



GREVIO

Baseline Evaluation Report Austria

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



Istanbul Convention

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Council of Europe
F-67075 Strasbourg Cedex
France

www.coe.int/conventionviolence

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Foreword

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

It is composed of 10 independent and impartial experts appointed on the basis of their recognised expertise in the fields of human rights, gender equality, violence against women and/or assistance to and protection of victims.

GREVIO’s statutory activities include country-by-country monitoring of the 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 Austria as one of the first two parties together with Monaco to undergo this procedure. It covers the Convention in its entirety¹ and thus assesses the level of compliance of Austrian legislation and practice in all areas covered by the Convention. In light of the scope of the Convention – as set out in its Article 2 paragraph 1, the baseline evaluation focuses on measures taken in relation to all forms of violence against women, including domestic violence, which affects women disproportionately. The term “violence against women” used throughout this report thus refers to all forms of violence against women criminalised (or, where applicable, otherwise sanctioned) under Chapter V of the Convention, which are psychological violence, stalking, physical violence, sexual violence, including rape, forced marriage, female genital mutilation, forced abortion, forced sterilisation and sexual harassment. It also refers to domestic violence against women, which is defined as physical, sexual, psychological or economic violence which occurs within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim. Hence, the term “victim” used throughout this report is to be understood as referring to a woman or girl victim.

Based on this assessment, this 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. These are, in order of priority, “urge”, “strongly encourage”, “encourage” and “invite”. GREVIO uses the verb “urge” where it considers that immediate action is required to bring the Party’s legislation or policy into compliance with the Istanbul Convention, or to ensure its implementation. The verb “strongly encourages” is used where GREVIO has noted shortcomings which need to be remedied in the near future in order to ensure a comprehensive implementation of the Convention. A third level of urgency is indicated by the use of the verb “encourages”, which is used for shortcomings of a lower priority. Lastly, the verb “invites” points to small gaps in implementation which the Party is requested to consider closing should the opportunity arise or to proposals made to provide guidance in the implementation process.

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

- submission, by the party, of a report drawn up on the basis of GREVIO’s baseline questionnaire (this report is, in general, made public);
- a state dialogue with representatives of the Party on issues emanating from the state report;

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

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

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

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 at February 2017. Developments since that date are neither covered in the analysis nor taken into account in the conclusions and proposals therein.

According to the Convention, national parliaments shall receive this report from the national authorities (Article 72, paragraph 2). GREVIO would also invite the national authorities to translate this report into their official national language(s) and to ensure that it is widely disseminated, not only to the relevant state institutions at all levels (national, regional and local), in particular to the government, the ministries and the judiciary, but also to NGOs and other civil society organisations which work in the field of violence against women.

Executive Summary

This report provides an assessment of the measures of implementation taken by the Austrian 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 Austrian authorities and a shadow report from a coalition of NGOs), a state dialogue between GREVIO and the Austrian authorities on a select number of issues as well as a 5-day evaluation visit to Austria. A list of the bodies and entities with which exchanges have been held can be found in Appendix II and III.

The report highlights a number of positive legal and policy measures in place in Austria and welcomes its long history of policy-making in the area of violence against women. In particular, GREVIO values the strong leadership Austria has shown in the past 20 years in introducing a system of emergency barring and protection orders for victims of domestic violence. Today, this system is well established and is widely considered a success. Further changes to Austrian legislation, in particular in the area of criminal law, have led to a comprehensive list of criminal offences and extensive legal and psycho-social court assistance to victims of violent crime and sexual offences. Reporting obligations have been introduced for a broad range of medical professionals to help victims disclose abuse and be supported. Although not yet harmonised, discussions on improving the collection of data on the number and outcome of cases of violence against women across different sectors are underway, which GREVIO strongly welcomes.

However, GREVIO has 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 relate largely to the strong focus on policy approaches to domestic violence with less policy attention, funding and political support being directed towards any of the other forms of violence against women covered by the Convention. For example, while all nine provinces have well-established support services for victims of domestic violence which serve as respected partners for the law enforcement agencies, this is not the case for services for victims of sexual violence and rape, forced marriage, and female genital mutilation. Co-operation between government entities and domestic violence services is fully institutionalised and placed on a legal basis, whereas with regard to the other forms of violence it is *ad hoc* and often largely dependent on the good will of individual professionals. Difficulties in accessing services seem to persist for women with disabilities and women with insecure or limited residence status such as asylum-seekers. Moreover, preventive measures seem to focus predominantly on domestic violence and are limited to awareness-raising activities in the form of campaigns and one-off events. Long-term preventive measures that specifically target and engage members of those communities in Austria that practice forced marriage or female genital mutilation are entirely absent. This contributes to low reporting rates which, in turn, translate into low conviction rates for these forms of violence. Those who do seek help encounter less well-trained law enforcement officers and have only very few support services to turn to, leaving many needs unmet.

Unmet needs are also an issue as regards the situation of children witnesses of domestic violence. Although in principle available, a large number of children who witness domestic violence by one parent against another do not receive the counselling they need. The age of 14 is also a decisive factor for protection, as children above that age do not automatically benefit from a protection order in favour of their abused mother. Instead, they are required to seek an order in their own name, a step that child welfare offices may take on their behalf but rarely do and that, in times of crisis, the abused mother as their guardian may not have the strength to see through.

Conviction rates are generally low for all forms of violence against women, although the reasons vary. Austrian prosecution services frequently deal with domestic violence and stalking cases through the use of diversionary measures. This may mean that a perpetrator will be ordered to attend an anti-violence programme or take part in victim-offender mediation (if the victim agrees) – but this comes in place of a criminal conviction, not in addition. The report discusses additional reasons why criminal justice is rarely obtained by victims of domestic violence and the other forms of violence, including issues with the quality of investigations and the evidence collected. While a useful tool to keep women safe, the highly developed system of protection orders masks the lack of an effective criminal justice response to domestic violence cases.

Following the peak in 2015 of new arrivals of asylum-seekers, the Austrian system of welcoming and processing claims seems to be operating smoothly, and the federal government is aware of the need for separate accommodation and support for women asylum-seekers arriving on their own. However, issues around ensuring the possibility of being interviewed on their own and the level of training on questions of gender-based persecution required for all professionals concerned in the process persist, potentially leaving some women asylum-seekers unable to disclose crucial information on incidents of gender-based persecution that would significantly advance their claim.

An additional issue of concern to GREVIO regarding the comprehensive and systematic implementation of the Istanbul Convention in Austria is that of funding. The funding allocated to the Federal Ministry of Health and Women's Affairs as the ministry mandated to set the policy agenda in the area of violence against women and domestic violence is € 5 million for this area, most of which goes towards the funding of services, in particular the nine violence protection centres across Austria. This means that no significant funding is available for the National Action Plan on Violence against Women, policy development, preventive measures, data collection, research or the evaluation of policies. This is of particular concern in the context of additional responsibilities conferred upon the Ministry of Health and Women's Affairs in their newly assigned role as the co-ordinating body under the Istanbul Convention – without any apparent budget re-adjustment or reinforcement of staff. Funding is an indication of the level of importance attached to a given policy area. The fact that important mandates and policy tools such as the co-ordinating body and the national action plan on violence against women are not supported financially does not suggest the required level of political investment.

Drawing from the above, while GREVIO welcomes Austria's ratification of the Istanbul Convention, it considers that the subsequent review of policy approaches and budget allocations does not fully meet the requirements of a comprehensive and co-ordinated approach in relation to all forms of violence against women. GREVIO thus proposes the following main steps to be taken by the Austrian authorities:

- adopt a comprehensive set of policies in the fields of prevention, protection and prosecution in relation to all forms of violence against women, in particular in relation to female genital mutilation and forced marriage;
- institutionalise the role of co-ordinating body as required under Article 10 of the Istanbul Convention, as well as providing it with clear mandates and competences as well as the necessary financial and human resources;
- strengthen the efforts to expand and harmonise the data collection on all forms of violence against women by all relevant sectors, including prevalence data on forced marriage and female genital mutilation;
- immediately close all gaps in service provision to ensure equal levels and quality of support to victims of all forms of violence as covered by the Istanbul Convention;
- immediately remove any legal and practical obstacles that currently prevent women with physical or intellectual disabilities or because of their residence status from access to services and shelters;
- strengthen the criminal justice processes to ensure higher levels of conviction in relation to all forms of violence against women and, in particular, the immediate introduction of exceptions to the use of diversionary measures in domestic violence and stalking cases.

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 intensification of training efforts for all professionals, the lifting of any legal and practical obstacles to children of all ages obtaining support and protection for witnessing or experiencing domestic violence, and the possibility of all women arriving as asylum-seekers in Austria of being interviewed on their own by a person of the same sex with the help of trained and sensitive interviewers and interpreters to help them to disclose instances of gender-based violence or persecution in support of their claim.

Introduction

Austria signed the Istanbul Convention on the day it opened for signature without reservations (11 May 2011). It was among the first 10 states to ratify it, thus helping to bring it into force on 1 August 2014.

The Istanbul Convention is the most far-reaching international treaty to tackle violence against women and domestic violence. Its comprehensive set of provisions spans far-ranging preventive and protective measures as well as a number of obligations to ensure an adequate criminal justice response to 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 Austria by letter and transmission of its questionnaire on 22 March 2016. The order of reporting to GREVIO is based on a combination of regional groupings and order of ratification, making Austria one of the first two Parties to be evaluated. The Austrian authorities subsequently submitted their state report on 1 September 2016 – the deadline set by GREVIO. Following a preliminary examination of the Austrian state report and of the additional information submitted by a coalition of NGOs, GREVIO held a state dialogue with representatives of Austria on 9 November 2016 in Strasbourg. A list of representatives of the Austrian Government who participated in the state dialogue can be found in Appendix II. As a second step, GREVIO carried out an evaluation visit to Austria which took place from 28 November to 2 December 2016. The delegation was composed of:

- Marceline Naudi, Second Vice-President of GREVIO
- Vesna Ratković, Member of GREVIO
- Sabine Kräuter-Stockton, Senior Public Prosecutor (Germany)
- Louise Hooper, Barrister specialising in gender and asylum law (United Kingdom)
- Bridget T. O'Loughlin, Executive Secretary of the monitoring mechanism of the Istanbul Convention
- Johanna Nelles, Administrator at the Secretariat of the monitoring mechanism of the Istanbul Convention.

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

The state dialogue and evaluation visit was prepared in close co-operation with Marie-Theres Prantner, Deputy Director of the Violence against Women and Women-specific legislation Division in the Federal Ministry of Health and Women's Affairs 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 Austrian authorities.

The draft version of the present report was approved by GREVIO on 16 February 2017 and submitted to the Austrian authorities for comments on 17 March. The authorities' comments were received on 15 May 2017 and have been taken into account by GREVIO in drawing up the final version of the report, which it formally adopted at its 11th meeting (Strasbourg, 26-29 June 2017). A full list of proposals and suggestions made by GREVIO to the Austrian authorities is set out in Appendix I.

In accordance with Article 68, paragraph 11 of the Convention, the report was transmitted to the Austrian authorities inviting them to submit any final comments by 1 September 2017. The Austrian authorities' comments submitted in compliance with this request are published in document GREVIO/Inf(2017)11.

As a first baseline evaluation, GREVIO has looked into the measures of implementation taken by the Austrian authorities with regard to all aspects of the Convention and reviewed data from the years 2014 and 2015. For the sake of brevity, this report prioritises some provisions over others. While it addresses all chapters of the Convention (except Chapter VIII) it does not present detailed assessments and conclusions on every provision in each of these.

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

A. General Principles of the Convention

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

2. The Austrian authorities have long pursued a solid agenda of policy setting in the area of preventing and combating violence against women, in particular with regard to domestic violence. The political will to act has been evident in the past, and the introduction of the first-ever emergency barring orders in 1997 made Austria a pioneer in fighting against domestic violence. Other legislative changes have followed over the years and many important policies have been introduced, in particular in the area of funding (see Chapter II). This commitment shown at national level is echoed in international fora in which Austria is known for being a strong advocate for women's rights in general and against violence against women in particular. This was, for example, amply demonstrated during the negotiations of the Istanbul Convention in the years 2009 and 2010. The Austrian authorities fully support the notion of a human rights-based approach to preventing and combating violence against women and GREVIO welcomes this strong leadership.

3. The information reviewed for this report and some of the concerns and experiences of the specialist support sector, however, seem to suggest that support among policymakers and legislators in Austria for dealing with violence against women in all its forms has reached a plateau and is declining. Before going into more detail in the chapters that follow, GREVIO makes the following general observations.

4. Following the introduction of the Violence Protection Act, in 1997, much attention was focused on ensuring the full implementation of this law, in particular by training the law enforcement agencies and ensuring the necessary follow-up by the Violence Protection Centres, which are mandated to assist each individual victim of domestic violence. Two decades later, all stakeholders generally consider this law a success and it is continually applied and improved. Nevertheless, a number of support services and practitioners have commented on dropping levels of training of and support from the law enforcement agencies and prosecution services, and on a reduced political support for their work in general. In their view, nearly 20 years of specialised legislation has led to a certain "fatigue", which is also demonstrated by the small number of evaluations carried out to assess the impact of law and policy in the field of violence against women generally. Without robust evaluations, the experiences of those women who do not receive the necessary support and protection from violence, including as a result of the effect of multiple forms of discrimination, will not surface. This is all the more important against a backdrop of information on the practical, legal or administrative obstacles which women with disabilities (in particular intellectual disabilities and mental health difficulties), asylum-seeking women and women with insecure residence status face in accessing support services such as shelters. It thus appears that an otherwise solidly functioning system of protection from domestic violence is unable to meet the needs of women with special needs or a particular status in the country.

5. **GREVIO urges the Austrian authorities to take measures to ensure that the provisions of the Istanbul Convention are fully implemented with regard to all women, including women with disabilities, asylum-seeking women and women with insecure residence status.**

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

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

7. In Austria, most legislative and policy measures taken before the entry into force of the Istanbul Convention focused on domestic violence; understood as violence in the family or domestic unit. While there is no definition of the term enshrined in law, its application is sufficiently broad in terms of the types of relationships it covers. A partial definition can be found in the Violence Protection Act which introduces the legal basis for issuing emergency barring and restraining orders. These may be issued in response to a physical attack, threat of a physical attack or any behaviour that seriously impairs the psychological integrity of another person, whether these are current or former spouses or partners, family members, and whether or not the perpetrator shares or has shared the same residence with the victim.² All legal provisions in relation to domestic violence are gender neutral and apply to victims of domestic violence of all ages and sexes. The Austrian lawmakers were, however, fully aware of the gendered nature of domestic violence and prescribed an exclusive role to the nine violence protection centres across Austria – which, while they provide counselling to all victims of domestic violence, are also renowned for their gender perspective and feminist background. Moreover, all specialised domestic violence law enforcement officers receive training on the gendered nature of domestic violence and the cycle of violence. GREVIO welcomes this approach of ensuring that particular attention is paid to women victims of domestic violence.

8. **Noting the absence of a full legal definition of domestic violence, GREVIO invites the Austrian authorities to adopt a universally applicable legal definition of domestic violence, which would include economic violence, in line with Article 3 b of the Istanbul Convention.**

9. In more recent years, and notably around the entry into force of the Istanbul Convention in Austria, a number of legislative changes were introduced to address forms of violence against women beyond domestic violence. These concerned, in particular, forced marriage, female genital mutilation, and sexual violence and rape. While GREVIO notes with satisfaction the efforts made by the Austrian authorities to bring their criminal legislation in line with the requirements of the Convention, GREVIO observes that these and other forms of violence covered by the Convention, with the exception of domestic violence, do not appear to have received comparable amounts of political or legislative attention.

² Violence Protection Act, Article I, paragraphs 1 and 2, or Article 382 b and Article 382e of the Execution of Judgements Act.

10. **GREVIO strongly encourages the Austrian authorities to ensure that a set of comprehensive policies in the fields of prevention, protection and prosecution exists in relation to all forms of violence against women, in particular in relation to female genital mutilation and forced marriage.**

C. State obligations and due diligence (Article 5)

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

II. Integrated policies and data collection

12. 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)

13. Austria can rightly lay claim to a long history of policy-making in the area of violence against women. Driven by the Austrian women's movement and supported by committed individuals at the political level, the first women's shelters and rape counselling services opened in Vienna in the 1970s. From the very beginning, these new institutions invested efforts in awareness raising and networking with crucial government agencies, including the law enforcement agencies, and laid the foundations for inter-institutional co-operation. As recognition of the scale of men's violence against women began to grow in the 1980s, women-to-women services quickly expanded. Operating on feminist principles of intervention, most services addressed domestic violence and rape and focused on the immediate safety needs of women and their children. This meant guaranteeing safety for a large number of women and children. However, the shelter movement quickly realised the disruption and anxiety for women and children caused by having to move to and stay in a shelter and they came to advocate for a change in paradigm in order to minimise this.

14. Following developments at national and international level in the early 1990s, and at the instigation of the women's minister at that time, an inter-ministerial and inter-agency working group was set up which subsequently drafted the Austrian Violence Protection Act – the first piece of legislation in Europe to provide for the possibility of banning a perpetrator (or potential perpetrator) of domestic violence from his own home. This legislation, in force since 1997, has become the cornerstone of the Austrian approach to preventing and combating violence against women. It has served as a model for a number of member states of the Council of Europe, making emergency barring and protection orders a widely used tool to help keep women and children safe from abuse. The Istanbul Convention, in its Articles 52 and 53, has elevated this to an international standard with which all Parties to the Convention are now bound to comply.

