



# GREVIO

## Baseline Evaluation Report Switzerland

” 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)

**SWITZERLAND**

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

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## Foreword

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

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

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

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

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

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

In addition, GREVIO also collects additional information from various other sources, including non-governmental organisations (NGOs), other members of civil society, national human rights institutions and Council of Europe bodies (Parliamentary Assembly, Human Rights Commissioner

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

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and other pertinent bodies), as well as other international treaty bodies. Within the framework of the evaluation of country, GREVIO received written contributions from the Istanbul Convention Network, from the Swiss network on female genital cutting and End Female Genital Mutilations EU, from Interaction and from End Demand Switzerland.

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

The analysis, suggestions and proposals contained in this first baseline evaluation report were drawn up under the exclusive responsibility of GREVIO. It covers the situation as observed by the GREVIO delegation during its evaluation visit to Switzerland. Where available, significant legislative and policy developments up until 10 October 2022 have also been taken into account.

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



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## Executive summary

This report provides an assessment of the measures of implementation taken by the Swiss 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 Swiss authorities and additional information submitted by NGOs and civil society representatives) and a seven-day evaluation visit to Switzerland. A list of the bodies and entities which GREVIO had exchanges with can be found in Appendix II.

The report assesses the wide variety of measures taken by the Swiss authorities. It highlights several positive developments, and, in particular, the measures taken after the ratification of the Istanbul Convention to mobilise the various stakeholders involved in its implementation, especially the drawing up of a conceptual framework, of a review of progress on implementation in the cantons and of a roadmap of the Confederation and cantons. Significant efforts have been made to build up and pursue regular discussions in order to harmonise the implementation of the Istanbul Convention and regularly share experiences and promising practices. A national action plan on the implementation of the Istanbul Convention for the period 2022-2026 was adopted in June 2022. Measures have also been taken to raise awareness and inform the public about domestic violence, including in the sphere of education. A review of the wide range of training courses on violence against women and domestic violence has recently been published. Self-regulation has been introduced by some bodies to address the treatment of violence against women in the media and in advertising.

Moreover, several cantons have taken measures to improve care for and protection of women victims of domestic violence, including mechanisms to foster co-operation between the various stakeholders in the field and those providing services. In addition, thanks to the work of the NGO networks on female genital mutilation and forced marriages, special contact points have been set up in a number of cantons to give victims of these forms of violence access to specialist support and guidance. Several hospitals have sexual violence referral centres or specialist units. These centres operate on the basis of an approach focusing on victims’ needs, providing comprehensive and co-ordinated victim support. They also enable forensic data to be collected without victims having to lodge a complaint.

There have also been changes in legislation to bring Swiss law more closely into line with the requirements of the Istanbul Convention. In particular, the 2020 Federal Law on improved protection for victims of violence removed provisions for a conciliation procedure in the context of proceedings for violence, threats or harassment under Article 28b of the Civil Code and the procedural costs for bringing civil proceedings, enabling women victims of violence to apply for protection orders.

Despite these achievements, GREVIO observed a number of issues where improvement is warranted in order to reach higher levels of compliance with the requirements of the Istanbul Convention. These include the lack of definitions and of a common approach at national level to violence against women and domestic violence, which may hinder the recognition and development of a shared understanding of violence against women. In addition, funding for policies, programmes and measures to prevent and combat all forms of violence against women remains insufficient. In particular, organisations providing specialist support services to victims of violence often lack appropriate, sustainable funding. These shortcomings, combined with the failure to harmonise the provision of victim support, result in unequal access across the country to shelter and high-quality assistance for women victims of violence.

There are measures in place to ensure the safety of women and children who are victims of violence. However, a child's exposure to domestic violence is not systematically viewed as a factor that could justify limiting the perpetrator's custody and visiting rights, in disregard of the tendency of parents who perpetrate violence to exploit parental authority in order to maintain their control and influence over their ex-spouse and children

GREVIO also stresses the urgent need to improve the collection of administrative data concerning all the forms of violence covered by the Istanbul Convention, in particular in the judicial sector, so as to enable an assessment of the effectiveness of the criminal justice response to violence against women and to amend legislation and practices where necessary. In particular, GREVIO is concerned that the current definition of rape does not comply with the requirements of Article 36 of the Istanbul Convention, which bases the definition of rape on the absence of the victim's freely given consent. In practice, it notes the persistence of gender stereotypes within the judiciary that may lead to women victims of gender-based violence being made to feel guilty and to the seriousness of such violence being downplayed. It is therefore vital to take legislative steps and other measures to ensure that the handling of cases of violence against women is firmly grounded in a gendered understanding of violence against women. Furthermore, while some cantonal police forces use a risk assessment and management tool in cases of domestic violence, there should be a standardised risk assessment tool to be applied in all cases of violence against women covered by the Istanbul Convention throughout the country, in order to minimise risks to victims' safety.

Lastly, although a legislative provision grants the right to a residence permit, or its extension, to the spouses of Swiss nationals or of long-term residence permit holders in "cases of hardship", GREVIO notes shortcomings in the processing of these residence permit applications due to disparities in the examination of applications and the relevant professionals' lack of training on and awareness about violence against women. In addition, women who have been victims of offences committed abroad are not entitled to assistance under the law on support for victims of crime, meaning that some migrant and asylum-seeking women are unable to benefit from the assistance provided by victim support centres.

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

- step up measures to devise a comprehensive long-term strategy to prevent and combat all forms of violence against women covered by the Istanbul Convention, encompassing the entire country, based on a victims' rights-centred approach and integrating a gender perspective regarding the various forms of violence against women covered by the Istanbul Convention;
- adopt an approach to preventing and combating violence against women addressing intersectional discrimination, particularly by taking account of the viewpoint of women exposed to intersectional discrimination when drawing up and implementing policies and by improving their access to support services;
- adopt an overall strategy for the collection of data on violence against women based on common indicators shared by all the bodies concerned and addressing the various forms of violence covered by the Istanbul Convention;
- provide for a national, specialised helpline for women victims of violence, operated in close co-operation with specialist NGOs;
- set up a sufficient number of crisis centres accessible to victims of rape and/or sexual violence, meeting all their short-, medium- and long-term needs;
- strengthen the legal framework relating to psychological violence, stalking, sexual harassment and female genital mutilation and ensure that sentences and measures imposed for offences of domestic violence and other forms of violence against women are effective, proportionate and dissuasive;

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- encourage the harmonisation at national level of regulations and practices related to restraining and protection orders, and ensure effective and systematic monitoring of compliance with such orders;
  - improve protection for asylum-seeking women and girls through a tool for the early detection of gender-based violence and measures to facilitate their access to specialist support services.

Furthermore, GREVIO has identified a number of additional areas in which improvements are required in order to comply fully with the obligations of the convention. These relate, among others, to the need to enhance the financial and human resources available to victim support centres to ensure that victims of violence against women receive appropriate assistance and support during legal proceedings. Measures should also be taken to expand the provision of transitional housing for women who have been accommodated in shelters and are moving towards independent housing. Lastly, the retroactive review of cases of gender-based killings of women should be pursued and expanded and full implementation of the available legal measures to protect the rights and interests of victims during all stages of investigations and judicial proceedings should be ensured.

## Introduction

Switzerland ratified the Istanbul Convention on 14 December 2017. In accordance with Article 78, paragraph 2, of the convention, Switzerland reserves the right not to apply the provisions under Article 44, paragraph 1.e and paragraph 3, with regard to sexual violence against adults (Article 36 of the Convention) and to forced abortion and forced sterilisation (Article 39 of the Convention), Article 55, paragraph 1, with regard to minor offences (Article 35 of the Convention), and Article 59. This reservation is valid for a period of five years from the day of the entry into force of the convention in respect of Switzerland and may be renewed.

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

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

In accordance with Article 68 of the convention, GREVIO initiated the baseline evaluation in respect of Switzerland by letter and transmission of its questionnaire on 2 February 2021. The order of reporting to GREVIO is based on a combination of regional groupings and order of ratification. The Swiss authorities subsequently submitted their state report on 18 June 2021 – the deadline set by GREVIO. Following a preliminary examination of the country state report, GREVIO carried out an evaluation visit to Switzerland, which took place from 5 to 11 February 2022. The delegation was composed of:

- Françoise Brié, Member of GREVIO
- Simona Lanzoni, Member of GREVIO
- Grégory Thuan dit Dieudonné, expert
- Françoise Kempf, Administrator at the Secretariat of the monitoring mechanism of the Istanbul Convention

During the evaluation visit, the delegation was welcomed by high-level public figures, including Michael Schöll, Director of the Federal Office of Justice, and Sylvie Durrer, Director of the Federal Office for Gender Equality (FOGE). In addition, the delegation met with a wide range of governmental and non-governmental representatives working in the area of preventing and combating violence against women. A list of the national authorities, non-governmental organisations and others met is set out in Appendix II of this report. GREVIO is grateful for the valuable information provided by all of them.

The evaluation visit was prepared in close co-operation with Gian Beeli, Head of the Violence Department of the FOGE, 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 Swiss authorities.

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

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

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

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

2. The process of ratification of the Istanbul Convention by Switzerland, which began after the signature of the convention in 2013 and ended in 2018, gave rise to a major public debate on violence against women and domestic violence. GREVIO welcomes the Swiss authorities' determined actions to plan and promote the implementation of the convention as soon as it was ratified. In 2018 a national conference was held on the implementation of the convention, during which a conceptual framework<sup>2</sup> and an overview of the action to be taken by the Confederation<sup>3</sup> for its implementation were presented, along with a report on progress on implementation in the cantons including a number of priorities for action.<sup>4</sup> This proactive approach demonstrates proven and promising awareness on the part of the public authorities and a desire to give more political priority to addressing violence against women.

3. In Switzerland, the comprehensive, co-ordinated implementation of the Istanbul Convention must be reconciled with the country's federal structure. Powers for the implementation of the various provisions of the convention mostly lie with the 26 cantons, which are responsible, among other things, for criminal prosecution, social protection and assistance for victims, child protection, measures to prevent violence and promote gender equality, health and education. The Confederation is responsible for co-ordinating implementation of the convention; it also has powers in the area of criminal, civil and administrative legislation, in collecting statistics in certain fields and in questions of asylum. The federal departments also draw up studies and expert reports (mostly in response to procedural requests in parliament, several of which have related in recent years to action against gender-based violence) along with statistics and surveys at national level.

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

4. In light of the scope of the Istanbul Convention set out in its Article 2, paragraph 1, the first baseline evaluation focuses on measures taken in relation to all forms of violence against women, including domestic violence, which affects women disproportionately. Article 3 of the Istanbul Convention sets out key definitions of concepts that are fundamental to its implementation. According to paragraph a, the term "violence against women" refers to "all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life", whereas the expression domestic violence is to be understood as referring to "all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the

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<sup>2</sup> Federal Office for Gender Equality (FOGE), Convention on Preventing and Combating Violence against Women and Domestic Violence, 2018 (<https://www.ebg.admin.ch/ebg/fr/home/documentation/publications-en-general/publications-international.html>).

<sup>3</sup> FOGE, Tasks and activities of the Confederation to implement the Council of Europe Convention, 2018, see [www.ebg.admin.ch/ebg/fr/home/documentation/publications-en-general/publications-international.html](https://www.ebg.admin.ch/ebg/fr/home/documentation/publications-en-general/publications-international.html).

<sup>4</sup> See Swiss Conference on Domestic Violence, Implementation of the Istanbul Convention at canton level, Current state of progress and measures to be taken, September 2018.

perpetrator shares or has shared the same residence with the victim. The definition of “gender-based violence against women” offered in paragraph d of Article 3 seeks to ensure more clarity regarding the nature of the violence covered by explaining that this is “violence that is directed against a woman because she is a woman or that affects women disproportionately”.

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

6. There is not currently any definition of violence against women or domestic violence that has been approved at national level. GREVIO notes that some cantons which have adopted action plans or legislation on domestic violence use one or more definitions of this term, which vary from one canton to the other. This means that the cantons work on the basis of differing definitions and terms of reference. It is difficult therefore to know on what principles action to prevent and combat violence against women in Switzerland is based, and how these differ from one canton to the other.

7. GREVIO also notes that the Swiss authorities’ work is mainly centred on action against domestic violence, to the detriment of other forms of violence dealt with in the convention. While the conceptual framework for implementation of the convention referred to above and the priorities for action identified by the cantons in 2018 are not confined to domestic violence, most of the political and legislative documents referred to in Chapter II below still relate primarily to this form of violence against women. GREVIO also regrets that, while forms of violence other than domestic violence are covered in various ways in several cantons,<sup>5</sup> the terminology used in cantonal laws and strategies still refers mainly to domestic violence, even when it covers other forms of violence against women, and this tends to lower the profile of such forms and the awareness of the need to take measures to prevent them.

8. GREVIO welcomes the fact that the ratification of the Istanbul Convention by Switzerland seems to have resulted in revived interest in other forms of violence covered by the convention. In this context, it notes with interest the adoption, in June 2022, of a national action plan for the implementation of the Istanbul Convention for the period 2022-2026<sup>6</sup>, which forms part of the 2030 Gender Equality Strategy, adopted by the Swiss parliament in 2020.<sup>7</sup> The three priorities of the action plan include awareness raising of the population, training of professionals on violence against women and sexualised violence. The new action plan follows on from measures to combat violence against women and domestic violence included in a series of action plans to promote equality, adopted from 1999 onwards to implement the action programme deriving from the Beijing UN World Conference on Women of 1995. GREVIO considers that as there are no common definitions or reference frameworks, it is crucial to draw up a national action plan covering all forms of violence against women, based on the principles of the Istanbul Convention.

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<sup>5</sup> See state report, p. 19.

<sup>6</sup> See [www.ebg.admin.ch/dam/ebg/fr/dokumente/haeusliche\\_gewalt/istanbul-konvention/nationaler\\_aktionsplan\\_ik.pdf.download.pdf/Nationaler%20Aktionsplan%20Istanbulkonvention\\_F.pdf](http://www.ebg.admin.ch/dam/ebg/fr/dokumente/haeusliche_gewalt/istanbul-konvention/nationaler_aktionsplan_ik.pdf.download.pdf/Nationaler%20Aktionsplan%20Istanbulkonvention_F.pdf). The action plan was adopted after GREVIO’s visit to Switzerland and could therefore not be thoroughly discussed with the authorities.

<sup>7</sup> The priority aims of the strategy are to promote equality at work, improve work-life balance and combat discrimination, sexism and violence. See: [www.ebg.admin.ch/ebg/fr/home/themes/droit/gleichstellungsstrategie2030.html](http://www.ebg.admin.ch/ebg/fr/home/themes/droit/gleichstellungsstrategie2030.html).

9. GREVIO considers that the coexistence of several terms and definitions to deal with violence against women can have consequences for policies and their implementation in the cantons. It can indeed hinder the recognition and development of a shared understanding of violence against women as violence that affects women because they are women, or that disproportionately affects them, and of its different manifestations as part of a continuum and the same gender-related phenomenon.

10. **GREVIO strongly encourages the Swiss authorities to take additional measures to ensure that their strategies and action plans address all forms of violence covered by the scope of the Istanbul Convention.**

11. **GREVIO also urges the Swiss authorities to take the necessary measures to develop a common recognition and understanding of the phenomenon of violence against women as a form of gender-based violence by developing shared and harmonised definitions that provide a common and unequivocal reference terminology on violence against women in accordance with Article 3 of the Istanbul Convention.**

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

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

12. The Swiss Constitution explicitly guarantees the principle of gender equality.<sup>8</sup> The Federal Act on Gender Equality of 1995 adds to this provision by prohibiting all discrimination at work and instructing the FOGE to take measures to promote the achievement of equality through advice to the authorities, public information, research work, participation in the preparation of the relevant legislation and funding of projects to promote equality. GREVIO welcomes the existence of this robust legislative framework to promote equality. There are cantonal equality offices which complete the set-up in most cantons. GREVIO is pleased to note that the latter carry out substantial awareness-raising and educational work on equality and that in some cantons, particularly in French-speaking Switzerland, they are in charge of co-ordinating work by the cantons to combat violence against women, facilitating an approach taking due account of the principle that violence against women is both a consequence and a cause of gender inequality. Not all cantons have an equality office though.

13. GREVIO also takes due note of the awareness-raising work on gender equality in various spheres carried out for several decades now by the Federal Commission for Women's Issues, which is an advisory body to the Swiss Federal Council.

14. **GREVIO invites the Swiss authorities to continue to invest efforts in designing legislative initiatives and in implementing existing measures to eliminate discrimination against women in various areas and to accompany these efforts with specific measures designed to ensure full equality between women and men in practice.**

### **2. Intersectional discrimination**

15. Article 4, paragraph 3, of the convention requires parties to secure the implementation of their undertakings under the convention without any discrimination. This provision provides an open-ended list of grounds of discrimination which draws on that of Article 14 of the European Convention on Human Rights as well as the list contained in its Protocol No. 129 and, in addition, includes the grounds of gender, sexual orientation, gender identity, age, state of health, disability, marital status, and migrant or refugee status or other status. This obligation stems from the realisation that

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<sup>8</sup> Article 8, paragraph 3, of the Federal Constitution.

<sup>9</sup> The discrimination grounds in question include sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

discrimination of certain groups of women, for example at the hands of law-enforcement agencies, the judiciary or service providers, is still widespread.<sup>10</sup>

16. While the responses to the specific needs of women subject to intersectional discrimination vary from canton to canton, GREVIO was alerted to a general lack of any intersectional approach in preventing and combating violence against women.<sup>11</sup> When assessing the availability of and access to services for women victims of the forms of violence described in Chapter IV below, it is clear that some groups of women face specific obstacles on top of those faced by all women.<sup>12</sup> These groups include among others migrant, refugee and asylum-seeking women, women with disabilities, elderly women, LGBTI women, Yenish and Sinti/Manush women and Roma women. Likewise, women in prostitution, who are exposed to violence and stigmatisation, and those using psycho-active substances face additional obstacles in access to support and protection in the event of gender-based violence. The absence of any special focus on women and girls exposed to intersectional discrimination and the failure to take account of the impact of the interplay between these multiple forms of discrimination when devising policies to combat violence against women and domestic violence often means that existing measures are not geared to their needs and they do not have full access to the information, support and protection they need.

17. GREVIO also considers that, while it is important to focus on certain forms of violence commonly associated with certain groups, such as forced marriage and female genital mutilation within migrant and refugee communities, account should always be taken of all the forms of violence which these women may face. This approach is vital if we want not only to afford all the women concerned proper protection and support with regard to all forms of gender-based violence but also to avoid the risk that certain groups may be stigmatised.

18. The lack of specific data on the prevalence of gender-based violence against women and research combining sex with other sources of discrimination such as disability, sexual orientation, gender identity or foreign origin adds to the tendency for these women to be ignored by policies to combat violence.

19. **To ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3, and to combat discrimination, which increases the risk of exposure to violence and hinders access to protection mechanisms for women from groups subject to intersectional discrimination, GREVIO strongly encourages the Swiss authorities to adopt an approach to preventing and combating violence against women addressing intersectional discrimination, particularly by taking measures:**

- a. **to prevent and combat violence affecting women who are or might be exposed to intersectional discrimination, particularly migrant, asylum-seeking and refugee women, women with disabilities, LGBTI women, elderly women, women in prostitution and women with addiction issues;**
- b. **to include preventing and combating violence against women in policies, measures and programmes geared to the specific needs of groups of women facing intersectional discrimination;**
- c. **to take account, when implementing, monitoring and assessing policies to prevent and combat violence against women and domestic violence, of the viewpoint of women exposed to intersectional discrimination.**

**GREVIO invites the Swiss authorities to develop a strategy to clarify the normative and conceptual framework aimed to address intersectional discrimination of women and girls and**

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<sup>10</sup> See paragraphs 52-54 of the Explanatory Report.

<sup>11</sup> Information provided during GREVIO's visit.

<sup>12</sup> See in this connection, the Council of Europe publication on "Ensuring the non-discriminatory implementation of measures against women and domestic violence: article 4, paragraph 3, of the Istanbul Convention" (2022).



**to introduce, for all levels of authority, guidelines and objectives for preventing and combating all forms of violence covered by the Istanbul Convention.**

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

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

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

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

22. While some authorities seem to work on the basis of a gender-sensitive approach, particularly at federal level, GREVIO notes that a gender-neutral approach often seems to prevail in practice and this tends to put women and men on the same symmetrical level as victims and perpetrators of the violence covered by the convention and does not necessarily take account of the specific experience of women victims of violence. This neutral approach is bolstered by the priority given in many cantons to combating domestic violence, in the context of which the authorities often consider that violence against women and men should be addressed in the same manner in the domestic sphere.

23. GREVIO understands the desire of the authorities to pursue a policy to combat gender-based violence in a holistic manner, taking into account all victims (including those of another sex) without discrimination. However, it also points out how important it is for policies and measures to address violence against women separately, viewing it as violence directed against women because they are women or affecting them disproportionately, including in the context of domestic violence. Unless such a distinction is made, there is a risk that violence against women will become invisible and not be adequately addressed within policies as a structural phenomenon linked to the system of domination and gender stereotypes vis-à-vis women. The realisation that structural inequalities between women and men act as both the cause and the consequence of gender-based violence against women, making it different from other forms of violence, should be central to these policies. In this context, GREVIO points out that under Article 4, paragraph 4, of the convention, special measures that are necessary to prevent and protect women from gender-based violence must not be regarded as discrimination.

**24. GREVIO strongly encourages the Swiss authorities to incorporate the gender dimension fully into their legislation, policies and measures to prevent and combat all forms of violence against women covered by the Istanbul Convention. This gender-sensitive approach should be based on an understanding of the link between the prevalence of gender-based violence against women and the structural inequalities between women and men, with the aim of addressing the specific needs of women victims and raising awareness of and counteracting negative gender stereotypes against women which legitimise and sustain violence against them.**

## II. Integrated policies and data collection

25. 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)

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

27. Various mechanisms for co-operation and the co-ordination of the activities carried out by the various levels of responsibility have been devised since 2018 to implement the Istanbul Convention. Co-ordination at federal level is provided by the FOGE, which runs the Inter-Departmental Working Group for the implementation of the convention, bringing together various federal government departments. GREVIO also welcomes the appointment of a committee with responsibility for the implementation of the convention at national level, bringing together the FOGE and other federal departments, together with representatives of the relevant cantonal conferences.

28. In 2018, the FOGE drew up a conceptual framework for the implementation of the Istanbul Convention dividing up the tasks assigned to the various levels of authority according to their functions in the Swiss institutional system. At intercantonal level, the Swiss Conference against Domestic Violence (CSVD) is responsible for co-ordinating measures among cantons and between the cantons and the federal and municipal level. In September 2018 the CSVD established a review of measures to be taken in the cantons for the implementation of the Istanbul Convention comprising a number of priorities.<sup>13</sup> GREVIO understands that the CSVD's role consists among other things in harmonising the practices of the cantons with regard to domestic violence, encouraging the less advanced cantons to take action in this area and co-ordinating cantons' activities with the federal level. Other intercantonal conferences such as the Conference of Cantonal Justice and Police Directors (CCDJP), the Conference of Social Affairs Directors (CDAS), the Conference of Gender Equality Delegates and the Conference for the Protection of Minors and Adults (COPMA), play a major role in co-ordinating and harmonising practices linked to the implementation of the Istanbul Convention, with particular emphasis on domestic violence.

29. GREVIO welcomes the appointment in 2020, by the Committee responsible for the implementation of the Istanbul Convention, of a domestic violence and Covid-19 task force, which enabled the federal and cantonal authorities concerned to monitor the situation very regularly and information on remedies in the event of domestic violence to be made available rapidly.<sup>14</sup>

30. GREVIO takes due note of the new roadmap on preventing domestic violence and protecting its victims<sup>15</sup> arising from the strategic dialogue held in April 2021 between the main players at federal and cantonal level. The priorities set out in the roadmap relate primarily to improving the co-ordination of measures between the various levels of authority, prevention, awareness-raising and education, risk management, electronic surveillance of perpetrators, the establishment of a central helpline for victims, improving victim support, protection of children exposed to domestic

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<sup>13</sup> The priorities in the review relate to: funding of measures against gender-based violence, work with the perpetrators of violence, increasing the number of places in shelters, setting up crisis centres for victims of sexual violence, increased provision of education on violence against women, protection of children exposed to domestic violence and improved information on victim support. See Swiss Conference on Domestic Violence, 2018, *ibid*.

<sup>14</sup> See [www.ebg.admin.ch/ebg/fr/home/le-bfeg/nsb-news\\_list.msg-id-86612.html](http://www.ebg.admin.ch/ebg/fr/home/le-bfeg/nsb-news_list.msg-id-86612.html).

<sup>15</sup> Swiss Confederation, Federal Department of Justice and Police, Conference of Cantonal Justice and Police Directors, Conference of Cantonal Social Affairs Directors, Domestic violence: Roadmap of the Confederation and the Cantons, 30 April 2021, available at [www.nkvf.admin.ch/nkvf/fr/home/publikationen/mm.msg-id-87123.html](http://www.nkvf.admin.ch/nkvf/fr/home/publikationen/mm.msg-id-87123.html).

violence, supervision of perpetrators, improving in-service training for professionals working in the sphere and improving the legislative framework at cantonal level.

31. At cantonal level, GREVIO welcomes the adoption by several cantons of legislation on domestic violence (Geneva, Neuchâtel, Obwalden, Valais, Vaud and Zurich) and the establishment by others of cantonal action plans against violence (Basel-City, Fribourg, Geneva, Graubünden, Jura, Solothurn, Vaud and Valais), some specifically with the goal of implementing the Istanbul Convention.<sup>16</sup> Some cantons have incorporated combating violence against women into their equality plans while others have added it to their legislative objectives. Some cities, such as Bern, Geneva, St. Gallen and Zurich, have devised their own action plans. Several cantons have set up cantonal commissions to combat domestic violence, or round tables and advisory groups involving the main stakeholders, which meet regularly and foster co-operation between institutions in their action against domestic violence.

32. While welcoming these developments, GREVIO is concerned that the fact that certain cantons do not have a legislative framework, an action plan or a cantonal strategy to combat violence against women may result in practice, for those concerned, in a lack of strategic direction. Furthermore, as already mentioned in Chapter I, the scope of the laws and action plans adopted by the cantons is highly variable. GREVIO notes in particular that different approaches to violence against women have been adopted in the German-speaking cantons and Ticino, where action against violence is co-ordinated by the police and justice services, and in the French-speaking cantons, where the approach focuses more on gender equality. While acknowledging that approaches may differ in the light of the circumstances on the ground, GREVIO considers that it is important that the policies adopted by the cantons are sufficiently comprehensive and inclusive to cover all the provisions of the convention properly, on the basis of a gender-sensitive approach catering for the needs of various groups of victims.

33. GREVIO welcomes the substantial efforts made by various institutional bodies to establish and cultivate regular exchanges to harmonise the implementation of the Istanbul Convention and to discuss experiences and good practices regularly. However, despite these efforts, and the fact that co-operation between the various levels of authority are a well-established practice in Switzerland, GREVIO is concerned to note that the level of support and protection to which victims of gender-based violence have access still depends largely on their place of residence. The diverse range of legislation and policies in place at cantonal or even municipal level leads in practice to persistent and major disparities in the application of the convention across Switzerland. Furthermore, civil society representatives reported problems in implementing certain prevention or victim protection measures involving several cantons, for example in cases where a place in a shelter must be offered in another canton, because practices and services are not sufficiently harmonised and sometimes because of a lack of co-operation between cantons. GREVIO also regrets that existing co-ordination and co-operation mechanisms – at intra- and intercantonal level and between cantons and the federal level – relate mostly to domestic violence and do not exist for all the forms of violence covered by the Istanbul Convention.

34. While bearing in mind the complexity of the Swiss institutional system and the strict division of powers between federal and cantonal level, GREVIO considers that the instigating and co-ordinating role of the federal level and the intercantonal conferences should continue to be strengthened so as to guarantee that all the women victims of gender-based violence covered by the Istanbul Convention have access to the same rights and services throughout the country and to offer a more comprehensive response to violence against women at national level. GREVIO hopes that the implementation of the national action plan currently being prepared will help to achieve this aim.

35. GREVIO welcomes the establishment in 2018 of the Istanbul Convention Network, bringing together nearly 100 NGOs and services specialising in action to combat violence against women,

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<sup>16</sup> Basel-Country, Graubünden, Jura, Valais, Vaud.

working on the various forms of violence concerned and representing diverse groups of women affected by this violence, including women with disabilities, migrant women and LGBTI women. The network has the financial backing of the FOGE. GREVIO is pleased to note that there are regular exchanges with the FOGE, particularly at annual meetings, and that NGOs are involved in strategic dialogue and the preparation of the national action plan.

**36. While being well aware of the distribution of powers deriving from Switzerland's federal institutional structure, GREVIO strongly encourages the Swiss authorities to step up measures to devise a comprehensive long-term strategy to prevent and combat all forms of violence against women covered by the Istanbul Convention; this strategy should cover the entire country, be based on a victims rights-centred approach and integrate a gender perspective regarding the various forms of violence against women including domestic violence. For this purpose, the Swiss authorities should, in particular:**

- a. **give due weight to all the forms of violence against women covered by the Istanbul Convention, including those committed in the digital sphere;**
- b. **establish multi-agency co-operation and co-ordination with regard to all forms of violence against women, based on existing promising practices;**
- c. **conduct independent, comparative analyses of the existing cantonal legislation and policies on violence against women and on their level of harmonisation with the Istanbul Convention, with a particular focus on identifying promising practices that could be disseminated throughout the country;**
- d. **cater properly for the needs of the various groups of women victims of violence**
- e. **continue to implement measures to foster increased co-ordination and greater consistency in the work of the various levels of authority.**

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

37. As the cantons are responsible for the implementation of a substantial part of the provisions of the convention, including through the allocation of the necessary resources, it is difficult to gain an overview of the resources allocated for action to combat violence against women. Some specific budgetary lines have been set up at federal level such as the ones for the work of the FOGE on violence (CHF 450 000 per year not including staffing costs)<sup>17</sup> and the CSVD (CHF 52 000 per year), and action against female genital mutilation (CHF 300 000 per year) and forced marriages (CHF 800 000 over three years). However, most federal institutions do not have a separate budget or funding line enabling an evaluation of the amount of resources used to combat violence against women to be made. Nor has Switzerland adopted gender budgeting indicators.

