



GREVIO

Baseline Evaluation Report

Bosnia and Herzegovina

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



Istanbul Convention

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

BOSNIA AND HERZEGOVINA

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

GREVIO/Inf(2022)19

Adopted by GREVIO on 24 June 2022

Published on 8 November 2022

Secretariat of the monitoring mechanism of the Council of Europe Convention
on Preventing and Combating Violence against Women and Domestic Violence
Council of Europe
F-67075 Strasbourg Cedex
France

www.coe.int/conventionviolence

Table of contents

Foreword	4
Executive summary	6
Introduction.....	9
I. Purposes, definitions, equality and non-discrimination, general obligations	10
A. General principles of the convention	10
B. Scope of application of the convention and definitions (Articles 2 and 3).....	10
C. Fundamental rights, equality and non-discrimination (Article 4).....	14
1. Gender equality and non-discrimination	14
2. Intersectional discrimination	15
D. State obligations and due diligence (Article 5).....	17
II. Integrated policies and data collection.....	18
A. Comprehensive and co-ordinated policies (Article 7).....	18
B. Financial resources (Article 8).....	21
C. Non-governmental organisations and civil society (Article 9).....	23
D. Co-ordinating body (Article 10).....	24
E. Data collection and research (Article 11).....	26
1. Administrative data collection.....	26
2. Population-based surveys.....	30
3. Research	31
III. Prevention	33
A. Awareness raising (Article 13).....	33
B. Education (Article 14).....	34
C. Training of professionals (Article 15)	35
D. Preventive intervention and treatment programmes (Article 16)	38
1. Programmes for perpetrators of domestic violence	38
2. Programmes for sex offenders	40
E. Participation of the private sector and the media (Article 17).....	40
IV. Protection and support.....	42
A. General obligations (Article 18)	42
B. Information (Article 19).....	43
C. General support services (Article 20)	44
1. Social services	44
2. Healthcare services	46
D. Specialist support services (Article 22).....	47
E. Shelters (Article 23).....	48
F. Telephone helplines (Article 24)	49
G. Support for victims of sexual violence (Article 25)	50
H. Protection and support for child witnesses (Article 26)	52
I. Reporting by professionals (Article 28).....	53
V. Substantive law	54
A. Civil law.....	54
1. Civil remedies against the state – ensuring due diligence (Article 29)	54
2. Compensation (Article 30).....	55
3. Custody, visitation rights and safety (Article 31)	57
4. Civil consequences of forced marriages (Article 32).....	59
B. Criminal law	60
1. Psychological violence (Article 33).....	61
2. Stalking (Article 34).....	62
3. Physical violence (Article 35)	63
4. Sexual violence, including rape (Article 36).....	64
5. Forced marriage (Article 37)	66

6. Female genital mutilation (Article 38)	67
7. Forced abortion and forced sterilisation (Article 39)	68
8. Sexual harassment (Article 40)	69
9. Unacceptable justifications for crimes, including crimes committed in the name of so-called honour (Article 42)	70
10. Sanctions and measures (Article 45).....	70
11. Aggravating circumstances (Article 46).....	72
12. Prohibition of mandatory alternative dispute resolution processes or sentencing (Article 48)	73
VI. Investigation, prosecution, procedural law and protective measures	74
A. General obligations, immediate response, prevention and protection (Articles 49 and 50)	74
1. Reporting to, immediate response and investigations by law-enforcement agencies	74
2. Effective investigation and prosecution	75
3. Conviction rates	76
B. Risk assessment and risk management (Article 51)	79
C. Emergency barring orders and restraining or protection orders (Articles 52 and 53)	81
D. <i>Ex parte</i> and <i>ex officio</i> proceedings (Article 55)	84
1. <i>Ex parte</i> and <i>ex officio</i> proceedings	84
2. Victim support in legal proceedings.....	85
E. Measures of protection (Article 56).....	85
F. Legal aid (Article 57)	87
VII. Migration and asylum	89
A. Residence status (Article 59)	89
B. Gender-based asylum claims (Article 60).....	91
1. Gender-sensitive asylum determination procedure	91
2. Accommodation	93
C. Non-refoulement (Article 61)	94
Concluding remarks	96
Appendix I List of proposals and suggestions by GREVIO	97
Appendix II List of the national authorities, other public bodies, non-governmental organisations and civil society organisations with which GREVIO held consultations	111

Foreword

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

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

This report is the fruit of the first (baseline) evaluation procedure carried out in respect of Bosnia and Herzegovina. It covers the Istanbul Convention in its entirety¹ and thus assesses the level of compliance of country legislation and practice in all areas covered by the convention. In light of the scope of the convention – as set out in its Article 2, paragraph 1 – the baseline evaluation focuses on measures taken in relation to “all forms of violence against women, including domestic violence, which affects women disproportionately”. Hence, the term “victim” used throughout this report is to be understood as referring to a woman or girl victim.

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

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

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

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

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.

evaluation of country, GREVIO received written contributions from Foundation United Women Banja Luka and Medica Zenica, among other NGOs.

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

The analysis, suggestions and proposals contained in this first baseline evaluation report were drawn up under the exclusive responsibility of GREVIO. It covers the situation as observed by the GREVIO delegation during its evaluation visit to Bosnia and Herzegovina. Where available, significant legislative and policy developments up until 23 June 2022 have also been taken into account.

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

Executive summary

This report provides an assessment of the measures of implementation taken by the authorities of Bosnia and Herzegovina 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 authorities of Bosnia and Herzegovina and additional information submitted by Foundation United Women Banja Luka and Medica Zenica) as well as an evaluation visit of nine days to Bosnia and Herzegovina. A list of the bodies and entities which GREVIO had exchanges with can be found in Appendix II.

The report highlights several positive legal and policy measures introduced by the authorities of Bosnia and Herzegovina in the area of preventing and combating violence against women and domestic violence. Among these is the fact that policies in place aimed at preventing and fighting violence against women and domestic violence largely address the gendered nature of violence against women, framing it as a human rights violation and a form of discrimination and underlining the importance of securing substantive gender equality. Moreover, at the policy level, several initiatives have been taken to secure gender equality including, for example, the introduction of gender-sensitive budgeting in Ministries at the state and entities level and the establishment of contact persons for gender equality in state and entity institutions. Of great relevance are also the steps that have been taken by the authorities to set up multi-agency co-operation mechanisms and protocols at the entity, cantonal and municipality levels in respect of cases of domestic violence so as to ensure a productive co-operation between all relevant stakeholders.

As regards positive developments in the legal framework, new criminal offences, including FGM, forced sterilisation, stalking, sexual harassment and forced marriage were introduced at the entity level with a view to aligning the legal framework more closely with the Istanbul Convention. In addition, in Republika Srpska, amendments were passed in order to introduce a mandatory risk assessment to be carried out by police officers upon receipt of a domestic violence report. Moreover, both entities have introduced specialist victim support for victims in domestic violence proceedings, through the “person of trust”, who will be able to assist the victim and attend all meetings and hearings before public institutions, including the police and courts.

Despite the above, GREVIO observed a number of issues where improvement is warranted in order to reach higher levels of compliance with the requirements of the Istanbul Convention. The report highlights how policies and the application of laws have almost exclusively focused on domestic violence, failing to provide for specific integrated measures to tackle other harmful forms of violence against women. It therefore identifies as crucial, the enhancement of the implementation of the Istanbul Convention in relation to all forms of violence against women, beyond domestic violence, which are currently less addressed by policies, programmes and support services, with due regard to their gendered nature. The report also identifies the urgent need to increase the funding levels, which are overall modest, and to offer sustainable funding sources for women’s rights organisations which play a pivotal role in the delivery of specialist support services in Bosnia and Herzegovina. It notes that these NGOs struggle to cover their running costs and the payment of skilled staff and primarily rely on international donors on a project-based basis. Accordingly, the report emphasises the need to ensure sustainable funding levels for women’s NGOs which run specialist support services for women victims of all forms of violence, through long-term grants based on transparent procurement procedures.

Moreover, GREVIO’s analysis has revealed that the approach taken at the policy level, which indeed addresses and reflects the gendered nature of violence against women, is not matched at the

implementation level. GREVIO has in fact found that the response of many professionals, including those from the Centres for Social Work, police officers and judges are not informed by a gendered understanding of violence against women and often reflect entrenched stereotypes. It therefore identifies the need to significantly reinforce the initial and in-service training on all forms of violence against women and domestic violence of those professionals that are first in line to provide support and protection to victims, as well as of those whose role it is to ensure that justice is served.

In the area of protection and support for victims, the report finds that currently a clear pathway and a referral system for victims of sexual violence is not provided for and that trauma care and long-term psychological counselling is insufficient. It therefore highlights the need to set up rape crisis centres and/or sexual violence referral centres that provide immediate medical care, trauma support, forensic examinations and psychological assistance by qualified professionals with a view to avoiding secondary victimisation. It also states that in the interim, a clear pathway for victims of sexual violence/rape should be ensured and forensic examinations should be carried out swiftly.

In the area of prosecution and procedural law, in this report GREVIO expresses the concern that domestic violence and other forms of violence against women are considered by judges in Bosnia and Herzegovina as offences of low social danger. Worrying judicial and sentencing practices are identified, such as the predominant use of mitigating circumstances, the large use of plea-bargaining agreements and the imposition of very lenient sentences, which ultimately entail a sentiment of impunity among perpetrators and victims alike.

While GREVIO welcomes Bosnia and Herzegovina's ratification of the Istanbul Convention and the efforts taken in its implementation, it has identified a number of issues that require urgent action by the authorities to comply fully with the convention's provisions. These relate to the need to:

- align more closely to the Istanbul Convention the definitions of domestic violence and gender-based violence against women that are currently in use;
- ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3, including on the basis of place of residence or on the basis of residence status;
- promote research and ensure the collection of data on gender-based violence affecting groups of women exposed to multiple discrimination; and integrate their perspectives and needs into the design, implementation, monitoring and evaluation of comprehensive and co-ordinated policies for preventing and combating violence against women, in partnership with the specialist support services run by NGOs concerned and by including representatives of these NGOs in these processes;
- ensure appropriate, sustainable and long-term financial resources for all of the policies, measures and legislation at state, entity and local level aimed at preventing and combating violence against women and domestic violence and for the institutions and entities mandated for their implementation;
- set up separate bodies for, on the one hand, the co-ordination and implementation of policies and measures in relation to all forms of violence against women, and on the other hand, for their monitoring and evaluation, in order to ensure objectivity in the evaluation of policies at all levels of the territory;
- introduce a data collection system that records asylum claims on the basis of gender-related persecution, the ground of persecution considered and their outcomes;
- explore a common baseline approach on education policies on the topics covered by Article 14 of the convention, by tapping into existing co-operation structures to discuss common aims; introduce at all levels of education and in all parts of Bosnia and Herzegovina, mandatory courses and teaching material on these topics, and review teaching curricula and textbooks to remove negative stereotypes of women and girls;
- remove the system of mandatory referrals from Centres of Social Work to access domestic violence shelters, including by offering women victims of domestic violence the possibility to self-refer and remove any legal barriers towards accessing support services provided by the Centres for Social Work;

-
- ensure that one or more telephone helplines providing support to victims of all forms of violence against women operate and are reachable in the whole territory, round the clock, completely free of charge and with due regard to the language barrier that migrant women and other callers may face, as well as with due respect for the confidentiality and anonymity of all callers and that they are supported by long-term funding.

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 other issues, to: the need to carry out, at regular intervals, population-based surveys on the prevalence of forms of violence against women which so far have not been explored, including those that affect particularly disadvantaged groups of women, using harmonised and comparable methodologies; and to further develop mandatory initial and in-service training for teachers on the different forms of violence against women and on gender equality, so that they have the tools to teach these subjects adequately and so that they can detect girls and boys at risk and refer them to appropriate mechanisms of support and protection.

Introduction

Bosnia and Herzegovina ratified the Istanbul Convention on 7 November 2013. Bosnia and Herzegovina did not enter any reservation upon the deposit of its instrument of ratification of the convention.

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 Bosnia and Herzegovina by letter and transmission of its questionnaire on 6 September 2019. The order of reporting to GREVIO is based on a combination of regional groupings and order of ratification. The authorities of Bosnia and Herzegovina subsequently submitted their state report on 6 February 2020 – the deadline set by GREVIO. Following a preliminary examination of the country state report, GREVIO carried out an evaluation visit to Bosnia and Herzegovina, which took place from 6 October to 14 October 2021. The delegation was composed of:

- Ivo Holc, Member of GREVIO
- Sabine Kräuter-Stockton, Member of GREVIO
- Maria Moodie, Barrister, United Kingdom
- Francesca Montagna, Administrator at the Secretariat of the monitoring mechanism of the Istanbul Convention

During the evaluation visit, the delegation was welcomed by high-level public figures, including from the Ministry for Human Rights and Refugees of Bosnia and Herzegovina, the Gender Agencies at the state and entity level, the High Judicial and Prosecutorial Council, the Ministries of Justice and of the Interior at state and entity level, the Ministry of Security of Bosnia and Herzegovina, the Prosecutor's Offices at state, entity and district level, the Communication Regulatory Agency of Bosnia and Herzegovina, the Ministry of Civil Affairs, the Agencies for Statistics at state and entity level, and magistrates from the Civil and Criminal Courts. In addition, the delegation met with a wide range of governmental and non-governmental representatives working in the area of preventing and combating violence against women. A list of the national authorities, non-governmental organisations and others met is set out in Appendix II of this report. GREVIO is grateful for the valuable information provided by all of them.

The evaluation visit was prepared in close co-operation with Josko Mandic, Expert Adviser at the Agency for Gender Equality in Bosnia and Herzegovina, 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 authorities in Bosnia and Herzegovina.

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

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

A. General principles of the convention

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

2. By way of introduction, Bosnia and Herzegovina is a parliamentary representative democracy characterised by a complex, multitiered system of government established as a result of the 1995 Dayton Peace Agreement, following a three-year period of war. Under this peace agreement, two entities were established: the Federation of Bosnia and Herzegovina and Republika Srpska. Brčko District was established a few years later in 1999 as a self-governing administrative unit of the country, to reflect the multi-ethnic make-up of the district. While the Parliament and the Council of Ministers are established at the state level, the entities have broad powers, including legislative and executive authority; similarly, Brčko District appoints its own local government and can legislate. The Federation of Bosnia and Herzegovina is further characterised by 10 administrative units known as cantons – each with its own cantonal government – that can also legislate and adopt policies. Finally, the fourth level of jurisdiction in Bosnia and Herzegovina are the municipalities, which also appoint their own local government. It therefore follows that an assessment of the implementation of the Istanbul Convention by Bosnia and Herzegovina requires an elaborate evaluation of multiple, parallel and sometimes overlapping sets of policies and legislations, as well as an assessment of the extent to which co-ordination and equal levels of protection across the country are ensured.

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

3. In light of the scope of the Istanbul Convention set out in its Article 2, paragraph 1, the first baseline evaluation focuses on measures taken in relation to all forms of violence against women, including domestic violence, which affects women disproportionately. Article 3 of the Istanbul Convention sets out key definitions of concepts that are fundamental to its implementation. According to paragraph *a*, the term “violence against women” refers to “all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”, whereas the expression domestic violence is to be understood as referring to “all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim. The definition of “gender-based violence against women” offered in paragraph *d* of Article 3 seeks to ensure more clarity regarding the nature of the violence covered by explaining that this is “violence that is directed against a woman because she is a woman or that affects women disproportionately”.

4. Hence, the violence addressed by the Istanbul Convention differs from other types of violence in that the victim’s gender is the primary motive. It is violence that is perpetrated against a woman that is both a cause and consequence of unequal power relations based on perceived differences between women and men that lead to women’s subordinate status in the public and private spheres. In accordance with the definition given in Article 3, indent *b*, Chapter V of the convention specifies the forms of violence against women that are to be criminalised (or, where applicable, otherwise sanctioned). These are psychological violence, stalking, physical violence, sexual violence, including rape, forced marriage, female genital mutilation, forced abortion, forced sterilisation and sexual harassment. Owing to the seriousness of domestic violence, Article 46 of the convention requires

ensuring that the circumstances in which the offence was committed against a former or current spouse or partner, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority, may entail a harsher sentence either as an aggravating circumstance or a constituent element of the offence.

5. The principal policies in place at the state, entity and district level to prevent and combat violence against women are discussed in detail in the analysis under Chapter II, Article 7, of this report. The key laws that address violence against women at the state level are the Gender Equality Law and the Bosnia and Herzegovina Criminal Code, whereas at the entity and Brčko District level, the principal legislation are the laws on protection from domestic violence (the PDV laws), the criminal codes, the criminal procedure codes and the family laws. The PDV laws were adopted in Republika Srpska and the Federation of Bosnia and Herzegovina, respectively, in 2012 and 2013 but were amended following Bosnia and Herzegovina's ratification of the Istanbul Convention in order to align some provisions to the convention, whereas the PDV law in Brčko District was only adopted in 2018.

6. While the state, entities and Brčko District have passed legislation criminalising some forms of violence against women, including domestic violence, GREVIO considers that policies and the application of laws have almost exclusively focused on domestic violence. GREVIO has been informed by the authorities that this has been prioritised as a result of prevalence studies showing that it is the most widespread form of gender-based violence against women in Bosnia and Herzegovina. Nonetheless, GREVIO notes that various studies and stakeholders met with during its evaluation visit have pointed to the high incidence of sexual harassment and, although less documented, to the practice of other forms of equally devastating violence such as forced marriage or female genital mutilation (FGM), for example. Moreover, the Istanbul Convention requires that parties adopt a holistic approach to violence against women, which requires preventive, protective and policy efforts with respect to all forms of violence against women, regardless of their prevalence.

7. GREVIO welcomes that the policies in place largely address the gendered nature of violence against women. More specifically, GREVIO takes positive note of the fact that the 2015-2018 Framework Strategy to implement the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Framework Strategy) clearly frames violence against women as a human rights violation and a form of discrimination, underlining the importance of securing substantive gender equality. At the entity level, the Federation of Bosnia and Herzegovina and Republika Srpska strategies also clearly portray a gendered understanding of domestic violence, identifying gender inequality, discrimination and a conservative interpretation of gender roles and patriarchal society as its root causes. However, as will be seen under Chapters IV and V of this report, this understanding is not systematically applied by key institutions, notably the Centres for Social Work and criminal justice actors, who frequently do not demonstrate a gendered understanding of violence against women, often subjecting victims to secondary victimisation. GREVIO further notes that NGOs' and professionals' obligations under the PDV laws to report instances of violence against women can also arguably be seen as not reflecting a gendered understanding of violence against women. Measures of protection and support provided to victims should in fact aim to empower women and avoid secondary victimisation. Where the state removes from the victim control over the ability to report violence to law enforcement and the subsequent measures to be taken, victims may feel disempowered, and, at worse, may abstain from seeking needed assistance.

8. Moreover, the two pieces of legislation that offer a definition of gender-based violence frame this concept in a gender-neutral manner, with no distinction made for gender-based violence against women.² Indeed, in its reports, GREVIO has repeatedly stressed that such approach makes violence

2. Gender-based violence is defined under the Gender Equality Law as "each action which inflicts or may inflict any physical, psychological, sexual or economic damage or suffering as well as a threat by such action which inhibits a person or group of persons to enjoy human rights and freedoms in the public and private sphere of life"; and under the Republika Srpska/Federation of Bosnia and Herzegovina Labour Law as "any action causing physical, psychological, sexual or economic damage or suffering, including threats of such acts that seriously limit a person's rights and freedoms based on the principle of gender equality or in relation to labour".

against women invisible, does not adequately address women's experiences and hinders their effective protection.³ GREVIO therefore stresses the need to incorporate the notion of women's specific experiences of gender-based violence by aligning its definition with that of Article 3d of the convention.

9. As regards the concept of domestic violence, at the entity and Brčko District levels it is defined both in the respective criminal codes and the PDV laws. GREVIO notes in this respect that the scope of the definitions in the respective criminal codes and PDV laws are not always aligned and considers that this may create confusion as to the applicable provisions. As regards the Federation of Bosnia and Herzegovina, Article 222 of the Criminal Code defines domestic violence in broad terms and does not explicitly refer to sexual or economic violence.⁴ Its scope of application is limited compared to the convention, because it covers only cases of violence within the family and does not, therefore, encompass cases of domestic violence perpetrated against current or former partners who have not shared a residence.⁵ Domestic violence is also defined under Article 7 of the Federation of Bosnia and Herzegovina PDV law in line with the convention, as far as the conduct is concerned. However, a joint reading of Article 7 and Article 6⁶ of the PDV law, which defines the concept of family, would indicate that violence perpetrated against a current or former partner who has not shared a residence would not be defined as domestic violence, and as such is at odds with the convention.⁷

10. In Republika Srpska domestic violence is defined under Article 190 of the Criminal Code⁸ and Article 6 of the Republika Srpska PDV law.⁹ GREVIO observes that in Republika Srpska the definition of domestic violence under the Criminal Code, as is the case in the Federation of Bosnia and Herzegovina, does not explicitly refer to sexual or economic violence. On the other hand, the concept of family is defined very broadly and would therefore comply with the requirements of the

3. See in this respect the Mid-Term Horizontal Review of GREVIO Baseline Evaluation Reports, paragraph 19, p. 21.

4. Article 222 of the Federation of Bosnia and Herzegovina Criminal Code defines domestic violence as "the jeopardising of peace, physical integrity or mental health of a member of his/her family through violence, brazen or reckless behaviour". It is sanctioned by a minimum sentence of a fine or a prison sentence, which ranges from one year to 15 years or long-term imprisonment, depending on whether aggravating circumstances apply (including, for example, the use of a weapon or the unintentional killing of a member of the family as a result of the conduct).

5. Under the Federation of Bosnia and Herzegovina Criminal Code, a family member is defined as a "spouse and extramarital partner, former spouse and extramarital partner, blood relative in the direct line, adoptive parent and adoptee, relative in the collateral line up to the third degree inclusive and in-law relative up to the second degree inclusive". Extramarital partners are partners that have cohabited for at least three years or less if a joint child was born.

6. Under Article 6 of the Federation of Bosnia and Herzegovina PDV law, the concept of family refers to: 1) marital and extramarital partners and their children (joint or from previous partnerships); 2) blood relatives and relatives from the relationship of full adoption in the direct line, and in the collateral line concluding with the fourth degree; stepfather and stepmother; adoptee and adoptive parent from the relationship of incomplete adoption; relatives-in-law up to and including the second degree; 3) guardians; 4) former spouses and extramarital partners and their children (joint or from former partnerships) and their parents, including stepfather and stepmother. Extramarital partners are partners that have cohabited at least three years or less if a child was born.

7. Under Article 7 of the Federation of Bosnia and Herzegovina PDV law domestic violence is defined as "the commission of physical, psychological, sexual or economic harm as well as threats or fear of physical, psychological, sexual or economic harm to another family member, including, *inter alia*, the use of force against the physical or psychological integrity of a family member; behaviour that could result in or cause danger of physical or psychological pain and suffering; intimidation, threats, blackmail or another forms of coercion; verbal attack, insults or other forms of violent harassment; sexual harassment; stalking; the use of physical or psychological violence against children; forced isolation or limiting the freedom of movement of a family member".

8. Article 190 of the Republika Srpska Criminal Code defines domestic violence as "the use of violence, threats of attack against life and body or by insolent or arrogant behaviour which violates the peace, physical integrity or mental health of a member of the family or family unit and thereby causes harm to their physical or psychological integrity". It is punishable by a minimum sentence of a fine or a prison sentence, which ranges from a fine or imprisonment of up to 10 years, depending on whether aggravating circumstances apply (including, for example, if the conduct resulted in serious bodily injury or was committed against a child or in the presence of a child).

9. Article 6 of the Republika Srpska PDV Law defines domestic violence as "the commission of violence against the mental, physical, sexual or economic integrity or threats that cause fear of physical, sexual, psychological and/or economic damage to another member of the family or family unit". It encompasses, *inter alia*, the following specific actions and threats thereof: the use of force against the physical or psychological integrity of a family member; actions that can endanger or cause physical or psychological pain or suffering to a family member; blackmail or coercion that causes fear or a sense of personal jeopardy or damages the dignity of the person; verbal attacks, insults or other harassment; sexual violence; stalking; preventing access to healthcare; treating children in a degrading manner during their upbringing; forcible isolation or limitation of the freedom of movement.

convention.¹⁰ As regards the definition provided under the Republika Srpska PDV law, this is indeed in line with the convention, including as a result of the broad definition of family.¹¹

11. As regards Brčko District, domestic violence is defined under Article 218 of the Brčko District Criminal Code¹² and Article 5 of the PDV law.¹³ GREVIO observes that similar considerations expressed in relation to the scope and limitations of the definitions of domestic violence in the Federation of Bosnia and Herzegovina under the Criminal Code and the PDV law also apply to Brčko District. The Criminal Code defines domestic violence in broad terms and does not explicitly refer to sexual or economic violence and covers cases of violence within the family,¹⁴ excluding cases of domestic violence perpetrated against current or former partners who have not shared a residence. As regards the Brčko District PDV law, it defines domestic violence in line with the convention as far as the conduct is concerned, however the concept of family does not encompass current or former partners who have not shared a residence or if there is no joint child, which is at odds with the convention.¹⁵ Moreover, in Brčko District a parallel sanctioning regime exists for domestic violence committed in the context of family relations under the criminal codes (for more serious cases of domestic violence) and the PDV laws (for less serious cases, sanctioned through misdemeanour proceedings). GREVIO understands that misdemeanour proceedings for cases of domestic violence had been introduced to ensure swiftness and a more efficient response to this form of violence. As is described under the analysis in Chapter VI, Article 50, of this report, however, serious delays in delivering justice were still experienced even in such proceedings. GREVIO expresses its concern that such an approach may create a hierarchy of domestic violence offences, which runs counter to the spirit of the convention and therefore welcomes the 2020 legislative amendments in Republika Srpska that removed such a parallel sanctioning regime and expresses hope that it can inspire similar developments in Brčko District.

10. "A member of the family or family community shall be considered spouses or ex-spouses and their children and children of each of them, extramarital partners or ex-extramarital partners, their children or children of each of them, in-laws second degree regardless of the fact that the marital union has ended, parents of current and former marital and extramarital partners, relatives from full adoption in the direct line without restrictions, and in the lateral up to the fourth degree, as well as relatives from incomplete adoption, guardian, persons living or having lived in the same family household, regardless of kinship, persons having a joint child or having conceived a child even though they have never lived in the same family household, and persons who have been or are still in an emotional or intimate relationship, regardless of whether the perpetrator shares or has shared the household with the victim".

11. "A member of a family or family community, in terms of this law, is considered to be: a) spouses or ex-spouses and their children and the children of each of them; b) extramarital partners or former extramarital partners, their children or the children of each of them; c) in-law relatives up to and including the second degree, regardless of the fact that the marital union has ended; d) parents of current and former marital and extramarital partners, e) relatives from full adoption in the direct line without restrictions, and in the collateral line up to the fourth degree, as well as relatives from incomplete adoption, f) the person who binds the guardianship relationship, g) persons living or having lived in the same family household, regardless of kinship, h) persons who have a joint child or a child conceived, even though they have never lived in the same family household, i) persons who have been or still are in an emotional or intimate relationship with each other, regardless of whether the perpetrator shares or has shared the household with the victim".

12. Article 218 of the Brčko District Criminal Code sanctions "endangering the tranquillity, physical or mental health of a family member by applying violence, impudent or remorseless behaviour".

13. Article 5 of the Brčko District PDV law defines domestic violence "as any act of violence committed by a family member or threats by a family member that endangers the peace, psychological, physical, sexual or economic integrity of another family member". It clarifies that an act of violence that does not contain the characteristics of a criminal offence constitutes a misdemeanour offence, if it includes one of the following actions: threat of bodily harm to a family member or close person; threat to take away children or expel a family member; exhaustion through excessive work, starvation, sleep deprivation or necessary rest deprivation of a family member; treating children in a humiliating manner during their upbringing; denial of the possibility of livelihood to a family member; denial of the right to economic independence; verbal assault, name calling or otherwise insulting a family member; stalking a family member; causing fear, humiliation or a feeling of inadequacy.

14. Under the Criminal Code of Brčko District, "family members are spouses and common-law partners, former spouses and common-law partners, blood relatives in the direct line, adoptive parents and adoptees, relative in the collateral line up to the third degree inclusive and in-law relatives up to the second degree inclusive."

15. Under the PDV law of Brčko District "family members" means: spouses or ex-spouses and their children and the children of each of them, extramarital partners or former extramarital partners, their children or the children of each of them, relatives by in-laws, up to and including the second degree of kinship, regardless of whether the marital union has ended, parents of current and former marital and extramarital partners, relatives from full adoption in the direct line without restrictions, and in the lateral one concluding with the fourth degree of kinship, as well as relatives from incomplete adoption, persons who are bound by a guardianship relationship, persons who live or have lived in the same family household, regardless of kinship, persons who have a joint child or have conceived a child, even though they have never lived in the same family household.

12. **GREVIO urges the authorities to enhance the implementation of the Istanbul Convention in relation to all forms of violence against women, beyond domestic violence, which are currently less addressed by policies, programmes and support services, with due regard to their gendered nature, including rape and sexual violence, sexual harassment, female genital mutilation (FGM), forced marriage, forced abortion, forced sterilisation and stalking.**

13. **GREVIO furthermore recalls that Article 2, paragraph 1, of the Istanbul Convention affirms that all forms of violence against women, including domestic violence, affect women disproportionately and are a form of discrimination against women. It therefore strongly encourages the authorities to ensure that both national legislation and policies reflect this fundamental principle of the Istanbul Convention.**

14. **GREVIO strongly encourages the authorities of Bosnia and Herzegovina to align more closely to the Istanbul Convention the definitions of domestic violence and gender-based violence currently in use, as well as to harmonise the legal definitions of domestic violence across all areas of law, in order to improve its application.**

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

1. Gender equality and non-discrimination

15. It is important to bear in mind that the Bosnia and Herzegovina Constitution provides that the European Convention on the Protection of Human Rights and Fundamental Freedoms (the European Convention on Human Rights) and its protocols are directly applicable in Bosnia and Herzegovina and have legal precedence over other legislation. GREVIO welcomes the fact that the Constitution of Bosnia and Herzegovina prohibits discrimination on any ground, including on grounds of sex under its Article 11 – this is mirrored by the constitutions in the two entities. Moreover, the Bosnia and Herzegovina Law on Gender Equality regulates, promotes and protects substantive gender equality and prohibits discrimination on grounds of sex, gender and sexual orientation in all spheres of life, whereas the Bosnia and Herzegovina Law on the Prohibition of Discrimination also prohibits discrimination on an open-ended, non-exhaustive list of protected grounds. The Ombudsman for Human Rights of Bosnia and Herzegovina is the central institution that promotes equal treatment without discrimination. It hears cases of discrimination and issues recommendations, also providing assistance to victims who lodge a complaint in domestic/international forums. At the same time, the Agency for Gender Equality and entity Gender Centres can also receive individual complaints and reports on and promotes gender equality.¹⁶ At the policy level, in addition to the 2018-2022 Gender Action Plan (GAP) and the 2018-2022 Action Plan for the Implementation of the United Nations Security Council Resolution 1325 “Women, Peace and Security” in Bosnia and Herzegovina (UNSCR 1325),¹⁷ several initiatives have been undertaken with a view to securing gender equality. These include, by way of example, the introduction of gender-sensitive budgeting in ministries at the state and entity level and the establishment of contact persons for gender equality in state and entity institutions.

16. Nonetheless, civil society and studies point to the pervasiveness of patriarchal attitudes, gender stereotypes and tolerance towards violence against women. While several amendments to laws have been tabled before parliament to ensure equal representation on electoral lists and in the Council of Ministers of Bosnia and Herzegovina, these have never been adopted. Accordingly, women make up around 31% of elected parliamentarians in the House of Representatives and only 15% in the second chamber. Only 4% of mayors are women.¹⁸ A recent prevalence survey, moreover, indicates that 48% women in Bosnia and Herzegovina have experienced violence,

16. See Kadribasic A., “European network of legal experts in gender equality and non-discrimination”, European Equality Law Review, European Commission, p. 36.

17. Please see the analysis under Chapter 2, Article 7.

18. See the OSCE-led survey on violence against women, Well-being and Safety of Women, OSCE, p. 10.

although it is estimated that the figures are likely to be considerably higher.¹⁹ It is also estimated that 64% of women have been directly affected by the 1992-1995 conflict and it has been shown that the prevalence of intimate partner violence is higher among those women whose partners fought in the conflict.²⁰

2. Intersectional discrimination

17. Article 4, paragraph 3, of the Istanbul Convention requires parties to secure the implementation of their undertakings under the convention without any discrimination. This provision provides an open-ended list of grounds of discrimination which draws on that of Article 14 of the European Convention on Human Rights as well as the list contained in its Protocol No. 12²¹ and, in addition, includes the grounds of gender, sexual orientation, gender identity, age, state of health, disability, marital status, and migrant or refugee status or other status. This obligation stems from the realisation that discrimination of certain groups of women, for example at the hands of law-enforcement agencies, the judiciary or service providers, is still widespread.²²

18. The specific experiences of gender-based violence by women with disabilities, LGBTI women and Roma women has been studied through research by civil society, which GREVIO welcomes.²³ Moreover, the 2018 OSCE-led survey on violence against women in Bosnia and Herzegovina assesses and identifies the prevalence and challenges faced by women belonging to particularly marginalised or disadvantaged groups such as Roma, displaced women and refugees, women in rural areas, single mothers and women with disabilities in accessing support services for gender-based violence. It is also important to recall that in Republika Srpska useful statistics on violence against women are being collected and broken down also according to the presence of disability, which GREVIO welcomes.