15. GREVIO welcomes the pioneering role which the Austrian authorities have adopted in thus shifting the burden from victim to perpetrator. In addition, GREVIO notes with satisfaction that Austria has continually improved and adapted the Violence Protection Act in reaction to gaps and issues with its implementation which have become apparent over the years (for more details see Chapter VI).

16. At the same time, Austria has developed a number of action plans and strategies, some of which apply at the federal level while others are limited in remit to a particular province (*Land*). Among the federal national action plans and strategies currently in force GREVIO notes, in particular, the National Action Plan on the Protection of Women from Violence (2014-16) (NAP) and the National Strategy on the Prevention of Violence in Schools (2014-16). With the latter complementing the former in particular in relation to measures linked to sex education, healthy sexual relationships and equality between women and men, these two policies enhance the Austrian response to violence against women. Many of the proposed measures correspond to requirements of the Istanbul Convention, in particular in the area of substantive law. GREVIO welcomes this move towards a more comprehensive criminalisation of all forms of violence (for more details see Chapter V). Furthermore, GREVIO welcomes the fact that one of the first measures of the National Action Plan on the Protection of Women from Violence is the aim of ensuring more comprehensive and co-ordinated policy measures by institutionalising the inter-ministerial working group (IMAG) on the "Protection of Women from Violence".

17. It is, however, with some concern that GREVIO notes that the NAP includes a large number of one-off campaigns, projects and research initiatives. Although important, individual measures of short duration may not contribute to building a sustainable and comprehensive approach to the problem. Similarly, most measures of the NAP prioritise domestic violence over other forms of violence covered by the Istanbul Convention. While the range of policy measures and legislation in existence in Austria – before and after the introduction of the NAP – generally attest to the strong level of political will of the Austrian authorities to address domestic violence in all its forms, other forms of violence against women seem to be accorded less attention.

18. GREVIO strongly encourages the Austrian authorities to develop a long-term plan/strategy giving due importance to all forms of violence covered by the Istanbul Convention and based on consistent and on-going funding to allow for sustainable and comprehensive actions.

B. Financial resources (Article 8)

19. In Austria, government funding for activities to prevent and combat violence against women is made available at both the federal and the regional levels. The measures and activities that are publicly funded, in whole or in part, include the following: awareness-raising activities, research, networking meetings, NGO-run counselling and support services (in particular the nine violence protection centres across the country), perpetrator programmes and court assistance for victims of violent crime. In addition, a number of measures taken by public authorities in response to violence against women are funded, including the institution of one specifically trained domestic violence officer in each law enforcement unit, specialist prosecution services and a national helpline for victims of violence against women.

20. For reasons tied to the federal structure of the country, the Austrian authorities felt unable to provide detailed information on the financial allocations made by all relevant government actors. However, information has been provided on the budget of the Federal Ministry of Health and Women's Affairs, which amounts to €10 million annually. While half of these funds are to cover the area of violence against women, the other half is reserved for general gender equality policies and measures. This effectively reduces the budget allocated to federal measures on violence against women to €5 million annually. The majority of this (€3.6 million annually) is dedicated to financing the nine violence protection centres across Austria. An additional €1.06 million in 2014 and €1.96 million in 2015 funded a programme for "peaceful coexistence, violence prevention, and integration". Taken together, these two budget items made up the entire annual budget for violence against women, leaving next to nothing for preventive measures, policy-making, and evaluations of the impact of existing policies or other important measures, such as prevention. This is of particular concern in the context of additional responsibilities conferred upon the Ministry of Health and Women's Affairs in their newly assigned role as co-ordinating body under the Istanbul Convention responsibilities which were added without any apparent budget re-adjustment or reinforcement of staff (see below).

21. While the Federal Ministry of Health and Women's Affairs is not the only federal ministry with budget appropriations in the area of combating violence against women,³ it is the only one with a mandate specifically dedicated to preventing and combating violence against women. GREVIO is of the opinion that its mandate to set the policy agenda in this field must be supported by an appropriate budget and staff and that it must be enabled to take on a wider variety of tasks such as awareness raising and general preventive work, among others.

³ According to the Austrian state report (p.3), the Federal Ministry of Interior takes on an equal amount of funding of the 9 violence protection centres and the Federal Ministry of Justice spends around €5.25 million annually on court assistance – an important service that is however not exclusively limited to victims of violence against women.

22. GREVIO strongly encourages the Austrian authorities to expand significantly the budget allocated to the Federal Ministry of Health and Women's Affairs for its work in the area of preventing and combating violence against women.

23. Another issue that presents itself in the context of financial resources is the funding of specialist support services for women victims of violence. A wide range of support services exist in Austria, run by NGOs emanating originally from the women's movement. GREVIO welcomes the fact that most of these services receive their funding in whole or in part from the federal and/or regional governments. GREVIO also notes, however, that funding amounts and schemes differ significantly – not only across public donors but also in relation to the type of service and on what (if any) legal basis it is founded. While some services such as the violence protection centres and the national helpline on violence against women receive three-year contracts from government entities, thus guaranteeing a certain amount of continuity, others receive only bi-annual or annual contracts, and the funding provided often covers only very basic operational costs. Yet others may have to look to three different levels of government (national, regional, and local) to secure (often short-term) funding. Others, for example shelters, receive funding on the basis of actual occupancy, with vacancies leading to financial shortcomings with obvious impact on management and staff. The responsibility to fund local/regional support services and the corresponding legal regulations fall within the competence of the nine provinces. Specialist support services have repeatedly called for a legal basis to be introduced for all service providers to ensure harmonisation and to provide an adequate level and guaranteed duration of funding of all specialist support providers.

24. GREVIO also notes the fact that although most specialist services for women victims of violence do receive government funding, including for staff costs, it is widely considered insufficient to meet the demand. Shelters regularly turn away women seeking help for lack of capacity and the available staff resources allow most counselling services to offer no more than short-term crisis intervention rather than long-term support. Administrative tasks, networking and preventive work can often only be done by staff in their own time. The few support services which exist to help women suffering from specific forms of violence such as forced marriage, honour-related violence and female genital mutilation generally complain of a lack of financial and political support, thus raising concerns over an overemphasis of funding for and political attention to domestic violence services.

25. GREVIO is thus concerned that, in the absence of a comprehensive strategy on the provision of services in Austria, and in the absence of a legal basis for funding, the good will among the federal and regional governments to provide widespread but limited funding may lead to patchy service provision and a hierarchy among different types of services. The Explanatory Report to the Istanbul Convention states that the resources allocated need to be suitable for the target set or the measures to be implemented. If the target set by the Austrian authorities is to offer specialist support services to victims of all forms of violence covered by the Convention, the resources currently allocated and the resulting diversity in levels of service provision do not appear to be sufficient.

26. GREVIO strongly encourages the Austrian authorities to provide the legal basis necessary to ensure adequate and consistent funding to the various specialist support service providers.

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

27. Most, if not all, counselling and support services for victims of the various forms of violence covered by the Convention are operated by non-governmental entities. These include women-to-women services offered by the specialist women's NGOs, faith-based organisations like Caritas or Diakonie and other not-for-profit organisations. In addition, the Austrian probation service, an institution of central importance in the area of domestic violence, is run by a not-for-profit organisation called *Neustart*. With the exception of church-based organisations, NGOs active in the area of preventing and combating violence against women are predominantly funded by the federal and/or regional government (see above).

28. The key role of these actors in offering support and protection to women victims of gender-based violence is fully recognised in Austria. In particular, the specific expertise and values developed over the years by the specialist women's NGO sector is heavily relied on by the Austrian authorities. The long-standing experience of this sector is valued by public officials across the board and the established practice of funding this sector at federal and regional levels has certainly contributed to the deepening of its expertise, allowing it to become the valued partner it is today. GREVIO notes with satisfaction that this matches the strong role of civil society and NGOs envisaged by the Istanbul Convention, expressed in particular by Article 9.

29. Co-operation with government agencies including law enforcement agencies, prosecution services and child welfare offices exists in many forms and at various levels, some more institutionalised than others. For example, the Security Police Act permits the law enforcement agencies to inform the relevant Violence Protection Centre each time they issue an emergency barring order,⁴ and the law enforcement agencies are generally trained to do so. It also provides the legal basis for Violence Protection Centres to reach out to the women and children concerned.⁵ This is an excellent example of institutional co-operation in the areas of domestic violence and stalking, which are two forms of violence on which the Violence Protection Centres are mandated to work. Similarly, multi-agency risk assessment conferences (MARACs) are being tried out across the city of Vienna, while rural and less populated provinces such as Styria have set up a system of co-operation that brings governmental and NGO professionals together on a needs based rather than on a monthly basis because of the lower number of cases. In addition to co-operation on individual cases of domestic violence, NGO-government co-operation also extends to policy-making. Civil society representatives regularly form part of inter-ministerial working groups (past and present) to address and improve particular aspects of the Austrian response to violence against women. In addition, a number of annual conferences and networking meetings are organised to facilitate more generally the exchange of information among all stakeholders in this field.

30. GREVIO is thus of the opinion that NGOs and civil society are recognised and valued partners of government and a strong pillar in the Austrian response to preventing and combating violence against women. Despite this very positive assessment, GREVIO would point to some concerns.

31. First, co-operation seems to work best when it is placed on a legal basis. As this is the case only for the Violence Protection Centres, victims of domestic violence and stalking are more likely to be reached out to by support services than victims of any other of the forms of violence covered by the Convention. With no obligation to refer victims of sexual violence and rape, forced marriage, female genital mutilation (FGM) or sexual harassment to specialist services for these forms of violence, or the other way round, co-operation or referrals remain *ad hoc*. This is a missed opportunity to direct victims of these forms of violence to the specialist support they need. GREVIO is of the opinion that the good example of the measures taken to protect victims of one form of violence covered by the Istanbul Convention, such as domestic violence, should be extended to victims of the other forms of violence against women.

⁴ Article 56, paragraph 1 of the Austrian Security Police Act.

⁵ Article 25, paragraph 3 of the Austrian Security Police Act.

32. Second, the strong reliance on dedicated and specialist non-governmental support services undoubtedly ensures quality support to victims and is one way of discharging the obligation to provide services as required by Articles 22, 23, and 25 of the Istanbul Convention. If, however, the funding levels set by government donors do not allow the services to meet the demand of victims, this approach becomes questionable. Moreover, some of the contractual obligations set by the government donor add awareness-raising and outreach activities to the counselling work. It is questionable whether an overstretched counselling service with limited staff should be asked to engage in communication work and campaigning. GREVIO is of the opinion that general awareness-raising measures and preventive work is best done at government level, federal or regional (see Chapter III on Prevention).

33. GREVIO invites the Austrian authorities to ensure effective co-operation and referrals between government agencies and the specialist service sector in relation to all forms of violence and that the contracting out of services is on terms, particularly as regards guaranteed and stable funding levels, which allow NGOs to meet fully the needs of all victims.

D. Co-ordinating body (Article 10)

34. Following the entry into force of the Istanbul Convention in respect of Austria, several steps have been taken to comply with the Convention's requirement to set up official bodies for the co-ordination, implementation, monitoring and evaluation of policies and measures to prevent and combat violence against women and domestic violence. In the first place, the inter-ministerial working group "Protecting women against violence (IMAG)" was expanded in 2014 to include representatives of regional governments and civil society and was placed under the formal leadership of the Director of the Division on Violence against Women and Women-Specific Legislation of the Federal Ministry of Health and Women's Affairs. It is supported by a manager and thus more institutionalised than was the case previously, although it has not been assigned a budget of its own. In addition, a "National Co-ordination Office on Violence against Women" has been set up, consisting of two staff members from the Division of Violence against Women and Women-Specific Legislation of the Federal Ministry of Health and Women's Affairs. Their tasks in assuring the role of the national co-ordination office come in addition to their regular workload in the Division – as is the case for the Director of this Division and her role in leading the IMAG. No specific budget has been assigned to the national co-ordination office.

35. While it seems that the national co-ordination office is charged with the co-ordination of policies, in particular in the area of data collection, the role of the IMAG seems to be that of evaluating and improving particular policy measures as well as setting priorities.

36. GREVIO is concerned that rather than creating/mandating one or more separate structures to take on the four tasks of co-ordination, implementation, monitoring and evaluation, these have been simply added to the workload of an existing entity with no adjustments to staffing or funding. This raises questions as to the efficiency of such an approach and puts into question the ability of, in particular, the National Co-ordination Office on Violence against Women to carry out its duties adequately. While it may be more suitable to add a clearly defined task to an existing job profile, such as that of leading the IMAG, GREVIO points to the limitations that the *ad hoc* nature of working groups necessarily present.

37. GREVIO strongly encourages the Austrian authorities to assign the role of co-ordinating body to one or more fully institutionalised government entities, to equip these with clear mandates, powers and competences that are widely communicated and to allocate the necessary human and financial resources to these entities.

E. Data collection and research (Article 11)

1. Data collection

38. 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.

39. Following the 2014 survey on the prevalence of violence against women in all member states of the European Union (EU), conducted by the EU Fundamental Rights Agency (FRA), and the national prevalence study on “Violence in intimate social environments” commissioned by the Federal Ministry of Family Affairs in 2011, there is sufficient information on the prevalence in Austria of physical, sexual and psychological violence as well as sexual harassment. Moreover, 20% of women in Austria have experienced physical and/or sexual violence since the age of 15. A total of 29% of the worst acts took place in the home.⁶ By contrast, the prevalence of other forms of violence against women, in particular female genital mutilation and forced marriage, have never been assessed in Austria. Anecdotal evidence from the health sector in particular, suggests that these forms of violence against women exist in Austria, although their full extent is unknown. With the influx of migrants and asylum-seekers in the recent past their number is likely to rise, making evidence-based policy measures ever more important.

40. GREVIO strongly encourages the Austrian authorities to take measures to monitor the prevalence of the forms of violence against women not previously assessed, in particular forced marriage and female genital mutilation.

41. As regards administrative data collection, the well-established policy response to violence against women in Austria means that there are a number of relevant administrative data sources which should be involved in a systematic approach to the collection of data. Beyond the classic data sources such as the law enforcement agencies and criminal justice sector, these include civil law courts for their role in issuing civil law protection orders, the probation service *Neustart* for its role in implementing diversionary measures, the various entities contracted by the Austrian authorities to offer psycho-social and legal court assistance, the men’s counselling services for their work with perpetrators, all relevant specialist victim support services, the health sector for their new role in victim identification, as well as the Equal Treatment Commissions for their role in dealing with sexual harassment cases. Moreover, the Austrian Federal Office for Immigration and Asylum is another important data source for the number of asylum claims made on the basis of gender-specific persecution and their level of recognition.

42. From the information obtained for this report, it is evident that most of these stakeholders already engage in the collection of data on some or all of the forms of violence covered by the Convention - albeit to varying degrees. GREVIO welcomes any measures taken towards ensuring more comprehensive and coherent data collection. It congratulates some of the authorities it met for their genuine will to set up more comparable data categories and is acutely aware of the challenges this represents in a federal system with multi-layered policy responses and the involvement of a wide range of governmental and non-governmental entities. Nonetheless, GREVIO would like to point to the opportunities that the ratification of the Istanbul Convention presents in this regard, in particular the role assigned to the co-ordinating body in co-ordinating the collection and analysis of data and their dissemination (Article 10, paragraph 1). A number of tools exist in support of governments wishing to improve data collection in the area of violence against women, suggesting a solid knowledge base to which the authorities can turn.⁷ It is against this backdrop that GREVIO would like to present the following priority proposals for future action to be taken by a select number of stakeholders.

⁶ Data from the FRA Survey on violence against women, 2014.

⁷ See, for example, the following Council of Europe publications: *Ensuring data collection and research on violence against women and domestic violence: Article 11 of the Istanbul Convention – A collection of papers on the Istanbul Convention* (2015); *Administrative data collection on domestic violence in Council of Europe member states*, (2008).

a. Law enforcement agencies

43. The Austrian Police Crime Statistics cover the annual number of offences reported to the law enforcement agencies, the number of offences solved and the percentage of crimes solved. It also provides information on the number of suspects and the number of victims broken down by sex. The age of victims and suspects is recorded by age group but not by sex and age. All data is collected on the basis of the offences set out in the Austrian Criminal Code. For most sex offences and offences against the physical integrity of another person, information on the relationship between victim and perpetrator is recorded as additional information. The data categories used for this purpose are: (i) acquaintance, (ii) family relationship in the same household, (iii) family relation not in the same household, (iv) none, (v) unknown, and (vi) chance acquaintance. These six categories were gradually introduced over time and are intended to shed more light on the specific nature of the crime. While GREVIO welcomes the effort made to record systematically the nature of the relationship between victim and perpetrator, it considers the categories in use not sufficiently specific to draw conclusions on the actual type of relationship between those involved. For example, the term “family relationship” would cover intergenerational relationships such as father and daughter as well as intimate relationships between intimate partners. It would also cover offences committed among siblings. As a result, the data collected does not allow conclusions to be drawn on the number of cases of intimate-partner violence compared to those of, for example, child abuse. GREVIO is of the opinion that more specific categories of relationships are needed to render more visible (rather than obscure) the number of cases of domestic violence as understood by the Istanbul Convention.

