforts to monitor public spending at both central and municipal level and measure progress achieved.**

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

47. The authorities' approach to the provision of support services to victims is firmly grounded on the principle of subsidiarity. Thus, most, if not all, specialist support services for victims are delegated to non-governmental entities. Support services for victims of domestic violence are organised in the National Network for the Support of Victims of Domestic Violence ("the national network") created under Law No. 112/2009. The national network comprises the CIG, the ISS, shelters, emergency accommodation structures and centres providing counselling, psycho-social and/or legal support. Different non-governmental entities take part in the network. They include specialist women's NGOs, faith-based organisations like Santa Casa da Misericórdia and other not-for-profit organisations. Historical reasons would explain an imbalance in the distribution of services, with the lion's share of services – and related public funding – going to long-established

⁹ See the section of this report dealing with general and specialist support services, with reference to Chapter IV of the Istanbul Convention.

social solidarity institutions. More recently established women's NGOs claim they struggle to find their place and are put at a disadvantage by existing financial support mechanisms. This has an impact on the quality of services delivered: long-standing practices are slow to adapt and the innovative gendered approaches followed by the independent specialist women's movement are not always readily accepted elsewhere.

48. The authorities acknowledge the need for change. In 2016, new minimum standards applying to the delivery of specialist support services for victims were established. They were developed by the CIG, in co-operation with APAV, and a number of civil society organisations specialised in the field of violence against women. GREVIO regards the inclusive method followed and the involvement of service-oriented NGOs for the purposes of developing these standards as an example of good practice. While respecting the autonomy of service-oriented NGOs, the standards draw on state-of-the art knowledge and best practices recognised internationally. They are shaped by the fundamental principles of human rights, equality and non-discrimination, autonomy and free consent, confidentiality and anonymity, safety, quality, multiagency co-operation and the requirement that services be provided free of charge. Compliance with the standards is mandatory for all the entities in the national network benefiting from public funding and must be verified through regular self and external assessments, in addition to the satisfaction surveys regarding services provided to victims which are required by Law No. 112/2009. GREVIO was informed that a national certification system will be developed requiring all such entities to undergo a periodic assessment against the criteria set in the minimum standards. Failure to comply with these standards will entail disqualification and ineligibility to receive public funding. Moreover, in 2018, a new regulatory framework¹⁰ was established for co-operation agreements concluded under the PROCOOP, subjecting the conclusion and/or the renewal of such agreements to existing relevant regulations. GREVIO commends these initiatives which will be instrumental in ensuring that victims throughout the country have access to harmonised quality services. The ability to enforce implementation of the new standards through effective, consistent and constant supervision will be a key factor of success of this operation.

49. GREVIO strongly encourages the Portuguese authorities to:

- a. reinforce their support and recognition of independent women's organisations, by acknowledging the value and expertise they bring in terms of following a gendered approach to violence against women and fostering victims' trust and promoting their human rights;**
- b. confer upon the CIG the necessary power and means – including appropriate financial resources – to carry out its role effectively as the supervising authority responsible for overseeing the implementation of the new minimum standards for all specialist victim support and empowerment services;**
- c. ensure that the standards are equally and effectively complied with by all entities running services for victims, whether faith-based organisations or NGOs.**

D. Co-ordinating body (Article 10)

50. In Portugal, the role of the co-ordinating body mandated to co-ordinate, implement, monitor and evaluate policies and measures to prevent and combat violence against women and domestic violence is shared between the CIG and the PNHRC.

51. The CIG is placed under the authority of the Bureau of the Presidency of the Council of Ministers and the State Secretariat for Parliamentary Affairs and Equality. For nearly 20 years, it has been tasked with promoting citizenship and gender equality. At the time of the first (baseline) evaluation under the Istanbul Convention, the CIG was responsible for ensuring the implementation and co-ordination of Portugal's V National Plan for Gender Equality, Citizenship and Non-Discrimination; the V NAP, inclusive of the Third Action Programme for the prevention

¹⁰ Regulatory Decree No. 2/2018.

and elimination of female genital mutilation; the Third National Plan against trafficking in human beings and the Second National Plan for the implementation of the United Nations Security Council Resolution 1325 on women, peace and security. Since the launching in 2014 of the latest edition of Portugal's Action Plan on Preventing and Combating Domestic and Gender Violence, the CIG has been assisted in its role by an interinstitutional working group composed of representatives from the ministries concerned, the Portuguese Attorney General's Office, the Superior Council of Magistracy and representatives from civil society that make up the CIG's Advisory Council. During the reference period for the first (baseline) evaluation of Portugal under the Istanbul Convention (2015-16), the budget allocated to the CIG to co-ordinate the implementation of policies to prevent and combat domestic and gender-based violence totalled 1 570 430 euros. This budget covers the expenses of the dedicated staff of the department on domestic violence and gender-based violence.

52. The PNHRC was established in 2010 and operates under the aegis of the Ministry of Foreign Affairs (MoFA). It is chaired by the Secretary of State for European Affairs and is served by the Department for International Political Organisations of the MoFA. It comprises representatives from a wide range of governmental departments. Its main competence is to co-ordinate governmental action in the field of human rights with the aim of defining Portugal's position in international forums and implementing the country's obligations under international human rights treaties. The PNHRC further promotes the dissemination of information on national and international best practices in the area of human rights and acts as a platform for dialogue with civil society. The PNHRC has no assigned budget and is financed by the budgets of the members of government (ministries) represented on the committee.

53. To ensure co-ordination with the local level, one representative of the National Association of Portuguese Municipalities takes part in the interinstitutional working group steered by the CIG. There is no indication that the group makes room for the participation of representatives from the Autonomous Regions of the Azores and Madeira. GREVIO is of the opinion that to enhance action at the regional and local level, mechanisms allowing for stronger interaction between the national and regional/local levels should be devised and embedded in the co-ordinating body's structures and/or working methods.

54. GREVIO strongly encourages the Portuguese authorities to vest the national co-ordinating body with the clear mandate to ensure co-ordination among ministries and between national and local government in the implementation of policies to prevent and combat violence against women and to strengthen co-operation with local authorities within the administrative make-up of this body.

55. Of the different functions referred to in Article 10 of the convention, the evaluation function is to be understood as implying an independent and scientific assessment, based on robust data, of whether measures taken achieve their aim and/or expose any unintended effects. Recent studies have highlighted the value in differentiating monitoring from evaluation and attributing these two functions to separate institutions. A situation in which close institutional ties exist between those who implement measures and bear political responsibility for them on the one hand and those who are supposed to evaluate the efficacy of those measures on the other, or even one in which the two groups are identical, provides fertile ground for (real or perceived) conflicts of interest and can weaken the analysis. In Portugal, the separation between the monitoring and evaluation function is lacking since the CIG is not only responsible for developing and co-ordinating the implementation of measures taken to prevent and combat violence against women, but also for evaluating their efficiency. The CIG strives to guarantee a degree of independence in its evaluations by outsourcing evaluation on a case-by-case basis to universities. GREVIO has recorded a high level of dissatisfaction among civil society regarding the way in which policy evaluation is performed and in which its results are shared with stakeholders. According to NGOs, the crux of the issue is the lack of appropriate human rights-based and victim-centred indicators. These concerns would point to a lack of a systematised approach, which is further impaired by deficiencies in data collection. GREVIO takes positive note of the authorities' intention to strengthen the monitoring and evaluation of policies under the new strategy ENIND, namely by setting stringent annual targets and clear result and impact indicators.

56. GREVIO encourages the Portuguese authorities to strengthen the independent evaluation of its policies to prevent and combat violence against women and to ensure that evaluation is backed by robust data and carried out by way of an open dialogue with all relevant actors, including in particular independent women's organisations involved in preventing and combating violence against women.

E. Data collection and research (Article 11)

1. Data collection

57. Preventing and combating violence against women, including domestic violence, requires evidence-based policy making. The collection of systematic and comparable data from all relevant administrative sources is crucial in this regard, as is information on the prevalence of all forms of violence against women. GREVIO would like to point to the opportunities that the ratification of the Istanbul Convention presents in this regard, in particular the role assigned to the co-ordinating body in co-ordinating the collection and analysis of data and their dissemination (Article 10, paragraph 1). A number of tools exist to support governments wishing to improve data collection in the area of violence against women, suggesting a solid knowledge base to which the authorities can turn.¹¹

58. From the information obtained during the evaluation, it is evident that most of the concerned stakeholders already engage in the collection of data on domestic violence with a gendered perspective allowing for cases of domestic violence against women to emerge. Data on other forms of violence, however, is scarce or inexistent, partly owing to the lack of disaggregation based on the sex of the victim. To support the authorities' endeavours in this field, GREVIO hereafter submits a number of priority proposals for future action to be taken by a select number of stakeholders. Such proposals might further come in support of Portugal's national statistics office's ongoing endeavours to improve its collection of sex-disaggregated data, including in the area of violence, and thus enhance the country's ability to develop effective evidence-based policies.

a. Law-enforcement agencies

59. The collection of data on complaints recorded by the two law-enforcement agencies in Portugal, namely the Republican National Guard (GNR) and the Public Security Police (PSP), is the responsibility of the General Secretariat of the Ministry of Home Affairs (SGMAI). Data are collected based on the offences set out in the PCC and are published by the Cabinet of the General Secretary of the Internal Security System in the Annual Report of Internal Security (RASI). In the absence of generalised links between such data and data from criminal courts, attrition rates regarding such crimes are not determined. GREVIO was not provided with any such data nor with evidence that they are disaggregated based on criteria such as age, sex and relationship of the perpetrator to the victim, which would allow for assessing the prevalence of gender-based violence against women.

60. Data collection regarding domestic violence has been standardised since the introduction, in 2006, of a standard form for recording the offence. The form compiles information regarding the age and sex of the victim and of the offender, their relationship – including any form of economic dependency – the presence (if any) of children at the scene of the crime, the use of firearms to commit the crime, any addictive behaviour of the perpetrator, medical treatment of the victim and a risk assessment. Data collection on domestic violence cases has been further systematised following the 2015 amendment to Law No. 112/2009, which introduced an obligation to collate data from law-enforcement bodies and the judiciary so as to reconstruct the entire criminal proceedings chain, from the filing of the complaint to the delivery of the judgment. Such data are communicated

¹¹ Cf., for example, the following Council of Europe publications: *Ensuring data collection and research on violence against women and domestic violence: Article 11 of the Istanbul Convention – A collection of papers on the Istanbul Convention* (2015); *Administrative data collection on domestic violence in Council of Europe member states* (2008).

every six months to the CIG and are used by the SGMAI to produce a yearly report on domestic violence which follows the publication of the RASI. The report illustrates the numbers of domestic violence cases reported to law-enforcement agencies and contains detailed information on the age, sex and relationship between the victim and the perpetrator (current/former partners, relatives in the ascending/descending/collateral line, and current/former dating partners). Additional data are collected to fine-tune the knowledge regarding the time frame and geographical location in which the crime is committed, general features of the victim and the perpetrator (such as employment status, marital status, educational level) and types of violence (whether psychological or physical). A separate section of the report on domestic violence illustrates data on the outcome of criminal proceedings. GREVIO commends the authorities' efforts in this area, which are instrumental in enabling an assessment of the system's response to cases of violence and possibly identifying necessary improvements in institutional practices and policies.

61. Data drawn from the 2016 yearly report on domestic violence revealed that domestic violence was the second most frequently reported crime after theft, totalling 8% of all crimes, and the first most reported crime among crimes against persons, representing 33% of all such crimes¹². The data served to highlight the predominantly gendered nature of domestic violence: as many as 84% of victims were female and 86% of perpetrators were male. In 78% of cases, victims and perpetrators were either current or former partners and in 9% of cases, they were either currently or formerly dating. The data further shed light on the repetitive nature of domestic violence, which in 23% of cases had been preceded by previous episodes of violence, as well as on its impact on child witnesses, who had witnessed the crime in 35% of cases.

62. GREVIO commends the authorities' efforts to build a solid picture of the reality in Portugal of domestic violence, including its gendered nature, in support of its evidence-based policies. Aside from the current distinction between physical and psychological violence in domestic violence cases, GREVIO is of the opinion that more detailed indicators should be developed to assess the prevalence of other forms of violence in intimate partnerships, including in particular stalking, sexual violence and rape.

63. GREVIO strongly encourages the Portuguese authorities to:

- a. expand data collection by law-enforcement agencies to cover all forms of violence against women;**
- b. refine data indicators regarding domestic violence to include the different manifestations of violence against women, including in particular stalking, sexual violence and rape;**
- c. harmonise data collection between law-enforcement agencies and the judiciary regarding forms of violence against women other than domestic violence, with the aim, *inter alia*, of assessing attrition rates.**

64. Data collected by the SGMAI track the number of victims who were granted the status of victim¹³. Inherent to the status of victim is the right to receive information on available legal remedies, including compensation. The Commission for the Protection of Victims of Crime can collect data to assess how many compensation claims are successfully filed in criminal proceedings and how often judges award compensation *ex officio*. It can also collect data on the number of victims who apply for and obtain compensation under the other existing mechanisms for compensation, namely the advance compensation scheme for victims of violent crimes and the cash benefits for domestic violence victims¹⁴. GREVIO understands, however, that the collection of

¹² Figures communicated to GREVIO relating to the years 2014-16 followed a rather consistent trend, totalling approximately 27 000 reported cases per year.

¹³ Considerations related to the definition of the status of victim are developed earlier in this report in relation to Article 3 of the convention.

¹⁴ The role of the Commission for the Protection of Victims of Crime and the different existing mechanisms for compensation are described further in this report in relation to Article 30 of the convention.

such data is not systematic, making it difficult to gauge the degree to which victims access such remedies.

65. GREVIO encourages the Portuguese authorities to collect data regarding the number of women victims of gender-based violence who benefit from one or the other available mechanisms for compensation.

b. Criminal justice sector

66. The entity responsible for administrative data collection within the criminal justice sector is the Directorate General for Justice Police (DGPJ). Statistics are collected regarding the number of criminal indictments and convictions based on the offences set out in the PCC. Data are disaggregated based on the sex, age and nationality of the perpetrator, but not with regard to the victim. The only type of crime for which data are disaggregated having regard to the sex of the victim and the relationship between the victim and the offender is homicide within intimate partnerships.

67. Very limited data pertaining to the criminal justice sector, other than data regarding the offence of domestic violence, were communicated to GREVIO during its evaluation. There were six convictions for stalking in 2016 and no convictions under the other new crimes introduced with the 2015 amendments to the PCC, namely forced marriage and female genital mutilation. In the course of the same year, courts of first instance recorded 49 convictions for rape, 17 for sexual coercion and 18 cases of sexual abuse of a person incapable of resistance. Data on homicides (including attempted murders) among intimate partners showed that there had been 32 convictions in 2016, involving 29 women victims and more than 90% male offenders. These data are publicly available on the website of the Justice Statistical Information System.

68. The DGPJ also collects data on domestic violence cases reported to law enforcement agencies, as well as data on the crime of domestic violence (numbers of identified suspects and victims, numbers of criminal proceedings initiated in courts of first instance and numbers of persons convicted by such courts). Such data are transmitted to the Cabinet of the General Secretary of the Internal Security System for publication in the Annual Report of Internal Security (see section above).

69. GREVIO strongly encourages the Portuguese authorities to disaggregate administrative data regarding criminal indictments and convictions based on the age and sex of the victim, as well as the relationship of the perpetrator to the victim.

c. Health

70. Since 2013, health centres and hospitals throughout Portugal have set up Adult Violence Prevention Teams responsible for identifying and treating victims of interpersonal violence, including victims of domestic violence, sexual violence, stalking, dating violence and female genital mutilation. Their mandate encompasses collecting data on the number of victims assisted. Initial steps have been taken to provide medical staff with the necessary skills and tools to process data at national and local level, although difficulties persist in compiling all information gathered, especially in relation to sexual violence and rape, including marital rape. At the time of GREVIO's evaluation, only limited data of this kind were available.

71. Specific measures and guiding protocols have been adopted since 2012, which aim, *inter alia*, at enabling health professionals to record cases of female genital mutilation. This has been achieved by inserting a dedicated field in the form which serves to feed data on patients in the national digitised register of the health system (the Health Data Platform). Data on female genital mutilation cases are collected regarding: the age of the victim at the time of registration; the date and place of registration; the type of mutilation; the age at which and the country where the mutilation was performed; the medical service which detected the mutilation; and whether there were any associated health complications. Only medical professionals serving in public institutions are under an obligation to record data. The figures given by the authorities (153 new cases

recorded in 2015-16) are a long way from corresponding NGO estimates which place the total number of victims living in Portugal at about 6 000.

72. GREVIO strongly encourages the Portuguese authorities to:

- a. **systematise data collection by the health sector at the national and local level, by increasing awareness among health professionals of the relevance of collecting data in relation to all forms of violence against women, including domestic violence;**
- b. **enhance the skills and capacity of medical professionals to collect data, including through training on ways to detect and report cases of violence against women;**
- c. **develop data subsets within the current data categories of interpersonal and intra-family violence, which allow all forms of violence covered by the Istanbul Convention to emerge, including in particular sexual violence and marital rape.**

73. The National Institute of Legal Medicine and Forensic Sciences, acting under the responsibility of the Ministry of Justice, collects data regarding intra-family offences and sexual crimes upon a request from the investigative authorities. Data are disaggregated by the age, sex and relationship of the victim to the perpetrator, as well as with respect to the location in which the violence was committed. Detailed data were provided to GREVIO, broken down per region and city of the country, showing that in the years from 2014 to 2018, there had been a total of 30 774 women (compared to 11 301 men) victims of intra-family violence and 2 869 female victims of sexual offences (compared to 459 male victims) examined by forensic doctors. At the time of GREVIO's evaluation, forensic records constituted the most representative source of data on the prevalence of sexual violence in Portugal.

d. Immigration and Borders Services (SEF)

74. There are no official data regarding the grounds on which asylum is invoked and granted in Portugal. GREVIO was therefore unable to verify to what extent gender-based violence against women is recognised as a form of persecution within the meaning of the 1951 Convention relating to the Status of the Refugees and as a form of serious harm giving rise to complementary/subsidiary protection, in accordance with Article 60, paragraph 1, of the Istanbul Convention. The authorities have nevertheless informed GREVIO that, according to their estimates, 30% of female applicants claim and obtain asylum on grounds related to gender-based violence, while as many as 90% would be entitled to do so.

75. GREVIO encourages the Immigration and Borders Services to introduce a data collection system that would allow asylum claims on the basis of gender-related persecution and their outcomes to be recorded.

2. Research

76. During the period of reference for GREVIO's first (baseline) evaluation (2015-16), a number of research projects on violence against women were either carried out or supported by the authorities. The CIG promoted five projects focusing specifically on domestic violence, addressing in particular the institutional response to domestic violence cases. These projects provided the groundwork for developing protocols for the professionals concerned, namely the minimum standards applying to the National Domestic Violence Network and a manual for magistrates. The CIG also conducted an extensive research study on FGM. The Commission for Equality in Labour and Employment (the CITE) was the lead authority of a multiagency project funded by EEA grants on sexual and moral harassment in the workplace. The EEA grants also funded a research project on sexual violence, which set the basis for establishing Portugal's first dedicated support structure for victims of sexual violence.¹⁵ Moreover, the authorities have collaborated with academia and civil society on a number of research projects regarding domestic and dating violence. They regularly

¹⁵ See further in this report the considerations developed with respect to Article 25 of the Istanbul Convention.

contribute to the annual report on femicide published by the NGO-led Observatory of Murdered Women.