19. GREVIO stresses that the available research and the information obtained during the evaluation visit point to serious shortcomings in the implementation of Article 4 of the convention. As regards in particular access to information, reports highlight that certain groups of women, for example Roma women, women with disabilities and women living in rural areas, often lack information on support services available in the area of violence against women and therefore do not receive the needed support.²⁴ GREVIO notes that the situation is particularly dire with regard to the provision of support services to migrant women victims of gender-based violence. By law, both Centres for Social Work and shelters can only assist nationals and residents with a temporary/permanent residence permit, thus excluding asylum-seeking women (including those that reside in a reception centre) and migrant women from the opportunity to access specialist support services. While GREVIO was informed that NGOs do their utmost to provide shelter even in these cases, they receive no state funding to cover the related expenses and therefore find themselves in even greater financial difficulties. Similarly, women's rights organisations have also informed GREVIO that asylum-seeking women also face specific difficulties in reporting gender-based violence as there is no specific protocol in place in reception centres that would facilitate such reporting.²⁵ Moreover, difficulties are encountered at police stations because of a lack of interpreters

19. Ibid. p. iii.

20. Ibid., p. 5.

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

22. See paragraphs 52-54 of the Explanatory Report.

23. See Mandić Đokić T. et al. (2019), "Analysis of the state of gender-based violence against persons with disabilities in Bosnia and Herzegovina", Neformalna grupa organizacija osoba sa invaliditetom, 2019, available at: www.myright.ba/uimages/U4277EB7_Analiza20rodno20zasnovanog20nasilja20prema20prema20osobama20sa20invaliditetom20u20BiH.pdf; Bašić D. and Dizdarević A. (2018), "Domestic Violence Experienced by LGBTI persons: Analysis and Recommendations", Sarajevo Open Centre, available at https://soc.ba/site/wp-content/uploads/2018/11/HRP-ENG-nasilje-nad-LGBTI-osobama_FINAL-web.pdf; "Access and trust of Roma in security and justice institutions in Bosnia and Herzegovina" (2021), Atlantska inicijativa, available at <https://atlantskainicijativa.org/wp-content/uploads/2021/11/Pristup-i-povjerenje-Roma-u-institucije-sigurnosti-i-pravosuđa-u-Bosni-i-Hercegovini.pdf>; "Research on Gender-based Violence Against Roma Women in Bosnia and Herzegovina", Roma Women Association "Bolja Budućnost", Tuzla.

24. See the OSCE-led survey on violence against women, Well-being and Safety of Women, OSCE, p. 59 and 74.

25. See the Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the sixth periodic report of Bosnia and Herzegovina, 2019, p. 15, which points to high levels of sexual violence against refugee and asylum-seeking women and girls in reception centres.

to assist migrant and asylum-seeking women when reporting such crimes. A lack of responsiveness by the police as well as by the Centres for Social Work, linked to deeply rooted prejudices, has also been consistently reported when it comes to complaints of gender-based violence made by Roma women²⁶ and women with disabilities.²⁷ As regards the latter, the NGO submission to GREVIO highlights how support services provided by the state do not cater for the needs of women with disabilities, because of prejudices, lack of training or physical barriers, leaving them no choice but to endure violence.²⁸

20. According to the authorities, the prevention of violence against women who are subject to intersectional discrimination and their protection are mainstreamed in the dedicated strategies addressing the needs of these groups (the entity strategies on Roma, on people with disabilities and on women living in rural areas). While there may be some elements in recognition of their experiences of gender-based violence, GREVIO notes that none of the strategies specifically address the compound difficulties of these groups of women. Moreover, specific measures to cater for the specific needs and accrued challenges of women who are subject to intersectional discrimination are not provided for in policies on gender-based violence,²⁹ thus making them invisible. Indeed, GREVIO was informed by women's groups that civil society representing these women are not consulted when policies on violence against women are being drafted and their views and needs are therefore not reflected in such documents. This is mirrored by a lack of official data on violence against women experienced by these groups of women, which would be needed to support evidence-based policy making.

21. Finally, it is important to highlight that because of the legal and institutional set-up of the country, depending on where exactly a victim of gender-based violence resides in Bosnia and Herzegovina, she will benefit from differing levels of prevention and protection. As will be seen in the following chapters, this applies, *inter alia*, in the fields of access to legal aid, social benefits/pensions for victims of conflict-related sexual violence³⁰ and prevention efforts like education.

22. **GREVIO strongly encourage the authorities of Bosnia and Herzegovina to:**

- a. **take measures to ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3, including on the basis of place of residence or on the basis of residence status, particularly when it comes to ensuring access to specialist support services;**
- b. **promote research and ensure the collection of data on gender-based violence affecting groups of women who are, or may be exposed to, intersectional discrimination, including women with disabilities, LGBTI women and migrant women, so as to assess the prevalence of the various forms of violence and access by such groups to support services, protective measures and justice;**

26. See, for example, Essential Services: Analysis of the Access to Support Services (Health, Police and Justice and Social Service) for Women belonging to Marginalised Groups Who Have Experienced Violence, UN Women, p. 33, 2019.

27. See the report submitted by Bosnia and Herzegovina pursuant to Article 68, paragraph 1, of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the state report), p. 18.

28. See "Response to Violence Against Women – Unprotected Survivors, Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO", p. 55.

29. See for example, Essential Services: Analysis of the Access to Support Services (Health, Police and Justice and Social Service) for Women belonging to Marginalised Groups Who Have Experienced Violence, UN Women, p. 6, 2019.

30. See the Report of the United Nations Secretary-General, 3 June 2020, p. 3, which uses the term "conflict-related sexual violence" to refer to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilisation, forced marriage and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict. That link may be evident in the profile of the perpetrator, who is often affiliated with a state or non-state armed group, which includes terrorist entities; the profile of the victim, who is frequently an actual or perceived member of a political, ethnic or religious minority group or targeted on the basis of actual or perceived sexual orientation or gender identity; the climate of impunity, which is generally associated with state collapse, cross-border consequences such as displacement or trafficking and/or violations of a ceasefire agreement. The term also encompasses trafficking in persons for the purpose of sexual violence or exploitation, when committed in situations of conflict. See also UN Security Council Resolution 1888(2009), S/RES/1888(2009), p. 3, paragraph 1.

-
- c. integrate the perspectives and needs of such groups into the design, implementation, monitoring and evaluation of comprehensive and co-ordinated policies for preventing and combating violence against women, in partnership with the specialist associations concerned and by including representatives of these associations in these processes.**

D. State obligations and due diligence (Article 5)

23. Aspects of the implementation of Article 5 of the Istanbul Convention are covered in Chapters V and VI of this report.

II. Integrated policies and data collection

24. 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)

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

26. The authorities in Bosnia and Herzegovina have taken important steps to adopt and implement policies to prevent and combat domestic violence both at the state, entity and canton levels. The challenges that stem from the multi-layered political and administrative articulation of its institutions, however, strongly affect the coherence, comprehensiveness and the co-ordination of such policies. GREVIO is also concerned about the absence of comprehensive policies to address equally devastating forms of violence against women such as rape and sexual violence outside the family, sexual harassment, stalking, FGM, forced marriage, or forced sterilisation and abortion. While ad hoc measures have been put in place to prevent sexual harassment in the workplace in the judiciary, in state-level institutions and in one of the cantons of the Federation of Bosnia and Herzegovina,³¹ the policies described in the paragraphs below do not specifically address sexual harassment outside of the intimate partner violence context, despite statistics and anecdotal evidence pointing to widespread prevalence of this form of violence against women.³² GREVIO further notes that while no research on the prevalence of FGM has been commissioned in Bosnia and Herzegovina, practising communities appear to exist;³³ moreover, stalking has been found to have been experienced by one in 20 women.³⁴

27. The principal policy in place at the state level to prevent and combat violence against women was the now expired Framework Strategy, which aimed to give effect to the Istanbul Convention at the national level in the area of prevention, protection and prosecution of violence against women and domestic violence and co-ordinated policies. Given the limited competences of the state government in the area of violence against women, its stated objective was to serve as a platform for the creation and implementation of the entities' strategies in the area of domestic violence and to ensure harmonisation between them. It therefore strived to include the same strategic priorities as those defined in the entity strategies as well as the strategic priorities for which the state level institutions are responsible.³⁵ GREVIO observes that at the outset the Government of Republika Srpska did not recognise the applicability of the Framework Strategy in its jurisdiction, stating that it pertained to entity-level competences, and did not, therefore, engage in its implementation. Despite its objective to implement the convention with respect to all forms of violence, the Framework Strategy mirrors the entities' strategies, focusing almost exclusively on domestic violence to the detriment of other equally important forms of violence against women.

28. Once the Framework Strategy expired in 2018, there was a failure to adopt a subsequent state-wide, comprehensive and co-ordinated policy that would have ensured a holistic and harmonised response to violence against women. In addition to the Framework Strategy, the GAP and UNSCR 1325 also address violence against women and include references to the Istanbul

31. In the Sarajevo Canton.

32. In early 2021, following a case of rape at a drama school in Serbia, women across the region, including in Bosnia and Herzegovina, began sharing their stories of sexual violence and sexual harassment in the workplace and at university under the hashtag #nisamtrazila and on the Facebook group Nisam trazila (I didn't ask for it). The OSCE-led survey on violence against women in Bosnia and Herzegovina also pointed to 28% of women above the age of 15 having experienced sexual harassment.

33. Information provided during the evaluation visit referred, *inter alia*, to the Wahhabi community, a specific sect of the Salafi movement.

34. See the OSCE-led survey on violence against women in Bosnia and Herzegovina, OSCE, 2019, p. iii.

35. These include the prosecution of cases of wartime sexual violence, migration issues, sexual harassment in the workplace in state-level institutions, etc.

Convention. The GAP can be considered as an umbrella strategy which defines mid-term targets in priority areas and which foresees a number of actions related to violence against women.³⁶ The UNSCR 1325, on the other hand, addresses access to reparation and to support services for conflict-related sexual violence victims, as well as issues related to the vulnerabilities of and the protection to be afforded to migrant and asylum-seeking women and children. Neither policy, however, appears to close the existing gap by addressing specific forms of violence against women other than domestic violence and, in the case of UNSCR 1325, sexual violence.

29. In response to the Covid-19 pandemic and the related increase in cases of violence against women, the state authorities also adopted a plan entitled “Measures for urgent assistance to the most vulnerable categories of citizens during the Covid-19 pandemic”. This plan encompassed measures to raise the awareness of the public and victims of the available support services, to ensure that shelters had sufficient capacity to adequately respond to the needs of victims, to provide additional telephone helplines and the relevant competent staff, and to provide additional accommodation. While it is not clear, in practice, to what extent this plan has been implemented, GREVIO was informed during the evaluation visit that the measures taken primarily focused on women’s economic empowerment and the provision of additional, fast-tracked funding to shelters in order to increase their accommodation capacity, as well as the simplification of procedures for providing accommodation to victims.

30. As regards policies to address and provide reparations for human rights violations and war crimes that occurred during the 1992-1995 war, including conflict-related sexual violence, GREVIO was alerted to the fact that a draft strategy for transitional justice and a draft law on torture and war-crime victims had been developed but were never adopted due to lack of political consensus. This in turn has led, *inter alia*, to a fragmented legal/policy framework on the recognition of the status of conflict-related sexual violence victims and their associated rights and protection, which vary between the entities.

31. As referred to above, the state-level Framework Strategy is flanked at the entity level by two other strategies. For the Federation of Bosnia and Herzegovina, the first Strategy for the Prevention and Combating of Domestic Violence was issued in 2009 and lasted until 2010, followed by the 2013-2017 Strategy for the Prevention and Combating of Domestic Violence (the Federation of Bosnia and Herzegovina Strategy), which was extended and accompanied by an action plan until 2020, with a subsequent strategy in the making. The Federation of Bosnia and Herzegovina Strategy addresses five principal areas of action: the harmonisation of the legislative framework with international standards; training; data collection; awareness raising; and co-ordinated multidisciplinary co-operation in the provision of protection and support to victims of domestic violence and work with perpetrators of violence. In addition to this strategy, under the Federation of Bosnia and Herzegovina PDV law, the cantonal governments of the Federation of Bosnia and Herzegovina must also draw up biannual programmes for the prevention, protection and combating of domestic violence, which, in turn, form the basis for municipal plans for the prevention of domestic violence. As regards Republika Srpska, a first Action Plan for Combating Domestic Violence was adopted in 2007 until 2008 and was followed by a Strategy for Combating Domestic Violence covering the period from 2009 to 2013, and then a strategy covering the years 2014 to 2019 (the Republika Srpska Strategy), with a new policy in place to run from 2020 to 2024. The Republika Srpska Strategy was articulated in four areas of intervention: the prevention of domestic violence; support and help for victims; the protection of victims; and the monitoring and the implementation of laws. In addition to the above, the entity authorities adopted an Action Plan for the Implementation of the Council of Europe’s Convention on Preventing and Combating Violence against Women and Domestic Violence in Republika Srpska for the period 2019-2020. This action plan purportedly addressed co-ordinated public policies, prevention and the monitoring of the

36. It addresses, in particular: the collection, analysis and publication of data on the prevalence of gender-based violence, including domestic violence; the protection and rehabilitation of victims and the judicial prosecution of the perpetrators; research into the prevalence and different aspects of gender-based violence, including domestic violence; specialised training for professionals and service providers on the identification of and provision of assistance to victims and their protection; psychosocial treatment programmes for perpetrators and programmes for the reintegration of victims of violence into society, including into the education system and the labour market; awareness-raising campaigns on violence against women; and monitoring and reporting measures undertaken to combat violence against women.

frequency and prevalence of all forms of gender-based violence, however, once again, its actions primarily focus on domestic violence. As regards Brčko District, GREVIO notes that no separate strategic documents and action plans dealing with violence against women have been developed, with the exception of the local protocol on domestic violence and the PDV law, whose adoption was met with significant resistance at the local level.³⁷ GREVIO, moreover, notes with concern that, as is the case at the state level, the entity policies only address domestic violence within the family context, failing to capture all cases of domestic violence where the partners or former partners do not or did not live under the same roof, and failing to address all other forms of violence against women. The state-level GAP is also matched at the entity and canton levels by GAPs that apply on a more operational level; likewise, at the entity level some measures and policies were devised to respond to the Covid-19 pandemic, primarily by providing additional support to shelters and, in the case of Republika Srpska, to the telephone helpline. It appears, however, that no additional measures were taken in Brčko District to strengthen the support for domestic violence victims during the pandemic.

32. In addition to addressing all forms of violence against women, in order to provide a holistic response to this human rights violation, national action plans/strategies must also take into consideration the specific needs of women victims who are subject to intersectional discrimination, including, *inter alia*, women from national minorities – including Roma women – as well as migrant and asylum-seeking women, women with disabilities and LGBTI women.³⁸

33. Article 7 requires that multi-agency co-ordination is ensured among all relevant actors, including civil society, both in the context of the adoption and in the implementation of policies to prevent and combat violence against women. GREVIO welcomes that at both the state level and the entity level NGOs are strongly associated with policy making in the area of violence against women as well as with the implementation of such policies. Indeed, the Federation of Bosnia and Herzegovina Strategy was drafted as a result of joint efforts between governmental and non-governmental representatives. Moreover, in some cases policies and legislation have been driven by NGOs, such as in the case of a new PDV law drafted and presented by the Safe Network³⁹ to the Federation of Bosnia and Herzegovina Parliament, whose reading is currently pending. Notably, a representative of the Safe Network participates in the work of the Federation of Bosnia and Herzegovina Expert Team for the Development and Implementation of the Strategy for Preventing and Combating Domestic Violence (the Federation of Bosnia and Herzegovina Expert Team). At the entity level in Republika Srpska, the authorities have similarly informed GREVIO that representatives of NGOs are involved in all policy/legislative initiatives in the area of violence against women and an NGO representative participates in the Republika Srpska Council for Combating Domestic Violence and Family Unit. GREVIO, however, notes that shortcomings exist with regard to NGOs' participation in policy making at the cantonal/local levels.⁴⁰ At the local level, a multi-agency approach has also been taken by Multi-Sector Teams (MSTs) – ad hoc bodies created by local government protocols to contribute to the implementation of policies in the area of domestic violence and to ensure interagency co-operation in individual cases of domestic violence. On the institutional side, while ensuring full respect of the entity competences established by the respective constitutions, GREVIO sees scope for a greater consultation in policy making of ministries at the state level, particularly in the area of education, by tapping into existing co-operation structures to discuss common aims.

34. The complex political and constitutional structure of Bosnia and Herzegovina gives rise to disparities in the content and scope of policies and laws, leading to differing levels of protection for women victims of violence. While the situation is stark for those victims residing in Brčko District, where comprehensive policies on violence against women are not in place, different levels of prevention, protection and prosecution also affect victims of violence against women residing in the Federation of Bosnia and Herzegovina and in Republika Srpska, depending on the entity and/or canton they live in. GREVIO stresses that following the expiration of the Framework Strategy there

37. See in this respect the analysis under Chapter IV, Article 18, of the Istanbul Convention and Chapter III, Article 13, on the need for more awareness raising in this part of the country.

38. See Chapter I, Fundamental rights, equality and non-discrimination.

39. The Safe Network is a coalition of NGOs operating in Bosnia and Herzegovina in the area of domestic violence.

40. See in this respect the analysis under Chapter II, Article 9.

no longer exists a comprehensive policy at the state level that can assess and level the playing field in the protection afforded to victims of violence against women across the country. Moreover, GREVIO further notes that the potential overlap of the wide range of policies that apply at different levels of administration does not seem to have been evaluated. Indeed, women's rights organisations have underlined, *inter alia*, that GAP policies at the cantonal level are often not harmonised with the GAP at state level.

35. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to conduct an independent comparative analysis focused on identifying promising practices and harmonising the policies in the area of violence against women, as well as identifying any overlap between the existing policies in this area. It further strongly encourages the development of long-term co-ordinated policies:

- a. that address all forms of violence against women, including domestic violence where the partners or former partners do not or did not live under the same roof;**
- b. that fully reflect the specific needs of women who are exposed to intersectional discrimination;**
- c. in all parts of the territory of Bosnia and Herzegovina, including Brčko District.**

Co-ordination in the design and implementation of such policies should be ensured with all relevant parties, at all different levels of government, including state-level bodies and civil society. Civil society should encompass NGOs that represent women who are subject to intersectional discrimination.

B. Financial resources (Article 8)

36. Article 8 of the Istanbul Convention aims to ensure the allocation of appropriate financial and human resources for the implementation of integrated policies, measures and programmes aimed at combating and preventing violence against women carried out by public authorities and civil society. Reports indicate that the estimated total annual costs needed for institutions in Bosnia and Herzegovina to provide support to victims of, or prevent, domestic violence amounts to around €14 000 000 (27 000 000 convertible marks (BAM)) and that the estimated costs needed for shelters to operate and provide specialist support services to victims and their children is €760 000 (BAM 1 486 635).⁴¹

37. While some funds for the programmes implemented by the Gender Centres in the two entities in the area of violence against women are being provided by some of the ministries involved in their implementation, a large ratio of programmes are funded by international donors, notably national action plans such as the Bosnia and Herzegovina GAP. Likewise, the Framework Strategy was funded through donor funding and the regular budgets of institutions in Bosnia and Herzegovina. At the entity level, rather than specific funds being earmarked for the implementation of the domestic violence action plans, these are financed through the regular budgets of the respective line ministries in the two entities. According to the state report, for the years 2019 and 2020, in Republika Srpska the Ministry of Family, Youth and Sport had one budgetary line of around €6 300 annually for the implementation of NGO projects implemented under the Domestic Violence Strategy, a second line of €4 500 to finance projects and programmes of the Board for Combating Domestic Violence and Family Unit and a third budgetary line of €150 000 a year to finance costs associated with the protection of victims in safe houses. For the Federation of Bosnia and Herzegovina, in 2018 an estimated €61 000 was allocated for the implementation of the Federation of Bosnia and Herzegovina Domestic Violence Strategy and around €111 552 were donated by international donors. The sum of these amounts when compared to the estimated total annual costs needed for Bosnia and Herzegovina to provide support to victims or prevent violence points to a widely insufficient allocation of financial resources for the implementation of integrated measures and policies. As regards the funding of staff and activities carried out by the Centres for Social Work,

41. See the Analysis of the Cost of Domestic Violence: Estimating the Cost of Multi-sectoral Response at the Local Level in Bosnia and Herzegovina, UN Women, p. 13.

which are the first points of entry for domestic violence victims, GREVIO was alerted to the fact that their resources are extremely limited and that as a result they cannot provide adequate support services in the area of domestic violence.

38. In light of the foregoing, GREVIO notes that a substantial share of the activities set out in the numerous action plans and strategies and/or carried out by the Gender Centres and respective ministries are funded by international donors. GREVIO welcomes the readiness of the Bosnia and Herzegovina authorities to co-operate with the international community and appreciates international donors' efforts to fund measures and projects to prevent and combat violence against women in Bosnia and Herzegovina. It recalls, however, the state's responsibility to allocate appropriate state funds to the funding of legislative and policy measures in the area of violence against women in order to discharge its obligation under Article 8 of the Istanbul Convention. GREVIO is aware that draft amendments to the PDV laws of the Federation of Bosnia and Herzegovina seek to strengthen the legal obligations for funding and encourages the authorities to continue in this direction. GREVIO is further concerned by the fact that little to no funding is dedicated to other serious forms of violence against women, other than domestic violence.

39. GREVIO recalls that under Article 8 and 9 of the convention, funding processes for women's rights organisations providing specialist support services to victims should ensure adequate and guaranteed levels of funding for them to adequately provide these services. The overall modest funding levels and the unsustainability of the available funding sources and approaches significantly hamper the delivery of specialist support services in the two entities and in Brčko District. GREVIO notes that funding is primarily available from international donors and this seems to penalise those NGOs that are less familiar with the procedures that apply. While some funds are made available by the authorities,⁴² tendering procedures either target all NGOs alike or are not open to all types of NGOs.⁴³ More generally, these tendering procedures concern such limited amounts of funds that NGOs running support services, such as the SOS helplines in the two entities, need to finance the salary costs of skilled staff on a project-based basis.

40. Another obstacle that has been brought to the attention of GREVIO and that hinders the securing of sufficient funding by NGOs that provide specialist support services is that international organisations and national authorities sometimes compete, *de facto*, with NGOs in an ever-shrinking funding space. This is because the former also rely on external sources to finance activities in the area of domestic violence and violence against women. GREVIO notes in this respect that the Bosnia and Herzegovina authorities should strive as far as possible to valorise, tap into and privilege the extensive victim-centred expertise of NGOs in this area and ensure that civil society is not put in a position whereby it needs to compete for funds with institutional or international bodies.

41. As regards the funding of domestic violence shelters, delays in disbursing the funding allocated by the relevant ministry (at the state and entity level) seem to be presenting obstacles to the provision of protection and support to victims. GREVIO is concerned that this undermines the legal obligation to fund shelters as set out under the respective entity-level PDV laws.

42. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to ensure appropriate, sustainable and long-term financial resources for all of the policies, measures and legislation at state, entity and local level aimed at preventing and combating violence

42. As regards the funds disbursed by the authorities, these must be applied for through a call for applications/public tender. One such public tender is for all NGOs and is not dedicated to women's rights NGOs. The funding of women's rights NGO projects in the area of domestic violence is also carried out through the Fund for the Implementation of the Gender Action Plan (FIGAP), which was set up to support public institutions and bodies involved in the implementation of the GAP. The Gender Agency at the state level issues a public tender for women's rights NGOs annually to disburse such funds.

43. According to the authorities, participation in calls for applications is open to all registered NGOs. GREVIO has, however, been alerted to the fact that NGOs that assist asylum-seeking and migrant women have experienced difficulties in participating in the call for applications that is issued to fund projects on gender-based violence, despite the fact that they also assist migrant women in this respect, suggesting a narrow understanding of NGOs operating in the area of violence against women.

against women and domestic violence and for the institutions and entities mandated for their implementation.

43. GREVIO urges the authorities of Bosnia and Herzegovina to ensure sustainable funding levels for women's NGOs that run specialist support services for women victims of all forms of violence or who assist them, in all parts of the territory. Such suitable funding opportunities should be guaranteed, for example, through long-term grants based on transparent procurement procedures. GREVIO further encourages the authorities to valorise, tap into and privilege the extensive victim-centred expertise of NGOs and ensure that civil society is not put in a position whereby it needs to compete for funds with institutional or international bodies.

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

44. In Bosnia and Herzegovina, NGOs play an important role in providing a range of specialist support services for women victims of violence, including the administering of helplines, the running of shelters and the provision of counselling services for domestic violence and, to a limited extent, of psychological support and legal aid. Based on a victim-centred and feminist approach, they offer services that do not exist elsewhere in the country. Moreover, in the Federation of Bosnia and Herzegovina, certain NGOs are accredited by the Federation of Bosnia and Herzegovina Ministry of Labour and Social Policy and are authorised to issue certificates that attest to victims' survival of conflict-related sexual violence, which are necessary for a victim to apply for the status of civil victim of war. On the other hand, in Brčko District only one NGO is active in the area of violence against women, albeit with very limited capacity. It does not, in fact, provide specialist support services to victims and its action is limited to awareness-raising activities carried out in the period of the 16 days of activism against gender-based violence; moreover, no shelters or telephone helplines are available locally.

45. GREVIO notes that to a certain extent the state and entity governments recognise the expertise of women's rights groups that provide specialist support services – this is reflected in policy documents such as strategies and protocols that have been drafted in co-operation with civil society and that envisage co-operation of state bodies with NGOs working in this field.⁴⁴ This said, shortcomings brought to GREVIO's attention by civil society in relation to participation in policy making include: at the cantonal level, lack of due consideration of the perspective of NGOs and consultation being carried out for purely formalistic reasons, with the resulting local policies not reflecting the needs at the local level; and the exclusion from consultation processes of civil society representing women at the intersection of discrimination. More generally, in practical terms, GREVIO notes that the role and recognition afforded to these women's NGOs falls short of the active encouragement and government support required by Article 9 of the Istanbul Convention. Civil society has stressed that while the authorities rely a great deal on their work when it comes to obtaining statistics, information or other expertise in the area of violence against women, this is not matched by sufficient financial support. As has been described in the analysis under Article 8 of this report, significant difficulties have been experienced by these providers of specialist support services, including shelters, in securing financing. Such shortcomings include delays/lack of payment of funding as required by the PDV laws and a perceived element of competition in accessing donor funding.⁴⁵

46. GREVIO notes that some efforts have been made by the authorities to officially involve women's rights organisations in multi-agency co-operation at the local level (and cantonal level in the Federation of Bosnia and Herzegovina), for example by relying on NGOs to initiate and support

44. Please see the analysis under Articles, 7, 8 and 18, which address co-operation with civil society in the context of drafting and implementing the relevant policies, as well as in the context of operational co-ordination provided for under co-operation protocols.

45. See Article 8, Financial resources.

the establishment of MSTs. Nevertheless, concerns have been shared with GREVIO about the effective involvement of civil society in these forums.⁴⁶

47. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to:

- a. ensure, *inter alia*, through adequate financing, an independent role for women's NGOs in providing essential support services to women victims of all forms of violence against women, in all parts of the country;**
- b. establish at different levels of government consultative dialogues with women's rights organisations in order to incorporate their opinions and experiences into the design of policies and measures to prevent and combat all forms of violence against women.**

D. Co-ordinating body (Article 10)

48. Article 10 of the Istanbul Convention sets out the obligation to designate one or more official government bodies to co-ordinate, implement, monitor, and evaluate policies and measures to prevent and combat all forms of violence covered by the scope of the convention. These bodies should also be responsible for the co-ordination and the collection of data and the analysis and dissemination of results. The evaluation function is to be understood as implying an independent and scientific assessment, based on robust data, of policies and measures. Bodies that are responsible for the evaluation of policies must therefore be institutionally independent and separate from those that co-ordinate/implement and monitor policies on violence against women.

49. In Bosnia and Herzegovina, the Ministry for Human Rights and Refugees at the federal level and the two Gender Centres at the entity level are tasked with the supervision, monitoring and implementation of policies in the area of violence against women, as well as their co-ordination. At the same time, the authorities have referred to several additional bodies responsible for the co-ordination, implementation and monitoring of policies and measures to combat violence against women.

50. At the state level, the Gender Equality Agency for Bosnia and Herzegovina is responsible for the implementation of the Framework Strategy (now expired) and for the application and co-ordination of the activities stemming from the GAP. In August 2019, the Steering Board for the Co-ordination and Monitoring of the Implementation of the GAP for Bosnia and Herzegovina was set up to adopt guidelines and develop annual operational plans, as well as to report on the implementation of the GAP to the Council of Ministers and the Parliamentary Assembly of Bosnia and Herzegovina. Representatives of the relevant ministries of Republika Srpska and the Federation of Bosnia and Herzegovina participate in the work of this Co-ordination Board; The Board for Monitoring and Reporting on Implementation of the Istanbul Convention and Femicide in Bosnia and Herzegovina (the IC and Femicide Board), was set up in August 2019 and is presided over by the director of the Agency for Gender Equality of Bosnia and Herzegovina. It is primarily composed of representatives of state-level institutions, representatives from the institutions of the Federation of Bosnia and Herzegovina and Brčko District and the NGO Safety Network. This body has a monitoring, reporting and advisory role in the area of the implementation of the convention but does not have responsibility for co-ordination. More specifically, its mandate encompasses the implementation of policies and measures to prevent and combat violence against women and domestic violence, assessment of the status of implementation of the Istanbul Convention and the making of recommendations for its more efficient implementation, the analysis of data on femicides and recommending further actions aimed at preventing femicides.⁴⁷ Representatives of the Republika Srpska authorities do not participate in this body as they do not recognise its legitimacy, considering that the area of violence

46. See in this respect the analysis under Chapter 4, Article 18.

47. The IC and Femicide Board have met four times since its inception and has discussed, *inter alia*, the protection of migrant women from violence against women, a proposal to amend the law on reparations for victims of wartime rape and the co-operation with the High Judicial Prosecutorial Council and the Gender Centres with reference to the collection and analysis of data on gender-based violence and domestic violence.

against women is the competence of the entity. GREVIO notes that in practice this has a bearing on the ability of this body to exercise its mandate, including its role to improve and harmonise across the country the protection afforded to victims of violence against women.

51. As regards the entity level, the Framework Strategy used to provide that the governments of Republika Srpska and Federation of Bosnia and Herzegovina “shall determine the co-ordinating bodies for their respective territories”.⁴⁸ GREVIO notes that co-ordination bodies exist at the entity level and include the Republika Srpska Gender Centre, the Republika Srpska Ministry of Family, Youth and Sports and the Republika Srpska Council for Combating Domestic Violence. For the Federation of Bosnia and Herzegovina, on the other hand, these are the Federation of Bosnia and Herzegovina Gender Centre and the Federation of Bosnia and Herzegovina Expert Team.

52. The Gender Centre of Republika Srpska is tasked with the monitoring, implementation and reporting of programmes and measures taken in compliance with the Istanbul Convention. While it has benefited from donor funding, its annual budget in 2019 amounted to €254 879 (€237 240 in 2018 and €235 910 in 2017) and is staffed by 14 employees. GREVIO has been informed that the Republika Srpska Gender Centre frequently consults NGOs in its work. Pursuant to the Republika Srpska PDV law, the Republika Srpska Ministry of Family, Youth and Sports is charged with monitoring the implementation of the Republika Srpska PDV law and is therefore responsible for co-ordination in the area of domestic violence. This ministry is supported by the Council for Combating Domestic Violence of Republika Srpska, which is mandated to co-ordinate and monitor the implementation of policies and measures for preventing and combating domestic violence and to carry out research in this area and evaluate the related policies.⁴⁹ This body is an ad hoc interagency council that primarily has an advisory role and is composed of representatives of different ministries, the Gender Centre of Republika Srpska, the academic community, the judiciary and NGOs. As regards the Federation of Bosnia and Herzegovina, the Gender Centre of the Federation of Bosnia and Herzegovina is tasked with monitoring, implementing and co-ordinating the Federation of Bosnia and Herzegovina government policies in the area of gender equality and in the area of domestic violence. It has also benefited from international donor funding and had an annual budget of €205 187 in 2018 and a total of nine staff members. On the other hand, the Expert Team in the Federation of Bosnia and Herzegovina is tasked by the entity government with developing, monitoring and reporting to it on the implementation of the Federation of Bosnia and Herzegovina DV Strategy and is composed of 21 representatives from different ministries and institutions, the Federation of Bosnia and Herzegovina Gender Centre and NGO representatives.

53. In light of the foregoing, GREVIO underscores, once again, that all of these monitoring and implementation bodies are focused primarily on co-ordinating, monitoring and implementing policy measures in the area of domestic violence rather than all forms of violence against women. The authorities maintain that the IC and Femicide Board along with the Gender Agency and the entities’ Gender Centres ensure co-ordination of domestic violence policies both horizontally – between the two entities and the state – and vertically, between the entities and the cantonal/local co-ordination mechanisms. Nonetheless, GREVIO is concerned that the plethora of bodies that are competent to implement the various strategies at state, entity and cantonal levels entails a risk of overlap and/or gaps with regard to co-ordination, monitoring and implementation of policies in the area of domestic violence. Indeed, GREVIO has been alerted to instances of insufficient implementation of the relevant strategies and ineffective functioning of some of these co-ordination bodies, leading, in some cases, to poor provision of support services.

54. GREVIO stresses that in a country like Bosnia and Herzegovina with a complex administrative and constitutional structure composed of numerous competent institutions in the area of violence against women, overall co-ordination and information exchange between existing co-ordination bodies at the entity or local level must be guaranteed so that the standards of the Istanbul Convention are complied with in all parts of the territory. GREVIO recalls that co-ordination bodies under Article 10 must be formal bodies with a clear mandate and a dedicated budget so that

48. See the Framework Strategy for the Implementation of the Convention on Preventing and Combating Violence Against Women and Domestic Violence in Bosnia and Herzegovina for the period 2015-2018, p. 6.