44. The Austrian law enforcement agencies also record data on all incidents reported to the law enforcement agencies with the help of an electronic documentation system (EDD). This system includes information on the type of offence, the number of people affected and the number of working hours the incident required. It also includes the number of emergency barring orders issued by the law enforcement agencies. Due to changes in the system, however, this latter information will only be available publicly from 2016 onwards. GREVIO notes that much of these data collection efforts are done for internal recording purposes (to keep track of working hours spent) rather than for the purpose of evidence-based policy-making. The Convention, however, requires data systems to be set up that go beyond the internal recording needs of the agency in question.

45. **GREVIO strongly encourages the Austrian authorities to :**

- a. **develop data categories for use by the law enforcement agencies on the type of relationship of the perpetrator to the victim that would allow the nature of their relationship to be more specifically documented;**
- b. **ensure that these and any other data categories in use are harmonised across the various sectors;**
- c. **make domestic violence against women and the gendered nature of other forms of violence more visible in the annual law enforcement agencies crime statistics and in the way this data is presented to the public. This would include the visible presentation of information on the number of homicides of women at the hands of men for reasons of their gender (gender-related killing of women);**
- d. **ensure that information on all interventions and measures taken by law enforcement agencies such as emergency barring orders are documented electronically and in a comparable manner such that they can be used for the purpose of evidence-based policy-making rather than mainly for internal recording requirements.**

b. Criminal justice sector

46. At the level of the criminal courts, data is collected on the sex, age and nationality of both perpetrator and victim. All data is collected on the basis of the offences set out in the Austrian Criminal Code, as is done by the law enforcement agencies. The caveat here, however, is that the assessment of the facts may have evolved since the police investigation stage, making it difficult to trace a particular case across the various stages of the criminal proceedings.

47. Plans exist to introduce a “unique person number” to ensure cases can be traced across sectors, not on the basis of the offence but on the basis of an individual offender. GREVIO welcomes these plans which would not only lead to much needed data but would permit information on repeat offenders to become visible more easily.

48. Similarly to the data gathering system of the law enforcement agencies, data categories are in use by the criminal justice sector to record the relationship between perpetrator and victim. Although the list of offences to which such categories are applied is more comprehensive, only two categories of relationships exist: “with FAM” and “without FAM”, the term “FAM” referring to a family relationship. This is a term insufficiently distinct as it covers relationships that are too varied to render the data category meaningful for the purposes of policy-making. In addition, it does not allow for any distinction between current and past partners and whether or not perpetrator and victim live or have lived together.

49. **GREVIO strongly encourages the Austrian authorities to:**

- a. **develop data categories for use by the criminal justice sector on the type of relationship of the perpetrator to the victim that would allow the nature of their relationship to be documented in more detail;**
- b. **ensure that these and any other data categories in use are harmonised across the various sectors;**
- c. **pursue the existing plans of introducing a “unique person number” to trace offenders and the offences they are charged with across the various sectors.**

c. Civil justice sector

50. Civil law protection orders⁸ are issued by the civil law courts, but it appears that there is no systematic and electronic recording of their number and duration, and no information is collected regarding the parties involved. It is thus neither possible to assess the overall number of protection orders issued, nor for which form of violence they have been issued (domestic violence or stalking), nor whether they have been issued for a child, a female or male victim of domestic violence. Identifying this as a gap in data collection, this had been brought to the Austrian authorities’ attention in the 2012 report on Austria by the Council of Europe Commissioner for Human Rights, Nils Muižnieks.

51. **Reiterating the observations made by the Council of Europe Commissioner for Human Rights in his 2012 report on Austria, GREVIO thus encourages the Austrian authorities to ensure the collection of data from the civil justice sector on the number of civil law protection orders, the type of violence they cover as well as the sex, age and relationship of all parties involved.**

⁸ A detailed description of the Austrian system of police emergency barring and civil law protection orders can be found in Chapter VI.

d. Equal Treatment Commission

52. Several Equal Treatment Commissions have been set up in Austria to adjudicate, *inter alia*, on sexual harassment cases in the workplace.⁹ Separate commissions exist for the private sector, for the public sector and for national civil servants. They co-exist with criminal courts, and either or both avenues may be explored by victims. The Equal Treatment Commissions are under a legal obligation to report to the Austrian national parliament every two years, including on the number of requests for information and counselling and the number of cases handled by type of case. Currently, however, the information on the different types of cases brought before these commissions is not broken down by sex, which does not allow any information to be obtained on the number of sexual harassment complaints brought by women compared to men. The biennial reports only indicate the overall number of complaints made by women, but not in relation to the type of complaint made.¹⁰

53. **GREVIO welcomes the intention expressed by the Federal Ministry of Health and Women's Affairs to bring the data categories in use by the Equal Treatment Commissions in line with the requirements of the Istanbul Convention and encourages the Austrian authorities to ensure their breakdown by type of offence, sex, age, relationship of the perpetrator to the victim and outcome of the case.**

e. Health

54. Since 2010, public and private hospitals of a certain size have been required by law to set up Victim Protection Units with the purpose of identifying victims, primarily of domestic violence, but also of other forms of violence covered by the Convention.¹¹ Once identified, victims or women at risk receive medical and psychological support and are referred to specialist support services. Any suspicion of a serious criminal act (grievous bodily harm or manslaughter/homicide) must be reported to the law enforcement agencies or prosecution services. Suspicion of emotional, physical or sexual abuse of minors or of adults with reduced decision-making capacity must also be reported. No data collection obligations exist. While it is assumed that some hospitals collect data for their own internal reporting purposes, it would fall within the remit of the nine provincial governments to request such data, a step which has not been taken to date.

55. As a result, no comparable or systematic information is available on the number of victims identified in hospitals, in relation to which form of violence, and how the victim was helped. Thus, it is impossible to evaluate the impact such support services have where they exist,¹² and whether they fulfil their intended role.

56. **GREVIO encourages the Austrian authorities to take measures to improve the systematic and comparable collection of data by all hospitals, whether they have set up Victim Protection Units or not, on the number of victims of the different forms of violence against women, their sex, age and relationship with the alleged perpetrator.**

f. Federal Office for Immigration and Asylum

57. The Federal Office for Immigration and Asylum collects data as requested by Eurostat. The data categories in use in relation to asylum applications are (i) minor and non-minor, (ii) gender, (iii) country of origin, and (iv) status received. Flight reasons or grounds for asylum recognition are not recorded, as this is considered neither feasible nor relevant to the core aim of the Office, which is processing asylum claims.

⁹ This is part of the requirements under EU anti-discrimination legislation, see, among others, Chapter II of the EU Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

¹⁰ See for example the *Report on Equal Treatment in the Private Sector 2012 and 2013, Part I, Equal Treatment Commissions*, pp.9, 124 and 168; accessed on 3 January 2017, available at www.bmb.gv.at/frauen/gleichbehandlung/gbb_priv_2012_2013_T01.pdf?50c6bp

¹¹ See Article 8 E of the Federal Hospitals Act

¹² GREVIO was informed that not all hospitals have set up Victim Protection Units as of yet, see Chapter IV.

58. **GREVIO encourages the Federal Office for Immigration and Asylum to introduce a data collection system that would allow asylum claims on the basis of gender-related persecution and their outcomes to be recorded.**

2. Research

59. From 2011 to 2015, eight research projects were carried out on violence against women in Austria. Half of these were commissioned by the federal government, while the other half formed part of European research projects and were predominantly funded by EU research grants such as the DAPHNE III programme. Five of these focused specifically on domestic violence, covering women's experiences of psychological violence, convictions for homicides in relationships, perpetrator programmes, restorative justice in domestic violence cases and special needs and protection orders. The other three research projects focussed on specific groups of victims, such as elderly women, women with disabilities and domestic workers experiencing sexual violence.

60. While GREVIO appreciates the fact that the above research projects have revealed important insights into specific aspects of violence against women, GREVIO notes that most of these address domestic violence and none seem to include any evaluation of existing policy or legislative measures.

61. **GREVIO encourages the Austrian authorities to invest more in the evaluation of existing policies and legislative measures to assess their level of implementation and victim satisfaction. GREVIO also encourages the Austrian authorities to address, through research, forms of violence against women such as female genital mutilation and forced marriage or other traditional practices harmful to women not previously covered.**

III. Prevention

62. 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 prevention of violence against women. It also includes more specific preventive measures such as awareness raising and campaigning, ensuring the adequate training of all professionals, education in schools and other settings, and, last but not least, measures such as perpetrator programmes to prevent further victimisation.

A. Awareness raising (Article 13)

63. The Austrian state report refers to a number of awareness-raising activities that were carried out at federal or regional level in 2014 and 2015. Funded or co-funded by the Austrian authorities, most of these were implemented by non-governmental actors. In addition to activities and events linked to world-wide campaigning periods such as the 16 Days of Action against Gender-based Violence and the One Billion Rising Campaign; art contests, poster campaigns, promotion of the violence against women hotline, and campaigns for legal amendments of the Austrian rape legislation were carried out. The subjects covered included date-rape drugs, sexual violence, domestic violence and masculinities and positive male role models. The target groups span from the general public to school-aged children, medical practitioners and health-care workers as well as migrants, young people and journalists.

64. In addition, a wide range of information on the different forms of violence against women, available support services and other advice is made available online (in some cases in several languages) by various federal ministries and the specialist support services themselves. The latter are frequently engaged in publicly funded awareness-raising activities, which for some is a legal obligation under their funding contract with the government.

65. GREVIO welcomes such varied efforts to make the different forms of violence against women visible and to sensitise both the general public and professionals. GREVIO particularly commends the Austrian authorities on the comprehensive and well-conceptualised campaign Living free from violence (*Gewaltfrei leben*) which was mentioned by various stakeholders throughout GREVIO's discussions during the evaluation visit and which was generally considered an important and successful initiative. GREVIO is of the opinion that all of the issues addressed so far merit awareness raising and the campaigns have undoubtedly contributed to a rise in recognition. However, none of the mentioned campaigns and activities seems to have been evaluated, precluding the possibility of any conclusions being drawn as to their impact.

66. Moreover, GREVIO considers it crucial to expand the scope of awareness-raising activities to address the root causes of violence against women and what may be perceived as growing anti-feminist attitudes. This was raised as an issue during several discussions held during the GREVIO evaluation visit. The feeling seemed to be that whereas before the commitment to combatting violence against women was visible and strong, this has now diminished. Although some measures are still being implemented the spirit and conviction has decreased, making it more difficult to acquire resources for campaigning and to carry out the work required.

67. GREVIO encourages the Austrian authorities to acknowledge gender inequality as a root cause of violence against women and to take measures to increase gender equality, not only through legislation but also through awareness raising, public education and cultural change.

68. While GREVIO was informed that all nine provinces in Austria allocate a budget to cover awareness-raising activities on violence against women at regional level, the overall amount of funding available for this purpose is not known. From discussions with the Federal Ministry of Health and Women's Affairs, however, it has emerged that its own funding leaves little room for wide-scale public awareness campaigns, leading GREVIO to conclude that this is one of the reasons for contracting out this work to specialist support services, most of which are run by the NGO sector. As much as GREVIO is in favour of involving the specialist support sector in policy-making and implementation, it is of the opinion that some awareness-raising activities should be steered and implemented by the federal government to ensure wider reach. Compared to women in other EU countries, Austrian women are the least aware of campaigns on violence against women carried out in their country¹³, suggesting a real need for public awareness-raising activities.

69. GREVIO strongly encourages the Austrian authorities to ensure a stronger role of the various federal ministries in conceptualising, implementing and evaluating public awareness-raising activities to ensure regular campaigns and programmes of national reach, including with the help of public broadcasting announcements. GREVIO further specifies that this would have to be accompanied by appropriate budgetary measures.

B. Education (Article 14)

70. The competences for the different types of formal learning in Austria are split between the regional and federal governments. While the responsibility for early childhood education in kindergarten falls to the nine regional governments, primary and secondary education comes within the remit of the Federal Ministry of Education. Tertiary education is the responsibility of the Federal Ministry of Science.

71. Some provinces have developed guidelines and standards for gender-sensitive education but it is unknown to what extent they cover issues of violence against women in an age-appropriate way at the level of kindergarten. As for primary and secondary education, the formal curriculum requires concepts of gender equality and non-violent conflict resolution in interpersonal relationships to be covered. Teaching material on these and other related issues is made available for use by teachers on a voluntary basis. The government funded centre for civic education (POLIS¹⁴) offers a wide variety of brochures that contain background information, including information on international standards such as the Istanbul Convention, suggestions for age-appropriate reading material and further links, as well as explanations on the subject and how to teach it in class. The subject areas covered include violence against women and children, gender-based violence against children and youth with disabilities, female genital mutilation, forced marriage, gender equality, women's rights are human rights, boys and masculinities, mobbing in schools and women and armed conflict. It targets different age groups, ranging from grades 2 to 8 and beyond. According to data provided to GREVIO, this material is regularly accessed by teachers and others online, with demand seemingly highest for the brochures on mobbing in school, gender equality and women's rights are human rights.¹⁵ A total of 6500 printed copies of all available brochures were provided to teachers and multipliers across Austria from 2014 to 2016.

¹³ According to the FRA Survey, only one out of five women (20%) in Austria has recently seen or heard any campaign addressing violence against women. See p.162 *Violence against women: An EU-wide survey, Main results*, 2014.

¹⁴ POLIS is a learning centre which produces and disseminates teaching material in the area of democracy, citizenship and political education.

¹⁵ Over 2000 hits each within a two-year period (2014-2016). During the same period, the brochure on violence against women and children was accessed 681 times online.

72. While it is difficult to assess in any detail the impact of this material, GREVIO commends the Austrian authorities for making available to teachers such far-ranging and in-depth material. It would, however, be preferable for these issues to form part of the compulsory curriculum. GREVIO also welcomes the efforts undertaken by the federal government as part of the National Strategy on the Prevention of Violence in Schools (2014-16) to train teachers and to tap into the leadership of individual head teachers to ensure wider use of the POLIS material. Moreover, GREVIO takes note of the formal obligation placed on teachers to promote gender equality in their teaching. This offers another opportunity to ensure wider use of the available material.

C. Training of professionals (Article 15)

73. The standard set by the Convention in its Article 15 is that of systematic initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence. The training that is required must cover the prevention and detection of such violence, equality between women and men, the needs and rights of victims and the prevention of secondary victimisation. The questionnaire drawn up by GREVIO lists, in the table appended to it, the professional groups which GREVIO considers relevant and in need of such training.¹⁶ Against this background, the information obtained by GREVIO from the Austrian state report and during the evaluation visit reveals a mixed picture regarding the level of training on violence against women which members of the various professions receive.

74. GREVIO is aware of the high standard set by Article 15 and the challenges this represents. It welcomes the steps taken by the Austrian authorities to include the issue of violence against women systematically in the various curricula for initial training, in particular with regard to the law enforcement agencies and the health sector. Although the curricula for the different health professions do not yet include harmonised and mandatory modules on the identification of victims of the different forms of violence against women, this is on the political agenda as a result of the National Action Plan and the work plan of the inter-ministerial working group on the protection from violence (IMAG). The legal regulations governing the different professions (doctors, nurses, psychotherapists, etc) already refer to the importance of raising awareness of the different forms of violence against women and the specific needs victims have. As part of the campaign *Living free from violence (Gewaltfrei leben)*, a significant number of health professionals and middle managers in hospitals were trained; and guidelines for documentation of injuries related to domestic violence have been developed.

75. GREVIO strongly encourages the Austrian authorities to introduce compulsory and harmonised training modules on violence against women and domestic violence for all health professions.

76. Regarding the law enforcement agencies, much is done both at the level of initial vocational and in-service training. Domestic violence and its gender-based nature form part of the module on human rights which is a mandatory component of the two-year basic training of all cadets. As domestic violence cases and emergency barring orders account for a large part of the work of law enforcement agencies, the specific nature of this type of violence and the relevant police measures are an important element of the basic training. Depending on grade and job profile, some law enforcement officers receive more extensive training. For example, prevention officers receive training on forced marriage and female genital mutilation in a small training module, and domestic violence prevention officers are trained extensively on how to address warnings to perpetrators who have been barred from their home. In-service training is mandatory and organised every three months on varying subjects. Domestic violence is covered once or twice a year, and seminars are usually conducted by representatives from the specialist support services. Concern over reduced levels of funding of such training sessions by the specialist support services has been raised.

¹⁶ These are, at a minimum, police and other law enforcement officials, prosecutors, judges, social workers, medical doctors, nurses and midwives, psychologists (in particular counsellors and psychotherapists), immigration and asylum officials, educational staff and school administrators, journalists and other media professionals, servicemen and women.

77. GREVIO strongly encourages the Austrian authorities to ensure sustainable and stable funding for training sessions on all issues listed in Article 15 of the Istanbul Convention carried out by the specialist women's support services for law enforcement agencies.

78. From the information received, GREVIO considers that, in Austria, of all the professions concerned, the legal profession is the least trained on violence against women, equality between women and men, victims' rights and needs and the prevention of secondary victimisation. These issues are not covered by any mandatory course required for a standard law degree. It is only during the four-year preparation for service as a judge or public prosecutor that some related issues such as dealing with victims and sexual and other forms of violence against children are covered by specific seminars. However, no such seminars exist specifically on violence against women as a form of gender-based violence or gender equality. GREVIO welcomes the request made to the presidents of the Courts of Appeal in Austria to ensure that teachings on the provisions of the Istanbul Convention be included in the training programme, and is hopeful that this will lead to more targeted seminars on the standards of the Convention in the near future. Until then, a mandatory two-week work placement is considered to fill this gap as it may be spent at one of the nine violence protection centres. While GREVIO welcomes this important learning opportunity for trainee judges and prosecutors, it notes that this work placement may also be spent at another type of social institution, meaning that the experience is not obligatory for all. Furthermore, this gap is not overcome by in-service training later in the career of judges and prosecutors. Although seminars on equal treatment, violence and the protection of victims are offered annually, there is neither an incentive programme in place nor a mandatory requirement to attend.