38. GREVIO welcomes the availability since 2021 of financial support for projects and measures to prevent violence against women amounting to CHF 3 million per year. It is pleased to note that backing may be provided for all the forms of violence covered by the Istanbul Convention and that projects may be proposed both by NGOs and by public institutions and consist of a one-off project limited in time (subject to co-funding of 50% of the costs) or a series of regular activities (subject to co-funding by the subsidies' beneficiaries of 75% of the costs). Measures intended to strengthen co-operation and networking between various partners may also be supported by the fund. Two calls for projects are issued per year. GREVIO notes that most projects proposed by NGOs were financed after the first call for projects in 2021.<sup>18</sup> However, some NGOs which GREVIO talked to said that they found it difficult to co-fund projects with their own resources.<sup>19</sup> While welcoming this development, GREVIO considers that the amounts available through the subsidies are unlikely to meet all the needs identified by women's rights NGOs to provide an adequate and sustainable response to all forms of violence against women.

<sup>17</sup> In 2018, an additional CHF 100 000 have been allocated for the implementation of the Istanbul Convention.

<sup>18</sup> See FOGE, Preventing and combating violence against women, Applications given backing in 2021 ([www.ebg.admin.ch/ebg/fr/home/prestations/finanzhilfengewalt.html](http://www.ebg.admin.ch/ebg/fr/home/prestations/finanzhilfengewalt.html))

<sup>19</sup> Information collected during GREVIO's visit.

39. In addition, some umbrella organisations receive funding to provide studies, surveys and specialist services. This is the case in particular for the Solidarity Federation for Women in Switzerland and Liechtenstein (DAO) and the Swiss professional association of counsellors on violence (APSCV), which play a key role in the implementation of certain provisions of the Istanbul Convention and in co-ordination and exchanges between the various stakeholders. Other groupings of civil society organisations benefit from financial support from the federal authorities to meet needs in relation to female genital mutilation (the Swiss Network against Female Genital Cutting) and forced marriage (the Federal Department for Combating Forced Marriage). Umbrella organisations which GREVIO met reported nonetheless that they lacked regular, long-term funding, taking into account growing funding needs, to carry out all the tasks which fell to them.

40. At cantonal level, approaches adopted to financing specialist projects and services on violence against women vary highly, including with regard to specialist facilities such as women's shelters<sup>20</sup> and the services provided by victim support centres (LAVI centres) under the Federal Law on Support for Victims of Crime (the LAVI Act).

41. In most cantons, funding agreements are negotiated between the authorities and the organisations providing specialist services but because of the upper limit on subsidies they do not always meet actual needs and the additional costs have to be covered by the associations managing these services. The information provided to GREVIO by NGOs also indicates that service contracts have not been adopted in all cantons, which undermines the work of the specialist services arising from civil society in these cantons. With regard to shelters in particular, some cantons have a predominantly per capita funding arrangement, based on an average occupancy rate and few resources are available for the costs of the victim in the counselling and support activities generally provided by these services and for administrative operating costs.<sup>21</sup> GREVIO would point out that this funding arrangement makes activity planning for the specialist services difficult and arbitrary, and often prevents shelters from being funded properly.

42. For want of an overview of all the resources allocated to combating violence against women, GREVIO is not in a position to assess whether they are such as to enable the Istanbul Convention to be implemented nationwide. It is concerned however about the reported tendency for some cantons to opt for approaches to combating gender-based violence against women which do not generate any additional budgetary expenditure (which are referred to as "budget neutral"), whereas the organisations involved in this work report a general lack of funds. Although some cantons earmark substantial funds for such activities (CHF 14 million have been allocated specifically to combating domestic violence in Vaud for example), others have opted for a budget-neutral approach to the implementation of the measures required by the Istanbul Convention. A propensity to make use of non-specialist service providers on the ground that they are less costly has also been reported.<sup>22</sup> In addition, the NGOs consulted stated that fewer resources were available for services dealing with forms of violence against women other than domestic violence. Lastly, they reported that in some cases there had been a reduction in the resources allocated to combating gender-based violence against women as a result of the Covid-19 pandemic whereas support and protection needs had increased.<sup>23</sup>

43. As to the evaluation of the costs of violence against women, GREVIO notes that a study on the cost of intimate partner violence was published by the FOGE in 2013,<sup>24</sup> but none has been conducted since at national level.

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<sup>20</sup> See comments in the part of the report concerning Chapter IV, paragraphs 132-140.

<sup>21</sup> See Assessment of the situation concerning provision and financing of emergency shelters and accommodation in the cantons, Report commissioned by the Conference of Cantonal Social Affairs Directors (CDAS), 2018, pp. 31 and 32.

<sup>22</sup> Information provided during GREVIO's visit.

<sup>23</sup> Idem.

<sup>24</sup> Cost of intimate partner violence, [www.ebg.admin.ch/ebg/en/home/documentation/publications-in-general/publications-violence.html](http://www.ebg.admin.ch/ebg/en/home/documentation/publications-in-general/publications-violence.html), FOGE, 2013.

44. **GREVIO urges the Swiss authorities to step up efforts to provide:**

- a. **appropriate funding for policies, programmes and measures to prevent and combat all forms of violence against women;**
- b. **appropriate sustainable funding for all organisations providing specialist support services to victims of violence throughout the country.**

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

45. GREVIO is pleased to note that the ratification by Switzerland of the Istanbul Convention has resulted in increased intensification and institutionalisation of the authorities' work with civil society organisations involved in combating violence against women and a certain increase in the funding available for their work. As already mentioned above,<sup>25</sup> regular consultations with NGOs take place at federal level. At cantonal level, GREVIO notes that in several regions, NGOs are involved in the work of co-ordinating bodies, round tables and commissions on domestic violence, which contribute to dialogue and co-operation between professionals representing local authorities and persons working for specialist services. Representatives of specialist NGOs have told GREVIO however that although they are frequently consulted, their contributions are not always sufficiently taken into account when drawing up programmes and measures and that they would like to play a greater role in the implementation of the Istanbul Convention and be fully implicated in the institutional mechanisms to monitor its implementation. It is also clear from GREVIO's exchanges with NGOs that the latter often lack the financial and human resources to co-operate fully.<sup>26</sup>

46. Lastly, it is a source of concern that in some cantons, the cantonal authorities' co-operation with NGOs in devising strategies and measures to combat gender-based violence against women seems to be more limited and sporadic. Womens rights organisations with experience in the field and specific knowledge about support and protection for victims of gender-based violence say that they are neither informed of or involved in the development of strategies directly linked to their work.<sup>27</sup> In general, GREVIO is concerned about a tendency in some areas, particularly the provision of specialist services such as telephone helplines, to prefer to make use of organisations which are not specialised in issues of gender-based violence against women and whose approach therefore is not necessarily centred on the needs of victims of gender-based violence.<sup>28</sup> GREVIO is concerned about this development and considers that recognition of the role played by organisations specialising in the promotion and protection of women's human rights, and of the social and economic value of their activities, is a decisive criterion for assessing the alignment of public policies with the requirements of Article 9 of the Istanbul Convention.

47. **GREVIO strongly encourages the Swiss authorities:**

- a. **to continue and strengthen co-operation at all levels of authority with all NGOs working in the field of preventing and combating violence against women and ensure that they are properly involved in drawing up relevant policies and measures;**
- b. **to step up their support for independent women s rights organisations and fully acknowledge the value and expertise they bring through their gendered approach to violence against women centring on victims' rights and needs.**

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<sup>25</sup> See paragraph 34.

<sup>26</sup> Information provided during GREVIO's visit.

<sup>27</sup> *Idem.*

<sup>28</sup> *Idem.*

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

48. The “violence department” of the Federal Office for Gender Equality (FOGE) was chosen by the Swiss authorities as the co-ordinating body for the implementation of the Istanbul Convention, under the direct authority of the Federal Councillor for Home Affairs. It is allocated specific financial and human resources for this purpose (CHF 450 000 and 2.1 full-time posts). As a co-ordinating body, the FOGE performs several functions: firstly, it co-ordinates work to implement the convention, as described above in relation to Article 7, in conjunction with other partners at federal and cantonal level; secondly it acts as an instigator, for example in the context of the current preparation of a national action plan for the implementation of the convention; third, it supports projects through the financial resources available since 2021; and, fourth, it conducts studies and surveys, particularly on the basis of procedural requests in parliament, and holds, every two years, a national conference on themes linked to violence against women. It also has regular exchanges with NGOs. GREVIO also notes with interest that the FOGE took part in technical exchanges between the co-ordinating bodies under the Istanbul Convention of German-language states parties. At intercantonal level, GREVIO takes note of the key role played by the CSVD in promoting the implementation of the convention, pooling experiences and harmonising practices between cantons.

49. GREVIO welcomes the leading role played by the FOGE in promoting and co-ordinating the implementation of the Istanbul Convention at all levels and in the development of research on violence against women. It notes however that to date, its work has focused largely on domestic violence, which was the initial remit given to the violence department when it was set up in 2003, and that other forms of violence covered by the Istanbul Convention and the intersectional aspect of violence against women are not yet sufficiently addressed. GREVIO also notes that following the ratification of the convention, the scope of the FOGE’s work has tended to broaden to encompass all the forms of violence covered and it hopes that this trend will continue, particularly in the context of the forthcoming national action plan.

50. GREVIO also considers that the resources allocated to the FOGE to perform its functions seem somewhat limited, particularly in view of the scale and the complexity of the task of co-ordination and networking entailed by Switzerland’s federal structure. The same can be said for the resources of the CSVD, whose role in instigating and harmonising practices is key where it comes to translating the provisions of the Istanbul Convention into tangible policies and measures at cantonal level.

51. 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 have any unintended effects. 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. GREVIO notes that in Switzerland, there is no centralised system to monitor and evaluate the implementation of the convention, even though it is the FOGE’s role to observe and evaluate the policies and measures introduced. It understands that evaluations are made on the basis of exchanges of experience, assessments of the impact of certain measures and the adoption of minimum intercantonal standards and shared tools. The FOGE has recently commissioned a number of studies in response to procedural requests in parliament.<sup>29</sup> GREVIO also notes the role played by the Swiss Centre of Expertise in Human Rights where it comes to surveys and studies on violence against women and the Istanbul Convention in itself.<sup>30</sup> Lastly, the state report mentions that a monitoring and evaluation role is assigned to NGOs, particularly to umbrella organisations. However, according to the information

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<sup>29</sup> FOGE, publications on violence: [www.ebg.admin.ch/ebg/fr/home/documentation/publications-en-general/publications-violence.html](http://www.ebg.admin.ch/ebg/fr/home/documentation/publications-en-general/publications-violence.html).

<sup>30</sup> See, for example, legal opinion on the prohibition on discrimination and the scope of the Istanbul Convention, drawn up by the Swiss Centre of Expertise in Human Rights at the request of the FOGE, December 2021.

received by GREVIO,<sup>31</sup> these organisations do not always have the necessary resources at their disposal to perform this type of task.

52. Despite the evaluation work done by these bodies, GREVIO considers that in several areas of activity of the Istanbul Convention, there is a lack of an overview and regular monitoring of the impact of public policies in the area of violence against women. There is a need for more systematic independent impact assessments, based on robust data and covering the entire country so that comparisons can be made at national level. GREVIO hopes that the regular monitoring system provided for in the national action plan will help to improve the evaluation of policies and measures in this area. It emphasises the importance of establishing an institutional separation between the bodies tasked with drawing up and ensuring the implementation of the action plan and those required to monitor and evaluate it in an independent manner and in all cantons.

**53. GREVIO strongly encourages the Swiss authorities to enhance the role of the Federal Office for Gender Equality as the national co-ordinating body by strengthening its powers and competences and allocating the necessary human and financial resources in order to ensure the sustainability of its work. GREVIO also strongly encourages the Swiss authorities to ensure, on the one hand, the co-ordination and implementation of policies and measures and, on the other hand, the independent monitoring and evaluation in order to guarantee the objective evaluation of policies. Any monitoring and evaluation should be carried out on a regular basis, using comparable indicators and should cover the entire country.**

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

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

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

#### **a. Law-enforcement agencies and the justice sector**

55. There are major gaps in the data on violence against women collected in Switzerland, particularly with regard to criminal and civil proceedings connected with domestic violence, and other forms of violence against women. Statistics on criminal convictions do not mention the sex of the victim or the relationship between the perpetrator and the victim. The same is true of civil proceedings and compensation claims. GREVIO is concerned to note that these gaps make it impossible to assess conviction, attrition and recidivism rates – or any shortcomings in the criminal law response, thus concealing the true extent of violence against women. It takes note of the information submitted by the Swiss authorities concerning the Justitia 4.0 project, whose aim it is, by 2025, to introduce the digitisation of judicial decisions and electronic communication of legal documents at all levels, which, the authorities argue, should improve the collection of judicial data.

56. Police crime statistics collected by the Federal Statistical Office provide data on offences registered by the police broken down by sex and age and gives the relationship between the perpetrator and the victim in 31 cases. In 2021, police statistics indicated that 19 341 offences committed in a context of domestic violence were recorded, 69 of which were homicides or attempted homicides, and that nearly 40% of all homicides committed in Switzerland took place in the domestic sphere. In addition, 70% of victims of domestic violence were women.<sup>32</sup> There are, however, no national statistics on police call-outs or on protection orders and the penalties imposed when these

<sup>31</sup> Information provided during GREVIO's visit.

<sup>32</sup> See [www.ebg.admin.ch/ebg/fr/home/themes/violence-domestique/statistique.html](http://www.ebg.admin.ch/ebg/fr/home/themes/violence-domestique/statistique.html).



are infringed. Some cantons collect this type of data,<sup>33</sup> and have shared them with GREVIO, but data collection is not conducted on the basis of standardised criteria and definitions. With regard to child protection, GREVIO notes that in cases resulting in the death of children, police statistics do not indicate if the child's mother was herself the victim of domestic violence, and this makes it impossible to collect and analyse data on violence against children in connection with a context of domestic violence.

57. Victim support statistics concerning persons who are victims of criminal offences who go to LAVI centres record the victim's sex, age, nationality and address, and the relationship between the perpetrator and the victim. They help to flesh out police statistics because it is possible to go to a LAVI centre without filing a complaint beforehand.

58. GREVIO welcomes the publication by the FOGE of accessible and concise data on domestic violence.<sup>34</sup> It regrets, however, that very few data on other forms of violence covered by the Istanbul Convention, particularly sexual violence, are available. It highlights the importance of the collection of administrative data concerning all the forms of violence against women referred to by the convention. Furthermore, in order to comply with Article 11 of the convention, the data collected should include information on the perpetrators and the victims disaggregated by sex, age, type of violence, relationship between the victim and the perpetrator and geographical location.<sup>35</sup> Sufficiently detailed categories help to record cases of violence against women more accurately. It is also essential to standardise the definitions and units of measure used so as to obtain comparable data.

#### **b. Health-care sector and social services**

59. GREVIO also regrets that few statistics on violence against women are collected in the health system. While some hospital departments do collect this type of data (particularly Bern hospital and the Violence Medicine Unit at the Vaud Canton hospital), most do not, according to the information provided to GREVIO.<sup>36</sup> GREVIO also notes the lack of any specific training or guidelines for care staff so that they are better prepared to detect victims of gender-based violence, save in the aforementioned hospitals. The social services do not collect any data on violence against women at all.

#### **c. Data on the asylum procedure**

60. Lastly, GREVIO notes that there are deficiencies in data collection on violence against migrant and asylum-seeking women. While the State Secretariat for Migration and the cantonal authorities visited by GREVIO did provide some figures concerning the number of requests for residence permits or extensions thereof granted to migrant women affected by gender-based violence ("cases of hardship"), there are no public data on the total number of requests received, granted and rejected, broken down by the reasons given, covering all the cantons. The same is true of residence permits issued under Articles 59, paragraphs 2 and 3, of the Istanbul Convention. As to asylum requests, data are available on the total number of applications based on gender as a reason for persecution, but they are not broken down according to specific reasons.

**61. GREVIO urges the Swiss authorities to substantially improve the collection of available administrative data on violence covered by the Istanbul Convention, particularly by setting up, in the judicial sector, systems to collect data on victims of violence against women involved in criminal and civil proceedings, disaggregated by sex and age of both the victim**

<sup>33</sup> See, in particular, the Domestic Violence Monitoring Centre of the Cantons of Geneva: [www.ge.ch/dossier/prevenir-violences-domestiques/moyens-prevention-violences-domestiques/observatoire-violences-domestiques](http://www.ge.ch/dossier/prevenir-violences-domestiques/moyens-prevention-violences-domestiques/observatoire-violences-domestiques) and of Vaud: <https://www.vd.ch/themes/etat-droit-finances/egalite-entre-les-femmes-et-les-hommes/lutte-et-prevention-de-la-violence-dans-le-couple/observatoire-de-la-violence-domestique>.

<sup>34</sup> See: [www.ebg.admin.ch/ebg/fr/home/themes/violence-domestique/statistique.html](http://www.ebg.admin.ch/ebg/fr/home/themes/violence-domestique/statistique.html).

<sup>35</sup> See: Explanatory Report to the Istanbul Convention, paragraph 76.

<sup>36</sup> Information provided during GREVIO's visit.

and the perpetrator, type of violence, relationship between the victim and the perpetrator and geographical location, based on standardised indicators for the whole country.

62. It also strongly encourages the Swiss authorities to adopt an overall strategy for the collection of data on violence against women, including the following components:

- a. the gradual adoption of a system of statistics shared between the police, justice and health sectors with a view inter alia to: allowing the assessment of conviction, attrition and recidivism rates; enabling a thorough analysis of the pathway of cases in the criminal justice system along the chain from law enforcement through prosecutors' offices to the courts; and identifying deficiencies in the response of institutions which may contribute to low conviction rates and/or discrepancies between reporting rates and conviction rates;
- b. the development of common indicators shared by all the bodies concerned;
- c. the development of the collection by the health services of data on women affected by the various forms of violence covered by the Istanbul Convention;
- d. the gathering of quantitative and qualitative data on (1) the number of asylum requests prompted by gender-based violence, including the specific grounds; (2) the interpretation of these grounds for international protection; (3) the number of decisions granting or refusing protection on these grounds; (4) the number of requests for residence permits on grounds of hardship filed, rejected and granted, according to the reasons given.

## 2. Population-based surveys

63. Some population surveys focusing mainly on domestic violence have been conducted over the last decade.<sup>37</sup> Among the more recent studies is the one of November 2021, commissioned by the DAO, relating to domestic violence,<sup>38</sup> which reveals among other things that 42% of women and 24% of men have experienced intimate partner violence. In 2019, a prevalence study on experiences of sexual violence by women carried out for Amnesty International revealed that 22% of women in Switzerland have been subject to non-consensual sexual acts and 12% have had sexual intercourse against their will, and that only 8% of women file a complaint.<sup>39</sup>

64. Despite these many recent studies, GREVIO must regretfully note the lack of regular prevalence studies at the authorities' initiative covering the various types of violence covered by the Istanbul Convention and the violence experienced by women exposed to intersectional discrimination such as migrant women, women with disabilities and LGBTI women. This type of study is essential to highlight the scale and frequency of violence against women in Switzerland. In this context, GREVIO notes with interest that the authorities intend to set up regular prevalence studies covering various forms of gender-based violence, which should be conducted on the basis of standards harmonised with those used at European level.<sup>40</sup>

65. GREVIO strongly encourages the Swiss authorities to set up regular prevalence studies to assess the extent of and trends in relation to all forms of violence covered by the Istanbul Convention and to highlight and better understand the experiences of violence of women exposed to intersectional discrimination.

<sup>37</sup> See state report, pp. 25-28.

<sup>38</sup> Intimate partner violence in Switzerland, Population survey, report, November 2021.

<sup>39</sup> GFS Bern, Study on sexual violence, May 2019, <https://cockpit.gfsbern.ch/fr/cockpit/violence-sexuelles-en-suisse/>

<sup>40</sup> Particularly Eurostat and the European Institute for Gender Equality (EIGE).

### 3. Research

66. Article 11, paragraph 1b, of the convention creates the obligation for parties to support research, out of the consideration that it is essential that parties base their policies and measures to prevent and combat all forms of violence covered by the convention on state-of-the-art research and knowledge in this field. As a key element of evidence-based policy making, research can contribute greatly to improving day-to-day, real-world responses to violence against women and domestic violence by the judiciary, support services and law-enforcement agencies.<sup>41</sup>

67. GREVIO is pleased to note the substantial growth in recent years of research work on violence against women, including in connection with the Istanbul Convention.<sup>42</sup> A growing number of studies are commissioned at federal level, particularly by the FOGE, in some cases in response to procedural requests in parliament, and also in the context of the implementation of the Istanbul Convention. They relate to various aspects of the legislation and practice concerning violence against women in Switzerland. In addition, GREVIO welcomes the publication by the FOGE of 17 factsheets on domestic violence, providing accessible information and usefully summing up the findings of the international research on the subject.<sup>43</sup> The cantons have also ordered several studies in recent years on violence against women and domestic violence.<sup>44</sup> However, this research generally does not relate to all cantons, which limits the possibility of comparative studies at national level.

68. The many studies published in recent years provide a large amount of quantitative and qualitative data along with indications as to possible means of improving public policies and legislation. GREVIO considers however that more attention should be paid to forms of gender-based violence other than domestic violence, particularly sexual violence, and to the impact of intersectional violence. It notes in particular that very few studies have been conducted on gender-based violence against women with disabilities, and the measures to be taken to combat this form of violence more effectively and provide better protection for victims. In this context it notes with interest that the Federal Council is currently examining the gender-based violence inflicted on persons with disabilities<sup>45</sup> and hopes that the studies to be conducted will make it possible to improve prevention and care for women with disabilities who are victims of violence. It also notes that there is no information or research on the experience of Yenish, Sinti/Manush and Roma women with regard to violence against women. It regrets that there are no studies on judicial proceedings and conviction rates, or on the experience of victims of various forms of gender-based violence in the judicial system. Lastly, more research work could also be done on the causes of the various forms of violence against women.<sup>46</sup>

69. GREVIO also notes with great interest that practice-orientated research is growing. For example, research work conducted by the Violence Medicine Unit at the Vaud Canton hospital<sup>47</sup> have made it possible to highlight the victims' viewpoint, record the views of the professionals involved and assess whether enough resources are available. In general, it considers that more attention should be paid to research highlighting the experience of the victims of various forms of gender-based violence against women.

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<sup>41</sup> Explanatory report to the convention, paragraph 77.

<sup>42</sup> See: [www.ebg.admin.ch/ebg/fr/home/documentation/publications-en-general/publications-international.html#824176215](http://www.ebg.admin.ch/ebg/fr/home/documentation/publications-en-general/publications-international.html#824176215).

<sup>43</sup> See: [www.ebg.admin.ch/ebg/fr/home/documentation/publications-en-general/publications-violence.html](http://www.ebg.admin.ch/ebg/fr/home/documentation/publications-en-general/publications-violence.html).

<sup>44</sup> Assessment of initial and in-service training provision on violence against women and domestic violence, and of cantonal research projects, Ecoplan, April 2021 (commissioned by the FOGE).

<sup>45</sup> Pursuant to Roth Postulate No. 20.3886 (a parliamentary motion requesting the government to consider legislation) on violence inflicted on persons with disabilities in Switzerland, tabled on 19 June 2020.

<sup>46</sup> Along the lines of the study commissioned by the FOGE in 2021: Causes of intimate-partner homicides, December 2021.

<sup>47</sup> See for example the study carried out in 2021 by the Violence Medical Unit of the Vaud Canton Hospital, "Perceptions des mères victimes de violence dans le couple quant à l'adéquation des réponses professionnelles et institutionnelles à leurs besoins" (Views of mothers subject to intimate-partner violence on whether professional and institutional responses properly meet their needs), August 2021.

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70. **GREVIO encourages the Swiss authorities:**
- a. **to continue their efforts to support research in areas relating to all forms of violence covered by the Istanbul Convention, covering the entire country and focusing on victims' viewpoints, including on the criminal justice response to these forms of violence;**
  - b. **to conduct research on violence affecting women exposed to intersectional discrimination, such as women with disabilities, elderly women, migrant women, LGBTI women and Yenish, Sinti/Manush and Roma women, as well as those belonging to other affected groups.**

### III. Prevention

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

#### A. General obligations (Article 12)

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

73. Measures to prevent and raise awareness about violence against women are mainly the work of the cantons. Few large-scale primary prevention measures, designed to change the patriarchal attitudes, values and structures which are used to justify and perpetuate violence against women, seem to have been implemented to date. In this context, GREVIO welcomes the fact that awareness-raising and training on the various forms of violence against women are among the priorities of the national action plan for the implementation of the Istanbul Convention which is currently being prepared. It hopes that the measures taken will be aimed at eradicating prejudice and gender stereotypes throughout the population, particularly among men and boys, and will be intended for the long term.

74. **GREVIO strongly encourages the Swiss authorities to step up its efforts to eradicate prejudice, gender stereotypes and patriarchal attitudes in Swiss society, taking into account Recommendation CM/Rec(2019)1 of the Committee of Ministers of the Council of Europe to member States on preventing and combating sexism.<sup>48</sup> For this purpose, the Swiss authorities should make primary prevention of violence against women a priority in future action plans and measures.**

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

75. GREVIO welcomes the awareness-raising and prevention measures taken by the Covid-19 and domestic violence task force in the context of the pandemic. A poster campaign on support and protection services for victims of violence was run in 13 languages, along with campaigns on the social networks.

76. GREVIO is also pleased to note that a number of awareness-raising projects on violence against women are carried out at cantonal level, such as the intercantonal programme "Plus fort que la violence" (Stronger than Violence),<sup>49</sup> intended to prevent domestic violence among young people, the awareness-raising activities run every year during the campaign "16 days against violence" and the campaigns focusing on forced marriage and female genital mutilation conducted in some

<sup>48</sup> See: <https://rm.coe.int/cm-rec-2019-1e-sexism/1680a217ca>.

<sup>49</sup> See: <https://plus-fort-que-la-violence.ch/fr/exposition/>.

cantons.<sup>50</sup> It also welcomes the fact that several of the projects supported by the federal support fund for the prevention of violence against women and domestic violence promote awareness raising about various forms of violence including sexual violence and violence against women with disabilities.<sup>51</sup> Moreover, GREVIO notes with interest that the national action plan for the implementation of the Istanbul Convention includes as part of its priorities measures to step up awareness raising and education, including on cyber-bullying, sexual harassment and sexual violence.

77. GREVIO regrets however that in most cases awareness raising is still limited to the cantonal level, organised on a one-off basis and still largely focused on domestic violence, even though work has started to be done on other forms.<sup>52</sup> Awareness raising about violence against women with disabilities, elderly women, migrant women and LGBTI women is still limited despite the progress referred to above and is not always based on a gender-sensitive approach. The same is true of awareness-raising campaigns on the question of violence against women in the digital world and on sexual violence. GREVIO is also concerned about reports that some cantons are reluctant to finance campaigns to prevent violence against women.<sup>53</sup> Lastly, some of GREVIO's contacts regretted that the LAVI centres' terms of reference did not include awareness-raising and prevention tasks.<sup>54</sup>

78. In addition, GREVIO notes that there is a lack of awareness raising about questions of violence against women and the gendered aspect thereof and about the persistence of gender stereotypes and prejudice among some professional categories, particularly in the judicial system; this also results from a lack of training providing for the deconstruction of sexist stereotypes, which is vital to prevent violence against women.<sup>55</sup>

79. NGOs also reported a lack of awareness raising aimed at health professionals concerning gender-based violence affecting migrant and asylum-seeking women, in particular female genital mutilation. GREVIO welcomes the existence of a peer education network made up of about fifty members, set up by the Swiss Network against Female Genital Cutting, whose aim is to raise awareness and promote change within the communities where female genital mutilation is still practised. Representatives of the Network regret, however, that for want of adequate resources, they are not able to cover all cantons or to carry out this awareness-raising work on a regular, long-term basis.<sup>56</sup>

80. GREVIO would point out that it is important for awareness-raising campaigns and programmes to take place regularly, for them to cover all the forms of violence referred to by the Istanbul Convention and for them to be addressed both to the general public and to specific groups. Lastly, it is essential for all these measures to be devised in close co-operation with the civil society organisations already involved in the work of awareness raising and prevention and for their impact to be regularly assessed.

**81. GREVIO strongly encourages the Swiss authorities to take measures to promote, on a regular basis and at all levels, awareness-raising campaigns or programmes to increase awareness and understanding among the general public of the different manifestations of all forms of violence covered by the scope of the Istanbul Convention and of the gendered nature of this violence as a manifestation of a historical form of social organisation based on**

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<sup>50</sup> See the written contribution by the Istanbul Convention Network: Implementation of the Istanbul Convention in Switzerland, shadow civil society report, ed. Istanbul Convention Network, addressed to GREVIO in June 2021 and published on the GREVIO site (in French only) (<https://rm.coe.int/conventionistanbul-suisse-rapport-alternatif-re-useau-convention-istan/1680a3172e>), pp. 280-308.