77. GREVIO appreciates the fact that the above research projects have revealed important insights into specific aspects of violence against women. GREVIO notes however that there are forms of violence that remain to be explored, such as stalking, sexual violence – including rape – in intimate partnerships, forced marriage and forced sterilisation. Research on sexual harassment could be expanded to cover sexual harassment which occurs outside the workplace. GREVIO also notes the absence of research into the effects of gender-based violence on children, particularly child witnesses of domestic violence, and on specific groups of victims, such as elderly women and women with disabilities. Further research would be necessary to evaluate policies on a continuous basis, especially with regards to newly introduced measures such as perpetrator programmes and specialist support services for victims of sexual offences. GREVIO trusts that progress will be achieved in this area under Portugal's new Action Plan for Preventing and Combating Violence against Women and Domestic Violence (2018-21), namely with respect to the plan to expand knowledge about harmful traditional practices such as female genital mutilation and forced marriages.

78. GREVIO encourages the Portuguese authorities to:

- a. address, through research, all forms of violence against women, such as marital rape, forced sterilisation, forced marriage or other traditional practices harmful to women not previously covered;**
- b. support research into violence which affects specific groups of victims, such as elderly women, women with disabilities, lesbian women, transgender women, migrant women and women from ethnic minorities, including Roma communities;**
- c. support research in order to study the effects on children of witnessing domestic violence;**
- d. continue investing in the evaluation of existing policies and practices to assess the level of implementation and of victim satisfaction with services provided, in close co-operation with specialist support services.**

3. Surveys

79. Two national surveys on the prevalence of gender-based violence have been conducted, in 1995 and 2007. They attested to a prevalence rate among women which dropped from 48% in 1995 to 38% in 2007. The incidence rate of domestic violence remained stable (around 50% of all cases of violence against women). The second survey revealed that despite heightened levels of awareness, the majority of women victims continued to suffer in silence and to not report violence. The survey, which targeted men victims as well, revealed the distinct gendered nature of violence against women: women are three times more often exposed to violence than men and tend to be victimised mostly by men in intimate partnerships; men, by comparison, tend to suffer from violence in public places or the workplace, mostly at the hands of other men, regardless of the type of violence, whether physical or psychological. Men are also far less reluctant to report the violence.

80. A new national survey on gender-based violence against women is foreseen under the recently launched Action Plan for Preventing and Combating Violence against Women and Domestic Violence (2018-21). The authorities have informed GREVIO of their decision to participate in the pilot phase of the upcoming EU-wide survey on gender-based violence conducted by Eurostat and planned for 2020. GREVIO commends the authorities for this further demonstration of their commitment to constantly refine their knowledge of the reality of violence against women in Portugal and to shape strong evidence-based policies. It trusts that as a party to the Istanbul Convention, Portugal is committed to ensuring that the methodology of the planned survey will conform to the requirements of the Istanbul Convention and follow a gendered approach.

III. Prevention

81. This chapter contains a number of general and more specific obligations in the area of prevention. Prevention measures are particularly strategic in a long-term vision of ending violence against women, as they aim to ensure far-reaching changes in attitudes and beliefs towards women, their role and status in society and their sexuality. Such measures 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 prevention of violence against women. They also include 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)

82. The CIG has been involved in organising awareness-raising activities on violence against women since 2005. The Portuguese state report refers to campaigns organised in 2015 and 2016, a number of which were implemented in partnership with non-governmental actors. Prevention of gender-based violence through awareness-raising measures was one of the five strategic areas of the V NAP. In addition to events linked to worldwide campaigns such as the 16 Days of Action against Gender-based Violence and the International Day of Zero Tolerance for Female Genital Mutilation, seminars, conferences and ceremonies recognising best practices were carried out regarding not only domestic violence but also other forms of violence against women, including sexual harassment, forced marriage, stalking, dating violence and violence committed through the use of new information and communication technologies. Furthermore, focused actions were designed to address specific groups of victims, namely children and adolescents, elderly women, migrant women, gypsy women and members of the LGBTI community. In addition to the general public as a whole, the target groups include school-aged children, the education community, law-enforcement officials, members of the armed forces, private companies and the world of arts and culture.

83. GREVIO welcomes such varied efforts to make the different forms of violence against women visible and to build awareness of both the general public and targeted audiences. Of all these measures, GREVIO particularly commends Portugal's initiatives aimed at raising awareness about the harmful practice of female genital mutilation. With the knowledge that most girls and women in Portugal who have been victims of female genital mutilation have undergone mutilation while on holidays in their country of origin, the authorities have repeatedly organised the distribution of leaflets and posters warning about the harmful effects of female genital mutilation in several airports throughout the country. These preventive actions were carried out on a daily basis during the school holidays in the departure areas for flights bound for several countries in Africa where female genital mutilation continues to be practised. Concurrent preventive measures were taken in the airports of Guinea-Bissau, in light of the fact that the majority of victims in Portugal belong to the migrant community originating from this country. GREVIO is of the opinion that such an initiative offers an example of good practice to which other parties might wish to look for inspiration.

84. All the aforementioned efforts have contributed to a rise in recognition of the prevalence of violence against women in Portugal. Indeed, during the 2014 EU-wide survey on violence against women, Portugal emerged as one of the EU countries which experienced the most significant rise in the average level of awareness about measures in place to prevent domestic violence against women¹⁶. The survey also revealed that as many as 70% of women interviewed had recently seen or heard awareness-raising campaigns. GREVIO notes, however, that in the absence of more recent surveys on perceptions of violence against women, the authorities lack tools to measure the

¹⁶ According to the 2014 FRA (European Agency for Human Rights) survey, the average level of awareness in Portugal rose over 40% in a decade, going from 20% in 1999 to 65% in 2010.

impact of the aforementioned campaigns and activities. The limited studies available¹⁷ would indicate that stereotypes and attitudes justifying violence against women persist. Thus, there is a need to continue to challenge gender-biased mindsets and the harmful practices which they perpetuate, drawing, *inter alia*, from the recommendations which have been issued on this matter by other international human rights monitoring bodies.¹⁸

85. Moreover, in a continuum with current efforts to tackle dating violence, GREVIO considers it crucial to expand the scope of awareness-raising activities and address explicitly sexual violence and rape, including rape which occurs in intimate partner relationships. Such efforts would be key to encouraging reporting of this form of violence, which remains severely underreported. In addition, awareness-raising activities should promote knowledge about the harm caused to children who witness domestic violence. As evidenced further in this report, GREVIO finds that this is an area where greater awareness, including among the professionals concerned, would spare children from revictimisation. Finally, GREVIO is of the opinion that to ensure a wider reach, awareness-raising efforts should be stepped up at the local level with a stronger involvement of municipalities, especially as concerns more vulnerable groups such as migrant women, women with disabilities, elderly women and Roma women.

86. GREVIO strongly encourages the Portuguese authorities to sustain and further develop – both at the national and local level and with the involvement of all stakeholders concerned, including in particular schools – their awareness-raising efforts in support of a general anti-violence message. Targeted campaigns should be developed to:

- a. **challenge patriarchal attitudes and stereotypes which contribute to the acceptance of violence;**
- b. **raise awareness about the harm caused to children who witness domestic violence;**
- c. **address all manifestations of violence against women, including in particular those forms of violence which remain underreported, such as sexual violence and rape, as well as female genital mutilation and forced marriage;**
- d. **reach vulnerable groups of women and girls and address their specific needs.**

B. Education (Article 14)

87. In Portugal, the competences for the different types of formal learning are shared between the Ministry of Education and the local authorities. While the core responsibility for primary and secondary education falls within the remit of the central Ministry of Education, preschool and the first cycle of basic education (1st to 4th grade) are the responsibility of local municipalities. Portugal's implementation of Article 14 relies on measures taken by these authorities to mainstream gender in the education system. This aim is pursued primarily by placing gender equality at the centre of the national programme on Education for Citizenship and through mandatory sex education.

88. Since 2008, the CIG has developed a comprehensive set of Guides on Gender and Citizenship for all levels of education, from preschool to secondary education. The aims of the guides are threefold: 1) to promote the integration of gender-related issues into national curricula and school projects; 2) to integrate a gender dimension into and to promote equality between women and men in pedagogical practices and school culture; and 3) to introduce gender equality as a central component of the compulsory national programme on Education for Citizenship. The guides propose practical activities to intersect gender equality with a series of cross-cutting thematic areas such as sexual and reproductive health, security (including internet security),

¹⁷ A 2017 study carried out by the NGO UMAR, based on interviews with around 5 000 young people, found that one in five of the interviewees considered physical, psychological or sexual violence in intimate relationships to be acceptable.

¹⁸ In its Concluding observations on the combined eighth and ninth periodic reports of Portugal, the CEDAW Committee recommended that Portugal further strengthen its efforts to overcome stereotypical attitudes regarding the roles and responsibilities of women and men in the family and in society by adopting a comprehensive strategy addressing the issue.

sexism and stereotypes and non-violent dating relationships. They also set out a number of proposals to curb gender stereotypes and prevent sexual discrimination in the organisation of schools and in teachers' practice. The guides have been distributed to more than 800 basic and secondary school network libraries, as well as to 16 higher education institutions' libraries. Their implementation has been supported by an extensive exercise of in-service training covering more than 150 school clusters¹⁹ and half of the continental municipalities, as well as a number of municipalities in the two Autonomous Regions of the Azores and Madeira.

89. GREVIO commends the Portuguese authorities for making available to teachers such far-ranging and in-depth material. Portugal's endeavours in this area have been recognised as an example of good practice among Council of Europe member states to promote an education free from gender stereotypes.²⁰ While there have been attempts to monitor to what degree the guides have been applied in a number of pilot school clusters, GREVIO notes, however, that it is difficult to assess their overall impact. More particularly, GREVIO considers that there is a need for a system of indicators allowing for the measurement of the extent to which pupils in Portugal have acquired the necessary skills, competences and knowledge regarding gender equality and the other topics outlined in Article 14 of the convention, namely non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity. In attempting to draw such a general picture, it is furthermore essential to gather data on the guides' effective dissemination through local policies for gender equality and for education at the municipal level. An additional marker for measuring success could be the extent to which the guides have been used by the universities and polytechnic institutes responsible for teachers' initial training.

90. Since 2009, Law No.69 has required sexual education to be a compulsory subject in basic and secondary education. Sexual education offers a window of opportunity for familiarising pupils with the topic of consent in sexual relationships and the right to personal integrity. It would appear, however, that courses on this matter concentrate on the prevention of unwanted pregnancies and infectious diseases, rather than focusing on the social relations between girls and boys and the impact of patriarchal attitudes and stereotypes. Moreover, GREVIO takes note of reports according to which the sexual education programme is offered primarily in natural science courses in the third grade and biology courses at the secondary level, resulting in the potential exclusion of pupils who are not enrolled in those subjects.²¹

91. GREVIO encourages the Portuguese authorities to:

- a. pursue their efforts to mainstream gender equality in the education system, by ensuring the dissemination of the Guides on Gender and Citizenship in all school clusters throughout the country, including at the municipal level;**
- b. review the content of the curriculum on sexual education to ensure an approach that prevents violence against women by focusing on the right to personal integrity, unequal power in the relations between women and men and responsible sexual behaviour;**
- c. develop a set of indicators allowing for the measurement of pupils' skills and competences on the topics mentioned in Article 14 of the Istanbul Convention and in relation to all forms of gender-based violence against women ;**

¹⁹ GREVIO has been informed by the authorities that in Portugal there are about 800 school clusters (i.e. groupings of schools at local level) throughout the country.

²⁰ See the "Compilation of good practices to promote an education free from gender stereotypes and identifying ways to implement the measures which are included in the Committee of Ministers' Recommendation on gender mainstreaming in education", Gender Equality Commission of the Council of Europe, available at: <https://rm.coe.int/1680590fe0>.

²¹ See paragraph 32 of the Concluding observations on the combined eighth and ninth periodic reports of Portugal, CEDAW Committee.

- d. **further develop mandatory initial and in-service training for teachers on the different forms of violence against women, including female genital mutilation and forced marriage, and on the effects of violence on child witnesses, with the aim of allowing teachers to detect girls and boys at risk and to refer them to appropriate mechanisms of support and protection.**

C. Training of professionals (Article 15)

92. The standard set by the Istanbul Convention in its Article 15 is that of systematic initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence against women. The training that is required must cover the prevention and detection of such violence, equality between women and men, the needs and rights of victims and the prevention of secondary victimisation. The questionnaire drawn up by GREVIO lists, in the table appended to it, the professional groups which GREVIO considers relevant and in need of such training.

93. Enhancing professionals' personal and technical skills through training was one of the five main strategic areas of the V NAP. It covered a broad range of professional categories in the areas of health care, law-enforcement, the judiciary, social security, education, employment, migrants' services and media. Training addressed support for victims, including specific groups of victims (children, elderly people, people with disabilities and LGBTI people) and perpetrators. The state report provides exact data on the number of training sessions and persons having benefited from training under the national plan during the reference period for GREVIO's evaluation (2015-16). The co-ordinating body plays an active role in promoting training and developing training support tools, both in continental Portugal and in the autonomous regions. It has authored a set of training benchmarks aimed at professionalising support services for victims of domestic violence, in accordance with the requirements of Law No. 112/2009. Specialist support services and women's NGOs are involved in delivering training and contributing their experience in the field to update training. In 2017, approximately 100 training initiatives led by NGOs in the area of gender equality, gender-based violence and trafficking of human beings were approved for funding under a 3.5 million-euro envelope funded by the European Structural Investment Funds.

94. Against this background, the information obtained by GREVIO during the evaluation points to several areas where improvements would be possible.

95. In-service training for health professionals is provided within the framework of the National Health Action on Gender, Violence and Life Span (HAGVLS), under the responsibility of the Ministry of Health. The training deals with violence prevention and detection, gender equality, the rights and needs of victims, prevention of secondary victimisation and interinstitutional co-operation. It is mainly intended for staff of the Adult Violence Prevention Teams serving in health centres and hospitals throughout the country. Standardised procedures and guidelines for health professionals have been developed addressing gender-based violence, sexual violence and female genital mutilation.

96. The lack of data on the number of women victims of violence who have been assisted by the health services does not allow, however, an assessment of the degree to which health professionals are trained to recognise and properly handle instances of violence against women. The only data provided in the state report relate to cases of female genital mutilation and are considered to represent only a fraction of the actual figures²², thus pointing to a possible issue of lack of awareness among medical professionals. According to expert NGOs dealing with female genital mutilation, female genital mutilation of type 1 is the most frequently encountered type in Portugal and can go undetected without appropriate training. No information was provided to GREVIO indicating that violence against women, including female genital mutilation, is taken up in

²² According to the state report, the health system recorded 153 new cases of FGM during 2015-16.

initial vocational and professional curricula and that their study is required in order to qualify to practise in the medical profession.

97. Law-enforcement officials receive initial and in-service training addressing domestic violence (the underlining causes of domestic violence, reporting, risk assessment and management, policing models), gender-based violence and specific groups of victims (elderly people, people with disabilities and LGBTI people). Training is dispensed as a matter of priority to officials belonging to the specialist teams in the GNR and the PSP dealing with vulnerable victims, although “cascade” training programmes are in place to ensure that training benefits any frontline personnel. Between 2012 and 2017, a total of 26 500 law-enforcement officials attended training sessions centred on domestic violence against women as a gendered phenomenon. In light of the considerations developed further in this report in relation to Chapter VI, GREVIO underlines the importance for training to centre on the responsibility of law-enforcement agencies to bring perpetrators to account.

98. The Centre for Judicial Studies (the CEJ) provides mandatory initial training on domestic violence for members of the judiciary. The CEJ is also responsible for organising in-service training on domestic violence for prosecutors and judges from criminal and family courts, and has designed training material tailored to this end²³. Save for a few exceptions, training courses do not address the other forms of violence against women covered by the Istanbul Convention²⁴. Moreover, there is neither an incentive programme nor even a mandatory requirement for serving magistrates to attend the available training courses. Continuous participation in such training would be essential to overcome the problematic attitude displayed by prosecutors and judges towards women victims of violence, which is documented further in this report. In addition, training should be made available to other professionals working with courts, such as social workers and expert psychologists, in particular in relation to the requirements of the Istanbul Convention on the settlement of child custody and visitation rights.

99. GREVIO strongly encourages the Portuguese authorities to:

- a. **introduce compulsory initial training on all the forms of violence against women covered by the Istanbul Convention in the vocational and professional curricula for health professionals;**
- b. **expand and make compulsory the available in-service training for practising health professionals, including on how to track and collect data on victims of violence;**
- c. **improve the capacity of health professionals to identify and provide appropriate treatment to victims of female genital mutilation;**
- d. **pursue their efforts to ensure that all law-enforcement officials who might enter into contact with victims receive continuous training on violence against women, which places a strong emphasis on the need to understand the dynamics of violence against women and on the role of law-enforcement agencies in seeking evidence to prosecute cases of violence;**
- e. **expand the available initial and in-service training opportunities for members of the judiciary to address all forms of violence against women covered by the Istanbul Convention, based on the development of appropriate guidelines;**
- f. **provide for compulsory professional training for serving legal professionals;**
- g. **develop training for other professionals involved in supporting judicial decision-making processes, such as social workers and psychologists.**

Training developed in pursuance of the aforementioned suggestions and proposals should cover all the topics mentioned in Article 15 of the Istanbul Convention, follow an approach based on the safety and respect for the human rights of the victim, as well as a gender-

²³ The e-book “Domestic violence: sociological, psychological and legal implications of the phenomenon” (in Portuguese) is available on the CEJ website: www.cej.mj.pt/cej/recursos/ebooks/outros/Violencia-Domestica-CEJ_p02_rev2c-EBOOK_ver_final.pdf.

²⁴ Information provided in Portugal’s state report indicates that training provided in 2016 by the CEJ covered also female genital mutilation.

equality perspective, and aim at challenging professionals' own prejudices and assumptions which stand in the way of delivering effective support and protection for women victims of violence.

100. Considerations relating to the training of social workers and civil servants working in the Ministry of Social Security are dealt with further in this report, in relation to Article 18 of the convention.

D. Preventive intervention and treatment programmes (Article 16)

101. The first programme for domestic violence perpetrators to be developed in Portugal is the PAVD (rehabilitation programme for domestic violence perpetrators), which is administered by Portugal's Directorate General for Reintegration and Prisons Services (the DGRSP). The programme applies by court decision to individuals indicted or convicted of the crime of domestic violence. The programme has a minimum duration of 18 months and incorporates a risk assessment aimed at ensuring the safety of the victim throughout the various stages of the programme. It includes both individual and group sessions and is designed to make the perpetrator accept responsibility for his violent behaviour. A pilot project is underway, aimed at expanding the PAVD from the community to the prison context.