79. GREVIO strongly encourages the Austrian authorities to provide for compulsory vocational training for legal professionals on all issues listed in Article 15 of the Istanbul Convention.

80. Immigration and asylum officials form another professional group to receive very little training on the subjects required by Article 15. All training provided for staff members of the Federal Agency for Immigration and Asylum is done internally and covers a module on "vulnerable groups", which apparently touches on gender-based violence and humanitarian protection, albeit to a limited degree. Specific training exists on how to identify victims of human trafficking.

81. GREVIO strongly encourages the Austrian authorities to develop a training manual on how to identify victims of gender-based violence in the asylum process and how to grant asylum or subsidiary protection and to provide for compulsory training for immigration and asylum officials.

D. Preventive intervention and treatment programmes (Article 16)

82. In Austria, support and behavioural change programmes exist both for domestic violence perpetrators and for sex offenders.

1. Programmes for perpetrators of domestic violence

83. For domestic violence perpetrators, programmes are available from two different sources: men's and other counselling centres such as the Association for Men's and Gender Issues Graz, the Men's Counselling Centre Vienna and the Domestic Violence Intervention Centre Vienna on the one hand and the Austrian probation service *Neustart* on the other hand. While *Neustart* deals almost exclusively with convicted domestic violence offenders who were court-ordered to attend such a programme, attendance of the programmes run by the counselling centres is more mixed, including men participating on both a voluntary and a mandatory basis. In terms of attendance rates, in 2015 *Neustart* ran 34 anti-violence programmes with a total of 334 perpetrators.

84. An issue which has received a significant amount of attention since the entry into force of the Convention is that of introducing systematic victim-orientation into all programmes to ensure the safety and human rights of the women involved a gendered understanding of domestic violence and close co-operation with women's support services. A working group on this issue has been set up to map existing programmes and their principles of operation and to develop national standards for victim-orientation and protection.¹⁷ Work on these standards has not yet been completed, but a co-operation between *Neustart* and some women's support services has been formally agreed. This is an important step, as women's services in support of women whose partners or spouses, current or former, are attending a perpetrator programme at *Neustart* are now regularly informed of progress and of the level of co-operation of the attendees and are provided with any other information that might be important to ensure the women's safety. An important caveat in this regard, however, is that the consent of the perpetrator is required in order for this exchange of information to take place. While GREVIO recognises the importance of data protection, GREVIO is concerned that, in essence, this means that concerns for data protection of perpetrators take priority over concerns for the safety of victims of domestic violence and their children.

85. Another concern GREVIO would like to raise in relation to domestic violence perpetrator programmes is the fact that their attendance is largely dependent on the rates of conviction for domestic violence offences. As most attendees are ordered to attend a perpetrator programme in connection with a criminal conviction, and conviction rates for domestic violence are very low (see Chapter VI on Prosecution), this means that only a small percentage of perpetrators actually attend. GREVIO considers that more efforts should be undertaken to ensure wider attendance.

86. **Recalling the obligation contained in Article 16, paragraphs 1 and 3, in particular as regards the emphasis on the safety of victims of domestic violence, GREVIO encourages the Austrian authorities to:**

- a. **reinforce the efforts underway to ensure the systematic victim-orientation of all perpetrator programmes;**
- b. **use all available means to ensure wider attendance of programmes for domestic violence perpetrators.**

2. Programmes for sex offenders

87. While incidents of sexual violence committed as part of a cycle of domestic abuse are addressed in domestic violence perpetrator programmes, perpetrators of all other sexual offences benefit from specific support programmes for sex offenders run by the Austrian probation service *Neustart*. These are one-on-one counselling sessions with a trained social worker from *Neustart* in which perpetrators are court-ordered to participate, often as part of a range of orders for measures such as anti-violence trainings and alcohol addiction recovery programmes. Counselling sessions are frequent and intense and carried out in close co-operation with the courts. Data provided in the Austrian state report indicate that on average *Neustart* works with around 600 perpetrators of sexual offences annually. Some of the men's counselling centres also offer sex offender programmes for self-referral or referral by other bodies such as courts, youth welfare offices or the law enforcement agencies.

¹⁷ Federal working group "Victim protection-oriented work with offenders" (BAG).

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

88. To increase the quality of media reporting on violence against women, guidelines for journalists were developed in the framework of the campaign Living free from violence (*Gewaltfrei leben*). These guidelines are now available on the intranet of the Austrian Broadcasting Corporation (ORF). In addition, the campaign included workshops for students of journalism in 2014.

89. Another component of the campaign aimed at increasing private sector involvement in the prevention and protection of violence against women. As a result, the works council of the Austrian supermarket retail chain *Billa* now offers information for staff members affected by domestic violence and the Austrian Employment Service trained its labour market counsellors on domestic violence.

90. **GREVIO welcomes initiatives taken by certain private sector entities and public media corporations and invites the Austrian authorities to continue to encourage the private sector to take an active part in preventing and combating violence against women in all its forms. GREVIO refers in this regard to a publication on Article 17 of the Istanbul Convention on implementing Article 17.¹⁸**

¹⁸ *Encouraging the participation of the private sector and the media in the prevention of violence against women and domestic violence: Article 17 of the Istanbul Convention*, Council of Europe, Strasbourg 2016, available at : <http://edoc.coe.int/en/violence-against-women/6804-encouraging-the-participation-of-the-private-sector-and-the-media-in-the-prevention-of-violence-against-women-and-domestic-violence-article-17-of-the-istanbul-convention.html>

IV. Protection and support

91. Chapter IV of the Istanbul Convention aims at a multi-faceted, professional and victim-oriented support structure for any woman who has experienced any of the forms of violence covered by the Convention. In Austria, a number of specialist and general support services exist in this area and efforts are made by government and other actors to ensure that victims can easily access or be referred to the right one.

A. Information (Article 19)

92. Information on available support services and legal measures is provided in various ways. Most public awareness-raising activities mentioned in the previous chapter contributed to high levels of awareness of the existing support services in Austria.¹⁹ Information is also made available online by the Federal Ministry of Health and Women's Affairs, and also by the support services themselves, often in multiple languages. The Federal Ministry of Health and Women's Affairs also developed a mobile phone application that allows users to contact instantly the law enforcement agencies, the women's helpline and the various support services. It also allows users to record, in the form of a "log-book", incidents of violence they experience.

93. Once a criminal investigation is opened, the law enforcement agencies and prosecution services are under a legal obligation to inform victims of their rights in the investigation. Should they come within the purview of free psycho-social and legal court assistance (see below), victims must be informed thereof before being questioned. In addition, victims of sexual offences must be informed of their right to be questioned by a law enforcement officer of the same sex.

94. **GREVIO invites the Austrian authorities to continue to provide information to victims of violence against women and to ensure that minority language speakers have all information available to them.**

B. General support services (Article 20)

95. Several efforts have been undertaken in Austria to mainstream the issue of violence against women into the help and support provided by social welfare services. Particular mention should be made of the numerous family counselling centres across Austria of which several offer counselling on different forms of violence against women, including domestic violence, rape and sexual violence and sexual abuse of children. Another interesting example is the housing programme set up by the City of Vienna. This programme offers social housing at affordable rates to people with special needs, in particular women victims of domestic violence or migrant women who cannot otherwise afford their own accommodation after separation or divorce. This is a crucial step in helping women re-build their lives and stay safe, as too many women are forced to return to their abusive partners and spouses for lack of financial means.

96. In addition, GREVIO would like to highlight the efforts made to involve the public health sector in actively reaching out to victims of domestic violence and in responding to their needs. The Federal Hospitals Act contains a legal obligation to set up Child Protection Units (for child victims of domestic violence and abuse) and Victim Protection Units (for adult victims).²⁰ Although these have not been set up by all relevant hospitals across the country, this is an important measure that should be pursued and evaluated to assess its impact. The health sector is often the first point of contact for domestic violence victims who have not yet spoken out, and ensuring that the right questions are asked and referrals made can help break the cycle of violence. Under the Austrian Physicians Act, medical doctors are also required to report to the law enforcement agencies and

¹⁹ The FRA survey on violence against women shows that only 3% of women in Austria were not aware of any institution or organisation in support of victims of violence against women (p.163).

²⁰ Article 8 e of the Federal Hospitals Act.

prosecution services any deaths or severe injuries that, in their view, resulted from a criminal act.²¹ A similar obligation, albeit with some exceptions, exists for nursing staff under the Austrian Health Care and Nursing Act.²²

97. GREVIO strongly encourages the Austrian authorities to ensure nation-wide implementation of the legal obligation resulting from Article 8e of the Federal Hospitals Act to set up Child and Victim Protection Units and to monitor and evaluate its implementation.

C. Specialist support services (Article 22); shelters (Article 23); support services for victims of sexual violence (Article 25)

98. A wide variety of specialist support services exist in Austria and a large number are fully or partially funded by the federal and/or regional governments. GREVIO commends the Austrian authorities for this long-standing practice and recognises the considerable level of service provision in place well before the Convention came into force.

99. In its Articles 22, 23 and 25 the Convention sets new standards as to the comprehensiveness, geographic distribution and type of services to be provided (immediate, short- and long-term), and as to the forms of violence to be addressed (all forms covered by the Istanbul Convention). Against this background, GREVIO draws attention to a number of concerns.

1. Domestic violence services vs. services for other forms of violence against women

100. First and foremost, GREVIO notes a stark contrast in the number, scale and regional spread of services between domestic violence victim services and services for victims of other forms of violence. For example, while each of the nine provinces in Austria provides the required violence protection centre for domestic violence and stalking victims, only five have a specialised counselling service for victims of sexual violence and rape. This is mainly due to the lack of adequate and/or sufficiently long-term funding for these services.

101. On sexual harassment, no dedicated specialist support services seem to exist, although most sexual violence services will offer counselling on sexual harassment. Moreover, levels of institutionalised co-operation vary, ensuring appropriate referrals for domestic violence victims but not for others. While the law enforcement agencies are under an obligation to ensure that domestic violence victims are supported by a violence protection centre (by passing on information) there is no equivalent obligation in relation to victims of any other form of violence. It has come to GREVIO's attention that, as a result, the law enforcement agencies tend to refer many rape victims to violence protection centres, causing confusion to the victim (who would be better served by the appropriate specialist service) and tension between the different services.

102. For migrant women in Austria some information and counselling centres exist which provide general information on life in Austria and where to find help and support. On specific forms of violence such as female genital mutilation, there are only two services that exist, and both are based in Vienna (African Women's Organisation and the women's health centre FEM). Equally, there are only two support organisations for women and girls affected by forced marriage: Orient Express based in Vienna and the counselling centre DIVAN run by Caritas Styria in Graz. In terms of emergency accommodation for women fleeing this type of violence, there are only 10 (bed) places throughout the country all of which are offered by Orient Express in Vienna. The counselling centre DIVAN seems to be the only specialist service in Austria to offer psychological and legal counselling on honour-related forms of violence in addition to their work on forced marriage.

²¹ See Article 54 paragraphs 4-6 of the Physicians Act.

²² See Article 7 of the Austrian Health Care and Nursing Act.

103. It is difficult to assess to what extent the above service provision meets the demand, as no data exists on the prevalence of the less common forms of violence against women in Austria (forced marriage, female genital mutilation or so called honour-related forms of violence). The specialist counselling services, however, suggest that there is a rising number of cases and an increase in demand for counselling. As an example, it is not only the increase in asylum-seekers and refugees in Austria that is causing the issue of forced marriage to come to the fore, counselling services are also seeing the second generation of migrant women victims asking for support.

104. This is a clear indication that more attention to this form of violence is needed, including but not limited to intensified counselling on a larger scale. Preventive measures such as workshops in schools (for which funding was recently cut) need to be resumed and intensified. A comprehensive and co-ordinated approach to preventing and combating forced marriage and female genital mutilation would be needed, involving various actors and agencies and first and foremost the migrant communities in Austria which continue these practices.

2. Access to services for all

105. Secondly, GREVIO notes that despite the more comprehensive service provision in the area of domestic violence, ensuring access for all women in need is an issue still to be resolved. There are a total of 30 shelters across Austria which together may accommodate around 760 women and children. Still, 353 women were turned away in 2015 for lack of space. According to the standard set in the Explanatory Report of the Istanbul Convention (paragraph 135), safe accommodation in a specialist women's shelter must be available with one family place per 10 000 inhabitants. Estimates submitted by NGOs indicate that applying this ratio to Austria would require an additional 68 shelter places. It is in particular in rural areas that shelters are unavailable. Experts from the specialist support sector indicated that this gap would not necessarily always require the setting up of additional fully equipped shelters but that for some rural areas safe temporary accommodation on a small scale would be helpful to allow women to take the time they need to decide on the next steps (relocate to a shelter further away or return home).

106. Not all shelters admit boys above the age of 14 arriving with their mothers. While GREVIO understands the reasoning behind this age limit, it might discourage a certain number of women from leaving an abusive relationship. The situation of women with disabilities affected by domestic violence appears even more alarming, as shelters are, at best, equipped to accommodate women with reduced mobility but not disabilities or conditions that require medical and personal care. Women with mental health conditions or substance abusers are usually not admitted to shelters at all as the support they need goes beyond the expertise and staffing levels of domestic violence shelters. To date there seems to be no adequate support option for domestic violence victims with medical needs, mental health or substance abuse issues. Another group facing particular obstacles in accessing domestic violence shelters and possibly other services are asylum-seeking women. Their status in Austria has implications on the funding a shelter may receive for taking them in. Several shelters are funded based on a system of daily rates, which the government disburses for women without sufficient income and who are entitled to basic social welfare (*Grundeinkommen*). Without the entitlement to such basic financial support from the government, a woman's stay in a shelter will not be reimbursed by the government. *De facto*, this excludes asylum-seeking women from accessing shelters, as other funding options rarely exist.

107. **GREVIO is concerned by the disparity in terms of levels of service provision for the different forms of violence covered by the Istanbul Convention. Aside from creating a form of hierarchy among victims, it leaves a significant number without specialist support. GREVIO urges the Austrian authorities to ensure generally that the specialist support services meet the demands of victims, irrespective of the form of violence they experienced or the particular realities and compounding difficulties they face. In particular, GREVIO urges the Austrian authorities to:**

- a. aim at a comprehensive strategy for service provision by conducting a needs assessment on the number, types and geographical location of services required by victims of all the different forms of violence;**
- b. ensure that sexual violence (including rape) counselling services are available in each of the nine provinces;**
- c. set up more specialist support services for victims of forced marriage and female genital mutilation;**
- d. set up adequate support services, including shelter accommodation, for women victims of domestic violence with mental health issues, intellectual or physical disabilities that require medical care or support;**
- e. ensure that domestic violence victims with a history of substance abuse receive access to adequate support services, including accommodation;**
- f. remove funding requirements and other bureaucratic obstacles that prevent access to services and shelters for asylum-seeking women and undocumented women and to ensure the same for recognised refugees and those with subsidiary protection; and**
- g. ensure financial and human resources are available to enable the above.**

108. Lastly, the level of funding for many specialist services may only cover basic operating and staff costs and differs in terms of amount and duration depending on the type of service and funding source (see Chapter II).

109. A concern that has been repeatedly raised with GREVIO by several services is that of not being able to respond to longer-term counselling needs that women often display or express. For example, violence protection centres believe that they are able to deal with the immediate needs of women leaving an abusive relationship or providing assistance and advice immediately after an emergency barring order and/or a protection order has been obtained. They do not, however, consider their support sufficient in the long term, as their funding limits the number of counselling sessions available to each victim. As a result, women are no longer in the care of violence protection centres when confronted with important decisions to take, such as accepting victim-offender mediation or negotiating custody settlements.

110. Trauma care is another service that is largely considered insufficient, as funding is rarely available to cover long-term trauma counselling sessions. As several victims in need of trauma care are foreign-born and do not necessarily have the sufficient language skills in German, interpretation would be required in many cases to make psychological or trauma counselling effective. Again, funding for this type of service is rarely available. See also Chapter II.

111. **GREVIO encourages the Austrian authorities to enable the longer-term needs of all women victims and their children to be met by providing adequate levels and stability of funding.**

D. Telephone helplines (Article 24)

112. There are several free-of-charge helplines in Austria that operate 24/7. Three of these are available nation-wide. The most relevant under the Convention is the women's helpline, in existence since 1998 and dedicated to victims of domestic violence in all its forms, stalking and forced marriage. It is run by the Austrian Autonomous Women's Shelter Network and fully funded by the Federal Ministry of Health and Women's Affairs. While services are offered in German and English at all times, additional languages such as Bosnian, Croatian, Serbian, Arabic, Dari, Farsi, Russian and Turkish are offered only once a week. The purpose of this helpline is to serve as the first point of contact for victims. It offers crisis intervention as well as information on and referral to specialist support services.

113. In addition, there is the national helpline for all victims of crime called The White Ring Victim's Emergency Helpline (*Der weiße Ring*) and the national helpline for children and youth experiencing violence called Advice on the line (*Rat auf Draht*).