49. See Article 39 of the Republika Srpska PDV law.

they can ensure the continuity and sustainability of policies and measures. It notes that the Gender Centres in the two entities have confirmed that they do not have sufficient funds to fully carry out their mandate, including the setting up of and co-ordination with cantonal co-ordination bodies, and that they heavily rely for this purpose on donor funding, which is volatile and unpredictable. Furthermore, GREVIO notes that no entity/institution has been mandated with ensuring the evaluation of policies on violence against women, which is an equally non-negligible function that is necessary to secure progress in the fight against gender-based violence. The authorities have clarified that under Federation of Bosnia and Herzegovina laws and regulations,⁵⁰ any strategic plan must be evaluated and that, accordingly, the Federation of Bosnia and Herzegovina Domestic Violence Strategy and the 2020 Action Plan were indeed evaluated by an independent expert hired by the Federation of Bosnia and Herzegovina Gender Centre. GREVIO recalls that under Article 10 of the convention, the evaluation function is to be understood as implying an independent and scientific assessment of whether measures taken achieve their aim and/or expose any unintended effects. In the implementation of Article 10 of the convention, GREVIO underlines the importance of ensuring that the evaluation of measures and policies is not carried out by the very same bodies that are responsible for the co-ordination and implementation of the measures and who thus bear political responsibility for them. Last, while some of the above-mentioned bodies foresee the involvement and consultation of NGOs, GREVIO's attention has been raised with regard to deficiencies in this respect, especially when it comes to the local co-ordination bodies.

55. GREVIO strongly encourages the authorities to ensure, on the one hand, the co-ordination and implementation of policies and measures in relation to *all* forms of violence against women, and on the other hand, their independent monitoring and evaluation, in order to ensure objectivity in the evaluation of policies at all levels of the territory.

56. GREVIO urges the authorities of Bosnia and Herzegovina to streamline the plethora of existing co-ordination bodies, and to strengthen the principal co-ordination bodies (notably the Gender Equality Agency of Bosnia and Herzegovina, the Gender Centres in the two entities and the Republika Srpska Ministry for Family Youth and Sport). These bodies should be resourced with sufficient and stable human and financial resources. GREVIO further urges the authorities to ensure overall co-ordination and information exchange between such bodies, so that the standards of the Istanbul Convention are complied with in all parts of the territory, in close consultation with relevant NGOs and civil society.

E. Data collection and research (Article 11)

57. 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.⁵¹

1. Administrative data collection

58. GREVIO welcomes the steps taken by the authorities to collect different types of data, particularly in the realm of domestic violence, and the recognition, at the policy and legislative level, of the urgency to robustly strengthen endeavours in this area. For example, the authorities have introduced obligations on data collection on domestic violence under the PDV laws in each entity⁵² and have ensured that these data are periodically made available through dedicated public reports. GREVIO also notes that, in principle, the IC and Femicide Board (see the analysis of Article 10 in this report) has also been tasked, *inter alia*, with monitoring and collecting data on violence against women. Moreover, the Framework Strategy and the strategies in the two entities have acknowledged

⁵⁰ See Articles 12 and 13 of the Regulation on the Evaluation of Strategic Documents.

⁵¹ While this section discusses the main considerations related to data collection, Chapters V and VI also offer reflection on data related to specific criminal offences.

⁵² See Articles 37, 34 and 29 of the respective PDV laws in the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District.

the need to introduce a single methodology for the collection of administrative data on violence against women and domestic violence and/or have set this as a strategic goal. GREVIO notes that the case-management system administered by the High Judicial and Prosecutorial Council (HJPC), which collects data from courts and prosecutors' offices, is a step in the right direction as it currently represents the most complete source of data on the performance of the criminal justice system. Nonetheless, as will be outlined in the following paragraphs, presently Bosnia and Herzegovina does not yet have a comprehensive and co-ordinated system of data collection capable of presenting an overall picture, for the whole state, of the incidence of domestic violence and other forms of violence against women, and of the support and protection provided to victims. In both entities, a number of official bodies applying different methodologies are responsible for data collection, which mostly concerns domestic violence. Data collection on other forms of violence against women is extremely limited, as described below.

59. As regards data on domestic violence in the Federation of Bosnia and Herzegovina, Under Article 40 of the Federation of Bosnia and Herzegovina PDV law, the police, courts and social work centres are required to keep records on the reported cases of domestic violence and on whether protection orders have been issued, as well as other information related to cases of domestic violence, and must transmit these data to the Federation of Bosnia and Herzegovina Gender Centre, which maintains an electronic database on domestic violence. Despite the fact that training has been provided to the relevant staff and regulations have been issued on the manner of keeping such records, the authorities have acknowledged that the database is not complete as there are a number of institutions that do not systematically transmit the relevant data. The Federation of Bosnia and Herzegovina Institute for Statistics also collects data related to gender equality and on domestic violence and publishes every other year the publication "Men and Women in the Federation of Bosnia and Herzegovina". In addition to portraying the situation in various sectors of society with a gender lens, this publication collects data in the area of social protection and from the judiciary that is related to domestic violence as well as data on the number of victims admitted to shelters and the number of calls to the SOS hotline. In Republika Srpska, the police, courts, prosecutors, Centres for Social Work, the SOS helplines, health and education institutions are required to collect data on domestic violence and transmit these data to the Ministry of Family, Youth and Sport, which issues reports and presents them to the entity's government and the parliament. The collection of data must be carried out in line with the Rulebook on Content of Records and Reports on Domestic Violence, which provides, *inter alia*, that data shall be disaggregated by sex and age of the perpetrator and of the victim, the relationship between the perpetrator and victim, and any presence of a disability. GREVIO welcomes the introduction of granular analysis by the Republika Srpska authorities that specifies the type of domestic violence that was perpetrated (psychological violence, physical violence, sexual violence, economic violence or a combination of these), whether the victim is particularly vulnerable, such as in the case of children and persons with disabilities, and whether the perpetrator possessed or used a weapon. The Republika Srpska Institute of Statistics also publishes data on reported, indicted and sentenced adults and juvenile perpetrators. GREVIO notes that unfortunately no data have been provided in relation to Brčko District and that this significantly masks the prevalence of violence against women in this district, as well as the gaps in the response by the authorities to this serious violation of human rights.

a. Law-enforcement agencies and the justice sector

60. GREVIO notes that the data on domestic violence that have been made available to GREVIO by the Federation of Bosnia and Herzegovina criminal justice sector lacks in comprehensiveness as it is not systematically disaggregated on the basis of the sex of the victim and perpetrator – particularly the data on the reports received by the police – nor is the disaggregation carried out on the basis of their relationship or the age of the victim and the perpetrator. Moreover, the data do not allow the tracking of a case at all stages of the law-enforcement and judicial proceedings, from reporting to final conviction/acquittal. As regards the data collected by the justice sector on domestic violence in Republika Srpska, while the traceability of cases from reporting, indictment, convictions and final convictions could be improved, GREVIO considers that the data that are being collected by the Ministry of Family, Youth and Sport and the Institute of Statistics offers a helpful overview on conviction and attrition rates in the area of domestic violence. The data are, in fact, disaggregated

by sex and age of the perpetrator and of the victim, the relationship between the perpetrator and victim, and the presence of a disability. Moreover, other helpful data are highlighted, such as the type of domestic violence that was perpetrated and the presence of factors that heighten the vulnerability of the victims, for instance the involvement of a child, the presence of disabilities or whether the perpetrator possessed or used a weapon.

61. As regards data on other forms of violence against women other than domestic violence, data from the courts and prosecutors' offices are collected through the Court Management System that is managed by the HJPC. This system consists of two databases that collect data on the number of cases classified by type of offence: one for the courts and one for the prosecutor's offices. GREVIO was informed that the prosecutors' database collects, *inter alia*, data on the number of investigations opened per type of offence, which is broken down by the sex of the perpetrator and that of the victim but not the relationship between the two. As regards data collected by the courts, the database allows a case to be tracked at various stages of the judicial procedure and thus provides information on the outcome of cases per offence, including the number of convictions for the offences and the type of sanction imposed. However, this information is not made publicly available. Representatives of the HJPC have clarified that this institution does not collect data originating from the police and that it is difficult to track a case from reporting to conviction. Moreover, they have stressed that the quality of the data greatly depends on the quality and the extent to which judges and prosecutors submit the relevant information. The Statistics Bureaus of the entities also collect statistics on crimes reported to the prosecutors as well as those dealt within the courts and the aggregated data are sent to the National Agency for Statistics so that it can compile and publish an annual report. Although these reports disaggregate the data on perpetrators and victims of crimes by sex, the data are relayed by groups of offences, not by single criminal offences. Moreover, disaggregation of data on the basis of the relationship between victims and perpetrator is not included.

62. In light of the above, GREVIO notes that the data on violence against women other than domestic violence provided to GREVIO by the authorities of both entities only cover physical violence, murder and sexual offences/rape, omitting information on other forms of violence against women, such as stalking, sexual harassment, FGM, forced abortion, forced sterilisation and forced marriage. Moreover, while the data are disaggregated according to the sex of the perpetrator and the victim, data are not disaggregated according to the relationship between the perpetrator and the victim nor on the basis of age, failing, therefore, to provide a full picture of women's experiences. The data also do not easily allow an identification, per case/offence, of the number of reports made by victims and the number of opened investigations or the tracking of a case at all stages of the law-enforcement and judicial proceedings – albeit, in this respect, statistics provided by the Federation of Bosnia and Herzegovina for the years 2019 and 2020 and originating from the HJPC do provide a much fuller picture than in the past.

63. As regards data on femicides, while the HJPC of Bosnia and Herzegovina maintains aggregated data on crimes of all jurisdictions, including murders, these data are not disaggregated by the sex of the victim, nor by the relationship between the victim and the perpetrator. The entity-level Institutes of Statistics and the judiciary also collect data on murders disaggregated by the sex of the victim/perpetrator, however the relationship between the two is not identified. GREVIO notes that these lacunae impact on the authorities' ability to systematically and comprehensively analyse the number of femicides in Bosnia and Herzegovina. The HJPC also collects data on cases of wartime sexual violence that have been prosecuted since 2010 and their outcome, including the application of sanctions.

64. Data from civil courts such as the number of protection orders issued in the context of civil proceedings and data on compensation claims brought before criminal and civil courts are lacking. As regards data on protection orders issued in the context of criminal proceedings, while both entities collect data on emergency barring orders and protection orders that have been proposed by law-enforcement authorities and imposed by courts, the data do not provide information on breaches of such orders, the sanctions imposed as a result of such breaches and the number of cases where the woman was revictimised or murdered as a consequence. These data are extremely important to assess whether protection orders are indeed effective in preventing further harm to victims. Data on

the number of decisions on custody/visitation/residence of children that have expressly taken into account reports of domestic violence do not appear to be available or recorded.

b. Healthcare sector and social services

65. As indicated above, valuable data are collected at the entity level in Republika Srpska as far as domestic violence is concerned. These data include the number of cases notified to the Centres for Social Work, the type of domestic violence and its duration, the age and sex of the victims, the relationship between victim and perpetrator, numbers, sex and age of the perpetrators, and the number of victims and children that are accommodated in shelters, among other things. In the area of healthcare, once again, the data that are collected pertains exclusively to domestic violence and concern the number of victims of domestic violence, broken down by child victims, victims with disabilities, age and sex, relationship between the perpetrator and the victim and referrals to medical/mental health treatment, as well as the age and sex of the perpetrators and their referral to different types of treatment. GREVIO also welcomes the fact that useful data are collected in the area of education, such as the number of reports of domestic violence sent by education establishments to the competent bodies, including the number, sex and age of the victims and the relationship between the victim and the perpetrator. GREVIO notes that, unfortunately, comparable data do not appear to be collected by the health sector, social services and education establishments for other serious forms of violence against women in Republika Srpska. In the Federation of Bosnia and Herzegovina, limited data in the area of social services have been provided, notably the number of calls made to the telephone helpline broken down by sex and the number of victims accommodated in shelters, broken down by sex and number of children, as well as relationship between victim and perpetrator. In the area of health, while the Federation of Bosnia and Herzegovina Law on Record Keeping in the Healthcare System does not require the keeping of separate records on medical assistance provided to victims of gender-based violence, the rulebooks which entered into force in 2019 do require the recording of gender-based violence as a specific cause of injury. Despite this, GREVIO notes that to date no data appear to be systematically collected in the Federation of Bosnia and Herzegovina in relation to domestic violence or any other form of violence against women in the healthcare sector. For Brčko District in particular, GREVIO has been informed that the Head of Department for Health and Other Services adopted the Rulebook on Content of Records and Reporting on Domestic Violence; it is not clear, however, what type of information is collected, nor have any data in the area of social services been made available to GREVIO.

66. In light of the specific history of Bosnia and Herzegovina and the sexual violence experienced by many women in the context of the war, woman's rights organisations have also brought to GREVIO's attention the importance of establishing a comprehensive database on victims of conflict-related sexual violence which would include information on the number of victims who have requested, been granted or been denied the status of civil victims of war and have therefore benefited from the rights stemming from such status, including receiving compensation. While NGOs providing services and municipal, cantonal and entity-level institutions that operate in the field of social protection maintain some pertinent statistics, a single database providing information on cases where this status is denied and for what reasons has not been established.

67. GREVIO urges the authorities of Bosnia and Herzegovina to regularly and systematically collect administrative data for *all* forms of violence against women at all stages of the criminal justice process (from reporting, to investigation, to the opening of criminal proceedings and their outcome), disaggregated by sex and age of both the victim and the perpetrator, type of violence and the relationship of the perpetrator to the victim, in the whole territory of Bosnia and Herzegovina. Such data should be collected by all sectors of the administration, including law-enforcement agencies, prosecutors' offices, the judiciary, social services, the public health sector and other relevant public services, in order to analyse the pathway of cases through the criminal justice system, the levels of conviction, attrition and recidivism, and the identification of gaps in the response of institutions. GREVIO further urges the authorities of Bosnia and Herzegovina to train and raise the awareness of

the staff working in these administrations of the importance of submitting the required data to those charged with the task of collecting it and analysing it.

68. **In addition, data on the following should be collected:**

- a. **the number of protection orders issued in the context of civil proceedings and the number of protection orders issued in the context of criminal proceedings, their violations and the sanctions imposed as a result of such violations in cases of all forms of violence against women and the number of cases where the woman was revictimised or murdered in spite of such orders;**
- b. **the number of decisions on custody/visitation/residence of children that have expressly taken into account reports of domestic violence;**
- c. **the number of cases in which women victims of violence have claimed and have obtained compensation either from the perpetrator or the state for offences covered by the Istanbul Convention;**
- d. **the number of victims of war-related sexual violence who have requested, been granted or been denied the status of civil victims of war and have therefore benefited from the rights stemming from such status, including receiving compensation.**

c. Data on the asylum procedure

69. As is discussed under Chapter VII of this report, under the Bosnia and Herzegovina Law on Asylum, sexual violence and acts related to gender-based persecution must be taken into account in the asylum determination procedure.⁵³ Moreover, the authorities have also informed GREVIO that a gender-sensitive interpretation is applied to all grounds of persecution. This notwithstanding, GREVIO was only provided with basic data on the expression of the intention to seek asylum and on the granting of international protection, disaggregated by sex. GREVIO concludes, therefore, that disaggregated data on the number of asylum claims based on gender-related persecution and their outcomes do not appear to be collected by the authorities.

70. **GREVIO encourages the authorities of Bosnia and Herzegovina to introduce a data-collection system that records asylum claims on the basis of gender-related persecution, the grounds for persecution considered and the outcome of the claims.**

2. Population-based surveys

71. Paragraph 2 of Article 11 details parties' obligation to conduct population-based surveys based on data that are statistically representative of the target population so that they can be easily generalised to the larger population. Parties are additionally obliged to conduct such surveys at regular intervals in order to make a pertinent and comparative assessment of the prevalence and the trends in all forms of violence covered by the scope of the Istanbul Convention by tracking developments longitudinally.

72. GREVIO welcomes the launching between 2013 and 2018 of a number of population-based surveys focusing on violence against women and domestic violence, covering the territories of the Federation of Bosnia and Herzegovina and Republika Srpska. These included, in 2013, a survey on the prevalence and characteristics of violence against women in Bosnia and Herzegovina and a survey on the causes of domestic violence, and in 2018, the OSCE led a survey on the well-being and safety of women in Bosnia and Herzegovina.⁵⁴ The survey on the prevalence and characteristics of violence against women in Bosnia and Herzegovina was carried out and published by the Bosnia and Herzegovina Agency for Gender Equality in cooperation with entity gender centres and was

53. Article 20(2)(a) and (f) of the Law on Asylum. See also Article 40(1)(c) of the Law on Asylum, which stipulates that the situation and personal circumstances of the asylum seeker, including his/her gender and age, shall be taken into account when making a decision upon the asylum application, in order to assess, on the basis of personal circumstances of the asylum seeker, if the treatment and the actions to which he/she was or could be exposed constitute persecution or severe violation.

54. See the OSCE-led survey on violence against women: Bosnia and Herzegovina, 2019.

conducted among a representative sample of women aged 18 to 75, totalling 3 300 women (2 113 in the Federation of Bosnia and Herzegovina and 1 187 in Republika Srpska). The survey addressed physical, psychological, sexual and economic violence both in the context of intimate partner violence and outside of the domestic violence context. Moreover, GREVIO welcomes that the definition of violence used for the survey was aligned with the Istanbul Convention. The OSCE led the survey on the well-being and safety of women in Bosnia and Herzegovina, built on the results of the 2013 prevalence survey and covered the prevalence of psychological violence (including economic violence), physical and sexual violence, including conflict-related violence, sexual harassment and stalking. While the two surveys cannot be compared because of the different methodologies used, the different sampling techniques and the context-specific questions asked in the 2013 survey, they allow the identification of similar patterns in terms of prevalence, perceptions and attitudes, consequences of violence and reporting, reasons for not reporting and victims' experience in the area of protection. GREVIO further notes that the 2018 survey also inquired into the impact of conflict on gender-based violence. GREVIO particularly welcomes the fact that the 2018 survey identified the prevalence of gender-based violence among women belonging to particularly marginalised or disadvantaged groups such as Roma, displaced women and refugees, women in rural areas, single mothers and women with disabilities.⁵⁵

73. Finally, GREVIO has also been informed that a pilot survey on the prevalence of gender-based violence was carried out in Republika Srpska and the Federation of Bosnia and Herzegovina in 2021 which addressed, *inter alia*, sexual harassment in the workplace, intimate partner violence and women's trust in public institutions.

74. GREVIO emphasises that the aim of Article 11, paragraph 2, is to assess, through regular surveys, the prevalence of all forms of violence against women covered by the scope of the Istanbul Convention. It therefore observes that the above-mentioned surveys did not address forms of violence such as forced marriage, forced sterilisation, forced abortion and FGM. While these forms of violence are less prevalent in Bosnia and Herzegovina, GREVIO has received information indicating that there have been instances of FGM and forced marriage, which would therefore warrant an assessment of the prevalence of these forms of gender-based violence.

75. GREVIO invites the authorities in Bosnia and Herzegovina to carry out population-based surveys on the prevalence of forms of violence against women covered by the scope of the Istanbul Convention that so far have not been explored, including those that affect particularly disadvantaged groups of women, at regular intervals. It further encourages the authorities to ensure that harmonised and comparable methodologies are applied in order to ensure the comparability of the results.

3. Research

76. Article 11, paragraph 1b, of the Istanbul Convention creates the obligation for parties to support research, out of the consideration that it is essential that parties base their policies and measures to prevent and combat all forms of violence covered by the convention on state-of-the-art research and knowledge in this field. As a key element of evidence-based policy making, research can contribute greatly to improving day-to-day, real-world responses to violence against women and domestic violence by the judiciary, support services and law-enforcement agencies.⁵⁶

77. Numerous research projects have been carried out on violence against women in Bosnia and Herzegovina, covering topics such as the cost of domestic violence; the collection of administrative data in the area of violence against women; the analysis of judicial practice in cases of domestic violence, with a focus on the sanctions that have been imposed and the application of mitigating and aggravating factors; the secondary victimisation of victims of gender-based violence; the implementation of protective measures; media reporting on violence against women; and violence

55. This survey is part of the first comparable representative survey conducted in South-East Europe and Eastern Europe and is based on the methodology used by the Violence against Women survey carried out across the EU in 2014 by the European Union Agency for Fundamental Rights (FRA).

56. Explanatory Report to the Istanbul Convention, paragraph 77.

against women in politics. GREVIO particularly welcomes the research that has been commissioned to study gender-based violence experienced by women who are particularly vulnerable, such as women with disabilities, LGBTI women and Roma women, including child marriage.⁵⁷ A bench book on the judicial response to rape and sexual harassment has also been commissioned and is used for the training of judges and prosecutors.⁵⁸ According to the authorities, research is ongoing into cases of femicide and the relevant institutional response, with a view to proposing to the Council of Ministers the setting up of a femicide watch, which GREVIO highly welcomes.

78. In addition, in the Federation of Bosnia and Herzegovina, one study that merits mention is the 2018 survey on the evaluation of the impact of the implementation of protection measures based on the Federation of Bosnia and Herzegovina PDV law. This survey was conducted with donor funding, in co-operation with the Cantonal Centre for Social Welfare in Sarajevo and the Federation of Bosnia and Herzegovina Gender Centre and focused solely on the canton of Sarajevo, covering the period 2013 to 2017. It provides information on the characteristics of the victims and the perpetrators of violence where protection orders have been issued and aims to identify the impact that individual protection orders have on repeated acts of violence, as well as the problems that arise in the implementation of such measures. GREVIO has also been informed that in 2018 a dedicated and anonymous survey was conducted by the HJPC among a total of 969 judges, non-judicial staff, attorneys, prosecutors, expert witnesses and notaries to assess the position of the judiciary with regard to gender equality and various gender-based prejudices. Analysis of the survey results shows that the majority of survey participants believed that judicial awareness of gender equality required improvement.

79. GREVIO welcomes the wide array of research that has been regularly conducted, noting that it has provided invaluable insight into specific aspects of violence against women. GREVIO notes, however, that the majority of research projects were funded by international donors and carried out by non-governmental or international organisations with little financial support or strategic prioritisation from the authorities in Bosnia and Herzegovina. Second, the above-mentioned studies focus predominantly on domestic violence and only marginally address other forms of violence against women, which are equally important even if less prevalent statistically. GREVIO is also concerned to note that policies do not appear to draw on the expertise and findings of research, capitalising on the information provided, and that research to evaluate existing policies in the area of combating violence against women and their level of implementation has not been commissioned. Finally, an important area that should not be forgotten, given its harmful effects, is children's witnessing of domestic violence.

80. **GREVIO encourages the authorities of Bosnia and Herzegovina to step up efforts to support research, including financially:**

- a. **on all manifestations of violence against women, including those that are not currently explored, and on the effects that witnessing domestic violence has on children;**
- b. **that aims to evaluate existing policies and legislative measures and assess their level of implementation.**

57. See in this respect the analysis under Chapter 1, Article 4, of this report.

58. "Benchbook for consideration of the criminal offence of rape in the caselaw of Bosnia and Herzegovina", Sarajevo, Atlantic Initiative, 2019. Available at <https://atlantskainicijativa.org/wp-content/uploads/PRESS-Benchbook-for-consideration-of-the-criminal-offence-of-rape-in-the-caselaw-of-Bosnia-and-Herzegovina1.pdf>.

III. Prevention

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

A. Awareness raising (Article 13)

82. Reports indicate that only 32% of women in Bosnia and Herzegovina recall seeing or hearing awareness-raising campaigns addressing violence against women, well below the EU average of 50%.⁵⁹ The information provided by the authorities on the running of awareness campaigns reveals that these are generally carried out periodically in conjunction with the 16 Days of Activism, the international campaign against violence against women and girls which runs each year from 25 November, the International Day for the Elimination of Violence against Women, to 10 December, Human Rights Day. GREVIO acknowledges that during the 16 Days of Activism many activities have been carried out, including conferences, round tables, street campaigns, video campaigns and media appearances.⁶⁰ Nonetheless, GREVIO stresses the importance of ensuring sustained, long-term awareness-raising campaigns to ensure meaningful results in the population. This will help all members of society recognise the different forms of violence against women, speak out against it and support victims.

83. Some awareness-raising campaigns are carried out by the authorities together with NGOs and international organisations and many campaigns are carried out by civil society on their own initiative. The awareness-raising initiatives referred to by the authorities, carried out in 2018 and 2019, concerned the implementation of the Istanbul Convention, bringing together institutional bodies and civil society for the exchange of best practices. They have also tackled the important aspect of multisectoral co-operation between authorities and NGOs in handling cases of domestic violence. In the area of sexual violence and sexual harassment, one campaign was carried out by civil society, drawing attention to this form of violence. While welcoming these efforts, GREVIO considers that the awareness-raising efforts have predominantly focused on domestic violence. Few to no awareness-raising efforts have addressed other forms of violence such as rape, sexual harassment, FGM, forced marriage or the digital dimension of violence against women, despite indications that they are indeed present in society. Encouragingly, civil society has carried out some awareness-raising campaigns aimed at the empowerment of survivors of wartime sexual violence, given the social stigma associated with such form of violence.

84. The geographical outreach of the campaigns must also be improved, as GREVIO was informed of only one awareness-raising campaign having been carried out in Brčko District. The lack of sensitisation of Brčko District's population on the forms of violence against women and the protection mechanisms available, coupled with a lack of support services in this region, is of particular concern to GREVIO as it leads to the isolation of victims and impunity for perpetrators.

85. GREVIO further notes that, with a few exceptions, awareness-raising campaigns have not tackled underlying patriarchal and stereotypical attitudes and others have not adopted a gendered understanding of violence against women. By way of example, one of the more recent campaigns run by the state-level authorities, consisting of videos aimed at preventing domestic violence, appeared to identify alcoholism, the use of drugs and economic hardship as the source of violent

59. See the OSCE-led survey on violence against women, Well-being and Safety of Women, OSCE, p. 62.

60. These campaigns include, by way of example, the "Life without Violence campaign", "White Ribbon – Men Say No to Violence against Women", "16 Days of Activism Against Violence against Women and Domestic Violence" and the "Orange Bus campaign Let's Stop the Violence!".

behaviour. GREVIO observes in this respect that it is rather the unequal power relations between women and men and the subjugation of the former, as well as patriarchal attitudes and stereotypical portrayal of women, that are the cause of this form of violence and that must be tackled. While alcohol and drugs can exacerbate or trigger the violence, it is not the source of the problem. On the other hand, GREVIO welcomes the running by some schools of a promising project in the area of education called “Young men’s clubs”, which addresses boys and aims to deconstruct gender stereotypes. It also welcomes the campaigns that aimed to increase the visibility of women candidates in the general elections in Bosnia and Herzegovina in 2018.

86. Despite reports documenting that women who are or may be exposed to intersectional discrimination, such as women living in rural areas, women with disabilities, Roma women and migrant women, lack the needed information on protection mechanisms and support services for violence against women, GREVIO has been informed of only one project run by the authorities specifically targeting them. Notably, over 100 women belonging to vulnerable groups such as women in rural areas and Roma women took part in a workshop aimed at empowering them and informing them of the available support services for domestic violence. The NGO shadow report highlights how information material on violence against women adapted to the needs of such groups is largely developed by NGOs; however, this is not sufficient.

87. Finally, GREVIO observes that the impact of the awareness-raising campaigns carried out thus far does not seem to have yet been measured.

88. **GREVIO urges the authorities of Bosnia and Herzegovina to promote on a regular basis long-term awareness-raising campaigns to increase awareness among the population of the different manifestations of all forms of violence covered by the scope of the Istanbul Convention, beyond domestic violence, including in co-operation with women’s rights organisations, in all parts of the territory, including Brčko District. These campaigns should address underlying patriarchal and stereotypical attitudes towards women and should portray a gendered understanding of violence against women. The authorities should in particular conduct targeted awareness-raising campaigns on violence against women for women at the intersection of discrimination in order to provide them with information on their rights and the support service available to them.**

B. Education (Article 14)

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

90. Because education policies are the direct competence of the entities and, in the case of the Federation of Bosnia and Herzegovina, also of the cantons, they vary across the country. As a result, there is no single unified approach or standard textbooks addressing the topics covered under Article 14 of the Istanbul Convention. GREVIO notes that the state-level Ministry of Civil Affairs does not have the role of ensuring/proposing a baseline, unified approach, although GREVIO understands that this would be much needed.

91. In Republika Srpska there are no specific education courses on equality between men and women, on non-stereotyped gender roles or on the other issues addressed under Article 14 of the convention. According to indications provided by civil society, the Republika Srpska 2016-2021 Education Strategy did not encompass the teaching of gender equality or the elimination of gender stereotypes from textbooks, which to this day appears to be problematic.⁶¹ Some aspects of

61. See Response to Violence Against Women – Unprotected Survivors, Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, p. 62.

non-violent behaviour and communication, sexual violence, gender equality and how to safely use the internet can be touched upon in the “homeroom” teacher’s class, depending on the teacher. In primary education and in secondary education a course on democracy and human rights is also taught. As regards higher education, the authorities informed GREVIO that they have set up, in co-operation with universities, a summer school on gender equality. Moreover, the faculty of political science in Banja Luka has introduced an optional module on gender studies and a module on social work and domestic violence which focuses on a co-ordinated response to domestic violence.

92. In the Federation of Bosnia and Herzegovina, the state report refers to the school subject “Healthy Lifestyles” which covers, *inter alia*, non-violent communication, inclusion, respect for diversity and the development of positive attitudes and values. Reports also refer to a series of *ad hoc* projects carried out in certain cantons on the prevention of gender-based violence and on gender stereotypes in primary and secondary schools, primarily by NGOs.⁶² One such project was the “Young men’s club” programme,⁶³ and the organisation of training sessions to establish “peer educators” whose role is to ensure the prevention of gender-based violence among students. Concerning higher education, gender studies have been introduced in the Centre for Interdisciplinary Postgraduate Studies of the University of Sarajevo. As regards school textbooks, some steps have been taken to harmonise them across the Federation of Bosnia and Herzegovina cantons, upon the initiative of the entity’s Ministry of Education. In this process, in principle, compliance with the Gender Equality Law and the principles of gender equality has been verified. Moreover, the state-level Gender Agency has issued a recommendation to the Ministry of Education in the Federation of Bosnia and Herzegovina to review and replace textbooks currently in use in primary and secondary schools which contain gender stereotypes, as this has been identified as a significant problem. It appears, however, that this recommendation has yet to be fully implemented.

93. In Brčko District it appears that there is no dedicated course, at any level of education, that addresses all the issues under the scope of Article 14 of the convention. Gender equality is broached, in principle, in the classes on life skills and attitudes and on democracy and human rights, as well as within the homeroom classroom, however GREVIO was not provided with further details.

94. **GREVIO encourages the authorities of Bosnia and Herzegovina, in full respect of its constitutional framework, to explore a common baseline approach on education policies on the topics covered by Article 14 of the Istanbul Convention, by tapping into existing co-operation structures to discuss common aims. GREVIO further encourages the authorities to introduce at all levels of education and in all parts of Bosnia and Herzegovina, mandatory courses and teaching material on the promotion of equality between women and men, positive gender relations, mutual respect, non-violent conflict resolution in interpersonal relationships, the right to personal integrity and on violence against women, with a view to preventing gender-based violence against women and promoting equality between women and men. In parallel, teaching curriculums and textbooks should be reviewed with a view to removing negative stereotypes of women and girls.**

C. Training of professionals (Article 15)

95. The standard set by the Istanbul Convention in its Article 15 is that of systematic initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence. 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.

96. Overall, GREVIO observes that the authorities of Bosnia and Herzegovina recognise the need to strengthen training on the prevention, protection and prosecution of violence against women.

62. See the Final report on the implementation the Framework Strategy for the implementation of the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in Bosnia and Herzegovina (2015-2018), p. 21.

63. See in this respect the analysis under Chapter 3, Article 13.

The PDV laws of Republika Srpska and Brčko District, in particular, provide for the obligation to ensure continuous training on domestic violence for judges and prosecutors and the domestic violence strategies at the entity level foresee training as a specific strategic goal. Indeed, important steps have been taken to carry out training for different categories of professionals as is described below. GREVIO welcomes, in particular, that 1 211 professionals from the police, Centres for Social Work and the judiciary have received training on multisectoral co-operation and a co-ordinated response to violence against women and on the standards of the Istanbul Convention. Moreover, in parallel, manuals on a multisectoral response to domestic violence have been developed.⁶⁴ Nonetheless, it is clear that the training that has been carried out focuses almost exclusively on domestic violence, with almost no attention having been paid to other serious forms of violence. Moreover, training needs have often been addressed through ad hoc, project-based courses provided on a voluntary basis, run by civil society and international organisations and funded by international donors, thus their continuity is not ensured.⁶⁵ Another underlying problem that has been pointed to by civil society is the difficulties encountered in overcoming entrenched stereotypes and a patriarchal culture.

97. As regards training of police officers, police academies in their training curricula for future police officers include an introduction to domestic violence. In the case of Republika Srpska, this includes, *inter alia*, how to intervene during a call-out, conduct interviews and gather evidence. Little to no training appears to be carried out with respect to other serious forms of violence against women such as stalking, sexual harassment, FGM, forced marriage or other forms. Regular in-service training on domestic violence is available and is carried out mostly in co-operation with specialist women's rights organisations and international organisations. It is, however, only available on a voluntary basis; as such, not all police officers that come into contact with a victim of domestic violence have benefited from it. Indeed, civil society have underlined the existence of resistance from lower-level officers in enrolling in such courses as many consider these as irrelevant to their work or uninteresting.⁶⁶ Rulebooks detailing how police must proceed in cases of domestic violence have been issued at the entity level, however no protocols or guidelines have been issued in either of the two entities or Brčko District providing guidance on how to proceed in other cases of violence against women. GREVIO stresses how such protocols are central to ensuring police officers' prompt and adequate response, avoidance of secondary victimisation and the comprehensive collection of evidence.⁶⁷ GREVIO notes that the lack of systematic and mandatory training for law-enforcement officers on all forms of violence against women has serious ramifications for the responses to such violence and the ensuing criminal investigations, including under-reporting, delays in opening investigations or failure to do so altogether,⁶⁸ as well as the limited use of emergency barring orders (EBOs).⁶⁹

98. GREVIO also notes the lack of sufficient and sustained initial and in-service training of prosecutors and judges on a gendered understanding of domestic violence and violence against women. The initial training of judges and prosecutors in the Federation of Bosnia and Herzegovina and Republika Srpska addresses gender equality in judicial institutions and stereotypes but does not address violence against women. In-service training is provided on a voluntary basis, covering only some aspects of domestic violence and rape, as well as conflict-related sexual violence. GREVIO welcomes in particular training provided by NGOs on the use of aggravating and mitigating circumstances in cases of domestic violence and considers that this is an issue that should be addressed regularly and systematically, rather than on an ad hoc basis. The lack of training results, in GREVIO's view, in a number of worrying prosecutorial and judicial practices, including: the widespread use of plea agreements and punitive orders in cases of gender-based violence, which in turn lead to very lenient sentences for the culprits; prosecution being stopped where the victim

64. See the state report, p. 39.

65. See in this respect the state report, p. 35.

66. See Response to Violence Against Women – Unprotected Survivors, Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, p. 67.