102. While the centrality of the concern for the victim's safety is to be commended, other aspects of the programme are a source of concern. Under the applicable rules, participation in the PAVD can be court-ordered, either as 1) a protection order (urgent coercive measure);²⁵ 2) a precondition for the provisional suspension of criminal proceedings²⁶ or the suspension of a penalty of imprisonment;²⁷ or 3) as an accessory penalty. According to the state report, the most frequent setting in which the programme applies is either the provisional suspension of criminal proceedings (35% of cases) or the suspension of the execution of a prison term (53% of cases). GREVIO considers that care should be taken to avoid any situation where the articulation between the perpetrator programme and the criminal proceedings might run counter to the requirement that such programmes should not replace prosecution, conviction or sentencing.²⁸ GREVIO refers in this respect to the considerations developed further in this report regarding suspended proceedings.²⁹

103. Another minimum standard applying to perpetrator programmes is that they should work in close co-operation with women's support services. This is crucial to ensure that women's services supporting victims whose partners or spouses, current or former, are attending a perpetrator programme, are regularly informed of progress and of the level of co-operation of the attendees and are provided with any information that might be important to ensure the women's safety. GREVIO has been informed about the existence of specific protocols supporting interagency co-operation between the DGRSP and the APAV, as well as other relevant public institutions. It finds, however, that there is far less evidence of any such systematic co-operation with women's support organisations, in particular women's NGOs.

104. Initial steps have been taken to introduce perpetrator programmes which are available on a voluntary basis. This initiative is carried out by the Family Violence Service of the University Hospital Centre of Coimbra. The authorities have informed GREVIO that they plan to link such programmes to the victims' support services offered by the Adult Violence Prevention Teams under the National Health Plan on Gender, Violence and Life Cycle. In developing new programmes and further expanding existing ones, GREVIO finds that there is a need for the authorities to oversee

²⁵ Article 31b of Law No.112/2009.

²⁶ Article 281 of the PCCP.

²⁷ Article 52 of the PCC.

²⁸ See page 57 of "Combating violence against women: minimum standards for support services", Council of Europe, 2008, available at: [www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF\(2007\)Study%20rev.en.pdf](http://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-CONF(2007)Study%20rev.en.pdf).

²⁹ Chapter VI, paragraph B3.

that such programmes follow a consistent intervention model, grounded on the principles advocated by the Istanbul Convention and recognised best practices, and to evaluate thoroughly their effectiveness in terms of preventing further violence and avoiding re-victimisation. GREVIO is of the opinion that the CIG could play an active role in this respect, especially in ensuring that the programmes incorporate a gendered understanding of violence against women and an approach based on the respect for the safety and human rights of the victim.³⁰ Such a role would complement the CIG's involvement in promoting measures to expand the existing array of available programmes for offenders, as outlined in the strategic area No. 3 of the V NAP. GREVIO notes with appreciation the authorities' efforts under this plan to develop intervention programmes for young perpetrators as an effective measure to prevent future adult violence.

105. GREVIO urges the Portuguese authorities to:

- a. ensure that the interplay between perpetrator programmes and criminal proceedings does not work against the principle of victims' access to fair and just legal processes;**
- b. strengthen these programmes' working relations with women's support services for victims, in particular women's NGOs, to ensure victims are adequately informed and protected;**
- c. expand the number and types of available programmes and promote their attendance both by mandatory and voluntary referral;**
- d. develop common minimum standards applying to perpetrator programmes, in line with the principles of the Istanbul Convention and recognised best practices, and base any evaluation of their efficacy on such standards.**

106. Convicted perpetrators of sexual offences benefit from specific support programmes for sex offenders run by the DGRSP inside prisons. Data provided in the Portuguese state report indicate that in 2016 the DGRSP worked with a total of 69 inmates. Efforts are underway to consolidate such programmes and expand them to a community context. In pursuing such an aim, GREVIO stresses the importance of ensuring that they comply with identified best practices and are embedded in a gendered understanding of violence against women.

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

107. The obligation contained in Article 17 of the Istanbul Convention requires parties to actively encourage the media and the private sector as a whole to engage in the prevention of violence against women, through self-regulation and codes of ethics, both as employers and as producers of media content, goods and services. GREVIO recalls the guidance provided in the collection of papers on the Istanbul Convention to enable state parties to tap into the potential offered by the private sector in changing attitudes of the public at large and overcoming gender stereotypes.³¹

108. The Portuguese authorities have taken a number of measures to encourage the media to combat stereotypes and promote gender parity. Ensuring equal visibility, responsibility and participation of women and men in the media represents one of the strategic goals of the V National Action Plan for Gender Equality, Citizenship and Non-discrimination 2014-17. Portugal's new Action Plan for Preventing and Combating Violence against Women and Domestic Violence (2018-21) includes the specific objective of ensuring communications free of sexist stereotypes, namely by establishing mechanisms to report sexist content in the media. Several initiatives by the

³⁰ For further guidance on the essential principles of domestic violence perpetrator programmes, GREVIO points to the collection of papers on the Istanbul Convention, one of which addresses what works in setting up domestic and sexual violence perpetrator programmes: "Domestic and sexual violence perpetrator programmes: Article 16 of the Istanbul Convention", Council of Europe, Strasbourg 2014, available at: <https://rm.coe.int/168046e1f2.v>.

³¹ "Encouraging the participation of the private sector and the media in the prevention of violence against women and domestic violence: Article 17 of the Istanbul Convention", Council of Europe, Strasbourg 2016, available at: <https://rm.coe.int/16805970bd>.

CIG in this area are recognised as examples of good practices among Council of Europe member states.³²

109. Increased awareness among media professionals of the gendered dynamics of violence against women has led to a certain progress in the media coverage of domestic violence and gender-based killings of women. Nevertheless, this seems to rely more on the personal conviction of individual journalists than on a strong commitment of the media institutions themselves and their editorial boards. The applicable self-regulatory standards for journalists deal with gender equality in general but do not address violence against women and the harm caused by violence to child witnesses. Participation in training on violence against women offered by the Professional Training Centre for Journalists (CENJOR) is voluntary and therefore fails to reach significant numbers of professionals. A stronger involvement in this area of the authority responsible for regulation and supervision of all media activities in Portugal, namely the Regulatory Entity for Social Communication (the ERC), could serve to gain more support among broadcasters and publishers to the cause of the prevention of violence against women. GREVIO takes positive note of the indication that the CIG is working at developing, in close co-operation with the ERC, material to prevent the emergence of sexist stereotypes in social communications.

110. While pursuing its efforts for gender equality to become a reality in the media landscape, GREVIO strongly encourages the Portuguese authorities to encourage media to develop and monitor the use of self-regulatory standards in the area of violence against women and of its harmful effects on children, having due regard to relevant existing international standards.³³

111. Article 17 of the convention also calls for measures to involve the private sector in its role as an employer. GREVIO welcomes the strong role played by the Portuguese Working Conditions Authority (the ACT) in promoting gender equality and combating gender discrimination in the workplace, in particular through the work of its labour inspectors. Data provided in the state report indicate that in 2015 the ACT carried out as many as 39 306 inspection visits and offered its services to 234 643 workers. The ACT also pursues vigorous awareness-raising efforts, through its regional offices offering face-to-face counselling, a national telephone information service and campaigns relayed by national media on topics such as sexual harassment at work and equal pay for women and men. Its attention to vulnerable groups of workers, including minors and immigrant workers, is particularly commendable.

112. In parallel with the ACT, the Commission for Equality in Labour and Employment (the CITE) disseminates information regarding methods of redress for victims of gender discrimination in the workplace. The CITE provides legal support to victims and receives complaints on which it renders its legal opinion. Information provided in the state report indicates that more than 90% of the CITE's opinions were issued upon a complaint lodged by a woman. The CITE was the lead authority of a broad multi-stakeholder initiative which resulted in the development of informative material and tools to support self-regulation to prevent and combat sexual harassment in the workplace.³⁴ The CITE and the ACT joined forces in launching a National Action to Promote Gender Equality at Work, spanning the years 2016-17.³⁵ The Ministry of the Economy is also actively involved in promoting corporate responsibility to prevent and combat domestic and gender-

³² See "Gender equality and the media at national level – Compilation of good practices from member states", Council of Europe, 2014: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680590557>.

³³ 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).

³⁴ These were the outcomes of an EEA funded project on Sexual and Moral Harassment in the Workplace in Portugal. See: <https://eeagrants.cig.gov.pt/en/resultados/sexual-and-moral-harassment-in-the-workplace/>.

³⁵ <http://cite.gov.pt/pt/acite/campanhas006.html>.

based violence. All such measures come in support of employers' efforts to set up mechanisms to deal with sexual harassment.³⁶

113. GREVIO considers that by their number, breadth and quality, the authorities' actions in this area – and in particular the activities pursued by the ACT and the CITE within the scope of their respective mandates – constitute an example of promising practice in implementing Article 17 of the Istanbul Convention and send a powerful message of zero tolerance towards gender-based violence in the work environment.

³⁶ In pursuance of the Portuguese Council of Ministers' Resolution No. 19/2012, the adoption of equality plans is mandatory for state-owned companies in Portugal and is recommended for privately owned companies.

IV. Protection and support

114. 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 Istanbul Convention. To meet these requirements, parties are required to provide specialist and general support services and ensure that victims can easily access or be referred to the right one.

A. General obligations (Article 18)

115. Addressing the complexity of violence against women requires establishing an intervention system which involves all relevant policy sectors, administrative levels and actors. Multisectoral and multiagency 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.

116. Under Article 53/A of Law No. 112/2009, there is a duty for all statutory agencies, namely social services, child protection services, law-enforcement agencies and health officials to co-operate among themselves and with the specialist support services of the national network. The National Support Network for Domestic Violence Victims provides a framework to structure a co-ordinated multiagency response.³⁷ GREVIO finds, however, that this network has yet to fulfil its mission of enabling truly effective co-operation between all relevant stakeholders. GREVIO notes for example that the lack of interinstitutional communication and co-ordination was found to be one of the main issues of concern identified by the Retrospective Domestic Violence Homicide Analysis Team in its latest report.³⁸ Good examples exist where partial co-ordination is practised but – save for a few exceptions – they appear to rely on the individual initiative of the agencies concerned. One notable exception is the interdisciplinary team of the Espaço Júlia, a centre for the treatment and accompaniment of domestic violence victims, established by way of a protocol between the Metropolitan Public Security Police of Lisbon, the municipality of Santo António and the central hospital of Lisbon. A similar centre has been established in the city of Oporto. The further replication of such a good practice to a wider number of municipalities in Portugal could serve to improve local level co-ordinated interventions.

117. GREVIO welcomes the indication that the new Action Plan for Preventing and Combating Violence against Women and Domestic Violence (2018-21) integrates several measures aiming at enhancing the ability of the National Support Network for Domestic Violence Victims to serve as a framework for a multiagency response to violence against women. Such measures include, *inter alia* the development of improved flowcharts to guide the co-ordinated action of agencies; harmonised intervention forms, including for risk assessment; and a common information management system to foster information sharing and to effectively match support and protection services with the needs of the victim.

118. In implementing these measures, attention should be paid to the need to expand local level co-ordination beyond domestic violence to cover all forms of violence against women, including forced marriage, for instance. Although there are no official data regarding this form of violence in Portugal, several reports³⁹ reveal that this form of violence against women occurs in Portugal and

³⁷ The role and composition of the National Support Network for Domestic Violence Victims are described in detail further in this report in relation to specialist support services (Article 22) and shelters (Article 23).

³⁸ See the third report by the Retrospective Domestic Violence Homicide Analysis Team (Equipa de Análise Retrospectiva de Homicídio em Violência Doméstica), published on 11 May 2018.

³⁹ See page 25 of “Forced marriages in Council of Europe member states: a comparative study of legislation and political initiatives”, Council of Europe, 2005; see also paragraph 118 of the Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal (second evaluation round), Council of Europe, 2017.

there are also victims who, after being forced to wed abroad, return to live in the country. Specialist NGOs working in the field deplore the lack of any mechanism to report cases and/or of a dedicated observatory collecting data on the prevalence of this particular form of violence. They believe there are several entry points where cases of forced marriage could be detected and victims referred to proper specialist support. One is the civil registration of marriages. Under Portuguese law, the minimum legal age to marry is 18; minors aged 16 can marry with parental authorisation, but, registration of the minor's wedding can be refused where there is a suspicion of forced marriage, in which case the marriage should be reported to the Commission for Child Protection. Schools offer yet another setting in which forced marriage can be identified and/or prevented, especially in cases of early drop-out. According to NGOs, however, standardised and co-ordinated intervention procedures should be developed to guide and support the professionals involved in taking action, following the example of what has been achieved for other forms of violence against women such as female genital mutilation.⁴⁰

119. GREVIO urges the Portuguese authorities to develop solutions offering a multiagency co-ordinated response to all forms of violence against women and to support their implementation by developing appropriate guidelines and training the staff concerned. Such solutions should be built on the strong involvement of local authorities and the participation of all the stakeholders concerned, including non-governmental organisations defending women's rights and combating violence against women.

120. One of the general principles underpinning the provision of protection and support services for victims is that they should be based on a gendered understanding of violence against women and domestic violence, and focus on the human rights and safety of the victim. In Portugal, despite the fact that the majority of support services for domestic violence victims are run by civil society organisations, they are mostly managed by organisations with a gender-neutral and assistance-based approach, intervening also in other social areas such as care for the elderly and children. It would appear that this is the inherited consequence of a history of faith-based and charity institutions traditionally operating in the area of social solidarity. To align civil society organisations' working methods with the victim-centred and human rights-based approach advocated by the Istanbul Convention, the authorities have conditioned the granting of licences to provide services to victims on the compliance with mandatory minimum standards on the protection of victims of domestic violence and gender-based violence (see the section above of this report concerning Article 9).

121. During GREVIO's evaluation, serious concerns were raised by NGOs regarding the ability of public social services to comply with the standards expected from civil society. A recurrent grievance was that social workers lack sufficient consideration for the underlying power dynamics and gender discrimination inherent in domestic violence, and the impact that witnessing such violence may have on children. This was reported to lead to frequent secondary victimisation of victims and their children. Strengthening social workers' understanding of the gendered nature of violence against women would require providing them with appropriate initial and/or on-the-job training on adequate responses that centre on the needs and rights of victims as well as on the prevention of secondary victimisation.

122. GREVIO strongly encourages the Portuguese authorities to ensure that the provision of protection and support services by both private and public entities is based on a gendered understanding of violence against women and follows an approach which gives priority to the safety and respect for the human rights of the victims, including child witnesses.

⁴⁰ See the National Guidelines on FGM for Clinical Practice, published by the Directorate-General of Health (DGS), Division for Sexual and Reproductive, Youth and Child Health in 2012; two Handbooks of Procedures for Local Commissions of Child and Youth Protection, published in 2014 and 2016 by the National Commission for the Promotion of Rights and Protection of Children and Youth (CNPDPJ), containing detailed information on FGM, as well as on prevention and co-operation mechanisms regarding FGM; the Procedural Guidelines for Criminal Police Organisations on FGM published by the Criminal Police High School in 2012.

123. GREVIO urges the authorities to provide social workers and officials dealing with issues related to violence against women within the responsible sectors of government, namely the Ministry of Solidarity, Employment and Social Security, with systematic and compulsory initial and in-service training on the different manifestations of violence against women, their detection and root causes, the prevention of secondary victimisation and the effects of violence on child victims and witnesses, based on clear protocols and guidelines drawing from the standards of the Istanbul Convention.

B. Information (Article 19)

124. The right to access timely and adequate information on available support services and legal measures is recognised in Law No. 112/2009 and is strictly regulated as part of the formal status of victims (see earlier in this report the section regarding Article 3 on definitions). Public prosecution services and law-enforcement officials are duty bound to provide victims with information from the first moment of contact with the victim. Moreover, the National Support Network for Domestic Violence Victims plays an important role as a source of information for victims. GREVIO stresses the relevance of information as a gateway to services and other measures which are essential for victims' recovery and empowerment. GREVIO notes that under Article 15e of Law No. 112/2009, "the victim must be guaranteed the right to choose not to receive the information" he or she is entitled to. Data provided by the authorities reveal that 3% of all victims of domestic violence waive their right to information. Added to the 8% of victims who waive the status of victim, these numbers represent a large proportion of victims who are at risk of not knowing what their options are. GREVIO is concerned that the right of victims to information could be outweighed by an opposing "right not to be informed", undermining the principle that victims' access to support and protection should in all cases be based on their informed consent.

125. Article 19 places upon the parties an undertaking to guarantee access to information to all victims, regardless of the initiation of criminal proceedings. Data from the 2014 FRA survey indicate that despite Portugal's efforts to raise awareness about violence against women, 42% of women still had no knowledge of the available support services. This would point to the need for sustained action in this area, in particular as regards "hard-to-reach" groups of victims, such as migrant women, women living in rural areas and women belonging to minority groups.

126. GREVIO encourages the Portuguese authorities to:

- a. take the necessary measures, including legislative measures, to uphold a victim's right to information as the fundamental means to access support and protection based on their informed consent;**
- b. pursue their efforts aimed at ensuring that all women victims receive adequate and timely information, in a language they understand, regardless of the existence of criminal proceedings.**

C. General support services (Article 20)

127. Several efforts have been undertaken in Portugal to mainstream the issue of violence against women into general support services. Mention can be made of the property rental support scheme for victims of domestic violence under Law No. 80/2014 and of the preferential access to public housing for women in shelters foreseen under the agreement between the CIG and the Institute of Housing and Urban Rehabilitation. Another example of interest is the protocol "Municipalities in Solidarity with Domestic Violence Victims" to which 42% of municipalities in Portugal have adhered since its establishment in 2012. Under this protocol, municipalities undertake to support women leaving shelters either through priority access to social housing or other means of social support. This is a crucial step in helping women to rebuild their lives and stay safe, as too many women are forced to return to their abusive partners and spouses due to a lack of financial means.

128. In addition, GREVIO would like to highlight the efforts made to involve the public health sector in identifying victims of domestic violence and in responding to their needs. In 2015, the health system in Portugal was reorganised to incorporate Adult Violence Prevention Teams (EPVAs), in addition to pre-existing support structures for child victims of violence. Although EPVAs have been set up in all hospitals and health centres across the country, they function to varying degrees of effectiveness and their implementation of existing guidelines and protocols on how to deal with violence against women should be evaluated to assess overall progress. The health sector is often the first point of contact for domestic violence victims who have not yet spoken out, and ensuring that the right questions are asked and referrals made can help break the cycle of violence. Health-care professionals in Portugal are required to adhere to norms of professional secrecy. However, their Code of Ethics allows for exceptions, namely when the victim is a minor. GREVIO recalls that under Article 28 of the Istanbul Convention, confidentiality rules should not constitute an obstacle to the ability of professionals to submit reports if they have reasonable grounds to believe that a serious act of violence has been committed and further serious acts of violence are to be expected.

129. GREVIO encourages the Portuguese authorities to pursue their efforts to ensure victims have access to services facilitating their recovery from violence throughout the country, including in particular support for accessing housing, vocational guidance and the labour market.

D. Specialist support services (Article 22) – Shelters (Article 23)

130. Figures regarding the numbers of victim support centres and their spread throughout the country were provided in the state report. At the time of GREVIO's evaluation, there were 130 such support centres, 22 of which were located in the islands of the Azores and Madeira. Most of them (103) are managed by NGOs, while the others are run by public entities including municipalities. Victim support centres are foreseen in Law No. 112/2009 and form part of the National Support Network for Victims of Domestic Violence. They bring together professionals from different backgrounds and constitute interdisciplinary teams working in a network with other general and specialist service providers.