<sup>51</sup> See [www.ebg.admin.ch/ebg/fr/home/prestations/finanzhilfengewalt/unterstutzte-projekte-gewalt1.html](http://www.ebg.admin.ch/ebg/fr/home/prestations/finanzhilfengewalt/unterstutzte-projekte-gewalt1.html).

<sup>52</sup> See for example, Vaud Canton and Zurich Canton: [www.zh.ch/de/news-uebersicht/medienmitteilungen/2020/07/200706.html](http://www.zh.ch/de/news-uebersicht/medienmitteilungen/2020/07/200706.html).

<sup>53</sup> Information provided during GREVIO's visit.

<sup>54</sup> Idem.

<sup>55</sup> See also the comments in the part of the report relating to Chapter VI, paragraph 223.

<sup>56</sup> See, in particular, the written contribution of the Istanbul Convention Network, pp. 284-285.

**domination and discrimination of women by men. To achieve this, the Swiss authorities should, in particular:**

- a. Engage in and strengthen partnerships with women's rights NGOs and community-based organisations in order to assess attitudes towards violence against women, gender equality and sexism in the general population, and follow up on changes over time;**
- b. run awareness-raising activities targeting different population groups, including men of all ages, and professionals with a particular interest in action against gender-based violence so as to change underlying patriarchal attitudes and promote understanding of this type of violence.**

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

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

83. The themes of gender equality, prevention of violence against women and work on prejudices and gender stereotypes are included in various ways in the Swiss education system. In the French-speaking cantons GREVIO welcomes the drawing up and dissemination in 2019 under the auspices of the cantonal equality offices, of the "school of equality" programme,<sup>57</sup> consisting in a series of materials on equality to be used by teachers, geared to various levels of education and enabling these themes to be addressed in a cross-disciplinary manner. Textbooks focus among other things on the deconstruction of gender stereotypes, gender inequalities and certain forms of violence against women, including those committed in the digital world. In the German-speaking cantons, the study programme also makes it possible to address these themes in a cross-disciplinary manner and in the context of education in sustainable development. GREVIO is also pleased to note that several campaigns, devised with the help of NGOs, are run in schools and are intended to prevent sexual violence and promote non-violent relationships between young people.<sup>58</sup> These programmes are implemented in many cantons throughout the country.

84. The importance of comprehensive sexuality education for girls and boys, including the teaching of notions such as consent and personal boundaries, has been expressed by various intergovernmental organisations and bodies.<sup>59</sup> In addition, Council of Europe Recommendation CM/Rec(2019)1 to member states on preventing and combating sexism calls for age-appropriate, evidence-based and scientifically accurate and comprehensive sex and sexuality education to be incorporated into school curricula.<sup>60</sup>

85. Sexuality education forms part of the curriculum in several cantons at various points in children's schooling and, in the cases reported to GREVIO, addresses notions such as violence, consent and the right to personal integrity. GREVIO takes note in particular of the favourable views

<sup>57</sup> See [www.vd.ch/themes/etat-droit-finances/egalite-entre-les-femmes-et-les-hommes/formation-et-enseignement-jom-ecole-de-legalite-materiel-pedagogique-etc/#c2040399](http://www.vd.ch/themes/etat-droit-finances/egalite-entre-les-femmes-et-les-hommes/formation-et-enseignement-jom-ecole-de-legalite-materiel-pedagogique-etc/#c2040399).

<sup>58</sup> Examples are "Mon corps est à moi" ("My body belongs to me") ([www.kinderschutz.ch/fr/offres/offres-de-prevention/mon-corps-est-a-moi](http://www.kinderschutz.ch/fr/offres/offres-de-prevention/mon-corps-est-a-moi)), "Herzprung" ("My heart leaps") ([www.herzprung.ch/](http://www.herzprung.ch/)), "Sortir ensemble et se respecter" ("Going out and respecting one another") (<https://www.sesr.ch/>).

<sup>59</sup> "Comprehensive sexuality education" is defined notably by UNESCO's "International technical guidance on sexuality education. An evidence-informed approach" (2018) and WHO's Standards for Sexuality Education in Europe (2010). See also Resolution of the United Nation Human Right Council, Accelerating efforts to eliminate violence against women: engaging men and boys in preventing and responding to violence against all women and girls, adopted on 12 July 2017, A/HRC/ RES/35/10.

<sup>60</sup> See Recommendation CM/Rec(2019)1 on preventing and combating sexism, section II.G.6.

expressed about the sexuality education provided in French-speaking Switzerland, which is taught throughout school by sexual health specialists brought in from outside the school system.<sup>61</sup> GREVIO welcomes the fact that children with disabilities living in institutions are also given these lessons. However, it is also concerned to note that in some cantons, such as Bern, parents may ask for their children to be excused from sexuality education. Furthermore, some NGOs have reported that there are gaps in school education on matters such as forced marriage and female genital mutilation, and these gaps exist throughout the country despite the operations of specialist organisations such as the forced marriages network.<sup>62</sup>

86. The programmes of extra-curricular activities are mostly devised by the municipalities, which makes it difficult to gain an overview of the measures taken to combat inequalities and gender stereotypes and to prevent violence against women. The information received by GREVIO indicates nonetheless that very few initiatives to prevent violence against women have been developed at national level in this context.<sup>63</sup>

**87. GREVIO encourages the Swiss authorities to pursue their efforts to equip all pupils with knowledge and skills in relation to the issues identified in Article 14 of the Istanbul Convention.**

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

88. The standard set by the convention in its Article 15 is that of systematic initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence. The training that is required must cover the prevention and detection of such violence, equality between women and men, the needs and rights of victims and the prevention of secondary victimisation.

89. In Switzerland there is a large and varied supply of training on various aspects of violence against women, taught mainly at cantonal and local level. GREVIO notes that while the Confederation is involved in providing some training courses for the staff of LAVI centres, legal and law enforcement professionals, it has only a few powers in this area. This makes it difficult to gain a clear overview of the existing training, its content and the professional categories targeted. Accordingly, GREVIO welcomes the fact that the FOGE has recently commissioned a report on the current situation as regards initial and in-service training provision on violence against women and domestic violence,<sup>64</sup> with the explicit goal of meeting the requirements of Article 15 of the Istanbul Convention. This initiative has enabled a partial assessment of the situation to be made and certain shortcomings to be identified.

90. On the basis of this assessment and exchanges with various non-governmental bodies and representatives of the authorities, GREVIO wishes to highlight certain points which require improvement. Firstly it notes that there is a lack of training on forms of violence other than domestic violence, particularly female genital mutilation, for which more training work should be conducted at cantonal level; information passed on by NGOs working in this area indicates a lack of involvement by some cantons in training for health professionals. This is left to NGOs, which do not always have sufficient resources to do this work.<sup>65</sup> Health professionals' initial training does not adequately prepare them to detect cases of gender-based violence and deal with them specifically. Furthermore, existing training rarely highlights the impact of intersectional discrimination on certain groups of women exposed to violence such as migrant and asylum-seeking women, women with disabilities and LGBTI women.

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<sup>61</sup> Information provided during GREVIO's visit.

<sup>62</sup> See for example the written contribution of the Istanbul Convention Network, p. 48.

<sup>63</sup> Information provided during GREVIO's visit.

<sup>64</sup> FOGE, *ibid*, 2021.

<sup>65</sup> See comments above on the subject of Article 13 (Awareness raising), paragraph 76.



91. GREVIO welcomes the major efforts to train and raise awareness of hospital staff as part of the “Bernese model” of support for victims of sexual violence and that of the Violence Medicine Unit of the Vaud Canton hospital, which could be replicated elsewhere in Switzerland. Specific guidelines have also been introduced in these services concerning care for victims of violence and co-operation with other institutions such as the police, the courts, social services and other specialist services. Additionally, promising training practices have in the past been developed in some cantons, including based on specific protocols and training plans, notably for health professionals.<sup>66</sup> GREVIO regrets that this type of protocol for health staff has only been adopted to a very limited degree in other cantons and that there are no guidelines that could be applied to professionals throughout the country. It is of the opinion that past promising experiences should be made use of to support the development of training programmes.

92. NGOs have drawn GREVIO’s attention to a lack of training for the staff of LAVI centres in the specific issues of gender-based violence against women with disabilities and the communication problems these women can face when seeking help. While many training courses on disability issues are available, they are not necessarily gender-sensitive. As to persons with disabilities living in institutions, GREVIO welcomes the fact that a charter for the prevention of sexual abuse, ill-treatment and other forms of violations of integrity<sup>67</sup> was adopted in 2011, and that it recommends that professionals and volunteers working with persons with disabilities are given training on the prevention of sexual abuse. However, it also notes that the application of this charter is optional.

93. As to law enforcement agencies and the justice system, GREVIO notes that there are contrasting circumstances. In the police force, the initial training provided by regional police training institutes deals with issues linked to domestic violence but the number of hours and the content of courses vary from canton to canton. There are many in-service training options on important subjects such as the management of threats<sup>68</sup> or hearings of child victims.<sup>69</sup> NGOs have reported<sup>70</sup> that while some cantonal police forces have set up specific training on sexual violence,<sup>71</sup> there is no systematic, standardised training of police officers on this subject and that the training supply remains fragmented. Moreover, GREVIO takes note of a recent study indicating a low reporting rate in cases of sexual harassment, which would result from a lack of training on this topic among police and prosecution services.<sup>72</sup>

94. Training in questions of gender-based violence against women is more problematic in the judicial services. NGOs point out in particular that there is a lack of training on stereotypes and the impact of gender on violence against women, but on also on secondary victimisation, on sexual violence and on intersectional discrimination, to which many women, including migrant women, women in situation of prostitution, etc, are exposed. While noting the existence of positive initiatives,<sup>73</sup> GREVIO points out that the lack of information on the content of training for prosecutors and judges prevents it from making precise findings on the strong points and the shortcomings of the training. However, in view of the inadequacies of the judicial treatment of violence against women, GREVIO is concerned that the participation of judges in in-service training is still left mostly to their discretion.<sup>74</sup> NGOs also report shortcomings in the training for the staff of child protection services and Child and Adult Protection Authorities (APEAs) on protecting children exposed to

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<sup>66</sup> This was the case in particular in the canton de Vaud, where a specific protocol was set up for the attention of several professional groups in 2002 for detecting and providing support to victims of domestic violence (DOTIP protocol), [www.vd.ch/fileadmin/user\\_upload/organisation/dec/befh/PUBLICATIONS\\_-\\_REFONTE/violence\\_domestique/violence\\_domestique/BEFH\\_DOTIP\\_actu2019\\_web\\_PS.pdf](http://www.vd.ch/fileadmin/user_upload/organisation/dec/befh/PUBLICATIONS_-_REFONTE/violence_domestique/violence_domestique/BEFH_DOTIP_actu2019_web_PS.pdf).

<sup>67</sup> [https://charta-praevention.ch/fr/?La\\_Charte:Enregistrer\\_la\\_charte](https://charta-praevention.ch/fr/?La_Charte:Enregistrer_la_charte).

<sup>68</sup> Training on this subject is provided by the Zurich Canton Police Department.

<sup>69</sup> Training provided by the Lucerne University of Applied Sciences and Arts.

<sup>70</sup> Information provided during GREVIO’s visit.

<sup>71</sup> For example in Zurich.

<sup>72</sup> Federal Council report on sexual harassment in Switzerland : scale and evolution, following Reynard Mathias’ postulate No. 18.4048 of 28 September 2018, 27 April 2022 ; and FOGE, Study on sexual harassment in Switzerland, February 2022.

<sup>73</sup> For example the training since 2019 of prosecutors in the Canton of Zurich on sexual violence, and that of the Canton of Bern on secondary victimisation.

<sup>74</sup> See also the comments in the part of the report on Chapter VI, paragraph 223.

domestic violence, despite an improvement in the situation in recent years and growing provision of training on the subject. The lack of training on gender-based violence applies to other professionals required to intervene in judicial proceedings, such as those who provide expert reports in court, particularly in situations of domestic violence.

95. Training for social workers on gender-based violence against women is also haphazard, depending on the initial and in-service training opportunities provided in each canton or municipality. The same can be said for the staff of LAVI centres. There are also major gaps in training for professionals dealing with migration and asylum issues.<sup>75</sup> According to indications from NGOs, major shortcomings persist in the training of the staff in reception facilities for asylum-seekers and refugees on the identification of women victims of gender-based violence.<sup>76</sup>

96. The diverse range of training provision at local level and the absence of guidelines at national level result in huge disparities in the content taught to each professional category. When combined with the fact that much of this training is optional, this lack of uniformity makes it impossible to be sure that all professionals involved in preventing and combating violence against women have access to training meeting the needs of Article 15 of the Istanbul Convention. The fragmented training supply hinders prevention measures and measures to protect and empower women victims of violence. In this context, GREVIO notes with interest that the Swiss authorities have included training among the priorities of the national action plan on the implementation of the Istanbul Convention and stated their intention to establish standards for all professional categories, to promote an integrated approach to violence against women and to introduce monitoring at federal level.

**97. GREVIO strongly encourages the Swiss authorities to take the necessary measures to ensure, in close co-operation with relevant civil society organisations, that all professionals dealing with victims or perpetrators of all forms of violence covered by the scope of the Istanbul Convention, in particular police and the judiciary, receive systematic and mandatory initial and in-service training on identifying and responding to all forms of violence against women. To this end, the Swiss authorities should in particular:**

- a. **devise harmonised standards for the initial and in-service training of all the professional categories concerned while ensuring that the guidance given is in line with the principles of the Istanbul Convention;**
- b. **ensure that the training provided cover issues such as gender-based stereotypes; the difference between conflict and violence; the identification of victims; the rights and needs of victims; the prevention of secondary victimisation; the impact of violence on children exposed to it; and violence against women exposed to intersectional discrimination;**
- c. **provide sufficient funds for training programmes and initiatives, particularly those provided by NGOs and specialist support services;**
- d. **continue to evaluate the impact of training programmes for different professional groups.**

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

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

98. There are programmes for perpetrators of violence in all the cantons. They are provided by various bodies such as foundations, NGOs and cantonal services including cantonal probation offices and prison services. Some of these organisations are members of the Swiss professional association of counsellors on violence (APSCV), which brings together 29 associations across the

<sup>75</sup> See the comments in the part of the report on Chapter VII, paragraph 266.

<sup>76</sup> Information provided during GREVIO's visit. See also UNHCR/OSAR, the Swiss Refugee Council's summary of recommendations on the protection of women and girls seeking asylum following the Feri postulate, October 2021.

country. The APSCV is the only body to collect data at national level on work with perpetrators of violence.<sup>77</sup> It also devises common standards and pools experience. It is supported by the Confederation through measures including financial backing since 2021 from the federal fund to support projects preventing violence against women.

99. The cantonal authorities provide 85% of the funding for programmes for perpetrators, sometimes on the basis of a contract for the provision of services with the organisations proposing the programmes. However, the cost of these services can deter perpetrators from participating, particularly when they are voluntary, which was the case for six out of ten participants in 2020.<sup>78</sup> Furthermore GREVIO has been informed<sup>79</sup> that the provision of services is inadequate, including in large cities such as Zurich and Bern.

100. According to APSCV statistics, 3 000 people attended a support programme in 2020, compared with 2 400 in 2019. 85% of these people were men.<sup>80</sup> Whether it is compulsory or optional for perpetrators to take part in a specialist programme varies from canton to canton. Only 8.4% of the nearly 11 000 perpetrators of violence recorded by the police in 2020 were compelled to attend a programme.<sup>81</sup> GREVIO also notes that police forces are increasingly referring perpetrators of violence to organisations providing programmes designed for them, linked inter alia with the growing practice of issuing emergency occupation orders (removing and barring perpetrators from their homes). Various contacts talked of the positive impact on participation in such programmes of the implementation of Article 55a of the Criminal Code on domestic violence, under which proceedings may be suspended for six months where such a suspension may help to stabilise the relationship. Perpetrators may therefore be required or encouraged by prosecutors, the courts or the APEAs to attend programmes intended for perpetrators of violence. Failure to attend may result in the resumption of legal proceedings. However, GREVIO points out that perpetrator programmes cannot replace prosecution or conviction and the authorities therefore must 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. It refers in this respect to the considerations developed further in this report regarding suspension of proceedings.<sup>82</sup> Additionally, GREVIO underlines the Istanbul Convention's requirement that perpetrator programmes encourage participants to take responsibility for their actions. The suspension of proceedings could prompt some perpetrators to pretend to do so in order to avoid criminal proceedings to be resumed.

101. While efforts have been made since 2019, at the APSCV's instigation, to establish standards and a joint vision of work with perpetrators,<sup>83</sup> large disparities in the types of programmes offered are still reported, caused in particular by the diversity of service providers. Furthermore, save in a few cases,<sup>84</sup> existing programmes have not undergone any independent, external assessment and this makes it impossible to ascertain whether they meet existing needs or what impact they have on recidivism. GREVIO also regrets the fact that in most cantons there is no co-operation between perpetrator programmes and victim support facilities, particularly LAVI centres, thus precluding any possibility of taking an approach centred on victim safety and support. It is important that perpetrator programmes prioritise the safety of the victims and do not provide them with a false sense of security. In this context, GREVIO notes with interest that the Swiss authorities have expressed a desire to establish quality standards and a handbook for institutions running perpetrator programmes.<sup>85</sup> Such

<sup>77</sup> See [www.apscv.ch/statistiques.html](http://www.apscv.ch/statistiques.html).

<sup>78</sup> Ibid.

<sup>79</sup> Written contribution by the Istanbul Convention Network, pp. 345-346, and information provided during GREVIO's visit.

<sup>80</sup> See [www.apscv.ch/statistiques.html](http://www.apscv.ch/statistiques.html).

<sup>81</sup> Compared to 7.3% in 2019, *ibid.*

<sup>82</sup> See the comments in the part of the report on Chapter VI, paragraph 245.

<sup>83</sup> See recommendations for consultations with perpetrators of domestic violence, available at [www.apscv.ch/documents.html](http://www.apscv.ch/documents.html).

<sup>84</sup> Assessment reports have been made on programmes implemented in the Cantons of Basel-Country, Basel-City and Zurich. See Nigl Thomas (2018): *Evaluationsbericht Lernprogramm gegen häusliche Gewalt 2016–2017*, commissioned by the Basel-Country Domestic Violence Response Centre (ed.), Liestal; Treuthardt Daniel and Kröger Melanie (2020): *Evaluation des Lernprogramms Partnerschaft ohne Gewalt*, in: Forensische Psychiatrie, Psychologie, Kriminologie, 14, 177–187.

<sup>85</sup> State report, p. 39.

a step could make it possible to ensure that perpetrator programmes follow standards and principles drawing on the Istanbul Convention.

**102. GREVIO strongly encourages the Swiss authorities:**

- a. to develop common minimum standards applying to perpetrator programmes, in line with the principles of the Istanbul Convention, particularly the need for a gender-sensitive approach and the deconstruction of gender stereotypes, and in line with recognised best practices; and to base any evaluation of their efficacy on such standards;
- b. to expand the number and types of available programmes and promote attendance both by mandatory and voluntary referral, in particular by making them more accessible;
- c. to strengthen these programmes' working relations with specialist support facilities for women victims to ensure that victims are adequately informed and protected, and that they and their children are kept safe;
- d. to 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;
- e. ensure that the evaluation of the impact of all programmes is carried out according to standard methodological rules.

**2. Programmes for sex offenders**

103. Several cantons offer psychotherapeutic treatment for convicted sex offenders. There are also programmes for the prevention of sexual violence against children, albeit in insufficient numbers. NGOs report to GREVIO that there are substantial shortcomings in the work with sex offenders and a lack of educational programmes on the subject, and that this limits the opportunities for sex offenders to face their responsibilities.<sup>86</sup>

**104. GREVIO encourages the Swiss authorities to increase substantially the availability of programmes for sex offenders, following an approach in line with the principles of the Istanbul Convention and recognised good practices.**

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

105. GREVIO takes note of the fact that no full review has ever been made throughout Switzerland of measures to encourage the media to establish policies to prevent violence against women.<sup>87</sup> However, it welcomes the self-regulation set up by some bodies, which makes it possible to address the treatment of violence against women in the media and in advertising. For instance, the Swiss Advertising Standards Commission has a system of complaints which covers sexism in advertising. The Commission's decisions are made public and its representatives told GREVIO that its rules are well known among advertising professionals. However, there are no binding standards at national level with regard to sexism in advertising. The Swiss Press Council has also set up a complaints procedure, which makes it possible to report infringements of its code of conduct and directives.<sup>88</sup> The Press Council's decisions are also made public. However, it reports that it lacks the resources to deal with an increasing number of complaints. In addition, it runs awareness-raising campaigns targeting journalists, and various training courses relating to media coverage of violence against women and gender equality at universities and journalism schools, which GREVIO welcomes. Lastly,

<sup>86</sup> Information provided during GREVIO's visit.

<sup>87</sup> See state report, p. 42.

<sup>88</sup> These cover the protection of privacy, the identification of victims, media coverage of news involving children, the coverage of cases of so-called indecency and the protection of victims, the coverage of situations of distress, respect for human dignity and the prohibition of discrimination.

the Swiss Mass Media Union (SSM) regularly holds training courses on the theme of the media and gender equality and promotes non-sexist journalism.<sup>89</sup>

106. GREVIO also welcomes the existence of various private-sector initiatives to combat the prejudice and sexist stereotypes which can be conveyed by the media. It particularly welcomes the publication by the association DécadréE of a report on the media coverage of violence against women, highlighting the persistence of sexist stereotypes and the frequent downplaying of such violence.<sup>90</sup> At the same time, the report highlights an improvement in the coverage of violence against women in some editorial offices which have decided to combat sexist stereotypes. GREVIO also notes with interest that in 2021 the annual Swiss Press Award went to journalists investigating harassment and sexual abuse in the public media<sup>91</sup> and that the daily newspaper “20 minutes” has set up a social responsibility board to promote the use among journalists of respectful and non-violent language, including when they are reporting on violence against women. It also takes note of the Women and Media Prize, awarded every four years to journalists working to promote gender equality by the French-Speaking Conference on Equality.

107. GREVIO welcomes the awareness-raising work conducted by the FOGÉ, in cooperation with the State Secretariat for Economic Affairs, with businesses for several years now to combat sexual harassment at work, pursuant to the 1995 Federal Act on Gender Equality, which introduced a requirement for public and private sector employers to protect their employees from sexual harassment. However, it is still difficult to assess the scope of sexual harassment at work, as the cases reported are not often recorded as such, but as cases of wage discrimination or other forms of discrimination.<sup>92</sup> Furthermore, information submitted to GREVIO indicates that filing a complaint for sexual harassment is still a long and complex process, which often results in symbolic penalties. The forms of sexual harassment which are considered to be the “lightest” do not often lead to convictions. Moreover, since these forms of harassment are not systematically considered offences under the Criminal Code, victims cannot always take advantage of the support and counselling provided by LAVI centres. In addition, professionals including health professionals who are in contact with victims of this type of violence are not made sufficiently aware of the issue, and a lack of training among judges in the provisions of the law on equality on sexual harassment has been reported.<sup>93</sup>

**108. Bearing in mind the important role of the media in promoting equality between women and men and reducing the level of social acceptance of violence against women, GREVIO encourages the Swiss authorities to exploit the potential for extensive awareness-raising about this issue which exists among the various media outlets and self-regulating bodies, and to establish incentives, or promote in any other way, the development of specific standards of self-regulation concerning the balanced, non-sexist coverage of violence against women.**

**109. GREVIO encourages the Swiss authorities to pursue and step up their active efforts to involve private- and public-sector employers in combating gender-based violence against women in the workplace. To this end, the Swiss authorities should aim in particular to improve awareness and information among the general public, trade unions and employers in relation to violence against women at work and the relevant provisions of the law on equality and to step up support and special assistance for victims.**

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<sup>89</sup> <http://www.ssm-site.ch/fr/medien/dossiers/medien-und-geschlecht/>

<sup>90</sup> Report on media coverage of violence against women, 2020: <https://decadree.com/media/violencessexistes/rapport/>. DécadréE has also published a study on the portrayal of women and men in the media and on gender and equality in advertising, written contribution of the Istanbul Convention Network, pp. 360-369.

<sup>91</sup> See <https://swisspressaward.ch/fr/user/c00029948/showcase/dpb/>.

<sup>92</sup> Information provided during GREVIO's visit.

<sup>93</sup> Idem.

## IV. Protection and support

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

### A. General obligations (Article 18)

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

112. GREVIO notes that in many cantons there are mechanisms for co-operation between the various stakeholders in the protection of and provision of services to women who are victims of domestic violence, such as cantonal domestic violence response centres, working groups and round tables. GREVIO welcomes the fact that in some cantons, this type of co-operation mechanism relates to specific issues such as female genital mutilation and forced marriage. Apart from these cases, most existing co-operation mechanisms are, to GREVIO's knowledge, centred on domestic violence. These consultations can involve a number of bodies such as the police, the courts, the APEAs, the LAVI centres, the health services and specialist services such as shelters. There are no guidelines though on multi-agency co-operation on violence against women which apply across the country although there are some co-operation agreements in individual cantons. It would seem moreover that the operations of these mechanisms are institutionalised to varying degrees and that the effectiveness of the co-operation varies from canton to canton. Co-operation between LAVI centres, APEAs and criminal prosecution and judicial authorities is reported to pose problems on occasion.<sup>94</sup>

113. GREVIO is pleased to note that a number of cantons have set up multi-agency co-operation structures to deal with situations that pose a threat to victims' safety, sometimes involving a large range of stakeholders such as the APEAs, schools, LAVI centres, shelters and other specialist victim support services. As with the multi-agency co-operation mechanisms referred to above, GREVIO regrets the ongoing major disparities between cantons, some of which do not have any such arrangements, or arrangements involving only a small number of institutions. The methods of co-operation and their intensity, particularly between police authorities and specialist services, along with the level of training of the professionals involved, seem also to vary from canton to canton.<sup>95</sup> GREVIO also notes with interest that the co-operation established in the context of the work of the Violence Medicine Unit of the Vaud Canton hospital provides an example of efficient multi-agency co-operation.<sup>96</sup>

114. GREVIO also notes that the rules on data protection and confidentiality which cover the various bodies involved do not always enable them to properly inform other institutional stakeholders when examining individual cases, and this may jeopardise victims' safety.<sup>97</sup> While the APEAs and LAVI centres are systematically notified of restraining measures taken by the police and the courts,

<sup>94</sup> University of Bern, Evaluation report on the LAVI Act, 2015, pp. 31 and 103-104.

<sup>95</sup> Information provided during GREVIO's visit.

<sup>96</sup> See comments on Article 25 (Support for victims of sexual violence).

<sup>97</sup> Ibid. See also the comments in the part of the report relating to Chapter V, paragraph 228.

GREVIO notes that the rules on data protection which the police must comply with sometimes limit co-operation with other bodies, or may even affect the victim's safety directly.<sup>98</sup> With regard to forced marriage in particular, co-operation between general services, the police and the courts on the one hand and specialist services such as the Federal Centre of Expertise in Forced Marriages on the other may be complicated by the existence of differing requirements regarding confidentiality between the parties having to co-operate to resolve the case. GREVIO considers it essential in such circumstances to ensure that an approach based on the victim's rights and safety prevails. In this context it welcomes the establishment of points of contact<sup>99</sup>, or liaison officers, in a number of cantonal offices, trained by the forced marriage department and tasked with helping to reconcile the approaches of different institutions and fostering intersectoral co-operation. This model of co-operation could be replicated for other forms of violence against women so as to limit the obstacles to co-operation deriving from various confidentiality requirements and personal data protection rules.

115. At the same time, as mentioned above,<sup>100</sup> shortcomings have been reported to GREVIO in co-operation between cantons over the management of cases involving several cantons. Despite the role of co-ordination and harmonisation played by intercantonal conferences such as the CDAS and the CCDJP, there are not enough clear co-operation agreements on the management of situations involving several cantons aimed at ensuring the safety, protection and respect for the rights of women victims of violence.

116. GREVIO notes that to its knowledge, there are no "one-stop shops" providing a range of protection and support services including law enforcement to victims of violence. The co-ordinated gathering of victim support services under the same roof makes it possible to provide comprehensive care for victims, empower them and avoid secondary victimisation. One-stop shops also make it possible to address digital forms of violence against women. GREVIO considers that it may be worthwhile for the Swiss authorities to look into this kind of service.

**117. GREVIO strongly encourages the Swiss authorities to continue their work to foster multi-agency co-operation relating to all the forms of violence against women and to ensure that the various forms of co-operation are firmly based on a rights-based approach and the safety, protection and empowerment of victims. For this purpose, the Swiss authorities should, among other things, promote the adoption of standardised guidelines on multi-agency co-operation, including when several cantons are involved. They should also ensure that co-operation guidelines regulate the sharing of the victim's and perpetrator's personal data between different institutions with a view to protecting the victims' safety while ensuring respect for the confidentiality of personal data, meaning that such data can only be shared with third parties with the victim's informed consent, except in life-threatening situations.**

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

118. GREVIO reiterates its positive assessment of the measures taken at federal and cantonal level during the Covid-19 pandemic to inform the victims of domestic violence about means of obtaining advice and protection through poster campaigns in public places and certain retail outlets, information on social networks, training of professionals such as pharmacists on referral of victims to the relevant services, and dissemination of information in several languages.