67. See in this respect the analysis under Chapter VI, Article 50, addressing the ramifications stemming from insufficient training on violence against women and the relative findings.

68. Ibid.

69. See in this respect the analysis under Chapter VI, Article 51, addressing emergency barring orders and protection orders and the relative findings.

withdraws her statement as a result of insufficient additional evidence having been collected; the extensive use of suspended sentences, including in grave cases of domestic violence and where the perpetrator is a recidivist; and the use of protection measures such as the prohibition to stalk and harass, as an alternative to a criminal sanction.⁷⁰ Similar findings apply in relation to the prosecution and sentencing of wartime-related sexual violence.⁷¹ GREVIO welcomes the drafting of a judicial bench book and a practice guide for cases of domestic violence for judges by a panel of judges and civil society, with a view to imparting a gendered understanding of violence against women/domestic violence and eliminating gender-based stereotypes.⁷² Moreover, a Manual for the Prosecution of Sexual Harassment advocating the use of the Istanbul Convention by the judiciary has also been produced. As regards the training of lawyers, GREVIO recalls the training provided by the Council of Europe, including through the HELP course on violence against women and domestic violence, which has been attended by at least 53 lawyers in Bosnia and Herzegovina.

99. In the period under review, limited training has been provided to staff working in the Centres for Social Work and has focused exclusively on domestic violence, notably on how to receive a victim, record-keeping and compliance with the PDV law. This training is primarily provided by civil society. The authorities in Republika Srpska recognise that dedicated training on rape and sexual violence is much needed for this category of professionals as the needs of rape and sexual violence victims vary greatly from those of domestic violence victims. More generally, the significant shortcomings highlighted by GREVIO in this report on the assistance provided by Centres for Social Work point to the need to significantly multiply and reinforce the training efforts for these categories of professionals.

100. As regards medical personnel, the initial training for doctors in the Federation of Bosnia and Herzegovina and Republika Srpska does not encompass the detection and treatment of violence against women, however non-mandatory in-service training has been provided on the detection, psychosocial assistance and treatment of domestic violence and rape (including conflict-related sexual violence in the Federation of Bosnia and Herzegovina).⁷³

101. As regards officials working in the area of asylum, the need for more robust and sustained specialised training of asylum case workers on gender-based violence to ensure a consistent application of a gender-sensitive interpretation to protection claims, as well as the need to produce gender guidelines, is examined under Chapter VII of this report.

102. Training on gender-based violence, gender equality and gender-sensitive budgeting has been made available on a yearly but voluntary basis for civil servants of state institutions. Moreover, the Civil Service Agency of Bosnia and Herzegovina organised training on the prevention of sexual harassment and harassment on the grounds of gender in the workplace on an ongoing basis for civil servants in state-level institutions. GREVIO, moreover, welcomes the running of training for employees of public employment services who assist people who are unemployed. This training focuses on the identification of victims of domestic violence and on how to support and assist them in finding employment and empowering them.

103. With regard to teacher training on how to identify and respond to gender-based violence in schools, the authorities have clarified that in cases where domestic violence is suspected, teachers must follow and react according to a dedicated protocol, which foresees a series of steps, including, ultimately, informing the Centre for Social Work, a psychologist and the police. In the Federation of Bosnia and Herzegovina, certain teachers have undergone training on domestic violence but the continuity of this training has not been ensured and does not cover all teaching staff.

104. Finally, when it comes to journalists and media professionals, training on ethical reporting on gender-based violence has been carried out by international organisations in urban and rural areas.

70. See the analysis in Chapter 6, Article 50, of this report.

71. Ibid.

72. See Judicial Benchbook Consideration for Domestic Violence, Case Evaluation in Bosnia and Herzegovina, 2014.

73. For more information on the related protocols and resources that have been developed in this respect, please see the analysis in Chapter IV, Article 20.

Civil society has also provided training in 10 cities in Bosnia and Herzegovina and launched a competition on gender-sensitive reporting. Moreover, it is important to note that journalists and the media have been involved in the development of protocols and in the work of co-ordination bodies for the protection and prevention of domestic violence in the Federation of Bosnia and Herzegovina cantons.

105. GREVIO urges the authorities of Bosnia and Herzegovina to introduce systematic and mandatory initial and in-service training on *all* forms of violence against women for the relevant professionals who deal with victims or perpetrators, particularly, law-enforcement officers, prosecutors and judges, staff in Centres for Social Work and medical personnel, in line with the requirements of the Istanbul Convention. Particular attention should be paid to overcoming entrenched stereotypes and a patriarchal culture and to ensuring the continuity and sustainability of such training, so that it is not project-based or dependent on donor funding. Such training should be supported by protocols and guidelines that set the standards professionals are expected to follow in their respective fields.

106. GREVIO, in addition, invites the authorities of Bosnia and Herzegovina to further develop mandatory initial and in-service training for teachers on the different forms of violence against women and on gender equality, so that they have the tools to teach these subjects adequately and so that they can detect girls and boys at risk and refer them to appropriate mechanisms of support and protection.

D. Preventive intervention and treatment programmes (Article 16)

1. Programmes for perpetrators of domestic violence

107. Programmes for perpetrators of domestic violence in Republika Srpska, the Federation of Bosnia and Herzegovina and Brčko District are foreseen under the respective PDV laws and dedicated rulebooks and are categorised in the Federation of Bosnia and Herzegovina and Republika Srpska as protection measures, whereas in Brčko District they are categorised as sanctions. Such programmes include compulsory psychosocial treatment⁷⁴ and compulsory treatment of alcohol and narcotic drug addiction.⁷⁵ Additional programmes are run by civil society in the form of self-help groups on a voluntary basis with donor support, as well as by some Centres for Social Work. The latter appear to have borne fruit and to have had a positive impact on perpetrators' recidivism rates. GREVIO further notes that there are no perpetrator programmes in prison settings.

108. As regards compulsory psychosocial treatment, under the respective laws and bylaws, their stated aim is to stop and prevent domestic violence and ensure that the perpetrator accepts responsibility for his behaviour and changes it. Such programmes must be implemented in primary healthcare institutions, including mental health institutions and places providing psychiatric counselling services, in co-operation with the Centres for Social Work and provided by professionals such as doctors, psychiatrists and social workers. These programmes are court ordered and mandatory and their costs are to be borne by the courts. Moreover, a sanction can be imposed in case a perpetrator fails to attend these programmes. Compulsory treatment of alcohol and narcotic drug addiction is also a court-ordered measure specifically foreseen where the perpetrator commits domestic violence under the influence of alcohol or drugs. This treatment programme is carried out by the same institutions and the same professionals previously mentioned and aims to prevent the future commission of domestic violence.

109. GREVIO welcomes the steps taken at the legislative level to put in place treatment programmes for perpetrators and the inclusion in the Republika Srpska and Federation of Bosnia and Herzegovina of a domestic violence strategy composed of measures aimed at strengthening

74. Provided under the PDV laws in the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District, under Articles 9 and 14 (Federation of Bosnia and Herzegovina), 23 and 27 (Republika Srpska) and 17 and 23 (Brčko District).

75. Provided under the PDV laws in the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District, under Articles 9 and 15 (Federation of Bosnia and Herzegovina), 23 and 28 (Republika Srpska) and 17 and 28 (Brčko District).

such programmes. Nonetheless, GREVIO has several misgivings with regard to both the extremely low number of mandatory court referrals to such programmes in cases of domestic violence and the scope of such programmes. According to indications provided by women's rights groups, no mandatory court referrals to such programmes have been made in Brčko District, whereas very low numbers were made both in Republika Srpska and the Federation of Bosnia and Herzegovina, particularly when compared to the number of reports made by victims to the police and the number of indictments and convictions.⁷⁶ GREVIO notes that this points to the need for sustained training of judges (and of professionals who can propose such programmes to judges)⁷⁷ on the importance of using such tools to prevent domestic violence recidivism. As regards the scope of the mandatory treatment programmes, GREVIO welcomes that the PDV laws and the bylaws refer to behavioural change and the acceptance of responsibility of the perpetrators' actions. However, it considers that it would be helpful to specify that the examination and revisiting of perpetrators' attitudes and beliefs towards women must form an integral part of perpetrator programmes. Indeed, according to indications from civil society and information obtained from the authorities, the above-mentioned perpetrator programmes predominantly focus on overcoming mental health issues and addictions through medical treatment. GREVIO stresses in this respect that violent behaviour is not an illness – it is criminal and anti-social behaviour caused by unequal power relations between women and men. Overcoming addiction and mental health issues, while helpful where the perpetrator suffers from either, will not in itself put an end to domestic violence, as this is primarily linked to attitudes and beliefs vis-à-vis women. Moreover, the authorities have clearly acknowledged insufficient capacity of mental health centres and their staff to implement such programmes. While some training of staff has been carried out, including through donor support, this is still insufficient. Finally, reports highlight how perpetrator programmes apply different methodologies and are therefore not harmonised and that interinstitutional co-operation with civil society organisations that provide support services to victims, including shelter, is not ensured, thereby failing to ensure victims' safety.⁷⁸

110. As regards the funding available for these programmes, according to the authorities, the practice of requiring the courts to incur the related expenses has proved to be problematic, GREVIO presumes this to be one of the reasons behind the low number of court referrals. Finally, when it comes to the evaluation of these programmes and their outcomes, research has been carried out by the authorities on the impact of protection measures, including psychosocial treatment and compulsory treatment of alcohol and narcotic drug addiction, using a sample of measures over a five-year period in one of the Federation of Bosnia and Herzegovina cantons. It showed that recidivism was reduced when the perpetrator attended psychosocial treatment programmes.⁷⁹

111. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to ensure that perpetrator programmes focus on psychosocial treatment. Such treatment should be centred on the examination of perpetrators' attitudes and beliefs towards women and place the responsibility upon them for the violence perpetrated, with a view to achieving lasting behavioural change. GREVIO further strongly encourages the authorities to:

- a. ensure that such programmes guarantee the safety of, support for and the human rights of victims and are set up in close co-ordination with specialist support services for victims;**
- b. develop common minimum standards to apply to perpetrator programmes, in line with the principles of the Istanbul Convention and recognised best practices;**
- c. raise the awareness of criminal justice actors on the importance played by perpetrator programmes and remove any obstacle of a financial or other nature which *de facto* hinders court referrals;**

76. By way of example, in Republika Srpska in 2018 only 36 male perpetrators were ordered to attend mandatory psychosocial treatment programmes, whereas in the same year, 1 012 reports on domestic violence were received by the police, there were 200 indictments and 111 perpetrators were convicted for domestic violence.

77. This is the case in Brčko District.

78. See the Final report on the implementation the Framework Strategy for the implementation of the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in Bosnia and Herzegovina (2015-2018), p. 46.

79. See in this respect the state report, p. 40.

- d. ensure the training of the staff mandated to implement such programmes;
- e. conduct an independent evaluation of perpetrator programmes, with the aim of assessing whether the intended impact has been achieved.

2. Programmes for sex offenders

112. Programmes for sex offenders do not appear to be in place in Bosnia and Herzegovina, which GREVIO notes with concern.

113. **GREVIO urges the authorities of Bosnia and Herzegovina to take steps to comply with the requirements of Article 16, paragraph 2, of the Istanbul Convention concerning the establishment of treatment programmes for sex offenders, taking due account of best practices developed internationally and guaranteeing a human rights-based approach.**

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

114. While private employers must abide with anti-discrimination legislation, legislation on gender equality, labour law and the Criminal Code, which prohibit sexual harassment and other forms of violence against women that may occur in the workplace, GREVIO is not aware of any specific initiative aimed at involving private-sector employers in the prevention of violence against women and providing an adequate response to sexual harassment in the workplace. On the other hand, the state authorities have referred to a number of initiatives put in place in public institutions. For example, “Guidelines for the Prevention of Sexual and Gender-based Harassment in Judicial institutions in Bosnia and Herzegovina” have been issued by the HJPC in order to stem gender-based violence and ensure gender equality in judicial institutions. Moreover, a number of policy documents and guides have been adopted by the Council of Ministers to prevent and protect workers from sexual harassment in the workplace in state institutions, including through the appointment of special advisers in this area.

115. GREVIO welcomes the fact that state legislation on media, online media and the press⁸⁰ prohibit the broadcasting or publishing of content that is discriminatory on an open-ended number of grounds, including sex, and prescribe gender-sensitive language. The Bosnia and Herzegovina Regulatory Communications Agency (the Communications Agency) is the independent regulatory authority that deals with any complaints in this respect, arising from breaches of the law on communications. In the period under review, the state report indicates that only one case was heard by this Communications Agency concerning the violation of the provisions prohibiting discrimination on the basis of sex and that it issued a fine of €1 000 to the broadcaster. This notwithstanding, reports indicate that gender stereotypes and sexist portrayal of women are pervasive in Bosnia and Herzegovina’s media and press,⁸¹ violence against women is often reported with sensationalistic headlines and gender-sensitive language is not used.⁸² Moreover, while physical and sexual violence are reported on in the media, other forms of violence against women are not addressed.⁸³ Finally, it is important to note that the state-level Gender Equality Agency has received many requests to investigate violations of the law on gender equality caused by media content that was stereotypical and misogynistic.

116. In response to this state of affairs, a number of instruments have been developed to guide the media/press. The Press Council, in co-operation with journalists’ associations and the Gender

80. Notably, the Law on Communications, the Code on Audiovisual and Audio Media Services, the Code on Commercial Communication and the Press and Online Media Code.

81. See the Final report on the implementation the Framework Strategy for the implementation of the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in Bosnia and Herzegovina (2015-2018), p. 34 and the Response to Violence Against Women – Unprotected Survivors, Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, p. 62.

82. See Response to Violence Against Women – Unprotected Survivors, Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, p. 62.

83. See Research on Media Reporting on Gender-Based Violence against Women in Bosnia and Herzegovina, UN Women, 2016, p. 5.

Centres, issued the 2006 “Recommendations for Media – Treatment of Gender Issues in the Media” promoting, *inter alia*, the non-stereotyped portrayal of women, gender-sensitive language, awareness raising of the different forms of gender-based violence and its consequences, and equal participation of women in decision-making positions in the media. The state-level Gender Centre also issued in 2017 a recommendation on gender stereotypes and sexist attitudes and language in the media, covering similar topics. Likewise, at the entity level, “Guidelines and Recommendations for Socially Responsible Reporting in order to Combat Domestic Violence and Gender-based Violence” were issued by the Republika Srpska Gender Centre, along with a Handbook on Gender-sensitive Reporting of Violence against Women and Domestic Violence. A training package for journalists and other media professionals was developed and the related training was conducted, albeit on the initiative of an international organisation,⁸⁴ on responsible and ethical reporting on gender-based violence, involving 270 professionals. Moreover, three journalism faculties are in the process of testing and integrating into their curriculum courses on responsible reporting on violence against women. GREVIO welcomes these initiatives that should be pursued and further strengthened.

117. As regards the participation of media organisations in the development and implementation of policies on the prevention of violence against women and domestic violence, a representative of the public broadcaster is involved in the work of the Federation of Bosnia and Herzegovina Expert Team and representatives of the country’s journalists’ association have been invited to comment on and participate in meetings related to the Federation of Bosnia and Herzegovina Domestic Violence Strategy so that their perspective can be heard and integrated.⁸⁵ Despite the fact that violence against women committed in the digital sphere has steeply risen in the last few years in Bosnia and Herzegovina, with 60% of calls received by the telephone helplines being related to such cases, GREVIO is not aware of any initiative having been undertaken to involve ICT companies in the prevention of online and technology-facilitated violence against women.

118. GREVIO invites the authorities of Bosnia and Herzegovina to promote the involvement of the private sector, the communication technology sector and the media in the development and implementation of policies to prevent and combat all forms of violence against women.

84. See in this respect the analysis under Article 15.

85. See the Final report on the implementation the Framework Strategy for the implementation of the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in Bosnia and Herzegovina (2015-2018), p. 35.

IV. Protection and support

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

A. General obligations (Article 18)

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

121. While important steps have been taken by the authorities in Bosnia and Herzegovina to set up multi-agency co-operation mechanisms and protocols at the entity, cantonal and municipality levels in respect of cases of domestic violence, GREVIO notes with concern that a multi-agency response mechanism and the related support services are lacking with respect to other forms of violence against women.

122. Under the Federation of Bosnia and Herzegovina PDV law, protocols on multi-agency co-operation must be entered into at the municipal level and involve all of the professionals that contribute to the prevention of domestic violence and the protection of victims, including social workers, teachers, medical personnel, the police, the judiciary and NGOs.⁸⁶ Moreover, under its Article 37, co-ordination bodies must be set up at the cantonal level in order to co-ordinate the work of all relevant institutions in the implementation of the cantonal policies on domestic violence. Information provided by the authorities indicates that there are currently 10 such protocols at the cantonal level and 61 at the municipal level, whereas there are nine co-ordinating bodies on domestic violence at the cantonal level and, more recently, 38 local co-ordination mechanisms called Multi-Sector Teams (MSTs) have been set up. Likewise, in Republika Srpska, under Articles 11 and 21 of the Republika Srpska PDV law, the competent institutions in the area of protection and support to victims of domestic violence are required to sign a protocol for the co-ordination of their actions and must set up a team of experts in order to co-ordinate and draft an assistance plan for victims, also called MSTs. According to reports this has led to some positive experiences such as the setting up of mobile teams for cases of intimate partner violence, which can jointly visit the victim and her family. A general protocol was signed in Republika Srpska in 2013 by the Ministries of Justice, Internal Affairs, Health and Social Welfare, Education and Culture and Family, Youth and Sports. This protocol is binding for local communities and can be applied directly unless they have signed a protocol at the local level. Indeed, 36 municipalities have developed their own protocols at the local level. A protocol on co-operation for cases of domestic violence was also signed in Brčko District in 2018 between the prosecutor’s office, the police, the department of health, the department of education, an NGO and a journalists’ association.

123. GREVIO recalls that MSTs are mandated, on the one hand, to implement policies in the area of domestic violence at the local level and, on the other hand, to ensure interagency co-operation in individual cases of domestic violence. The competent institutions must, in fact, inform each other about reported cases of domestic violence, the interventions and support provided by each stakeholder, the sanctions that have been imposed on the perpetrator and the protection measures from which the victim benefits, as well as (in the case of Republika Srpska) ensure the drafting of a

86. See Article 39 of the Federation of Bosnia and Herzegovina PDV law.

safety plan. GREVIO welcomes the efforts made to set up such an articulate network of multi-agency co-operation mechanisms. It understands that while such MSTs do indeed discuss the implementation of policies with the involvement of NGOs, exchanges on individual cases appear to be less frequent and where they are discussed, civil society is not always involved, particularly in the Federation of Bosnia and Herzegovina.

124. While the convention requires that such co-operation be based on a gendered understanding of violence against women, avoid secondary victimisation and aim to empower victims, reports have highlighted how both Centres for Social Work and the police, rather than adopting a victim-centred approach, frequently downplay the violence or are not responsive, leading to high levels of under-reporting and mistrust of institutions.⁸⁷ Moreover, there is no single structure offering on a one-stop-shop basis the range of support services needed by a victim, which would greatly contribute to a victim-centred, empowering approach.

125. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to adopt the necessary measures to ensure that multi-agency co-operation under the local/cantonal co-ordination mechanisms extends to victims of all forms of violence against women. Such a multi-agency co-operation mechanism should encompass the participation of civil society and be based on a gendered understanding of violence against women and domestic violence and on the empowerment and economic independence of victims. It further encourages the authorities to ensure that protection and support services are made available as much as possible on the same premises.

B. Information (Article 19)

126. GREVIO notes that at the legislative level, only the Republika Srpska PDV law provides explicitly, under its Article 10, the obligation for the competent institutions to inform domestic violence victims, in a language they understand, about their rights and the support services and protection that is available to them. Similar provisions are therefore not provided for in the Federation of Bosnia and Herzegovina and in Brčko District as regards domestic violence, nor in any entity as regards other forms of violence against women. GREVIO notes that, in practice, very little information on support services and legal measures is systematically made available to women victims of violence and victims of domestic violence are frequently not aware of their rights,⁸⁸ unless they reach out to women's rights organisations. The latter have developed a wide array of information material and information campaigns and provide direct support to those victims that reach out to them.⁸⁹ Reports indicate, however, that there is a low awareness among the general population and victims of specialist NGOs, telephone helplines and shelters.⁹⁰ According to women's rights groups, when statutory agencies are contacted by victims, they rarely provide information on women's specialist support services, nor do they actively refer victims to such services.⁹¹

127. Access to information is even more limited when it comes to Roma women, women with disabilities and women living in rural areas. These women, in fact, often do not receive the needed support because they lack information on available support services.⁹² The NGO shadow report highlights how information material on violence against women adapted to the needs of such groups is developed, as far as possible, by NGOs but that this is not sufficient. As regards women asylum seekers or migrant women, GREVIO has already noted in this report that they face difficulties when reporting gender-based violence at police stations and in obtaining information on the necessary support services because of the lack of interpreters to assist them.

87. See the analysis in Chapter 5, Article 50.

88. See the Framework Strategy for the Implementation of the Convention on Preventing and Combating Violence Against Women and Domestic Violence in Bosnia and Herzegovina for the period 2015-2018, pp. 20-21.

89. See in this respect, Response to Violence Against Women – Unprotected Survivors, Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, p. 76.

90. Ibid.

91. Ibid.

92. See the OSCE-led survey on violence against women, Well-being and Safety of Women, OSCE, pp. 59 and 74.

128. GREVIO invites the authorities of Bosnia and Herzegovina to ensure the wide dissemination of information on the support services and legal measures available to victims of domestic violence and other forms of violence against women, including through posters, leaflets and a more proactive approach by professionals in the relevant institutions. GREVIO further encourages the authorities to take additional steps aimed at reaching out to hard-to-reach groups such as Roma women and women living in rural areas, and providing them with the necessary information; to develop material adapted to the needs of women with disabilities; and to ensure that interpreters are made available for asylum-seeking/migrant women at police stations or other first points of entry for victims of violence.

C. General support services (Article 20)

1. Social services

129. As a general rule, general support services for victims of domestic violence are provided by the Centres for Social Work. In the Federation of Bosnia and Herzegovina victims of domestic violence can benefit on a needs basis from social protection, including financial assistance, provision of day care for their children and counselling provided that they are nationals of Bosnia and Herzegovina; either have permanent or temporary residence in the Federation of Bosnia and Herzegovina; and they do not have an income or are unemployed. Four cantons in the Federation of Bosnia and Herzegovina have, however, extended the coverage of social protection to victims of domestic violence, regardless of their income/employment situation. The Federation of Bosnia and Herzegovina Law on Health Protection also provides that victims of domestic violence who do not have health insurance shall be covered by the state health insurance. Moreover, domestic violence victims are listed among the range of clients that may benefit from assistance from the Centres for Social Work. In Republika Srpska, the Law on Social Protection recognises victims of domestic violence as a category that *per se* benefits from social protection, regardless of income/employment requirements.⁹³ Moreover, the Republika Srpska PDV law explicitly provides that domestic violence victims do not incur any costs when accessing protection and support provided by the police, Social Work Centres, prosecutors and the competent courts.

130. As regards the role and function of Centres for Social Work, GREVIO observes that, together with law-enforcement agencies, they act as first responders in cases of domestic violence. They closely co-operate with the police, providing statements and servicing it with the information and documents needed for the domestic violence case at hand. Centres for Social Work are also tasked with the provision of psychosocial assistance to victims of domestic violence and provide information on the different types of support services available. Moreover, they must assess risk factors for the victims, decide on referrals to domestic violence shelters and play a key role in the context of mandatory mediation where the victim has filed for divorce and in relation to custody/visitation decisions. Finally, Centres for Social Work also provide psychosocial support to perpetrators and play a central role in the co-ordination of MSTs and in the drafting of assistance plans for victims, together with other relevant stakeholders. In addition to providing assistance to victims of domestic violence, however, these institutions are also tasked with the provision of assistance to other categories of vulnerable individuals. While several Centres for Social Work operate in the Federation of Bosnia and Herzegovina and Republika Srpska, a small department for social protection operates in Brčko District with very limited capacity in the area of psychosocial counselling to victims of domestic violence.

131. GREVIO notes that a wide range of governmental and non-governmental bodies have expressed criticism about the functioning and the role played by Centres for Social Work. One of the shortcomings that have emerged is the serious level of under-staffing, insufficient training and under-resourcing of these institutions. Reports indicate that within Centres for Social Work, very few staff members/social workers have benefited from training on domestic violence, that the premises

93. Under the Republika Srpska Law on Social Protection, Article 20, they benefit, *inter alia*, from financial assistance, provision of day care for their children and counselling where necessary.

do not allow the holding of confidential discussions with victims and, for example, that few of these centres possess vehicles that would enable them to intervene on sight and visit victims.⁹⁴ Psychological counselling for domestic violence victims is particularly inadequate due to a shortage of psychologists.⁹⁵ Women's rights organisations have highlighted many instances whereby social workers have downplayed domestic violence, focusing instead on the protection of the family unit⁹⁶ or have demonstrated manifest ignorance of the dynamics of domestic violence and the impact that witnessing such violence may have on children, sometimes even threatening the victim with the removal of her children and exposing victims to secondary victimisation. Given that Centres for Social Work are one of the first entry points for victims of domestic violence, the above-mentioned lack of capacity, training and victim-centred approach represents a real bottleneck for victims' effective access to support and protection. Finally, reports from NGOs also point to the reluctance of Centres for Social Work to refer victims to shelters, whereas, under the law, access to shelters is subject to mandatory referrals from Centres for Social Work and victims cannot self-refer. In other words, without a go-ahead from the Centres for Social Work, a victim cannot benefit from safe accommodation and the related support services that they offer. GREVIO considers that this approach might prevent some women from coming forward to seek help because of a possible lack of trust in the authorities or because they may not yet feel ready to take formal steps. At the same time, mandatory referrals stand in the way of self-referrals by victims themselves, thereby undermining victims' autonomy in their choice and self-determination.

132. Another issue of concern is that, by law, Centres for Social Work (and shelters, owing to the way in which they are funded) can only assist nationals and residents with a temporary/permanent residence permit, thus excluding asylum-seeking women (including those that reside in a reception centre) and migrant women from the ability to receive the most specialised support services.

133. Finally, GREVIO considers that it is also important to briefly touch upon the impact of the Covid-19 pandemic on the functioning of support services for victims of gender-based violence. Civil society has brought to GREVIO's attention that with the onset of the pandemic in 2020, Centres for Social Work considerably reduced for several months, if not stopped, the support provided to domestic violence victims and did not refer them to safe accommodation in shelters. To remedy this state of affairs, certain shelters in the Federation of Bosnia and Herzegovina signed a protocol with the relevant Centres for Social Work/police allowing victims to self-refer (however, even in these cases, the shelter was required to inform the police and the Centre for Social Work of the walk-in).

134. GREVIO welcomes the fact that social services and rights are specifically afforded to officially recognised victims of conflict-related sexual violence in Bosnia and Herzegovina, thus providing vital support for this group of women. Indeed, both entities and Brčko District offer the legal possibility for victims of conflict-related sexual violence to receive a monthly pension and welfare rights. Nonetheless, GREVIO notes that depending on where exactly a victim of conflict-related sexual violence resides in Bosnia and Herzegovina the amount of the pension will vary, as will the specific requirements needed to prove their status.⁹⁷ Despite this legal possibility, GREVIO notes that only a very low number have been recognised as civilian victims of war and have benefited from the monthly pensions (around 800 in the Federation of Bosnia and Herzegovina, 24 in Brčko District⁹⁸ and 200 in Republika Srpska).

135. In the area of employment, in addition to benefiting from general services provided by the Public Employment Institutes, both the Federation of Bosnia and Herzegovina and Republika Srpska have featured some dedicated initiatives to facilitate the employment of domestic violence victims, which GREVIO welcomes. Among these, in the Federation of Bosnia and Herzegovina, is the

94. See Response to Violence Against Women – Unprotected Survivors, Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, p. 30.

95. See Essential Services: Analysis of the Access to Support Services (Health, police justice and social services) for Women Belonging to Marginalised Groups Who Have Experienced Violence, UN Women, 2019, p. 25.

96. See the analysis in Chapter 5, under Article 31.

97. In Brčko District, recognition of the status of civilian victims of war is dependent on medical proof of permanent psychological harm resulting from wartime related rape.

98. Bosnia and Herzegovina, Submission to the United Nations Committee Against Torture, 62nd session, 6 November to 6 December 2017, p. 11.

co-financing by the entity of the employment of domestic violence victims and the support provided to one company employing such victims in 2016. Similarly, in Republika Srpska an economic empowerment programme was launched in 2018, providing employment subsidies to employers hiring victims of domestic violence and conflict-related sexual violence and for self-employment. As regards public housing, in the Federation of Bosnia and Herzegovina and Republika Srpska legislation does not establish priority housing for victims of gender-based violence although GREVIO was informed by the authorities that some cantons in the Federation of Bosnia and Herzegovina do give them priority when allocating social housing.

2. Healthcare services

136. Public healthcare services play an important role in the prevention of violence and in the provision of medical services to victims of the different forms of violence addressed by the Istanbul Convention. In Bosnia and Herzegovina, resource packages and protocols for health professionals exist in relation to some forms of violence and in some entities. For example, GREVIO notes that in the Federation of Bosnia and Herzegovina, a resource package called “Strengthening the Health System’s Response to Gender-Based Violence” exists and in-service training on how to identify domestic violence and treat victims, as well as training on how to provide psychosocial treatment to victims of domestic violence and conflict-related sexual violence, is available, many health professionals having benefited from these resources. A clinical guide on rape with a standard operating procedure has also been produced, addressing treatment and counselling and how to prepare a medical examination. Moreover, standard operating procedures on the recognition and treatment of victims of domestic violence and of conflict-related sexual violence have been developed and provide guidance to health personnel. GREVIO notes, however, that no training or protocols address FGM, despite information provided to GREVIO indicating that FGM is indeed practised in certain communities.⁹⁹ Indications provided by stakeholders met during the evaluation visit suggest that the approach taken by medical personnel is that it is a cultural practice and that it does not warrant further measures to be taken. GREVIO observes that this harmful practice seriously impairs girls’ and women’s physical and psychological health and therefore requires an adequate and standardised response and assistance. In Republika Srpska training for health personnel on the recognition and treatment of gender-based violence has been provided in the context of in-service training, including through the development of a detailed resource package for healthcare and psychosocial service providers on how to respond to gender-based violence and focusing primarily on domestic violence and rape.¹⁰⁰ GREVIO notes that this resource package has a victim-centred approach and touches upon the identification, treatment and referral to support services. It notes once again, however, that no specific training on FGM appears to be available. Overall, GREVIO has been alerted to the fact that most doctors in Bosnia and Herzegovina are not very familiar with the above-mentioned guides and struggle to identify and treat sexual violence and gender-based violence; nor do they refer victims to much-needed support services. According to women’s rights organisations, medical personnel also recognise the need for additional training in this area and on a trauma-sensitive approach.¹⁰¹

137. GREVIO urges the authorities in Bosnia and Herzegovina to provide adequate human and financial resources to allow the Centres for Social Work to discharge their responsibilities in an effective manner and to provide training for social workers on the gendered nature of violence against women, including domestic violence, by, for example, appointing specialised social workers to work in this area. GREVIO further urges the authorities to remove the system of mandatory referrals from Centres for Social Work to domestic violence shelters, including by offering women victims of domestic violence the possibility to self-refer.

99. Information provided during the evaluation visit referred, inter alia, to the Wahhabi community, a specific sect of the Salafi movement. See Chapter II, Article 11 as regards data collection in the health sector.

100. The package on “Strengthening the Health System’s Response to Gender-Based Violence” has also been developed and applied in Republika Srpska.

101. See in this respect, Response to Violence Against Women – Unprotected Survivors, Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, p. 23.

138. **Furthermore, GREVIO strongly encourages the authorities of Bosnia and Herzegovina to remove any legal barriers to accessing support services provided by the Centres for Social Work in order to enable all women victims of domestic violence and other forms of violence to benefit from the services they provide as one of the entry points for protection and support.**

139. **GREVIO strongly encourages the authorities of Bosnia and Herzegovina to ensure adequate and sustained training of health and medical personnel on all forms of violence against women and the related protocols and guidelines that have been developed in this respect. Adequate health protocols, standards and training should in particular be developed to address female genital mutilation (FGM).**

D. Specialist support services (Article 22)

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

141. GREVIO notes that specialist support services in Bosnia and Herzegovina focus almost exclusively on the provision of assistance to domestic violence victims and victims of conflict-related sexual violence. Support to victims experiencing other forms of violence against women such as sexual harassment, stalking, FGM and forced marriage is therefore sorely needed and requires significant attention by the authorities. Indeed, in addition to cases of sexual violence and sexual harassment, which have prompted some measures at the policy and legislative level, GREVIO has been alerted to the existence of cases of FGM being performed in Bosnia and Herzegovina, as well as cases of forced marriage of minor Roma girls. In the area of domestic violence, the primary support service providers are the Centres for Social Work and women's rights organisations.