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

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

115. Research has shown that children who witness one parent's assaults on another in the home often develop emotional problems, cognitive functioning disorders and accept attitudes around violence that need to be addressed in the long term.²³

116. The Austrian specialist support sector is acutely aware of this, and the Austrian child welfare services are instructed to consider direct and indirect victims of domestic violence as equally in need of support. Standard operating procedures require the law enforcement agencies to notify the child welfare service of all cases of domestic violence that involve a child, as witness or direct victim. This is the first entry point for help. The tools available to this statutory agency range from assessing the most appropriate course of action, to applying for protection orders on behalf of a child at risk and mandating the violent parent to attend an anti-violence training programme. It may also refer the child to a specialised counselling service such as one of the many NGO-run child protection centres. In practice, however, child welfare services appear to opt for referrals rather than any of the more far-reaching measures.

117. Women's organisations such as the violence protection centres would prefer to offer counselling to women *and* their children, but find themselves prioritising direct over indirect child victims as their funding does not allow for both. For many child witnesses, this means having to seek support from yet another service (for example the child protection centre). In reality, this proves a barrier to support, especially for young children, as their attendance at counselling sessions depends on their mother's ability to make and follow-up on appointments for her child (in addition to her own) – often something that is difficult to achieve in crisis situations. NGO-run child protection centres have reported that, even if mothers are supportive of counselling for their children, drop-out levels are high. Sadly, they see more child witnesses of domestic violence referred to them by teachers and family members at a later age, when emotional and other problems are manifest and clearly need to be addressed.

²³ 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 and accessed on 6 January 2017.

118. For children residing in shelters with their mothers, psycho-social support and counselling is usually available, albeit to varying extents. One shelter in Austria has recently taken the step of hiring a male social worker/counsellor to offer a male role model and interlocutor specifically to boys who have witnessed domestic violence against their mothers. The limitation attached to counselling provided by shelters is that most shelter stays are limited by regional law to six months, raising questions about the continuity of any counselling. Another limitation is the fact that boys older than 14 are not always admitted to shelters with their mothers, thus excluding them from protection and the counselling available there.

119. Issues related to protection orders for children will be addressed in Chapter VI.

120. Recalling the obligation contained in Article 26 of the Istanbul Convention, GREVIO encourages the Austrian authorities to enable violence protection centres to offer timely help and support to child witnesses to avoid preventable emotional distress to such children.

V. Substantive law

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

A. Civil law

122. The Austrian civil law framework contains several measures in support of victims of the different forms of violence covered by the Convention. Some are specific to a particular form of violence such as temporary injunctions for domestic violence and stalking, while others are tied to the status of victim of violent crime in general – irrespective of the type of violent crime. In keeping with the order of the Convention, this section will discuss civil law measures that allow victims to bring lawsuits against the state for failing to protect individuals from harm (Article 29 of the Istanbul Convention), compensation (Article 30) and issues around custody and visitation rights in the context of domestic violence (Article 31). Although technically a civil law measure, all issues around temporary injunctions serving as protection orders will be covered by chapter VI.

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

123. A core aim of the 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 wrong-doing by state actors. If a state agency, institution or individual official has failed diligently to prevent, investigate, and punish acts of violence (Article 5 of the Convention), victims and/or their relatives must be able to hold them accountable. In Austria, this is possible under the Act on the Liability of Public Bodies. The injured party may file a lawsuit against a state agency or institution, not against an individual state official, and may be awarded damages. The main requirement under this law is that the act or the failure to act was unlawful. This means that the individual state official deciding on or against a particular measure, for example to order pre-trial detention or not, must be in violation of Austrian legislation. This amounts to a very high threshold which is difficult to prove in individual cases. In domestic violence and stalking cases which often involve threats to life or limb of the victim, the assessment of the individual law enforcement officer is crucial in protecting lives - unless multi-agency risk assessment tools such as MARACs are in place to allow for the risk to be assessed jointly on the basis of a more comprehensive picture.

124. In the absence of such tools and in cases not considered appropriate for a MARAC, or if the prosecution services or members of the judiciary do not take part in or indeed take account of the outcomes of a MARAC, the frontline law enforcement officer's assessment of the situation, his or her decision to issue an emergency barring order or not and the evidence he or she does or does not collect will heavily influence the type of measures taken to protect a victim.

125. Decisions that impact negatively on the safety of victims and their children are more often the result of limited attempts at assessing the situation in full, personal beliefs and attitudes as well as a general tendency to downplay the violence – rather than the result of a deliberate wrongful and unlawful act. Whether or not such omissions constitute an unlawful act is for the courts to decide on a number of criteria. Courts in Austria tend to grant individual state agents a wide margin of discretion and rarely consider them in breach of their powers or as not having done what they could. Another issue lies with the fact that protective measures such as pre-trial detention are not decided upon by one official but are the result of a chain of action. Proving an individual's unlawful act in this context is very difficult.

126. Although not a civil law measure, GREVIO notes the possibility for disciplinary measures provided for under the Civil Service Act (*Beamten-Dienstrechtsgesetz*). These may be initiated in addition to, or separately from, any civil law action taken against the state. This is an important tool which should be made use of in relation to state officials who abuse their authority or display gender stereotypical, misogynist, sexist or racist behaviour or beliefs in relation to the victims they are supposed to serve.

127. GREVIO invites the Austrian authorities to consider the use of disciplinary measures under the Civil Service Act in relation to the misconduct or failure of state officials to take appropriate action in relation to cases of violence against women and domestic violence.

2. Compensation (Article 30)

128. In Austria, compensation can be sought from the perpetrator as part of the criminal proceedings or separately through civil law remedies. If compensation cannot be obtained from the perpetrator, the Law on Victims of Crime offers state compensation for any unlawful, deliberate behaviour that led to bodily harm, health damage or death, and that is a crime which carries a prison term of a minimum of six months. Psychological trauma resulting from a crime is not eligible for compensation under this scheme, unless it has led to health damage.

129. The type of compensation that may be obtained includes any loss of income, and financial support for any long-term care, medical aid, psychotherapy, or psycho-social crisis intervention up to a maximum of 10 counselling sessions. Separately, or in addition to the above, lump-sum compensation for any pain or suffering may be granted. These range from € 2 000 - 4 000 for grievous bodily harm and € 8 000 -12 000 for injuries causing long-term health issues. Around 75% of all applications made in 2014 were successful, which amounts to around 1200 applications in real figures and these concerned an equal number of women and men. Out of the 600 applications made by women victims of crime, the majority (70%) concerned sexual violence and 30% serious bodily injury. The majority of compensation awards made were one-off payments. 150 claims led to monthly payments in compensation for loss of income. The procedure is said to last between six and seven months.

130. GREVIO welcomes the general availability of compensation but notes that some of the criteria established by the Law on Victims of Crime exclude victims from eligibility. Firstly, the law excludes migrant women victims of domestic or sexual violence if they were unlawfully resident in Austria at the time of the offence, or if their country of origin offers a comparable compensation scheme. Referring non-Austrian victims of crime to the compensation schemes available in their home countries in practice presents an insurmountable burden if, for example, non-Austrian victims of domestic violence who have experienced the abuse exclusively or predominantly in Austria, are required to explore legal compensation schemes in their countries of origin before pursuing the possibilities offered by Austrian legislation. Secondly, if a woman waives her right to claim compensation from the perpetrator during criminal proceedings, she is no longer eligible for state compensation.²⁴ When confronted with the question of whether or not to ask for compensation from the perpetrator during the criminal proceedings, victims are often not informed of the impact their choice will have on state compensation – despite attempts to inform victims of the availability of compensation. Thirdly, for families broken up by domestic violence, recourse taken by the state against the perpetrator for any compensation paid directly to the victim may result in financial hardship on all family members, including the victim, as the perpetrator may no longer be able to pay alimony.

131. On a general note, GREVIO is of the opinion that more use should be made of the possibility to award compensation under criminal proceedings. This would lift the burden of having to institute civil proceedings which always carry the risk of incurring court fees.

²⁴ See Article 8, paragraph 3 of the Law on Victims of Crime.

132. **GREVIO invites the Austrian authorities to make more use of the awarding of compensation during criminal proceedings and to ensure that access to claims for compensation is available to all victims of the forms of violence covered by the Istanbul Convention.**

3. Custody and visitation rights (Article 31)

133. Custody and visitation decisions in relation to families with a history of abuse require a careful balancing of the different interests at stake. This is all the more true in countries like Austria which have moved towards the principle of shared custody as a general rule. In a bid to provide guidance to family judges in this difficult matter, a provision was introduced into the Austrian Civil Code in 2013 which lists aspects to consider when deciding on the best interest of the child (Article 138 of the Austrian Civil Code). Among these is the notion of “reducing the risk of a child to suffer violence or to witness violence inflicted upon people close to them”. It also refers to the importance of “ensuring contact with both parents to build a steady relationship”. Although these two notions have to be balanced, and might in fact conflict where children have witnessed violence against their mother by their father, GREVIO considers this to provide an excellent legal basis on which to prevent the granting of custody to abusive parents. Similarly, it should be rigorously applied when deciding on any visitation rights for the abusive parent.

134. Legal practitioners, however, have repeatedly stated that this provision is very little known among the judiciary and that one parent’s abuse of another is not always considered a factor in such decisions. GREVIO was informed of cases in which protection orders in force were not at all considered in court decisions granting visitation rights to a father who had abused the child’s mother although both issues fall within the competence of the family judge. In other cases, protection orders were known of but visitation rights were granted nonetheless so as to keep up the ties with both parents.

135. In Austria, the possibility of ordering supervised access visits exists and “visitation cafés” have been set up for this purpose in some parts of Austria to ensure the children’s safety. Women’s counselling services and legal practitioners have voiced their concern over the limited amount of training and power of visitation supervisors, although training efforts have been stepped up. Classes introduced in November 2015 have since been attended by a total of 54 staff.

136. To assist family judges in reaching satisfactory decisions in custody cases of all sorts, a group of professionals (social workers, psychologists and child pedagogues) are available to family judges as part of a new institution called “family court assistance”. Set up in 2013, this institution can be called upon by individual judges to (i) help find a friendly settlement of a custody dispute, (ii) on the judge’s order, assess particular aspects that would have an impact on the decision, and (iii) prepare an opinion based on the best interests of the child to serve as a basis for the court’s decision. GREVIO welcomes such a step and hopes this will lead to more respect for the safety and developmental needs of children who have witnessed parental abuse. Purportedly, however, both family judges and the staff of the family court assistance are often young professionals at the beginning of their careers. Concerns have been raised by civil society over their degree of professional expertise, their (low) level of remuneration and subsequent motivation to find lasting solutions for custody in protracted domestic violence cases.

137. GREVIO considers that witnessing domestic violence among parents can be as harmful to children as it is for children experiencing abuse themselves. The negative impact of growing up witnessing domestic violence is well documented, and very often, men who abuse their spouses or partners target children as well. Abuse of one parent by another is therefore an important indicator and should trigger appropriate action. While GREVIO noted a high degree of sensitisation to this issue among support workers, this has been less perceptible among members of the judiciary and law enforcement officials.

138. Recalling the importance of Article 31 of the Istanbul Convention, GREVIO strongly encourages the Austrian authorities to step up measures to ensure that the safety and needs of child witnesses of domestic violence are guaranteed in child custody decisions.

B. Criminal law

139. Austrian criminal legislation gives effect to most provisions of the Convention. With the exception of psychological violence, all offences required by Articles 33 - 40 of the Convention are matched by one or more criminal law provisions and either form part of a specific or a general criminal offence. Several of these have existed since well before the Convention came into existence, showing once more Austria's innovative practices in this field. For example, the criminal offence of "continued use of force" (Article 107b of the Criminal Code of Austria) was introduced in 2009 to cover the course of conduct that is typical of domestic violence cases. Rather than looking at isolated incidents in an abusive relationship, this offence allows law enforcement officials to render a perpetrator criminally liable for a continuum of domestic violence.

140. Since the entry into force of the Convention, Austria was one of the first parties to adapt its criminal law to the requirement of Article 36 of the Istanbul Convention: the criminalisation of all non-consensual sexual acts. In addition to the criminal offence of rape (Article 201 of the Criminal Code) which requires the use of force, deprivation of liberty or a threat to life or limb, a provision entitled "violation of sexual integrity" (Article 205a) was introduced with effect from January 2016. This new provision covers instances of sexual intercourse or equivalent conduct "against the will of a person", "under coercive circumstances" or "following an act of intimidation". This is an important step towards holding perpetrators of rape accountable, notwithstanding that, for any number of reasons, they did not have to resort to violence or threat to make their victim compliant. Clearly, the merit of this new provision will depend heavily on its rigorous application by prosecution services and courts. However, GREVIO notes that this new provision only covers non-consensual sexual acts over a certain threshold, that is penetration or equivalent. It does not cover sexual acts of a lesser nature, which are instead in principle covered by Article 218 of the Criminal Code of Austria in as far as they involve the touching of sexual organs. Sexual touching or all other sexual acts other than penetration carried out with the use of force or serious threat are covered by Article 202 of the Criminal Code.

141. GREVIO also notes that there is – however slight – a difference between sexual acts committed against the will of the victim (Austrian legislation), and non-consensual sexual acts (the Convention). This means, for example, that the former may not allow for prosecution in cases where the victim remains passive but does not consent. For the act to be punishable under Austrian legislation, the victim must express her opposing will verbally or otherwise.

142. An intentional conduct not currently covered by Austrian legislation in the area of sexual violence is that of causing another person to engage in non-consensual acts of a sexual nature with a third person (Article 36, paragraph 1c). This paragraph covers scenarios in which the perpetrator is not the person who performs the sexual act but who causes the victim to engage in sexual activity with a third person, for example as part of the control and abuse in intimate-partner violence. The scope of criminal intent is wider than that under the crime of aiding and abetting. It would not only cover the intent to help the commission of an offence, for example a rape, and the intent of the rape as such, but would also extend to the intent of causing both. In other words, the intentional conduct covered by Article 36, paragraph 1c aims at capturing more than the instigation or facilitating of a crime but the malevolent behaviour of abrogating a woman's sexual self-determination.

143. GREVIO invites the Austrian authorities to introduce criminal legislation that would cover the intentional conduct set out in Article 36, paragraph 1 c of the Istanbul Convention.

144. Despite the work done to bring Austrian criminal legislation in line with the Convention, psychological violence, as defined by Article 33 of the Convention, is not expressly provided for in the Austrian Criminal Code. While the offences of coercion (Articles 105 and 106), serious threat (Article 107) and cyber-mobbing (Article 107c) are said to apply, they require the use of force or the threat of serious violence, or in the case of cyber-mobbing, a conduct compromising someone through the use of computing systems. However, psychological violence as understood by the Istanbul Convention is employed at early stages of the cycle of violence and abuse or throughout in order to control the victim. It may or may not be accompanied by threats of serious violence. Nor does it necessarily aim at compromising or exposing a person online, making none of the above offences a neat fit. Women who are isolated, controlled, intimidated and threatened by their partners day after day would be more likely to report this behaviour if they knew that what they are experiencing is a crime. Without a criminal offence that adequately covers this type of conduct, law enforcement agencies are ill-equipped to respond (see Chapter VI). With no adequate criminal offence on which to base investigations, the Austrian law enforcement agencies seem to resort to the use of emergency barring orders as a measure to prevent escalation. While GREVIO welcomes such efforts to break the cycle of violence at an early stage and to be pro-active about prevention, the Convention establishes psychological violence as a criminal offence which must be met with a criminal justice response, not solely a preventive one.

145. GREVIO invites the Austrian authorities to introduce a specific criminal offence of psychological violence to capture more adequately the criminal conduct covered by Article 33 of the Istanbul Convention.

146. Austrian criminal legislation contains a comprehensive list of aggravating circumstances (Article 33 of the Criminal Code) which fully complies with the requirements under the Istanbul Convention. As a result, offences against life or limb and sexual offences committed against a current or former spouse or partner carry an aggravated sentence.

147. GREVIO welcomes in particular the fact that the perpetrator's specific motivation for his actions such as gender bias and misogyny may aggravate the nature of the offence. If applied consistently and adequately, this is an interesting example of ensuring that the gendered nature of violence against women is reflected in criminal justice outcomes.

148. In addition, some of the criminal offences under Austrian criminal legislation carry a harsher penalty if the victim is, for example, rendered vulnerable/defenceless because of a medical condition or a mental illness (see "continued use of violence" in Article 107b, paragraph 3).

VI. Investigation, prosecution, procedural law and protective measures

149. 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 and investigations by law enforcement agencies

150. All law enforcement agencies in Austria are trained and instructed to respond to all forms of crime. Structures are set up to allow the law enforcement agencies to respond promptly to calls for help, including in relation to the various forms of violence covered by the Convention. As regards the adequacy of this response, GREVIO would raise several issues in relation to criminal investigations and the collection of evidence.

151. The Austrian authorities are invested in raising awareness of the nature of domestic violence among the members of the law enforcement agencies. Still, most investigations centre on the statement of the victim, with less systematic collection of evidence from the crime scene (photographic evidence of injuries or other signs of violence, statements from neighbours, etc). This places a high amount of pressure on victims, as victims are often only subsequently made aware of the crucial role they play not only during the investigations but also in the criminal proceedings. In the absence of evidence of another kind, convictions depend largely on their statement.