119. GREVIO welcomes the increased accessibility since 2019 of the information platform on LAVI centres, which is centralised and exists in 15 languages including sign language. On the other hand, GREVIO was told that the lack of public awareness raising about the existence of LAVI centres

<sup>98</sup> See, in this connection, application No. 56114/18 N.D. v. Switzerland, lodged on 21 November 2018 with the European Court of Human Rights, and communicated on 3 July 2020.

<sup>99</sup> "Single points of contact".

<sup>100</sup> See comments in the part of the report relating to Chapter II, paragraph 32.

and the services they offer is an enduring problem.<sup>101</sup> It is also concerned that in practice, access to certain LAVI centres and specialist services are hampered by a lack of sign language interpretation, information in easy-to-read formats and other forms of accessibility support for persons with disabilities. Furthermore, while sources of information about domestic violence are numerous and varied, victims of other forms of violence covered by the Istanbul Convention, including sexual violence, forced marriage and female genital mutilation, have more limited access to information on specialist services which may meet their needs.<sup>102</sup> GREVIO regrets that there are substantial gaps in information for migrant and asylum-seeking women affected by violence, who often lack information concerning the possibilities to access, under certain circumstances, an autonomous residence permit in “cases of hardship”.<sup>103</sup>

**120. GREVIO strongly encourages the Swiss authorities to pursue their efforts to provide all women victims of domestic violence and other forms of violence against women with appropriate and timely information on their rights, on available support services and on legal measures in a language they understand. The information provided should be accessible to all victims, including migrant women and women with disabilities.**

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

### **1. Victim support services**

121. GREVIO welcomes the establishment by Switzerland of a network of victim support centres covering the entire country pursuant to the Law of 1993 on Support for Victims of Crime (LAVI). These LAVI centres are managed in large part by NGOs or private foundations, with the support of cantonal public funds. Some are managed directly by the cantonal authorities such as that of Lucerne. As a result LAVI centres<sup>104</sup> can offer victims of criminal offences free counselling services and emergency assistance where needed including access to healthcare, a shelter or other forms of specialist care, along with information and help with regard to criminal proceedings. LAVI centres may also grant compensation or indemnity for non-pecuniary damage. Their services can be accessed by victims without their first having to lodge a complaint or initiate legal proceedings. Nor is it obligatory for LAVI centre staff to report offences,<sup>105</sup> which helps to foster an approach centred on victim rights and protection. Where emergency occupation orders (to remove perpetrators from homes) are issued, LAVI centres can also intervene at the victim’s home in cantons where the police notify the centres of this type of operation. They may cover the costs relating to victims’ immediate needs and to certain long-term needs. Accommodation in shelters may also be covered for up to 35 days,<sup>106</sup> as may the costs of criminal proceedings, psychological treatment and translation. Over and above assistance by LAVI centres,<sup>107</sup> the costs of support and protection measures must be covered by cantonal and municipal social services. A large percentage of victims consulting an LAVI centre do so in connection with an offence committed in a domestic context. Of 16 363 consultations in 2020, 14 342 were by women and in 13 061 cases, the victim and the perpetrator were partners or in the process of separating.<sup>108</sup> LAVI centres, which may be regarded as general support services because of the nature of the services provided, are therefore an important feature of the counselling and support on offer to women victims of gender-based violence.

<sup>101</sup> Information provided during GREVIO’s visit.

<sup>102</sup> Information provided during GREVIO’s visit.

<sup>103</sup> See comments in the part of the report on Chapter VII, paragraph 261.

<sup>104</sup> There are currently 51 LAVI centres, see state report, p. 49.

<sup>105</sup> Save in cases of child abuse.

<sup>106</sup> Since 2020, following a recommendation by the CDAS; beforehand, only 21 days were covered. See: CDAS, Recommendations of the Conference of Swiss Liaison Offices for the Law on Victim Assistance (CSOL-LAVI) concerning the application of the LAVI Act of 21 January 2010.

<sup>107</sup> Which may include emergency assistance or more long-term assistance until the victim’s situation stabilises, all subject to the victim’s income (see Article 13 of the LAVI Act).

<sup>108</sup> Federal Statistical Office, victim support statistics: <https://www.bfs.admin.ch/bfs/en/home/statistics/crime-criminal-justice/assistance-victims.assetdetail.17364783.html>



122. While welcoming the existence of the LAVI centre network, GREVIO wishes to highlight a number of problem issues relating to the care and protection of victims of gender-based violence. Firstly, access to the services provided under the LAVI Act for women who are victims of forms of gender-based violence which are not codified as such in the Criminal Code, such as stalking or psychological or economic violence, is limited. It was reported to GREVIO that the minimum level of seriousness that had to be reached to access LAVI services in the event of offences such as threats or coercion, used in particular to describe stalking, was very high.<sup>109</sup> It was also told that victims of gender-based violence in the digital environment had difficulties in accessing appropriate services under the LAVI Act. Yet, women who are victims of this sort of violence do not necessarily have access to relevant specialist services other than the support which can be provided by NGOs. Furthermore, women who have been victims of offences committed abroad are not entitled to assistance under the LAVI Act, thus ruling out some migrant and asylum-seeking women whose access to specialist services may be limited, in particular, by the lack throughout the country of services such as those dealing with female genital mutilation.<sup>110</sup> Lastly, GREVIO is concerned about the shortcomings reported to it with regard to the accessibility of many LAVI centres for people with disabilities and certain gaps in the awareness-raising and training provision for professionals working in such services about the particular issues facing victims of violence exposed to intersectional discrimination such as women with disabilities, migrant women and LGBTI women, and children exposed to violence.<sup>111</sup>

123. GREVIO is also concerned about the disparities in the services offered victims in different parts of the country, resulting from the fact that the enforcement of the LAVI Act is the responsibility of each canton and also reliant on a budget adopted at cantonal level.<sup>112</sup> LAVI centres in some cantons also lack the resources to satisfy victims' requests properly.<sup>113</sup> In some rural cantons, geographical isolation can also limit access to LAVI centres. While noting with interest the work done by intercantonal conferences, especially the CDAS, to try to devise standards to be applied at national level and promote the harmonisation of services,<sup>114</sup> GREVIO is concerned that in practice, the assistance provided for women victims of gender-based violence depends to a great extent on their place of residence and therefore that victims do not have equal rights throughout the country.

## 2. Social and health services

124. Cantonal laws on social services enable victims of gender-based violence to receive support with regard to housing, welfare and healthcare once entitlement to the assistance provided under the LAVI Act has run out. Victims who need to be accommodated in a shelter for longer than the 35 days covered by the LAVI Act may, for example, be entitled, depending on their income, to additional funding from the cantonal or municipal social services or access to social housing and support services. The same is true for the costs of some forms of psycho-social treatment, which may be covered by the social services if they exceed a specified number of hours.

125. However, as the regulations on the organisation of welfare are unique to each canton, there are major differences between them as regards the linkage between victim support services and welfare services.<sup>115</sup> Consequently, the transition from support under the LAVI Act to welfare services does not always go smoothly, particularly as a result of delays in the take-over by the social services, which can result in some victims having no means of covering the costs of essential protection and support measures. GREVIO reiterates its concern about the disparity in the support services and

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<sup>109</sup> Such as death threats. Information provided during the evaluation visit.

<sup>110</sup> See, paragraph 131

<sup>111</sup> Information provided during the evaluation visit.

<sup>112</sup> Idem. See also the written contribution of the Istanbul Convention Network, p. 86.

<sup>113</sup> Information provided during the evaluation visit.

<sup>114</sup> See, in particular, the core document of the Conference of Swiss Liaison Offices for the Law on Support for Victims of Crime (CSOL-LAVI) and the Swiss Conference of Welfare Institutions (CSIAS), Victim support and welfare, comparison of services and advice on application for certain outlying regions, 2018.

<sup>115</sup> See, for example, the core document of the Conference of Swiss Liaison Offices for the Law on Support for Victims of Crime (CSOL-LAVI) and the Swiss Conference of Welfare Institutions (CSIAS), *ibid.*

practices provided by different cantons, which results in different levels of protection for victims of violence according to their place of residence.

126. GREVIO also received reports of cases in which migrant women have been refused renewal of their residence permits because they have made use of welfare support following domestic violence.<sup>116</sup> GREVIO is concerned about the adverse impact that this type of practice may have on women victims of violence, as it may deter them from making use of existing support services for fear of losing their residence permit.<sup>117</sup>

127. Despite the good practices introduced in some cantons' hospitals,<sup>118</sup> the information received by GREVIO points to ongoing shortcomings in the training of health professionals in the detection of some forms of gender-based violence, particularly female genital mutilation. GREVIO has not been able to gain an overview of existing practices in the health sphere as regards the treatment of women victims of gender-based violence. It notes however, that there are no standard protocols to facilitate specific arrangements for referring victims to specialist services, except in the case of the specialised hospital services already mentioned. The same is true for the collection of forensic evidence, for which there is no standard protocol at national level. GREVIO notes with interest that the federal authorities appear to be aware that these shortcomings exist because they recommend that the cantons adopt an overall conceptual framework for the healthcare of women who are victims of gender-based violence, better training in domestic violence for health professionals and quality standards at national level for the collection of forensic evidence.<sup>119</sup> GREVIO points out that the existence of guidelines for health services on violence against women is essential to ensure that all victims receive quality treatment and appropriate care.

128. GREVIO is not yet able to gain an overview of all the protocols for general support services, including social services, with regard to identification of and support for women victims of violence. It notes with interest, however, that promising practices have been adopted such as the Vaud Canton's operational protocol, to be used by professionals to detect domestic violence and support and advise victims.<sup>120</sup>

129. **GREVIO strongly encourages the Swiss authorities:**

- a. **to step up the work of harmonising the support offered by general support services so as to ensure that all women victims of gender-based violence are properly cared for, supported and protected whatever their place of residence or their status. LAVI centres should be given sufficient financial and human resources to be able to advise and support women victims of violence properly throughout the country;**
- b. **to ensure that the use of welfare services cannot be held against women victims of gender-based violence during the procedure for the renewal of residence permits;**
- c. **to implement standardised care protocols, including the identification of victims, screening, treatment, documentation of injuries and referral to specialist services, to improve training for health professionals on all forms of violence against women covered by the Istanbul Convention and to promote and draw up standards for the collection of forensic evidence to be applied throughout the country;**

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<sup>116</sup> Information provided during the evaluation visit. See also the written contribution of the Istanbul Convention Network, p. 254.

<sup>117</sup> Ibid, pp. 94-95.

<sup>118</sup> See also the comments in the part of the report on Chapter III, paragraph 90.

<sup>119</sup> See state report, p. 48.

<sup>120</sup> Vaud Canton Gender Equality Office, Intimate-partner violence, Operational protocol for the use of professionals, 2003, updated in 2019.

130. **GREVIO also urges the Swiss authorities to revise the LAVI Act so that migrant and asylum-seeking women and girls subjected to gender-based violence abroad may benefit from the services offered by LAVI centres.**

#### **D. Specialist support services and shelters (Articles 22 and 23)**

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

132. In Switzerland, there is a varied range of specialist services for women victims of gender-based violence, provided mainly by women's rights NGOs but also by LAVI centres<sup>121</sup> and by the authorities. GREVIO has not been able to gain an overview of the specialist services available throughout Switzerland. It notes, however, that there have been some promising developments such as the establishment at the Vaud Canton hospital of the Violence Medicine Unit (UMV), which opened its consultation in 2006 with a view to providing support and forensic assistance, free of charge and in full confidentiality and geared to all victims of violence including women victims of gender-based violence. GREVIO is pleased to note that the approach adopted by the UMV is centred on victims' needs in terms of safety, support and guidance and is intended to empower women victims of violence.

133. Two networks of NGOs, supported financially by the authorities, are tasked with providing services for victims or persons at risk of forced marriage or female genital mutilation. The Federal Centre of Expertise for Forced Marriages operates both at federal level as a specialist reference body and at cantonal and municipal level, where it trains specialist contact persons to work for local agencies.<sup>122</sup> These persons are also charged with advising and assisting victims, particularly when safe accommodation is needed. Likewise the Swiss Network against Female Genital Cutting provides information and advice for victims and for health professionals, whom it helps to alert to and train about female genital mutilation. While welcoming the major work carried out by these organisations with the help of the Swiss authorities, GREVIO regrets that because of a lack of resources and co-operation in some cantons, victims' access to these specialist support services depends on their place of residence.

134. In Switzerland there are 22 shelters for women victims of violence ("women's homes"), which are accessible to adult women victims of physical, psychological or sexual violence and their children. 20 other shelters are intended for other groups, including three for minors, one of which is reserved for girls.<sup>123</sup> In addition, there are five emergency accommodation centres, three of which are reserved for women and girls. In this respect, GREVIO points out that only accommodation within a single-sex, specialist facility dedicated to women victims of gender-based violence is capable of meeting the requirements of the Istanbul Convention.

135. Four cantons have neither a shelter for women victims of violence nor a contract with another canton giving women access to such a shelter and funding such access.<sup>124</sup> Victims of violence can gain access to a shelter through a LAVI centre or directly; some shelters are also specialist LAVI centres themselves. In 2020, 978 women and 982 children were housed in the 19 women's shelters run by the DAO, following a total of 2 304 requests for accommodation.<sup>125</sup> According to the DAO, the

<sup>121</sup> Such as the Lantana Centre for victims of sexual violence in Bern.

<sup>122</sup> See comments on Article 18, paragraph 114.

<sup>123</sup> The Zurich "Mädchenhaus" (girls' home).

<sup>124</sup> Glarus, Schaffhausen, Jura and Schwyz.

<sup>125</sup> See written contribution of the Istanbul Convention Network, p. 356.

number of shelter places reserved for women victims of violence and their children in 2019 came to 144 (318 beds), far below the number recommended in the Explanatory Report to the Istanbul Convention, namely one family place per 10 000 head of population.<sup>126</sup> Even though the number of places increased to 156 during the Covid-19 pandemic, GREVIO was told that many women are still refused accommodation because there are not enough places.<sup>127</sup> Furthermore, two cantons actually reduced capacity in their shelters during the pandemic. GREVIO is concerned to note that the number of places in shelters is insufficient to meet current demand.

136. The lack of places in shelters for women victims of violence is mainly the result of insufficient funding at cantonal level, which is mostly still granted on the basis of occupation rates – which are variable by nature – and still does not adequately cover shelters' support and assistance activities. GREVIO is concerned by the fact that support work, which is essential for the protection, recovery and empowerment of women taken in by shelters, must often be funded by private bodies or donations, or carried out for free by the associations managing shelters. This can also add to the disparities between cantons in the services available to victims housed in shelters despite the CDAS's efforts to draw up a catalogue of services which shelters should provide in all cantons.<sup>128</sup> There is also a lack of public funding for the work of preventing and raising awareness about violence which the specialist associations managing shelters are often required to provide, particularly vis-à-vis other local stakeholders. In this context, GREVIO is pleased to note that funding from the federal fund for projects and measures to prevent violence against women is to be used to finance the DAO's co-ordination and experience-pooling activities for three years.

137. In addition, differing tariffs for the coverage by LAVI centres of shelter accommodation costs and the lack of intercantonal agreements on the financing of shelters sometimes make it difficult for victims to gain access to a shelter somewhere other than their place of residence. LAVI centres fund accommodation in shelters for up to 35 days on average on the basis of fixed tariffs in each canton. GREVIO was informed by some NGOs of cases of women victims of violence needing a place in a shelter in another canton but being turned away because the LAVI centre in their canton of residence could not cover some of the costs, or of women having to return to their canton of origin for the same reason. Repeated rehousing is not in the interest of victims of violence in crisis situations, in particular children. While welcoming the adoption by the CDAS, in 2021, of recommendations on the financing of shelters,<sup>129</sup> GREVIO is highly concerned that questions of cost sometimes override those of victim safety. It is also concerned to note that where funding for a place in a shelter is refused by the cantonal social services, beyond the 35 days covered under the LAVI Act,<sup>130</sup> women victims of violence may be forced to cover the costs of their accommodation themselves, and this can result in their returning home against their will and being exposed to the risk of more violence.

138. In recent years the increasingly widespread use of barring orders in cases of domestic violence has enabled a growing number of women victims and their children to stay in their family home, and GREVIO welcomes this.<sup>131</sup> Consequently, women forced to use shelters are increasingly those who face a complex variety of problems, for which staying at home is not the best option, and which shelters can only deal with properly by deploying increased resources and specialist skills.<sup>132</sup> The information received by GREVIO shows the inadequacy of the resources deployed by some cantons to meet these growing needs.<sup>133</sup>

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<sup>126</sup> See Explanatory Report to the Istanbul Convention, paragraph 135.

<sup>127</sup> According to the DAO, in 2020, 21% of women who requested a place in a shelter were turned away because there were not enough places, see written contribution of the Istanbul Convention Network, p. 356.

<sup>128</sup> Conference of Cantonal Directors of Social Affairs (CDAS), Catalogue of services to be provided in women's homes, 2016, updated in 2022.

<sup>129</sup> Recommendations of the Conference of Cantonal Directors of Social Affairs (CDAS) on the financing of women's homes and the organisation of post-shelter support, 2021.

<sup>130</sup> In some cantons it is possible to obtain an extension of the funding for accommodation in a shelter provided by the LAVI centre.

<sup>131</sup> See comments in the part of the report on Chapter VI, paragraphs 233-238.

<sup>132</sup> See Recommendations of the Conference of Cantonal Directors of Social Affairs (CDAS), *ibid*, 2021, p. 14.

<sup>133</sup> Information provided during GREVIO's visit.

139. GREVIO is concerned to note that the shelters currently available are not at all easily accessible for women with disabilities or those exposed to intersectional discrimination such as women using psychoactive substances or LGBTI women, because of a lack of resources and specific training for the staff of shelters. As to migrant women who are victims of violence, while they are sometimes accommodated in shelters, access is made difficult for them by the many obstacles described above,<sup>134</sup> including a lack of information on the support and protection available and the fact that women subject to violence abroad are not entitled to services under the LAVI Act. Besides this, shelter staff are not always properly trained to handle migrant women's specific needs.

140. Lastly, NGOs working in the area of violence against women report a lack of transitory housing to bridge the gap between accommodation in a shelter and access to independent accommodation, for example in the form of housing combined with social support for persons who are particularly vulnerable such as girls, women with young children, elderly women or women with disabilities. Current sheltered housing or outpatient care provision at women's shelters is in many cantons funded by private donations.<sup>135</sup> GREVIO was also told of a lack of specific facilities for girl victims of violence on the model of the Zurich girls' home, and a shortfall in places for adolescent boys requiring accommodation in shelters with their mothers, who are not always admitted if they are over a given age.

**141. GREVIO urges the Swiss authorities to take the necessary measures to ensure that victims of all forms of violence against women covered by the Istanbul Convention and their children have access to specialist shelters with an appropriate geographical spread. For this purpose, the Swiss authorities should, in particular:**

- a. ensure that there are enough places in specialist accommodation, by providing sufficient funding, budgetary stability and staffing resources to the organisations managing shelters, including for the delivery of high-quality support services to victims aimed at their recovery and empowerment;
- b. harmonise support provided as part of the victims' support services throughout Switzerland so that all women and girl who are victims of violence have access to accommodation in a dedicated domestic violence shelter whatever their situation, age or canton of residence; take measures to guarantee that access to shelters is free of charge.

**142. GREVIO also invites the Swiss authorities to take measures to expand transitional measures for women victims of violence who have been accommodated in shelters and are moving towards independent housing.**

## **E. Telephone helplines (article 24)**

143. There are several telephone lines for victims of violence in Switzerland,<sup>136</sup> many of which operate at cantonal level. While some are managed by associations specialising in violence against women such as women's shelter helplines and a line for victims of female genital mutilation, others are more general or target groups other than women.<sup>137</sup> Some are free but for others there is a charge and only some are available 24/7 (including 15 at women's shelters). Many are not accessible to persons with disabilities such as deaf people or those with psycho-social disabilities or to migrant women who do not speak one of Switzerland's national languages. Some are subject to a confidentiality requirement (LAVI centres for example), but others are not. This huge variety of arrangements, with varying degrees of specialisation in violence against women, does not always

<sup>134</sup> See comments in the part of the report on Chapter VII, paragraphs 274-277.

<sup>135</sup> Information provided during GREVIO's visit. See also the written contribution of the Istanbul Convention Network, p. 355.

<sup>136</sup> Sixty according to the Swiss authorities, see state report, pp. 128-130.

<sup>137</sup> This is the case with the 147 helpline, which is intended for children and adolescents in difficulty.

help to facilitate access for women victims of violence to appropriate counselling and support in crisis situations.

144. In this context, GREVIO welcomes the fact that the Swiss authorities have decided to set up a single national helpline for women victims of violence. It has been interested to note the discussions being held on the form and tasks of the future national line, which will consist in a single number available 24/7 and be tasked with referring victims to specialist services near their homes. It notes in particular that both the federal authorities and the NGOs would like the expertise accumulated by existing helplines specialising in violence against women to be preserved and used because they are best placed to provide appropriate, effective support for victims. GREVIO must emphasise how crucial specialisation of helplines is in providing a response centred on victims' needs and enabling a relationship of trust to be established. Furthermore, the specialist services managed by associations involved in combating violence against women generally work in networks with other partners meaning that they can give victims the best possible counselling and meet the needs of various groups of women. Experience shows that this degree of quality cannot be successfully provided by more general victim support services, which do not usually have the necessary experience or expertise to help women victims efficiently, taking a gender-sensitive approach centred on victims' needs. Therefore, GREVIO considers that any single national number that is created should meet this specialisation criterion and take account of the experience and the skills amassed by existing specialist helplines. A national helpline of this sort should be a means both of referring victims to specialist offices and facilities near their place of residence and of providing appropriate, specific and timely responses to the women in crisis situations making calls. In addition, GREVIO underlines the importance of providing help in a confidential manner, since victims may be reluctant to use the service if they suspect that sensitive information they share would be transmitted to institutions.

**145. GREVIO strongly encourages the Swiss authorities to provide for a national, specialised helpline for women victims of violence, operated in close co-operation with independent NGOs specialised in responding to violence against women and domestic violence. The helpline should provide, on a confidential basis, free counselling as well as other specialised services (legal advice, crisis support) on all forms of gender-based violence against women covered by the Istanbul Convention. It is also important to provide multi-lingual assistance and to make arrangements for women with disabilities and migrant and refugee women to ensure their access to this service.**

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

146. There are sexual violence referral centres in the hospitals of St. Gallen, Aarau and Bern, and specialist units in the hospitals of the cantons of Valais, Vaud and Geneva. GREVIO is pleased to note that these centres operate on the basis of an approach focusing on victims' needs, and that victims are not required to lodge a complaint with the police for forensic evidence to be collected, and are received and treated by medical staff with specific training in issues of sexual violence and forensic care. As mentioned above, there are no standard national protocols for the collection of forensic evidence, and the length of time for which it may be stored varies from canton to canton. In some cases, victims are received by a two-person team made up of a forensic doctor and a gynaecologist, operating during the same consultation so that evidence can be taken all at once and secondary victimisation thus reduced.<sup>138</sup> Staff are also trained in issues such as female genital mutilation and the needs of women exposed to intersectional discrimination such as those with disabilities. Some centres also have an emergency telephone helpline.<sup>139</sup> All work in close co-operation with other institutions and organisations, including the police and the prosecuting authorities, LAVI centres and specialist organisations such as the women's shelters to which victims may be referred. According to the information gathered by GREVIO, this integrated approach makes it possible to provide victims with comprehensive, long-term support, which GREVIO warmly

<sup>138</sup> For example at Vaud Canton hospital.

<sup>139</sup> This is the case with the crisis centre at St. Gallen hospital.

welcomes. It regrets however that such promising approaches to support for victims of sexual violence have only been adopted in a small number of cantons so far. It notes with interest that in the context of the national action plan, the Swiss authorities intend to promote the exchange of experience among cantons on existing promising practices.

147. In the regions where there are no such centres, victims of rape and other sexual violence may go to hospital gynaecological or forensic medicine departments. Besides the fact that they do not receive integrated care, this also means that for evidence to be collected and stored, they are generally required to lodge a complaint with the police, a step which victims do not always want to take. There also some LAVI centres which specialise in support and counselling for victims of sexual violence, such as the Bern Lantana Centre, which offers specialist psychological support and assistance in such cases. However, to GREVIO's knowledge, Switzerland does not have any centres which offer a "one-stop-shop" approach, in which victims can find all the services and support they need in one place, including the possibility of filing a complaint to the police, thus avoiding the danger of secondary victimisation. Lastly, GREVIO is not in a position to assess whether women who experienced sexual violence in the past have access to adequate support and counselling. It underlines, nonetheless, the importance of these women benefitting from long-term counselling and therapy.

148. While welcoming the promising approaches devised in some cantons and the Swiss authorities' stated intention to extend this type of approach, GREVIO notes that specialist facilities addressing sexual violence are not yet adequate enough to enable the needs of the women victims of this type of violence to be met.

**149. GREVIO strongly encourages the Swiss authorities to take measures to comply with Article 25 of the Istanbul Convention. To achieve this, they must set up sufficient numbers of crisis centres accessible to victims of rape and/or sexual violence, meeting all their short-, medium- and long-term needs and including immediate medical care, high-quality forensic examinations regardless of the victim's desire to file a complaint, psychological and legal assistance, and referral to specialist organisations.**

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

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

151. Research has shown that children who witness one of the parents assaulting the other one in the home often develop emotional problems, cognitive functioning disorders and accept attitudes around violence that need to be addressed in the long term.<sup>140</sup> It is thus of crucial importance to ensure their access to psychological counselling and therapy as soon as they come to the attention of the authorities.

152. There are many mechanisms in place to provide support and protection to children exposed to gender-based violence. They benefit, in the same way as their mothers who are victims of violence, from emergency barring orders enabling them to remain in the family home in the event of domestic violence.<sup>141</sup> They also have access to services provided by LAVI centres as victims or as relatives of victims. As with adult victims, these services include counselling, access to psychological support, healthcare, and accommodation in a shelter for domestic violence victims together with their mother. Some LAVI counselling centres specialise in providing prompt care for children after police

<sup>140</sup> "Problems associated with children's witnessing of domestic violence", Jeffrey L. Edleson, VAW Net, available at [http://vawnet.org/sites/default/files/materials/files/2016-09/AR\\_Witness.pdf](http://vawnet.org/sites/default/files/materials/files/2016-09/AR_Witness.pdf).

<sup>141</sup> See comments in the part of the report concerning Chapter IV, paragraphs 233-238.

responses to domestic violence.<sup>142</sup> It appears, however, that not all centres systematically recognise children's status as a "co-victim" of domestic violence, which may hinder their access to support and protection services. In addition, LAVI centres in some cantons lack the resources to adapt their services to the needs of children and to employ qualified staff.

153. While noting that the federal authorities are currently supporting the dissemination of a guide for professionals on how to protect children in the context of domestic violence,<sup>143</sup> GREVIO is concerned about the lack of a nationwide standardised protocol for the reception and care of children. Furthermore, APEA involvement may be delayed due to the heavy workload these authorities often face, meaning children do not always receive the support measures that are immediately required.<sup>144</sup> GREVIO notes with interest the co-operation mechanisms between APEAs, courts and police services, which have been institutionalised in some cantons. As a rule, the police report any incidents of domestic violence involving children to the APEA. Since the entry into force of the Law on improving the protection of victims of violence, the civil courts now do the same by reporting any emergency barring orders issued to the relevant APEA. However, GREVIO has received reports of certain co-ordination issues between LAVI centres, APEAs and criminal prosecution authorities.<sup>145</sup> It would also seem that there is sometimes no intermediary child protection mechanism to bridge the gap between the police response and APEA involvement. GREVIO welcomes certain promising measures to fill this gap, like those in the canton of Basel-City, where police responses to cases of domestic violence are followed by immediate protection measures and a hearing of the child on instructions from the APEA. It believes that such practices, which may help improve multi-agency co-operation and promote rapid access to support and protection for children, could be rolled out more widely throughout the country.

154. Children make up nearly half of the residents of women's shelters.<sup>146</sup> The CDAS catalogue of services provided by women's shelters includes some specifically aimed at children, such as individual counselling, psychotherapy at the shelter or offsite, advice, group work and educational guidance. Women's shelters in Switzerland all adopt an approach that recognises the primary importance of children's best interests and the need to ensure their protection.<sup>147</sup> There is, however, no reference document for shelters regarding the care and protection of children exposed to violence against women. While some women's shelters have staff specifically assigned to educational work with children, most of them regret that they lack the resources to carry out this task. These shortcomings stem from the absence of appropriate funding for shelters, discussed above,<sup>148</sup> and the fact that cantonal funding for places for children is lower than that for their mothers. As a result, the availability of specific support for children in shelters varies from canton to canton and depends on the resources available to shelters, including core funding for victim support work and specialist training for staff.

155. Under the LAVI Act, children's access to therapy and psychological care requires the agreement of one of the parents only, which is not necessarily the case for therapy required by the APEA, for which the authorisation of the custodial parent may be necessary. GREVIO was informed that this may delay children's access to support and care in cases where custody rights have not been settled or when child custody is shared.<sup>149</sup> In addition, waiting times for access to psychotherapy have increased since the Covid-19 pandemic.

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<sup>142</sup> For example, the KOKON centre in Zurich (<https://kokon-zh.ch/kinder-und-jugendliche/opferhilfe.html>) and the special assistance provided by the canton of Basel-City's Department for Youth.

<sup>143</sup> Frankfurt guide, "Frankfurt guide to examining and arranging contact for children", <https://kinderschutz-frankfurt.de/wir-ueber-uns-downloads.html>.

<sup>144</sup> Ibid.

<sup>145</sup> Information provided during GREVIO's visit.

<sup>146</sup> See written contribution of the Istanbul Convention Network, p. 356. In 2020, women's shelters housed 982 children (and 978 women).