142. Women's rights groups provide a series of specialist support services, including the provision of shelter, legal aid, psychosocial assistance, telephone helplines and programmes of economic empowerment. Despite the formidable support that they provide to domestic violence victims and to victims of conflict-related sexual violence, their outreach and capacity is hampered by insufficient and project-based funding, primarily dependent on international donors.¹⁰² As already referred to in this report, no shelter or telephone helpline operates in Brčko District and the only NGO that is active in the area of violence against women focusses on preventive and awareness-raising activities rather than the provision of support services. GREVIO further notes that an additional obstacle to NGOs operating support services in the Federation of Bosnia and Herzegovina and in Brčko District is the requirement to report to the police cases of domestic violence imposed on them under the PDV laws. GREVIO notes with grave concern that such reporting requirements, if implemented, can seriously affect the relationship of trust between support service providers and the victim, the foundations on which NGOs base their work, and can ultimately discourage some women from coming forward to seek help.¹⁰³

143. **GREVIO strongly encourages the authorities of Bosnia and Herzegovina to support the development of alternative low-threshold support services for all forms of violence against women, beyond domestic violence, based on a victim-centred and empowering approach, in addition to state-run services, relying on the long-standing expertise and experience of women's NGOs.**

102. See the analysis of Chapter II, Financial resources and Non-governmental organisations and civil society.

103. See in this respect Chapter IV, Reporting by professionals.

E. Shelters (Article 23)

144. In Bosnia and Herzegovina there are eight shelters with a total accommodation capacity of 181 beds that provide, in parallel, legal, psychological and social counselling. Five operate in the Federation of Bosnia and Herzegovina and three operate in Republika Srpska, whereas Brčko District is not serviced by a shelter. The shelters are run by women's rights organisations who provide services based on a gendered understanding of violence against women and with a view to empowering victims. They primarily shelter victims of domestic violence, although some of them also accommodate/d victims of conflict-related sexual violence. Shelters are staffed with personnel that works in shifts on a 24/7 basis and victims can stay for up to six months, with a possible extension of the stay if approved by the Centre for Social Work. As regards victims of domestic violence that reside in Brčko District, they can access shelters in the Federation of Bosnia and Herzegovina/Republika Srpska and their stay is paid for by the budget of Brčko District.

145. GREVIO notes that when measured against the target of one family place per 100 000 head of population established by the convention, the number of beds would need to be significantly increased.¹⁰⁴ The shortage of such accommodation is particularly felt in Republika Srpska where, proportionally, there are fewer beds when compared to the population and, of course, in Brčko District. Further obstacles to accessing shelters derive from the nationality/residency requirements imposed by the applicable laws and bylaws in the Federation of Bosnia and Herzegovina and Republika Srpska. More specifically, while in the Federation of Bosnia and Herzegovina access to a shelter is possible provided that the victim is a Bosnia and Herzegovina national and has resided at least one year in the specific canton, in Republika Srpska this is possible only with proof of citizenship and/or permanent residence. In practice, this means that asylum-seeking women and migrant women, including those in an irregular situation, are *de facto* legally excluded from accessing a shelter. Also, those victims in the Federation of Bosnia and Herzegovina residing in a canton that is not serviced by a shelter cannot access one, unless a complex procedure is set in motion whereby the relevant canton agrees to cover the expenses linked to the sheltering of a victim.

146. In addition to the above-mentioned obstacles, specific barriers to accessing shelters are encountered by women belonging to certain groups. For example, although efforts have been made to cater for the needs of all victims, during its meetings with GREVIO, civil society has acknowledged that shelters are not fully equipped to accommodate women with disabilities. Moreover, as also mentioned above, members of civil society working in the area of asylum and migrants that GREVIO met underlined that asylum-seeking and migrant women's access to shelters is a pressing need that must be urgently resolved.

147. GREVIO notes that while in Republika Srpska bylaws have established minimum standards that shelters must meet, including in respect of the premises, equipment and personnel, no standards have been developed in the Federation of Bosnia and Herzegovina. Women's rights groups have, nonetheless, adopted their own standards and procedures based on their long-standing experience. While GREVIO acknowledges the professionalism and victim-centred approach of women's rights organisations that currently run shelters in the Federation of Bosnia and Herzegovina, the explanatory report to the convention explains that it is important to adopt a set of standards that ensures in a standardised manner and for all shelters, *inter alia*, the security and needs of victims.¹⁰⁵

148. The funding of shelters is regulated by the respective entity-level PDV laws.¹⁰⁶ Under these laws, 70% of the funding of shelters is provided by the budgets of the entities and the remaining 30% is funded by the cantonal/local budgets. According to civil society, however, substantial delays have been experienced in the disbursement of these sums. Moreover, sums that are disbursed to shelters are calculated on the basis of the number of victims that are accommodated therein – and

104. Explanatory Report, paragraph 134.

105. See the Explanatory Report, paragraph 135.

106. See Article 35 of the Federation of Bosnia and Herzegovina PDV law and Article 18 of the Republika Srpska PDV law.

does not cover the wages of professionals who provide them with the much-needed support or the material costs associated with running a shelter. GREVIO notes that, in practice, most of the funding of shelters is therefore donor driven and disbursed on an ad hoc basis. Furthermore, although in both entities victims need to be referred to a shelter by the Social Work Centre, GREVIO was informed by civil society that in many cases they fail to do so either because they lack the funds to cover the above-mentioned 30% of costs or consider that it is better for the victim to be accommodated with the family or friends.¹⁰⁷ Nonetheless, shelters often decide to accommodate victims, further exacerbating their financial situation. In light of the foregoing, it therefore appears that financial contributions to shelters in both Republika Srpska and the Federation of Bosnia and Herzegovina are insufficient to ensure an adequate and sustainable funding of their work.

149. As regards the issue of mandatory referrals, GREVIO recalls the ramifications stemming from this system, which is in place in both entities and is at odds with the spirit of the convention.¹⁰⁸

150. Reports have also highlighted that, as a result of the pandemic, many shelters stopped admitting new victims because of the inability to ensure distancing/quarantine and provided most other counselling services online and/or via telephone. More generally, shelters have reported a lack of official guidelines that provide guidance on admission during a pandemic and how to adapt the provision of services, which left them at a loss as to how to proceed.¹⁰⁹

151. **GREVIO strongly encourages the authorities of Bosnia and Herzegovina to:**

- a. **increase the number and capacity of appropriate, easily accessible and specialist shelters providing safe accommodation in relation to all forms of violence covered by the Istanbul Convention;**
- b. **review existing laws and regulations and remove nationality and residency requirements preventing access to shelters for certain groups of victims, including victims who do not reside in the specific canton/entity and asylum-seeking and migrant women;**
- c. **ensure that shelters can accommodate women with special needs, including women with disabilities;**
- d. **develop official minimum quality standards that shelters must meet, where these do not already exist, based on a gendered understanding of violence against women, the empowerment of victims and a victim-centred and human rights-based approach;**
- e. **ensure the sustainable funding of shelters, which takes into account not only the number of victims benefiting from accommodation but also the fixed costs associated with running the shelter and the salaries of the professionals working therein.**

152. **GREVIO further invites the authorities to develop guidelines and protocols on how to adapt admission procedures and the delivery of services in times of pandemic or other crises, so as to ensure the continuity of support services for victims of gender-based violence.**

F. Telephone helplines (Article 24)

153. Three telephone helplines are available in Bosnia and Herzegovina, two providing assistance to victims of domestic violence (the 1264 SOS helpline in Republika Srpska and the 1265 helpline in the Federation of Bosnia and Herzegovina), and one helpline for victims of conflict-related sexual violence. GREVIO notes with concern, therefore, that there is currently no telephone helpline in Bosnia and Herzegovina to assist victims of other forms of violence against women covered by the scope of the Istanbul Convention.

107. See in this respect Response to Violence Against Women – Unprotected Survivors, Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, pp. 69, 88 and 184.

108. See in this respect the analysis under Article 22, Chapter IV.

109. See the Impact of the Covid-19 pandemic on Specialist Services for Victims and Survivors of Violence in Bosnia and Herzegovina, UN Women, 2020, pp. 17-18.

154. As regards the two helplines on domestic violence, these are the result of the joint and co-ordinated action by different women's rights organisations that have signed a memorandum of understanding. Calls to the helplines are in fact transferred to the nearest participating organisation, whose trained staff respond 24/7 and provide psychological counselling as well as information to victims. GREVIO notes with concern, however, that in one canton of the Federation of Bosnia and Herzegovina (Central Bosnia Canton), operators of the helpline are only reachable on weekdays in the mornings. GREVIO further notes that there is no dedicated helpline for victims in Brčko District. Callers from this area that dial the two helplines are redirected to the operators that are closest to the location of the caller.

155. The entities contribute marginally to the expenses linked to the running of the telephone helpline – they pay the fee due to the Communications Regulatory Agency/the telecommunications company that hosts the short number. The salaries of the trained dedicated staff that provide counselling, however, are born entirely by the women's rights organisations, through donor funding or, where this is unavailable, by relying on volunteer work. GREVIO notes that the reliance on donor funding has a large impact on the sustainability of the helplines. Moreover, as regards Republika Srpska in particular, although calls to the helplines are in principle free of charge, in practice, if the victim calls from a different telephone company than the one paid for by the entity, then the cost of the call is borne by the victim.

156. GREVIO was informed that although calls are recorded, callers are not required to disclose personal data to the operators, nor do the statistical data that are recorded reflect or disclose any confidential information. GREVIO recalls in this respect the minimum standards for support services outlined in a Council of Europe publication which explains that the identity of callers should not be disclosed to unauthorised third parties without their written consent (including to law-enforcement authorities), except in very limited cases, in particular to protect the service user when there is reason to believe that her life, health or freedom is at risk and to protect the safety of others when there is reason to believe that they may be at risk.¹¹⁰ Moreover, personal data, that is, any information relating to an identified or identifiable individual, must be adequately protected against unauthorised access, alteration or dissemination.¹¹¹

157. Finally, as regards the helpline established to provide support to victims of conflict-related sexual violence, it is run by a woman's rights organisation with dedicated trained staff and covers the territory of Bosnia and Herzegovina. The helpline is reachable 24/7 and is free of charge and the associated costs are entirely borne by the NGO.

158. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to ensure that one or more telephone helplines providing support to victims of all forms of violence against women operate and are reachable throughout the whole territory, round the clock, completely free of charge and with due regard to the language barrier that migrant women and other callers may face, as well as with due respect for the confidentiality and anonymity of all callers. GREVIO further strongly encourages the authorities to provide long-term funding for the continuous operation of the telephone helplines.

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

159. While no official data on incidence rates of sexual violence and rape are available for Bosnia and Herzegovina, information obtained from civil society points to elevated numbers of cases that

110. See Kelly L. and Dubois L. (2008), "Combating violence against women: Minimum standards for support services", Council of Europe, p. 40.

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

go unreported as a result of the stigma and high levels of secondary victimisation experienced by those victims that do report. GREVIO also recalls that during the 1992-1995 conflict rape and sexual violence were carried out systematically against women, with the estimated number of victims being between 20 000 and 50 000, according to reports.¹¹² Consequently, many women in Bosnia and Herzegovina have been affected either personally or through a family member or friend from the physical/psychological and traumatic long-term consequences of sexual violence.

160. GREVIO notes at the outset that no rape crisis or sexual violence referral centres exist in Bosnia and Herzegovina. The authorities have informed GREVIO about plans to open three sexual violence referral centres in hospital premises to provide emergency care and collect forensic evidence, however no specific timeline has been provided and there are no indications that progress has been made in this area. Currently, medical care and forensic examinations are available in hospitals, with several limitations. While some protocols describing how to proceed in cases of rape/sexual violence and in cases of conflict-related sexual violence are available in both entities and some training has been carried out, various stakeholders have highlighted that most doctors in Bosnia and Herzegovina are not very familiar with the above-mentioned protocols and struggle to identify and treat sexual violence; nor do they refer victims to much-needed support services. The protocols viewed by GREVIO provide some indications as to how to conduct a gynaecological examination but do not clearly indicate the pathway for victims of rape or the referrals that professionals must make.

161. GREVIO further notes that the information provided by the authorities it has met with is not fully conclusive on the applicable procedure and is sometimes conflicting. After a physical examination and a consultation by the family doctor or by the gynaecologist at the hospital, the protocols clarify that the taking of forensic evidence can be carried out, in principle, only by a professional who is qualified in forensic medicine. The authorities, however, have stressed that other medical doctors (not qualified in forensic medicine) can take this evidence as well and that they are provided with a rape kit by the police. Indications from civil society and medical professionals highlighted that if forensic evidence is taken, a court order is required, implying, therefore, that a report is made to the police and proceedings are instituted. They have also referred to cases whereby forensic evidence had been lifted but ultimately rejected as evidence by the court during criminal proceedings because a court order had not been issued. GREVIO notes in this respect that support for sexual violence victims should be given promptly and that this can hardly be ensured if it is necessary to file a request for a court order and wait for it to be issued. While it is not clear to what extent a court order is necessary to take forensic evidence, GREVIO notes that in cases of suspicion of rape, health workers must in any case promptly inform the police, setting in motion criminal proceedings the victim may not be prepared to initiate. Such blanket reporting obligations may run counter to the victim-centred approach pursued by the Istanbul Convention and referred to extensively in this chapter.¹¹³ Furthermore, this practice is not consistent with Article 18 of the convention, which provides that the provision of services, including forensic examinations, shall not depend on the victim's willingness to press charges or testify against the perpetrator. GREVIO refers to promising practices in other states parties in which forensic examination, including the taking of DNA samples, may be conducted regardless of whether the victim intends to report rape. In these cases, DNA evidence can be stored and used if the victim decides to report the case at a later date.

162. As regards the provision of psychological counselling, while in principle this should be available at mental health centres, in practice, civil society has alerted GREVIO to the very limited capacity of these centres to provide such support and to the reliance on the psychological support provided by NGOs instead, if and where the victim can easily access them (this is not the case for women living in rural areas). As regards legal support, the only option would be to resort, once again, to NGOs, although most focus on domestic violence and conflict-related sexual violence.

163. In light of the above, it is clear that services available for victims of sexual violence are not offered in a one-stop-shop format and victims are required to present themselves before multiple

112. See Delbyck K., Mapping of Policies and Legislation on Violence against Women and the Istanbul Convention in Bosnia and Herzegovina, UN Women, p. 14.

113. See the analysis under Chapter IV, Articles 18 and 28.

services and/or retell their trauma to different professionals, leading, in most cases, to secondary victimisation. Moreover, it also appears that a clear pathway and a referral system for these victims is neither clearly provided for nor applied in practice. Finally, GREVIO notes that trauma care and long-term psychological counselling does not appear to be sufficient.

164. For victims of sexual violence experienced in conflict, in addition to the overview provided above, an NGO provides legal support and advice which is specific to their situation.

165. GREVIO urges the authorities of Bosnia and Herzegovina to set up rape crisis centres and/or sexual violence referral centres that provide immediate medical care, trauma support, forensic examinations and psychological assistance by qualified professionals, in line with the standards set by the Istanbul Convention. In the interim, GREVIO urges the authorities of Bosnia and Herzegovina to establish a clear pathway for victims of sexual violence/rape, ensure that forensic examinations are carried out swiftly, without the need for a court order, and provide victims with sufficient trauma care, psychological counselling and legal assistance by trained and specialised staff.

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

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

167. Research has shown that children who witness one of the parents assaulting the other in the home often develop emotional problems, cognitive functioning disorders and accept attitudes around violence that need to be addressed in the long term.¹¹⁴ It is thus of crucial importance to ensure their access to psychological counselling and therapy as soon as they come to the attention of the authorities.

168. GREVIO notes that children who witness domestic violence may be supported by Centres for Social Work and the services provided by shelters when residing therein. Moreover, in Republika Srpska, the Centre for Supporting Child Victims of Violence and Abuse, established in the hospital of Foca, provides expert psychological and social support to children who are victims of domestic violence. As regards the support and protection provided by the Centres for Social Work, as already noted in this report, staff are often not specifically trained in domestic violence and are therefore not necessarily in a position to provide children with long-term, tailored psychological counselling to help them cope and overcome their traumatic experience. Concerning the support provided by shelters to such children, GREVIO notes that this type of support is naturally time-bound and that the departure from the shelter entails the termination of such essential specialist support.

169. On another point, GREVIO has been informed of several cases in which children have been placed in foster homes because of a conviction that in cases of domestic violence the mother/victim has failed to protect her child. GREVIO observes in this respect that securing the protection of the woman victim of domestic violence is key to ensuring the safety for the child. Moreover, children's healing processes are greatly enhanced if they can remain within their own home and with their attachment figures. GREVIO therefore stresses that securing protection for and empowering the abused parent should be the primary measure of safety pursued by the authorities before exploring other avenues of protection for the child.

170. As regards the protection of child witnesses of domestic violence in the context of criminal proceedings, this is examined under Chapter VI, Article 56.

¹¹⁴. Edleson J. L., "Problems associated with children's witnessing of domestic violence", VAW Net, available at http://vawnet.org/sites/default/files/materials/files/2016-09/AR_Witness.pdf.

171. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to provide children who witness domestic violence with long-term, tailored psychological counselling by staff trained on the impact on children of witnessing domestic violence. It further strongly encourages the authorities to ensure their safety in conditions that allow them to remain with the non-abusive parent, preferably in their own home.

I. Reporting by professionals (Article 28)

172. Under the respective PDV laws, professionals in educational, health and social establishments, including NGOs providing crucial support services and running domestic violence shelters,¹¹⁵ are under the obligation to report cases of domestic violence that they have come across in the exercise of their functions/professions. The requirement to report other cases of violence against women is also provided under the criminal legislation in the two entities.

173. GREVIO points out that the requirement deriving from Article 28 of the convention is carefully worded so that when there are reasonable grounds to believe that a serious act of violence has been committed and other such acts can be anticipated, professionals may report their suspicions to the relevant authorities without risking punishment for a breach of their duty of professional secrecy. This provision does not impose an obligation to report. While GREVIO notes that the imposition of reporting obligations on professionals does not run counter to Article 28 of the Istanbul Convention, blanket reporting obligations may raise issues around the provision of victim-centred and gender-sensitive support services. Mandatory reporting may in fact constitute a barrier to seeking help for women victims who do not feel ready to initiate formal procedures and/or fear the consequences of reporting for them or for their children (for example, retaliation from the abuser, financial insecurity, social isolation or the removal of children from their care). Where the authorities have introduced mandatory obligations for professionals, GREVIO notes that these should allow for the balancing of the victims' protection needs – including those of her children – with respect for the victim's autonomy and empowerment and should thus be circumscribed to cases in which there are reasonable grounds to believe that a serious act of violence covered by the scope of the convention has been committed and further serious acts are to be expected. In these cases, reporting may be made subject to certain appropriate conditions, such as the consent of the victim, with the exception of some specific cases, for instance where the victim is a child or is unable to protect her/himself because of disabilities.¹¹⁶

174. Recalling the principle of women's empowerment mainstreamed throughout the Istanbul Convention, GREVIO strongly encourages the authorities of Bosnia and Herzegovina to ensure that the duty to report imposed on professionals is tempered by full and sensitive information being provided to the victim to allow her to make an informed decision herself and maintain autonomy. To this end, GREVIO strongly encourages the authorities to review the obligation for professionals, including those operating in NGOs, to report cases of violence against women and their children, other than in situations in which there are reasonable grounds to believe that a serious act of violence covered by the scope of the convention has been committed and further serious acts are to be expected. This may well require making the obligation to report contingent upon the prior consent of the victim, unless the victim is a child or is unable to protect her/himself because of disabilities.

115. Such reporting obligations are provided under the respective PDV laws of the Federation of Bosnia and Herzegovina and Brčko District only.

116. See paragraph 148 of the Explanatory Report to the Istanbul Convention. With regard to violence committed against children, General Comment No. 13 (2011) of the Convention on the Rights of the Child, paragraph 49, provides that "in every country, the reporting of instances, suspicion or risk of violence should, at a minimum, be required by professionals working directly with children". In relation to forced marriage and FGM, the Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child on harmful practices, of 14 November 2014, under its paragraph 55J, provides that "States parties should ensure that it is made mandatory by law for professionals and institutions working for and with children and women to report actual incidents or the risk of such incidents if they have reasonable grounds to believe that a harmful practice has occurred or may occur. Mandatory reporting responsibilities should ensure the protection of the privacy and confidentiality of those who report".

V. Substantive law

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

A. Civil law

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

176. 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 failure of state actors to comply with their due diligence obligation to prevent, investigate and punish acts of violence (Article 5, paragraph, 2 of the convention). These remedies include, *inter alia*, civil law action for damages which need to be available for negligent and grossly negligent behaviour. The extent of state authorities' civil liability remains governed by the internal law of the parties which have the discretion to decide what kind of negligent behaviour is actionable.¹¹⁷

177. Under the constitutions of Bosnia and Herzegovina and the two entities, all individuals are entitled to equal protection of their rights before courts and other public bodies and can request compensation for damages caused by illegal or wrongful acts by public officials. In Bosnia and Herzegovina, four legal systems are in place for filing civil lawsuits for damages and a further 10 systems (laws) are in place to address the failure of state actors to comply with their due diligence obligation to prevent, investigate and punish acts of violence. Victims' ability to access civil remedies against the state appear to be negatively impacted by the lack of clarity as to the applicable regulatory framework. Indeed, GREVIO was not made aware of any claims for damages made by individuals for state actors' failure to comply with their due diligence obligation to prevent, investigate and punish acts of violence.

178. The state, entity and Brčko District criminal codes provide for criminal offences in violation of official duties and offences of public officials.¹¹⁸ Such criminal procedures are initiated by a prosecutor upon the report of a complainant. Criminal responsibility does not exclude, however, the possibility to initiate disciplinary proceedings against public officials. As regards in particular disciplinary proceedings against judges and prosecutors, these can be initiated by the Office of the Disciplinary Prosecutor, upon the request of any injured party. More generally, victims can initiate disciplinary proceedings by filing a complaint before the institution whose official is accused of having violated his/her official duty. For minor violations of official duty, the relevant laws envisage written warnings and fines, and termination of employment and fines for serious violations.¹¹⁹ In the area of domestic violence, the respective PDV laws provide that state authorities that do not discharge their duty to undertake the necessary preventive or protection measures within the scope of their competence are sanctioned for a minor offence in the form of a fine or will face consequences as stipulated by other legislation.

179. As regards, in particular, the avenues of redress that are available against the police if they fail in their duty to respond promptly or to investigate, other than criminal proceedings and/or filing a

117. See the Explanatory Report, paragraph 162.

118. See the offence of Misuse of office under Article 220 of the Bosnia and Herzegovina Criminal Code, Article 393 of the Federation of Bosnia and Herzegovina Criminal Code, Article 249 of the Republika Srpska Criminal Code and Article 235a of the Brčko District Criminal Code.

119. For example, Article 49 of the Brčko District Law on the Police Service provides that the following violations are grounds for cessation of employment: 1. refusal to perform lawfully assigned tasks; 4. performance of police tasks in a reckless manner that needlessly endangers others.

civil claim, these include: reporting the officer to the Complaint Board for Police Officers, which will then initiate an internal investigation run by the internal control unit; filing a complaint before the Ombudsman; and filing a complaint before the Agency for Gender Equality or the Gender Centres, which can issue non-binding recommendations to the police.

180. In light of the limited information that is provided to victims of all forms of violence against women,¹²⁰ it does not appear that victims are informed of the civil responsibility of public officials who have failed to diligently prevent, investigate and prosecute acts of violence covered by the convention. Data on the numbers of civil claims against public officials and their outcome are not collected.

181. GREVIO invites the authorities of Bosnia and Herzegovina to ensure that women victims of any of the forms of violence covered by the Istanbul Convention are informed of the civil remedies available against state authorities who failed in their duty to take the necessary preventive or protective measures and to examine and address any barriers to the use of the existing remedies. GREVIO invites the authorities to compile relevant statistics on the number of claims made against the authorities and the number of remedies granted as a result.

2. Compensation (Article 30)

182. Article 30 sets out the right to compensation for damages suffered as a result of any of the offences established under the Istanbul Convention. Paragraph 1 establishes the principle that it is primarily the perpetrator who is liable for damages and restitution (primary compensation) while paragraph 2 establishes a subsidiary obligation for the state to compensate (secondary compensation). Paragraph 3 aims to ensure that compensation be granted within a reasonable time, meaning within an appropriate timescale.

183. Under the respective Law on Contracts and Torts and Criminal Procedure Codes of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District, victims can claim compensation from the perpetrator for bodily injury or impairment of health and for economic loss, as well as non-pecuniary damages in the context of criminal proceedings and/or by filing a compensation claim through civil proceedings. By way of example, under Articles 207 to 209 of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina, the victim can file a claim for damages in the context of the criminal proceedings until the main hearing or the hearing in which criminal sanctions are decided by the court, “if it does not lead to a considerable prolongation of the proceedings” and “if the person claiming the damages is authorised to do so in civil proceedings”. The court can award full compensation to the victim in the judgment in which the perpetrator is found guilty or it can award partial compensation and refer the victim to civil proceedings for the remaining part of the compensation. Alternatively, damages from the perpetrator can be requested by filing a civil lawsuit under Article 32 of the Federation of Bosnia and Herzegovina Civil Procedure Code once the criminal procedure has been concluded and if the criminal court has not awarded any damages. As in the Federation of Bosnia and Herzegovina, in Republika Srpska and Brčko District the victim may file for damages either through civil proceedings or in the context of criminal proceedings by submitting the claim to the court or the prosecutor until the main hearing or the hearing in which criminal sanctions are decided by the court. The prosecutor is then required to gather evidence on the compensation claims and the presiding judge can either decide to award full or partial compensation to the victim or refer her to claim such compensation in the context of civil proceedings.

184. While some positive measures have been taken by prosecutors to inform victims of their right to claim compensation, information provided by civil society organisations and lawyers working in the field suggest that victims are not informed of their right to claim primary compensation and that the prosecutors do not collect the evidence needed for the court to decide on compensation claims. As a result, and as provided for under the criminal procedure codes, where the collected evidence does not provide a reliable basis for either a complete or partial award of compensation, criminal

120. See Chapter IV, Article 19.

court judges refer the victim to seek compensation in the context of civil procedures. More generally, information made available from different stakeholders indicates that judges refer victims to civil proceedings, finding that examining such claims in the criminal proceedings would “considerably prolong the trial”. Indeed, reports on the monitoring of domestic violence trials indicate, for example, that in Republika Srpska compensation was requested in around 6% of all cases on gender-based violence and that out of those monitored trials, only in one case was the victim awarded compensation in the context of criminal proceedings – victims are in fact frequently referred to civil litigation to claim compensation.¹²¹ GREVIO notes that systematically referring the victim to claim compensation in the context of civil proceedings raises a number of challenges. Indeed, claiming compensation in separate civil proceedings translates into additional costs and hurdles for the victim, including elevated court and lawyers’ fees, providing additional testimony with the related risks of secondary victimisation and further delays in securing compensation. As regards in particular lawyers’ fees, GREVIO notes that legal aid does not appear to be readily accessible in civil courts.¹²² Furthermore, as is discussed under Chapter VI, in Republika Srpska a high percentage of criminal proceedings that concern domestic violence end in plea agreements.¹²³ Civil society has raised the concern that in these cases it is not clear whether courts systematically verify that the victim has been given the opportunity to claim compensation.¹²⁴ Information obtained in the course of the evaluation visit also indicates that where compensation is ordered by the competent judges, these decisions are not always enforced.

185. As regards compensation for conflict-related sexual violence victims, it was only in 2015 that, for the first time, a criminal court ordered the compensation of one such victim, albeit without the effective enforcement of such an order owing to the perpetrator’s lack of funds. Since 2015, 16 verdicts have been issued ordering compensation for conflict-related sexual victims, however in very few cases was the enforcement of these verdicts successful.¹²⁵ Information provided to GREVIO by civil society indicates that this is due to a number of factors, including the perpetrators’ lack of assets; the hiding of the assets to prevent their seizure; and prosecutors’ failure to collect evidence on the compensation claims. Moreover, criminal courts continue to direct conflict-related sexual violence victims to civil proceedings for requests related to compensation, which entail the negative consequences mentioned in the paragraph above. An additional negative consequence stemming from redirecting a victim to civil proceedings for compensation claims is the fact that in such proceedings they no longer benefit from the protection of their identity, which is ensured in criminal proceedings under the laws on protection of vulnerable or threatened witnesses.¹²⁶ Furthermore, as a result of the decision of the Constitutional Court that is described below, civil courts have erroneously invoked statutes of limitation to dismiss compensation claims for conflict-related sexual violence and have, paradoxically, ordered that the victims pay fees and/or the seizure of their assets.¹²⁷

186. As regards secondary compensation, GREVIO notes that secondary compensation is not available for victims of violence against women in Bosnia and Herzegovina. It notes that under the Istanbul Convention, state compensation must be provided for where a victim has sustained serious bodily injury or impairment of health, if the damage is not covered by the perpetrator, insurance or state-funded health and social provisions. While Article 30, paragraph 2, is open to reservations, Bosnia and Herzegovina has not expressed one and thus is bound by this provision. It is also

121. See Pertric A. and Radoncic D., *Protection of Women from Violence in Judicial Systems of Bosnia and Herzegovina, Analysis of the Monitoring of Criminal and Minor Offence Proceedings on Gender Based Violence in Bosnia and Herzegovina*, p. 39.

122. Bosnia And Herzegovina, Submission to the United National Committee Against Torture, 62nd session, 6 November to 6 December 2017, Amnesty International, p. 12.

123. This also applies to the Federation of Bosnia and Herzegovina, albeit to a lesser extent. In this respect, see Chapter VI, Article 50.

124. See the Addendum to the Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, submitted by the Foundation United Women, March 2021, p. 3.

125. See Bosnia and Herzegovina, Submission to the United Nations Committee Against Torture, 2017, Amnesty International, p.12.

126. Since June 2021, such protection has been provided in compensation claims in proceedings which are led before the Court of Bosnia and Herzegovina under the Law of Civil Procedure in front of the Court of Bosnia and Herzegovina.

127. See Delbyck D., *Mapping of Policies and Legislation on Violence against Women and the Istanbul Convention in Bosnia and Herzegovina*, p. 16.

important to recall the decision of the Bosnia and Herzegovina Constitutional Court of 23 December 2013, which ruled as inadmissible civil proceedings instituted by the victim against the state for compensation for conflict-related sexual violence, finding that such claims are subject to a statute of limitations of three to five years. In this respect, GREVIO refers to the decision adopted by the UN Committee Against Torture of 22 August 2019, which finds that statutes of limitations should not apply to victims of torture due to the continuous trauma that they experience.¹²⁸ It thus found that Bosnia and Herzegovina had violated Article 14 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and requested, *inter alia*, that the victim be paid compensation.¹²⁹

187. GREVIO further notes that data on the number of compensation claims filed by victims and awarded by courts in all cases of violence against women are not collected by the authorities.

188. **GREVIO strongly encourages the authorities of Bosnia and Herzegovina to adopt measures to facilitate and guarantee access to compensation for victims of all forms of violence against women, including victims of war-related sexual violence, in particular by:**

- a. ensuring that victims are systematically informed of their right to claim compensation and the procedures to be followed;
- b. ensuring that in the context of plea agreements in domestic violence proceedings, the victim is always given the opportunity to claim compensation;
- c. taking legislative or other measures to ensure that compensation can be claimed and obtained in the context of criminal procedures and that the victim is not systematically referred to claim compensation in the context of civil proceedings, which engenders a range of additional financial and administrative hurdles that hinder securing such compensation and entails a further risk of secondary victimisation;
- d. ensuring the fair and adequate compensation of victims of war-related sexual violence and ensuring that, where warranted, their identity is not disclosed;
- e. setting up a state compensation scheme accessible to victims, including victims of conflict-related sexual violence;
- f. monitoring progress in this area, by keeping data on the numbers of compensation claims filed by victims and their outcome.

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

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

190. Under the family laws of Republika Srpska, the Federation of Bosnia and Herzegovina and Brčko District, prior to filing for divorce, spouses must undergo mediation/reconciliation if they have children under 18. In the Federation of Bosnia and Herzegovina, under Article 49 of the Family Law, mediation is dispensed with only if both parties fail to take part in the mediation and do not justify their absence – it is therefore not dispensed with in cases of domestic violence. Under Article 50 of the same law, if the parties do not reconcile in the course of the mediation, the person/legal person who has been appointed as the mediator will endeavour to reach an agreement between the parties on custody and visitation rights. If such an agreement is not reached between the spouses, or if this agreement is deemed to not correspond to the best interests of the child, the court will make the decision, based on an expert opinion provided by the Centre for Social Work, on what is in the best

128. See UN Committee Against Torture decision on Bosnia and Herzegovina of 22 August 2019, CAT/C/67/DR/854/2017.

129. GREVIO also refers to the European Convention on the Compensation of Victims of Violent Crimes (ETS No. 116) signed and ratified by Bosnia and Herzegovina, available at www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty=116, which provides for state compensation for violent crimes.

interests of the child and on information provided by all relevant institutions, including the police and the courts.¹³⁰ Finally, under Article 145 of the Federation of Bosnia and Herzegovina Family Law, the competent court, taking into account the agreement reached by the parents, decides on custody and visitation rights, including their withdrawal based on the best interests of the child. Article 154 of the same law specifies the instances in which custody is withdrawn from a parent, in cases where the parent (a) jeopardises the safety, health or the morals of the child by abusing his/her rights; (b) seriously neglects his/her duties; (c) abandons the child or fails to take care of the child; (d) fails to protect a child from the behaviour of the other parent or another person. In Republika Srpska and Brčko District the regulatory frameworks on custody and visitation decisions provided for under the respective family laws are similar to that in the Federation of Bosnia and Herzegovina.¹³¹ Notably, in addition to mandatory mediation, under the law, parental rights are curtailed only in cases where the child is subject to direct violence (in cases of physical, psychological or sexual abuse) or neglect. In a survey carried out in 2020 among women victims of domestic violence with children, in only 13% of cases did the Centres for Social Work advise to partially terminate the perpetrators' parental rights, while 80% stated that it did not initiate such a procedure.¹³²

191. GREVIO notes with concern that the current legal framework and practice on custody and visitation in the two entities and in Brčko District do not comply with the standards of the Istanbul Convention. First, GREVIO underlines that mandatory mediation, a procedure that can be decisive in determining custody and visitation rights, is particularly inappropriate in cases of domestic violence. In these cases, victims are particularly vulnerable because of the existing power imbalance, which is likely to impair their ability to negotiate and reach acceptable agreement that ensures, *inter alia*, the children's and the mother's safety. Furthermore, GREVIO notes that incidents of violence against the non-abusive parent and the witnessing thereof by the child are not foreseen as a legal criterion to be taken into account in decisions on custody and visitation and when assessing the best interests of the child. This is notwithstanding the fact that under the Republika Srpska PDV law, children who witness violence are considered victims.¹³³ It also notes with concern that under the Federation of Bosnia and Herzegovina Family Law, loss of custody can also be imposed on the parent that fails to prevent violence being perpetrated against the child. Having in mind the vulnerability of women victims of domestic violence, GREVIO is concerned that there is a risk that the current legal framework penalises victims and paradoxically leads to their loss of child custody rather than the perpetrator.