152. Some steps have been taken to ensure the collection of evidence in hospitals, by introducing standard forms for the documentation of injuries as part of a project initiated by the Federal Ministry of Interior in co-operation with the health sector (MedPol). One of the aims of this project is to increase and standardise the documentation of forensic evidence in domestic and sexual violence cases for use as evidence in court. While GREVIO welcomes such a step, it notes the fact that such forms are not yet in use consistently across Austria.

153. GREVIO is of the opinion that more efforts should be undertaken by the law enforcement agencies and prosecution services to collect evidence from all available sources in order to ensure that crimes can be effectively prosecuted *ex officio* (cf Article 55).

154. A separate issue that arises at the investigative stage in domestic violence cases is that of pre-trial detention. Austrian criminal procedural law envisages pre-trial detention on three specific grounds: (i) flight risk, (ii) risk of collusion or (iii) risk of re-offending if the offence in question carries a prison term of more than six months. From the information obtained by GREVIO it emerges that this is rarely made use of by prosecution services as they rarely consider any of the three grounds applicable. The specialist support and counselling services, however, repeatedly pointed out that even in cases of severe violence and threat where a woman and her children are clearly at risk, prosecution services rely on a (civil law) protection order to ensure their safety rather than opting for pre-trial detention. Whether the reasons lie in an over-reliance on the system of emergency barring and protection orders, short-comings in how the risk to an individual victim is assessed, or general attitudes regarding domestic violence and the seriousness of threats made in such a context, GREVIO is of the opinion that this practice should be re-assessed.²⁵ This is urgently

²⁵ In 2007, the United Nations Committee on the Elimination of Discrimination against Women found Austria to be in violation of the rights to life and to physical and mental integrity of two women (communications no. 5 and 6 of 2005) for the authorities' failure to order pre-trial detention or to otherwise effectively protect their life and limb. It recommended Austria as a state party to the United Nations Convention on the Elimination of all Forms of Discrimination against Women to "ensure that criminal and civil remedies are utilised in cases where the perpetrator in a domestic violence

needed in view of another recent case which led to the death of a woman under an emergency barring order and where pre-trial detention was not ordered despite several requests by the Victim Protection Centre acting on her behalf.²⁶

155. **GREVIO strongly encourages the Austrian authorities to :**

- a. **take further measures to improve the collection of evidence in cases of domestic violence, stalking, forced marriage, female genital mutilation, rape and sexual violence, so that reliance on the victim's testimony is lessened;**
- b. **step up measures to assess the real risk of re-offending in domestic violence cases in order to make more appropriate use of pre-trial detention where warranted.**

156. As far as investigations into sexual violence and rape cases are concerned, GREVIO welcomes the fact that Austrian legislation grants victims the right to be interviewed by a law enforcement officer of the same sex. With only 14% of female officers among the Austrian police forces, however, this is difficult to ensure. Although the law enforcement agencies are actively trying to increase the number of women among their ranks, GREVIO notes that a long wait for an interview by a female officer may have a discouraging effect on the willingness of a rape victim to report. Moreover, four of the nine provinces do not have specialist counselling services for sexual violence, and there are no rape crisis centres to carry out forensic examinations and retain evidence. Instead, rape victims are sent to a medical examination in hospital after reporting to the law enforcement agencies. In both places the quality of the statement and evidence taken will depend on the degree of specialisation and sensitisation of the professional on duty.

157. **Rape and sexual violence are among the most under-reported types of crime. GREVIO urges the Austrian authorities to ensure more is done to demonstrate a sensitive approach towards victims who report rapes and other forms of sexual violence, for example by setting up rape crisis or sexual violence referral centres in all nine provinces staffed by specially trained professionals.**

2. The role of the prosecution services and conviction rates

158. The quality of investigations and the evidence collected impacts significantly on the level and outcome of prosecution and the number of convictions. The data provided by the Austrian authorities shows a mixed picture. Although it does not include the rate of convictions as such since cases cannot be traced from reporting a crime to the criminal justice outcome, the available data clearly indicates low numbers of convictions. Looking at the domestic violence offence of “persistent use of force” (Article 107b of the Austrian Criminal Code), a total of 937 cases were reported to the law enforcement agencies in 2014 and all but one solved. Of these, 924 were taken up by the prosecution services, who noted a total of 1166 women as victims of these offences. Half of these offences (465) took place within the family. The number of convictions provided for the same year (2014) is only in relation to male perpetrators and reported at 190. Half of these were convictions for violence in the family.²⁷ Many reasons exist why not all reported cases will lead to a conviction, and the availability of robust evidence is clearly one of them. Furthermore, not all cases reported as “persistent use of force” will lead to a conviction under Article 107b of the Austrian Criminal Code as the evidence produced might lead to a conviction for another offence (threat, coercion, assault or other). Nonetheless, GREVIO would like to note the high rates of cases of “persistent use of force” solved by the law enforcement agencies and handed over to the prosecution service, but much lower numbers of convictions in general.

situation poses a dangerous threat to the victim; and also ensure that in all action taken to protect women from violence, due consideration is given to the safety of women, emphasizing that the perpetrator's rights cannot supersede women's human rights to life and to physical and mental integrity” (see CEDAW/C/39/D/5/2005 paragraph 12.3 b and CEDAW/C/39/D/6/2005 paragraph 12.3 b).

²⁶ Information provided by a violence protection centre on the murder of a client on 16 December 2016.

²⁷ In 2015, the number of convictions was slightly less (171 with 69 convictions in cases of family violence).

159. Convictions in stalking cases seem equally low although here the problems begin with the number of cases referred to prosecution by the law enforcement agencies. Around 30% of the cases were either not solved or not taken on by the prosecution services, and only very few convictions were pronounced. In 2014, out of 2196 reported cases of stalking, 1908 were solved by the police and 1656 were taken up by the prosecution services. The latter number concerned a total of 2045 female victims. In 2014, 239 male offenders were convicted, while this number was 214 in 2015.

160. The reasons cited by the Austrian authorities for the low numbers of convictions centre on the difficulties in securing evidence robust enough to obtain a conviction. Most forms of violence against women are committed by a family member or intimate partner, meaning victims have the right not to testify. If victims, in particular in domestic violence cases, refuse to testify in court, there is often no additional evidence on which to base a conviction. Prosecution services can instruct the law enforcement agencies to investigate further but rarely do so in domestic violence or stalking cases. As a result, they gauge the likelihood of a successful prosecution based on limited evidence that has been made available, and often decide not to try a case in court. GREVIO notes the worrying trend of applying a rather strict test of this success in cases of violence against women, thus unnecessarily limiting the number of criminal proceedings opened.

161. The number of reported cases of violence against women and the number of convictions obtained raise issues regarding the role of the prosecution services in relation to their due diligence obligation as set out in Article 5, paragraph 2 of the Istanbul Convention. GREVIO strongly encourages the Austrian authorities to ensure that prosecution services resort to all possible measures in order to ensure criminal justice for all forms of violence covered by the Istanbul Convention.

3. Diversionary measures

162. Moreover, GREVIO notes a general lack of emphasis on achieving convictions in cases of violence against women. While a criminal justice response is not the only response to be pursued in cases of violence against women, it is important to ensure accountability for criminal acts to build trust in the system and send the message that violence against women is not acceptable. Conviction rates of around 10-20% have the opposite effect and will not lead to higher levels of reporting. A balance must be found between the rights of victims and those of the accused, and between repressive and restorative justice approaches. The prosecution services in Austria dispose of four different types of diversionary measures with which, in certain circumstances, they shall order the accused to comply with.²⁸ These include the imposition of a fine, community service, a period of probation with or without further obligations (such as attendance at counselling sessions), and victim-offender mediation. These measures are supervised by *Neustart*, the Austrian probation service. Compliance with such diversionary measures closes the case without a criminal judgement, indeed without even a court hearing.

163. GREVIO is concerned by the extensive use of diversionary measures applied in relation to reported offences of domestic violence and stalking resulting from the obligation contained in Article 198 of the Criminal Procedure Code of Austria. The resulting lack of criminal convictions impedes the spirit and principles of the Istanbul Convention which aim at an effective criminal justice response for all forms of violence against women. With a view to ending the impunity for all acts of violence against women, GREVIO urges the Austrian authorities to introduce exceptions to the use of diversionary measures in domestic violence and stalking cases.

²⁸ See Article 198 of the Austrian Criminal Procedural Code.

164. Although not uniform in practice, diversionary measures are frequently ordered in domestic violence and stalking cases all over Austria. While in some provinces this is limited to victim-offender-mediation and probation periods, elsewhere it includes fines and community service. While there is no data on the overall number of domestic violence cases that are dealt with through diversionary measures, *Neustart* deals with around 1500 cases of victim-offender-mediation in domestic violence cases annually. They also deal with all domestic violence cases in which a probation period was ordered (either as a diversionary measure or subsequent to a prison sentence). This suggests that quite a number of domestic violence cases are dealt with by diversionary measures but robust data would be needed to support this claim.

165. **GREVIO invites the Austrian authorities to collect data on the number of cases of violence against women, including domestic violence, that are dealt with through diversionary measures, broken down by type of measure.**

4. Victim-offender mediation as a diversionary measure

166. Victim-offender-mediation in domestic violence cases is controversial, and the Austrian authorities and *Neustart* are aware of that. A close look at this practice in Austria shows that safeguards seem to be built into the system to attempt to ensure the free will of the victim is respected. Victims may refuse participation in mediation and *Neustart* actively screens all cases of mediation ordered in domestic violence cases for their suitability. On average, it rejects 50 cases per year where a victim has consented to it, but *Neustart's* assessment of the situation indicates that pressure has been exerted on her or that the violence has not stopped.

167. Whilst GREVIO welcomes this filter applied by *Neustart* and their high level of awareness of the dynamics and gendered nature of domestic violence, GREVIO reiterates that the purpose of Article 48 of the Convention is to prohibit alternative dispute resolution processes in cases of violence when such processes are mandatory and take the place of adversarial court proceedings.

168. GREVIO is concerned that the Austrian system of alternative dispute resolution in criminal law replaces criminal court proceedings and convictions instead of flanking them. This may mask the full extent of domestic violence, sending a message that it is not a crime fit for criminal conviction, which is contrary to the purposes of the Istanbul Convention. In applying restorative justice processes, GREVIO emphasises the need to respect the principles of ensuring justice for victims and ending impunity of perpetrators. These principles are not best served by the obligation to use diversionary measures set out in Article 198 of the Criminal Procedure Code of Austria.

169. **GREVIO strongly encourages the Austrian authorities to ensure that victim-offender mediation does not replace criminal justice in cases of violence against women.**

B. Risk assessment and risk management (Article 51)

170. A risk assessment tool for use by the law enforcement agencies has recently been developed by the Federal Ministry of Interior. Its aim is to standardise the assessment of risks in domestic violence cases. It has been tested in a pilot phase in some provinces of Austria and it is now ready for implementation across the country. In addition, some parts of Austria have introduced multi-agency risk assessment procedures or tools in the form of regular meetings or case conferences. Some law enforcement agency districts use MARACs (Multi-Agency Risk Assessment Conference), and representatives of various agencies regularly attend. In Styria, risk assessment is mainly done by the violence protection centre on the basis of DyRIAS (Dynamic Risk Assessment System). This IT-based system is highly respected for its thoroughness and law enforcement agencies and prosecution services take the results extremely seriously and frequently order pre-trial detention on that basis.

C. Emergency barring and protection orders (Article 52); (Article 53)

171. Since the introduction of emergency barring orders in 1997 Austria has been widely known for its leadership in this field. As stated above, several countries around the world, including member states of the Council of Europe, have followed suit. Moreover, the standards set in Articles 52 and 53 of the Convention were very much inspired by the Austrian model of emergency barring and protection orders. GREVIO welcomes this pioneering role and congratulates the Austrian authorities on the wide level of implementation of barring and protection orders, including the use of emergency barring orders as a preventive measure exercised by the law enforcement agencies.

172. The system currently in existence in Austria consists of police-ordered two-week bans on perpetrators of domestic violence to enter the residence of the victim(s). In addition and upon application by the victim, a protection order may be issued by a civil law court (family courts division) for up to 12 months. Interestingly, these are not usually general contact bans but “no-go orders”, banning a perpetrator from entering certain premises. As a result, protection is linked to places that victims frequent rather than the victim as such. Emergency barring orders issued by the law enforcement agencies are limited to the home, excluding protection at the work place. Civil law protection orders do, however, allow for the possibility of issuing a general contact ban “unless this runs counter to the profound interests of the respondent”, namely those of the perpetrator.²⁹ It is unclear, however, to what extent this possibility is made use of and what the “profound interests of the respondent” may be.

173. Linking protection to places rather than people bears the risk of gaps inherent to any enumerative approach. Such gaps have led to tragic cases in the past, inspiring the legislators to include (in addition to the home) educational institutions and child-care facilities in the list of places in respect of which a ban may be issued. While GREVIO welcomes the political will to close existing gaps, it considers that general no-contact orders are the better approach.

174. In addition, GREVIO would like to point out that serious abuse in a relationship often begins with psychological violence in the form of control and degrading treatment which, consequently, should be considered as an indicator of a woman (and possibly children) at risk. While the Austrian law enforcement agencies are granted the power to issue an emergency barring order to prevent a serious assault on the life, limb or freedom of another person, this is not done on the basis of incidents of psychological violence. The reasons stated by the law enforcement agencies revolve around the difficulties in collecting evidence of psychological violence and that psychological violence would have to amount to the level of serious threat as defined in Article 107 of the Austrian Criminal Code. GREVIO is of the opinion, however, that the requirements for an emergency barring order as listed in Article 38a of the Security Police Act would cover forms of psychological violence other than serious threats. Introducing a specific definition of psychological violence into Austrian legislation as proposed by GREVIO above would help delineate the exact boundaries of behaviour that gives rise to an emergency barring order. Conceptual clarity would also facilitate the handling of such cases by the judicial sector. As it stands, civil law courts do not seem to issue domestic violence protection orders for psychological violence only, although Article 382e of the Execution of Judgments Act would, in principle, envisage this if the psychological violence has significantly impaired the psychological integrity of the victim.

175. GREVIO reiterates its invitation to the Austrian authorities to introduce a specific criminal offence of psychological violence to comply with Article 33 of the Istanbul Convention.

²⁹ Article 382 paragraph 1(2) of the Execution of Judgments Act.

176. Another issue GREVIO would like to raise is the protection of children under domestic violence barring and protection orders. Below the age of 14, they are automatically included in any emergency barring or protection order banning a perpetrator from the family home, whether they are directly or indirectly affected by the violence. The protection obtained through a ban issued in protection of their mother does not, however, extend automatically to the children's school or childcare facility. This has to be specifically applied for.

177. Above the age of 14 children are not automatically covered at all, requiring their mother or child-welfare services to apply for protection on their behalf. If an application is made, protection is usually granted, including for witnessing domestic violence. An issue seems, however, to lie with the fact that an additional application is necessary, which victims need to be aware of, and more importantly, which in some cases creates an additional burden. Varying practices seem to exist across the different child-welfare services, with some readily assuming their role in this and others less so.

178. Emergency barring orders may also be issued in protection of a victim of stalking, and a civil court protection order may be obtained as follow-up protection.³⁰ It has been brought to GREVIO's attention, however, that gaps in protection may arise if civil courts do not issue an order within the two-week period of the police ban. Whereas domestic violence emergency barring orders are extended once a victim applies for a civil court protection order – the aim being to avoid gaps in protection – this is not the case for stalking emergency barring orders. This bears the risk of gaps and should be amended.

179. No specific barring or protection orders exist with regard to any of the other forms of violence against women covered by the Convention, although GREVIO has been assured that in principle, the existing provisions can be applied to protect girls from being forced into marriage or to undergo female genital mutilation (for example by requiring passports or other identification to be handed over to the authorities).

180. GREVIO encourages the Austrian authorities to ensure that protection orders are effectively applied in relation to all forms of violence, including for the prevention of forced marriage and female genital mutilation, and that existing gaps in the system of emergency barring and protection orders are closed, particularly in respect of children and stalking victims.

181. Finally, GREVIO notes the fact that in addition to civil law protection orders, similar protective measures can be ordered under criminal law which, however, is rarely used. The high level of acceptance and the long-standing use of the Austrian system of police emergency barring and civil law protection orders seems to lead to an over-reliance on these measures. Important additional measures, such as contact bans under criminal law, are not explored although they could easily co-exist with civil law measures. Sanctions for breaches of criminal law protection orders are more effective than as regards civil law orders,³¹ making this a tool that is worth exploring.

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

182. With a view to reducing the levels of stress and risks that facing the legal system may cause a victim of crime, free psycho-social and legal court assistance during criminal investigations and proceedings for particularly serious types of crime is available in Austria. Should civil proceedings result from the criminal act (for example, claims for damages but also divorce and custody proceedings in domestic violence cases), the psycho-social assistance continues while legal representation has to be sought elsewhere and paid for by the victim or through legal aid.

³⁰ Article 382g of the Execution of Judgements Act.

³¹ The breach of a civil law protection order is an administrative offence carrying a fine, whereas the breach of a criminal law contact ban usually leads to a short prison term.

183. Victims of all violent crime, dangerous threats or sexual offences are eligible for court assistance as are dependents of victims of homicides.³² They must be informed of this support available to them at their first encounter with the authorities to ensure they benefit from it early into the process, including at the investigative stage.