131. It is difficult to assess, based on these figures alone, to what extent the existing victim support centres meet the needs and demands of victims. Information provided by the authorities on their attempts to improve the national coverage of support services – including by equipping them with vehicles to transport victims from less populated areas with no such centre – would indicate that further investments are needed in this area. Moreover, these centres are designed to primarily handle cases of domestic violence and do not appear to be equipped and/or have staff trained to provide specialist support to victims of other forms of violence. NGOs running the centres reported being prevented from providing legal counselling following the enactment of new legislation strictly regulating the provision of legal assistance. Initial steps have been made to develop specialist help for victims of rape and sexual violence (see the section below on Article 25) and there exists some form of support specifically targeting victims of female genital mutilation. There does not however appear be any organised support for victims of sexual harassment or for women and girls affected by forced marriage. In 2016, only 17 victim support centres benefited from funding under a co-operation agreement with the Ministry of Social Security, while the rest depended on funding from state-licensed betting or international grants, at times with no guarantee of long-term sustainability and/or with insufficient levels of resources.

132. Despite the more comprehensive service provision in the area of domestic violence, ensuring access and appropriate support for all victims in need is an issue still to be resolved. There is a total of 39 shelters distributed among 15 of the country's 18 districts and in both autonomous regions, ensuring coverage of 83% of the national territory on the continent and 100% on the islands. These figures appear to fall short of the standard set in the Explanatory Report of the Istanbul Convention (paragraph 135), which states that safe accommodation in a specialist women's shelter must be available with one family place per 10 000 inhabitants. This gap is in part remedied by the provision of 126 emergency vacancies to allow women to take the time they need

to decide on the next steps (relocate to a shelter or return home). All shelters and temporary safe accommodation are state funded and run by NGOs or private entities.

133. Under Law No. 112/2009, shelters are mandated to provide free support services for women and children aimed at their recovery and empowerment, such as health care, education, professional training, housing, support to access the labour market and psycho-social counselling. NGOs running shelters indicate however that the standard staffing levels are not always enough to cope with the varying occupancy rates and that they do not systematically include specialist personnel to help the majority population in shelters, namely children. Children in shelters may at times face difficulties in accessing schools which require that the pupil have a permanent address. Lack of proper equipment and/or specialist services limit access to shelters for women with health problems and disabilities. Other groups facing possible obstacles in accessing domestic violence shelters and specialist support include lesbian women and undocumented women. GREVIO notes positively in this respect that a shelter for people from the LGBTI community was opened recently. Although, in principle, undocumented victims are entitled to specialist services, certain shelters are reported to be reluctant to admit them. This can be linked to the fact that several shelters are funded based on a system of daily rates, which are disbursed by the government provided the victim is registered with the national social security. Undocumented victims are in fact precluded from accessing free general support services, such as health services, social benefits, state compensation and legal assistance. Funding is not always available to respond to the longer-term needs of victims and to enable their empowerment in the long run.

134. Lastly, poor co-ordination between the entities with the joint responsibility of funding and supervising sheltering services, namely the CIG and the Ministry of Social Security, and the lack of an umbrella structure linking sheltering services, can delay decisions on placement and affect the quality of support. This is a concern the authorities are trying to address by developing a shared information system to support interinstitutional co-ordination and allow for a comprehensive and regular assessment of victims' needs. NGOs running shelters are further concerned that the confidentiality and privacy of the victim in a shelter may be at risk owing to the procedures applying to their communications with public institutions despite the protection afforded by existing data protection rules. GREVIO underlines in this regard that respect for the confidentiality of the victim's personal data must be ensured at all times, meaning that such data can only be shared with third parties with the victim's informed consent, with the exception of life-threatening situations⁴¹. The authorities might consider whether, in order to uphold these principles, existing rules on data protection should be reinforced by developing information-sharing protocols.

135. An overarching goal in developing the provision of specialist services should be to ensure that all services move away from an assistance-driven approach – where the patriarchal control of an abusive partner tends to be replaced by institutional control – to a culture of empowerment. This can be achieved by supporting victims to make sense of violence and (re)gain power over their own lives, through a gender analysis which challenges both victim blame and excusing perpetrators.⁴² GREVIO refers to this effect to its suggestions and proposals made in relation to Article 9 of the Istanbul Convention.

136. GREVIO strongly encourages the Portuguese authorities to ensure generally that the specialist support services meet the demands of victims, irrespective of the form of violence they experienced or the particular realities and compounding difficulties they face, and respect their confidentiality.

⁴¹ See page 39 of “Combating violence against women: minimum standards for support services”, Council of Europe, 2008.

⁴² See page 23 of “Combating violence against women: minimum standards for support services”, Council of Europe, 2008.

137. While pursuing the ultimate goal of supporting and empowering all victims of violence against women and their children, GREVIO urges the Portuguese authorities to:

- a. aim at a comprehensive strategy for service provision by conducting a needs assessment on the number, types and geographical location of services required by victims of all the different forms of violence and their children;**
- b. set up specialist support services for victims of all forms of violence against women, including forced marriage and female genital mutilation, and for children, including child witnesses;**
- c. further develop specialist support services for children, including in shelters where children should be able to stay with their mothers;**
- d. set up adequate support services, including sheltered accommodation, for women victims of domestic violence with mental health issues, intellectual or physical disabilities that require medical care or support;**
- e. remove funding requirements and other bureaucratic obstacles that prevent or encumber access to services and shelters for undocumented women; and**
- g. enable the above through the provision of sustained financial and trained human resources.**

138. GREVIO notes positively that a number of measures foreseen under the new Action Plan for Preventing and Combating Violence against Women and Domestic Violence (2018-21) address the concerns raised here above, such as the plan to open new emergency shelters and to create additional specialised shelters for women victims, including women with mental health issues and women with disabilities.

E. Telephone helplines (Article 24)

139. In Portugal, there are several telephone helplines to which women and girl victims of violence can turn in emergency situations and/or to seek advice and guidance. The Information Service for Victims of Domestic Violence is run by the CIG and is available 24/7 free of charge. It operates on an anonymous and confidential basis and provides information on victims' rights and advice on existing support services. A Victim Support Line is also provided by the APAV, from Monday to Friday from 9 a.m. to 5 p.m., where victims of any crime can receive information and emotional support. Victims can also access a number of helplines which specifically target certain groups of the population, who may not necessarily be victims of crime. These include the SOS Child helpline, the Elderly Citizen's Hotline, the Hotline for Citizens with Disabilities and the SOS Immigrant Line. The Portuguese Ombudsman also operates freephone telephone services.

140. None of the above helplines specifically targets women as victims of gender-based violence. The Information Service for Victims of Domestic Violence run by the CIG has a gender-neutral approach and although it can receive calls from women victims of violence other than domestic violence, it is advertised as a service for victims of domestic violence only. Moreover, after working hours and on non-working days, the service is suspended and calls are redirected to the generic Social Emergency Line 144 operated by social services.

141. GREVIO urges the Portuguese authorities to set up or support the functioning of a dedicated telephone helpline addressing women victims of different forms of violence and operated by qualified staff trained in all these forms of violence.

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

142. In 2016, a first crisis centre for women and girl victims of sexual violence was inaugurated in the metropolitan area of Lisbon. This initiative represents Portugal's first attempt at creating an articulated network for the implementation of an integrated, coherent and comprehensive intervention model in cases of sexual violence. The centre is run by a state-funded NGO on the

basis of a protocol with the Ministry of Justice and the Secretary of State for Citizenship and Equality. It provides individual and group psycho-social counselling and refers victims to the appropriate specialist services. The centre also carries out activities in the field of awareness raising and prevention of revictimisation and secondary victimisation. The authorities have informed GREVIO of their plans to open two additional new centres in the cities of Porto and Braga.

143. NGOs are concerned that the authorities' approach to this issue suffers from a misunderstanding, which is reflected in an incorrect translation of the wording of Article 25 in the official Portuguese version of the Istanbul Convention.⁴³ The translation does not properly differentiate between the immediate medical care, forensic examinations and crisis interventions provided by sexual violence referral centres on the one hand, and the long-term help provided by rape crisis centres through counselling and therapy on the other. GREVIO recalls that whether the authorities opt for one model or the other, or both, it is of paramount importance that they develop comprehensive victim-centred specialist support covering victims' immediate, short-term and long-term needs and taking a human rights-based approach.

144. GREVIO strongly encourages the Portuguese authorities to develop:

- a. rape crisis and/or sexual violence referral centres in sufficient numbers, recalling that one such centre should be available per every 200 000 inhabitants and that their geographic spread should make them accessible to victims in rural areas as well as in cities;**
- b. ensure that these centres provide both short-term support, forensic examination and medical care, as well as longer-term counselling and support.**

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

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

146. Research has shown that children who witness one parent's assaults on another in the home often develop emotional problems, cognitive functioning disorders and accept attitudes around violence that need to be addressed in the long term.⁴⁴

147. GREVIO finds that in Portugal, policies and measures addressing child witnesses tend to focus on their procedural rights with respect to their participation in criminal proceedings. GREVIO was informed in this respect of recent measures adopted in pursuance of the National Strategy on the Rights of Children (2017-20) consisting of setting up specifically designed rooms for child witnesses operating under the responsibility of the Ministry of Justice. GREVIO found less evidence of measures taken to provide child witnesses with support and protection as of their own right as (indirect) victims of violence. Instead, the statutory agencies involved are largely believed to give priority to the presumed best interest of the child to maintain contact with both parents at all costs,⁴⁵ regardless of the violence he or she has witnessed. The underestimation of the effects of violence on child witnesses tends to go together with a lack of understanding of the effects of violence on women. They both mirror insufficient levels of awareness of the gendered nature of domestic violence against women and lead to decisions which disregard the child's rights and

⁴³ See page 28 of the shadow report submitted to GREVIO, available on the Council of Europe's official website for the Istanbul Convention.

⁴⁴ "Problems associated with children's witnessing of domestic violence", Jeffrey L. Edleson, VAW Net, available at https://vawnet.org/sites/default/files/materials/files/2016-09/AR_Witness.pdf.

⁴⁵ See page 33 of the NGO shadow report submitted to GREVIO, available on the website for the Istanbul Convention.

interests, such as the decision that a mother made psychologically vulnerable by violence is unfit to exercise her parental responsibilities or that the violent father should maintain a right to visit the child in a shelter.

148. GREVIO urges the Portuguese authorities to review their policies to ensure that the statutory agencies involved, in particular the National Commission for the Promotion of the Rights and Protection of Children and Young People and social services, 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 section of this report dealing with Article 31 of the Istanbul Convention).

V. Substantive law

149. Chapter V of the Istanbul Convention covers a range of provisions related to substantive law, in the areas of civil and criminal law. The aim is to help create, in all parties to the Istanbul 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 and remedies (Article 29)

150. In Portugal, protective measures against the perpetrator are generally taken in the framework of criminal proceedings. Civil remedies against the perpetrator exist in the law and allow for removing the perpetrator from the victim's residence; however, the authorities have informed GREVIO that they remain largely unapplied.

151. The remedies in question are those related to the "guardianship of personality" and are governed by Article 70 of Portugal Civil Code, in conjunction with Articles 878 *et seq.* of the Code of Civil Procedure. Under these provisions, victims may apply to civil courts for the adoption of any appropriate measure "to prevent the commission of any unlawful and direct threat to the physical or moral personality of the human being or to mitigate or to cease the effects of an offence already committed".

152. Having regard to the limits of the protective mechanisms under criminal law which are exposed further in this report, consideration should be given to the possibility of putting the civil remedies to use to enhance the protection of victims. This would require uncovering the reasons why they remain little used and examining whether they should not be modified to suit the needs of the victims. GREVIO notes in this regard that the 20-day term to fix the date of the first hearing on which courts examine the request for a protective measure runs counter to the requirement of an immediate protection of victims.

153. GREVIO encourages the Portuguese authorities to consider reviewing and/or amending available civil remedies against the perpetrators, as a means to enhance the immediate protection of victims.

2. Compensation (Article 30)

154. As a general rule,⁴⁶ compensation must be claimed within criminal proceedings. Victims can inform the police or the public prosecution service by the end of the inquiry stage that they wish to file a claim for compensation. Otherwise, once they have been notified of the indictment, they dispose of a term of 20 days to file a compensation claim.⁴⁷ Compensation covers both material and moral damages. Even if a claim is not filed, the judge may, of his or her initiative and having regard to the victim's situation, order the offender to pay a certain amount in compensation for damages, unless the victim objects.

155. Protection for victims of violent crimes includes the payment of advance compensation from the state, whenever the offender is unable to pay and the victim's standard of living has been considerably disrupted.⁴⁸ Persons entitled to compensation include victims of grievous bodily harm (causing either permanent disability or total temporary incapacity to work for at least 30 days) and, in case of death of the victim, persons who were entitled to maintenance by the victim. In the case

⁴⁶ Article 71 of the PCCP.

⁴⁷ Article 75, paragraph 2 of the PCCP.

⁴⁸ Articles 1 and 2 of Law No. 104/2009.

of sexual crimes, the 30-day requirement of permanent incapacity or total temporary incapacity to work does not apply, out of recognition for the innate seriousness of the crime. The compensation claim must be filed no later than one year after the commission of the crime, or, in the case of criminal proceedings, no later than one year after the final decision of the court. Applications are free of charge and are made to the Commission for the Protection of Victims of Crime (the CPVC), operating under the Ministry of Justice.

156. Special cash benefits are available for victims of domestic violence whenever, as a consequence of the crime of domestic violence, they find themselves in a situation of serious financial hardship. Applications are handled by the CPVC and must be lodged within six months of the commission of the crime. Under this financial support scheme funded by the state, domestic violence victims can receive up to six months of the national minimum salary. In exceptional cases, compensation may be extended up to a maximum of 12 months and/or paid in the form of a lump sum.

157. GREVIO's exchanges with actors in the field would point to a number of limitations of the compensation mechanisms. Procedures in cases of violent crimes are reported to be lengthy and decisions of the CPVC are usually not taken before the end of the criminal proceedings. Cash benefits for victims of domestic violence do not compensate all damages caused by the offence and their award is subject to restrictive interpretations of the criteria set in the law. In the absence of data regarding the number of victims who benefited from compensation, GREVIO was not in a position to assess the effectiveness of the authorities' response to the requirements of Article 30.

158. GREVIO encourages the Portuguese authorities to take additional measures to guarantee victims have access to adequate compensation.

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

159. Article 31, paragraph 1, of the Istanbul Convention aims at ensuring that judicial orders ruling on custody and visiting rights take into account incidents of violence against the non-abusive carer as much as against the child itself. Paragraph 2 of this article is further designed to prevent visitation and custody rights from posing a risk to the rights and safety of the victim and/or her children.

160. In Portugal, the implementation of Article 31, paragraph 1, has been hampered by the lack of co-ordination between criminal courts, where cases of domestic violence are tried, and family courts, which determine the exercise of parental responsibility. In an attempt to deal with this lack of co-ordination, the Portuguese legislature passed a law in 2017 (Law No. 24/2017) requiring the public prosecutors in both courts to liaise so as to enable the urgent settlement of parental responsibilities. The new law explicitly acknowledges that the joint exercise of parental responsibilities can be contrary to the best interest of the child when: 1) a coercive measure or an accessory penalty is applied to the perpetrator prohibiting contact between parents; and/or 2) it would expose to serious danger the rights and security of the victims of domestic violence.

161. While welcoming this legislative improvement, GREVIO has been alerted by legal practitioners and civil society that the new law is not having the desired effect. This is in part because it does not create an obligation for family judges to act upon the information communicated by the prosecutor in the criminal case but leaves them the discretion to do so. This leads to decisions on visitation and parental responsibility ignoring issues of domestic violence. Specific examples were given to GREVIO firstly of family courts ordering the mother to take the child for visitation to the prison where the father is detained for being violent to the mother, causing her revictimisation and secondly, where family courts released information to the perpetrator father about the shelter where the mother was residing, resulting in a lack of safety not only for the victim but also for the other women and children residing in the shelter.

162. Moreover, since family courts do not carry out their own investigations about allegations of domestic violence, the law does not provide a solution for cases where there are no criminal proceedings or where such proceedings are suspended prior to a determination of whether the

violence took place as alleged. In the light of existing data revealing extremely high rates of suspended proceedings in cases of domestic violence, the ensuing gap in the coverage of the law is considerable. In the absence of a conviction for domestic violence, the statutory agencies involved, namely the Child Protection Commission, social services, psychologists and family courts, are under no duty to give due consideration to the impact of the violence on the mother and her children and may treat domestic violence as part of a parental conflict.

163. To remedy such shortcomings, all statutory agencies should follow a unified approach which prioritises the need for protection and safety of the victims of domestic violence and which recognises that children witnessing abuse by one parent of another can be as affected as much as if they had experienced it themselves. Such an approach should moreover acknowledge that shared parental responsibility requires parents to be able to communicate and negotiate freely on all issues related to the children. The imbalance in power caused by domestic violence might mean that the victim is not in a position, and thus should not be required, to engage in such communication with the abusive parent.

164. GREVIO urges the Portuguese authorities to take the necessary measures, including legislative amendments, to ensure that family courts are under the duty to consider all issues related to violence against women when determining custody and visitation rights and to assess whether such violence would warrant restricting custody and visitation rights. To this end:

- a. all applications to family courts should include a mandatory question on whether violence has been an issue in the relationship and whether it has been reported to law-enforcement officials;
- b. where violence has been reported, family courts should ask for the disclosure of the risk assessment and safety plans drawn up by law-enforcement agencies and take them into account when determining any issue involving a party who has alleged violence;
- c. where there is an ongoing criminal investigation and/or the perpetrator is in custody pending trial, family courts should seek the opinion of law-enforcement agencies and the prosecution, and give reasons as to why they choose to either follow or disregard those opinions;
- d. if the criminal investigation is closed or suspended, family courts must conduct their own investigation as to whether violence occurred and what effect the violence has had on the child;
- e. safeguards should be built into the procedures, such as offering the parents separate appointments and creating separate waiting areas in courts, to take into account the imbalance of power between the victim and the perpetrator and to prevent the risk of revictimisation.

Such measures should be accompanied by the provision of appropriate training and the development of professional guidelines, aimed at raising awareness among the professionals concerned as to the harmful effects of violence on children, including child witnesses, and at familiarising them with the requirements of the Istanbul Convention related to the settlement of custody and visitation rights. Progress in this field should be measured by data illustrating how family courts consider incidents of violence and how they motivate their decisions on custody and visitation rights.

165. GREVIO further considers that the authorities should consider developing perpetrator programmes to which family courts could refer perpetrators in order to evaluate the perpetrators' engagement with the programmes and their ability to adopt non-violent behaviour in interpersonal relationships prior to ordering visitation.

166. Under Article 40, paragraphs 1 to 3 of the rules on guardianship established by Law No. 141/2015, courts in Portugal may order that the aggressor's contact with the child be supervised by a multidisciplinary team of technical advisers (psychologists and social workers) or even be suspended, where appropriate. The aim of supervised visitations is to allow the parent's access to

the child in a safe environment, where such access is not deemed contrary to the best interest of the child. Although conciliation is formally banned in cases of domestic violence, GREVIO has been alerted by civil society of the practice whereby supervised visitations can at times be used to attempt an informal reconciliation between the victim and the perpetrator and have led to instances in which the mother of the child was exposed to repeated violence. Such attempts are usually carried out by civil society organisations which lend support to both the victims and the perpetrators and operate under the supervision of social services and the Child Protection Commission. The authorities have informed GREVIO that they would take measures to stop this practice by raising awareness among the institutions concerned as to the risks posed for the safety and the rights of the child and the victim. GREVIO has been further informed that initial steps have been taken to set up dedicated facilities for supervised visitations which operate under the strict requirement that mothers who are victims of domestic violence should not be present.