192. The Centres for Social Work and their staff are primarily responsible for the mediation procedure and for issuing an opinion to the relevant family courts. The information provided by a variety of stakeholders, both governmental and non-governmental, consistently highlights that Centres for Social Work and courts overwhelmingly interpret the best interests of the child as requiring joint custody and having contact with both parents, including in cases of domestic violence. These stakeholders have underlined that the Centres for Social Work in this process are the weak link due to the central role they play in divorce/parental rights decisions, their very limited training on domestic violence and their inability or unwillingness to identify and take into account risk factors and episodes of domestic violence in their assessments. It appears in fact that staff in the Centres for Social Work view their role as principally aimed at reconciling the family, even in cases of domestic violence, and accordingly seldom inform courts of cases of domestic violence. When it comes to family courts, these do not conduct risk assessments or ask for the disclosure of risk-assessment and safety plans drawn up by law-enforcement agencies and/or other competent stakeholders in cases of domestic violence, with a view to taking them into account and determining the best interests of the child. Legislation does not require mandatory consultation between family courts and criminal courts to verify whether criminal proceedings for domestic violence are pending against the father of the victim's children or have been brought in the past. Legal professionals GREVIO met with in the course of the evaluation confirmed that such consultation does not happen in practice either but expressed the view that it would be very much needed. In this connection

130. See Article 150 of the Federation of Bosnia and Herzegovina Family Law.

131. Notably, Articles 93 and 106 of the Republika Srpska Family Law.

132. See the NGO Addendum report.

133. See Article 8 of the Republika Srpska PDV law.

GREVIO notes that data on the instances in which custody has been withdrawn or visitation has been limited on account of domestic violence are not available.

193. As regards measures in place to ensure that the exercise of visitation or custody rights does not jeopardise the rights and safety of the victim or of its children, GREVIO has also been alerted to worrying practices in this respect. It is aware that the Centres for Social Work generally encourage visitation of the child with the abusive parent in cases of domestic violence and that, if the child feels threatened, visitation takes place in the premises of Centres for Social Work. Civil society has underlined that these occasions are frequently used by the perpetrator to exert power and control over the victim and, in one extreme case, to murder the victim.¹³⁴ GREVIO recalls that the exercise of visitation or custody rights should not jeopardise the rights and safety of the victim or of its children and that suitable arrangements and premises need to be ensured.

194. On the point of secondary victimisation, GREVIO has been informed that victims are threatened with having their children taken away when they do not comply with visitation obligations or when they refuse to undergo mediation. GREVIO is also concerned by information provided indicating several cases of domestic violence in which the child was removed from the mother and placed in foster care because she had failed to protect her child from the violence of the perpetrator.¹³⁵

195. GREVIO urges the authorities of Bosnia and Herzegovina to take a number of priority actions in the area of custody and visitation rights to ensure the safety of victims and their children and to break the cycle of power and abuse exercised by the perpetrator, and in particular to:

- a. **provide in law the exemption from mandatory mediation in proceedings dealing with separation, custody and visitation rights in cases of violence, including domestic violence;**
- b. **explicitly provide in law that incidents of domestic violence against the non-abusive carer must be taken into account in the determination of custody and visitation rights;**
- c. **ensure that family courts take into account any episodes of violence, including by consulting with all relevant professionals;**
- d. **ensure that all relevant professionals, especially staff from the Centres for Social Work and judges in family courts, are trained in the area of domestic violence and equipped with guidelines to enable them to discharge their obligation to ensure the safety of a victim and her children in any decisions taken;**
- e. **ensure that staff supervising visits between children and the abusive parent are trained in violence against women and that the infrastructure employed for supervised visits guarantee the physical safety and psychological well-being of the victim and her children;**
- f. **review the relevant legislation with respect to provisions that allow for the loss of custody on grounds of failure to protect the child and ensure that in practice children are not removed from non-abusive parents and placed in foster care.**

4. Civil consequences of forced marriages (Article 32)

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

¹³⁴. GREVIO was informed of one such case.

¹³⁵. In this connection, see the analysis in Chapter IV, Article 26.

197. Under the relevant Family Laws in the Federation of Bosnia and Herzegovina and Republika Srpska,¹³⁶ forced marriage may be annulled if it is determined that the requirements for the validity of marriage were not fulfilled, including if the spouse consented to its conclusion out of fear caused by a serious threat. In these cases, the request for the annulment of the marriage can be requested only by the spouse who entered into the marriage under threat. In principle the annulment process does not entail any cost as the courts initiate the process *ex officio*. However, any such annulment may only be filed within one year from the day when the danger/threat ceased.

198. GREVIO recalls that under Article 32 of the convention, a marriage may be voidable if it was concluded under force. Moreover, the explanatory report clarifies that under Article 37 of the convention, a marriage is considered to have been concluded under force if physical or psychological force (coercion and duress) is employed. GREVIO notes, therefore, that the requirement that the annulment of the marriage take place if the fear has been caused by a serious threat is not in line with the convention. Moreover, the above provision of the Republika Srpska Family Law appears to conflict with the provision on forced marriage in the Republika Srpska Criminal Code, which criminalises forced marriage in line with the Istanbul Convention¹³⁷ and does not require the threat to be “serious”.

199. GREVIO invites the authorities of Bosnia and Herzegovina to align more closely the provisions on civil consequences of forced marriages with the standards of the Istanbul Convention.

B. Criminal law

200. GREVIO welcomes a number of positive developments in the criminal legal framework of Bosnia and Herzegovina. These include, *inter alia*, the introduction in the Republika Srpska Criminal Code of a number of new offences with a view to implementing the Istanbul Convention, including FGM, forced sterilisation, stalking, sexual harassment and forced marriage. GREVIO further welcomes the fact that as of May 2020 the Republika Srpska PDV law was amended to ensure that the PDV law no longer establishes a parallel sanctioning regime to the Criminal Code for domestic violence. As of 2020, perpetrators are therefore sanctioned only under the Criminal Code, whereas the PDV law regulates the assistance, support and protection to be provided to victims of domestic violence. GREVIO has also been informed by the authorities about plans to more closely align the Federation of Bosnia and Herzegovina Criminal Code with the convention and that a working group has been established in the Federation of Bosnia and Herzegovina Parliament to this end. It also welcomes the fact that both entities’ criminal codes have been amended to prohibit referring to the victim’s sexual conduct in cases of sexual violence and rape, in line with Article 54 of the convention.

201. Because of Bosnia and Herzegovina’s complex constitutional framework, four distinct criminal systems co-exist. While the criminal codes of Republika Srpska, the Federation of Bosnia and Herzegovina and Brčko District define and criminalise ordinary crimes, the Criminal Code of Bosnia and Herzegovina regulates war crimes, crimes against humanity, crimes against the state and crimes with an international element. Moreover, certain offences provided under the Istanbul Convention are also addressed and criminalised under the Law on Gender Equality of Bosnia and Herzegovina, notably gender-based violence and sexual harassment. It follows that, in certain instances, there may be overlaps in the prosecutorial competences, in particular when it comes to sexual harassment and this, in turn, can lead to ineffective prosecution. Finally, it is important to bear in mind that in Republika Srpska, until the amendments made in 2020 to the Republika Srpska PDV law, and currently in Brčko District, in parallel to the criminal offences of domestic violence established by the Criminal Code, misdemeanour offences on domestic violence also exist/ed under the PDV, which creates confusion and an unclear hierarchy of domestic violence offences and ultimately leads to very lenient sentences.

136. Article 16, paragraph 1, and Article 40, paragraph 1, in the Federation of Bosnia and Herzegovina, and Article 30, paragraph 1, and Article 46 in Republika Srpska.

137. Notably, it criminalises “Whoever by use of force or threat forces another person to enter into a marriage”.

1. Psychological violence (Article 33)

202. Article 33 of the convention requires parties to criminalise psychological violence, which is defined as the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats. The legal framework that regulates this specific criminal conduct varies significantly across the two entities and Brčko District and is characterised by a number of shortcomings.

203. GREVIO welcomes the inclusion and criminalisation of psychological violence in the domestic violence offence set out in Article 222 of the Federation of Bosnia and Herzegovina Criminal Code,¹³⁸ the formulation of which appears to capture a pattern of repeated and prolonged abuse. It further welcomes the inclusion of psychological violence in the definition of domestic violence provided under Article 7 of the Federation of Bosnia and Herzegovina PDV law.¹³⁹ At the same time, it reiterates its concern that the definition of family as provided under the Criminal Code and the Federation of Bosnia and Herzegovina PDV law implies that this offence does not cover cases of psychological violence perpetrated against a current or former partner who has not shared a residence. GREVIO further notes that from the statistics provided by the authorities it is unclear to what extent the offence of domestic violence is used in practice for prosecuting instances of psychological violence without elements of physical violence. According to the authorities, an additional offence that is said to cover psychological violence is the offence of jeopardising safety, under Article 183 of the Criminal Code. It criminalises the conduct of "jeopardising the safety of a person/several persons by seriously threatening to attack his/her life or body or causing agitation among citizens as a result of such a threat" and is sanctioned with a prison sentence of up to five years, depending on whether one or more persons are concerned. Moreover, where the conduct entails jeopardising the safety of a spouse, partner, parent or child "by stalking, following or harassing them in another way", it is punished with a fine or prison sentence of up to a year. GREVIO observes in this respect that a general offence criminalising threats of a serious nature does not sufficiently capture the conduct of psychological violence. The convention, in fact, aims to ensure the criminalisation of a pattern of repeated and prolonged abuse committed through acts that may not, per se, reach the threshold of criminalisation, whereas Article 183 of the Federation of Bosnia and Herzegovina Criminal Code is more designed to sanction single isolated events. The second section of the offence, which clearly addresses the context of domestic violence, captures stalking rather than psychological violence.

204. In Republika Srpska, the applicable legal framework in the area of psychological violence is Article 190 on domestic or family violence of the Criminal Code and Article 6 of the PDV law.¹⁴⁰ GREVIO welcomes the formulation of Article 190 of the Criminal Code which appears to capture a pattern of repeated and prolonged abuse. GREVIO further observes that while the scope of application of Article 190 is limited to cases of psychological violence within the family, due to the broad definition of family by the Republika Srpska Criminal Code, Article 190 also covers cases of psychological violence perpetrated against a current or former partner who has not shared a residence. From the statistics provided by the authorities, however, it does not appear that the offence of domestic violence is used in practice for prosecuting instances of psychological violence without elements of physical violence.

205. In Brčko District, the applicable legal framework in the area of psychological violence is Article 218 on domestic violence of the Criminal Code and Article 5 the PDV law.¹⁴¹ GREVIO notes that both the applicable criminal and PDV provisions do not encompass cases of psychological violence perpetrated against a current or former partner who has not shared a residence (and in the case of the PDV law, where they have no common child).¹⁴²

138. This is described and analysed in Chapter I, Articles 2 and 3, of this report.

139. Ibid.

140. For their definitions, please see the analysis under Chapter I, Articles 2 and 3, of this report.

141. Ibid.

142. See in this respect the analysis under Chapter I, Articles 2 and 3.

206. Finally, GREVIO notes that psychological violence is, in principle, also sanctioned under Articles 4 and 27 of the Law on Gender Equality of Bosnia and Herzegovina. Article 4 defines gender-based violence “as any act that causes physical, mental, sexual or economic harm or suffering, as well as threats of such acts that seriously impede a person’s ability to enjoy his or her rights and freedoms on the grounds of the equal treatment of the sexes in public and private life” and provides that it is sanctioned with a prison term from six months to five years. From the information provided by the authorities, however, it does not appear that these provisions have ever been applied to sanction psychological violence. Moreover, GREVIO considers that the broad formulation of the provision would not be specific enough to capture a pattern of repeated and prolonged abuse committed through acts that may not, per se, reach the threshold of criminalisation.

207. **GREVIO encourages the authorities of Bosnia and Herzegovina to:**

- a. **criminalise psychological violence perpetrated against a current or former partner, irrespective of whether the perpetrator shares or has shared the same residence with the victim or whether they have a child together.**
- b. **take measures to investigate, prosecute and punish acts of psychological violence in an effective manner, including by stepping up training of law enforcement and criminal justice actors on the harm caused by psychological violence and the importance of its punishment.**

2. Stalking (Article 34)

208. Under Article 34, parties must take legislative or other measures to ensure that the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing them to fear for their safety, is criminalised. This provision refers to a course of conduct consisting of repeated significant incidents and is intended to capture the criminal nature of a pattern of behaviour whose individual elements, if taken on their own, do not always amount to criminal conduct.

209. The two entities and Brčko District take different approaches to the criminalisation of stalking, with Republika Srpska being the only jurisdiction whose Criminal Code provides for a stand-alone offence.

210. GREVIO welcomes the efforts made by the authorities to introduce a stand-alone offence on stalking, which is in line with the Istanbul Convention. Further to amendments made to the Republika Srpska Criminal Code in 2017, Article 144 criminalising persecution was introduced. Persecution is defined as the act of “persistently and over a long period of time pursuing or stalking another person or trying to establish unwanted contact with that person directly or through a third party or otherwise causing in that person the changing of habits, anxiety or fear for their own safety or the safety of persons close to them”. Persecution is sanctioned by a fine or by imprisonment for a term not exceeding two years. If this offence is committed against a current or former spouse or partner or against a child, the sanction is increased to between six months and three years in prison. No data, however, have been provided on the number of investigations opened, prosecutions carried out or convictions handed down for the offence of stalking. GREVIO has been informed by civil society that in 2019 only three cases of stalking were heard by courts in Republika Srpska and from an analysis of these three trials it emerged that judges imposed sanctions that are not dissuasive and that tend to be at the lowest possible level of the spectrum of sanctions.¹⁴³ Moreover, as GREVIO has had occasion to note, requiring the criminal conduct to cause the victim to change her behaviour places an undue burden on the victim and an emphasis on the victims’ behaviour rather than the perpetrator’s.

211. As referred to under the analysis of Article 33, in the Federation of Bosnia and Herzegovina, the offence of jeopardising safety provided for under Article 183 of the Criminal Code includes the criminalisation of jeopardising the safety of a spouse, partner, parent or child by “stalking, following

143. See Pertric A. and Radoncic D., Protection of Women from Violence in the Judicial Systems of Bosnia and Herzegovina, Analysis of the Monitoring of Criminal and Minor Offence Proceedings on Gender Based Violence in Bosnia and Herzegovina, p. 41.

or harassing them in another way” and is punished with a fine or prison sentence of up to one year. GREVIO notes, therefore, that while Article 183 of the Criminal Code refers to and criminalises stalking, its constituent elements are not defined (the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing him/her to fear for his/her safety), making its application potentially difficult. This is supported by the statistics provided by the authorities, which do not feature data on stalking/jeopardising safety and would point to its limited application. Moreover, the conduct of stalking is criminalised only when perpetrated against a family member, not outside of the family context. The same comments apply to Article 7 of the Federation of Bosnia and Herzegovina PDV law as outlined in the analysis of Article 33, which also prohibits stalking of a family member, as part of the offence of domestic violence.

212. In Brčko District stalking is listed as one of the possible manifestations of the offence of domestic violence under the PDV law and applies to family members only. As a misdemeanour, it is sanctioned either with a fine, probation, a reprimand and/or a protection measure. The constitutive elements of the conduct are not defined, making its application potentially difficult.

213. The authorities have also referred to the Law on Gender Equality of Bosnia and Herzegovina, which criminalises gender-based violence, harassment and sexual harassment. While the formulation of these offences contains certain elements required under Article 34 of the convention, they are not specific enough to adequately cover the constituent elements of the offence of stalking.¹⁴⁴ In the absence of data on investigations and prosecutions in relation to the above, it is difficult to assess to what extent the multitude of provisions are applied in practice, and whether they are applied to any digital manifestation of stalking as well.

214. GREVIO encourages the authorities of Bosnia and Herzegovina to amend the relevant legislation at national, entity or district level in order to adequately criminalise stalking when it is perpetrated outside the family as well as in the family/domestic context, specifying its constituent elements, in line with Article 34 of the Istanbul Convention. It further encourages the authorities to:

- a. conduct specialised training of law-enforcement officers, prosecutors and judges on the gendered and serious nature of stalking, including post-separation stalking and stalking via digital means and technology, in order to ensure the effective criminalisation in practice and the application of proportionate and dissuasive sanctions;**
- b. collect data on the number of cases of stalking, including on its online dimension, to identify the magnitude of this phenomenon and take adequate measures.**

3. Physical violence (Article 35)

215. Physical violence is criminalised in the two entities and in Brčko District in the respective criminal codes, and under Articles 4 and 27 of the Bosnia and Herzegovina Law on Gender Equality. Moreover, GREVIO notes that in Brčko District domestic violence (encompassing physical violence) is also criminalised under the PDV law. GREVIO welcomes the criminalisation of domestic violence under the respective criminal codes of the entities and Brčko District, noting, however, that the parallel qualification of domestic violence as a misdemeanour act under the Brčko District PDV law raises a number of issues as discussed in the analysis in Chapter I, on Articles 2 and 3 of the convention.

216. In Republika Srpska the Criminal Code foresees a number of offences that include elements of physical violence, including murder, aggravated murder, involuntary manslaughter, light bodily

144. Under Articles 4 and 27 of the Bosnia and Herzegovina Gender Equality Law, gender-based violence is defined as “as any act that causes physical, mental, sexual or economic harm or suffering, as well as threats of such acts that seriously impede a person’s ability to enjoy his or her rights and freedoms on the grounds of the equal treatment of the sexes in public and private life” and it is sanctioned with a prison term of between six months to five years.

harm, grievous bodily harm and domestic or family violence.¹⁴⁵ A number of these provisions foresee higher sanctions where the offence has been committed against a current/former spouse or a family member.¹⁴⁶ Moreover, GREVIO notes with concern that a number of these provisions contain unacceptable justifications of crimes that have the potential to be used for victim-blaming in cases of violence against women.¹⁴⁷

217. In the Federation of Bosnia and Herzegovina, the Criminal Code foresees a number of offences that include elements of physical violence, such as murder, grievous bodily injury, minor bodily injury, domestic violence and violent behaviour.¹⁴⁸ Moreover, the definition of domestic violence under the Federation of Bosnia and Herzegovina PDV law encompasses physical harm as well as behaviour that could result in or cause danger of physical pain and suffering.

4. Sexual violence, including rape (Article 36)

218. Article 36 requires parties to criminalise all forms of non-consensual acts of a sexual nature, including rape. The central element of the convention's definition of sexual violence is the lack of consent given voluntarily as the result of the person's free will. Paragraph 1 of Article 36 covers all forms of sexual acts which are performed on another person without their freely given consent and which are carried out intentionally. This includes a) engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object; b) engaging in other non-consensual acts of a sexual nature with a person; and c) causing another person to engage in non-consensual acts of a sexual nature with a third person. Paragraph 2 of Article 36 foresees that consent must be given voluntarily as the result of the person's free will, as assessed in the context of the surrounding circumstances, while paragraph 3 specifies that paragraph 1 also applies to acts committed against former or current spouse or partners.

219. Sexual violence including rape are criminalised in the criminal codes of the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District.¹⁴⁹ The respective provisions of the two entities and Brčko District do not specify and list the types of acts of sexual violence that are criminalised as per Article 36, paragraph 1a and b, of the convention, leaving a large scope of interpretation to judges. Moreover, it does not appear that causing another person to engage in non-consensual acts of a sexual nature with a third person is criminalised, and is thus not in compliance with the standard set by the Istanbul Convention.

220. Instead, the respective rape offences require proof of the use of violence, coercion or threats by the perpetrator. They are, therefore, not based on the notion of lack of freely given consent as required by Article 36 of the convention. GREVIO recalls that this approach does not reflect the realities of women that experience sexual violence and their coping mechanisms for such violence, which include reactions such as flight, fight, freeze, flop or befriend. For example, research on the neurobiology of sexual trauma, conducted on victims of rape, shows that "freezing" is a common reaction by victims associated with subsequent post-traumatic stress disorder (PTSD) and severe

145. The relevant provisions of the Criminal Code are murder (Article 124), aggravated murder (Article 125), involuntary manslaughter (Article 126), light bodily harm (Article 131), grievous bodily harm (Article 132), domestic or family violence (Article 190).

146. See in this respect the analysis under Chapter V, Article 46.

147. This aspect is addressed in Chapter V, under Article 42.

148. The relevant provisions of the Criminal Code are murder (Article 166), grievous bodily injury (Article 172), minor bodily injury (Article 173), domestic violence (Article 222) and violent behaviour (Article 362).

149. The relevant provisions on rape are as follows: Article 203 of the Federation of Bosnia and Herzegovina Criminal Code, which provides "Whosoever compels another person to have sexual intercourse with him by force or threat of immediate physical attack upon that person or upon someone close to that person, shall be punished by imprisonment for a term of between one and ten years". Article 165 of the Republika Srpska Criminal Code, which provides that "Whoever compels another person to sexual intercourse or an equivalent sexual act by force or threat of immediate physical attack upon that person or upon someone close to that person, shall be punished by imprisonment for a term of three to ten years"; and Article 200 of the Brčko District Criminal Code, which provides that "A person who compels another person to sexual intercourse or an act equal to sexual intercourse by use of force or by threat of direct attack on life and body of that person, or life and body of somebody close to that person, shall be sentenced to prison from one to ten years".

depression.¹⁵⁰ What is required is the penalisation and effective prosecution of any non-consensual sexual act, including in the absence of physical resistance, as passivity cannot be considered as a sign of voluntary participation. In this respect, GREVIO draws the authorities' attention to existing promising practices in Europe whereby, further to the paradigmatic shift towards definitions of rape and sexual violence based on the lack of freely given consent, the number of reports and prosecutions of non-consensual sexual acts has increased.¹⁵¹ In these cases, the focus in investigations/prosecutions has been placed on the obligation of the accused to be aware of the consent given, thereby sending the message that sexual acts for which consent has not been established incur criminal liability.

221. In parallel with the offence of rape, the respective criminal codes also criminalise, *inter alia*, sexual intercourse with a helpless person, sexual intercourse by abuse of position, sexual abuse of a child and sexual blackmail/forced sexual intercourse.¹⁵² In these offences, in light of the victim's vulnerability – due to their age, dependent or subordinate position or disability – coercion, threats or violence are not a constituent element of the crime. At the same time, while the offence of rape without any aggravating circumstance carries a prison term of three to 10 years in Republika Srpska and Brčko District and one year to 10 years in the Federation of Bosnia and Herzegovina, the above-mentioned offences do not always offer a similar sentencing range and, paradoxically, some of these carry starkly lower sentences.¹⁵³ GREVIO recalls that according to Article 36 of the Istanbul Convention, sexual intercourse without the consent of the victim constitutes rape and shall give rise to dissuasive sanctions. It is the fact that the act is carried out without the consent of the victim that should determine the punishment. GREVIO warns against the creation of a hierarchy of victims on the basis of their characteristics, such as age, helplessness, dependence, disability or others, and calls for appropriate legislative measures to send the message that rape is rape. In particular, the practice of prosecuting the rape of women with disabilities as sexual intercourse with a helpless person sends the message that the violation of their sexual decision making and autonomy does not amount to rape. At the same time, GREVIO acknowledges that where the circumstances of the act are particularly violent, abusive and traumatising, aggravating circumstances should be applied to ensure a sanction commensurate with the gravity of the act.

222. As regards victims of conflict-related sexual violence as a result of the 1992-1995 conflict in Bosnia and Herzegovina, it is estimated that between 20 000 and 50 000 women were raped or suffered other forms of sexual violence and that most have not yet obtained justice or reparation.¹⁵⁴ GREVIO notes that trials for conflict-related sexual violence are still ongoing, and that Article 172 of the Bosnia and Herzegovina Criminal Code on crimes against humanity has served as a legal basis.¹⁵⁵ This offence was considered to require the use of force or threat of use of force to be

150. See Moller A., Sondergaard H. P. and Helstrom L. (2017), "Tonic immobility during sexual assault – a common reaction predicting post-traumatic stress disorder and severe depression", *Acta Obstetrica et Gynecologica Scandinavica*, 2017; 96: pp. 932-938.

151. See the Mid-term Horizontal Review, Council of Europe, 2021, paragraphs 362-363.

152. The relevant provisions of the Criminal Code in the Federation of Bosnia and Herzegovina are as follows: sexual intercourse with a helpless person (Article 204), sexual intercourse by abuse of power (Article 205), coerced sexual intercourse (Article 206), sexual intercourse with a child (Article 207) and sexual misconduct (Article 208). The relevant provisions of the Criminal Code in Republika Srpska are sexual blackmail (Article 166), sexual intercourse with a helpless person (Article 167), sexual intercourse by abuse of power (Article 168) and forced sexual intercourse. The relevant provisions of the Criminal Code of Brčko District are sexual intercourse with a helpless person (Article 201), sexual intercourse through abuse of office (Article 202), forced sexual intercourse (Article 203) and sexual intercourse with a child (Article 204).

153. More specifically, sexual intercourse with a helpless person is sanctioned with a prison term ranging from two to 10 years in Republika Srpska and Brčko District and from one to eight years in the Federation of Bosnia and Herzegovina; sexual intercourse by abuse of position is sanctioned with a starkly lower prison term, which ranges between three months to three years in Brčko District, two to five years in Republika Srpska and three months to three years in the Federation of Bosnia and Herzegovina; sexual abuse of a child is sanctioned with a prison term ranging from one to eight years in the Federation of Bosnia and Herzegovina and two to 10 years in Brčko District; and sexual blackmail/forced sexual intercourse is sanctioned with a prison term ranging from six months to five years in Brčko District and, one to eight years in Republika Srpska.

154. See Delbyck K., Mapping of Policies and Legislation on Violence against Women and the Istanbul Convention in Bosnia and Herzegovina, UN Women, p. 14.

155. Article 172 of the Bosnia and Herzegovina Criminal Code on crimes against humanity criminalises, *inter alia*, "the commission, as part of a widespread or systematic attack directed against any civilian population, with knowledge of

established, which was however given up in 2018 in light of the concept of coercive circumstances elaborated by the jurisprudence of the International Criminal Court (ICC), the International Criminal Tribunal for former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), recognising that wartime circumstances are inherently coercive,¹⁵⁶ which GREVIO welcomes. Information provided by civil society suggests, however, that entity-level courts, the Brčko District Court and the Court of Bosnia and Herzegovina have increasingly relied instead on Article 142 of the Criminal Code of the Former Socialist Federal Republic of Yugoslavia (SFRY Criminal Code) on forcible prostitution and rape,¹⁵⁷ which again requires proof of violence or coercion (as it does not consider that the coercion engendered by war is sufficient evidence of non-consent) and carries a lighter sanction.¹⁵⁸

223. GREVIO urges the authorities of Bosnia and Herzegovina to:

- a. amend the sexual offences provided under the national, entity-level and Brčko District criminal codes to fully incorporate the notion of lack of freely given consent as required by Article 36 of the Istanbul Convention and to specify the type of non-consensual sexual acts that are criminalised, in line with Article 36, paragraph 1a, b and c, of the convention;**
- b. adopt the necessary measures to ensure that any offence of sexual violence applies between former or current spouses or partners;**
- c. ensure proportionate and dissuasive sanctions for all sexual acts without the consent of the victim, irrespective of personal characteristics.**

5. Forced marriage (Article 37)

224. Under Article 37 of the Istanbul Convention parties are required to criminalise two types of conduct: forcing a person to enter into a marriage and luring a person abroad with the intention of forcing this person to marry against their will (even if the marriage has not been concluded). The core element of forced marriage is the absence of consent of the victim.

225. GREVIO notes with satisfaction that Republika Srpska has introduced a dedicated offence on forced marriage under Article 183 of its Criminal Code, which encompasses both conducts foreseen under Article 37 of the convention.¹⁵⁹ On the other hand, the criminal codes in the Federation of Bosnia and Herzegovina and Brčko District do not have a dedicated provision on forced marriage but instead sanction the competent officials that enable or register marriages that are prohibited,¹⁶⁰ and criminalise child marriage, setting out criminal liability both for the adult co-habiting with the child under the age of 16 and the parents or guardians who arranged the co-habitation.¹⁶¹

such an attack, of sexual violence and rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilisation or any other form of sexual violence of comparable gravity”.

156. See Bosnia and Herzegovina, Submission to the United Nations Committee Against Torture, 2017, Amnesty International, p. 6.

157. Article 142 of the SFRY Criminal Code provides that “Whoever in violation of rules of international law effective at the time of war, armed conflict or occupation, orders that civilian population be subject to killings, torture, inhuman treatment, biological experiments, immense suffering or violation of bodily integrity or health; dislocation or displacement or forcible conversion to another nationality or religion; forcible prostitution or rape; application of measures of intimidation and terror ... or who commits one of the foregoing acts, shall be punished by a penalty of at least five years [and up] to 20 years’ imprisonment or the death penalty”.

158. Notably a prison sentence of a maximum 20 years, as opposed to between 10 to 45 years under Article 172 of the Bosnia and Herzegovina Criminal Code.

159. The Article reads “(1) Whoever by use force or threat forces another person to enter into a marriage shall be fined or punished by imprisonment for a term not exceeding three years. (2) Whoever for the purpose of the offence referred to in paragraph 1 of this Article takes another person to another country or for the same purpose entices that person to go to a foreign country shall be fined or punished by imprisonment for a term not exceeding two years”.

160. See Article 214 of the Federation of Bosnia and Herzegovina Criminal Code on connivance in contracting an illicit marriage and Article 212 of the Brčko District Criminal Code on enabling the conclusion of unlawful marriage.

161. See Article 215 of the Federation of Bosnia and Herzegovina Criminal Code on common law marriage with a minor and Article 213 of the Brčko District Criminal Code on common-law marriage with a junior or child.

226. In this connection, GREVIO wishes to distinguish clearly between arranged and forced marriages. While the first category does not fall within the scope of Article 37 of the Istanbul Convention because of the existence of an “implicit” acceptance, the second one does. Although it is difficult to establish the prevalence of forced marriage in Bosnia and Herzegovina, the practice of arranging early marriages that border on forced marriage, including early and forced customary marriage, is frequent among the Roma community.¹⁶² GREVIO was also alerted to cases of child marriage among migrant communities. In many cases it is difficult to establish the actual use of force or threat, but the young age of most brides would point to a probable lack of consent to a marital union. The damaging consequences of both forced marriage and child marriage have been amply illustrated by international human rights bodies.¹⁶³ Child and forced marriages are widely acknowledged as a harmful practice that violates, abuses or impairs human rights and is linked to and perpetuates other harmful practices and human rights violations. For this reason, GREVIO is concerned by the limited reporting and prosecution of force marriage in Bosnia and Herzegovina, and that efforts to recognise and address this form of violence through training and awareness raising among professionals is also lacking.

227. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to ensure that the intentional conduct of forcing an adult to enter into a marriage and the intentional conduct of luring an adult or a child to the territory of another state with the purpose of forcing this person into a marriage are criminalised in all of the jurisdictions in Bosnia and Herzegovina, as required by Article 37, paragraph 2, of the Istanbul Convention.

228. GREVIO strongly encourages the authorities in Bosnia and Herzegovina to take appropriate measures, including issuing protocols and training to the police, prosecutors, judges and education professionals, to ensure that traditional forced marriages of both children and adults do not remain unpunished.

6. Female genital mutilation (Article 38)

229. Article 38 aims to criminalise the traditional practice of cutting away certain parts of the female genitalia. Each sub-paragraph of Article 38 covers a different type of conduct: sub-paragraph *a* criminalises the act of excising, infibulating or performing any other mutilation to the female genitals; sub-paragraph *b* covers the act of assisting the perpetrator to perform such acts by coercing or procuring an adult woman to undergo any acts of FGM; sub-paragraph *c* covers the act of assisting the perpetrator when a girl is involved and includes inciting in addition to coercing and procuring. The drafters felt it important to differentiate between adult women and girls because the conduct to incite a girl involves the intentional exertion of influence on a girl who herself does not harbour the intention of undergoing FGM.

230. GREVIO notes that FGM is not criminalised under the criminal codes of the Federation of Bosnia and Herzegovina and Brčko District. It welcomes the introduction by Republika Srpska in 2017 of a dedicated offence on FGM, three years after the entry into force of the Istanbul Convention in Bosnia and Herzegovina. More specifically, Article 133 of the Criminal Code criminalises “whoever removes or permanently changes the outer parts of a female person’s sexual organ in whole or in part”, punishing it by a prison term ranging between six months and five years. In its paragraph 2, it also criminalises “whoever persuades a female person to undergo the practices referred to in paragraph 1” punishing it with imprisonment for a term not exceeding three years. It also provides for certain aggravating circumstances, such as the commission of the offence out of hatred, against a child or in cases resulting in the death or permanent damage to the victim. GREVIO notes that the current wording does not sufficiently cover coercing/procuring a woman or a child to undergo FGM. It notes in this respect that provisions on aiding and abetting, which are required under Article 41 of

162. See the report produced by the Association of Roma Women, available in Bosnian at www.bolja-buducnost.org/index.php/bs/o-nama/dokumenti/send/3-istrazivanja/4-istrazivanje-o-maloljetnickimbrakovima-u-romskim-zajednicama, which shows that 86% of girls married before turning 18 (notably, 11% at 13, 11% at 14, 24% at 15, 26% at 16, 14% at 17).

163. See Resolution 175 of the United Nations General Assembly and Joint General Recommendation No. 31 of the CEDAW Committee and the Committee on the Rights of the Child, and General Comment No. 18 of the Committee on the Rights of the Child concerning harmful practices.

the convention, would not be sufficient to duly cover the types of conduct described under Article 38b and c of the convention. The latter seek to ensure that criminal liability incurs, for example, where relatives or community members incite (if the victim is a girl), coerce or procure a girl or a woman to undergo FGM but do not take an active part in ensuring the procedure is carried out. Aiding and abetting would require the actual commission of FGM, whereas the act of coercing or procuring an adult woman (Article 38b) or inciting, coercing or procuring a girl (Article 38b) involves a behaviour that is below the threshold of aiding and abetting and irrespective of the final commission of the act of excision, infibulation or any other mutilation.

231. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to introduce into their criminal legislation and in all jurisdictions an offence covering all forms of female genital mutilation (FGM) as defined in Article 38 of the Istanbul Convention, including coercing or procuring an adult woman or a girl to undergo any acts of FGM and inciting a girl to undergo any acts of FGM.

7. Forced abortion and forced sterilisation (Article 39)

232. Under Article 39, paragraph 1, of the Istanbul Convention, parties are required to criminalise the intentional termination of pregnancy without the prior and informed consent of the victim. Under Article 39, paragraph 2, parties are required to criminalise the performance of a surgery that has the purpose or effect of terminating a woman's capacity to naturally reproduce if this is done without her prior and informed consent.

233. The performing of an abortion on a pregnant woman without her consent is criminalised as "Illicit/illegal abortion" under the respective criminal codes of the two entities and Brčko district and is punished by imprisonment for a term of up to eight years' imprisonment.¹⁶⁴ Aggravating circumstances are also foreseen under these provisions in cases resulting in the death or permanent damage or serious illness of the victim.

234. As regards forced sterilisation, this is not criminalised under the criminal codes of Federation of Bosnia and Herzegovina and Brčko District. GREVIO welcomes the introduction in 2017, three years after the entry into force of the Istanbul Convention in Bosnia and Herzegovina, by Republika Srpska under Article 134 of its Criminal Code a dedicated offence of forced sterilisation which criminalises "whoever performs a surgery on another person for the purpose of preventing natural reproduction without the consent of that person". This is punished with a term of imprisonment ranging from one to eight years with aggravating circumstances applying if it is committed against a child. GREVIO notes that the provision should clarify that the consent should be informed consent, requiring, therefore, the provision of all relevant information concerning the procedure and allowing the woman to make an informed decision. GREVIO further notes that for women with disabilities who are under guardianship, consent regarding abortion or sterilisation may be provided by the guardian, and this seems to be frequently done on the assumption that this is in the best interests of the woman concerned. In GREVIO's view, given the far-ranging implications of an abortion or sterilisation, more must be done to ensure that the medical intervention legally consented to by the guardian is in line with the actual will of the woman concerned. The information made available to GREVIO suggests that women with disabilities who reside in care institutions are particularly vulnerable to practices that opt for an abortion once a pregnancy is underway rather than exploring the possibilities of enabling women with disabilities to carry a pregnancy to term.

235. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to:

- a. align their legislation with Article 39 of the Istanbul Convention, thereby introducing provisions that criminalise the performing of an abortion and the performing of surgery which has the purpose or effect of terminating a woman's capacity to reproduce, without her prior and informed consent or understanding of the procedure;**

¹⁶⁴. See Articles 171 of the Federation of Bosnia and Herzegovina Criminal Code, 130 of the Republika Srpska Criminal Code and 168 of the Brčko District Criminal Code.

- b. ensure that legal guardians and medical professionals respect, under all circumstances, the need to act upon and ensure respect for women's informed and free consent to the performance of medical procedures such as abortion and sterilisation, in particular where women with disabilities in residential institutions are concerned.**

8. Sexual harassment (Article 40)

236. The offence of sexual harassment defined in Article 40 captures any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, with the purpose or effect of violating the dignity of a person. Sexual harassment is neither limited to the workplace nor to the family and can occur in multiple contexts, in particular when creating an intimidating, hostile, degrading, humiliating, or offensive environment. The convention allows parties to choose whether to sanction perpetrators of this offence either through criminal or non-criminal sanctions.

237. Under Articles 4 and 27 of the Bosnia and Herzegovina Law on Gender Equality, which applies to the whole territory of Bosnia and Herzegovina, sexual harassment is defined as “any behaviour that in word, action or psychological effect of a sexual nature in intent or effect inflicts injury on the dignity of a person or gives rise to intimidation, hostility or demeaning, threatening or similar situations and which is motivated by belonging to another gender or different sexual orientation and which to the victim represents inappropriate physical, verbal, suggestive or other behaviour”. It also defines harassment as “any situation in which inappropriate behaviour related to gender arises, which has the intent and effect of inflicting injury on the dignity of a person or giving rise to intimidation, hostility or demeaning, threatening or similar situations”. These two offences are sanctioned with a term of imprisonment ranging from six months to five years. GREVIO notes that the definition of sexual harassment under the law on gender equality is broadly in line with the convention. It notes, moreover, that under this law the national courts of Bosnia and Herzegovina are competent to hear cases of sexual harassment and harassment on the grounds of sex and gender. Because these courts are located in Sarajevo, reports indicate that access to justice for those victims that do not live nearby can be difficult.¹⁶⁵ The state-level Law on the Prohibition of Discrimination also defines sexual harassment and harassment in the same terms as the law on gender equality, providing, however, for civil protection measures.

238. At the level of the two entities and Brčko District, sexual harassment is addressed through law in various additional ways. The labour laws of the Federation of Bosnia and Herzegovina and Republika Srpska offer definitions that are largely in line with the requirements of the Istanbul Convention, with the exception of non-verbal communication, which is not covered in either. In addition, the Criminal Code of Republika Srpska criminalises sexual harassment in a more general manner, beyond the workplace, using a definition that is inspired by Article 40 of the Istanbul Convention but that is significantly reduced by the fact that a position of subordination or dependence is required for the behaviour to be criminalised. This, GREVIO notes, is not in line with Article 40 of the convention because sexual harassment should be sanctioned with criminal or other sanctions whenever, wherever and in respect of whomever it is perpetrated against, not solely where there is a relationship of subordination, dependency or where the victim is particularly vulnerable.

239. Despite the various legal avenues available to victims, the practical relevance of the provisions remains limited. For example, the monitoring of court cases on sexual harassment carried out by women's rights groups in Republika Srpska indicates that since the entry into force of the new criminal offence on sexual harassment in 2017, only two cases have been tried. In both cases, the perpetrator entered into a plea agreement with the prosecutor, resulting in one instance in a more lenient sanction, below the statutory minimum provided for under the Criminal Code, and, in the other, in a suspended sentence of imprisonment of three months. GREVIO therefore concludes that more must be done to ensure the different legal provisions introduced in the respective entities develop their full potential.

165. See the Practice Handbook for Judges and Prosecutors in Sexual Harassment Cases, Atlantic Initiative, 2019, available at <https://atlantskainicijativa.org/wp-content/uploads/Sexualno-uznemiravanje-za-sudije-ENG-Final-with-Coverpage-PRACTICE-HANDBOOK-FOR-JUDGES-AND-PROSECUTORS-IN-SEXUAL-HARASSMENT-CASES.pdf>

240. **GREVIO encourages the authorities of Bosnia and Herzegovina to bring the existing definitions of sexual harassment closer in line with Article 40 of the Istanbul Convention, ensuring that non-verbal conduct of a sexual nature falls within the scope of the provision and ensuring that sexual harassment is sanctioned in all cases, irrespective of whom it is perpetrated against.**

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

241. GREVIO observes that there are no provisions in place at state, entity or district level stipulating that culture, custom or traditions shall not be considered as justifications for crimes.

242. GREVIO observes that a number of provisions of the criminal codes of Republika Srpska, the Federation of Bosnia and Herzegovina and Brčko District, notably on grievous/aggravated bodily harm¹⁶⁶ and (involuntary) manslaughter,¹⁶⁷ contain certain mitigating circumstances that could be problematic if applied in the context of cases of domestic violence, notably gender-related killings. By way of example, Article 132 of the Republika Srpska Criminal Code, on grievous bodily harm, foresees that the commission of this offence “in a fit of passion after having been provoked at no fault of his/her own into a state of intense irritation by an attack, or serious abuse or serious insult” as an attenuating circumstance. Likewise, Article 126 of the Republika Srpska Criminal Code, on manslaughter, also foresees that the commission of murder “after being brought to a state of strong irritation through no fault of his/her own or through grave abuse or insult by the person murdered” can mitigate the punishment, which is reduced to between two and 12 years. Comparable wording and reduction of sentencing are contained in the above-mentioned provisions of the Federation of Bosnia and Herzegovina Criminal Code. It is unclear whether these mitigating circumstances have been applied in the context of domestic violence or other cases of gender-based violence. Nonetheless, GREVIO considers that in the absence of a provision prohibiting unacceptable justifications for crimes, such mitigating circumstances may be interpreted in the context of cases of domestic violence, in particular gender-related killings of women, as justifying a more lenient sentence on account of the victim’s supposed transgression of cultural, social, traditional norms or customs of appropriate behaviour.

243. **GREVIO encourages the authorities in Bosnia and Herzegovina to take legislative measures to clarify that a victim’s supposed transgression of cultural, religious, social or traditional norms or customs of appropriate behaviour shall not be regarded as a justification for such acts and as a ground for applying more lenient sanctions.**

10. Sanctions and measures (Article 45)

244. The respective sections of this report which analyse the offences implementing the Istanbul Convention highlight the range of sanctions that are provided for in the legislation. From the information obtained on the actual use of the sentencing range that is made for offences within the remit of the Istanbul Convention, GREVIO notes that judges do not resort to the full range of punishments that are available in the law and tend either to apply the lowest possible sanction included in the range of punishments or resort to suspended/conditional sentences with a probationary period, particularly where domestic violence is concerned.¹⁶⁸ GREVIO observes that this approach sends out the message that violence committed in the domestic sphere and violence against women more generally, is less grave. By way of example, in Republika Srpska out of a total of 118 criminal trials for domestic violence that were monitored in the course of 2019, 65% of the total number of convictions ended with a suspended sentence ranging from six to eight months, including in cases involving repeat offenders and multiple offenders for very serious crimes. The

166. See Article 172 of the Federation of Bosnia and Herzegovina Criminal Code, Article 132 of the Republika Srpska Criminal Code and Article 169 of the Brčko District Criminal Code.

167. See Article 167 of the Federation of Bosnia and Herzegovina Criminal Code, Article 126 of the Republika Srpska Criminal Code and Article 164 of the Brčko District Criminal Code.

168. See Chapter VI, Immediate response, prevention and protection.

competent courts imposed prison sentences ranging from 30 days to two years only in 18% of cases.¹⁶⁹ Reports also show the frequent use of plea-bargaining agreements entered into between the prosecutors and the perpetrators, leading to the imposition of sanctions below the statutory minimum.¹⁷⁰ GREVIO notes that plea agreements can be entered into until the end of the main trial and can result in a conviction without the examination of evidence and the hearings of witnesses. GREVIO notes that this practice has an impact, *inter alia*, on the sanctioning policy and leads to mild sanctions for perpetrators that are not proportional or dissuasive, in violation of Article 45 of the convention.

245. Another factor leading to mild sanctions is the widespread use of mitigating factors. More specifically, reports indicate that mitigating factors were applied by judges presiding over cases of violence against women in 68% of cases compared to 31.1% of cases where aggravating factors were applied.¹⁷¹ In particular, in cases of domestic violence, civil society reports indicate that a recurring practice is, paradoxically, to consider as a mitigating factor the fact that the perpetrator is a “family man” that needs to provide for his family. This has led to lenient sentences being imposed even in cases where the defendant was a repeat domestic violence offender.¹⁷² Other mitigating factors that also appear to be applied with some frequency are that the victim did not seek compensation or refused to testify and that the defendant showed good behaviour before the court. GREVIO notes that such judicial practice demonstrates a lack of a gendered understanding of violence against women and domestic violence. A victim’s refusal to testify is a typical by-product of the power and control dynamics in domestic violence and a frequent coping mechanism of those victims that do not yet feel sufficiently empowered to break away from the perpetrator. Domestic violence is by its very nature cyclical, recurring in time and with a tendency to escalate. Scientific research shows that it develops mainly in a cycle consisting of three phases, the third phase being the victim forgiving the perpetrator (and, if she has filed a complaint against him, the withdrawal of that complaint).¹⁷³ Refusal to testify should thus not be seen as an indication that the offence is less serious but as a confirmation of its insidiousness and seriousness. Moreover, it should be noted that the composure/conduct of the perpetrator with persons outside of the domestic unit, including before the court, should not be given weight in assessing the dangerousness and the risk of further domestic violence. The perpetrator is, in fact, primarily dangerous to women or children, at home or in similar circumstances.¹⁷⁴

246. More generally, GREVIO observes that the absence or very limited collection of data for offences other than domestic violence and rape makes it challenging to assess whether courts impose sanctions that are proportionate and dissuasive.

247. GREVIO urges the authorities of Bosnia and Herzegovina, *inter alia*, to ensure – through legislative measures and the effective training of members of the judiciary and prosecution services – that sentences and measures imposed for domestic violence and the different forms of violence against women are effective, proportionate and dissuasive, as required by Article 45 of the Istanbul Convention.

169. See the Addendum to the Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, submitted by the Foundation United Women Banja Luka, March 2021, p. 5.

170. See Pertric A. and Radoncic D., Protection of Women from Violence in Judicial Systems of Bosnia and Herzegovina, Analysis of the Monitoring of Criminal and Minor Offence Proceedings on Gender Based Violence in Bosnia and Herzegovina, p. 34.

171. See Pertric A. and Radoncic D. (2017), The Analytical Report: Analysis of Monitoring of Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina, the Foundation United Women Banja Luka and the Centre for Legal Assistance for Women Zenica, p. 68.

172. See Response to Violence Against Women – Unprotected Survivors, Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, p.104.

173. Walker L. E. (1979), “The battered woman”, Harper and Row New York; Fife R. and Schrager S. (2012), “Family Violence: What Health Care Providers Need to Know”, Jones and Bartlett, p. 23 seq.

174. Holtzworth-Munroe A. and Stuart G. L. (1994), “Typologies of male batterers: Three subtypes and the differences among them”, *Psychological Bulletin*, 116(3), pp. 476-497. <https://doi.org/10.1037/0033-2909.116.3.476>; Petersson J et al. (2019), “Risk factors for intimate partner violence: A comparison of antisocial and family-only perpetrators”, *Journal of Interpersonal Violence* (2), pp. 219-239.

11. Aggravating circumstances (Article 46)

248. Article 46 requires parties to ensure that a number of circumstances (listed in indents *a* to *i*) may be taken into consideration as aggravating circumstances in the determination of the penalty for offences established in the convention. Parties have flexibility in implementing this provision, given that the various legal systems in Europe have different approaches to aggravating circumstances.

249. The respective criminal codes of Republika Srpska, the Federation of Bosnia and Herzegovina and Brčko District have adopted a similar legislative approach to aggravating circumstances. On the one hand, a general provision determines the specific elements that a judge must take into account when determining the sanction and, on the other hand, the single offences establish the constituent elements of the crime and identify some aggravated forms of the offence. GREVIO notes, however, that only a limited number of aggravating circumstances provided under Article 46 of the convention are indeed reflected in the criminal codes and are applicable to the relevant provisions. More specifically, the “General Rules on the imposition of punishments” establish that the court will determine the applicable sanction within the range provided for under the law for that particular offence and taking into account mitigating and aggravating circumstances, including the following aspects: the degree of criminal liability; the motive for perpetrating the offence; the degree of danger or damage to the protected object; the circumstances under which the offence was perpetrated; the personal history of the perpetrator prior to the crime; previous convictions for the same or similar criminal offence(s); his/her personal situation and conduct after perpetrating the criminal offence.¹⁷⁵ While these general provisions could partly address Article 46, indents *h* and *i*,¹⁷⁶ they do not cover all of the other aggravating circumstances as foreseen under Article 46. When looking at the individual offences which establish aggravated forms of the base offence, it is clear that these provisions do not fill in the missing gaps. By way of example, the stalking offence in Republika Srpska foresees a harsher punishment where it is committed against a spouse or a partner or against a child, which GREVIO welcomes. However, all of the other aggravating circumstances, including if the offence was committed against a person made vulnerable by particular circumstances, or was committed by two or more persons acting together, are not included. Another example is the offence of rape, in respect of which all of the applicable criminal codes foresee aggravated forms of the offence where it is perpetrated against a child, by multiple individuals or in a cruel manner, which GREVIO welcomes. However, these offences do not recognise as an aggravating circumstance the commission of the act against a spouse or partner, against a person made vulnerable by certain circumstances, in the presence of a child or with the use of a weapon. Finally, with regard to the offence of domestic violence, while Republika Srpska and the Federation of Bosnia and Herzegovina provide for aggravated forms of this crime where a weapon has been used, the victim has been killed or has sustained serious bodily injury, or the violent act has been committed against a child (and in the case of Republika Srpska also in the presence of a child); all the other aggravating circumstances listed under Article 46 of the convention are excluded.

250. As regards the application of the existing aggravating circumstances by the judiciary in its decisions, information provided by civil society suggests that instead of applying such aggravating circumstances where necessary, in most cases mitigating circumstances are used instead.¹⁷⁷ Information provided by civil society also indicates that in many cases of domestic violence tried in Republika Srpska where domestic violence was perpetrated in the presence of a child, this circumstance is often not factored into the decision on the applicable sanction. This notwithstanding the fact that, under the PDV laws of Republika Srpska, children who witness domestic violence are also to be considered victims.

175. See Article 52 of the Republika Srpska Criminal Code, Article 49 of the Federation of Bosnia and Herzegovina Criminal Code and Article 49 of the Brčko District Code.

176. The offence resulted in severe physical or psychological harm for the victim (indent *h*) and the perpetrator had been previously convicted of offences of a similar nature (indent *i*).

177. See the analysis under Chapter V, Article 45.

251. **GREVIO encourages the authorities of Bosnia and Herzegovina to take the necessary measures to ensure that in all jurisdictions the aggravating circumstances listed under Article 46 of the Istanbul Convention can be applied in the determination of a sentence in relation to all forms of violence against women.**

252. **GREVIO strongly encourages the authorities of Bosnia and Herzegovina to effectively train judges on violence against women, including a gender-based understanding of the phenomenon and the importance of applying the aggravating circumstances provided by the law when there are factors that justify doing so.**

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

253. Article 48, paragraph 1, of the Istanbul Convention requires parties to prohibit the mandatory participation in any alternative dispute resolution (ADR) processes, including mediation and conciliation, in relation to cases of all forms of violence against women covered by the convention. This provision stems from the principle that violence against women is a manifestation of unequal power relations and that victims of such violence can never enter the ADR processes on a level equal to that of the perpetrator. Article 48, paragraph 2, aims at preventing another unintended consequence which legal measures may have on the victim, requiring parties to ensure that any fine that a perpetrator is ordered to pay shall not indirectly lead to financial hardship on the part of the victim.

254. GREVIO notes that under the family laws of Republika Srpska, the Federation of Bosnia and Herzegovina and Brčko District, prior to filing for divorce, spouses must undergo mediation if they have children under 18.¹⁷⁸ Moreover, in labour disputes in Republika Srpska, the Federation of Bosnia and Herzegovina and Brčko District, including in cases of sexual harassment, ADR processes are also mandatory prior to recourse to civil proceedings, although the victim can always report the offence to the police. GREVIO recalls in this respect that the convention requires parties to prohibit both in criminal and civil law the mandatory participation in any ADR process.

255. **GREVIO urges the authorities of Bosnia and Herzegovina to take legislative or other measures to prohibit mandatory alternative dispute resolution processes in connection with any legal proceedings of relevance to women victims of the forms of violence against women covered by the Istanbul Convention, including in divorce and separation proceedings and labour disputes that concern sexual harassment.**

178. See Chapter V, Article 31 Custody and visitation rights.

VI. Investigation, prosecution, procedural law and protective measures

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

A. General obligations, immediate response, prevention and protection (Articles 49 and 50)

257. A key principle of an adequate response to violence against women is that of swift and effective investigations and judicial proceedings that are based on a gendered understanding of these types of offences and that take into consideration the rights of the victim during all stages.

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

258. Bosnia and Herzegovina's police structure is articulated in three levels of government, with 14 Ministries of Interior. The Framework Strategy provided for the creation of special police inspectors for cases of domestic violence. GREVIO was informed of two units that have been set up to combat sexual violence and domestic violence in the Federation of Bosnia and Herzegovina and, in Republika Srpska, of "Vice" divisions investigating, *inter alia*, violent crimes, sexual violence and domestic violence. As regards the representation of women in the police force, GREVIO was informed that in both entities women represent around 10% of the total police workforce, whereas in Brčko District the percentage is slightly lower (between 5 and 7%).

259. GREVIO has observed a lack of systematic and mandatory training for law-enforcement officers on all forms of violence against women and has noted in this report that it has serious ramifications for the responses to such violence and the ensuing criminal investigations, including under-reporting, delays in opening investigations or failure to do so altogether.¹⁷⁹ Indeed, according to the 2019 OSCE survey on violence against women, as well as the CEDAW concluding observations on Bosnia and Herzegovina,¹⁸⁰ under-reporting of violence against women is as high as 84%, due to the associated social stigma and distrust of public institutions.¹⁸¹ Reports and civil society highlight that victims experience high levels of victimisation when they report such crimes as a result of long waits at police stations, victim-blaming attitudes, requests to return another day or because police officers side with the perpetrator or treat the complaint as a family dispute which must be resolved between the partners. Indeed, many studies point to police officers often failing to react and to record such incidents because of a lack of a gendered understanding of violence against women.¹⁸² Information provided by civil society indicates that the police tend to be more reactive when the victim is assisted by a women's organisation or a Centre for Social Work.¹⁸³ GREVIO has also been informed by women's support organisations that there are serious delays or inaction in cases of call-outs to victims' homes, justified by the police on account of insufficient technical or human means.

260. GREVIO considers that this endemic trivialisation of violence against women by law-enforcement authorities warrants redoubled action to ensure a paradigmatic shift in the perception of violence against women by these authorities and a true gendered understanding of this phenomenon.

179. See in this respect the analysis under Chapter 3, Article 15.

180. See the Committee on the Elimination of Discrimination against Women, Concluding observations on the sixth periodic report of Bosnia and Herzegovina, CEDAW/C/BIH/CO/6, 12 November 2019, p. 7.

181. See the OSCE-led survey on violence against women, Well-being and Safety of Women, OSCE, p. v.

182. Ibid. pp. 58 and 60.

183. See Response to Violence Against Women – Unprotected Survivors, Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, p. 26.

2. Effective investigation and prosecution

261. GREVIO notes that other than specific departments on violent and sexual crimes, there are no special prosecutor units/offices specialising in gender-based violence and domestic violence. It further notes that all gender-based violence offences, with the exception of sexual harassment, must be prosecuted *ex officio* under the entity and Brčko District laws.

262. The data provided by the authorities on the number of reports received, investigations opened, indictments filed and convictions secured in the Federation of Bosnia and Herzegovina and Republika Srpska primarily focus on cases of domestic violence. No data were provided in respect of Brčko District. The data provided by Federation of Bosnia and Herzegovina, by and large, indicate that out of the reports on domestic violence filed by victims, at best one third proceed to prosecution and a little over 50% of such indictments lead to convictions. The data provided for the crime of rape paint a starker picture, with an extremely low number of reported cases and even fewer cases ending with a conviction. No data were offered in relation to other forms of violence against women. As regards Republika Srpska, separate data were provided for cases of domestic violence qualified as a misdemeanour offence and cases qualified as a crime as per the Republika Srpska Criminal Code. In both cases, out of the number of reports to the police, less than 50% proceed to prosecution and, generally, less than 50%, in turn, lead to convictions. No data other than for rape were provided for other forms of offences under the Istanbul Convention. For rape, it is not possible to identify accurate data and thereby assess whether and to what extent cases proceed along the criminal justice chain.

263. In the two entities, the respective PDV laws and criminal procedure codes detail which steps must be taken to open an investigation related to violence against women. Prosecutors in Bosnia and Herzegovina must institute proceedings *ex officio* where there is suspicion that a criminal offence has been committed. In the Federation of Bosnia and Herzegovina, under Article 16 of the PDV law, “police officers must go to the scene of each reported case of domestic violence” immediately after receiving a report of such violence and, under Article 40, must record every reported case of domestic violence. The police may also arrest and detain a suspect where the conditions of pretrial detention as provided for under Article 153 of the Criminal Procedure Code are satisfied. Under Article 18 of the same law, for each reported case of domestic violence, the police in principle are required to submit a request for a protection measure within 12 hours of receipt of information about the violence. In Republika Srpska, under Article 12 of the PDV law, upon receipt of a domestic violence report, the police must inform the Centre for Social Work immediately, which shall offer immediate assistance, including psychosocial support to the victim. This same provision also foresees a free medical examination to document physical injuries and the psychological integrity of the victim. The police must also inform immediately the competent prosecutor about the report and submit the collected evidence and risk assessment. Similar provisions are foreseen under the Brčko District PDV law, with the exception that no mention is made of risk assessments.

264. GREVIO has been informed of the existence of rulebooks detailing some aspects of how police must proceed in cases of domestic violence. In the Federation of Bosnia and Herzegovina, the Rulebook on the Manner of Implementation of Protective Measures for the Perpetrators of Domestic Violence within the Jurisdiction of the Police provides details as to how the police should hear the victim and the procedural steps to follow, including, as a first step, the request to the prosecutor to issue a protection order. More specifically, after receiving a report on domestic violence, the police officer hears the victim of domestic violence without the presence of the perpetrator of violence and, under Article 37 of the Rulebook, there is, in principle, also the possibility of forming an expert team to provide all of the necessary services to the victim of domestic violence. In Republika Srpska, the PDV law refers to the Rulebook on the Content of Records and Reports on Domestic Violence and the Rulebook on the Procedure and Manner of Implementation of Risk Assessments. While GREVIO welcomes the issue of such instructions, it observes that they do not sufficiently provide guidance on how to comprehensively collect evidence and document a case to allow it to proceed along the criminal justice chain, and withstand an eventual withdrawal of the victim’s statement. GREVIO further notes that no protocols or guidelines have been issued in either entity or Brčko District providing guidance on how to proceed in cases involving other forms of violence against women, such as cases of rape, stalking and FGM. GREVIO stresses the importance

of such guidelines in order to standardise police procedures in cases of violence against women and ensure that their further processing along the criminal justice chain does not solely depend on individual police officer's assessments. Such protocols are central to ensuring police officers' prompt and adequate response, avoidance of secondary victimisation and the comprehensive collection of evidence.

265. As regards evidence collection, GREVIO notes that law-enforcement authorities under prosecutors' guidance primarily rely on the testimonies of the victim and the perpetrator and, in some cases, on those of witnesses, failing to order the taking of other vital evidence. GREVIO further observes that the over-reliance on the victim's statement and the failure to collect additional evidence have resulted in a low number of cases proceeding successfully along the criminal justice chain and ending with a conviction. GREVIO would like to recall that a victim's withdrawal of a statement or the refusal to testify is frequent in cases of domestic violence characterised by power and control dynamics. For this reason, GREVIO stresses the vital importance of proactively and rigorously collecting all relevant evidence in addition to the victim's statement. This is especially important to ensure effective *ex officio* prosecution of crimes of violence against women, as required by Article 55 of the convention. Law-enforcement authorities' collection of evidence should entail documenting injuries (with the consent of the victim), taking photographs of the crime scene, collecting DNA samples, taking statements from neighbours and any other potential witnesses, as well as identifying abuse perpetrated through digital means such as the threat of or the sharing of images without consent, or stalking through spyware or other technical devices.

266. In addition, GREVIO has been informed that domestic violence has frequently been qualified as a misdemeanour offence rather than a criminal offence prior to the 2020 amendments to the Republika Srpska PDV law. More specifically in Republika Srpska, GREVIO notes that the investigations/prosecutions that qualify domestic violence as a misdemeanour offence have been twice to three times those that qualify it as a crime. In this respect, studies that have monitored intimate partner violence cases indicate that, for example, out of 76 misdemeanour cases of domestic violence, 27 to 36% should have been qualified as a criminal offence because of the seriousness of the offence and the presence of physical injury.¹⁸⁴

267. As regards in particular trials of conflict-related sexual violence, further to the Dayton agreements, jurisdiction over these cases is shared by the Court of Bosnia and Herzegovina and the entity-level and Brčko District courts. Studies indicate that the justice sector in Bosnia and Herzegovina has made significant progress in prosecuting conflict-related sexual violence cases. Between 2004 and 2016 the courts of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District have respectively sentenced 71, 27, 14 and 11 perpetrators and acquitted, respectively, 18, 1, 12 and 2 defendants. Reports indicate that Bosnia and Herzegovina has strived to prioritise these cases and that the handling of these cases and the judicial and prosecutorial approach has vastly improved.¹⁸⁵

3. Conviction rates

268. Overall, GREVIO expresses the concern that domestic violence and other forms of violence against women appear to be considered by judges in Bosnia and Herzegovina as offences of low social danger. GREVIO considers that this is primarily to be attributed to lack of sufficient and sustained initial and in-service training of judges on domestic violence and other forms of violence against women, and the resulting presence of bias against women who report.¹⁸⁶ This is leading to

184. See Analytical Report: Analysis of Monitoring of the Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina, 2017, available at www.sigurnamreza.ba/upload/documents/ANALYTICAL-REPORT-2017-UW_CLAW-final.pdf, p. 34.

185. See OSCE, Towards Justice for Survivors of Conflict-Related Sexual Violence in Bosnia and Herzegovina: Progress before Courts in Bosnia and Herzegovina 2014-2016, June 2017, available at www.osce.org/mission-to-bosnia-and-herzegovina/324131?download=true, pp. 8-10.

186. As regards gender bias of judges, the report on Gender Bias and the Law: legal frameworks and practice from Bosnia and Herzegovina and beyond, Atlantic Initiative, 201 illustrates various such examples, including in respect of cases of rape; see, for example, p. 82.

worrying judicial and sentencing practices that entail, ultimately, the impunity of perpetrators in many cases.

269. The heavy use of suspended or lenient sentences described in Chapter V, Article 45, on sanctions, many of which are not revoked in case of reiteration of the crime or commission of other crimes, seems to lead to a very high degree of recidivism in cases of domestic violence heard by courts. Indeed, GREVIO notes that 63% of all cases examined by courts featured recidivist perpetrators.¹⁸⁷ Data provided by the authorities show, more specifically, that for cases of intimate partner violence in the Federation of Bosnia and Herzegovina, suspended sentences are issued in 80% of the cases, prison sentences are ordered in around 10% of cases and fines are ordered in around 7% of cases. In Republika Srpska, suspended sentences and fines also appear to be prevalent in cases of intimate partner violence qualified either as a misdemeanour and/or criminal offences,¹⁸⁸ whereas imprisonment was ordered in around 18% of cases. Studies have also found that where domestic violence is tried together with other crimes, the latter is not sanctioned and aggravating circumstances are rarely applied.¹⁸⁹ In contrast, as recognised by the state authorities, mitigating factors are predominantly cited. It is also important to note that as regards the Federation of Bosnia and Herzegovina, there are many cases in which domestic violence is described as mutual violence, without a primary aggressor analysis.¹⁹⁰

270. GREVIO is also concerned about the use of protection measures such as the prohibition to stalk and harass, as an alternative to a criminal sanction. In this respect, GREVIO stresses that, where an offence has been committed, the lack of a criminal conviction goes against the principles and the spirit of the convention, which aims to achieve an effective criminal justice response to all cases of violence against women.

271. The monitoring of cases of gender-based violence, including domestic violence, sexual harassment and stalking, carried out by women's rights organisations in Republika Srpska also show the frequent use of plea-bargaining agreements. Under Article 246, paragraph 3, of the Republika Srpska Criminal Procedure Code and 246 of the Criminal Procedure Code of the Federation of Bosnia and Herzegovina, these agreements entailing the confession of the perpetrator are entered into between the prosecutor and the perpetrator until the end of the main trial and must be approved by the court. They result in a conviction without the examination of evidence and the hearing of witnesses. Out of the 124 cases of gender-based violence monitored in Republika Srpska, 70% ended with a plea agreement, leading to the imposition of sanctions below the statutory minimum; compared to 29% in the Federation of Bosnia and Herzegovina.¹⁹¹ GREVIO is concerned that victims have no say over the conclusion of such agreements and cannot provide testimony during the criminal proceedings, thereby restricting their right to be heard. Furthermore, GREVIO notes that this practice has an impact on the sanctioning policy and has led to mild sanctions for perpetrators that are not proportional or dissuasive, in violation of Article 45 of the convention.

272. As regards cases of stalking and sexual harassment, since the entry into force of the new dedicated offences provided under the Republika Srpska Criminal Code in 2017, three verdicts have been handed down for the offence of stalking and two were handed down for the offence of sexual harassment. Although it is still early to have a clear retrospective view of judicial practice with regard to the application of these provisions, monitoring carried out by civil society of the two cases of sexual harassment highlighted the use of plea agreements which led to the imposition of sentences below the statutory minimum.

187. See Analysis of judicial practice in cases of domestic violence in Bosnia and Herzegovina, Atlantic Initiative, Sarajevo, 2018.

188. The report Analysis of the Monitoring of Criminal and Minor Offence Proceedings on Gender Based Violence in Bosnia and Herzegovina of 2020 found that this amounted to 65% of all intimate partner violence cases in Republika Srpska.

189. See, for example, OSCE (2011) The Criminal Law Responsibility and Sanctioning of Domestic Violence Abusers, the Analysis and Recommendations on Criminal Law Sanctions in Domestic Violence Cases in Bosnia and Herzegovina, p. 42.

190. Ibid., p. 87.

191. See Pertric A. and Radoncic D., Protection of Women from Violence in Judicial Systems of Bosnia and Herzegovina, Analysis of the Monitoring of Criminal and Minor Offence Proceedings on Gender Based Violence in Bosnia and Herzegovina, p. 102.

273. As regards rape and sexual violence, data provided by the authorities indicate that out of the few cases opened and tried both in Republika Srpska and the Federation of Bosnia and Herzegovina, courts are less inclined to impose suspended sentences. Nonetheless, it appears that they fail to take all aggravating circumstances into account, applying instead mitigating circumstances.¹⁹² GREVIO is concerned, by way of example, that in one case the competent court referred to the defendant's family relationship with the victim as a mitigating circumstance, whereas Article 46 of the convention specifically lists this circumstance as an aggravating factor because of the additional emotional harm that is caused by the close relationship.