184. All psycho-social and legal court assistance is provided by non-governmental entities, mostly specialist support services, which are contracted by the federal government and trained to carry out this task. Being supported in this way at a particularly vulnerable time is reported to be of significant help for many victims, in particular domestic violence victims and GREVIO welcomes this type of assistance. However, the eligibility criteria, as they are currently defined, raise some serious issues with children indirectly affected by domestic violence. As witnesses to domestic violence, no matter how serious the abuse, they are not eligible for any court assistance, unless they were to witness the death of one of their parents. Whether they have experienced or witnessed domestic violence, children are extremely affected by it and in need of support and assistance when telling their story to the authorities. With the help of psycho-social support, the burden of giving a statement or testifying in court would be significantly eased and might even improve the quality of their statement. This, in turn, would help to provide much needed evidence in many cases.

185. GREVIO invites the Austrian authorities to consider amending the eligibility criteria for psycho-social and legal court assistance to ensure that all child (direct or indirect) victims may benefit from such assistance.

E. Measures of protection during investigations and judicial proceedings (Article 56)

186. The Austrian Criminal Procedural Code contains a range of measures that aim at the protection of victims and witnesses of crime in general. It defines victims of sexual offences and domestic violence victims as particularly vulnerable³³, a status which triggers additional protective measures during criminal proceedings. This includes the mandatory removal of the defendant and his counsel from the court room or the use of video link to enable the victim to testify without the presence of the perpetrator.

187. Legal practitioners have informed GREVIO of a range of shortcomings in the practical implementation of this measure. These include, in particular, low numbers of court rooms equipped for video transmission, resulting in long waiting periods or victims waiving their right to testify by video in the interest of speedy proceedings. Moreover, very few court buildings in Austria seem to be equipped with separate entrances or waiting rooms for victims with obvious implications on the safety and emotional well-being of victims coming in to the court building to testify.

188. GREVIO invites the Austrian authorities to prioritise the safety of the victim through adequate measures to decrease the opportunities for the perpetrator to encounter and possibly intimidate the victim in the context of court proceedings.

³² Articles 65 and 66 of the Criminal Procedural Code of Austria.

³³ Article 66a of the Austrian Criminal Procedural Code.

VII. Migration and asylum

189. 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 at risk of violence (Article 60).

A. Migration (Article 59)

190. The Austrian Residence and Settlement Act governs all issues of residence in Austria. It regulates the conditions for third-country nationals wishing to reside in Austria for more than 6 months and reiterates the right of EU and EEA nationals and their families to take up residence in Austria under their right to free movement. Anybody who has applied for asylum in Austria, however, comes under the Asylum Act, including in respect of his or her right to remain in the country for the duration of the asylum procedure.

191. GREVIO welcomes the fact that both the Residence and Settlement Act and the Asylum Act specifically enshrine the right to remain in the country for non-Austrian victims of domestic violence wishing to leave or having left their abusive spouses or partners. Differences between and across these two laws, however, exist, both in the conditions to be met and in the nature of the permit/status granted depending on the nationalities involved.

192. The Residence and Settlement Act offers all third-country nationals who obtained their Austrian residence permit under a family sponsorship scheme the possibility of applying, in the event of the family's dissolution, for an autonomous residence permit of the same nature (Article 27 Residence and Settlement Act). The criteria usually in place such as proof of health insurance, sufficient income etc. are waived if the marriage ended for reasons that lie predominantly with the sponsoring spouse, or if an autonomous residence permit is necessary for reasons of "special considerations" (Article 27 paragraph 2). These include forced marriages or domestic violence – the latter only if a protection order was issued against the sponsoring spouse.

193. Similar but slightly different provisions apply to third-party nationals who married and joined EEA citizens in Austria. These come within the remit of Article 52 and Article 54 of the Residence and Settlement Act. Article 54 lists several grounds on which a residence permit may be obtained after divorce or dissolution of the marriage or relationship with a sponsor, including a 3-year minimum duration of the marriage. Contrary to Article 27 of the Residence and Settlement Act, "special considerations" are not referred to and neither forced marriage nor domestic violence are specifically mentioned. Instead, the general ground of "preventing particular hardship" is enshrined, which is largely considered to apply in situations where domestic violence victims (whose marriage has not lasted at least three years) want to leave their abuser without losing Austrian residency. It is, however, unclear whether this would require a protection order to have been issued against the sponsoring spouse and whether cases of forced marriage from which a woman frees herself would come under this provision too.

194. Third-party nationals married to EEA citizens wishing to benefit from any of the above are required to inform the authorities of their change in family status without delay, while those married to Austrian or other third-party nationals are granted up to a month to notify the authorities (Article 27 paragraph 4 Residence and Settlement Act). While GREVIO has been assured that in practice this amounts to similar time limits for both categories, counselling services have criticised this short time limit as insufficient and too demanding as foreign nationals who are victims of domestic violence are often unaware of their rights and the support available to them.

195. Correspondingly, Article 57 of the Asylum Act contains a similar provision. Third-country nationals who do not come within the remit of the Residence and Settlement Act because they entered Austria as asylum-seekers may obtain on this basis the right to remain in Austria - if they have experienced violence. The violence must be such that it led or could have led to a protection order and applicants must reasonably establish that remaining in Austria is the only way to stay safe from further violence. Although said to be applied generously, it is unclear how this is assessed in practice, which gives rise to a worrying level of legal uncertainty.

196. GREVIO invites the Austrian authorities to harmonise the conditions and criteria for sponsored spouses to obtain autonomous residence status under the Residence and Settlement Act and remove any differences linked to the nationality of the sponsoring and abusive spouse.

B. Gender-based asylum claims (Article 60)

197. Austria has a long and highly respected history in welcoming asylum seekers. Indeed, the Traiskirchen federal refugee reception centre was established as such just after the end of World War II and has continued since then to be the first residence for many asylum seekers. Following the large number of refugees arriving in Austria in 2015 and the difficulties encountered in accommodating them adequately, a situation much criticised at the time, it is clear that the Austrian authorities have taken steps to improve the situation, in particular at Traiskirchen.

198. The process for seeking asylum in Austria is thus well established. On arrival, and/or on application for asylum, the asylum-seeker is interviewed initially by law enforcement officers belonging to a specialised unit, their fingerprints are taken and checked against the *Eurodac* database, photographs taken, and their claims registered and they are given a "Green Card" indicating that their case is under review. At this stage the asylum seeker will be housed in the initial reception centres which are run under the auspices of the federal government. If, after a preliminary examination, the authorities (Federal Agency for Immigration and Asylum) conclude that the asylum seeker falls into the *Dublin* procedure (for example asylum-seekers who arrived in another European Union member state before coming to Austria and who should therefore have his or her asylum claim dealt with in that first country) then the federal government continues to have responsibility for his or her accommodation and subsistence – until their removal from Austria.

199. In the case of transfers from Austria under the Dublin provisions even if domestic violence is present and has been reported the family will be removed as a unit. The authorities state, that the risk of violence is communicated to the receiving authority, as is required under the European Union Directive 2011/99/EU on the European protection order. However, some doubts were raised by practitioners as to the effectiveness of this procedure.

200. On the other hand, once an application has been admitted and pending a decision by the authorities, the applicant is provided with a "white card" (which allows freedom of movement within Austria) and is transferred to a provincial reception facility. During the course of consideration of the asylum request – which can take over a year, applicants are housed either in accommodation specially designed for that purpose or, especially when assigned to more rural provinces, they may be housed with host families in the countryside.

201. Once the asylum decision is made the asylum seeker may appeal to the Federal Administrative Court, but this must be filed within two weeks of receipt of the decision.

202. If refugee status or subsidiary protection status is not granted, the asylum applicant will be assigned a free legal adviser provided by the state at the time of notification of the decision.

203. There are specific procedures in place for looking after unaccompanied minors and single women. Thus, for example, at Traiskirchen camp there is a special "women's house" which is protected by female security guards and in which all staff are female. Women only counselling and educational activities are offered. Notably, the asylum-seeking women are offered psychological and social counselling (provided by female professionals) to help them deal with any trauma and adjust to their new lives.

204. At the provincial level a number are provided with safe accommodation in houses which are restricted to single women, women with children and/or unaccompanied minors. For example, in Graz, *FrancisCa Frauenwohnhaus* (formerly House Clara) welcomes up to 80 women and children, including 10 unaccompanied minors. It also devotes 50% of its accommodation to women with special care needs (for example due to physical and intellectual disabilities). The asylum-seekers are also provided with a small allowance and are permitted to do some paid work (although they cannot earn more than €110 per month) and both adults and children are assisted with counselling and legal advice; while help is given to find school places for children of school age. The care of these women and the solidarity amongst them is very positive; indeed many "graduates" from this service return to visit even after their claims have been finalised and they are living in the community.

205. The picture can be less rosy for some families who are assigned to reside in isolated farmhouses – where they cannot communicate with their hosts or other local residents for language reasons and where they do not have the same access to the various services. The resulting isolation can be very hard to deal with and women in abusive situations may find that they have no one to turn to for help.

206. Where a woman is granted asylum or subsidiary protection, she will be required to leave the state provided accommodation within four months following recognition. This short time period in which to establish herself in alternative housing accommodation can cause difficulties, especially for women with children.

207. Perhaps in contrast to the positive and solid pastoral care aspects, GREVIO was informed that legal assistance can be of varying quality, as can interpretation services. While legal assistance is provided free of charge throughout the process, there is rarely if ever a lawyer present during the initial interview. Additionally, there are some reported barriers to accessing legal assistance if the asylum seeker is accommodated privately because there is no access to social workers. Furthermore, for those who wish to appeal a negative decision, the legal assistance provided (mostly through two non-governmental organisations) can be of differing quality – in some instances, according to practitioners, the asylum seeker is left very much to her own devices. This can be important as, for example, at the stage the asylum claim is lodged, all of the arguments (for example gender-based violence) should be included in the claim as otherwise it might not be admissible in an argument at the appeal stage or even as a fresh claim.

208. Training in the asylum procedures, the rights of the asylum seekers and on how to address issues of gender-based violence (including, female genital mutilation and forced marriage) is considered by many practitioners to be insufficient – neither the lawyers nor the interpreters nor the law enforcement agencies and Interior Ministry interviewers receive sufficient guidance and training.

209. For example, a female asylum seeker can request that her claim/appeal be heard by a female judge and that a female interpreter be assigned to her case – but this request should be made beforehand and therefore those dealing with her case have to be fully trained in order to be aware of this right.

210. Another issue is that at the point of arrival it is unlikely that the woman will be seen on her own. Often when asylum seekers arrive in a family, the family unit is interviewed together and the reason for requesting and granting asylum is usually taken to be that of the man. In other cases groups of asylum seekers are interviewed together. Specific issues arise for transgender and lesbian/bi-sexual women in respect of disclosure, particularly in the presence of men and/or family members. No particular efforts seem to be made to ensure that women asylum-seekers are given the space and time they need to disclose experiences of gender-based persecution. This shows that both at the level of entry into the asylum system and throughout the procedures, there seems to be a failure to use the opportunities inherent in the system to identify women at risk of gender-based persecution. This could be remedied with a few adjustments to the process – for example it could be a requirement that women arriving in a family unit would be interviewed alone and specifically asked whether they have any fears of their own – by a female officer and with a female interpreter.

211. Currently, provision of female interviewers/judges/interpreters is only required for asylum-seekers who are known to have experienced sexual violence and GREVIO is of the view that all women at the initial stages should be asked (separately) to express if they have a preference and that as a minimum, if the woman fears forced marriage, female genital mutilation or other forms of gender-based persecution, this preference should be accommodated.

212. Even then there will be difficulties – which are problematic to address because they are founded in the cultural backgrounds of the women asylum seekers and in the cultural differences between them and Austrian society. Practitioners again have raised these issues - what is clearly recognised as violence against women in Austrian society might not be so acknowledged in the cultures from which many of these women asylum-seekers come. Language is a barrier, as are these cultural differences, and it is difficult especially to address the psychological needs of these women. Additionally there is a tendency to ‘blame’ the women for not reporting/being helped for cultural reasons rather than taking steps to recognise cultural differences and the manner in which this could be overcome; although however there was some understanding particularly in the NGO sector of the need to adapt their own cultural understanding to assess a woman’s claim properly.

213. Finally, as regards interpreters, whose services are clearly indispensable in this regard, it has been brought to GREVIO’s attention that there simply are not sufficient numbers of qualified interpreters, that, as noted above, they do not receive training in issues of gender based violence or gender-sensitive procedures and, indeed, most of them are male. This makes it difficult to ensure that a female asylum-seeker’s right to a female interpreter is respected. In addition those conducting the interviews often have recourse to “cultural mediators” who may be from the same communities/countries/regions as the asylum-seekers themselves which, while positive in terms of trying to comprehend the situation of the asylum-seeker, will raise issues if they are not of the same gender.

214. GREVIO welcomes the highly developed and efficient system of welcoming and processing the claims of asylum-seekers in Austria. It nevertheless invites the Austrian authorities to ensure that all women arriving as asylum-seekers are ensured the possibility of being interviewed on their own and that all those concerned in the processes (interviewers, interpreters, lawyers) receive adequate training on the questions of gender-based persecution and gender-based violence.

Concluding remarks

215. GREVIO welcomes the strong leadership that the Austrian authorities have demonstrated in the last decades in putting violence against women on the political agenda, both at national and international level. Austria has a long history of policy and legal innovation in this area, in particular in the field of domestic violence, which has inspired change in numerous countries around the world. A prime example in this regard is the system of emergency barring and protection orders for domestic violence and stalking victims, established twenty years ago.

216. Since the entry into force of the Istanbul Convention, a number of additional measures have been introduced, many of which correspond directly to the requirements of the Convention. This is in particular the case in the area of criminal legislation. With the exception of psychological violence, all offences set out in the Istanbul Convention are specifically criminalised by the Austrian Criminal Code. Victims of violent crime and sexual offences may receive legal and psycho-social court assistance. GREVIO considers this an important tool to offer support to victims of crime in court, including particularly traumatising crime such as domestic and sexual violence.

217. Additional measures to ensure compliance with the Convention are also set out in the National Action Plan on the Protection of Women from Violence (2014-2016) and the National Strategy on the Prevention of Violence in Schools (2014-2016), which GREVIO welcomes. These comprise steps to include the issue of violence against women systematically in the various curricula for initial training of professionals and preventive measures such as sex education and teaching on healthy gender relations in schools. A variety of teaching material on violence against women, forced marriage, female genital mutilation, boys and masculinities, women's rights and gender equality exist for voluntary use by teachers. GREVIO welcomes this variety and expresses its hope for more extensive use in the future.

218. GREVIO notes with satisfaction the level of recognition which the Austrian Government affords to the women-to-women services – at federal and regional levels. A wide range of support services for women victims of gender-based violence are run by NGOs emanating from or with links to the women's movement. Most of these receive their funding in whole or in part from the federal and/or regional governments and are widely recognised as valuable partners in the provision of specialist services for women. While some issues with funding amounts and schemes persist, GREVIO welcomes the fact that this sector is a major pillar of the Austrian response to preventing and combating violence against women.

219. Another major role in preventing and combating violence against women, in particular domestic violence, is assumed by the law enforcement agencies, who readily issue emergency barring orders where warranted. Their use of this measure is often preventive and, in many cases, clearly helps to keep women and children safe. GREVIO appreciates the investment and knowledge of domestic violence as a gendered phenomenon as displayed by many law enforcement officers, in particular those specialised in domestic violence and hopes for this to be maintained and further developed.

220. The potential held by the health sector not only in identifying and supporting victims of, among others, domestic violence but also in documenting forensic evidence robust enough for ensuring convictions has been recognised and the first measures have been taken. The campaign Living free from violence (*Gewaltfrei leben*) included important training measures for medical professionals, and the project MedPol aims to standardise the documentation of forensic evidence in domestic and sexual violence cases for use as evidence in court. In addition, a legal obligation to set up Victim Protection Units in public and private hospitals for the purpose of identifying victims of domestic violence has been introduced and reporting obligations for a broad range of medical professionals exist. GREVIO welcomes such initiatives and expresses its hope for their replication and implementation throughout the country.

221. GREVIO welcomes all of the above as they are important steps in complying with the requirements of the Istanbul Convention. Nevertheless, the information provided during the evaluation procedure demonstrates a strong focus on policy responses to domestic violence compared to the other forms of violence covered by the Istanbul Convention. Policy attention and resources are more readily directed towards domestic violence than they are to any other form of violence which women may experience.

222. As a result, the level of service provision differs depending on the type of violence addressed, suggesting the absence of a comprehensive strategy on service provision for all forms of violence against women. This means, for example, that victims of rape are less likely to have access to a specialist support service compared to domestic violence victims. Women and girls at risk of or subjected to forced marriage and female genital mutilation find it even harder to get help as very few services exist for these forms of violence. Additional factors such as residence status, disabilities or special health needs still limit women's access to the existing services, including domestic violence shelters. Despite efforts to remove physical barriers for women with disabilities, a number of challenges remain. GREVIO thus urges the Austrian authorities to devise a comprehensive strategy for the provision of specialist services on all forms of violence covered by the Istanbul Convention – on the basis of a needs assessment on the number, types and geographical location of services. The aim of such a step should be to close all remaining gaps in service provision and to ensure that the financial and human resources are available to meet the immediate, short and long-term needs of all victims.