167. GREVIO recalls that in cases of domestic violence, issues regarding common children are often the only ties that remain between victim and perpetrator. For many victims and their children, complying with contact orders can present a serious safety risk because it often means meeting the perpetrator face to face. Hence Article 31, paragraph 2, requires parties to take measure to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim and the victim's child/children. Such measures should be grounded on the acknowledgment that both the mother and the child witness are victims of violence and face a risk of revictimisation when meeting with the offender.

168. GREVIO urges the Portuguese authorities to take measures to:

- a. **ensure that all statutory agencies and civil society organisations involved in deciding and carrying out arrangements for supervised visitations prioritise the safety and the respect of the rights of the child and the mother, including by refraining from attempting to reconcile the victim and the perpetrator;**
- b. **expand the availability throughout the country of suitable premises – equipped with properly trained staff – for implementing supervised visitations which comply with the requirements of the Istanbul Convention.**

B. Criminal law

169. The offence of domestic violence which is governed by Article 152 of the PCC is examined earlier in this report (see Chapter I). Under the definition given by Article 152 of the PCC, different manifestations of violence (physical, psychological and sexual) are criminalised. The following paragraphs will therefore focus on the various forms of violence which the Istanbul Convention requires be criminalised, irrespective of the relationship between the victim and the perpetrator.

170. Forced abortion and forced sterilisation are regulated under Article 140 and Article 144 of the PCC, respectively. The offences of female genital mutilation (Article 144-A of the PCC), stalking (Article 154-A of the PCC) and forced marriage (Article 154-B of the PCC) were introduced by a 2015 legislative amendment.

171. The offence of forced marriage applies to the conduct of forcing another person to contract “marriage or [a] union comparable to that of marriage” and can therefore be invoked even in the case of informal marriages with no legal standing. However, the definition given in Article 154-B of the PCC does not extend to the behaviour described in paragraph 2 of Article 37 of the Istanbul Convention, namely “the intentional conduct of luring an adult or child to the territory of a Party or State other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage”.

172. GREVIO invites the Portuguese authorities to introduce criminal legislation that covers the intentional conduct set out in Article 37, paragraph 2, of the Istanbul Convention.

173. In Portugal, the definition of sexual crimes given in the PCC is not based merely on the absence of consent of the victim. Both Articles 163 of the PCC on sexual coercion and Article 164 of the PCC regarding rape require, as a constituent element of the offence, using “violence, serious threat” or rendering the victim “unconscious or incapable of resisting”. Following the 2015 penal reform, the second paragraph of both these articles was remodelled to cover the conduct of sexual coercion and rape committed “by any other mean not foreseen in the previous number”, in other words without violence or threat, and without having suppressed the victim’s ability to resist. The aim of this amendment was to bring Portugal’s criminal legislation on sexual violence in line with Article 36 of the Istanbul Convention. GREVIO notes, however, that these legislative changes did not definitively do away with the requirement of the use of force since in paragraphs 2 of Articles 163 and 164 of the PCC, the offensive conduct is qualified by the use of the verb “constrain”. GREVIO considers that such a wording is not sufficient to definitively break away from the long-standing practice of Portuguese courts to require proof of the victim’s resistance in order to sentence the perpetrator.⁴⁹

174. The offence of sexual harassment is defined in Article 170 of the PCC as the conduct of importuning the victim “by way of performing exhibitionist acts, formulating sexual proposals or compelling [the victim] to a contact of a sexual nature”. GREVIO finds this wording to be particularly restrictive compared to the aim of Article 40 of the Istanbul Convention which is to make liable to legal or criminal sanction any verbal, non-verbal or physical conduct of a sexual nature unwanted by the victim regardless of whether it qualifies as “exhibitionist” behaviour or a sexual “proposal”. The verbal conduct qualifying the offence can be constituted by any unwanted words or sounds such as jokes, questions or remarks, whether expressed or communicated orally or in writing. Non-verbal conduct, on the other hand, covers any expressions or communication on the part of the perpetrator that do not involve words or sounds, for example facial expressions, hand movements or symbols. As it stands, the current formulation of Article 170 of the PCC falls short of the aim of Article 40 of the Istanbul Convention which is to capture a pattern of behaviour whose individual elements, if taken on their own, may not necessarily result in a sanction.

175. GREVIO urges the Portuguese authorities to:

- a. amend their criminal legislation on sexual crimes to ensure that such offences are based on the absence of the free consent of the victim;**
- b. review the definition of the offence of sexual harassment in Article 170 of the Portuguese Criminal Code with a view to aligning it with the requirements of Article 40 of the Istanbul Convention.**

4. Unacceptable justifications for crimes, including crimes committed in the name of so-called “honour” (Article 42)

176. Article 42 of the Istanbul Convention includes a clear prohibition of historically used justifications for acts of violence against women, including domestic violence. Thus, the criminal law and criminal procedural law of parties to the convention should not allow excluding or minimising the perpetrator’s accountability where the offensive conduct was allegedly committed to prevent or punish a victim’s suspected, perceived or actual transgression of cultural, religious, social or traditional norms or customs.

177. Under Article 71 of the PCC, judges may, when sentencing a crime, take into consideration “the feelings evidenced in committing the crime and the purposes or motives that have determined it”. Article 72 of the PCC further provides for the possible mitigation of criminal sanctions where “the agent’s conduct had been determined by honourable motive, by strong solicitation or temptation from the victim himself, or unjust provocation or undeserved offence”. The authorities informed GREVIO that they did not view these provisions as raising an issue of incompatibility with Article 42 of the Istanbul Convention, because their aim is to confer a prerogative to the judge and

⁴⁹ See “Portuguese judicial narratives about sex crimes”, Isabel Ventura, 2016, published by Palgrave Communications.

not a right to which the perpetrator is entitled. GREVIO recalls that the victim-blaming attitude which Article 42 is designed to disbar refers precisely to centuries of judicial stereotyping whereby courts downplayed violence and reduced sentencing out of the biased perception that the victim had brought the violence upon herself. There are several Portuguese media reports referring to courts' findings where the motives of the perpetrator, such as jealousy, had been prompted by the victim's behaviour and therefore justified a reduced sentence.⁵⁰ However exceptional these cases might have been, GREVIO is of the opinion that the Portuguese legislator should send out a strong message that in no case whatsoever can "honour", including the "honour" of a man allegedly wronged by a woman, justify crime.

178. GREVIO strongly encourages the Portuguese authorities to eliminate from their legislation any provision carrying the potential to ground decisions in criminal proceedings which reduce sentencing on account of the victim's supposed transgression of cultural, religious, social or traditional norms or customs of appropriate behaviour.

5. Aggravating circumstances (Article 46)

179. The first aggravating circumstance listed in Article 46a of the Istanbul Convention concerns offences "committed against a former or current spouse or partner as recognised by internal law, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority". The common element in these cases is the position of trust which is normally connected with such a relationship and the specific emotional harm which may emerge from the misuse of trust when committing an offence within such a relationship. In Portugal, the requirement to allow for harsher punishment when the victim and the perpetrator are bound by any one of these relationships is satisfied by the establishment of the separate offence of domestic violence punished under Article 152 of the PCC. The provisions of Article 152 of the PCC also cover the aggravating circumstances mentioned in Article 46 c (offence committed against a vulnerable person), Article 46 d (offence committed against or in the presence of a child) and Article 46 h (offence resulting in severe physical harm for the victim) of the convention: in the presence of one or the other of these circumstances, the penalties applying to the offence of domestic violence can be increased. The other aggravating circumstances listed in Article 46, however, are not mentioned in Article 152 of the PCC as justifying harsher sentencing and they do not appear to be applicable under any other provision of the PCC. Thus, for instance, there is no indication that the fact that the offence resulted in severe psychological harm for the victim (Article 46 h of the convention) can be invoked to increase a prison term.

180. As regards sexual violence, Article 177 of the PCC set outs a list of aggravating circumstances, which include the existence of a family relationship between the perpetrator and the victim, as well as abusing of the victim's dependency. This list, however, falls short of covering all the aggravating circumstances enumerated under Article 46 of the convention. Moreover, Article 177 of the PCC only concerns sexual violence. There does not appear to be a similar rule for other forms of violence against women, including for example stalking and forced marriage.

181. GREVIO urges the Portuguese authorities to amend their criminal legislation to ensure that the circumstances described in Article 46 of the Istanbul Convention may be taken into consideration as aggravating circumstances for all forms of violence covered by the convention.

⁵⁰ See the online CNN article of 26 October 2017, entitled "Man who viciously beat his ex-wife is spared jail because judge says her infidelity 'dishonored' him", available at: <https://edition.cnn.com/2017/10/26/europe/portugal-honor-beating-trnd/index.htm>; see also the online article from *Sábado*, dated 19 April 2018 and available at <https://www.sabado.pt/portugal/detalhe/matar-por-ciume-nao-e-um-motivo-futil-diz-tribunal-de-guimaraes>, concerning the judgment of the Court of Appeal of Guimarães in the case of a 19 year old man who stabbed his ex-girlfriend, where the judge considered that jealousy was not a futile motive to kill, and changed the qualification of the crime from qualified attempted murder to simple attempted murder, thereby suspending the sentence after diminishing it from 6 to 5 years of imprisonment and ordering the release of the defendant.

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

182. Conciliation is an obligatory step in divorce proceedings and is designed to explore options for an amicable settlement between the parties. The Portuguese legislator has formally recognised that cases of domestic violence are unsuitable for conciliation, given the power imbalance between the victim and the perpetrator, by removing the mandatory requirement for conciliation in all cases where there has been violence between spouses, regardless of whether there has been a conviction. The effective implementation of this ban would require that courts actively screen divorce cases for domestic violence, whether or not children are involved in the process. Otherwise placing the onus of disclosing incidents of domestic violence on the victim would disregard victims' reluctance to speak out, be it for fear of not being believed, losing custody over their children or of incurring further violence. GREVIO is not aware that any such procedure is in place in divorce proceedings.

183. GREVIO strongly encourages the Portuguese authorities to uphold and effectively enforce the ban on reconciliation in divorce proceedings where there is a history of domestic violence, including by developing guidelines and providing training on methods for screening family law cases for domestic violence.

VI. Investigation, prosecution, procedural law and protective measures

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

A. General obligations (Article 49)

1. Duty to ensure investigations and judicial proceedings without delay

185. In Portugal, the two law-enforcement agencies that respond to cases of violence against women are the Republican National Guard (the GNR) and the Public Security Police (the PSP). The GNR largely polices non-urban areas and has developed specialist investigation teams (Investigation and Support to Vulnerable Victims Teams or NIAVEs) at district (24) and local (303) levels to respond to reports of violence against women. Some 443 officers were engaged in these teams at the time of GREVIO's evaluation, 18% of whom were female.

186. The PSP is city-based and pursues an intervention model linking together crime prevention and proximity policing. The model places a special focus on the protection of vulnerable groups and victims of domestic violence through the work of the Proximity and Victim Support Teams (the EPAV). In addition, both the GNR and the PSP incorporate Safe School Programme Teams (the EPES). The mission of these teams is to strengthen bonds between law-enforcement agencies and citizens and prevent situations that may result in criminal offences, notably by raising awareness of issues related to gender equality and violence against women. There were 407 officials involved in the EPAV system at the time of GREVIO's evaluation. Additionally, 155 officials (27% female) were employed within specialist teams designated to investigate domestic violence cases. The total number of professionals of the PSP with specific responsibilities related to domestic violence cases was 562, 18% of whom were female.

187. Various measures have been taken to ensure that cases of violence against women are investigated and prosecuted without delay. Such measures include Law No. 72/2015, which established as one of the objectives of Portugal's criminal policies for the biennium 2015-17 the principle that domestic violence and sexual violence-related offences should be investigated as a matter of priority. Another such measure was introduced by Article 31 of Law No. 112/2009 requiring criminal courts to deliberate on urgent coercive measures (see the paragraphs below dealing with Articles 52 and 53 of the Istanbul Convention) within the maximum deadline of 48 hours from the moment the violence was reported. Officials met by GREVIO explained that this rule entails an obligation for law-enforcement agencies to promptly notify prosecution services about domestic violence cases, thus constituting the basis for the swift intervention of courts. Despite these measures, GREVIO was informed that not all criminal proceedings in domestic violence-related cases were handled expeditiously and that there was a lack of data on the average time needed to complete the various stages of the proceedings, which would illustrate to what extent the aforementioned measures had been successfully implemented.

188. GREVIO encourages the Portuguese authorities to take measures to ensure that cases of violence against women are investigated and prosecuted without delay. Such measures should include tracking the average time lapse from one stage of the criminal proceeding to another with the aim of possibly identifying where delays and bottlenecks occur.

2. Effective investigation and prosecution

189. During its evaluation, GREVIO recorded a general recognition among statutory agencies and civil society alike that, as a reflection of change in public policies and attitudes, there had been noticeable progress in the past few decades regarding the way investigations and prosecutions into cases of violence against women are carried out. Still, the perception was that there remains room for improvement as regards the gendered understanding of violence and that victims continued to approach the system with a fear of being victimised again. This was particularly evident in relation to cases of sexual violence in which, according to media reports, the judiciary police allegedly claimed that victims lied about sexual violence.⁵¹ GREVIO's attention was drawn in particular to the frequent narratives which are played out before courts accusing victims of lying about domestic violence and/or sexual abuse of children and alienating their children from their violent father. Anecdotal evidence was supplied to GREVIO of one case in which the victim committed suicide after she was unable to make herself believed.

190. GREVIO recalls that there are ample studies illustrating how victims' accounts of violence, in particular sexual violence in intimate partnerships, are met with disbelief by investigating authorities and courts.⁵² Ideas of false allegations connect to the prejudiced assumption that women instrumentally use allegations of violence after regretting sexual intercourse and/or to seek revenge from ex-partners. They are furthermore fuelled by stereotyped views on the behaviour a "real victim" is supposed to display during enquiries and trial.⁵³ In Portugal, difficulties in proving sexual violence are compounded by the requirement to demonstrate a resistance to the violence. A further obstacle can be the use of evidence related to the sexual history and/or conduct of the victim to challenge her respectability and credibility.⁵⁴ GREVIO trusts that progress in this area will be achieved by reviewing the current definitions in Portuguese law of sexual violence as requiring the use of force (see the above considerations related to Article 36 of the Istanbul Convention). Other suggestions and proposals formulated in this report, in particular those aimed at enhancing support to victims during legal proceedings, will also be instrumental in endowing them with the strength and means needed to speak the truth about the violence they and/or their children experienced. All such measures need however to be supported by sustained efforts aimed at challenging stereotyped mindsets and fostering a truly gendered understanding of violence against women among the actors concerned, in particular law-enforcement and judicial officials, as well as lawyers.

191. GREVIO urges the Portuguese authorities to continue to take measures to ensure that law-enforcement agencies' and courts' handling of cases of violence against women is strongly anchored to a gendered understanding of violence against women and centres on the safety and the human rights of women and their children, as well as to prevent the use in judicial proceedings of evidence related to the sexual history and conduct of the victim with no probative value.

B. Immediate response, prevention and protection (Article 50)

1. Evidence collection

192. GREVIO notes with appreciation efforts made by law-enforcement agencies to improve the collection of evidence from the crime scene (photographic evidence of injuries or other signs of violence, statements from neighbours, the presence of weapons, etc.). Still, officials and legal

⁵¹ See page 15 of the NGO shadow report to GREVIO, available on the website for the Istanbul Convention.

⁵² See for instance Lovett J. and Kelly L. (2009), "Different systems, similar outcomes? Tracking attrition in reported cases across Europe", Child and Women Abuse Studies Unit, London.

⁵³ See Bohner G., Eyssel F., Pina A., Siebler F. and Viki T. (2009). "Rape myth acceptance: Cognitive affective and behavioural effects of beliefs that blame the victim and exonerate the perpetrator", in Horvath M. and Brown J. (eds) *Rape: Challenging Contemporary Thinking*, Willan, Devon, pp. 17–45.

⁵⁴ See article by Isabel Ventura, 2016, "They never talk about a victim's feelings: according to criminal law, feelings are not facts" – Portuguese judicial narratives about sex crimes, Palgrave Communications.

practitioners met by GREVIO admitted that the chances of successfully prosecuting a case continue to depend very much on the statement of the victim and her willingness to co-operate. Regarding in particular domestic violence cases, the possibility for the victim to refuse to testify was quoted as a major obstacle to obtaining or even seeking a conviction.⁵⁵ The centrality of the victim's statement for securing a conviction also emerged as one of the main findings of a study on the judicial decisions in domestic violence crimes, which was promoted by the CIG and carried out in 2015 by the University of Coimbra. The study highlighted how the collaboration of the victim (or lack thereof) during the enquiry prompted biased assumptions regarding a credible victim and influenced the law-enforcement agencies' commitment to search for extra evidence. To remedy this shortcoming, the study recommended strengthening co-operation between prosecution services and investigative agencies and devising new strategies and guidelines for collecting and assessing evidence at all stages of the procedure.

2. Conviction rates

193. Data provided by the authorities reveal extremely low rates of convictions in cases of violence against women. Out of a yearly average of 27 000 reports of domestic violence, fewer than 7% of cases resulted in a conviction. More precisely, figures for the years 2014 to 2016 totalled 27 305, 26 595 and 27 005 reports of domestic violence, respectively. Approximately 3 000 cases led to the opening of a trial (2 868 in 2014, 3 305 in 2015 and 3 646 in 2016) and fewer than 2 000 led to a conviction by a court of first instance (1 651 in 2014, 1 859 in 2015 and 1 984 in 2016). This is a very poor outcome for cases where the perpetrator is always known, investigation is to be carried out *ex officio* without depending on the filing of a complaint, and the offence has been elevated to the rank of a crime which is to be investigated as a matter of priority.

194. The limited data available on other forms of violence against women confirm a general trend of low conviction rates. As mentioned earlier in this report, following the introduction in 2015 of the new crimes of stalking, forced marriage and female genital mutilation, there have been only six convictions for stalking in 2016 and no convictions for forced marriage or female genital mutilation. In the only known case of female genital mutilation which was brought to the attention of the courts, charges were ultimately dropped.⁵⁶ Numbers of convictions for sexual violence are also very low and far from matching the numbers of forensic examinations carried out on victims.

195. GREVIO is concerned about this general lack of emphasis on achieving convictions in cases of violence against women. While a criminal justice response is not the only response to be pursued in cases of violence against women, it is important to ensure accountability for criminal acts to build trust in the system and send the message that violence against women is not acceptable. Without a process that holds perpetrators to account, the violence is unlikely to stop, whether it be continued violence towards the original victim or a new victim. Prosecution and sanctions are therefore an essential part of the protection of women. Moreover, low conviction rates generally contribute to low reporting rates. Law-enforcement agencies and the judiciary should be seeking an increase in crime reporting as their response becomes more effective and trusted, and judicial processes deliver sanctions that match the crime. To this end, a thorough examination of all possible ways to achieve a more focused, driven and outcome-based approach to perpetrators' accountability is necessary.

3. Suspended proceedings

196. Aside from the aforementioned weakness of investigations, another factor contributes to low conviction rates in cases of violence against women, namely the frequent recourse to the provisional suspension of proceedings. Data from the 2016 Annual Report of Internal Security⁵⁷

⁵⁵ According to Article 134b of the PCC, "whoever has been the defendant's spouse or who, being of another or of the same sex, cohabits or has cohabited with him as though they were spouses, regarding acts accomplished during the marriage or cohabitation" may decline to testify.