<sup>147</sup> DAO, Protecting the best interests of the child in women's shelters, report for the Federal Social Insurance Office's child and youth policy office, 2020.

<sup>148</sup> See comments on this issue in paragraph 134-135.

<sup>149</sup> Information provided during GREVIO's visit.



156. **GREVIO strongly encourages the Swiss authorities to take measures to make it easier for children who have been exposed to violence to access effective protection and support services. To this end, the Swiss authorities should:**

- a. **draw up clear guidelines for all agencies providing assistance and support to children, so that any action they take is based on the recognition of the risks and harmful consequences experienced by children exposed to violence, in connection with their safety and that of their mothers;**
- b. **strengthen the support and assistance mechanisms for children exposed to violence and extend them throughout the country, based on existing examples of promising practice;**
- c. **provide more human and financial resources to specialist support services in their task of supporting children exposed to violence, alongside their mothers.**

#### **H. Reporting by professionals (Article 28)**

157. There is no uniformly applied nationwide rule regarding the reporting of violence against women by professionals. With regard to children, the rights and obligations of professionals were clarified following legislative amendments in 2019, introducing a duty to report any threat to the physical, psychological or sexual integrity of a child, including for LAVI centres if they deem it justified. Professionals in contact with children and persons who learn of such cases in their official capacity have a duty to report them to the APEA.<sup>150</sup> Offences against adults, however, are subject to a variety of provisions at cantonal level, particularly with regard to reporting by health professionals. It would appear, however, that health professionals generally at least have a right to report suspected offences against adults and against adults with impaired faculties of judgment, who fall under the APEA's responsibility. GREVIO considers that the variety of rules on reporting, in particular for health professionals, may prevent them from reporting to the competent authorities or organisations when they have grounds to believe that a serious act of violence covered by the scope of the Istanbul Convention has been committed and there is a risk of further serious acts of violence.

158. **GREVIO encourages the Swiss authorities to take the necessary measures, including clarifying the rules on reporting, to ensure that professionals may report a matter when they have reasonable grounds to believe that a serious act of violence against women has been committed and there is a risk of further such acts of violence.**

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<sup>150</sup> Article 314 c and d of the Swiss Civil Code.

## V. Substantive law

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

### A. Civil law

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

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

161. Under both federal and cantonal law, the Swiss state is liable for damage caused by public officials in the performance of their duties and for omissions in the event of an obligation to act in cases where the damage could very likely have been avoided if they had acted in accordance with their duties.<sup>151</sup> Decisions taken by LAVI centres regarding the award of benefits may also be challenged in the cantonal courts.

162. In the absence of information and data showing to what extent women victims of gender-based violence are using the above remedies, GREVIO has been unable to ascertain whether Switzerland is effectively implementing its obligations under Article 29, paragraph 2, of the convention. In addition, it has no information on whether women victims of violence are told that they can challenge the decisions of LAVI centres in court and how many such cases may have been brought.

**163. GREVIO encourages the Swiss authorities to analyse the situation regarding remedies in the event of failures by state authorities to fulfil their obligations to prevent and protect against violence against women, in order to ensure that victims of all forms of violence covered by the Istanbul Convention have access to effective remedies and to identify any obstacles in that respect. It is also vital to ensure that women victims of violence are duly informed of the availability of such remedies.**

#### 2. Compensation (Article 30)

164. Access to compensation from the perpetrator of violence for the damage suffered and from the State for non-pecuniary damage is provided for in Swiss law in the Code of Obligations<sup>152</sup> and under Article 28a, paragraph 3, of the Civil Code on unlawful infringements of personality rights. GREVIO was informed,<sup>153</sup> however, that in the absence of concomitant criminal proceedings, victims of violence find it hard to pursue their claims for non-pecuniary damage and that access to legal advice funded under the LAVI Act is rarely granted in this kind of proceedings. In addition, the frequent use of summary penalty orders to prosecute cases of domestic violence makes it more difficult for victims to access civil proceedings.<sup>154</sup> There is currently no data available on the number

<sup>151</sup> See page 62 of the state report.

<sup>152</sup> Articles 41, 47 and 49.

<sup>153</sup> Information provided during GREVIO's visit.

<sup>154</sup> See comments in the part of the report concerning Chapter VI, paragraphs 219-222.

of women victims of gender-based violence who have sought and received compensation from the perpetrator.

165. In the alternative, where no compensation has been paid by the perpetrator<sup>155</sup> or no criminal complaint has been lodged, compensation – considered as an expression of the public authority's solidarity with the victim – may be awarded by the State under the LAVI Act (Article 19) in the event of direct and serious harm to the victim's physical, mental or sexual integrity, as compensation both for pecuniary and for non-pecuniary damage. Compensation is limited to 120 000 Swiss francs (CHF). Compensation for non-pecuniary damage is only awarded in cases of what is considered to be very serious harm (up to a maximum of CHF 70 000 for victims and CHF 35 000 for relatives). This limit is deemed to be too low by NGOs, particularly in cases of serious gender-based violence and when compared with the amounts that can be awarded by the courts. According to statistics on the LAVI Act in 2020, out of a total of 602 claims for damages lodged by women (and 1 030 claims overall), compensation ranging from CHF 3 000 to CHF 4 000 was awarded for non-pecuniary damage 347 times and for pecuniary damage 33 times. In 21 cases, the perpetrator was a partner or former partner.<sup>156</sup> The average time taken to award compensation ranged from 467 days in 2018 to 518 days in 2019,<sup>157</sup> which GREVIO considers to be a relatively long time.

166. Despite the guidelines on awarding compensation under the LAVI Act drawn up by the Federal Department of Justice,<sup>158</sup> the amounts awarded vary considerably from canton to canton, particularly as regards compensation for sexual violence.<sup>159</sup> In addition, as the offences constituting domestic violence under Swiss law (repeated acts of aggression, threatening behaviour) are generally not considered to be very serious, due regard needs to be had when awarding such compensation to the frequency, length and intensity of the violence, which may make it difficult to make a successful claim for compensation under this head.

167. GREVIO also considers that it would be useful to provide more information about the various ways in which victims may seek compensation for non-pecuniary damage through civil proceedings and under the LAVI Act.

**168. GREVIO encourages the Swiss authorities to ensure that women victims of all forms of violence covered by the Istanbul Convention have access to an effective and rapid procedure for obtaining compensation either from the perpetrator or from the state. They should also collect data on the number of women victims of violence who have sought and obtained compensation through civil proceedings.**

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

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

170. Joint parental responsibility for minor children has been the norm since 2014 and also applies when determining custody and visiting rights. Sole parental responsibility may, however, be granted to one of the parents if the child's best interests so require,<sup>160</sup> particularly in cases of violence.<sup>161</sup>

<sup>155</sup> Or it is insufficient (see Article 4 of the LAVI Act).

<sup>156</sup> Federal Statistical Office, victim support statistics for 2020: [www.bfs.admin.ch/bfs/fr/home/actualites/quoi-de-neuf.gnpdetail.2020-0630.html](http://www.bfs.admin.ch/bfs/fr/home/actualites/quoi-de-neuf.gnpdetail.2020-0630.html).

<sup>157</sup> See page 64 of the state report.

<sup>158</sup> Federal Department of Justice and Police, Guide on determining the amount of compensation for non-pecuniary damages under the LAVI Act, 2019.

<sup>159</sup> Information provided during GREVIO's visit.

<sup>160</sup> Article 298 of the Civil Code.

<sup>161</sup> Article 310 of the Civil Code.

Custody decisions in the event of separation are made by the civil courts, while the Child and Adult Protection Authority (APEA) enforces court decisions on child protection, but also plays a role in deciding on arrangements for the exercise of custody and visiting rights. In particular, it may take immediate provisional measures to protect the child if the courts are prevented from doing so in time.<sup>162</sup> It may also remind parents of their duties and order various measures, including supervised visits or a requirement to attend therapy. In fact, the APEA frequently orders measures such as supervised visits and visits away from the perpetrator's home or in a neutral location. It appears to be increasingly common for children, depending on their age, to be heard in custody proceedings and they may be provided with legal assistance.

171. In practice, GREVIO notes, based on its exchanges with civil society representatives, that courts and the APEA rarely choose to award sole custody to the victim parent in situations of domestic violence and only do so in cases of extremely serious violence and where the child is a direct victim.<sup>163</sup> Although no data concerning court decisions on custody rights are available, it seems that the withdrawal of parental authority from the perpetrator of violence remains exceptional, despite the persistence of the danger to the mother and child. Joint parental responsibility is paramount.<sup>164</sup> GREVIO is concerned that a child's exposure to domestic violence is not systematically viewed as a factor that could justify limited custody rights in disregard of the tendency of parents who perpetrate violence to exploit parental authority in order to maintain their control and influence over their ex-spouse and children.<sup>165</sup> GREVIO is also concerned about reports of cases where custody rights have been withdrawn from mothers who have been victims of domestic violence following criminal proceedings on the ground that the trauma resulting from the violence prevented them from taking proper care of their child(ren).<sup>166</sup> This practice is a form of secondary victimisation of victims, burdening them with the consequences of the violence they have suffered. GREVIO considers that instead of being separated from their child, mothers who are victims should receive support and guidance to ensure that they can fully exercise their parental responsibilities.

172. GREVIO is particularly concerned by information brought to its attention indicating that protection mechanisms against violence can expose victims of violence to secondary victimisation, by restricting the exercise of their parental rights.<sup>167</sup> The difficulties experienced by many women victims of violence may result in a transfer of the child's residence to the perpetrator or a placement of the children with social services. This risk is particularly high for some victims, particularly those victims whose situation has not yet been decided by a judge or other authority. Migrant women victims of violence who are married to a Swiss national, and whose residence permit is conditional on marriage, can also experience specific difficulties. It is often difficult for them to leave the home with their children in case of emergency to escape from a violent situation because of their status and because they depend economically on their spouse.

173. Likewise, the visitation rights of fathers who use violence are rarely suspended, even if the mother and child are living in a shelter and if an emergency barring order has been issued. In addition, GREVIO notes with concern that a bill has been introduced to make failure to hand over children and interference with visitation rights a criminal offence, with no scope for exemption in situations of domestic violence.<sup>168</sup> The bill,<sup>169</sup> which is based on the supposed risk of "parental alienation", could lead to women being punished for trying to keep their children safe and protect them from paternal violence, especially in the absence of suitable protective measures by the authorities. While fully supporting the right of children to maintain ties with both of their parents, GREVIO stresses that the risks associated with exposure to domestic violence – as a victim or witness thereof – must be fully assessed and taken into account when deciding on custody and

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<sup>162</sup> Article 315a of the Civil Code.

<sup>163</sup> Ibid.

<sup>164</sup> Information provided during GREVIO's visit from NGOs and several representatives of the authorities and the judiciary.

<sup>165</sup> Information provided during GREVIO's visit.

<sup>166</sup> Idem.

<sup>167</sup> Information provided during GREVIO's visit.

<sup>168</sup> Motion 19.3597 of 13 June 2019: "Crimes against the family. Punishing refusal to respect the right of contact."

<sup>169</sup> The examination of which is currently suspended pending a report on parental responsibility. See report of the Legal Affairs Committee of the Council of States, 17 February 2022.

visitation rights and that the safety of children and their mothers must be paramount. It also points out that using the concept of “parental alienation”, which is scientifically unfounded, increases the risk of violence against women and their children being concealed and going undetected, since it ignores the gender-based nature of domestic violence and the essential aspects of child welfare.<sup>170</sup>

174. NGOs and lawyers working in the field of violence against women informed GREVIO that the practice of maintaining custody and visitation rights in situations of domestic violence is largely due to the relevant professionals’ lack of training on and awareness about domestic violence and the harmful effects of child exposure to it and their being unaware that perpetrators frequently use the joint exercise of parenthood in order to maintain their control and domination over the mother and children.<sup>171</sup> GREVIO was also told that the safety risks to children and their mothers from post-separation violence were underestimated. Domestic violence is often overlooked in divorce proceedings, and this can lead to conciliation proceedings being ordered despite the fact that they are normally ruled out in situations of domestic violence. While the APEA has improved training for its staff on dealing with domestic violence,<sup>172</sup> the matter is still largely overlooked in the judicial system, including among the lawyers responsible for assisting children during proceedings.<sup>173</sup> In this connection GREVIO welcomes the awareness-raising work that the FOGE, in particular, has carried out on the so-called “parental alienation syndrome”, which is now widely recognised as having no scientific basis.

**175. GREVIO urges the Swiss authorities to take the necessary measures to ensure that when determining custody and visitation rights and introducing measures affecting exercise of parental authority, the competent authorities are required to take into account all incidents of violence against women and domestic violence. To this end, the Swiss authorities should:**

- a. base policies and practices on the recognition that, in a context of domestic violence, joint parenting may be a means for the perpetrator to continue to maintain control and domination over the mother and her children;**
- b. ensure that the legal provisions which allow the perpetrator’s custody and visitation rights to be limited, withdrawn and/or subjected to safeguards whenever a situation of violence is ascertained are properly deployed;**
- c. ensure that children are not removed from the custody of non-violent parents;**
- d. strengthen the assessment and consideration of the risks posed to the victim and her children during the exercise of visitation rights, in particular by making use of any tool to improve the safety of women and their children and by reducing or withdrawing visitation rights in high-risk cases;**
- e. encourage appropriate training and the preparation of professional guidelines alerting the relevant professionals to the harmful effects of violence on children, including child witnesses, and familiarising them with the provisions of the Istanbul Convention on custody and visitation rights;**
- f. keep up efforts to make the relevant professionals aware of the lack of any scientific basis for the so-called “parental alienation syndrome” and sensitise the public to this issue;**
- g. refrain from amending legislation with a view to making the failure to hand over children to and interference with visitation rights of the other parent a criminal offence;**
- h. collect data and analyse case law on how courts consider incidents of violence and the grounds they give for their decisions on custody and visitation rights in order to be able to assess progress in this respect.**

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<sup>170</sup> See the statement of December 2017 by the European Association for Psychotherapy (EAP) warning that the concepts of “parental alienation syndrome” and “parental alienation” should not be used in any psychotherapeutic practice. This statement by the EAP, which is made up of 128 psychotherapy organisations from 41 European countries, serves as a guideline for psychotherapists across Europe.

<sup>171</sup> Information provided during GREVIO’s visit. See also Violence Medicine Unit, Vaud University Hospital, Children exposed to violence between parents, September 2020, pp. 103-106.

<sup>172</sup> See comments in the part of the report concerning Chapter II, paragraph 93.

<sup>173</sup> See written contribution of the Istanbul Convention Network, page 77.

## **B. Criminal law**

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

176. Psychological violence is not regarded as a specific criminal offence. The provisions relied on to prosecute this form of violence include offences such as serious threats, provided for in Article 180 of the Criminal Code, which are prosecuted *ex officio* when they occur during a marriage, registered partnership or live-in relationship and up to one year after divorce or separation,<sup>174</sup> and that of coercion (Article 181 of the Criminal Code). Article 177 of the Criminal Code concerning attacks on a person's honour is also relied on. However, these offences are designed to punish single acts in isolation, and they do not all take account of the repetitive and protracted nature of violence in the form of acts that, taken separately, will not necessarily be enough to be regarded as an offence. Article 33 of the convention provides for conduct occurring over time and going beyond a one-off incident such as making a threat. The drafters of the convention in fact intended to punish any psychological harm, which can take many forms such as confinement, excessively controlling behaviour and intimidation. Psychological violence in intimate relationships often precedes or accompanies other types of violence, such as economic, physical and sexual violence.

177. GREVIO has repeatedly noted that the digital dimension of violence against women is rapidly growing and that, as a result, offences specifically covering this form of violence have been established, particularly concerning non-consensual image sharing. It notes that the Swiss Criminal Code does not include such provisions.

178. **GREVIO strongly encourages the Swiss authorities:**

- a. to take measures to investigate, prosecute and punish acts of psychological violence in an effective manner, making full use of the relevant provisions of the Criminal Code, or to consider introducing new provisions that would better meet the requirements of Article 33 of the Istanbul Convention;**
- b. to take measures to properly investigate, prosecute and punish acts of psychological violence against women which take place online or involve the use of technology, if necessary by introducing new legislation.**

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

179. There is also no specific criminal provision for stalking. For several years, there has been debate about whether a specific offence of "obsessional harassment" should be introduced. Swiss law punishes conduct that may constitute this form of violence, including serious assault (Article 122 et seq. of the Criminal Code), repeated acts of aggression (Article 126), damage to property (Article 144), offences against personal honour (Article 173 et seq.), misuse of telecommunications devices (Article 179septies.), threatening behaviour (Article 180), coercion (Article 181) and unlawful entry (Article 186). Article 28b of the Civil Code may also be used to obtain protective measures against stalking in the victim's immediate social environment in the form of protection orders.<sup>175</sup> These various provisions do not, however, adequately cover the constituent elements of the offence of stalking as defined in Article 34, which, as with Article 33, refers to conduct consisting of repeated significant incidents which, taken individually, do not always amount to criminal conduct.

180. Independent lawyers and experts informed GREVIO that in practice, victims of gender-based violence find it hard to prove the seriousness of offences committed in situations of violence using the existing provisions, which make it difficult to take into account crucial elements of violence against women and domestic violence, such as power, persistence over time and the context of

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<sup>174</sup> They are prosecuted on complaint in other cases.

<sup>175</sup> See comments on Articles 52 and 53 (emergency barring orders and restraining or protection orders).

economic domination.<sup>176</sup> It is also difficult to argue that psychological violence and stalking has occurred in a digital setting and to cater for the fact that stalking often takes place both online and offline. Furthermore, the failure to establish such conduct as a specific criminal offence makes it difficult for victims to make claims under the LAVI Act.

181. In addition, the absence of a specific offence limits the opportunities for special law enforcement training and for building the criminal justice system's capacity to deal with stalking effectively, based on sound expertise, from the investigation to the trial stage.

**182. GREVIO strongly encourages the Swiss authorities to consider establishing stalking as a specific offence, enabling incidents of online and offline stalking to be investigated, prosecuted and punished effectively.**

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

183. Offences relating to sexual violence are covered by Article 189 of the Swiss Criminal Code on sexual coercion and Article 190 on rape. As the law stands, both offences require the use of threats, force or psychological pressure. Case law also states that explicit refusal and minimal use of force is not sufficient to constitute the offence of rape.<sup>177</sup> A survey conducted by Amnesty International in 2019 found that only 8% of the women who said they had experienced non-consensual sexual acts had actually filed a complaint.<sup>178</sup> Many victims said they did not lodge a complaint or had subsequently withdrawn it because they were afraid of being asked whether they had put up enough resistance against the perpetrator or of not being believed.<sup>179</sup> In addition, NGOs report that there is still prejudice within the judiciary with regard to rape, notably resulting in sexual violence between people who are close to each other being downplayed and consent being presumed in such circumstances, even though the vast majority of rapes are committed by someone the victim knows.<sup>180</sup>

184. A preliminary draft law to amend sexual assault offences was submitted for public consultation in February 2021, triggering considerable debate in Swiss society. GREVIO notes with interest that the bill has progressed from an initial text still including definitions of sexual coercion and rape based on coercion and the victim's resistance, to a new text removing the notion of coercion and stating that the act of rape or sexual assault is defined as being committed "against the will" of the victim.<sup>181</sup> It wishes to point out, however, that conceptualising the offences of rape and sexual assault as sexual acts committed "against the victim's will" does not fully meet the requirement under Article 36 of criminalising all non-consensual sexual acts, in particular the stipulation in paragraph 2 that "[c]onsent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances". This is because, in the situation envisaged by the revised bill, victims will have to express their lack of consent, either verbally or in some other way, for rape and sexual assault to be punishable. As a result, criminal proceedings will always focus on the victims' actions rather than those of the accused, leaving room for gender stereotypes and rape myths.

185. In this context, GREVIO underlines that, in implementing Article 36 of the convention, "Parties to the Convention are required to adopt criminal legislation which encompasses the notion of lack of freely given consent to any of the sexual acts listed".<sup>182</sup> While it is true that the drafters left it "to the Parties to decide on the specific wording of the legislation and the factors that they consider to preclude freely given consent",<sup>183</sup> it is vital that the wording adopted in Switzerland's legislation is in line with the requirements of Article 36 and favours a definition of sexual violence based on the

<sup>176</sup> Information provided during GREVIO's visit.

<sup>177</sup> Federal Supreme Court judgment 6B\_912/2009 of 22 February 2010.

<sup>178</sup> Amnesty International, Survey of Sexual Violence in Switzerland, 2019, see [www.amnesty.ch/fr/themes/droits-des-femmes/violence-sexuelle/docs/2019/violences-sexuelles-en-suisse-nouveaux-chiffres-representatifs](http://www.amnesty.ch/fr/themes/droits-des-femmes/violence-sexuelle/docs/2019/violences-sexuelles-en-suisse-nouveaux-chiffres-representatifs).

<sup>179</sup> Ibid.

<sup>180</sup> Ibid.

<sup>181</sup> Council of States, Legal Affairs Committee, decision of 18 February 2022.

<sup>182</sup> Explanatory report to the Convention, paragraph 193.

<sup>183</sup> Ibid.

absence of freely given consent. Such a definition would make it possible to operate the necessary paradigm shift to recognise the central role of the victim's willingness to consent and thereby improve the criminal justice response to the needs of victims of sexual violence.

186. GREVIO is particularly concerned that the Swiss Criminal Code still provides that, in cases where the victim and the perpetrator of sexual violence have entered into a marriage or registered partnership, the authorities may waive prosecution or punishment of the perpetrator.<sup>184</sup> In this context, GREVIO notes with interest the Swiss legislator's intention to delete this provision as part of the revision of the criminal law on sexual offences.

**187. GREVIO urges the Swiss authorities to review their legislation on sexual violence so as to base the definition of sexual violence on the absence of the victim's freely given consent in conformity with Article 36, paragraph 3, of the Istanbul Convention; and to offer an effective judicial response to sexual violence, focusing on respect for victims' human rights and on proper care and support for victims.**

**188. GREVIO urges the Swiss authorities to step up efforts to remove the provision providing for prosecution or punishment to be waived in the event of marriage or partnership between the victim and the perpetrator of violence.**

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

189. GREVIO welcomes the fact that forced marriage has been a criminal offence since 2013 (Article 181a of the Criminal Code), prosecuted *ex officio* and punishable by up to five years imprisonment. The offence concerns any person who, "by the use of force or the threat of serious detriment or other restriction of another's freedom to act compels another to enter into a marriage or to have a same-sex partnership registered". Foreigners in Switzerland who have forced others into a forced marriage are also subject to prosecution. The same applies to any person who intentionally misleads others to take them abroad for the purpose of forcing them to enter into a marriage. Forced marriage is a ground for annulling a marriage.<sup>185</sup>

190. The Department for Combating Forced Marriage, which was set up by the Federal Council in 2018 to prevent this form of violence and provide victim support, reports that it recorded more than 3 000 cases of forced marriage between 2018 and the end of 2020.<sup>186</sup> Since 2013, however, there have been only two convictions under Article 181a of the Criminal Code and very few complaints are filed on this ground. This very low prosecution and conviction rate may stem from victims' reluctance to bring criminal proceedings against family members and those they are close to, and from the difficulty of providing evidence of coercion. In GREVIO's view, a detailed analysis of the obstacles that may prevent victims of forced marriages from lodging complaints, and of any procedural barriers, is needed to better understand the situation. In addition, co-ordinating the approach of the various bodies involved (e.g. child protection, law enforcement, specialist services, schools and NGOs, etc.) is vital in order to provide victims with the support and guidance they need to be able to report forced marriages more easily. Early detection by professionals is also crucial. The network of contact points (single points of contact) set up by the Department for Combating Forced Marriage plays a key role in this respect and its work should be stepped up over time in order to improve reporting and conviction rates.

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<sup>184</sup> Article 187, paragraph 3, of the Criminal Code. This provision also applies in the case of sexual assault against minors over 16 years of age, persons who are hospitalised, committed, detained, arrested or on remand and persons in a situation of dependency.

<sup>185</sup> Article 105, paragraphs 5 and 6, of the Criminal Code.

<sup>186</sup> See written contribution of the Istanbul Convention Network, page 295.



191. **GREVIO encourages the Swiss authorities to carry out a thorough review of the reasons for the low use made of the criminal offence of forced marriage in order to address the obstacles to bringing criminal proceedings. It also encourages the Swiss authorities to continue and step up the co-ordination between the various bodies dealing with victims of forced marriage.**

## 5. Female genital mutilation (Article 38)

192. Female genital mutilation has been a criminal offence prosecuted *ex officio* since 2012. Under Article 124 of the Criminal Code, “[a]ny person who mutilates the genitals of a female person, impairs their natural function seriously and permanently or damages them in some other way shall be liable to a custodial sentence not exceeding ten years or to a monetary penalty of no less than 180 daily penalty units”. When the offence is committed by a foreigner, the penalty is combined with expulsion from Swiss territory for a period of five to 15 years. Aiding and abetting the offence is also punishable both in Switzerland and abroad (Article 260bis, paragraph 1, of the Criminal Code). Committing this offence abroad is also punishable in Switzerland (Article 124, paragraph 2).

193. While welcoming the fact that Switzerland has introduced a specific legal apparatus to combat female genital mutilation, GREVIO questions the impact of the universality clause in Article 124, paragraph 2, which provides that “[a]ny person who has committed the offence abroad but is now in Switzerland and [has not been] extradited shall be liable to [...] penalties”. Due to its very broad scope, this provision could adversely affect prosecution of the offence of female genital mutilation and could increase the vulnerability of some women. The only sentence passed since 2012 under Article 124 of the Criminal Code concerned a Somali woman (reported to the authorities by her husband) who had had genital mutilation performed on her two daughters in Somalia before arriving in Switzerland as part of a family reunion procedure.<sup>187</sup> Accordingly, Article 124, paragraph 2, may lead to the criminalisation of persons who have had female genital mutilation performed on others well before their arrival in Switzerland, in a home country where it is a socially imposed and legal practice. In addition, it exposes women to the risk of blackmail or reprisals in the form of threats to report the crime made by spouses or relatives. It also appears to be in contradiction with the reservation entered by Switzerland with regard to Article 44, paragraph 1.e, which seeks to limit the obligation of the Swiss judicial authorities to prosecute cases of violence covered by the Istanbul Convention, including female genital mutilation, committed abroad by a person habitually resident in Switzerland. GREVIO considers that this provision may therefore deter victims from using support and healthcare services in Switzerland, for fear of a relative being sentenced for acts committed abroad prior to arriving in Switzerland, and may undermine the awareness-raising work carried out in the relevant communities by organisations such as the Swiss Network against Female Genital Cutting.

194. According to the information provided to GREVIO,<sup>188</sup> the very low reporting and conviction rate for female genital mutilation is largely the result of a lack of legal information for victims and a failure to detect cases owing to persistent shortcomings in female genital mutilation awareness and training among professionals, particularly in the healthcare sector and at APEAs. Furthermore, while some cantons have introduced measures to identify and support victims and to raise awareness among professionals, in particular with the help of the Swiss Network against Female Genital Cutting, several others have not set up any measures at all. Lastly, women and girls who have been subjected to genital mutilation abroad before entering Switzerland are not entitled to support and assistance under the LAVI Act.

<sup>187</sup> Federal Supreme Court judgment ATF 145 IV 17 of 11 February 2019.

<sup>188</sup> See, for example, written contribution of the Istanbul Convention Network, pp. 285-6. See also Federal Council report on measures against female genital mutilation in response to Rickli Natalie postulate 18.3551 of 14 June 2018, 25 November 2020.

195. **GREVIO encourages the Swiss authorities to carry out a review of existing criminal legislation to verify its compatibility with the Istanbul Convention's aim to prosecute and punish the offence of female genital mutilation and to support and protect victims. To this end, measures should be considered to ensure that the application of Article 124, paragraph 2, of the Criminal Code does not adversely affect the support and assistance provided to women who were subjected to genital mutilation abroad.**

196. **GREVIO also encourages the Swiss authorities to step up their efforts to raise awareness and train all relevant professionals to detect and provide support for victims of female genital mutilation.**

## **6. Forced abortion and forced sterilisation (Article 39)**

197. Abortion without consent is a criminal offence under Article 118, paragraph 2, of the Criminal Code, while forced sterilisation, although it is not a specific offence, may be covered by Article 122 of the Criminal Code on grievous bodily harm. In addition, the 2006 Federal Law on the conditions and procedure governing the sterilisation of persons provides for the regulation of sterilisation procedures, in particular with regard to persons permanently incapable of judgment.

198. In the absence of data concerning forced abortions or forced sterilisations, GREVIO is not in a position to assess the effectiveness of the law in practice. It notes, however, that allegations have been made of sterilisations and abortions being carried out without informed consent on people with psychosocial disabilities considered incapable of judgment and on migrant women without access to good quality interpretation services in healthcare facilities.<sup>189</sup>

199. **GREVIO encourages the Swiss authorities to collect data on the number of abortions and sterilisations carried out without informed consent so as to establish the extent of these practices.**

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

200. The Criminal Code includes two offences that may cover behaviour constituting sexual harassment. These are Article 198, which criminalises discomfort caused by exposure to an act of a sexual nature, including physical sexual harassment and indecent language, and Article 194, which criminalises indecent exposure. The Federal Act on Gender Equality also prohibits harassment in the workplace and requires employers to provide protection against such behaviour.