223. GREVIO is equally concerned by the low numbers of convictions for sex offences, domestic violence, stalking and other forms of violence against women - despite their comprehensive criminalisation. It notes the extensive use of diversionary measures applied in relation to reported offences of domestic violence and stalking which it considers a significant factor for low conviction rates for these types of violence. GREVIO draws attention to the fact that this is in contrast with the spirit and principles of the Istanbul Convention which aim at an effective criminal justice response for all forms of violence against women. With a view to ending the impunity for all acts of violence against women, GREVIO therefore urges the Austrian authorities to introduce exceptions to the use of diversionary measures in domestic violence and stalking cases.

224. GREVIO invites the Austrian authorities to keep it regularly informed of developments as regards the implementation of the Istanbul Convention and looks forward to continuing its good co-operation.

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

Appendix I

List of proposals and suggestions by GREVIO³⁴

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

A. Definitions and non-discrimination (Articles 3 and 4)

1. GREVIO urges the Austrian authorities to take measures to ensure that the provisions of the Istanbul Convention are fully implemented with regard to all women, including women with disabilities, asylum-seeking women and women with insecure residence status (paragraph 5).
2. Noting the absence of a full legal definition of domestic violence, GREVIO invites the Austrian authorities to adopt a universally applicable legal definition of domestic violence in line with Article 3 b of the Istanbul Convention, which would include economic violence (paragraph 8).
3. GREVIO strongly encourages the Austrian authorities to ensure that a set of comprehensive policies in the fields of prevention, protection and prosecution exist in relation to all forms of violence against women, in particular in relation to female genital mutilation and forced marriage (paragraph 10).

II. Integrated policies and data collection

A. Comprehensive policies (Article 7)

4. GREVIO strongly encourages the Austrian authorities to develop a long-term plan/strategy giving due importance to all forms of violence covered by the Istanbul Convention and based on consistent and on-going funding to allow for sustainable and comprehensive actions (paragraph 18).

B. Financial resources (Article 8)

5. GREVIO strongly encourages the Austrian authorities to expand significantly the budget allocated to the Federal Ministry of Health and Women's Affairs for its work in the area of preventing and combating violence against women (paragraph 22).
6. GREVIO strongly encourages the Austrian authorities to provide the legal basis necessary to ensure adequate and consistent funding to the various specialist support service providers (paragraph 26).

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

7. GREVIO invites the Austrian authorities to ensure effective co-operation and referrals between government agencies and the specialist service sector in relation to all forms of violence and that the outsourcing of services is on terms, particularly as regards guaranteed and stable funding levels, which allow NGOs to meet fully the needs of all victims (paragraph 33).

³⁴ The number of the paragraph setting out the proposals and suggestions in the report is indicated in brackets.

D. Co-ordinating body (Article 10)

8. GREVIO strongly encourages the Austrian authorities to assign the role of co-ordinating body to one or more fully institutionalised government entities, to equip these with clear mandates, powers and competences that are widely communicated and to allocate the necessary human and financial resources to these entities (paragraph 37).

E. Data collection and research (Article 11)

1. Data Collection

9. GREVIO strongly encourages the Austrian authorities to take measures to monitor the prevalence of the forms of violence against women not previously assessed, in particular forced marriage and female genital mutilation (paragraph 40).

a. Data collection by law enforcement agencies

10. GREVIO strongly encourages the Austrian authorities to:

- a. develop data categories for use by the law enforcement agencies on the type of relationship of the perpetrator to the victim that would allow the nature of their relationship to be more specifically documented;
- b. ensure that these and any other data categories in use are harmonised across the various sectors;
- c. make domestic violence against women and the gendered nature of other forms of violence more visible in the annual police crime statistics and in the way this data is presented to the public. This would include the visible presentation of information on the number of homicides of women at the hands of men for reasons of their gender (gender-related killing of women);
- d. ensure that information on all interventions and measures taken by law enforcement agencies such as emergency barring orders are documented electronically and in a comparable manner such that they can be used for the purpose of evidence-based policy-making rather than mainly for internal recording requirements (paragraph 45).

b. Data collection by the criminal justice sector

11. GREVIO strongly encourages the Austrian authorities to :

- a. develop data categories for use by the criminal justice sector on the type of relationship of the perpetrator to the victim that would allow the nature of their relationship to be documented in more detail;
- b. ensure that these and any other data categories in use are harmonised across the various sectors;
- c. pursue the existing plans of introducing a “unique person number” to trace offenders and the offences they are charged with across the various sectors (paragraph 49).

c. Data collection by the civil justice sector

12. Reiterating the observations made by the Council of Europe Commissioner for Human Rights in his 2012 report on Austria, GREVIO encourages the Austrian authorities to ensure the collection of data from the civil justice sector on the number of civil law protection orders, the type of violence they cover as well as the sex, age and relationship of all parties involved (paragraph 51).

d. Data collection by the Equal Treatment Commissions

13. GREVIO welcomes the intention expressed by the Federal Ministry of Health and Women's Affairs to bring the data categories in use by the Equal Treatment Commissions in line with the requirements of the Istanbul Convention and encourages the Austrian authorities to ensure their

breakdown by type of offence, sex, age, relationship of the perpetrator to the victim and outcome of the case (paragraph 53).

e. Data collection by the health sector

14. GREVIO encourages the Austrian authorities to take measures to improve the systematic and comparable collection of data by all hospitals, whether they have set up Victim Protection Units or not, on the number of victims of the different forms of violence against women, their sex, age and relationship with the alleged perpetrator (paragraph 56).

f. Data collection by the Federal Office for Immigration and Asylum

15. GREVIO encourages the Federal Office for Immigration and Asylum to introduce a data collection system that would allow asylum claims on the basis of gender-related persecution and their outcomes to be recorded (paragraph 58).

2. Research

16. GREVIO encourages the Austrian authorities to invest more into the scientific evaluation of existing policies and legislative measures to assess their level of implementation and victim satisfaction. GREVIO also encourages the Austrian authorities to carry out research on forms of violence against women such as female genital mutilation and forced marriage or other traditional practices harmful to women not previously covered (paragraph 61).

III. Prevention

A. Awareness raising (Article 13)

17. GREVIO encourages the Austrian authorities to acknowledge gender inequality as a root cause of violence against women and to take measures to increase gender equality, not only through legislation but also through awareness raising, public education and cultural change (paragraph 67).

18. GREVIO strongly encourages the Austrian authorities to ensure a stronger role of the various federal ministries in conceptualising, implementing and evaluating public awareness-raising activities to ensure regular campaigns and programmes of national reach, including with the help of public broadcasting announcements. GREVIO further specifies that this would have to be accompanied by appropriate budgetary measures (paragraph 69).

B. Training of professionals (Article 15)

19. GREVIO strongly encourages the Austrian authorities to introduce compulsory and harmonised training modules on violence against women for all health professions (paragraph 75).

20. GREVIO strongly encourages the Austrian authorities to ensure sustainable and stable funding for training sessions on all issues listed in Article 15 of the Istanbul Convention carried out by the specialist women's support services for law enforcement agencies (paragraph 77).

21. GREVIO strongly encourages the Austrian authorities to provide for compulsory vocational training for legal professionals on all issues listed in Article 15 of the Istanbul Convention (paragraph 79).

22. GREVIO strongly encourages the Austrian authorities to develop a training manual on how to identify victims of gender-based violence in the asylum process and how to grant asylum or subsidiary protection and to provide for compulsory training for immigration and asylum officials (paragraph 81).

C. Preventive intervention and treatment programmes (Article 16)

23. Recalling the obligation contained in Article 16, paragraphs 1 and 3, in particular as regards the need to give due consideration to the safety and the human rights of victims of domestic violence, GREVIO encourages the Austrian authorities to :

- a. reinforce the efforts underway to ensure the systematic victim-orientation of all perpetrator programmes;
- b. use all available means to ensure wider attendance of programmes for domestic violence perpetrators (paragraph 86).

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

24. GREVIO welcomes the initiatives taken by certain private sector entities and public media corporations and invites the Austrian authorities to continue to encourage the private sector and the media to take an active part in preventing and combating violence against women in all its forms. GREVIO refers in this regard to a publication on Article 17 of the Istanbul Convention on implementing Article 17 (paragraph 90).³⁵

IV. Protection and support

A. Information (Article 19)

25. GREVIO invites the Austrian authorities to continue to provide information to victims of violence against women and to ensure that minority language speakers have all information available to them (paragraph 94).

B. General support services (Article 20)

26. GREVIO strongly encourages the Austrian authorities to ensure nation-wide implementation of the legal obligation resulting from Article 8e of the Federal Hospitals Act to set up Child and Victim Protection Units and to monitor and evaluate its implementation (paragraph 97).

C. Specialist support services (Article 22); shelters (Article 23); support services for victims of sexual violence (Article 25)

27. GREVIO is concerned by the disparity in terms of levels of service provision for the different forms of violence covered by the Istanbul Convention. Aside from creating a form of hierarchy among victims, it leaves a significant number without specialist support. GREVIO urges the Austrian authorities to ensure generally that the specialist support services meet the demands of victims, irrespective of the form of violence they experienced or the particular realities and compounding difficulties they face. In particular, GREVIO urges the Austrian authorities to:

- a. aim at a comprehensive strategy for service provision by conducting a needs assessment on the number, types and geographical location of services required by victims of all the different forms of violence;
- b. ensure that sexual violence (including rape) counselling services are available in each of the nine provinces;

³⁵ *Encouraging the participation of the private sector and the media in the prevention of violence against women and domestic violence: Article 17 of the Istanbul Convention*, Council of Europe, Strasbourg 2016, available at

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805970bd>

- c. set up more specialist support services for victims of forced marriage and female genital mutilation;
- d. set up adequate support services, including shelter accommodation, for women victims of domestic violence with mental health issues, intellectual or physical disabilities that require medical care or support;
- e. ensure that domestic violence victims with a history of substance abuse receive access to adequate support services, including accommodation;
- f. remove funding requirements and other bureaucratic obstacles that prevent access to services and shelters for asylum-seeking women and undocumented women and to ensure the same for recognised refugees and those with subsidiary protection; and;
- g. ensure that financial and human resources are available to enable the above (paragraph 107).

28. GREVIO encourages the Austrian authorities to enable the longer-term needs of all women victims and their children to be met by providing adequate levels and stability of funding (paragraph 111).

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

29. Recalling the obligation contained in Article 26 of the Istanbul Convention, GREVIO encourages the Austrian authorities to enable violence protection centres to offer timely help and support to child witnesses to avoid preventable emotional distress to such children (paragraph 120).

V. Substantive law

A. Civil law

1. Civil remedies against the state (Article 29)

30. GREVIO invites the Austrian authorities to consider the use of disciplinary measures under the Civil Service Act for any misconduct or failure of state officials to take appropriate action in relation to cases of violence against women and domestic violence (paragraph 127).

2. Compensation (Article 30)

31. GREVIO invites the Austrian authorities to make more use of the awarding of compensation during criminal proceedings and to ensure that access to claims for compensation is available to all victims of the forms of violence covered by the Istanbul Convention (paragraph 132).

3. Custody and visitation rights (Article 31)

32. Recalling the importance of Article 31 of the Istanbul Convention, GREVIO strongly encourages the Austrian authorities to step up measures to ensure that the safety and needs of child witnesses of domestic violence are guaranteed in child custody decisions (paragraph 138).

B. Criminal law

33. GREVIO invites the Austrian authorities to introduce criminal legislation that would cover the intentional conduct set out in Article 36, paragraph 1 c of the Istanbul Convention (paragraph 143).

34. GREVIO invites the Austrian authorities to introduce a specific criminal offence of psychological violence to capture more adequately the criminal conduct covered by Article 33 of the Istanbul Convention (paragraph 145).

VI. Investigation, prosecution and procedural law and protective measures

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

1. Reporting to and investigations by law enforcement agencies

35. GREVIO strongly encourages the Austrian authorities to :

- a. take further measures to improve the collection of evidence in cases of domestic violence, stalking, forced marriage, female genital mutilation, rape and sexual violence, so that reliance on the victim's testimony is lessened;
- b. step up measures to assess the real risk of re-offending in domestic violence cases in order to increase the use of pre-trial detention where warranted (paragraph 155).

36. Rape and sexual violence are among the most under-reported types of crime and GREVIO urges the Austrian authorities to ensure more is done to demonstrate a sensitive approach towards victims who report, for example by setting up rape crisis centres in all nine provinces staffed by specially trained professionals (paragraph 157).

37. The number of reported cases of violence against women and the number of convictions obtained raise issues regarding the role of the prosecution services in relation to their due diligence obligation as set out in Article 5, paragraph 2 of the Istanbul Convention. GREVIO strongly encourages the Austrian authorities to ensure that prosecution services resort to all possible measures in order to ensure criminal justice for all forms of violence covered by the Istanbul Convention (paragraph 160).

38. GREVIO is concerned by the extensive use of diversionary measures applied in relation to reported offences of domestic violence and stalking resulting from the obligation contained in Article 198 of the Criminal Procedure Code of Austria. The resulting lack of criminal convictions impedes the spirit and principles of the Istanbul Convention which aim at an effective criminal justice response for all forms of violence against women. With a view to ending the impunity for all acts of violence against women, GREVIO urges the Austrian authorities to introduce exceptions to the use of diversionary measures in domestic violence and stalking cases (paragraph 162).

39. GREVIO invites the Austrian authorities to collect data on the number of cases of violence against women, including domestic violence, that are dealt with through diversionary measures, broken down by type of measure (paragraph 164).

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

40. GREVIO strongly encourages the Austrian authorities to ensure that victim-offender-mediation does not replace criminal justice in cases of violence against women (paragraph 168).

C. Emergency barring and protection orders (Articles 52); (Article 53)

41. GREVIO encourages the Austrian authorities to ensure that protection orders are effectively applied in relation to all forms of violence, including for the prevention of forced marriage and female genital mutilation, and that existing gaps in the system of emergency barring and protection orders are closed, particularly in respect of children and stalking victims (paragraph 179).

D. Victim support in legal assistance (Article 55 paragraph 2)

42. GREVIO invites the Austrian authorities to consider amending the eligibility criteria for psycho-social and legal court assistance to ensure that all child (direct or indirect) victims may benefit from such assistance (paragraph 184).

E. Measures of protection during investigations and judicial proceedings (Article 56)

43. GREVIO invites the Austrian authorities to prioritise the safety of the victim through adequate measures to decrease the opportunities for the perpetrator to encounter and possibly intimidate the victim in the context of court proceedings (paragraph 187).

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

44. GREVIO invites the Austrian authorities to harmonise the conditions and criteria for sponsored spouses to obtain autonomous residence status under the Residence and Settlement Act and remove any differences linked to the nationality of the sponsoring and abusive spouse (paragraph 194).

B. Gender-based asylum claims (Article 60)

45. GREVIO welcomes the highly developed and efficient system of welcoming and processing the claims of asylum-seekers in Austria. It nevertheless invites the Austrian authorities to ensure that all women arriving as asylum-seekers are ensured the possibility of being interviewed on their own and that all those concerned in the processes (interviewers, interpreters, lawyers) receive adequate training on the questions of gender-based persecution and gender-based violence (paragraph 212).

Appendix II

List of representatives of Austria present at the state dialogue with GREVIO

- Marie-Theres Prantner, Federal Ministry of Health and Women's Affairs
- Christian Manquet, Federal Ministry of Justice
- Martina Klein, Federal Ministry of Justice
- Johanna Eteme, Federal Ministry of the Interior
- Larissa Lassmann, Federal Ministry for Europe, Integration and Foreign Affairs
- Martin Reichard, Permanent Representation of Austria to the Council of Europe

Appendix III

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

National authorities

- National Violence against Women Co-ordination Office
- Federal Ministry of Health and Women's Affairs
- Federal Ministry of Education
- Federal Ministry of Justice
- Federal Ministry of the Interior
- Federal Ministry for Europe, Integration and Foreign Affairs
- Federal Agency for Immigration and Asylum and the initial refugee reception facility Traiskirchen

Public bodies

- Members of the Committee on Equality, Austrian Federal Parliament
- Public prosecution service, Vienna
- Public prosecution service, Graz
- Regional criminal court, Vienna
- Family court, Vienna
- Criminal court, Graz
- Child and Youth Welfare Service, Vienna
- Police District Graz
- Police District Vienna

Non-governmental organisations

- Federal Association of Violence Protection Centres in Austria
- Federal Association of Autonomous Rape Counselling Centres
- Vienna Domestic Abuse Intervention Centre
- Violence Protection Centre Styria
- Network of Autonomous Women's Shelters (AÖF)
- Orient Express, Vienna
- LEFÖ – Counselling, Education and Support for Migrant Women/Vienna
- Rat auf Draht (*Advice on the line*)
- Sexual violence counselling centre Tara, Graz
- Save the Child Styria (*Rettet das Kind Steiermark*)
- Association humans live/human lives (Verein menschen. leben, Haus der Frauen Hollabrunn)
- Neustart

Civil society organisations and other organisations

- General hospital Vienna (AKH)
- Ludwig-Boltzmann Institute of Human Rights
- Caritas (FrancisCa Frauenwohnhaus, Graz)
- Caritas Vienna
- Caritas Styria – association Divan
- Ombuds Office for Children, Vienna
- Johanniter NÖ-Wien Rettungs- und Einsatzdienste mildtätige GmbH - Refugee Assistance
- University of Vienna, Institute for Criminal Law and Criminology
- Breitenacker Kolbitsch Vana, Attorneys at law

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- Ecker, Embacher, Neugschwendtner, Attorneys at law

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

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are 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.