⁵⁶ See Section 5 on prosecution of the joint shadow report submitted to GREVIO by the End FGM European Network and the Associação para o Planeamento da Família (APF), available on the official website for the Istanbul Convention.

⁵⁷ See page 62 of the Relatório Anual de Segurança Interna – Ano 2016.

indicate that of the 4 163 investigations in cases of domestic violence which were not archived (out of a total of 27 935 investigations), as many as 2 796 ended in the provisional suspension of proceedings.

197. Under Article 281 of the PCCP, the provisional suspension of criminal proceedings can be requested during the investigation phase by the public prosecutor on his or her own initiative or upon the request of either the defendant or the victim, provided that the crime under investigation is subject to a maximum penalty of no more than five years of imprisonment or to a sanction other than imprisonment. Among other conditions, the suspension can only take place if the defendant and the victim agree to it. The provisional suspension is granted for a maximum period of five years and carries the duty for the perpetrator to comply with the corresponding obligations imposed by the court, such as a barring order, a ban on contacting the victim or attending a perpetrator programme. Compliance with these conditions for the entire duration of the suspension entails the definitive closure of the case.

198. GREVIO understands that subjecting the offence of domestic violence to the possibility of the provisional suspension of proceedings might have been the political price to pay for enabling the legislator to configure domestic violence as a public crime. Under the relevant rule,⁵⁸ a provisional suspension can be ordered upon the victim's "clear and free request". During GREVIO's evaluation visit, practitioners indicated that, in practice, courts tend to question whether the victim maintains her statement or consents to the suspension. The impact on the victim of such a practice is that, despite the offence of domestic violence being subject to compulsory investigation regardless of the victim's willingness to file a complaint, the pursuit of investigations depends ultimately on her: by consenting to the suspension she will contribute to the suspension of proceedings and ultimately bring all charges to a halt. GREVIO finds it difficult to reconcile this practice to the requirement set in Article 55 that for certain offences, the continuation of criminal proceedings should not be wholly dependent upon a report or complaint filed by the victim. Moreover, having regard to the dynamics and gendered nature of domestic violence, GREVIO doubts that placing such a burden on victims is appropriate unless safeguards are built into the procedure to ensure the free will of the victim is effectively respected, as required by the law. Under these circumstances, setting aside criminal investigations may mask the full extent of domestic violence, sending a mixed message that it is not a crime fit for criminal conviction, contrary to the purposes of the Istanbul Convention and to the goal the Portuguese legislator intended to pursue. GREVIO refers in this connection to the aforementioned study on the judicial decisions in domestic violence crimes commissioned by the CIG in 2015, which found that applying alternative judicial procedures in cases of domestic violence, such as the provisional suspension of proceedings or the simplified proceedings (*processo sumaríssimo*), might undermine victims' human rights. In applying such processes, GREVIO emphasises the need to respect the principles of ensuring justice for victims and ending impunity for perpetrators.

199. In the remaining cases of domestic violence which go to trial and where a conviction is reached, a high percentage of offenders benefit from the suspension of their prison term. Official records reveal that in 2015, more than 90% of prison sentences in cases of domestic violence were suspended.⁵⁹

200. GREVIO strongly encourages the Portuguese authorities to take further measures to improve the collection of evidence, including in particular in domestic violence cases, so that the reliance on the victim's testimony is lessened. Having regard to their due diligence obligation as set out in Article 5, paragraph 2, of the Istanbul Convention, GREVIO urges the Portuguese authorities to take measures, including legislative amendments, to:

⁵⁸ Article 281, paragraph 7 of the PCC.

⁵⁹ See page 46 of the "Violência Doméstica - 2015. Relatório anual de monitorização" (Annual monitoring report on Domestic Violence), Secretaria-Geral do Ministério da Administração Interna, Ministério da Administração Interna, available at: www.sg.mai.gov.pt/Noticias/Documents/Rel%20VD%202015.pdf.

- a. uphold perpetrators' accountability and to ensure criminal justice for all forms of violence covered by the convention;
- b. ensure that sentencing in cases of violence against women, including domestic violence, is commensurate to the gravity of the offence and preserves the dissuasive function of penalties;
- c. ensure that the application of any alternative judicial procedures is mindful of the gendered nature of violence against women, fully respects victims' human rights, guarantees their need for safety and upholds the principle of criminal accountability.

C. Risk assessment and risk management (Article 51)

201. Mandatory risk assessment in cases of domestic violence was introduced in Portugal in 2014 for both the PSP and the GNR. It uses a standard approach based on the use of two forms, one to be used in the first contact (RVD 1L) and another to be applied for reassessment purposes (RVD 2L). In two years (2015 and 2016) the combined totals of risk assessments were 99 000, including 55 500 RVD 1L assessments and more than 43 500 RVD 2L reassessments. Safety plans, information sharing, seizure of weapons, applications for protective measures and other actions focused on safety are commonly introduced after a risk assessment. Data provided by the authorities show that, in 2007, measures implemented by the Public Security Police on the basis of a risk assessment entailed 39 024 actions to establish regular contacts with the victim, 31 491 individual safety plans, 12 797 instances of strengthened patrolling in the vicinity of the victim's residence and 4 645 instances in which the victim was accompanied by a police official at her request. Similar measures are implemented by the Republican National Guard.

202. GREVIO praises the swift and extensive introduction of a risk assessment process within law-enforcement agencies in Portugal. The process is viewed as an indispensable working tool for the agencies concerned and it seems to have increased the level of contact between specialist services and law-enforcement agencies. NGOs expressed some concern about the consistency of its application across the country. It is also not an element of a co-ordinated process. Its main function is to inform the prosecution services of a need for some form of protective measure for the victim. It does not achieve a more collaborative effort across a variety of agencies to help manage the risk to the victim, especially when that risk is high. Agencies that could usefully be involved in such a process would be, at the least, those responsible for health care,⁶⁰ housing and social services. GREVIO was informed that the first steps have already been taken in this direction: in 2017, an initiative by the CIG and the Secretary General of the Ministry of Home Affairs (SGMAI) was launched with the aim of systematising and expanding multiagency risk assessment and management processes nationwide. The improvement of such processes is also a central feature of the latest Action Plan for Preventing and Combating Violence against Women and Domestic Violence (2018-21).

203. GREVIO encourages the Portuguese authorities to develop further their risk assessment and management procedures to turn them into a central element of a multiagency co-ordinated response in all cases of violence against women covered by the Istanbul Convention.

204. GREVIO notes with great satisfaction that improvements in risk assessment procedures may have contributed to the decreased numbers of recorded female homicide victims in a context of intimate partner violence. Figures based on media reports and compiled by the NGO Union of Women, Alternatives and Response (UMAR) reveal a decline from 37 cases in 2014 to 25 cases in 2015, 14 cases in 2016 and 13 cases for 2017 up to November. There are indications that a high number of women who were killed had previously reported violence.⁶¹ This raises the question as

⁶⁰ It is to be noted that separate standardised risk assessment and management processes have been devised specifically for health care professionals.

⁶¹ A study that looked at 43 cases of female homicide between 2010 and 2015 in Lisbon revealed that almost half of the victims had already presented a complaint for domestic violence: see the online article of 3 July 2017: "Violência doméstica: metade das mulheres assassinadas já tinham apresentado queixa", published on the website of the news

to whether at least some of the victims of gender-based killings might have been saved if proper, immediate and efficient measures of protection had been applied to protect women whose lives were at risk.

205. Since 2016, reviews into the deaths of women are carried out by a Retrospective Domestic Violence Homicide Analysis Team. At the time of GREVIO's evaluation, only two such reviews had been completed. GREVIO welcomes the possibility offered by this new working method of identifying possible systemic gaps in the institutional response to violence, determining whether such homicides could have been prevented had various institutions responded differently and providing recommendations on how to prevent such homicides in the future. Thus, this analysis should assess, *inter alia*, whether careful and repeat risk assessment and co-ordinated safety planning had been carried out and appropriate measures had been applied to protect victims from further harm, including measures of detention in severe cases of violence, whether the victim was under a barring or protection order or had applied for such an order, whether there had been any breach of such an order, and what outcome resulted from the investigation and prosecution. Moreover, it is of the utmost importance that this analysis systematises the types of measures which are taken depending on the findings of the group. The results of such an initiative should be shared with all interested stakeholders, including NGOs, and the public.

206. GREVIO encourages the Portuguese authorities to pursue ongoing efforts to analyse all cases of gender-based killings of women, with the aim of preventing them in the future, preserving the safety of women and holding to account both the perpetrator and the multiple agencies that come into contact with the parties.

D. Emergency barring orders (Article 52)

207. There are two types of barring orders which can be issued in cases of violence against women. Both depend on the institution of criminal proceedings and are ordered by courts. The first is regulated by Law No. 61/1991 on the protection of women against various forms of violence, including sexual violence, harassment, kidnapping and assault when motivated by a discriminatory attitude towards women. Barring orders are mandatorily imposed under this law as a substitute for pretrial detention whenever such a detention is not ordered. Barring orders can also be issued as an urgent coercive measure under Law No. 112/2009.

208. However, the delays involved in issuing these measures make them unfit to qualify as emergency barring orders designed to protect the victim in situations of immediate danger. Indeed, the adoption of barring orders under Law No. 61/91 requires an application either by the public prosecutor or by law-enforcement agencies to the investigating judge who then has a five-day deadline to hear the applicant and the perpetrator and decide whether or not to grant the order. The issuance of barring orders under Law No. 112/2009 is subject to the more stringent time limit of 48 hours from the indictment. Professionals met by GREVIO underline, however, that the unclear wording of the law⁶² generates uncertainty as to whether the deadline of 48 hours applies to the adoption of the urgent coercive measure or only to the examination of the elements of the case. They stress that since the measure can only be adopted after hearing the perpetrator, it is often materially impossible to respect the deadline. Moreover, a high evidentiary threshold imposed by magistrates limits the number of barring orders which are granted in the pretrial stages. This would explain magistrates' apparent preference for issuing barring orders not as a preventive measure but as an accessory penalty when concluding the criminal proceedings.

outlet tvi24.pt, at: www.tvi24.iol.pt/sociedade/femicidio/violencia-domestica-metade-das-mulheres-assassinadas-ja-tinham-apresentado-queixa.

⁶² Under Article 31 of Law No. 112/2009, the magistrate has 48 hours to "ponder the application of the coercive measure".

209. GREVIO recalls the fundamental principles which underpin a system of effective emergency barring orders. An emergency barring order must at least make it possible to remove the violent person from the family home or other shared dwellings immediately and to prohibit any contact with the people staying behind. The emergency barring order should in principle automatically extend to the children. It should be possible to impose an emergency barring order *ex parte*, as long as the barred person is allowed to appeal against the decision. The emergency barring order should have immediate effect, even if the order must be confirmed by a court or other legal authority afterwards. The emergency barring order should be valid for a short period of time, the minimum of which should be established by law with the possibility of renewal in the case of continued danger. The emergency barring order should at least be accompanied by the availability of support to the victim, such as specialist victim services, legal advice and help, shelters, medical help and psychological support counselling. The sanctions for the breach of emergency barring orders must be effective and dissuasive. Preferably, the breach of an emergency barring order should be a criminal offence.

210. Having regard to the principles outlined in this report, GREVIO strongly encourages the Portuguese authorities to review their system of barring orders to ensure they fulfil the requirements of Article 52 of the Istanbul Convention and/or introduce new mechanisms that comply with such requirements.

E. Restraining or protection orders (Article 53)

211. In addition to the barring orders examined above, the Portuguese legal system provides for a wide range of protection orders. These measures are governed by criminal law and are regulated both in general criminal law (the PCCP and the PCC) and under the legislation concerning specifically the crime of domestic violence (Law No. 112/2009). They can be ordered by courts during the pretrial stage or at any moment of the proceedings. They can also be imposed either as an accessory penalty in case of conviction for domestic violence or as an alternative measure in cases of suspended pretrial detention or provisional suspension of criminal proceedings, or as an accompanying requirement in cases of suspended prison sentences and conditional release. Measures encompass: contact bans (usually entailing the prohibition of approaching the house and the workplace of the victim), the prohibition of approaching certain people or places, mandatory permanence within certain locations, travel bans, mandatory attendance of rehabilitation or perpetrator programmes for domestic violence offenders and the prohibition of holding arms.

212. Although, in principle, protection orders are applicable to all forms of violence covered by the Istanbul Convention, it would appear that they remain largely confined to domestic violence. GREVIO recalls in this respect the need for victims of all types of violence against women, including psychological violence, sexual violence, stalking, female genital mutilation and forced marriage, to have access to restraining or protection orders. Regarding in particular female genital mutilation, specialist NGOs working in the field stress the need to complement criminal measures with preventive measures, which would include restraining orders from travelling in high-risk cases and monitoring the families of girls at risk to prevent the commission of any acts of mutilation.⁶³

213. As mentioned earlier in this report (see the section on civil lawsuits and remedies), the inadequacy of measures providing for protection orders under civil law means that a victim can effectively only receive protection within the framework of an ongoing criminal case. This runs counter to the requirement set out in Article 53, paragraph 2, fourth indent, of the Istanbul Convention that victims should have access to protective measures whether or not they choose to set in motion any other legal proceedings. Research has shown that many victims who want to apply for a restraining or protection order may not be prepared to press criminal charges that would lead to a criminal investigation and possibly criminal proceedings against the perpetrator.⁶⁴

⁶³ See page 7 of the joint shadow report submitted to GREVIO by the APF and the End FGM European Network, available on the website for the Istanbul Convention.

⁶⁴ See paragraph 273 of the Explanatory Report to the Istanbul Convention.

214. Since protection orders are dependent on the opening of criminal proceedings, their longevity depends to a large extent on the ensuing judicial process. Thus, any measure prohibiting and/or imposing any given conduct upon the perpetrator will lapse after a fixed interval of time if no charges are pressed, if no decision is taken by the investigative judge or if no decision is reached by the investigative judge or by the deliberating courts. Such an arrangement – with no opportunity for the victim to alternatively apply for civil protection orders - ignores the need to prioritise the safety of the victim over the outcome of the criminal proceedings. Moreover, in light of the extremely high attrition rate in criminal proceedings in Portugal, it can be inferred that a large number of victims are not entitled to any protection under the applicable rules.

215. Another requirement set forth in Article 53 (paragraph 2, third indent) is that protection orders should, where necessary, be issued on an *ex parte* basis with immediate effect. This means that a judge or other competent official should have the authority to issue a temporary restraining or protection order based on the request of one party only. It should be noted that in accordance with the general obligations provided for under Article 49, paragraph 2, of the Istanbul Convention, the issuing of such orders must not be prejudicial to the rights of the defence and the requirements of a fair and impartial trial, in conformity with Article 6 of the European Convention on Human Rights.⁶⁵ In Portugal, the perpetrator always needs to be heard at whatever stage of the proceedings the protection order might be imposed.

216. There are no data regarding protection orders per se. The only data provided for the purposes of GREVIO's evaluation were those related to the use of electronic means to monitor the compliance with protection orders in cases of domestic violence. Electronic monitoring can be imposed by a court decision whenever it is deemed essential to guarantee the safety of the victim. It is carried out under the supervision of the prison and probation services. Data provided on domestic violence cases revealed a sharp increase in the past few years in the number of protection orders monitored electronically: from a total of 99 measures in 2011 to 603 in 2017, mostly in relation to coercive measures decided in the course of proceedings and, to a lesser degree, in combination either with the provisional suspension of proceedings or with the imposition of a suspended prison sentence. While welcoming this positive trend, GREVIO notes that these data in isolation do not allow a thorough assessment of the use made of protection orders in Portugal. There are no data to show how many applications for a protection order were made, for which type of violence, how many were accepted and how many refused, whether the measure succeeded in protecting the victim, and so on. There are equally no data on the number of pretrial detentions, which should remain the preferred option in high-risk cases.

217. The lack of data extends to breaches of protection orders and measures taken as a consequence thereof. The limited information provided indicates that in 2017 the compliance rate for judicial decisions imposing protective measures was 98.28%, with only nine cases of non-compliance which resulted in the measure being revoked. GREVIO takes note however of a 2014 report by the APAV⁶⁶ according to which such indicators of success might in reality conceal a continuation of the violence. In commenting on a 2012 study indicating that in the framework of the provisional suspension of criminal proceedings, 80% of the cases of physical violence did not reoccur, the report noted that “this does not mean that the violence ended, as there is no knowledge of the psychological violence that went on and often there is a shift from one to the other for fear of criminal convictions”. The report further considered that it was “not possible to know if violent behaviours changed after the end of a “‘successful’ suspension”.

218. Aside from protection orders, victims in Portugal can obtain protection through a programme of teleassistance. The victim is provided with a set of electronic means (mobile communication and geolocation) that work as an alert in cases of danger. The victim is also contacted from time to time by a telephone emergency service to check how she is doing and if the equipment is working properly. The phone service can furthermore be used to access a social

⁶⁵ See paragraph 272 of the Explanatory Report to the Istanbul Convention.

⁶⁶ See answer to question (36) in the National Report on Portugal, “Mapping the legislation and assessing the impact of Protection Orders in the European Member States” (POEMS), APAV, 2014.

support network and psycho-social counselling. The benefit of the programme can be requested, with the consent of the victim, by law-enforcement agencies or by the CIG. The mechanism is activated following a decision by the public prosecutor or the judge. The service is free of charge and can last up to six months. Since the beginning of this programme in 2011 and until the end of 2016, GREVIO was informed that 2 241 victims benefited from this protective mechanism. By comparing this figure with the numbers of protective orders which were enforced through electronic monitoring in the same period of time (1 904), it can be noted that preference was given to victims' self-protection measures rather than measures that impose a form of restraint upon the perpetrator. GREVIO takes note in this respect of NGOs' claims that "the system is more willing to consider women responsible for their own safety rather than promoting effective enforcement of repressive and condemnatory measures against the perpetrator".⁶⁷

219. GREVIO urges the Portuguese authorities to take measures, including legislative amendments, to ensure the availability and the effective application of restraining and/or protection orders in relation to all forms of violence, including for the prevention of female genital mutilation, forced marriage and stalking. Existing gaps in the system of protection orders should be closed, having regard to the following principles:

- a. the onus for preventing the perpetrator from committing violence should be borne by the perpetrator and the statutory agencies responsible for monitoring and enforcing protection orders;
- b. protection orders should be available to all victims, and should not be reserved for victims of domestic or intimate partner violence only;
- c. the scope and duration of protection orders should be determined on a case-by-case basis, having regard to the actual needs and the expressed wishes of the victim;
- d. protection orders should be available *ex parte* – without the presence of the violent party – on the condition that the defendant has been summoned and is allowed to appeal against the decision;
- e. it should be possible to include children in one and the same protection order with their mothers, whether the children are direct or indirect victims because they either experienced the violence themselves or witnessed it;
- f. there should be a legal obligation to inform the victim when a protection order is imposed;
- g. the monitoring authorities should have no discretionary power in reporting breaches of protection orders to superior authorities responsible for the enforcement of protection orders upon violation;
- h. the violation of protection orders should in principle lead to effective and dissuasive sanctions, while informal and lenient reactions, such as warnings or reprimands, should be reserved for exceptional circumstances only;
- i. the statutory agencies concerned – law-enforcement officials, prosecutors, judges and probation officers – and social workers and support personnel should receive adequate and specialist training on protection orders.