201. GREVIO notes that, while the above-mentioned provisions of the Criminal Code may cover certain constitutive aspects of sexual harassment, they do not cover non-verbal conduct or the use of images for the purpose of harassment, which is a frequent form of online sexual harassment.<sup>190</sup> In addition, the offences referred to in Articles 194 and 198 are prosecuted following a complaint filed within three months of the offence being committed, which, according to the NGOs and lawyers GREVIO met, does not always take into account the fact that harassment is often a course of conduct that takes place over a long period of time, through repeated incidents.

202. **GREVIO strongly encourages the Swiss authorities to take the necessary legislative and other measures to ensure that all forms of sexual harassment, in all spheres of life - public and private-, and including online sexual harassment, can be effectively prosecuted and punished.**

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<sup>189</sup> See written contribution of the Istanbul Convention Network, pp. 81-82. See also, "Analyse der Situation von Flüchtlingsfrauen. Zur Situation in den Kantonen" ("Analysis of the situation of refugee women – the situation in the cantons"), report for the attention of the State Secretariat for Migration (SEM) and the Conference of Cantonal Social Affairs Directors (CDAS), 2019, p. 16.

<sup>190</sup> See GREVIO's General Recommendation No. 1 on the digital dimension of violence against women, 2001.

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

203. The Swiss Criminal Code still includes the offence of a “crime of passion” under Article 113, according to which a murder committed by a perpetrator “in a state of extreme emotion [...] or [...] stress” may be punished more leniently (a sentence of one to 10 years as opposed to a minimum of five years for murder). While noting that this provision is hardly ever relied on in practice, particularly in the context of violence against women, GREVIO considers that it may provide an unacceptable justification for crimes committed against women.

204. **GREVIO strongly encourages the Swiss authorities to remove from criminal law the provision for a reduced sentence under Article 113 of the Criminal Code in order to eliminate any possibility of an unacceptable justification of crimes committed by spouses or ex-spouses and of a reduction in the penalties imposed on them.**

## **9. Sanctions and measures (Article 45)**

205. GREVIO welcomes the fact that, on the whole, Swiss criminal law provides for appropriate penalties for acts of violence against women. Nevertheless, the lack of data on criminal convictions and punishments in cases of violence against women does not allow GREVIO to assess whether the penalties and measures imposed for all forms of violence against women are effective, proportionate and dissuasive. The information provided by NGOs and specialised lawyers suggests that persons convicted of rape are often only given short, suspended prison sentences.<sup>191</sup> The reason provided by courts is often the lack of evidence of the victim’s opposition or resistance.<sup>192</sup>

206. While recognising that criminal proceedings are not the only way to deal with violence against women, GREVIO wishes to emphasise the importance of ensuring that offences are punished in an intelligible manner to build public 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 highly likely to continue, either against the same victim or another. Prosecution and punishment are therefore essential components of the effort to protect women.

207. **GREVIO strongly encourages the Swiss authorities to ensure that sentences and measures imposed for offences of domestic violence and other forms of violence against women covered by the scope of the Istanbul Convention are effective, proportionate and dissuasive.**

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

208. GREVIO was informed that all the aggravating circumstances provided for in Article 46 of the convention may be taken into account by the courts in sentencing but are not specifically provided for in Swiss law. Threats, acts of aggression and common assault are prosecuted *ex officio* when the perpetrator and victim are living together as a couple. Sexual offences may be punished more severely if they are committed by several persons acting together or with the threat of a weapon. It is not considered an aggravating circumstance when violence is committed in the presence of children or against a current or former spouse. GREVIO regrets that because no analysis of legal practice with regard to aggravating circumstances has been made, it is difficult to assess the situation.

209. **GREVIO encourages the Swiss authorities to review the relevant judicial practices in order to determine whether the circumstances described in Article 46 of the Istanbul Convention are actually taken into consideration as aggravating circumstances for sentences covered by the Istanbul Convention or whether the legislation should be amended.**

<sup>191</sup> Information provided during GREVIO’s visit. See also comments in the part of the report concerning Chapter VI, paragraphs 223-224.

<sup>192</sup> See in particular Federal Supreme Court judgment 6B\_894/2021 of 28 March 2022.

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

210. GREVIO welcomes the fact that provisions for a conciliation procedure in the context of proceedings for violence, threats or harassment under Article 28b of the Civil Code were removed from civil law by the Federal Law on improved protection for victims of violence, which entered into force in July 2020.<sup>193</sup> The exclusion of mediation from proceedings for offences within the scope of the convention that are prosecuted *ex officio* is also to be commended. The exception to this principle is the suspension procedure under Article 55a of the Criminal Code, discussed above, which requires an initial conciliation procedure to take place in order to decide whether to proceed with the suspension. GREVIO was informed that this conciliation does not necessarily require both parties to be present in the same place.

211. In the case of offences prosecuted only upon complaint, such as acts of aggression, threatening behaviour and common assault, the public prosecutor may summon the complainant and the defendant to a hearing with the aim of reaching a friendly settlement.<sup>194</sup> The complainant's attendance is in principle not mandatory; however, if he/she does not participate, the complaint is automatically deemed to have been dropped. GREVIO was told of practices in some cantons in which complaints had been dismissed in cases where victims had notified the authorities that they would not participate in conciliation,<sup>195</sup> and of participation being made compulsory for conciliation sessions organised by prefects in cases of domestic violence deemed to be of little gravity. GREVIO is concerned that unless such practices are carried out by professionals who are properly trained to detect domestic violence, this may lead to situations of re-privatisation of domestic violence and result in gender-based violence being downplayed.

212. Civil courts and APEAs may urge parents to go to mediation to agree on child arrangements, even though this is strongly discouraged in the context of domestic violence.<sup>196</sup> However, GREVIO was informed that in some cases, a lack of awareness of domestic violence issues at some APEAs meant that couples were urged to try mediation even when signs of domestic violence had been detected.<sup>197</sup> In this context, GREVIO notes with interest that a pilot project has been set up in the canton of Vaud to develop a tool to help professionals detect cases involving domestic violence and in which conciliation should therefore be ruled out. As this could prove to be a very useful tool, these efforts should be continued and rolled out in other cantons.

**213. GREVIO strongly encourages the Swiss authorities to ensure that all professionals who may be called on to carry out conciliation procedures receive training on violence against women, know how to identify and distinguish between domestic violence and conflict situations and are informed of the risks that victims may face during mediation. The Swiss authorities should also ensure that refusing to participate in conciliation procedure does not jeopardise the victim's rights and interests and does not lead to the dismissal of the complaint.**

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<sup>193</sup> Law of 14 December 2018.

<sup>194</sup> Article 316 of the Criminal Code.

<sup>195</sup> See written contribution of the Istanbul Convention Network, page 83.

<sup>196</sup> See Federal Council report in response to CAJ-CN 15.3003 postulate, "Alternating custody – clarification of the legal rules and possible solutions", 2017, pp. 10-11.

<sup>197</sup> Information provided during GREVIO's visit.

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

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

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

215. As police operating protocols are specific to each canton, GREVIO has not been able to establish a wider picture of practices throughout Switzerland. It notes that domestic violence accounted for 40% of police-recorded violence between 2018 and 2020, with over 20 000 offences recorded in 2020. There is no data available at national level on the number of law enforcement operations in connection with violence against women on which to base a quantitative analysis of police call-outs, however. Although several cantons collect this type of information, the lack of common indicators makes it impossible to compare the data. According to the information GREVIO has received, most reports are made after the police have been called out to the home and a smaller number of cases are dealt with following a report by a specialist service or a complaint by the victim.<sup>198</sup> GREVIO is pleased to note that some cantons have specialised police units for domestic and sexual violence and that victims of this type of violence may be interviewed by a female officer in facilities set aside for the purpose. Some cantons<sup>199</sup> have also devised standardised protocols for interviewing victims of domestic and sexual violence. There is, however, no instrument that is applied countrywide.

216. In sexual violence cases, evidence is collected at one of the forensic medical centres located in several hospitals, on the basis of a complaint filed by the victim. GREVIO was told that the requirement for victims to lodge a complaint before evidence is collected and stored puts an additional burden on them, giving them insufficient time to think about how to respond to the abuse.<sup>200</sup> Only a few specialised hospital centres collect and keep evidence even when no complaint has been lodged by the victim. GREVIO refers to its comments in Chapter IV.<sup>201</sup> NGO representatives pointed to a lack of awareness raising and training for police officers on sexual violence and support for victims of this type of violence, although some training courses are starting to be set up.<sup>202</sup>

217. Most cantonal police forces have the power to implement eviction and occupation orders for periods of between 10 and 30 days.<sup>203</sup> GREVIO welcomes the fact that cantonal authorities use such measures widely and implement them quickly. Cantonal police laws also enable perpetrators to be taken into custody when they are thought to represent a danger. Since 2022, victims of violence can request, in the context of barring or occupation orders issued under Article 28b of the Civil Code, that the perpetrator be fitted with an electronic bracelet.<sup>204</sup> While welcoming this development, GREVIO notes that this device seems for the time being to be intended for the purpose of analysing

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<sup>198</sup> *Idem*.

<sup>199</sup> Like Lucerne, for example.

<sup>200</sup> Information provided during GREVIO's visit.

<sup>201</sup> See comments on this issue in paragraph 130.

<sup>202</sup> Information provided during GREVIO's visit.

<sup>203</sup> See comments on Articles 52 and 53 (emergency barring orders and restraining or protection orders), paragraphs 233-237.

<sup>204</sup> Federal Law on Improved protection for victims of violence of 14 December 2018.

the behaviour of defendants a posteriori, rather than as a preventive tool to warn victims of a threat to their safety.

218. GREVIO is concerned that women who face or are exposed to intersectional forms of discrimination may encounter more difficulties in seeking protection from law enforcement agencies, owing to a lack of staff awareness and training.<sup>205</sup> For example, women with disabilities may find it harder to make themselves understood and get a suitable response owing to the difficulties which some people with certain types of mental disabilities have in communicating or to ingrained preconceptions that may result in reports of sexual violence by such people not always being taken seriously. Women and girls at risk of forced marriage or female genital mutilation may also find it difficult to have a complaint heard. At the same time, law enforcement agencies do not always take complaints about digital violence, including online stalking, seriously enough, and often lack the technical expertise to investigate such violence.<sup>206</sup> Lastly, GREVIO was informed of cases of inappropriate treatment of women in prostitution reporting violence committed against them, particularly when their presence in the country is illegal, which may deter them from going to the police when such violence occurs.<sup>207</sup>

219. Lastly, GREVIO is concerned about reports<sup>208</sup> that it is difficult to lodge complaints about psychological violence as the level of seriousness that must be reached is high, often going as far as death threats. GREVIO points out that psychological violence, including threats and economic violence, often escalates into actual physical violence. It is therefore a sign of the lethal risk which comes with intimate partner violence and, in general, of control and coercion being exercised in a relationship. This is why it is vital to deal with psychological violence at an early stage. GREVIO believes that amending the legislation on stalking could help ensure that police officers are better equipped to respond to such cases.<sup>209</sup>

**220. GREVIO strongly encourages the Swiss authorities to provide the relevant law enforcement agencies with the necessary resources and means, including standardised protocols that specify their duties, in order to respond promptly and appropriately to all forms of violence covered by the Istanbul Convention, making sure priority is given to an approach based on the victim's needs and rights. This specifically includes raising awareness among law enforcement agencies of:**

- a. digital forms of violence against women, which they should be given the means to respond to and investigate;**
- b. the forms of intersectional discrimination faced by some women, such as migrant women, LGBTI women and women with disabilities, so that they are better able to respond appropriately to their needs; for this purpose they should also be given the tools they need to communicate effectively with women victims of violence with disabilities;**
- c. the need to investigate acts of psychological violence.**

## **2. Effective investigation and prosecution; conviction rates**

221. GREVIO regrets the lack of data on criminal procedure, which makes it particularly difficult to assess the criminal justice response to all forms of violence against women covered by the convention, including domestic violence. In this respect, the information provided shows, however, that a substantial number of cases of domestic violence are prosecuted using summary penalty orders,<sup>210</sup> which may be issued in cases where the facts have been established or the accused has acknowledged the facts or the public prosecutor considers it appropriate to apply one of the penalties

<sup>205</sup> Information provided during GREVIO's visit. See also report by Istanbul Convention Network, pp. 86-7.

<sup>206</sup> Information provided during GREVIO's visit.

<sup>207</sup> Idem. See also written contribution of the Istanbul Convention Network, page 335.

<sup>208</sup> Ibid.

<sup>209</sup> See comments in the part of the report concerning Chapter V, paragraphs 177-180.

<sup>210</sup> Article 352 of the Code of Criminal Procedure.

under Article 352 of the Code of Criminal Procedure, i.e. a fine, a monetary penalty of no more than 180 daily penalty units or a custodial sentence of no more than six months.

222. These orders, issued by the public prosecutor, appear frequently to relate to offences such as coercion, threatening behaviour or repeated acts of aggression in cases of domestic violence or stalking.<sup>211</sup> Summary penalty orders are issued and become final judgments after 10 days, unless the accused, other affected persons (including the victim) or the Office of the Attorney General of Switzerland or of the canton file an objection.<sup>212</sup> They generally entail fines, although custodial sentences may be imposed. Victims may object to summary penalty orders in writing within 10 days in cases where they wish to pursue civil claims, although GREVIO was informed that this is difficult to do in practice given the very short time limits. Any civil claims must be referred to a civil court. The parties are not necessarily heard, although GREVIO was informed that practices differ from canton to canton.

223. GREVIO understands that this procedure is intended to streamline proceedings and allow justice to be done quickly. In the absence of statistical data and impact assessments on the use of summary penalty orders in cases of violence against women, GREVIO considers, however, that it is hard to ascertain whether this procedure is adapted to ensuring domestic violence offences are duly prosecuted and victims' rights are afforded effective protection. On the one hand, GREVIO believes that the swiftness of the procedure and the lack of any requirement to take part in a hearing may be beneficial for women victims of gender-based violence, who may be penalised still more by lengthy proceedings, during which they can be subject to secondary victimisation. On the other, GREVIO wonders whether victims' rights will always be upheld under this procedure. The fact that the decision is made quickly and by the prosecuting authority may undermine the process of establishing and classifying offences, which is not reviewed by the courts. Lastly, the use of summary penalty orders, which avoids bringing cases of domestic violence to court, could cause the criminal justice response to this form of violence that disproportionately affects women to go unnoticed.

224. In GREVIO's view, the use of summary penalty orders, and the suspensions of proceedings provided for in Article 55a of the Criminal Code and referred to above,<sup>213</sup> could conceal the true extent of violence against women and domestic violence, downplay the gravity of such violence and, as a result, send out mixed signals by suggesting that the offence of domestic violence does not warrant a criminal conviction, which is an idea that goes against the aims of the Istanbul Convention, in particular putting an end to impunity for violence against women. GREVIO believes that a thorough quantitative and qualitative assessment of these practices is required in order to deal with the questions they raise and to gauge whether these arrangements properly address the need for protection and access to justice of women victims of violence

225. Despite the lack of data on conviction and attrition rates, appropriateness of sentences and efficiency of judicial proceedings in cases of violence against women in general, information received from NGOs and specialised lawyers suggests a high rate of attrition, particularly in cases of sexual violence. Without the necessary statistics, GREVIO is not in a position to verify these claims. It regrets, however, that ingrained preconceptions and stereotypes about rape held by legal professionals may in some cases lead to the severity of the violence suffered being downplayed. It has, for example, noted with concern a case reported in the Swiss media in which a court held that a victim could not have been severely traumatised by the rape that she had endured because it had not lasted very long.<sup>214</sup> In the same case, it was also claimed that the rape had been caused by the victim's "provocative" behaviour – an argument that was used to justify the shorter sentence imposed.<sup>215</sup> GREVIO also notes that the presumption of consent, which seems to be applied in cases

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<sup>211</sup> Information provided during GREVIO's visit.

<sup>212</sup> Article 354 of the Code of Criminal Procedure.

<sup>213</sup> See comments on Article 55 (*Ex parte* and *ex officio* proceedings).

<sup>214</sup> Court of Appeal of the canton of Basel City, judgement of 30 July 2021, SB.2021.9 (AG.2021.589), recital 10.4.2.

<sup>215</sup> See for example RTS Infos, article of 8 August 2021, *La peine réduite d'un violeur à Bâle ravive le débat sur la définition du viol* ("Reduced sentence for rapist in Basel rekindles debate on the definition of rape"), [www.rts.ch/info/suisse/12403618-la-peine-reduite-dun-violeur-a-bale-ravive-le-debat-sur-la-definition-du-viol.html](http://www.rts.ch/info/suisse/12403618-la-peine-reduite-dun-violeur-a-bale-ravive-le-debat-sur-la-definition-du-viol.html).

where the perpetrator and victim know each other, often leads to offences being classified as acts of aggression and battery rather than sexual violence.<sup>216</sup> Lighter sentences are still sometimes applied in cases where rape is committed by an intimate partner.<sup>217</sup> Lastly, GREVIO also received reports of the misconception that victims of domestic violence must bear some responsibility for the violence they suffer if they do not separate quickly from their abuser.<sup>218</sup> GREVIO regrets that gender stereotypes, which have the effect of making women victims of gender-based violence feel guilty, may lead judges to downplay the seriousness of such violence and thereby contribute to a sense of impunity among perpetrators.

226. GREVIO trusts that progress in this area will be achieved by reviewing, inter alia, the current provisions in Swiss law on sexual violence. Legislative changes must, however, be supported by sustained efforts to challenge stereotyped mindsets and foster a truly gendered understanding of violence against women among all the stakeholders in the justice system.

**227. GREVIO urges the Swiss authorities to take additional measures:**

- a. to ensure that the handling of cases of violence against women by law enforcement agencies and the courts is firmly grounded in a gendered understanding of violence against women; and to ensure, including by means of training of the relevant professionals and legislative changes as necessary, that the perpetrators of all forms of violence covered by the Istanbul Convention are held accountable;**
- b. to collect comprehensive data on judicial proceedings as soon as possible and to analyse relevant case law so as to be able to assess the effectiveness of the criminal justice response to violence against women and to amend legislation and practice where necessary.**

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

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

229. There is no standardised risk assessment tool for all cantonal police forces in Switzerland. A number of cantons do have this kind of tool, which is sometimes specifically designed for cases of domestic violence.<sup>219</sup> Other cantons use threat assessment tools which are not specifically designed to detect gender-based violence<sup>220</sup> or carry out risk assessments through multi-agency co-operation mechanisms without pre-established criteria. The specific risk assessment tools brought to GREVIO's attention also appear to focus primarily on domestic violence.

230. While the cantons exchange information on their respective threat management systems, in particular through the CCDJP, GREVIO has been informed of a lack of co-operation and inter-cantonal co-ordination in the handling of cases spanning several cantons, which may sometimes jeopardise victims' safety.<sup>221</sup> The information received also suggests that communication between cantons on perpetrators posing a risk to the victim's safety is sometimes restricted due to data protection issues. GREVIO considers that standardised risk assessment criteria and procedures for

<sup>216</sup> See in particular University of Geneva, *Le traitement pénal des violences sexuelles à Genève, Une étude exploratoire* ("The Criminal Treatment of Sexual Violence in Geneva, an Exploratory Study"), Marylène Lieber, Cécile Greset and Stéphanie Perez-Rodrigo, 2019, IRS Working Papers No. 14.

<sup>217</sup> Information provided during GREVIO's visit.

<sup>218</sup> *Idem*.

<sup>219</sup> In Lucerne, for example.

<sup>220</sup> Such as the "Oktagon" system used in the cantons of Zurich and Bern.

<sup>221</sup> See, for example, written contribution of the Istanbul Convention Network, page 87.



all cantonal police forces are vital to ensure that all victims of violence can receive effective protection, regardless of their location.

231. In this respect, it wishes to point out that the European Court of Human Rights recently gave a judgment in the case of *Kurt v. Austria* [GC]<sup>222</sup> in which it clarified the obligations relating to risk assessment and management under Article 2 of the European Convention on Human Rights. In particular, the Court held that the authorities must respond immediately to allegations of domestic violence. They must establish “whether there exists a real and immediate risk to the life of one or more identified victims of domestic violence by carrying out an autonomous, proactive and comprehensive risk assessment. [...] [T]he reality and immediacy of the risk must be assessed taking due account of the particular context of domestic violence cases. If the outcome of the risk assessment is that there is a real and immediate risk to life, the authorities’ obligation to take preventive operational measures is triggered. Such measures must be adequate and proportionate to the level of the risk assessed [...]”<sup>223</sup> The Court found that once a risk has been established, rapid information sharing and co-ordination between stakeholders should be part of a comprehensive response to domestic violence, which if children are involved, includes informing child protection authorities, schools and other child care facilities.<sup>224</sup> GREVIO fully endorses these conclusions and stresses that proper risk assessment and management can save lives and should therefore be an integral part of the response of authorities to cases of violence covered by the Istanbul Convention.

232. GREVIO notes with satisfaction that some cantons<sup>225</sup> are carrying out retrospective reviews of domestic violence cases involving the killing of women and children. It also welcomes the detailed analysis commissioned by the FOGE on the circumstances of all murders between 2019 and 2024 with the aim of providing data to improve homicide prevention.

**233. GREVIO urges the Swiss authorities to take steps to ensure that a standardised and gender-sensitive risk assessment and safety management procedure is used systematically throughout the country in all cases of violence against women covered by the Istanbul Convention, including forced marriage, female genital mutilation, and sexual violence. GREVIO further urges the Swiss authorities to take the necessary measures to remove any obstacle to co-operation in cases of violence against women involving several cantons and, in this way, to reduce risks for the victims’ safety.**

**234. GREVIO also strongly encourages the Swiss authorities to pursue and expand measures aimed at retrospectively reviewing cases of gender-based killings of women and assess whether gaps in the institutional and/or judicial response contributed to the fatal outcome, with the aim of preventing them in the future and holding to account both the perpetrators and the many agencies that come into contact with the parties.**

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

235. Cantonal police forces are empowered to introduce emergency measures to ban the offending party from entering the victim’s dwelling, going to a specific area or making contact with the victim, in accordance with Article 28b of the Swiss Civil Code, which aims to protect victims from psychological, physical or sexual violence, threats and harassment. These measures may be taken quickly and apply for a period of 10 to 30 days depending on the canton. The procedures used vary according to the cantonal legislation governing this type of measure; in some cases, decisions are taken by the cantonal police force alone, with public prosecutors stepping in to check the appropriateness of measures to bar offending parties as opposed to remanding them in custody; in

<sup>222</sup> *Kurt v. Austria* [GC], no. 62903/15, §§ 167-176, 15 June 2021.

<sup>223</sup> §190.

<sup>224</sup> §180.

<sup>225</sup> Like the canton of Vaud, for example: [www.vd.ch/themes/etat-droit-finances/egalite-entre-les-femmes-et-les-hommes/lutte-et-prevention-de-la-violence-dans-le-couple/observatoire-de-la-violence-domestique](http://www.vd.ch/themes/etat-droit-finances/egalite-entre-les-femmes-et-les-hommes/lutte-et-prevention-de-la-violence-dans-le-couple/observatoire-de-la-violence-domestique).

other cases, emergency barring measures must be confirmed by a court within 24 hours.<sup>226</sup> GREVIO welcomes the fact that the latter are generally implemented quickly, according to the information at its disposal.<sup>227</sup> It is also pleased to note that their use has increased significantly in recent years, particularly in cantons that have adopted a law or strategy to tackle domestic violence,<sup>228</sup> and that some cantons have run campaigns to raise public awareness of such measures.<sup>229</sup>

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

236. Victims may seek an extension of law enforcement measures by applying to a civil court, which can issue occupation orders prohibiting the offending party from entering both the home and the surrounding area, making contact with the victim or going to certain locations. The orders may be issued separately or in combination, even in the absence of concomitant criminal proceedings. This procedure is open to victims regardless of their relationship with the perpetrator and therefore includes violence committed outside the domestic sphere. However, GREVIO is unable to determine to what extent protection orders are used to tackle forms of violence against women covered by the Istanbul Convention other than domestic violence and stalking. Courts may, in emergency situations, order interim or *ex parte* interim measures at the victim's request, which may be issued, and renewed, for a period set by the judge. GREVIO notes with satisfaction that access to such measures has been made easier, in particular by the 2020 Law on improved protection for victims of violence, which removed procedural costs for bringing civil proceedings under Article 28b for victims of violence, threats or harassment.<sup>230</sup>

237. GREVIO notes with concern, however, that bans on making contact with the victim's children are not necessarily renewed for children in cases where they are considered to be witnesses to, and not victims of, the violence, and this may put their safety and that of their mother seriously at risk. It was also informed of difficulties in cases where the perpetrator and the victim live in different cantons, as the way in which protection orders are implemented varies from canton to canton.<sup>231</sup> GREVIO considers that harmonising practices at federal level could help to reduce the difficulties faced when cases span more than one canton and make the system easier for victims to understand.

238. Furthermore, while data on the use of these measures at cantonal level can be found, there is no way of knowing the overall number of orders applied for and issued in Switzerland as a whole or of finding any information on how they are implemented. GREVIO was informed of shortcomings in this respect.<sup>232</sup> While financial penalties are provided for in the event of non-compliance<sup>233</sup> and public prosecutors may impose pre-trial detention, it appears that the fines are not dissuasive enough and compliance is not systematically monitored. The introduction of electronic monitoring in 2023 may help to address these shortcomings, provided that it is designed as a tool to protect victims.

239. GREVIO notes that the implementation of protection orders is particularly challenging in cases where the victims are women with disabilities or elderly women, who, whether living in residential institutions or at home, are often dependent on the perpetrator. This makes it crucial to offer swift and appropriate alternative solutions including access to specialised support staff.

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<sup>226</sup> This is the case in the canton of Vaud, for example.

<sup>227</sup> Information provided during GREVIO's visit.

<sup>228</sup> *Idem*.

<sup>229</sup> See for example the *Qui frappe part!* [You hit, you leave!] campaign in the canton of Vaud, [www.vd.ch/themes/etat-droit-finances/egalite-entre-les-femmes-et-les-hommes/lutte-et-prevention-de-la-violence-dans-le-couple/actualite/news/6567i-qui-frappe-part/](http://www.vd.ch/themes/etat-droit-finances/egalite-entre-les-femmes-et-les-hommes/lutte-et-prevention-de-la-violence-dans-le-couple/actualite/news/6567i-qui-frappe-part/).

<sup>230</sup> As with the previously compulsory conciliation procedure, see comments in the part of the report concerning Chapter V, paragraph 208.

<sup>231</sup> See, for example, written contribution of the Istanbul Convention Network, pp. 87-88.

<sup>232</sup> Under Article 292 of the Criminal Code.

<sup>233</sup> In the region of CHF 200 to 300, according to information provided during GREVIO's visit.

240. **GREVIO strongly encourages the Swiss authorities:**

- a. **to persist in their efforts to increase the use of restraining and protection orders by encouraging regulations and practices harmonised at national level and by ensuring effective and systematic monitoring of compliance with such orders, including through the application of electronic monitoring once it is available;**
- b. **to assess the level of implementation of existing mechanisms by collecting relevant data, including data on the annual number of such orders requested and granted, the number of breaches of such orders, the number and type of sanctions imposed as a result of such breaches and on the number of pre-trial detention ordered;**
- c. **to ensure that they are available for all forms of violence against women covered by the Istanbul Convention;**
- d. **to take measures to ensure that, in practice, protection orders protect women who are dependent on the perpetrator.**

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

**1. *Ex parte* and *ex officio* proceedings**

241. 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.

242. Switzerland reserves the right not to apply Article 55, paragraph 1, of the convention regarding minor offences (Article 35 of the convention) and thereby be exempted from the obligation to investigate and prosecute *ex officio* minor acts of physical violence. This reservation, entered on ratification in 2018, runs until 1 April 2023. GREVIO's assessment of the implementation of Article 55, paragraph 1, therefore focuses on the *ex officio* prosecution of non-moderate forms of physical violence.

243. The offences referred to in Articles 36, 37, 38 and 39 of the Istanbul Convention are all prosecuted *ex officio* in Switzerland. The offences of threatening behaviour, acts of aggression and common assault are prosecuted on complaint except when committed in the context of a married or unmarried couple living together and up to one year after divorce or separation, or when the victim is a child or a person unable to defend himself or herself.

244. The Swiss authorities also stated<sup>234</sup> that the reservation to Article 55, paragraph 1, applies to the procedure for suspending proceedings, for a period of six months and at the request of the victim, provided for in Article 55a of the Criminal Code for offences of common assault, repeated acts of aggression, threatening behaviour and coercion. GREVIO points out that the possibility of entering a reservation under Article 55, paragraph 1, is restricted to minor acts of physical violence and may not therefore be extended to the repeated acts of aggression, threatening behaviour and coercion referred to in Article 55a of the Criminal Code. These offences, which are generally constituent elements of domestic violence, are prosecuted *ex officio* under Swiss law when they are committed in the context of a couple living together. Accordingly, GREVIO would like to make a number of observations concerning the procedure under Article 55a of the Criminal Code.

245. Since the Federal Law on improved protection for victims of violence entered into force in 2020, the onus is no longer on the victim alone to request a resumption of proceedings after the six-month suspension, but also on the prosecuting authority, based on an assessment of the situation. GREVIO considers that the amended law meets the requirement of Article 55, paragraph 1, to

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<sup>234</sup> Federal Council, message concerning the approval of the Council of Europe Convention on preventing and combating violence against women and domestic violence, *ibid*, 2016, page 233.

ensure that investigations and prosecutions are not wholly dependent on a report or complaint filed by the victim. GREVIO therefore considers that Article 55a as amended is in keeping with the spirit of Article 55, paragraph 1, of the convention.

246. GREVIO also notes with serious concern that the above-mentioned federal law added another condition for a suspension to be justified, namely that it would be able to “stabilise or improve the victim’s situation”.<sup>235</sup> It questions the appropriateness of using this concept in the context of domestic violence, which is characterised by cycles of violence of varying intensity and unequal power relations; it points out that, pursuant to the Istanbul Convention, measures to combat domestic violence should aim above all to afford effective protection for victims of violence rather than for the couple’s relationship.

247. GREVIO is particularly concerned about the impact of applying this procedure on women victims of domestic violence and whether it is to their advantage. In its view, the suspensions will contribute to victims’ safety if they help to encourage more perpetrators to follow training programmes and hold them accountable for their acts.<sup>236</sup> While noting the progress reported to it in this regard since the legislative amendments came into force in 2020, GREVIO considers that the limited duration of the suspension is not necessarily conducive to a proper assessment of whether the perpetrator has had the profound and lasting change of attitude needed to ensure the victim’s safety in the long term. It also believes that it is vital for women victims to have access to support and counselling during the suspension period and for the teams providing those services to be able to contribute to the prosecuting authorities’ assessment at the end of the six-month period, as is the case with organisations dealing with perpetrators of violence, which are required to submit an opinion. Moreover, GREVIO does not have a clear picture for all the cantons, of the criteria that prosecutors and judges use to assess whether criminal proceedings should be resumed. It understands that this decision is made without any requirement for the victim to be heard. This raises concerns about the potential impact on victim protection of decisions which may have been taken on the basis of a rapid case assessment and hence without due regard for all the specific elements and factors involved in situations of domestic violence.

248. Lastly, in the absence of any data and assessments on the use of suspensions in practice, GREVIO considers that being able to suspend judicial proceedings after a complaint has been investigated may run counter to measures taken elsewhere to increase reporting rates, enhance the effectiveness of investigations and improve the efficiency of judicial proceedings overall. Unless proceedings resume, complaints are deemed to be withdrawn and prosecutions are terminated, which may diminish the benefits of prosecuting certain offences *ex officio*, in particular domestic violence. GREVIO is therefore concerned that the practice of suspension may conceal the true extent of domestic violence. It considers that a thorough assessment of the situation should be made in order to answer the many questions raised.<sup>237</sup>

**249. GREVIO strongly encourages the Swiss authorities to carry out a detailed and independent assessment of the implementation of the procedure for suspending proceedings provided for in Article 55a of the Criminal Code, including from the perspective of the victim, in order to address the issues identified and to ensure that the provision, and the related practice, are conducive to protecting the rights of women victims of gender-based violence.**

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<sup>235</sup> The law provides for consideration of the following elements in determining the appropriateness of a suspension: a request by the person reporting the offence; the reasons they give for doing so; the perpetrator’s confession; their participation in a violence prevention programme or any other efforts made to change their behaviour; agreement between the victim and the perpetrator; an assessment of the risk of further assault; any children involved; and the seriousness of the acts.

<sup>236</sup> See comments in the part of the report concerning Chapter III, paragraph 100.

<sup>237</sup> See comments on Article 50 (Immediate response, prevention and protection).

## 2. Victim support in legal proceedings

250. 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 victims' organisations, specifically trained domestic violence counsellors or other types of support/advocacy services may assist and support victims during investigations and judicial proceedings.

251. Under the Code of Criminal Procedure, victims may be accompanied by a trusted person.<sup>238</sup> In practice, these persons may be provided by LAVI centres or other specialist services. While GREVIO welcomes the significant role that LAVI centres play in advising and supporting victims during legal proceedings, it is concerned about reports that some of them lack the necessary resources, particularly in terms of legal advisers, restricting their ability to provide support throughout the legal process.<sup>239</sup> In addition, victims of violence committed abroad are not eligible for LAVI support.

**252. GREVIO encourages the Swiss authorities to take the necessary measures to ensure that LAVI centres throughout the country are allocated the necessary financial and human resources to provide appropriate assistance and support to victims of violence against women during legal proceedings.**

### F. Measures of protection (Article 56)

253. Under the Swiss Criminal Code, victims may request to be informed of any interruption to the perpetrator's sentence, their release on parole, final release or escape. However, the authorities must inform the perpetrator of any such request and may deny it if this is in the perpetrator's overriding interest.<sup>240</sup> During its visit, GREVIO was alarmed to learn that this requirement to notify perpetrators and inform them of such requests means that they may also find out the victim's address.<sup>241</sup> GREVIO is concerned that this notification procedure poses significant risks to the victim's safety once the perpetrator is released.

254. The law also provides for various ways of limiting, or even avoiding, contact between victims and perpetrators of violence during legal proceedings. Specific provisions are made to protect victims of sexual violence in particular, including by providing that victims may be heard by a person of the same sex, have access to an interpreter of the same sex and refuse to be brought face-to-face with their perpetrators.<sup>242</sup> Although it does not have an overview of practice in this area, GREVIO understands that a variety of protective measures are used in different cantons, ranging from video conferencing tools to avoid bringing victim and perpetrator face-to-face<sup>243</sup> to efforts to minimise the number of times children are heard. It was informed, however, that in several cantons the right of children to be heard by specially trained staff was not satisfactorily implemented. It was also told that the practice of bringing victims and perpetrators face-to-face, which may be traumatic and endanger the victim's safety, was still in use.<sup>244</sup>

**255. GREVIO encourages the Swiss authorities to ensure full implementation of the available legal measures to protect the rights and interests of victims during all stages of investigations and judicial proceedings and to ensure that women victims of all forms of violence covered by the Istanbul Convention and children exposed to violence are effectively protected against the risks of retaliation, intimidation or secondary victimisation, including those arising from the practice of face-to-face meetings and those arising from the procedure**

<sup>238</sup> Article 152 of the Code of Criminal Procedure.

<sup>239</sup> See written contribution of the Istanbul Convention Network, pp. 90-91.

<sup>240</sup> Article 92a of the Criminal Code.

<sup>241</sup> Information provided by representatives of the authorities during GREVIO's visit.

<sup>242</sup> Article 153, paragraph 1, of the Code of Criminal Procedure.

<sup>243</sup> This is the case in Zurich and Bern, for example.

<sup>244</sup> See written contribution of the Istanbul Convention Network, pp. 90-91. Information provided during GREVIO's visit.

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**of notification of the perpetrator in case of request by the victim of information on changes to the sentence imposed.**

**G. Legal aid (Article 57)**

256. In criminal proceedings, women victims of gender-based violence may access free legal advice only if they do not have sufficient income and if they make civil claims which are likely to be successful. Similar conditions apply to obtaining legal aid in civil proceedings, including measures taken under Article 28b of the Civil Code. According to NGOs and lawyers specialising in assisting women victims of violence, accessing legal aid is harder in criminal proceedings.<sup>245</sup> In this connection, GREVIO is pleased to note that if victims fail to obtain legal aid in criminal proceedings, they may be granted access to legal assistance under the LAVI Act, although it is not necessarily provided in all cases and is limited to criminal offences covered by the Act.

**257. GREVIO encourages the Swiss authorities to ensure that the conditions for entitlement to legal aid, in particular during criminal proceedings, do not place unreasonable obstacles in the way of accessing free legal aid for women victims of gender-based violence who are unable to pay for the services of a lawyer.**

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<sup>245</sup> Information provided during GREVIO's visit.

## VII. Migration and asylum

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

### A. Residence status (Article 59)

259. Pursuant to Article 78, paragraph 2, of the convention, Switzerland reserves the right not to apply or to apply only in specific cases or conditions the provisions laid down in Article 59. This reservation was entered on ratification in 2018 and runs until 1 April 2023. GREVIO notes that the reservation to Article 59 relates, on the one hand, to paragraph 1 in the case of spouses of foreigners with short-term residence permits issued under the 2007 Order on admission, residency and gainful employment and, on the other hand, to Article 59, paragraph 4. GREVIO's assessment of the implementation of Article 59 will therefore focus on paragraph 1 when applied to spouses of Swiss nationals or foreigners with long-term residence permits, and on paragraphs 2 and 3.

260. GREVIO welcomes the provision added to the Foreign Nationals and Integration Act (LEI) in 2008 granting a right to a residence permit, or its extension, in "cases of hardship", which include domestic violence, forced marriage and situations where social reintegration in the country of origin appears to be seriously jeopardised.<sup>246</sup> It enables the spouses of Swiss nationals or of long-term residence permit holders (C permit) who are victims of domestic violence or forced marriage to apply for a one-year autonomous residence permit, which may be renewed, granting them the right to work. GREVIO notes that in the period between 2016 and 2021, 932 residence permits were awarded on this basis, an increase over the previous period.<sup>247</sup> It notes, however, that this figure refers only to decisions made by the State Secretariat for Migration (SEM), which rules on residence permits in the second instance, upholding or rejecting decisions made in the first instance by cantonal migration authorities. The lack of public data on the total number of applications received, accepted and rejected in all cantons, broken down according to the grounds on which they were made, makes it hard to assess the situation and establish whether this provision is effective in protecting migrant women victims of violence.

261. Civil society representatives alerted GREVIO to certain factors restricting access to an autonomous residence permit in cases of domestic violence.<sup>248</sup> Firstly, it was pointed out that the requirement under Federal Supreme Court case law that violence should reach a certain level of intensity and that the victim should be able to demonstrate the perpetrator's desire to "assert his superiority and exercise control over her" is not consistently applied by all the authorities responsible for examining applications. While noting that the SEM regularly issues circulars to cantonal authorities on applying Article 50 of the LEI and instructions for examining cases at cantonal level, it points out that considerable disparities have been reported, particularly in the level of proof required from victims of domestic violence, with some cantons placing too much value on judicial evidence such as court decisions, protection orders or restraining orders, and not enough on information provided by healthcare services, LAVI centres and services specialising in dealing with domestic violence. In addition, psychological violence is often not considered to meet the requirement of

<sup>246</sup> Article 50 LEI.

<sup>247</sup> Data provided by the State Secretariat for Migration. See also the Federal Council report in response to the Feri 15.3408 postulate of 5 May 2015, Practice in the right of residence of foreign victims of domestic violence, April 2018, p. 11-12.

<sup>248</sup> Information provided during GREVIO's visit.

sufficient intensity. GREVIO was also informed that the authorities sometimes consider reports of violence in isolation, without taking into account the fact that domestic violence is often cyclical and involves forms of violence of varying intensity. This may be compounded by the fact that not all cantons conduct hearings of the parties when examining applications.

262. GREVIO also takes note of reports from operatives on the ground that staff examining applications generally lack specific training on issues of violence against women and domestic violence and sometimes wrongly suspect victims of committing abuse or fraud. This may result in failure to give due consideration to allegations of violence made by women applying for an autonomous residence permit in “cases of hardship” and in secondary victimisation during the procedure for applying for or renewing residence permits.<sup>249</sup> In addition, NGOs told GREVIO that disparities and shortcomings in the examination of applications mean that appeals are frequently lodged with the federal courts, making the residence permit application procedure long for victims of domestic violence. GREVIO notes that the length of this procedure may hinder the recovery of victims of violence and their integration in Switzerland, despite the fact that integration is a major consideration in resident permit renewal decisions after one year. While noting that it has been acknowledged that victims of domestic violence cannot be blamed for a lack of integration when applying to renew their residence permits,<sup>250</sup> GREVIO believes that they should be given enough time to rebuild their lives and become independent and that it is essential not to make excessive demands in terms of integration and financial self-sufficiency. The same applies to cantonal authorities’ consideration of applicants’ use of social welfare when deciding whether to renew their residence permits.<sup>251</sup>

263. Lastly, GREVIO notes a general lack of information for migrant women on ways to obtain an autonomous residence permit in the event of domestic violence or forced marriage. While taking note of the specific measures to better inform migrant women adopted by some cantons, such as Vaud, it considers that greater efforts should be made to ensure that all migrant women who qualify for a residence permit which is independent of that of their spouse because of gender-based violence are duly informed of how to obtain one so that they can escape violence.

264. With regard to the requirements of Article 59, paragraphs 2 and 3, the authorities have informed GREVIO that the execution of an expulsion procedure may be suspended on humanitarian grounds, including in cases of domestic violence, under the conditions set out in Article 50 of the LEI referred to in the preceding paragraphs. Women victims of violence may also apply for a residence permit on humanitarian grounds in order to “safeguard major public interests”, which according to the authorities includes participating in legal proceedings brought against perpetrators. GREVIO notes, however, that according to NGO representatives, women victims of violence who have to testify in proceedings are often not granted residence permits to do so, unless they are also victims of trafficking in human beings.<sup>252</sup> GREVIO also notes the lack of data on situations covered by Article 59, paragraphs 2 and 3.

265. **GREVIO urges the Swiss authorities to:**

- a. **step up their efforts to provide an escape route from abusive relationships for migrant women victims whose residence status depends on that of their spouse, by granting them access to an autonomous residence permit. In order to do so, they should optimise the processing of residence permit applications for "cases of hardship" throughout the country by issuing guidelines on how to interpret the legislation in force and by ensuring that professionals handling such cases at the various administrative levels are more aware of violence against women and better trained to deal with it;**

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<sup>249</sup> Idem.

<sup>250</sup> Federal Council report, 2018, *ibid*, page 16.

<sup>251</sup> See comments in the part of the report concerning Chapter IV, paragraph 126.

<sup>252</sup> Information provided during GREVIO’s visit.



- b. take measures to better inform migrant women of the means of obtaining an autonomous residence permit in cases of violence.**

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

266. Switzerland has been a destination country for asylum seekers for many years. Like other European states, the country recorded a substantial increase in the number of asylum applications in 2015 and 2016 (with 38 523 and 27 207 applications respectively).<sup>253</sup> In 2021, 14 928 asylum applications were filed, 35% more than in 2020, when the number of applications dropped as a result of the Covid-19 pandemic. A significant proportion (32%) of these applications were made by women. The main countries of origin of asylum seekers in 2021 were Afghanistan, Turkey, Eritrea and Syria.

### **1. Gender-sensitive asylum determination procedure**

267. GREVIO welcomes Switzerland's recognition of the relevance of gender as a ground for persecution that may lead to recognition of refugee status. It also notes SEM's recognition that belonging to any of the following seven gender-related social groups carries a particular risk of persecution: victims of female genital mutilation, domestic violence, forced marriages, gender-discriminatory legislation, forced abortion and forced sterilisation, or "honour" crimes, or persons who are victimised on the grounds of sexual orientation or gender identity. The SEM has also been instructed to investigate asylum applications using a gender-sensitive approach.<sup>254</sup> In case of indications of gender-based persecution, interviewers and interpreter have to be women; some SEM staff are specialists in sexual violence issues. GREVIO notes the data provided in the state report on the number of women granted refugee status on one of the gender-related grounds (230 in 2019 and 315 in 2020),<sup>255</sup> but also points out that it has no detailed information disaggregated by asylum grounds.

268. GREVIO was informed, however, that there were significant shortcomings in addressing gender-based violence against women during the asylum procedure. It regrets in particular, that there is no procedure for vulnerability screening and early detection of women victims of gender-based violence, which reduces the chances of providing an adequate and timely response to support and protect the women concerned. The onus is therefore entirely on female asylum seekers to base their claim on gender-based violence during the procedure. Although SEM staff receive in-house training on the issue of violence against women, NGOs and lawyers working in the field of asylum also told GREVIO that staff examining applications still lacked awareness and understanding of gender-based violence issues, and this sometimes leads to secondary victimisation and failure to pay due attention to allegations of gender-based violence.<sup>256</sup> The SEM's cursory assessment of the credibility of claims made during the asylum procedure may also result in gender-based violence being downplayed when women give hesitant and conflicting accounts or only bring up the violence late on in the proceedings, as is typical of victims of gender-based violence suffering from post-traumatic stress.<sup>257</sup>

269. Lastly, an accelerated examination procedure for asylum applications introduced in 2019 has, GREVIO was told, had varying effects on the protection offered to women victims of gender-based violence. While it ensures rapid access to refugee status in cases where gender-based violence is easy to prove, in more complex cases, the procedural time limit (140 days) does not always allow for due consideration of the circumstances. GREVIO believes that in fast-track procedures, staff examining applications must be properly trained and equipped to detect and give

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<sup>253</sup> The data cited in this paragraph are from the 2021 statistics on asylum compiled by SEM, 15 February 2022, [www.sem.admin.ch/sem/fr/home/publiservice/statistik/asylstatistik/archiv/2021.html](http://www.sem.admin.ch/sem/fr/home/publiservice/statistik/asylstatistik/archiv/2021.html).

<sup>254</sup> See State Secretariat for Migration, Handbook on asylum and returns.

<sup>255</sup> See page 97 of the state report.

<sup>256</sup> Information provided during GREVIO's visit.

<sup>257</sup> See AIDA (Asylum Information Database) report on Switzerland, 14 May 2021.

full consideration to gender-based violence. This is equally true for the legal advisors and lawyers to whom applicants have free access during the accelerated procedure thanks to the changes introduced in 2019. While welcoming the availability of legal support during the procedure, GREVIO considers that those involved should receive specialised training on gender-based violence against women and on the forms of violence that female asylum seekers may face in their country of origin and transit countries, so that they can detect signs of violence and provide appropriate support to women seeking to base their asylum application on claims of violence.

270. Several NGOs expressed their particular concerns to GREVIO regarding the treatment of allegations of violence made by women from “safe” countries of origin, particularly with regard to domestic violence and so-called honour crimes. According to NGOs, allegations of violence made by women from a number of these countries are often rejected on the ground that their safe country of origin is able to protect the victim of the alleged violence, in some cases on the basis of its ratification of the Istanbul Convention, without this ability being specifically proven in the victim’s case or any reference being made to GREVIO’s evaluation reports.<sup>258</sup> This situation, combined with the above-mentioned shortcomings in screening for individual vulnerabilities and in early detection of cases of gender-based violence, may lead to a failure to properly address allegations of violence against women from safe third countries and to expulsions or returns in breach of the non-refoulement requirement in Article 61 of the convention.

271. With regard to female genital mutilation, GREVIO notes that asylum may be granted in cases where there is an imminent risk of mutilation, but not when mutilation has already taken place. Furthermore, as mentioned in paragraph 240 above, the onus is on asylum seekers to assert that there is a risk of female genital mutilation. In order to do so, it is essential that they are made aware that they can make this claim during the application procedure, particularly if they are young girls. Unfortunately, this is not always the case because no information is provided for applicants and no awareness raising about this form of violence is offered to their legal representatives. As to the risks of re-infibulation in case of return to the country of origin, the examination of a claim grounded on fear of re-infibulation follows the same approach as the one taken for cases of female genital mutilation. However, the caselaw is not consistent and varies depending on the reasons on the basis of which the applicant underwent de-infibulation<sup>259</sup> Lastly, GREVIO was alerted to the difficulties for girls at risk of genital mutilation whose parents are refugees in Switzerland to gain access to a humanitarian visa or to qualify for family reunification in order to be protected from this danger.

**272. GREVIO strongly encourages the Swiss authorities to ensure that asylum-seeking women and girls receive the best possible support during the asylum procedure so that they have the opportunity to disclose all the grounds on which they are applying for international protection. In particular, the Swiss authorities should take steps to improve their ability to detect cases of violence against women and to assess whether countries of origin are able to provide effective protection. In this respect, reference could be made to the evaluation reports published by GREVIO.**

## **2. Accommodation**

273. Since the asylum procedure reform of 2019, asylum seekers have been accommodated in federal asylum centres throughout the country. They may make their application for asylum directly in any one of the six federal centres with processing facilities. Those who have been denied the right to asylum and whose application is subject to the Dublin procedure are housed in federal centres without processing facilities. Transfers to cantonal accommodation centres or to private accommodation provided by the cantons take place when asylum seekers are granted refugee status

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<sup>258</sup> Information provided during GREVIO’s visit. See also the Swiss Refugee Council, Compliance with the Istanbul Convention: GREVIO reports and their use in asylum proceedings concerning cases of gender-based violence, February 2021.

<sup>259</sup> See written contribution of the Istanbul Convention Network, pp. 289-290.

or temporary protection or when the examination of their application goes over the 140-day time limit for the accelerated procedure.

274. Measures have been taken in federal centres to make the accommodation arrangements more suited to the particular needs of women and children. In some centres, there are separate dormitories, toilets and showers, and specific activities are conducted in rooms reserved exclusively for women. In some centres, whole floors or other parts of the building are reserved for families.<sup>260</sup>

275. GREVIO regrets, however, that despite recent improvements, there is no gender-sensitive accommodation policy for all Swiss reception facilities to identify and protect women victims of gender-based violence. Most of the NGO representatives interviewed by GREVIO pointed out that there are still major shortcomings in the detection and protection of victims of gender-based violence in accommodation centres.<sup>261</sup> GREVIO notes that the authorities are also aware of these shortcomings as they have commissioned studies on the subject and recommendations for improving the situation were issued in 2019.<sup>262</sup> One of the issues identified is that some centres do not have toilets and showers that can be locked, or separate floors, wings or day-rooms for women, children or families. It has been repeatedly reported to GREVIO that women asylum seekers who have been victims of gender-based violence do not feel safe in such centres.<sup>263</sup> The NGOs and lawyers consulted by GREVIO also reported a lack of individual dwellings for severely traumatised persons.<sup>264</sup>

276. With regard to collective accommodation centres at cantonal level, GREVIO regrets that, despite a 2019 study,<sup>265</sup> it is difficult to gain an up-to-date picture of the situation in all cantons, particularly for centres located in isolated areas. It notes with interest the work of some specialist cantonal facilities such as the Vaud Migrant Assistance Centre (EVAM), which provides accommodation in collective centres, individual housing and needs-based support for refugees and asylum seekers, and the forthcoming opening of a shelter for women and families in the canton of Bern. Information provided to GREVIO, however, indicates wide disparities in accommodation conditions and in strategies to protect women from violence. It points to a failure to respond to women victims' specific needs, major shortcomings in training on gender-based violence for staff working in collective accommodation centres and a lack of practical tools to help detect cases of violence.<sup>266</sup> This is also the case for persons in accommodation centres awaiting return to their country of origin, who sometimes have to stay there for several years.<sup>267</sup> Regarding the care provided to victims of violence, GREVIO was told during its dialogue with the cantonal authorities of examples of co-operation with specialist services, in particular with shelters for women victims of violence. NGOs working on asylum issues informed GREVIO, however, that such co-operation varied from canton to canton.<sup>268</sup> GREVIO considers it vital to establish nationwide mechanisms for institutional co-

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<sup>260</sup> See [www.nkvf.admin.ch/nkvf/fr/home/publikationen/schwerpunktberichte/bundesasylzentren.html](http://www.nkvf.admin.ch/nkvf/fr/home/publikationen/schwerpunktberichte/bundesasylzentren.html) of the report of the Swiss National Commission for the Prevention of Torture on its visits to federal asylum centres (2019-2020), December 2020.

<sup>261</sup> Information provided during GREVIO's visit.

<sup>262</sup> SEM Report on the Federal Council report in response to Feri postulate 16.3407 of 9 June 2016: Analysis of the situation of asylum-seeking women and girls in federal asylum centres and cantonal collective accommodation centres, 18 October 2019. Moreover, the national action plan for the implementation of the Istanbul Convention includes measures to train the staff of federal reception centres on screening and supporting persons with special needs.

<sup>263</sup> Information provided during GREVIO's visit. See also written contribution of the Istanbul Convention Network, p. 98-99.

<sup>264</sup> Information provided during GREVIO's visit.

<sup>265</sup> See, for example, Swiss Centre of Expertise in Human Rights, Feri postulate 16.3407, [www.skmr.ch/frz/domaines/genre/publications/analyse\\_situation\\_femmes\\_asile.html?zur=107](http://www.skmr.ch/frz/domaines/genre/publications/analyse_situation_femmes_asile.html?zur=107) *der Situation von Flüchtlingsfrauen, Zur Situation in den Kantonen* (Analysis of the situation of refugee women – the situation in the cantons), March 2019.

<sup>266</sup> Information provided during GREVIO's visit. See also UNHCR/OSAR, the Swiss Refugee Council's summary of recommendations on the protection of women and girls seeking asylum following the Feri postulate, October 2021.

<sup>267</sup> Swiss National Commission for the Prevention of Torture, [www.nkvf.admin.ch/nkvf/fr/home/publikationen/mm.msg-id-87123.html](http://www.nkvf.admin.ch/nkvf/fr/home/publikationen/mm.msg-id-87123.html) of 10 February 2022: *La Commission est préoccupée par les conditions de vie des enfants et des jeunes dans les centres de retour* (The Commission is concerned about the living conditions of children and young people in return centres).

<sup>268</sup> Information provided during GREVIO's visit.

operation between accommodation centres and services specialising in action to combat violence against women.

277. GREVIO also regrets that there is no systematic mechanism to detect victims of gender-based violence in federal or cantonal accommodation centres. The healthcare that asylum seekers receive on arriving in the centres is no more than a general check-up, which in GREVIO's view does not create the right conditions for detecting cases of gender-based violence unless the women mention it themselves. NGOs also reported that women victims of violence lack access to specialist healthcare, as medical staff in some centres tend to be unduly selective in their referrals.<sup>269</sup> In addition, GREVIO notes with regret that women who have been victims of violence abroad, as is the case of many women fleeing to a host country, do not have access to the services offered by LAVI centres, and therefore their access to appropriate and specialised care is limited.<sup>270</sup>

278. Furthermore, several people GREVIO spoke to reported shortcomings in the training of accommodation centre staff members employed by external service providers.<sup>271</sup> GREVIO is concerned to note that staff generally do not receive specific training on gender-based violence and that high staff turnover limits the impact of any training courses that may be run. In addition, while providers are required to recruit both men and women, female staff members are not always available at night. The quality of interpretation provided by community interpreters, and interpreters' awareness of gender-based violence issues, could also be greatly improved. According to NGO representatives, women housed in centres are not generally given enough information about the specific remedies available to them in cases of gender-based violence or even told that they can lodge a complaint with the police.<sup>272</sup>

279. GREVIO notes with interest that the CDAS plans to produce a guide on the early detection of violence against women by cantonal reception facilities and that the SEM is drawing up a handbook for asylum seekers with specific requirements, including housing needs. It hopes that these projects will soon be completed and implemented in practice so that women and girls who are victims of violence are provided with appropriate care and protection in asylum centres.

280. **GREVIO strongly encourages the Swiss authorities:**

- a. **to adopt gender-sensitive guidelines to be issued to all reception facilities so as to improve the protection provided to women and girls seeking asylum and to introduce measures and tools for the early detection of women victims of gender-based violence;**
- b. **take measures to improve access to specialist support services for asylum seeking women and girls who are victims of violence and, where appropriate, to legal proceedings.**

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<sup>269</sup> See, in particular, written contribution of the Istanbul Convention Network, page 99.

<sup>270</sup> See also comments in the part of the report concerning Chapter IV, paragraph 122.

<sup>271</sup> Information provided during GREVIO's visit. See also UNHCR/OSAR, *ibid*, 2021.

<sup>272</sup> Information provided during GREVIO's visit.

## Concluding remarks

281. After the ratification of the Istanbul Convention in 2018, the Swiss authorities took swift action to involve the various stakeholders in its implementation, notably by drawing up a conceptual framework, a review of the situation in the cantons and a roadmap for the Confederation and cantons, followed by the adoption in June 2022 of a national action plan for the implementation of the Istanbul Convention. The authorities at federal level, and in particular, the FOGÉ, play a leading role. Other targeted measures have been taken at the federal level, in particular to increase funding for projects to combat violence against women.

282. Switzerland has revised its legislation, both before and after ratification, to ensure better compliance with the convention's requirements. Legislation on rape and sexual violence is still in the process of being amended and is the subject of much public debate. Women victims of violence are entitled to assistance under the Law on Support for Victims of Crime (LAVI) and several cantons have promising practices in place to address these women's specific needs, in particular, through specialised reception and care facilities in several hospitals. In recent years, the increasingly widespread use of barring orders in cases of domestic violence has improved the protection of women victims of violence and their children.

283. However, GREVIO's examination of existing legislation, policy approaches and discourse on the various forms of violence against women in Switzerland revealed that the focus is primarily on domestic violence, while other forms of violence against women covered by the Istanbul Convention, such as rape and sexual violence, sexual harassment, forced marriage, female genital mutilation and forced sterilisation are less comprehensively addressed by legislation and policies, and specialised support services to assist women victims of these forms of violence are still inadequate. GREVIO's evaluation also highlighted considerable disparities between cantons' approaches, policies, legislation and measures to combat violence against women. The failure to harmonise practices and services, and sometimes a lack of inter-cantonal co-operation, may lead to varying levels of protection for women victims of violence depending on where they live.

284. In addition, efforts to train professionals should be continued in order to combat stereotypes, promote a truly gender-based understanding of violence against women among all those involved, and improve the detection and care of victims of all forms of violence covered by the Convention. At the same time, as no specific data is collected on violence against women in the spheres of justice and law enforcement, it is not possible to assess the criminal justice response to violence against women. Certain procedures, such as the use of summary penalty orders and the suspension of proceedings in cases of domestic violence, could conceal the true extent of violence against women and downplay the gravity of such violence. An assessment is therefore required in order to assess whether these arrangements properly address the need for protection and access to justice for women victims of violence.

285. With the present report, GREVIO wishes to support the Swiss authorities in their efforts to prevent and combat violence against women and invites them to keep it regularly informed of developments with regard to the implementation of the Istanbul Convention. GREVIO looks forward to continuing its fruitful co-operation with the Swiss authorities.

286. 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 languages and to ensure that it is widely disseminated, not only to the relevant state institutions at all levels (federal, cantonal 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.