220. Progress in this area should be carefully monitored and analysed, relying on appropriate data collection that highlights, in particular, the forms of violence for which protective measures are issued, whether a measure was requested by a victim or issued *ex officio*, the average duration of protection orders, the number of renewals of protection orders sought by the same victim (or for her upon request by the authorities), the number of breaches of protection orders (separately by each type of order issued) and whether all breaches were appropriately sanctioned. Analyses should be carried out at regular intervals and be made available to the public.

⁶⁷ See page 35 of the NGO shadow report submitted to GREVIO, available on the website for the Istanbul Convention.

F. Ex parte and ex officio proceedings (Article 55 paragraph 1)

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

222. While the Portuguese legislation conforms to this requirement for most of the forms of violence concerned, this is not the case for two types of offence. The first is the offence of simple bodily injury regulated under Article 143 of the PCC. Indeed, upon its ratification of the Istanbul Convention, Portugal did not enter a reservation which would have exempted it from the obligation to subject all acts of physical violence against women, including minor offences, to *ex officio* investigation and prosecution. The second is constituted by the crimes against sexual liberty, namely sexual coercion and rape regulated by Articles 163 and 164 of the PCC respectively: criminal proceedings for these crimes require the lodging of a complaint unless they were committed against a minor or resulted in the suicide or death of the victim. More precisely, crimes against sexual liberty qualify as semi-public crimes for which the prosecution services may discretionally decide whether or not to open an enquiry within the maximum term of six months from the moment they were notified of the crime, where they consider that doing so is in the interest of the victim.⁶⁸

223. GREVIO urges the Portuguese authorities to amend their legislation to make it conform with the rules regarding *ex parte* and *ex officio* prosecution set out in Article 55, paragraph 1, of the Istanbul Convention, as regards in particular the offences of physical and sexual violence.

G. Victim support in legal proceedings (Article 55, paragraph 2)

224. With a view to empowering victims and to encouraging them to go through with criminal proceedings, paragraph 2 of Article 55 requires parties to ensure that victim organisations, specifically trained domestic violence counsellors or other types of support/advocacy services may assist and support victims during investigations and judicial proceedings. In Portugal, victim support services for victims of domestic violence are an integral part of the National Support Network for Domestic Violence Victims. The main organisation providing victim support, not limited to domestic violence, is the APAV, a private charitable organisation, recognised by law with the statutory objective to inform, protect and support citizens who have been victims of any crime. It is a non-profit organisation made up of trained professionals and assisted by volunteers, who provide victims with emotional, psychological, social and legal support. The APAV is seated in Lisbon but has a network of 18 local offices spread mostly along Portugal's coast. Support is provided on a confidential basis and is free of charge.

225. During GREVIO's meetings with actors in the field, a reason frequently cited for explaining why reports of violence do not succeed in bringing perpetrators to account is the lack of support for victims. Support structures are not evenly spread throughout the country and appear to be geared predominantly to support victims of domestic violence. Where services are available, they suffer from poor co-ordination with and among the statutory agencies involved. Moreover, support tends to concentrate on accompanying the victim throughout the criminal proceedings, meaning that in the vast majority of cases where victims are not willing to report the violence or have done so but have not been successful in achieving justice, they are left alone to face other types of legal proceedings. This leaves them vulnerable and often unable to defend their rights and interests, such as for the purposes of negotiating an agreement on parental responsibilities with the violent father. In referring to the considerations developed earlier in this report regarding the implementation in Portugal of Article 26 of the Istanbul Convention, GREVIO further finds that child witnesses represent a category of victims for which there is a lack of adequate support during legal

⁶⁸ See Article 178, paragraph 2 of the PCC.

proceedings, thereby undermining the role they can play in supporting prosecutorial action in domestic violence cases.

226. GREVIO strongly encourages the Portuguese authorities to step up measures to increase access to support in legal proceedings for all victims of violence against women and for child witnesses, including by promoting and supporting the role of specialist women's organisations. Support should be available not only in criminal proceedings but also in related civil proceedings, such as those instituted to settle a compensation claim, a divorce or custody in domestic violence cases.

H. Measures of protection (Article 56)

227. Portuguese legislation contains a range of measures that aim to protect victims who are particularly vulnerable to repeated victimisation, secondary victimisation, intimidation or retaliation during criminal proceedings. Particularly vulnerable victims include, *inter alia*, victims of gender-based violence, intimate partner and domestic violence, sexual violence, hate crimes and child victims. Special care is required when taking the statements of particularly vulnerable victims to ensure that they are interviewed by trained staff in appropriate conditions and that they can testify without the presence of the perpetrator. Dedicated rooms are provided for victims both at police stations and courts to allow for a sense of safety and security. GREVIO was informed that, in 2016, 437 of 690 police facilities (63%) in the country had one such special room. Despite these efforts, shortcomings in the way the victim's statement is taken have been mentioned as a source of concern in the aforementioned study on the judicial decisions in domestic violence crimes, which was promoted by the CIG and carried out by the University of Coimbra in 2015. In seeking to remedy such shortcomings, judges should make wider use of the possibility they are afforded of questioning the victim during the investigation stage so as to avoid her having to repeat her statement during the trial.

228. GREVIO invites the Portuguese authorities to enhance the use of measures to protect the rights and interests of the victims during the investigations and judicial proceedings.

VII. Migration and asylum

229. 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 who are subject to sexual violence and exploitation and other forms of violence against women. 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)

230. The legal framework regarding the entry, residence, exit and removal of foreign citizens into and out of Portuguese national territory, as well as their long-term resident status, is established by Law No. 23/2007. GREVIO notes with satisfaction that under Article 107, paragraph 4, of this law, an autonomous residence permit can be granted on exceptional grounds in cases of legal separation, divorce or widowhood or when the victim's partner has been charged by the prosecution service for domestic violence, irrespective of the duration of the relationship. The current wording of this rule reflects an amendment decided in August 2017⁶⁹ which aimed to facilitate victims' access to an autonomous residence permit by modifying the previous rule requiring a conviction for domestic violence.

231. There are, however, no recorded cases of victims having benefited from this provision. NGOs specialising in support services for migrant victims attribute this to a lack of knowledge regarding the applicable mechanisms, including among the statutory agencies responsible for applying them. Victims are mostly unaware of their options and/or are reluctant to turn to law-enforcement agencies. This is particularly the case for undocumented migrant women, some of whom have been prevented from obtaining a residence permit by their abusive sponsor. These victims fear being reported to the border police without the violence being taken into consideration. Undocumented victims can, in principle, apply for an autonomous residence permit under Article 123 of Law No. 23/2007 on humanitarian grounds, but difficulties faced by victims into reporting the violence are major obstacles to the effective implementation of this provision to their benefit.

232. Dissemination of general information regarding domestic and gender-based violence among migrant communities has been actively pursued under the various strategies on migration and gender-based violence. The authorities have adopted a new tool in the National and Local Immigrant Integration Support Centres for collecting data on the number of domestic violence cases registered in the migrant communities. Data drawn from this tool was provided to GREVIO: there had been only 16 such cases since the establishment of the tool in 2014, thus pointing to the need to sustain efforts in raising awareness and in encouraging and supporting victims to speak out.

233. GREVIO strongly encourages the Portuguese authorities to take measures to:

- a. ensure migrant victims are informed about and have access to their right to an autonomous residence permit under Law No. 23/2007;**
- b. train and raise awareness among the statutory agencies concerned, in particular the border police and immigration services, about the legal provisions entitling migrant victims, including undocumented migrant women, to a residence permit.**

⁶⁹ The amendment was enacted by Law No. 102/2017.

B. Gender-based asylum claims (Article 60)

234. The legal framework in place is largely compliant with the requirements of Article 60 of the Istanbul Convention. Law No. 27/2008 includes among the grounds for asylum being subject to acts of torture, rape or other serious forms of physical, psychological or sexual violence (Article 5) and victims of domestic violence and female genital mutilation are recognised as applicants with special reception needs (Article 2). Thus, asylum may be claimed by women who are natives of countries where they risk being exposed to harmful and discriminatory traditional practices, such as female genital mutilation or forced marriage. In addition, the law requires setting up gender-sensitive reception facilities “to prevent aggression and violence, namely gender-based violence, including sexual harassment and sexual aggression” (Article 7).

235. GREVIO notes however that there are no data to indicate if and how often these provisions were applied to the benefit of women victims of gender-based violence. The authorities’ rough estimate is that around 30% of women applicants invoke gender-based violence-related asylum grounds but that up to 90% would actually be entitled to do so. They believe furthermore that most of the applications grounded on gender-based violence are accepted or give right to subsidiary protection. Under these circumstances, GREVIO is of the opinion that a careful examination of the causes preventing victims from accessing their right to protection under asylum rules should be conducted and appropriate remedies should be applied, whether they consist in adjusting procedures, enhancing training for the staff concerned, such as interviewers and interpreters, or reinforcing support services for applicants. Data should be collected to demonstrate whether or not such endeavours are yielding the desired results.

236. GREVIO strongly encourages the Portuguese authorities to take measures to ensure that all women arriving as asylum seekers have the opportunity to obtain international protection for reasons of gender-based violence, in accordance with Article 60 of the Istanbul Convention.

Concluding remarks

237. Gender equality and violence against women are issues towards which the Portuguese authorities have devoted much effort to improve policies and operational responses. As the first EU country to have ratified the Istanbul Convention, Portugal recognises that ratification was the first in a long series of steps towards the goal of achieving the substantial change called for by the convention. This reflects a strategic vision which genuinely attempts to match the culture of this country with the requirements of the Istanbul Convention. The authorities accept that they must continue to develop this approach and that they cannot lose the momentum that this agenda demands. They are aware of the remaining challenges and have entered the evaluation process with a positive attitude towards its offering an opportunity for critical self-examination. Their commitment throughout the evaluation process and their readiness to provide information and answer questions in a transparent way were key to allowing GREVIO to reach its conclusions.

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

Appendix I: List of proposals and suggestions by GREVIO

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

C. Definitions (Article 3)

1. Definition of domestic violence

1. GREVIO strongly encourages the Portuguese authorities to take all necessary measures to (paragraph 9):
 - a. adopt a definition of domestic violence which includes economic violence, in line with Article 3b of the Istanbul Convention;
 - b. take measures to ensure that the offence of domestic violence is effectively prosecuted, including, where applicable, through the cumulative application of the criminal provisions related to several concurrent offences, and that sentencing adequately reflects whether the violence qualifies as domestic violence.
2. GREVIO strongly encourages the Portuguese authorities to (paragraph 15):
 - a. review the definition of victim in their legislation to reflect the scope of the definition of victim given in Article 3e of the Istanbul Convention;
 - b. examine the implications on victims' access to their rights of the current configuration of the status of victim and ensure access to support and protection for all victims, regardless of whether or not they have been conferred the formal status of victim.

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

3. GREVIO encourages the Portuguese authorities to (paragraph 19):
 - a. develop studies and data regarding gender-based violence affecting groups of women who are discriminated against or at risk of being discriminated against, such as migrant, refugee and asylum-seeking women, women from ethnic minorities, including Roma women, women with disabilities, women from the LGBTI community, women in rural areas and women in prostitution;
 - b. integrate the perspective of such groups into the design, implementation, monitoring and evaluation of comprehensive and co-ordinated policies for preventing and combating violence against women;
 - c. mainstream preventing and combating violence against women in policies and programmes which are tailored to the specific needs of such groups.
4. GREVIO encourages the Portuguese authorities to pursue their efforts to frame their laws, policies and measures to prevent and combat violence against women in a gendered perspective, and to incorporate such a perspective in the evaluation of their impact as well (paragraph 22).

II. Integrated policies and data collection

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

5. GREVIO strongly encourages the Portuguese authorities to pursue and develop long-term and co-ordinated programmes giving due importance to all forms of violence covered by the Istanbul Convention, which include effective and specific measures targeting such manifestations of violence as female genital mutilation and forced marriage and which are based on consistent and ongoing funding to allow for sustainable and comprehensive actions (paragraph 28).

6. GREVIO strongly encourages the Portuguese authorities to strengthen the co-operation mechanisms with NGOs, to ensure that consultation processes are inclusive and transparent and afford civil society organisations that are committed to promoting women's rights and preventing and combating violence against women the means to effectively contribute to policy shaping (paragraph 31).

7. GREVIO strongly encourages the Portuguese authorities to enhance co-ordination among the ministries and governmental agencies involved in preventing and responding to violence against women, namely by effectively implementing measures foreseen to this end in Portugal's latest Action Plan for Preventing and Combating Violence against Women and Domestic Violence (2018-21). Strengthening interagency work should, as a matter of priority, be built into policies to prevent and combat gender-based violence and monitored against clear performance indicators. As the entity responsible for following up on interinstitutional co-operation, the CIG should have the necessary power and the appropriate financial and human means to guide and support interagency co-ordination and hold single agencies to account (paragraph 34).

8. GREVIO urges the Portuguese authorities to devise measures aimed at harmonising and monitoring the implementation of local plans to prevent and combat domestic violence and violence against women. Such efforts should be supported by the allocation of appropriate financial resources and the promotion of best practices (paragraph 37).

B. Financial resources (Article 8)

9. GREVIO strongly encourages the Portuguese authorities to (paragraph 46):

- a. review existing funding opportunities and/or develop further such opportunities, to ensure fair and equitable access to appropriate and sustainable funding for all specialist support service providers, including in particular women's NGOs, *inter alia*, by developing transparent procedures such as public calls for tenders where the results are made available to the public;
- b. review spending levels to remedy existing gaps in the provision of specialist support services for victims of all forms of violence against women, including more vulnerable groups of victims such as girls, elderly women, women with disabilities, women from ethnic minorities – including Roma women – and migrant, refugee and asylum-seeking women;
- c. guarantee equal access to services for all victims throughout the national territory by ensuring that appropriate human and financial resources are allocated at all levels of public responsibility;
- d. pursue and step up efforts to monitor public spending at both central and municipal level and measure progress achieved.

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

10. GREVIO strongly encourages the Portuguese authorities to (paragraph 49):
- a. reinforce their support and recognition of independent women's organisations, by acknowledging the value and expertise they bring in terms of following a gendered approach to violence against women and fostering victims' trust and promoting their human rights;
 - b. confer upon the CIG the necessary power and means – including appropriate financial resources – to carry out its role effectively as the supervising authority responsible for overseeing the implementation of the new minimum standards for all specialist victim support and empowerment services;
 - c. ensure that the standards are equally and effectively complied with by all entities running services for victims, whether faith-based organisations or NGOs.

D. Co-ordinating body (Article 10)

11. GREVIO strongly encourages the Portuguese authorities to vest the national co-ordinating body with the clear mandate to ensure co-ordination among ministries and between national and local government in the implementation of policies to prevent and combat violence against women and to strengthen co-operation with local authorities within the administrative make-up of this body (paragraph 54).

12. GREVIO encourages the Portuguese authorities to strengthen the independent evaluation of its policies to prevent and combat violence against women and to ensure that evaluation is backed by robust data and carried out by way of an open dialogue with all relevant actors, including in particular independent women's organisations involved in preventing and combating violence against women (paragraph 56).

E. Data collection and research (Article 11)

1. Data collection

a. Law-enforcement agencies

13. GREVIO strongly encourages the Portuguese authorities to (paragraph 63):
- a. expand data collection by law-enforcement agencies to cover all forms of violence against women;
 - b. refine data indicators regarding domestic violence to include the different manifestations of violence against women, including in particular stalking, sexual violence and rape;
 - c. harmonise data collection between law-enforcement agencies and the judiciary regarding forms of violence against women other than domestic violence, with the aim, inter alia, of assessing attrition rates.

14. GREVIO encourages the Portuguese authorities to collect data regarding the number of women victims of gender-based violence who benefit from one or the other available mechanisms for compensation (paragraph 65).

b. Criminal justice sector

15. GREVIO strongly encourages the Portuguese authorities to disaggregate administrative data regarding criminal indictments and convictions based on the age and sex of the victim, as well as the relationship of the perpetrator to the victim (paragraph 69).

c. Health

16. GREVIO strongly encourages the Portuguese authorities to (paragraph 72):
- a. systematise data collection by the health sector at the national and local level, by increasing awareness among health professionals of the relevance of collecting data in relation to all forms of violence against women, including domestic violence;
 - b. enhance the skills and capacity of medical professionals to collect data, including through training on ways to detect and report cases of violence against women;
 - c. develop data subsets within the current data categories of interpersonal and intra-family violence, which allow all forms of violence covered by the Istanbul Convention to emerge, including in particular sexual violence and marital rape.

d. Immigration and Borders Services (SEF)

17. GREVIO encourages the Immigration and Borders Services to introduce a data collection system that would allow asylum claims on the basis of gender-related persecution and their outcomes to be recorded.

2. Research

18. GREVIO encourages the Portuguese authorities to (paragraph 78):
- a. address, through research, all forms of violence against women, such as marital rape, forced sterilisation, forced marriage or other traditional practices harmful to women not previously covered;
 - b. support research into violence which affects specific groups of victims, such as elderly women, women with disabilities, lesbian women, transgender women, migrant women and women from ethnic minorities, including Roma communities;
 - c. support research in order to study the effects on children of witnessing domestic violence;
 - d. continue investing in the evaluation of existing policies and practices to assess the level of implementation and of victim satisfaction with services provided, in close co-operation with specialist support services.

III. Prevention**A. Awareness raising (Article 13)**

19. GREVIO strongly encourages the Portuguese authorities to sustain and further develop – both at the national and local level and with the involvement of all stakeholders concerned, including in particular schools – their awareness-raising efforts in support of a general anti-violence message. Targeted campaigns should be developed to (paragraph 86):

- a. challenge patriarchal attitudes and stereotypes which contribute to the acceptance of violence;
- b. raise awareness about the harm caused to children who witness domestic violence;
- c. address all manifestations of violence against women, including in particular those forms of violence which remain underreported, such as sexual violence and rape, as well as female genital mutilation and forced marriage;
- d. reach vulnerable groups of women and girls and address their specific needs.

B. Education (Article 14)

20. GREVIO encourages the Portuguese authorities to (paragraph 91):
- a. pursue their efforts to mainstream gender equality in the education system, by ensuring the dissemination of the Guides on Gender and Citizenship in all school clusters throughout the country, including at the municipal level;
 - b. review the content of the curriculum on sexual education to ensure an approach that prevents violence against women by focusing on the right to personal integrity, unequal power in the relations between women and men and responsible sexual behaviour;
 - c. develop a set of indicators allowing for the measurement of pupils' skills and competences on the topics mentioned in Article 14 of the Istanbul Convention and in relation to all forms of gender-based violence against women ;
 - d. further develop mandatory initial and in-service training for teachers on the different forms of violence against women, including female genital mutilation and forced marriage, and on the effects of violence on child witnesses, with the aim of allowing teachers to detect girls and boys at risk and to refer them to appropriate mechanisms of support and protection.

C. Training of professionals (Article 15)

21. GREVIO strongly encourages the Portuguese authorities to (paragraph 99):
- a. introduce compulsory initial training on all the forms of violence against women covered by the Istanbul Convention in the vocational and professional curricula for health professionals;
 - b. expand and make compulsory the available in-service training for practising health professionals, including on how to track and collect data on victims of violence;
 - c. improve the capacity of health professionals to identify and provide appropriate treatment to victims of female genital mutilation;
 - d. pursue their efforts to ensure that all law-enforcement officials who might enter into contact with victims receive continuous training on violence against women, which places a strong emphasis on the need to understand the dynamics of violence against women and on the role of law-enforcement agencies in seeking evidence to prosecute cases of violence;
 - e. expand the available initial and in-service training opportunities for members of the judiciary to address all forms of violence against women covered by the Istanbul Convention, based on the development of appropriate guidelines;
 - f. provide for compulsory professional training for serving legal professionals;
 - g. develop training for other professionals involved in supporting judicial decision-making processes, such as social workers and psychologists.

Training developed in pursuance of the aforementioned suggestions and proposals should cover all the topics mentioned in Article 15 of the Istanbul Convention, follow an approach based on the safety and respect for the human rights of the victim, as well as a gender-equality perspective, and aim at challenging professionals' own prejudices and assumptions which stand in the way of delivering effective support and protection for women victims of violence.

D. Preventive intervention and treatment programmes (Article 16)

22. GREVIO urges the Portuguese authorities to (paragraph 105):
- a. ensure that the interplay between perpetrator programmes and criminal proceedings does not work against the principle of victims' access to fair and just legal processes;
 - b. strengthen these programmes' working relations with women's support services for victims, in particular women's NGOs, to ensure victims are adequately informed and protected;
 - c. expand the number and types of available programmes and promote their attendance both by mandatory and voluntary referral;

- d. develop common minimum standards applying to perpetrator programmes, in line with the principles of the Istanbul Convention and recognised best practices, and base any evaluation of their efficacy on such standards.

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

23. While pursuing its efforts for gender equality to become a reality in the media landscape, GREVIO strongly encourages the Portuguese authorities to encourage media to develop and monitor the use of self-regulatory standards in the area of violence against women and of its harmful effects on children, having due regard to relevant existing international standards.⁷⁰

IV. Protection and support

A. General obligations (Article 18)

24. GREVIO urges the Portuguese authorities to develop solutions offering a multiagency co-ordinated response to all forms of violence against women and to support their implementation by developing appropriate guidelines and training the staff concerned. Such solutions should be built on the strong involvement of local authorities and the participation of all the stakeholders concerned, including non-governmental organisations defending women's rights and combating violence against women (paragraph 119).

25. GREVIO strongly encourages the Portuguese authorities to ensure that the provision of protection and support services by both private and public entities is based on a gendered understanding of violence against women and follows an approach which gives priority to the safety and respect for the human rights of the victims, including child witnesses (paragraph 122).

26. GREVIO urges the authorities to provide social workers and officials dealing with issues related to violence against women within the responsible sectors of government, namely the Ministry of Solidarity, Employment and Social Security, with systematic and compulsory initial and in-service training on the different manifestations of violence against women, their detection and root causes, the prevention of secondary victimisation and the effects of violence on child victims and witnesses, based on clear protocols and guidelines drawing from the standards of the Istanbul Convention (paragraph 123).

B. information (Article 19)

27. GREVIO encourages the Portuguese authorities to (paragraph 126):

- a. take the necessary measures, including legislative measures, to uphold a victim's right to information as the fundamental means to access support and protection based on their informed consent;
- b. pursue their efforts aimed at ensuring that all women victims receive adequate and timely information, in a language they understand, regardless of the existence of criminal proceedings.

⁷⁰ 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).

C. General support services (Article 20)

28. GREVIO encourages the Portuguese authorities to pursue their efforts to ensure victims have access to services facilitating their recovery from violence throughout the country, including in particular support for accessing housing, vocational guidance and the labour market (paragraph 129).

D. Specialist support services (Article 22) – Shelters (Article 23)

29. GREVIO strongly encourages the Portuguese authorities to ensure generally that the specialist support services meet the demands of victims, irrespective of the form of violence they experienced or the particular realities and compounding difficulties they face, and respect their confidentiality (paragraph 136).

30. While pursuing the ultimate goal of supporting and empowering all victims of violence against women and their children, GREVIO urges the Portuguese authorities to (paragraph 137):

- a. aim at a comprehensive strategy for service provision by conducting a needs assessment on the number, types and geographical location of services required by victims of all the different forms of violence and their children;
- b. set up specialist support services for victims of all forms of violence against women, including forced marriage and female genital mutilation, and for children, including child witnesses;
- c. further develop specialist support services for children, including in shelters where children should be able to stay with their mothers;
- d. set up adequate support services, including sheltered accommodation, for women victims of domestic violence with mental health issues, intellectual or physical disabilities that require medical care or support;
- e. remove funding requirements and other bureaucratic obstacles that prevent or encumber access to services and shelters for undocumented women; and
- g. enable the above through the provision of sustained financial and trained human resources.

E. Telephone helpline (Article 24)

31. GREVIO urges the Portuguese authorities to set up or support the functioning of a dedicated telephone helpline addressing women victims of different forms of violence and operated by qualified staff trained in all these forms of violence (paragraph 141).

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

32. GREVIO strongly encourages the Portuguese authorities to develop (paragraph 144):

- a. rape crisis and/or sexual violence referral centres in sufficient numbers, recalling that one such centre should be available per every 200 000 inhabitants and that their geographic spread should make them accessible to victims in rural areas as well as in cities;
- b. ensure that these centres provide both short-term support, forensic examination and medical care, as well as longer-term counselling and support.

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

33. GREVIO urges the Portuguese authorities to review their policies to ensure that the statutory agencies involved, in particular the National Commission for the Promotion of the Rights and Protection of Children and Young People and social services, 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 section of this report dealing with Article 31 of the Istanbul Convention) (paragraph 148).

V. Substantive law

A. Civil law

1. Civil lawsuits and remedies (Article 29)

34. GREVIO encourages the Portuguese authorities to consider reviewing and/or amending available civil remedies against the perpetrators, as a means to enhance the immediate protection of victims (paragraph 153).

2. Compensation (Article 30)

35. GREVIO encourages the Portuguese authorities to take additional measures to guarantee victims have access to adequate compensation (paragraph 158).

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

36. GREVIO urges the Portuguese authorities to take the necessary measures, including legislative amendments, to ensure that family courts are under the duty to consider all issues related to violence against women when determining custody and visitation rights and to assess whether such violence would warrant restricting custody and visitation rights. To this end:

- a. all applications to family courts should include a mandatory question on whether violence has been an issue in the relationship and whether it has been reported to law-enforcement officials;
- b. where violence has been reported, family courts should ask for the disclosure of the risk assessment and safety plans drawn up by law-enforcement agencies and take them into account when determining any issue involving a party who has alleged violence;
- c. where there is an ongoing criminal investigation and/or the perpetrator is in custody pending trial, family courts should seek the opinion of law-enforcement agencies and the prosecution, and give reasons as to why they choose to either follow or disregard those opinions;
- d. if the criminal investigation is closed or suspended, family courts must conduct their own investigation as to whether violence occurred and what effect the violence has had on the child;
- e. safeguards should be built into the procedures, such as offering the parents separate appointments and creating separate waiting areas in courts, to take into account the imbalance of power between the victim and the perpetrator and to prevent the risk of revictimisation.

Such measures should be accompanied by the provision of appropriate training and the development of professional guidelines, aimed at raising awareness among the professionals concerned as to the harmful effects of violence on children, including child witnesses, and at familiarising them with the requirements of the Istanbul Convention related to the settlement of custody and visitation rights. Progress in this field should be measured by data illustrating how family courts consider incidents of violence and how they motivate their decisions on custody and visitation rights.

37. GREVIO urges the Portuguese authorities to take measures to (paragraph 168):
- a. ensure that all statutory agencies and civil society organisations involved in deciding and carrying out arrangements for supervised visitations prioritise the safety and the respect of the rights of the child and the mother, including by refraining from attempting to reconcile the victim and the perpetrator;
 - b. expand the availability throughout the country of suitable premises – equipped with properly trained staff – for implementing supervised visitations which comply with the requirements of the Istanbul Convention.

B. Criminal law

38. GREVIO invites the Portuguese authorities to introduce criminal legislation that covers the intentional conduct set out in Article 37, paragraph 2, of the Istanbul Convention (paragraph 172).

39. GREVIO urges the Portuguese authorities to (paragraph 175):

- a. amend their criminal legislation on sexual crimes to ensure that such offences are based on the absence of the free consent of the victim;
- b. review the definition of the offence of sexual harassment in Article 170 of the Portuguese Criminal Code with a view to aligning it with the requirements of Article 40 of the Istanbul Convention.

4. Unacceptable justifications for crimes, including crimes committed in the name of so-called “honour”(Article 42)

40. GREVIO strongly encourages the Portuguese authorities to eliminate from their legislation any provision carrying the potential to ground decisions in criminal proceedings which reduce sentencing on account of the victim’s supposed transgression of cultural, religious, social or traditional norms or customs of appropriate behaviour (paragraph 178).

5. Aggravating circumstances (Article 46)

41. GREVIO urges the Portuguese authorities to amend their criminal legislation to ensure that the circumstances described in Article 46 of the Istanbul Convention may be taken into consideration as aggravating circumstances for all forms of violence covered by the convention (paragraph 181).

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

42. GREVIO strongly encourages the Portuguese authorities to uphold and effectively enforce the ban on reconciliation in divorce proceedings where there is a history of domestic violence, including by developing guidelines and providing training on methods for screening family law cases for domestic violence (paragraph 183).

VI. Investigation, prosecution, procedural law and protective measures

A. General obligations (Article 49)

1. Duty to ensure investigations and judicial proceedings without delay

43. GREVIO encourages the Portuguese authorities to take measures to ensure that cases of violence against women are investigated and prosecuted without delay. Such measures should include tracking the average time lapse from one stage of the criminal proceeding to another with the aim of possibly identifying where delays and bottlenecks occur (paragraph 188).

2. Effective investigation and prosecution

44. GREVIO urges the Portuguese authorities to continue to take measures to ensure that law-enforcement agencies' and courts' handling of cases of violence against women is strongly anchored to a gendered understanding of violence against women and centres on the safety and the human rights of women and their children, as well as to prevent the use in judicial proceedings of evidence related to the sexual history and conduct of the victim with no probative value (paragraph 191).

B. Immediate response, prevention and protection (Article 50)

3. Suspended proceedings

45. GREVIO strongly encourages the Portuguese authorities to take further measures to improve the collection of evidence, including in particular in domestic violence cases, so that the reliance on the victim's testimony is lessened. Having regard to their due diligence obligation as set out in Article 5, paragraph 2, of the Istanbul Convention, GREVIO urges the Portuguese authorities to take measures, including legislative amendments, to (paragraph 200):

- a. uphold perpetrators' accountability and to ensure criminal justice for all forms of violence covered by the convention;
- b. ensure that sentencing in cases of violence against women, including domestic violence, is commensurate to the gravity of the offence and preserves the dissuasive function of penalties;
- c. ensure that the application of any alternative judicial procedures is mindful of the gendered nature of violence against women, fully respects victims' human rights, guarantees their need for safety and upholds the principle of criminal accountability.

C. Risk assessment and risk management (Article 51)

46. GREVIO encourages the Portuguese authorities to develop further their risk assessment and management procedures to turn them into a central element of a multiagency co-ordinated response in all cases of violence against women covered by the Istanbul Convention (paragraph 203).

47. GREVIO encourages the Portuguese authorities to pursue ongoing efforts to analyse all cases of gender-based killings of women, with the aim of preventing them in the future, preserving the safety of women and holding to account both the perpetrator and the multiple agencies that come into contact with the parties (paragraph 206).

D. Emergency barring orders (Article 52)

48. Having regard to the principles outlined in this report, GREVIO strongly encourages the Portuguese authorities to review their system of barring orders to ensure they fulfil the requirements of Article 52 of the Istanbul Convention and/or introduce new mechanisms that comply with such requirements (paragraph 210).

E. Restraining or protection orders (Article 53)

49. GREVIO urges the Portuguese authorities to take measures, including legislative amendments, to ensure the availability and the effective application of restraining and/or protection orders in relation to all forms of violence, including for the prevention of female genital mutilation, forced marriage and stalking. Existing gaps in the system of protection orders should be closed, having regard to the following principles (paragraph 219):

- a. the onus for preventing the perpetrator from committing violence should be borne by the perpetrator and the statutory agencies responsible for monitoring and enforcing protection orders;
 - b. protection orders should be available to all victims, and should not be reserved for victims of domestic or intimate partner violence only;
 - c. the scope and duration of protection orders should be determined on a case-by-case basis, having regard to the actual needs and the expressed wishes of the victim;
 - d. protection orders should be available *ex parte* – without the presence of the violent party – on the condition that the defendant has been summoned and is allowed to appeal against the decision;
 - e. it should be possible to include children in one and the same protection order with their mothers, whether the children are direct or indirect victims because they either experienced the violence themselves or witnessed it;
 - f. there should be a legal obligation to inform the victim when a protection order is imposed;
 - g. the monitoring authorities should have no discretionary power in reporting breaches of protection orders to superior authorities responsible for the enforcement of protection orders upon violation;
 - h. the violation of protection orders should in principle lead to effective and dissuasive sanctions, while informal and lenient reactions, such as warnings or reprimands, should be reserved for exceptional circumstances only;
 - i. the statutory agencies concerned – law-enforcement officials, prosecutors, judges and probation officers – and social workers and support personnel should receive adequate and specialist training on protection orders.
50. Progress in this area should be carefully monitored and analysed, relying on appropriate data collection that highlights, in particular, the forms of violence for which protective measures are issued, whether a measure was requested by a victim or issued *ex officio*, the average duration of protection orders, the number of renewals of protection orders sought by the same victim (or for her upon request by the authorities), the number of breaches of protection orders (separately by each type of order issued) and whether all breaches were appropriately sanctioned. Analyses should be carried out at regular intervals and be made available to the public (paragraph 220).

F. *Ex parte* and *ex officio* proceedings (Article 55 paragraph 1)

51. GREVIO urges the Portuguese authorities to amend their legislation to make it conform with the rules regarding *ex parte* and *ex officio* prosecution set out in Article 55, paragraph 1, of the Istanbul Convention, as regards in particular the offences of physical and sexual violence (paragraph 223).

G. Victim support in legal proceedings (Article 55 paragraph 2)

52. GREVIO strongly encourages the Portuguese authorities to step up measures to increase access to support in legal proceedings for all victims of violence against women and for child witnesses, including by promoting and supporting the role of specialist women's organisations. Support should be available not only in criminal proceedings but also in related civil proceedings, such as those instituted to settle a compensation claim, a divorce or custody in domestic violence cases (paragraph 226).

H. Measures of protection (Article 56)

53. GREVIO invites the Portuguese authorities to enhance the use of measures to protect the rights and interests of the victims during the investigations and judicial proceedings (paragraph 228).

VII. Migration and asylum**A. Residence status (Article 59)**

54. GREVIO strongly encourages the Portuguese authorities to take measures to (paragraph 233):

- a. ensure migrant victims are informed about and have access to their right to an autonomous residence permit under Law No. 23/2007;
- b. train and raise awareness among the statutory agencies concerned, in particular the border police and immigration services, about the legal provisions entitling migrant victims, including undocumented migrant women, to a residence permit.

B. Gender based asylum claims (Article 60)

55. GREVIO strongly encourages the Portuguese authorities to take measures to ensure that all women arriving as asylum seekers have the opportunity to obtain international protection for reasons of gender-based violence, in accordance with Article 60 of the Istanbul Convention (paragraph 236).

Appendix II:
**List of representatives of Portugal present at the state dialogue
with GREVIO**

- Teresa FRAGOSO, President of the Commission for Citizenship and Gender Equality (CIG)
- Marta SILVA, Head of the Domestic Violence / Gender Violence Unit, the Commission for Citizenship and Gender Equality (CIG)
- Raquel CHANTRE, Head of the Division of Human Rights, Ministry of Foreign Affairs
- Marta CANCELA CARVALHO, General Division of Justice Policy, Ministry of Justice
- Isabel Cristina LOPES, Directorate General of Education, Ministry of Education
- Maria João ALMEIDA, Director of the Social Intervention Unit, Ministry of Labor, Solidarity and Social Security
- Vasco PRAZERES, Co-ordinator Doctor of the Unit on Gender and Equity in Health, Directorate General of Health
- Miguel BARROS, Assistant to the Cabinet of the Minister of Internal Administration
- Carina QUARESMA, Directorate of Planning, Control and Human Resources Services, General Secretariat of Internal Administration
- José PALAIO, Assistant to the Office of the Secretary of State for Citizenship and Equality
- Francisca BALHAU, trainee at the Permanent Representation of Portugal
- Carlos TEIXEIRA, trainee at the Permanent Representation of Portugal

Appendix III:

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

National authorities

- Ministry of Foreign Affairs
- Portuguese National Human Rights Committee (PNHRC)
- Commission for Citizenship and Gender Equality (CIG)
- Ministry of Justice
 - o Commission for the Protection of Victims of Crime (CPVC)
 - o Directorate-General for Reintegration and Prison Services (DGRSP), including the Program for Domestic Violence Perpetrators (PAVD)
- Ministry of Health
- Ministry of Education
- Ministry of Internal Affairs
 - o Public Security Police (PSP)
 - o National Republic Guard (GNR)
 - o Foreigner and Border Service (SEF)
- Minister of Labour, Solidarity and Social Security
 - o Social Security Institute (ISS, IP)

Local authorities

- Social Security Institute of Madeira

Public bodies

- Attorney general's office
- Public prosecution service
- National Institute of Legal Medicine and Forensic Sciences
- Center for Judicial Studies (CEJ)
- Commission for Equality in Labour and Employment (CITE)
- Working Conditions Authority (ACT)
- National Commission for the Promotion of the Rights and Protection of Children and Young People (CNPDPJ)
- Institute of Employment and Professional Training (IEFP)
- Superior Council of Magistracy
- Criminal Police training school (EPJ)
- National Statistics Institute (INE)
- Lisbon Metropolitan Command of the Public Security Police (Espaço Júlia)
- High Commission for Migration (ACM)
 - o National Immigrant Support Center (CNAI)
 - o Commission for Equality and Combating Racial Discrimination (CICDR)
 - o Migration Observatory
 - o Network of Local Immigrants Integration Support Centres (CLAII)
 - o Roma Communities Observatory (OBCIG)

Non-governmental organisations

- Mulheres Contra a Violência (AMCV)
- Plataforma Portuguesa para os Direitos das Mulheres (PPDM)
- European Network End FGM
- Associação Fernão Mendes Pinto
- Associação Mulher Século XXI
- Associação Mulheres sem Fronteiras
- Associação Plano I
- Associação Portuguesa pelos Direitos das Mulheres na Gravidez e Parto
- Associação Projecto Criar
- Associação Ser Mulher
- Casa Qui
- Coolabora
- Cooperativa SEIES
- EOS – Associação de Estudos, Cooperação e Desenvolvimento
- GRAAL
- ILGA
- MEN NON – Associação de Mulheres de São Tomé e Príncipe em Portugal
- Movimento Democrático de Mulheres, MDM
- P&D Factor – Associação para a Cooperação sobre População e Desenvolvimento
- Soroptimist, Clube do Porto
- UMAR – União de Mulheres Alternativa e Resposta

Civil society organisations and other organisations

- Portuguese Association for Victim Support (APAV)
- Portuguese Association of Women in Legal Careers (APMJ)
- Ramo Nacional do Observatório da Violência contra as Mulheres
- Casa de Abrigo UMNSC (Montijo)

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

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

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

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The Council of Europe is the continent's leading human rights organisation. It comprises 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.