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## **Appendix I**

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

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

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

1. GREVIO strongly encourages the Swiss authorities to take additional measures to ensure that their strategies and action plans address all forms of violence covered by the scope of the Istanbul Convention. (paragraph 10)

2. GREVIO also urges the Swiss authorities to take the necessary measures to develop a common recognition and understanding of the phenomenon of violence against women as a form of gender-based violence by developing shared and harmonised definitions that provide a common and unequivocal reference terminology on violence against women in accordance with Article 3 of the Istanbul Convention. (paragraph 11)

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

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

3. GREVIO invites the Swiss authorities to continue to invest efforts in designing legislative initiatives and in implementing existing measures to eliminate discrimination against women in various areas and to accompany these efforts with specific measures designed to ensure full equality between women and men in practice. (paragraph 14)

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

4. To ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3, and to combat discrimination, which increases the risk of exposure to violence and hinders access to protection mechanisms for women from groups subject to intersectional discrimination, GREVIO strongly encourages the Swiss authorities to adopt an approach to preventing and combating violence against women addressing intersectional discrimination, particularly by taking measures (paragraph 19) :

- a. to prevent and combat violence affecting women who are or might be exposed to intersectional discrimination, particularly migrant, asylum-seeking and refugee women, women with disabilities, LGBTI women, elderly women, women in prostitution and women with addiction issues;
- b. to include preventing and combating violence against women in policies, measures and programmes geared to the specific needs of groups of women facing intersectional discrimination;
- c. to take account, when implementing, monitoring and assessing policies to prevent and combat violence against women and domestic violence, of the viewpoint of women exposed to intersectional discrimination.

GREVIO invites the Swiss authorities to develop a strategy to clarify the normative and conceptual framework aimed to address intersectional discrimination of women and girls and to introduce, for all levels of authority, guidelines and objectives for preventing and combating all forms of violence covered by the Istanbul Convention.

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

5. GREVIO strongly encourages the Swiss authorities to incorporate the gender dimension fully into their legislation, policies and measures to prevent and combat all forms of violence against women covered by the Istanbul Convention. This gender-sensitive approach should be based on an understanding of the link between the prevalence of gender-based violence against women and the structural inequalities between women and men, with the aim of addressing the specific needs of women victims and raising awareness of and counteracting negative gender stereotypes against women which legitimise and sustain violence against them. (paragraph 24)

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

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

6. While being well aware of the distribution of powers deriving from Switzerland's federal institutional structure, GREVIO strongly encourages the Swiss authorities to step up measures to devise a comprehensive long-term strategy to prevent and combat all forms of violence against women covered by the Istanbul Convention; this strategy should cover the entire country, be based on a victims rights-centred approach and integrate a gender perspective regarding the various forms of violence against women including domestic violence. For this purpose, the Swiss authorities should, in particular (paragraph 36) :

- a. give due weight to all the forms of violence against women covered by the Istanbul Convention, including those committed in the digital sphere;
- b. establish multi-agency co-operation and co-ordination with regard to all forms of violence against women, based on existing promising practices;
- c. conduct independent, comparative analyses of the existing cantonal legislation and policies on violence against women and on their level of harmonisation with the Istanbul Convention, with a particular focus on identifying promising practices that could be disseminated throughout the country;
- d. cater properly for the needs of the various groups of women victims of violence
- e. continue to implement measures to foster increased co-ordination and greater consistency in the work of the various levels of authority.

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

7. GREVIO urges the Swiss authorities to step up efforts to provide (paragraph 44) :

- a. appropriate funding for policies, programmes and measures to prevent and combat all forms of violence against women;
- b. appropriate sustainable funding for all organisations providing specialist support services to victims of violence throughout the country.

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

8. GREVIO strongly encourages the Swiss authorities (paragraph 47) :

- a. to continue and strengthen co-operation at all levels of authority with all NGOs working in the field of preventing and combating violence against women and ensure that they are properly involved in drawing up relevant policies and measures;
- b. to step up their support for independent women's rights organisations and fully acknowledge the value and expertise they bring through their gendered approach to violence against women centring on victims' rights and needs.

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

9. GREVIO strongly encourages the Swiss authorities to enhance the role of the Federal Office for Gender Equality as the national co-ordinating body by strengthening its powers and competences and allocating the necessary human and financial resources in order to ensure the sustainability of its work. GREVIO also strongly encourages the Swiss authorities to ensure, on the one hand, the co-ordination and implementation of policies and measures and, on the other hand, the independent monitoring and evaluation in order to guarantee the objective evaluation of policies. Any monitoring and evaluation should be carried out on a regular basis, using comparable indicators and should cover the entire country. (paragraph 53)

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

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

#### **c. Data on the asylum procedure**

10. GREVIO urges the Swiss authorities to substantially improve the collection of available administrative data on violence covered by the Istanbul Convention, particularly by setting up, in the judicial sector, systems to collect data on victims of violence against women involved in criminal and civil proceedings, disaggregated by sex and age of both the victim and the perpetrator, type of violence, relationship between the victim and the perpetrator and geographical location, based on standardised indicators for the whole country. (paragraph 61)

11. It also strongly encourages the Swiss authorities to adopt an overall strategy for the collection of data on violence against women, including the following components (paragraph 62) :

- a. the gradual adoption of a system of statistics shared between the police, justice and health sectors with a view inter alia to: allowing the assessment of conviction, attrition and recidivism rates; enabling a thorough analysis of the pathway of cases in the criminal justice system along the chain from law enforcement through prosecutors' offices to the courts; and identifying deficiencies in the response of institutions which may contribute to low conviction rates and/or discrepancies between reporting rates and conviction rates;
- b. the development of common indicators shared by all the bodies concerned;
- c. the development of the collection by the health services of data on women affected by the various forms of violence covered by the Istanbul Convention;
- d. the gathering of quantitative and qualitative data on (1) the number of asylum requests prompted by gender-based violence, including the specific grounds; (2) the interpretation of these grounds for international protection; (3) the number of decisions granting or refusing protection on these grounds; (4) the number of requests for residence permits on grounds of hardship filed, rejected and granted, according to the reasons given.

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

12. GREVIO strongly encourages the Swiss authorities to set up regular prevalence studies to assess the extent of and trends in relation to all forms of violence covered by the Istanbul Convention and to highlight and better understand the experiences of violence of women exposed to intersectional discrimination. (paragraph 65)



### **3. Research**

13. GREVIO encourages the Swiss authorities (paragraph 70) :
- a. to continue their efforts to support research in areas relating to all forms of violence covered by the Istanbul Convention, covering the entire country and focusing on victims' viewpoints, including on the criminal justice response to these forms of violence;
  - b. to conduct research on violence affecting women exposed to intersectional discrimination, such as women with disabilities, elderly women, migrant women, LGBTI women and Yenish, Sinti/Manush and Roma women, as well as those belonging to other affected groups.

### **III. Prevention**

#### **A. General obligations (Article 12)**

14. GREVIO strongly encourages the Swiss authorities to step up its efforts to eradicate prejudice, gender stereotypes and patriarchal attitudes in Swiss society, taking into account Recommendation CM/Rec(2019)1 of the Committee of Ministers of the Council of Europe to member States on preventing and combating sexism. For this purpose, the Swiss authorities should make primary prevention of violence against women a priority in future action plans and measures. (paragraph 74)

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

15. GREVIO strongly encourages the Swiss authorities to take measures to promote, on a regular basis and at all levels, awareness-raising campaigns or programmes to increase awareness and understanding among the general public of the different manifestations of all forms of violence covered by the scope of the Istanbul Convention and of the gendered nature of this violence as a manifestation of a historical form of social organisation based on domination and discrimination of women by men. To achieve this, the Swiss authorities should, in particular (paragraph 81) :

- a. engage in and strengthen partnerships with women's rights NGOs and community-based organisations in order to assess attitudes towards violence against women, gender equality and sexism in the general population, and follow up on changes over time;
- b. run awareness-raising activities targeting different population groups, including men of all ages, and professionals with a particular interest in action against gender-based violence so as to change underlying patriarchal attitudes and promote understanding of this type of violence.

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

16. GREVIO encourages the Swiss authorities to pursue their efforts to equip all pupils with knowledge and skills in relation to the issues identified in Article 14 of the Istanbul Convention. (paragraph 87)

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

17. GREVIO strongly encourages the Swiss authorities to take the necessary measures to ensure, in close co-operation with relevant civil society organisations, that all professionals dealing with victims or perpetrators of all forms of violence covered by the scope of the Istanbul Convention, in particular police and the judiciary, receive systematic and mandatory initial and in-service training

on identifying and responding to all forms of violence against women. To this end, the Swiss authorities should in particular (paragraph 97) :

- a. devise harmonised standards for the initial and in-service training of all the professional categories concerned while ensuring that the guidance given is in line with the principles of the Istanbul Convention;
- b. ensure that the training provided cover issues such as gender-based stereotypes; the difference between conflict and violence; the identification of victims; the rights and needs of victims; the prevention of secondary victimisation; the impact of violence on children exposed to it; and violence against women exposed to intersectional discrimination;
- c. provide sufficient funds for training programmes and initiatives, particularly those provided by NGOs and specialist support services;
- d. continue to evaluate the impact of training programmes for different professional groups.

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

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

18. GREVIO strongly encourages the Swiss authorities (paragraph 102) :

- a. to develop common minimum standards applying to perpetrator programmes, in line with the principles of the Istanbul Convention, particularly the need for a gender-sensitive approach and the deconstruction of gender stereotypes, and in line with recognised best practices; and to base any evaluation of their efficacy on such standards;
- b. to expand the number and types of available programmes and promote attendance both by mandatory and voluntary referral, in particular by making them more accessible;
- c. to strengthen these programmes' working relations with specialist support facilities for women victims to ensure that victims are adequately informed and protected, and that they and their children are kept safe;
- d. to 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;
- e. ensure that the evaluation of the impact of all programmes is carried out according to standard methodological rules.

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

19. GREVIO encourages the Swiss authorities to increase substantially the availability of programmes for sex offenders, following an approach in line with the principles of the Istanbul Convention and recognised good practices. (paragraph 104)

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

20. Bearing in mind the important role of the media in promoting equality between women and men and reducing the level of social acceptance of violence against women, GREVIO encourages the Swiss authorities to exploit the potential for extensive awareness-raising about this issue which exists among the various media outlets and self-regulating bodies, and to establish incentives, or promote in any other way, the development of specific standards of self-regulation concerning the balanced, non-sexist coverage of violence against women. (paragraph 108)

21. GREVIO encourages the Swiss authorities to pursue and step up their active efforts to involve private- and public-sector employers in combating gender-based violence against women in the workplace. To this end, the Swiss authorities should aim in particular to improve awareness and information among the general public, trade unions and employers in relation to violence against

women at work and the relevant provisions of the law on equality and to step up support and special assistance for victims. (paragraph 109)

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

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

22. GREVIO strongly encourages the Swiss authorities to continue their work to foster multi-agency co-operation relating to all the forms of violence against women and to ensure that the various forms of co-operation are firmly based on a rights-based approach and the safety, protection and empowerment of victims. For this purpose, the Swiss authorities should, among other things, promote the adoption of standardised guidelines on multi-agency co-operation, including when several cantons are involved. They should also ensure that co-operation guidelines regulate the sharing of the victim's and perpetrator's personal data between different institutions with a view to protecting the victims' safety while ensuring respect for the confidentiality of personal data, meaning that such data can only be shared with third parties with the victim's informed consent, except in life-threatening situations. (paragraph 117)

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

23. GREVIO strongly encourages the Swiss authorities to pursue their efforts to provide all women victims of domestic violence and other forms of violence against women with appropriate and timely information on their rights, on available support services and on legal measures in a language they understand. The information provided should be accessible to all victims, including migrant women and women with disabilities. (paragraph 120)

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

###### **2. Social and health services**

24. GREVIO strongly encourages the Swiss authorities (paragraph 129) :

- a. to step up the work of harmonising the support offered by general support services so as to ensure that all women victims of gender-based violence are properly cared for, supported and protected whatever their place of residence or their status. LAVI centres should be given sufficient financial and human resources to be able to advise and support women victims of violence properly throughout the country;
- b. to ensure that the use of welfare services cannot be held against women victims of gender-based violence during the procedure for the renewal of residence permits;
- c. to implement standardised care protocols, including the identification of victims, screening, treatment, documentation of injuries and referral to specialist services, to improve training for health professionals on all forms of violence against women covered by the Istanbul Convention and to promote and draw up standards for the collection of forensic evidence to be applied throughout the country;

25. GREVIO also urges the Swiss authorities to revise the LAVI Act so that migrant and asylum-seeking women and girls subjected to gender-based violence abroad may benefit from the services offered by LAVI centres. (paragraph 130)

**D. Specialist support services and shelters (Articles 22 and 23)**

26. GREVIO urges the Swiss authorities to take the necessary measures to ensure that victims of all forms of violence against women covered by the Istanbul Convention and their children have access to specialist shelters with an appropriate geographical spread. For this purpose, the Swiss authorities should, in particular (paragraph 141) :

- a. ensure that there are enough places in specialist accommodation, by providing sufficient funding, budgetary stability and staffing resources to the organisations managing shelters, including for the delivery of high-quality support services to victims aimed at their recovery and empowerment;
- b. harmonise support provided as part of the victims' support services throughout Switzerland so that all women and girl who are victims of violence have access to accommodation in a dedicated domestic violence shelter whatever their situation, age or canton of residence; take measures to guarantee that access to shelters is free of charge.

27. GREVIO also invites the Swiss authorities to take measures to expand transitional measures for women victims of violence who have been accommodated in shelters and are moving towards independent housing. (paragraph 142)

**E. Telephone helplines (article 24)**

28. GREVIO strongly encourages the Swiss authorities to provide for a national, specialised helpline for women victims of violence, operated in close co-operation with independent NGOs specialised in responding to violence against women and domestic violence. The helpline should provide, on a confidential basis, free counselling as well as other specialised services (legal advice, crisis support) on all forms of gender-based violence against women covered by the Istanbul Convention. It is also important to provide multi-lingual assistance and to make arrangements for women with disabilities and migrant and refugee women to ensure their access to this service. (paragraph 145)

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

29. GREVIO strongly encourages the Swiss authorities to take measures to comply with Article 25 of the Istanbul Convention. To achieve this, they must set up sufficient numbers of crisis centres accessible to victims of rape and/or sexual violence, meeting all their short-, medium- and long-term needs and including immediate medical care, high-quality forensic examinations regardless of the victim's desire to file a complaint, psychological and legal assistance, and referral to specialist organisations. (paragraph 149)

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

30. GREVIO strongly encourages the Swiss authorities to take measures to make it easier for children who have been exposed to violence to access effective protection and support services. To this end, the Swiss authorities should (paragraph 156) :

- a. draw up clear guidelines for all agencies providing assistance and support to children, so that any action they take is based on the recognition of the risks and harmful consequences experienced by children exposed to violence, in connection with their safety and that of their mothers;
- b. strengthen the support and assistance mechanisms for children exposed to violence and extend them throughout the country, based on existing examples of promising practice;

- c. provide more human and financial resources to specialist support services in their task of supporting children exposed to violence, alongside their mothers.

## **H. Reporting by professionals (Article 28)**

31. GREVIO encourages the Swiss authorities to take the necessary measures, including clarifying the rules on reporting, to ensure that professionals may report a matter when they have reasonable grounds to believe that a serious act of violence against women has been committed and there is a risk of further such acts of violence. (paragraph 158)

## **V. Substantive law**

### **A. Civil law**

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

32. GREVIO encourages the Swiss authorities to analyse the situation regarding remedies in the event of failures by state authorities to fulfil their obligations to prevent and protect against violence against women, in order to ensure that victims of all forms of violence covered by the Istanbul Convention have access to effective remedies and to identify any obstacles in that respect. It is also vital to ensure that women victims of violence are duly informed of the availability of such remedies. (paragraph 163)

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

33. GREVIO encourages the Swiss authorities to ensure that women victims of all forms of violence covered by the Istanbul Convention have access to an effective and rapid procedure for obtaining compensation either from the perpetrator or from the state. They should also collect data on the number of women victims of violence who have sought and obtained compensation through civil proceedings. (paragraph 168)

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

34. GREVIO urges the Swiss authorities to take the necessary measures to ensure that when determining custody and visitation rights and introducing measures affecting exercise of parental authority, the competent authorities are required to take into account all incidents of violence against women and domestic violence. To this end, the Swiss authorities should (paragraph 175) :

- a. base policies and practices on the recognition that, in a context of domestic violence, joint parenting may be a means for the perpetrator to continue to maintain control and domination over the mother and her children;
- b. ensure that the legal provisions which allow the perpetrator's custody and visitation rights to be limited, withdrawn and/or subjected to safeguards whenever a situation of violence is ascertained are properly deployed;
- c. ensure that children are not removed from the custody of non-violent parents;
- d. strengthen the assessment and consideration of the risks posed to the victim and her children during the exercise of visitation rights, in particular by making use of any tool to improve the safety of women and their children and by reducing or withdrawing visitation rights in high-risk cases;
- e. encourage appropriate training and the preparation of professional guidelines alerting the relevant professionals to the harmful effects of violence on children, including child witnesses, and familiarising them with the provisions of the Istanbul Convention on custody and visitation rights;

- f. keep up efforts to make the relevant professionals aware of the lack of any scientific basis for the so-called “parental alienation syndrome” and sensitise the public to this issue;
- g. refrain from amending legislation with a view to making the failure to hand over children to and interference with visitation rights of the other parent a criminal offence;
- h. collect data and analyse case law on how courts consider incidents of violence and the grounds they give for their decisions on custody and visitation rights in order to be able to assess progress in this respect.

## **B. Criminal law**

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

35. GREVIO strongly encourages the Swiss authorities (paragraph 178) :

- a. to take measures to investigate, prosecute and punish acts of psychological violence in an effective manner, making full use of the relevant provisions of the Criminal Code, or to consider introducing new provisions that would better meet the requirements of Article 33 of the Istanbul Convention;
- b. to take measures to properly investigate, prosecute and punish acts of psychological violence against women which take place online or involve the use of technology, if necessary by introducing new legislation.

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

36. GREVIO strongly encourages the Swiss authorities to consider establishing stalking as a specific offence, enabling incidents of online and offline stalking to be investigated, prosecuted and punished effectively. (paragraph 182)

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

37. GREVIO urges the Swiss authorities to review their legislation on sexual violence so as to base the definition of sexual violence on the absence of the victim’s freely given consent in conformity with Article 36, paragraph 3, of the Istanbul Convention; and to offer an effective judicial response to sexual violence, focusing on respect for victims’ human rights and on proper care and support for victims. (paragraph 187)

38. GREVIO urges the Swiss authorities to step up efforts to remove the provision providing for prosecution or punishment to be waived in the event of marriage or partnership between the victim and the perpetrator of violence. (paragraph 188)

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

39. GREVIO encourages the Swiss authorities to carry out a thorough review of the reasons for the low use made of the criminal offence of forced marriage in order to address the obstacles to bringing criminal proceedings. It also encourages the Swiss authorities to continue and step up the co-ordination between the various bodies dealing with victims of forced marriage. (paragraph 191)

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

40. GREVIO encourages the Swiss authorities to carry out a review of existing criminal legislation to verify its compatibility with the Istanbul Convention’s aim to prosecute and punish the offence of female genital mutilation and to support and protect victims. To this end, measures should be considered to ensure that the application of Article 124, paragraph 2, of the Criminal Code does not adversely affect the support and assistance provided to women who were subjected to genital mutilation abroad. (paragraph 195)

41. GREVIO also encourages the Swiss authorities to step up their efforts to raise awareness and train all relevant professionals to detect and provide support for victims of female genital mutilation. (paragraph 196)

## **6. Forced abortion and forced sterilisation (Article 39)**

42. GREVIO encourages the Swiss authorities to collect data on the number of abortions and sterilisations carried out without informed consent so as to establish the extent of these practices. (paragraph 199)

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

43. GREVIO strongly encourages the Swiss authorities to take the necessary legislative and other measures to ensure that all forms of sexual harassment, in all spheres of life - public and private -, and including online sexual harassment, can be effectively prosecuted and punished. (paragraph 202)

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

44. GREVIO strongly encourages the Swiss authorities to remove from criminal law the provision for a reduced sentence under Article 113 of the Criminal Code in order to eliminate any possibility of an unacceptable justification of crimes committed by spouses or ex-spouses and of a reduction in the penalties imposed on them. (paragraph 204)

## **9. Sanctions and measures (Article 45)**

45. GREVIO strongly encourages the Swiss authorities to ensure that sentences and measures imposed for offences of domestic violence and other forms of violence against women covered by the scope of the Istanbul Convention are effective, proportionate and dissuasive. (paragraph 207)

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

46. GREVIO encourages the Swiss authorities to review the relevant judicial practices in order to determine whether the circumstances described in Article 46 of the Istanbul Convention are actually taken into consideration as aggravating circumstances for sentences covered by the Istanbul Convention or whether the legislation should be amended. (paragraph 209)

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

47. GREVIO strongly encourages the Swiss authorities to ensure that all professionals who may be called on to carry out conciliation procedures receive training on violence against women, know how to identify and distinguish between domestic violence and conflict situations and are informed of the risks that victims may face during mediation. The Swiss authorities should also ensure that refusing to participate in conciliation does not jeopardise the victim's rights and interests and does not lead to the filing of the complaint. (paragraph 213)

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

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

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

48. GREVIO strongly encourages the Swiss authorities to provide the relevant law enforcement agencies with the necessary resources and means, including standardised protocols that specify their duties, in order to respond promptly and appropriately to all forms of violence covered by the Istanbul Convention, making sure priority is given to an approach based on the victim's needs and rights. This specifically includes raising awareness among law enforcement agencies of (paragraph 220) :

- a. digital forms of violence against women, which they should be given the means to respond to and investigate;
- b. the forms of intersectional discrimination faced by some women, such as migrant women, LGBTI women and women with disabilities, so that they are better able to respond appropriately to their needs; for this purpose they should also be given the tools they need to communicate effectively with women victims of violence with disabilities;
- c. the need to investigate acts of psychological violence.

#### **2. Effective investigation and prosecution; conviction rates**

49. GREVIO urges the Swiss authorities to take additional measures (paragraph 227) :

- a. to ensure that the handling of cases of violence against women by law enforcement agencies and the courts is firmly grounded in a gendered understanding of violence against women; and to ensure, including by means of training of the relevant professionals and legislative changes as necessary, that the perpetrators of all forms of violence covered by the Istanbul Convention are held accountable;
- b. to collect comprehensive data on judicial proceedings as soon as possible and to analyse relevant case law so as to be able to assess the effectiveness of the criminal justice response to violence against women and to amend legislation and practice where necessary.

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

50. GREVIO urges the Swiss authorities to take steps to ensure that a standardised and gender-sensitive risk assessment and safety management procedure is used systematically throughout the country in all cases of violence against women covered by the Istanbul Convention, including forced marriage, female genital mutilation, and sexual violence. GREVIO further urges the Swiss authorities to take the necessary measures to remove any obstacle to co-operation in cases of violence against women involving several cantons and, in this way, to reduce risks for the victims' safety. (paragraph 233)

51. GREVIO also strongly encourages the Swiss authorities to pursue and expand measures aimed at retrospectively reviewing cases of gender-based killings of women and assess whether gaps in the institutional and/or judicial response contributed to the fatal outcome, with the aim of preventing them in the future and holding to account both the perpetrators and the many agencies that come into contact with the parties. (paragraph 234)



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

52. GREVIO strongly encourages the Swiss authorities (paragraph 240) :

- a. to persist in their efforts to increase the use of restraining and protection orders by encouraging regulations and practices harmonised at national level and by ensuring effective and systematic monitoring of compliance with such orders, including through the application of electronic monitoring once it is available;
- b. to assess the level of implementation of existing mechanisms by collecting relevant data, including data on the annual number of such orders requested and granted, the number of breaches of such orders, the number and type of sanctions imposed as a result of such breaches and on the number of pre-trial detention ordered;
- c. to ensure that they are available for all forms of violence against women covered by the Istanbul Convention;
- d. to take measures to ensure that, in practice, protection orders protect women who are dependent on the perpetrator.

#### **E. Ex parte and ex officio proceedings (Article 55)**

##### **1. Ex parte and ex officio proceedings**

53. GREVIO strongly encourages the Swiss authorities to carry out a detailed and independent assessment of the implementation of the procedure for suspending proceedings provided for in Article 55a of the Criminal Code, including from the perspective of the victim, in order to address the issues identified and to ensure that the provision, and the related practice, are conducive to protecting the rights of women victims of gender-based violence. (paragraph 249)

##### **2. Victim support in legal proceedings**

54. GREVIO encourages the Swiss authorities to take the necessary measures to ensure that LAVI centres throughout the country are allocated the necessary financial and human resources to provide appropriate assistance and support to victims of violence against women during legal proceedings. (paragraph 252)

#### **F. Measures of protection (Article 56)**

55. GREVIO encourages the Swiss authorities to ensure full implementation of the available legal measures to protect the rights and interests of victims during all stages of investigations and judicial proceedings and to ensure that women victims of all forms of violence covered by the Istanbul Convention and children exposed to violence are effectively protected against the risks of retaliation, intimidation or secondary victimisation, including those arising from the practice of face-to-face meetings and those arising from the procedure of notification of the perpetrator in case of request by the victim of information on changes to the sentence imposed. (paragraph 255)

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

56. GREVIO encourages the Swiss authorities to ensure that the conditions for entitlement to legal aid, in particular during criminal proceedings, do not place unreasonable obstacles in the way of accessing free legal aid for women victims of gender-based violence who are unable to pay for the services of a lawyer. (paragraph 257)

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## **VII. Migration and asylum**

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

57. GREVIO urges the Swiss authorities to (paragraph 265) :

- a. step up their efforts to provide an escape route from abusive relationships for migrant women victims whose residence status depends on that of their spouse, by granting them access to an autonomous residence permit. In order to do so, they should optimise the processing of residence permit applications for "cases of hardship" throughout the country by issuing guidelines on how to interpret the legislation in force and by ensuring that professionals handling such cases at the various administrative levels are more aware of violence against women and better trained to deal with it;
- b. take measures to better inform migrant women of the means of obtaining an autonomous residence permit in cases of violence.

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

#### **1. Gender-sensitive asylum determination procedure**

58. GREVIO strongly encourages the Swiss authorities to ensure that asylum-seeking women and girls receive the best possible support during the asylum procedure so that they have the opportunity to disclose all the grounds on which they are applying for international protection. In particular, the Swiss authorities should take steps to improve their ability to detect cases of violence against women and to assess whether countries of origin are able to provide effective protection. In this respect, reference could be made to the evaluation reports published by GREVIO. (paragraph 272)

#### **2. Accommodation**

59. GREVIO strongly encourages the Swiss authorities (paragraph 280):

- a. to adopt gender-sensitive guidelines to be issued to all reception facilities so as to improve the protection provided to women and girls seeking asylum and to introduce measures and tools for the early detection of women victims of gender-based violence;
- b. take measures to improve access to specialist support services for asylum seeking women and girls who are victims of violence and, where appropriate, to legal proceedings.

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## **Appendix II**

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

#### **Federal authorities:**

Federal Department of Foreign Affairs

Federal Department of Home Affairs:

- Federal Office for Gender Equality
- Federal Statistical Office
- Federal Social Insurance Office
- Federal Office for Equality of Persons with Disabilities

Federal Department of Justice and Police

- Federal Office of Justice
- Federal Office of Police
- State Secretariat for Migration

Committee for the implementation of the Istanbul Convention

Permanent Inter-Departmental Working Group for the implementation of the Istanbul Convention

#### **Cantonal authorities:**

- Swiss Conference against Domestic Violence
- Conference of Cantonal Directors of Social Affairs/Conference on Support for Victims of Crime
- Conference of Justice and Police Directors
- Conference of Gender Equality Delegates
- Conference for the Protection of Minors and Adults
- Swiss Crime Prevention
- Authorities of the Bern, Lucerne and Vaud cantons
- Police and prosecution authorities of the Bern, Lucerne and Vaud cantons
- Cantonal judges (Bern, Lucerne, Vaud)

#### **Public institutions:**

Federal reception centre for asylum-seekers of Bern

Lausanne University Hospital, Violence Medicine Unit

LAVI centre of the Lucerne canton

Vaud canton reception facility for migrant (EVAM)

Unisanté EMUS Vaud canton

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

Umbrella organisations:

- Istanbul Convention Network
- Solidarity Federation for Women in Switzerland and Liechtenstein (DAO)
- Swiss professional association of counsellors on violence (APSCV)
- Swiss Network against genital cutting
- Service against forced marriages

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Other NGOs and organisations:

- Alter Ego/UBA
- Amnesty International Switzerland
- Avanti Donne
- Brava
- Centre Malley-Prairie of Lausanne/Prevention Centre of ALE
- Emergency helpline Winterthur
- Child Protection Switzerland
- Expert group on sexual violence
- Federal Commission for Women's Issues
- Foundation against violence against women and children, Bern canton
- Feminist organisation for peace
- Interaction
- Netzcourage
- Protestant social centre of Vaud canton
- Rainbow families
- Sexual health Switzerland
- Swiss Refugee Council
- Swiss Lesbian Organisation
- Support centre for migrant women and women victims of human trafficking (FIZ)
- Shelter for girls Zurich
- Swiss Centre of Expertise in Human Rights
- Swiss Commission for Loyalty
- Swiss Feminist Strike
- Swiss Press Council
- Transgender Network Switzerland
- Union of Swiss Cities

Lawyers/academics:

- Swiss Women Lawyers
- Camille Perrier Depeursinge, University of Lausanne
- Valérie Debernardi, Lawyers for Democracy Switzerland

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

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

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

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

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union.

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

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

COUNCIL OF EUROPE



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