274. As regards in particular trials of conflict-related sexual violence, sanctions have been very low and below the statutory minimum, with 57% of entity-level first-instance verdicts handed down between 2012 and 2017 resulting in sentences below the statutory minimum, with an average prison sentence of five years.¹⁹³ Likewise, unwarranted use of mitigating circumstances, lack of application of aggravating circumstances and absence of references to sexual violence where multiple offences were committed have also been particularly problematic. GREVIO has equally been informed that plea-bargaining practices in this area have also led to sanctions that are not proportionate or dissuasive. Notably, there have been cases of the wartime rape of minors, in which perpetrators were sentenced to one year in prison, which was then converted to the payment of a fine.¹⁹⁴ GREVIO's attention was also drawn to disparities in the approach taken by state-level and entity-level courts, with the latter often issuing lower sentences, thus creating a sense of arbitrariness and a sense of mistrust in the justice system.

275. With a view to reducing secondary victimisation and stemming under-reporting of cases of violence against women and domestic violence, GREVIO urges the authorities of Bosnia and Herzegovina to provide initial and in-service training, guidelines and protocols for all police officers on all forms of violence against women, including on:

- a. how to receive such reports, including when women who are in a particularly vulnerable situation are concerned, such as women with disabilities;**
- b. how to respond to call-outs made by victims;**
- c. the concept of power and control and the need to adequately record patterns of abuse in the context of domestic violence;**
- d. how to interview victims in a victim-centred manner;**
- e. the different types of evidence that should systematically be collected, beyond victims' testimony.**

276. GREVIO further urges the authorities to set up adequately staffed dedicated units to receive, investigate and prosecute cases of violence against women and domestic violence.

277. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to take all necessary measures to ensure sustained prosecution of conflict-related sexual violence and to ensure through training or guidelines that sanctions imposed for conflict-related sexual violence are proportionate and dissuasive.

278. GREVIO urges the authorities of Bosnia and Herzegovina to carry out initial and in-service training of prosecutors and the judiciary on all forms of violence against women underpinned by a truly gendered understanding of this violence with a view to stemming the overwhelming use of plea bargaining, suspended sentences and the imposition of sentences that are not proportionate or dissuasive.

192. See Analytical Report: Analysis of Monitoring of the Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina, 2017, available at www.sigurnamreza.ba/upload/documents/ANALYTICAL-REPORT-2017-UW_CLAW-final.pdf, p. 24.

193. See Punishing Conflict-related Sexual Violence, Guidelines for Combating Inconsistencies in Sentencing, Trial International, p. 7.

194. See Delbyck K., Mapping of Policies and Legislation on Violence Against Women and the Istanbul Convention in Bosnia and Herzegovina, UN Women, p. 15.

B. Risk assessment and risk management (Article 51)

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

280. GREVIO welcomes the amendments made in May 2020 to the Republika Srpska PDV law in order to, *inter alia*, introduce a mandatory risk assessment to be carried out by police officers upon receipt of a domestic violence report and the issue of a Rulebook on the Procedure and Manner of Conducting Risk Assessment. The risk-assessment procedure is therefore only foreseen for cases of domestic violence, not for other forms of violence against women. More specifically, under Article 12a of the Republika Srpska PDV law as amended and Article 4 of the rulebook, a risk assessment is conducted by a police officer for each domestic violence report received and an opinion of a Centre for Social Work is provided. Republika Srpska has developed its own risk assessment, which is laid out in the rulebook, containing a number of red flags, including: whether previous acts of violence have been committed; the presence of mental illnesses; the prior issue of a protection measure; the presence of addictions; whether threats of murder or suicide have been made; whether the perpetrator owns a weapon; whether there is a conflict over the guardianship or visitation of one or more children; the victim's assessment of the risk. GREVIO welcomes the inclusion of the above-mentioned risk factors, which are indeed important elements to take into account in order to quantify the victim's risk. It underlines, however, that there are other indicators considered as an important red flag in internationally recognised risk-assessment tools, such as whether the victim has recently filed for separation or divorce or has otherwise left the perpetrator, as these are factors that typically lead to the escalation of domestic violence (or the onset of domestic violence in some cases) against the victim and her child(ren) and the threat to take away common children.¹⁹⁵ Moreover, it must be clear in the law and in any protocol/guideline that the risk assessment should also systematically be carried out on the victims' children. As has been detailed by GREVIO in its third-party intervention before the European Court of Human Rights in the case of *Kurt v. Austria*, perpetrators are often also violent towards children with whom they cohabit. Children may be exposed to direct and/or indirect violence, including after the end of an abusive relationship. With fewer opportunities available to subjugate their former partners after separation, many domestic abusers retaliate by abusing their children, leading, in some tragic cases, to their murder. The importance of carrying out a risk assessment for all victims, including children, cannot therefore be over-emphasised.

281. GREVIO further observes that under the convention, the assessment of the risk and identification of safety measures should be conducted continuously from the first meeting with the victim all the way to a possible sentence, because victim's risk can change and must, therefore, be assessed during all phases of the procedure. Moreover, the assessment of the lethality of the risk, the seriousness of the situation and the risk of repeated violence should be carried out by all relevant authorities with a view to managing the identified risk and providing co-ordinated safety and support through multi-agency co-operation and co-ordination. GREVIO, however, notes that currently the risk assessment is not integrated in multi-agency co-operation efforts and that only information from the police and Centres for Social Work currently feed into such procedures. Indeed, it would be important to integrate into this process information from all relevant stakeholders, including prosecutors and judges, women's support services and, in the case of children, school staff. Moreover, the outcome of the risk-assessment procedure seems to be limited to ensuring that, where warranted, emergency barring or protection orders are issued, and no mention of the development of a support plan is made. Finally, GREVIO has been alerted by women's right groups that risk assessments are, in practice, not frequently or systematically carried out and that training is needed on what is still a new procedure.

195. See in this respect Third-Party Intervention by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) pursuant to Article 36, paragraph 2, of the European Convention on Human Rights, *Kurt v. Austria*, Application no. 62903/15, GREVIO/Inf(2020)3, p. 3.

282. In the Federation of Bosnia and Herzegovina, no mention is made by the PDV law of an obligatory risk assessment to be carried out in cases of domestic violence or other cases of gender-based violence. According to the authorities, upon receipt of a report of domestic violence, representatives of a Centre for Social Work, accompanied by representatives of the police, visit the “family”, interview the family members and seek to establish whether any family member’s life and safety is at risk, including children or other vulnerable persons. Moreover, Article 15 of the Rulebook on the Manner for the Implementation of Protective Measures against Perpetrators of Domestic Violence provides that a vulnerability assessment and a protective measure implementation plan are prepared after the competent court has imposed a protection measure. The vulnerability assessment is conducted, therefore, to implement a protection measure and is not conducted promptly, immediately upon receipt of a complaint. Moreover, it is not clear whether such an assessment or the assessment made by the police and Centres for Social Work upon visiting the “family” are standardised, whether the assessment(s) contain(s) pre-established questions and/or which indicators, if any, are considered as red flags. Finally, it is not clear to what extent such a vulnerability assessment is integrated into multi-agency co-operation efforts. In other words, it does not appear that such a vulnerability assessment or the assessment made *in situ* by the police is based on information from all relevant stakeholders and carried out continuously, or that the latter stakeholders participate in the development of individual protection plans.

283. No mention of risk assessment is made under the Brčko District PDV law. As is the case in the Federation of Bosnia and Herzegovina, it appears that under the Rulebook on the Method of Implementation of Urgent and Protection Measures of Brčko District, risk assessments are carried out in order to implement protection measures imposed by the competent court.

284. GREVIO welcomes the commissioning of research into cases of femicides and the relevant institutional response with a view to proposing to the Council of Ministers the setting up of a femicide watch. This has resulted in the setting up of the Istanbul Convention and Femicide Board which, *inter alia*, analyses data on femicides and makes recommendations for further actions aimed at preventing gender-related killings.¹⁹⁶ While GREVIO welcomes the steps taken, it notes that an operational domestic homicide review mechanism, which analyses all cases of gender-based killings of women with the aim of identifying the possible systemic gaps in institutional responses to violence (in those cases in which women reported violence to institutions prior of being murdered) and the multiple agencies that came into contact with the parties, is not yet in place. GREVIO stresses the importance of introducing such reviews also with a view to assessing the effectiveness of risk-assessment practices.

285. **GREVIO urges the authorities of Bosnia and Herzegovina to take legislative and other measures to ensure that risk assessment and management are systematically carried out in relation to all forms of violence against women covered by the Istanbul Convention using standardised, evidence-based risk-assessment tools that, *inter alia*, take into account whether the victim has recently filed for separation or divorce or has otherwise left the perpetrator. It further urges the authorities to ensure that risk assessments:**

- a. **are systematically carried out for the victims’ children and take into account any threat made directly to them or pertaining to their removal from the victim;**
- b. **are repeated at all the relevant stages of proceedings;**
- c. **involve all relevant stakeholders beyond law-enforcement authorities and are a central element of a co-ordinated multi-agency response;**
- d. **lead to the development of a safety plan for victims.**

286. **GREVIO encourages the authorities to introduce a system, such as a domestic homicide review mechanism, to analyse all cases of gender-based killings of women, with the aim of preventing them in the future, preserving the safety of women and holding to account both the perpetrator and the multiple agencies that come into contact with the parties.**

196. See Chapter I, Article 10.

C. Emergency barring orders and restraining or protection orders (Articles 52 and 53)

287. Under Article 52 of the Istanbul Convention, in situations of immediate danger (where harm is imminent), authorities should be granted the power to order the perpetrator to leave the residence of the victim or person at risk for a specific period of time and to prohibit the perpetrator from entering the residence or contacting the victim or person at risk. Under Article 53 of the convention, victims of all forms of violence against women should be able to obtain a protection order irrespective of, or in addition, to other legal proceedings. Protection orders should thus be available to the victim under civil law, whether or not they choose to set in motion any other legal proceedings such as criminal or divorce proceedings, for instance.

288. GREVIO notes that the legal framework for emergency barring orders (EBOs) and protection orders (POs) varies significantly across the two entities and Brčko District. In the Federation of Bosnia and Herzegovina, the legal framework does not differentiate between emergency protection measures and other measures of protection.

289. In Republika Srpska, EBOs are provided for under Articles 13 and 14 of the Republika Srpska PDV law. These can be imposed on a perpetrator of domestic violence upon the request of a police officer, Centres for Social Work or the victim herself, in cases of imminent danger to the physical and mental integrity of the victim, to prevent violence and to guarantee the safety of the victim. The misdemeanour section of the competent municipal court can impose an EBO no later than 24 hours after the receipt of the request through misdemeanour proceedings. EBOs include the removal of the perpetrator of domestic violence from the apartment, house or other dwelling; and the issuing of a restraining order and prohibition to contact the victim of domestic violence – their duration is a maximum of 30 days. Article 14 also clarifies that the court's decision is then transmitted to the Ministry of Interior so that it can monitor its implementation. The Rulebook on the Manner of Enforcement of Emergency and Protection Measures (measures that fall under the competence of the Ministry of Interior of Republika Srpska) regulates in a very detailed manner the preparation and planning of both emergency and protection measures, as well as record-keeping, which GREVIO welcomes.¹⁹⁷ As regards record-keeping, in particular, it specifies that EBOs and POs that have been issued shall be recorded in the “public security register” and that the competent police station must record all documents created for the planning and implementation of the EBOs and POs. GREVIO further welcomes that under Article 190, paragraph 5, of the Criminal Code, the violation of EBOs and PO are punishable by a fine or imprisonment for a term of between three months and three years. Moreover, the rulebook also provides detailed provisions on the supervision and enforcement of EBOs or POs.¹⁹⁸ Where it finds that the EBO/PO has been breached, the police proceed to remove the perpetrator from the prohibited area and submit a report to the prosecutor.¹⁹⁹ GREVIO also welcomes, under the rulebook, the requirement of police officers to temporarily confiscate any devices or tools the perpetrator may use to harass or monitor the victim.²⁰⁰ GREVIO notes that the legal framework of EBOs in Republika Srpska is robust and helpfully detailed. Nonetheless, in order to ensure swift action, it would be necessary to specify the initial time span within which a police officer or other stakeholder should request an EBO in cases of imminent danger for the victim. Moreover, the EBO should have immediate effect even if it must be confirmed by the

197. The rulebook specifies that an “implementing police officer” must, without delay: verify that the victim is safe and whether the perpetrator respects the emergency or protection measure; train the victim in self-defence techniques and in how to best communicate with the officer to exchange information; develop an action plan detailing how to respond to the perpetrator's threats and the role of family and friends in this respect (Article 6); develop a risk-assessment and an implementation plan (Article 7); review the case file on the enforcement of the emergency protection measures at least once a month and more frequently if needed; contact the victim at least once a week or more frequently if needed (Article 10); and draft a written report on the implementation of the protection measure.

198. Under Article 15, paragraph 2, and Article 17, paragraphs 1 to 3, on EBOs; Article 22, paragraph 1, on restraining orders; Article 24, paragraph 3, on POs for the prohibition of harassment or stalking, where the police are informed that the perpetrator is in the area covered by the plan of implementation of the EBO or PO, or is near the victim, or if the police are informed of the perpetrator's planned violation of such a measure, the police shall proceed to warn the perpetrator about the consequences of such a breach.

199. See Article 15, paragraph 4, and Article 17, paragraph 2, for EBOs; and Article 22, paragraph 2, for restraining orders; and Article 24, paragraph 5, for prohibition of harassment and stalking.

200. See Article 20 for EBOs and Article 26 for POs.

competent court. Finally, it is not clear whether EBOs are extended to children in need of protection. As regards the practical implementation of EBOs in Republika Srpska, both statistics and the information provided by civil society indicate a very low use of EBOs, even in cases of serious and protracted violence. By way of example, out of 1 102 reports of domestic violence addressed to the police, around 29 requests for EBOs were made and around 17 were issued by courts in 2017. It appears that preference is given by the authorities to the relocation of the victim to a shelter. In this respect, GREVIO notes that under Article 52 of the convention, EBOs should ensure the safety of victims without forcing them and their children to hurriedly seek safety in a shelter or elsewhere. The burden of leaving the home is in fact shifted to the perpetrator who should be ordered to immediately vacate the residence of the victim and be barred from returning “for a sufficient period of time” and contacting the victim and her children. Civil society has also raised the problem of monitoring the implementation of the EBOs, as it is infrequent that the police have the capacity to follow up and check on the safety of the victim as required by the rulebook. Finally, there appears to be a disconnect between the sanctions foreseen by the legal framework for the violation of EBOs and those that are actually imposed, which often are suspended sentences.

290. Concerning POs in Republika Srpska, under Article 23 of the PDV law, a police officer, the Centre for Social Work or a victim of domestic violence may request the competent court to issue the following protection orders: the removal of the perpetrator from the residence of the victim; a restraining order to prevent the perpetrator from approaching the victim; the prohibition of harassment or stalking; mandatory psychosocial treatment for the perpetrator and mandatory addiction rehabilitation. The first three types of POs are issued for periods of no less than 30 days and up to six months/one year and the court must decide and issue the protection order within 30 days from the request, through misdemeanour proceedings. Nonetheless, it is not clear whether victims can apply for a protection order in civil proceedings, independently of criminal or other proceedings. Indeed, under Article 53 of the convention, POs should be available to victims under civil law, regardless of whether they decide to set in motion criminal proceedings or any other legal proceedings. Many victims may in fact not be ready to press criminal charges. Moreover, Article 53 of the convention clarifies that POs should be issued *ex parte* and have immediate effect. GREVIO is concerned that the 30-day deadline for the court to issue the PO may result in gaps in victims’ protection, for instance where an EBO has been issued for a 30-day period and has in the meantime lapsed. Efforts should therefore be made to ensure that continuity and complementarity of protection is ensured between EBOs and POs. As regards the POs provided under Article 25 of the PDV law, it appears that the restraining order only covers specific places rather than a complete ban on contacting the victim (no contact). Under Article 33 of the Republika Srpska PDV law, the authorities responsible for the enforcement of protection measures must supervise their enforcement and, *inter alia*, submit a report to the competent court on its enforcement no later than six months from the date of imposition of the protection measures or sooner if necessary. The supervision and the enforcement of POs are provided for under the rulebook, as described in the section discussing EBOs. When it comes to the practical implementation of POs, similarly to EBOs, both the statistics and the information provided by civil society indicate a very low use. Data provided by the authorities indicate that in 2017 and 2018, respectively, 21 and 42 POs were issued by courts.²⁰¹ Information provided by civil society also points to the defective enforcement of POs by law-enforcement officers and lack of sanctions for breach of POs.

291. As regards the issue of protection orders for other forms of violence against women, beyond domestic violence, the authorities have referred to Article 79 of the Republika Srpska Criminal Code, which allows the competent criminal court to issue, in the context of criminal proceedings, either a no contact or “no go” order prohibiting the perpetrator from contacting or communicating with the victim or from going to specific locations, where specific crimes are being prosecuted. These can be issued for no less than six months and no longer than two years. It is not clear, however, whether they can be issued *ex parte* and whether they take immediate effect. Moreover, this provision would not allow a victim of gender-based violence to obtain a protection order under civil law, independently from criminal or other legal proceedings.

201. These include restraining orders, removal from the residence and the prohibition of harassment and stalking.

292. The legislative framework governing EBOs and POs in Brčko District is almost identical to the one in force in Republika Srpska and is set out in the Brčko District PDV law in Articles 11 to 12 for EBOs and Articles 17 to 28 for POs. The observations made by GREVIO on the regulatory framework in Republika Srpska therefore apply *mutatis mutandis* to Brčko District with only a few distinguishing elements. Notably, EBOs can only be proposed by police officers – here too, however, the deadline for requesting the emergency measure from the moment of receipt of the report is not specified. EBOs are issued by the competent principal court. As regards POs, they have been construed as sanctions issued in the context of misdemeanour proceedings rather than as preventive and protective measures issued independently of any ongoing criminal or other proceeding. Victims, therefore, cannot obtain a PO under civil law irrespective of or in addition to other legal proceedings. Moreover, unlike the Republika Srpska PDV, the Brčko District PDV law does not clarify the time span within which a court must issue POs. GREVIO is concerned that this may result in gaps in victims' protection, for instance where an EBO has been issued for a 30-day period and has in the meantime lapsed. Under the Brčko District PDV law, the authorities were to adopt a Rulebook on the Implementation of Emergency and Protection Measures; however, GREVIO has not been informed about whether these regulations have been adopted. No statistics have been provided on the number of EBOs and POs issued, how many were violated and what sanctions were imposed for violations. Nonetheless, in the course of the evaluation visit GREVIO was informed that between 2019 and 2021 only one EBO had been ordered.

293. The regulatory framework in the Federation of Bosnia and Herzegovina does not differentiate between EBOs and POs. The Federation of Bosnia and Herzegovina PDV law provides for the following protection measures: the removal of a perpetrator from the victim's residence; the imposition of a restraining order; the prohibition of harassment and stalking; mandatory psychosocial treatment and mandatory addiction rehabilitation. It also lists pretrial detention as a protection measure. All of these protection measures can be issued on an emergency basis. Removal of the perpetrator from the victim's residence can be ordered in case of domestic violence, where the competent court finds that there is a risk of reiteration of domestic violence, for a period of no less than one month and not longer than two years – it is not clear whether such a measure is renewable. Under Article 12 and 13 of the PDV law, a restraining order prohibiting contact with the victim, including in relation to specific places and a measure prohibiting harassment and stalking can be ordered also for the same duration as mentioned above. In all of these cases, procedurally, it is the police or, in certain cases, the prosecutor who are responsible for requesting the competent court to issue a protection order. Interestingly, under Article 18 of the PDV law, the police are required to submit a request for a protection measure for each case of domestic violence within 12 hours of becoming aware of such violence. Under Article 19, the competent court must then decide within 12 hours of receipt of the request whether to issue the protection measure and is free to impose more than one protection measure. The authority that is competent to enforce the protection measure (the police in the case of restraining orders and vacating the residence of the victim) is required to regularly monitor its enforcement, prepare and submit a report on its enforcement and propose termination or replacement of the measure when it deems it necessary. It is also required to inform the competent court upon learning of the breach of the imposed measure. Article 40 of the PDV law provides for record-keeping obligations of the police and courts on the protection orders requested and those ordered. Under Article 41, if the police are apprised of any breach of the protection order, they must inform the competent court without delay so that a fine can be imposed as provided for under Article 45 – these are in the range of €500 to €750. The Federation of Bosnia and Herzegovina authorities have also published a Rulebook on the Method of Implementation of Protection Measures within the Jurisdiction of the Police, which further details the implementation and enforcement by the police of protection orders, as well as record-keeping obligations, which GREVIO welcomes.

294. As regards compliance of the above-mentioned regulation with Article 52 of the convention on EBOs, while GREVIO welcomes that a short delay of action is required by the PDV to request and issue protection orders, it considers that EBOs should be ordered immediately by the competent authority where it is informed of situations of immediate danger for the victim and her children – a delay of 12 hours may, in fact, prove to be fatally too long to wait. In parallel, it expresses the doubt

that the requirement for police to request a PO for each and every case of domestic violence may, in the end, trivialise these measures of protection and, paradoxically, lead to a decrease in their use.

295. As regards compliance with Article 53 of the convention, the PDV law regulates protection measures in cases of domestic violence. It is not clear to GREVIO if protection orders are available for other cases of violence against women such as sexual harassment or stalking. Where domestic violence is concerned, under the PDV law, only police officers can request a protection measure in the context of criminal proceedings. GREVIO stresses that protection orders should be available upon request of the victim irrespective or in addition to other legal proceedings. As regards the practical implementation of protection measures, GREVIO notes that despite the obligation for police officers to request a protection measure in each reported case of domestic violence, there is a discrepancy between the number of reports to the police and the number of issued protection orders. For example, the number of reports of domestic violence to the police in 2017 numbered 1 407, whereas the number of motions for protection measures or imposed protection measures, were, respectively, 276 and 417.²⁰² The protection order of removal from an apartment is ordered sporadically; in 2017 the state report indicates that it was ordered only in 28 cases out of 1 407 reported incidents of domestic violence. Moreover, according to the state report, data collected by the municipal courts in the Federation of Bosnia and Herzegovina in 2017 and 2018 indicate that, respectively, 64 and 15 fines were imposed for breach of a protection measure. According to women's rights organisations, however, these data do not reflect the actual number of such breaches, which predominantly remains unsanctioned.²⁰³

296. **GREVIO urges the authorities of Bosnia and Herzegovina to take legislative and or other necessary measures to ensure that:**

- a. **emergency barring orders are issued swiftly with immediate effect pending the approval of the competent court, to avert situations of imminent danger, and that they are extended to children in need of protection;**
- b. **no gap in the protection of the victim arises between the expiry of any emergency barring order and the imposition of a restraining or protection order;**
- c. **protection orders are available in relation to all forms of violence covered by the scope of the Istanbul Convention, beyond intimate partner violence;**
- d. **protection orders are available *ex parte*, irrespective of (or in addition) to criminal or other legal proceedings and with immediate effect;**
- e. **law-enforcement officers are robustly trained on the role and importance of emergency barring and protection orders in placing victims out of harm's way;**
- f. **an efficient centralised system is set up to record when protection orders are issued as well as any breaches of such orders and the sanctions imposed, if any, as a result of such breaches;**
- g. **there are sufficient resources and means to monitor and enforce protection orders, including through protocols/regulation and technical means such as electronic tagging;**
- h. **proportionate and dissuasive sanctions for breaching protection orders are effectively applied in practice.**

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

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

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

202. See the state report, Appendix 1, pp. 103 and 104.

203. See Response to Violence Against Women – Unprotected Survivors, Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, p. 113.

298. This issue is addressed in the analysis under Articles 49 and 50, General obligations, immediate response, prevention and protection.

2. Victim support in legal proceedings

299. With a view to empowering victims and to encouraging them to go through with criminal proceedings, paragraph 2 of Article 55 requires parties to ensure that victims' organisations, specifically trained domestic violence counsellors or other types of support/advocacy services, may assist and support victims during investigations and judicial proceedings.

300. GREVIO notes that under the Federation of Bosnia and Herzegovina and Republika Srpska PDV laws, specialised victim support has been introduced for domestic violence proceedings, through the "person of trust". Notably, prior to and in the course of proceedings, the victim can be assisted by a person of trust who will be able to attend all meetings and hearings before public institutions, including with the police and in the courts, related to domestic violence. The person of trust can be any adult, including a professional from a non-governmental organisation, notably women's rights organisations. GREVIO welcomes these developments but notes, however, that women's rights organisations' limited resources can represent, *de facto*, an obstacle to the implementation of these provisions. Moreover, it appears that such assistance is only available for criminal proceedings and does not apply to other important proceedings such as those in relation to custody and/or compensation.

301. **GREVIO invites the authorities of Bosnia and Herzegovina to ensure the possibility for governmental and non-governmental organisations to assist and/or support victims, upon their request, during investigations and judicial proceedings concerning any of the offences established in accordance with the Istanbul Convention. Moreover, it invites the authorities to provide victim support (provided through the person of trust) to civil proceedings, such as those instituted to settle a compensation claim or to adjudicate on divorce or custody in domestic violence cases.**

E. Measures of protection (Article 56)

302. Measures of protection for victims and witnesses, starting with the investigation phase through to the outcome of the trial, are provided for at state, entity and Brčko District level by the respective criminal procedure codes, laws on the protection of witnesses under threat and vulnerable witnesses, and the laws on the protection and treatment of children and juveniles in criminal proceedings. These provisions, in principle, would apply to women victims of gender-based violence covered by the Istanbul Convention. The Federation of Bosnia and Herzegovina and Republika Srpska PDV laws, furthermore, provide for the assistance of a person of trust and, in the case of Republika Srpska, the provision of legal aid.²⁰⁴ Moreover, the Republika Srpska PDV law also explicitly foresees the right of the victim of domestic violence, as of her first contact with the authorities, to be informed in a manner comprehensible her, about her rights and the support services that are available.

303. By way of example, in Republika Srpska, the Criminal Procedure Code provides for the obligation of judges and prosecutors to inform the victim of her right to claim compensation; inform her of any other decision that can affect her rights, such as the withdrawal of the indictment and the entering into a plea agreement; ensure that the interrogation/hearing of a victim is conducted in the presence of a psychologist or other expert, depending on the victim's need. As concerns the Republika Srpska Law on the Protection of Witnesses in Criminal Proceedings, it defines witnesses under threat as a "witness whose personal safety or the safety of his family has been endangered due to his/her participation in criminal proceedings, as a result of threats, intimidation or similar actions related to his testimony"; and a vulnerable witness as "a witness who is seriously physically or mentally traumatised by the circumstances under which the criminal offense was committed or

204. See in this respect the analysis under Chapter VI, Articles 55 and 57.

who suffers from serious mental disorders that make him extremely sensitive, as well as a child and a minor". The law recognises within these categories of witnesses a number of special safeguards, including the right to receive legal aid in accordance with the law; the provision of psychological, social and professional assistance during the investigations, interrogations and hearings; the possibility to examine witnesses through audio/visual technical devices; the possibility to remove the perpetrator from the courtroom during the testimony; and additional measures to ensure victim anonymity. The relevant Republika Srpska Rules of Procedure on the Application of Witness Protection Measures also recognise the right for the victim to be informed of court proceedings and possible protection measures. Victim support units have been established in some prosecutor's offices and in some courts, particularly at the state level (as far as the courts go), and to a lesser extent at cantonal/local level, in order to allow for the application of the range of measures foreseen under the above-mentioned provisions, including psychological support.

304. The authorities met by GREVIO during the evaluation visit stated that the above-mentioned provisions were applied to victims of domestic violence and other victims of gender-based violence. Reports and information provided by civil society to GREVIO, however, consistently highlight that while conflict-related sexual violence victims may, indeed, be recognised as vulnerable witnesses and have more recently benefited from the above-mentioned safeguards, this does not apply to victims of rape in times of peace and domestic violence victims. It is in particular victims of domestic violence who seem to rarely be given this status and benefit from measures such as the possibility to testify without the presence of the perpetrator or via audio link or with the assistance of a psychologist.²⁰⁵ Moreover, reports have highlighted that the lack of support during the investigation, as well as during the proceedings is one of the reasons why victims often withdraw their statement or ask the authorities to discontinue the proceedings.²⁰⁶ GREVIO further notes that the above-mentioned provisions do not specifically require the competent authorities to inform the victim if the perpetrator has escaped, or has been released. Moreover, GREVIO's attention has been drawn to the fact that women victims of gender-based violence are rarely informed in practice of the outcome of the investigations or proceedings.

305. As regards the protection of child witnesses and/or victims of domestic violence in the context of criminal proceedings, under the respective laws on the protection of witnesses in criminal proceedings, minors are considered per se as vulnerable witnesses and as such benefit from the above-mentioned safeguards. Moreover, under the respective laws on the protection of children and juveniles in criminal proceedings, if a child is examined as a witness additional safeguards apply: the child may be heard no more than twice; the competent prosecutor, police or judge must interview/hear the child through the use of technology with the help of a pedagogue, a psychologist or other professional and the parents, if deemed necessary, either in the child's residence or in a Centre for Social Work. The Republika Srpska PDV law, furthermore, expressly provides that children who have witnessed domestic violence are considered as victims and thus benefit from psychological, social and medical care. GREVIO notes that the Federation of Bosnia and Herzegovina PDV law does not feature a similar provision.

306. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to effectively apply the various existing measures to protect the rights and interests of women and child victims or witnesses, at all stages of investigations and judicial proceedings and for all the forms of violence covered by the Istanbul Convention, in compliance with its Article 56.

205. See Delbyck D., Mapping of Policies and Legislation on Violence against Women and the Istanbul Convention in Bosnia and Herzegovina, UN Women, p. 15.

206. Pertric A. and Radoncic D., Protection of Women from Violence in Judicial Systems of Bosnia and Herzegovina, Analysis of the Monitoring of Criminal and Minor Offence Proceedings on Gender Based Violence in Bosnia and Herzegovina, p. 125; see also the Addendum to the Alternative Report of Non-governmental Organisations from Bosnia and Herzegovina to GREVIO, submitted by the Foundation United Women Banja Luka, March 2021, p. 10.

307. **Moreover, it invites the authorities of Bosnia and Herzegovina to:**

- a. **amend the applicable laws so that victims are informed if/when the perpetrator has escaped or has been released and, more generally, of the outcome of the investigations or proceedings;**
- b. **introduce more widely across Bosnia and Herzegovina victim support units capable of implementing the protection measures provided for by the law.**

F. Legal aid (Article 57)

308. Legal aid for women victims of gender-based violence varies in scope and in eligibility requirements, depending on the canton, entity or district the victim resides. This results, therefore, in the uneven provision of legal aid in the country and an extremely complex and fragmented legal and institutional framework. Nonetheless, GREVIO notes that some common denominators apply in all parts of the country. First, notwithstanding the extremely limited financial capacity of women's rights organisations that provide legal assistance and the little to no financial support received from the authorities, most legal aid is provided by NGOs – these, however, mostly cannot represent victims before courts. Furthermore, women in rural areas and migrant women face particular challenges in accessing legal aid provided by the entity/cantonal legal aid offices, as these are primarily located in the principal cities. Finally, reports highlight the extremely limited capacity of legal aid centres and the little to no training that is available on gender-based violence against women for lawyers assisting victims, who generally demonstrate lack of understanding of the gendered nature of violence against women and of domestic violence.²⁰⁷

309. GREVIO notes that at the state level, a law on free legal aid was adopted in 2016, in principle enabling victims of violence against women and domestic violence to access free legal aid before state institutions/state courts, on the basis of their status, without any means testing. However, it does not appear that the relevant state-level office of legal aid is fully operational.

310. GREVIO notes that in the Federation of Bosnia and Herzegovina there is no entity-level law on free legal aid. Nine free legal aid laws exist at the cantonal level and free legal aid is provided by the cantonal institutes of free legal. Only the Central Bosnian Canton²⁰⁸ lacks a legal and institutional framework on legal aid, whereas another canton has not yet established an office. GREVIO notes that this translates into lack of service provision of free legal aid to around 169 200 women.²⁰⁹ GREVIO further notes that most cantonal laws recognise victims of violence against women and domestic violence as belonging to a special category who by law benefit from free legal aid, without any means testing, with the exception on one canton, where access to legal aid is subject to means testing for victims of domestic violence. Free legal aid can take the form of legal advice but also representation before courts in administrative proceedings, criminal proceedings and in some cases in respect of civil proceedings such as divorce. As regards access to free legal aid for victims of other forms of gender-based violence, once again this depends on the applicable cantonal law and GREVIO has not received specific information in this connection.

311. Republika Srpska has enacted a law on free legal aid at the entity level which identifies victims of domestic violence as one of the categories of people that benefit from such legal aid, without any means testing. The law further provides that the provision of legal aid to these categories of victims should be prioritised, particularly when it concerns family proceedings. Free legal aid can take the form of the provision of legal advice and information on rights, and drafting appeals, whereas court representation is provided only in relation to civil proceedings, for example in the areas of

207. UN Women Analysis of the Capacities for the Implementation of the Council of Europe Convention of Preventing and Combating Domestic Violence and Violence against Women in the Police and Free Legal Aid Sector in Bosnia and Herzegovina, UN Women, 2019, p. 26.

208. In this canton, legal aid is exclusively provided by women's rights organisations, notably the Centre for Women's Rights in Zenica, which organises mobile teams to visit women in rural areas.

209. See UN Women Analysis of the Capacities for the Implementation of the Council of Europe Convention of Preventing and Combating Domestic Violence and Violence against Women in the Police and Free Legal Aid Sector in Bosnia and Herzegovina, UN Women, 2019, p. 22.

custody/divorce or compensation, as well as in relation to administrative proceedings. Representation in criminal proceedings (where the victim participates as a witness), is therefore not covered, despite the Republika Srpska PDV law requiring that domestic violence victims must be able to access free legal assistance in relation to any procedure that is necessary to exercise their right to protection. GREVIO notes that access to legal aid for victims of other forms of gender-based violence are subject to means testing.

312. The Brčko District PDV law provides for the right for domestic violence victims to access free legal aid in accordance with the laws on free legal aid. The relevant law on free legal aid provides that access to such assistance is subject to means testing and/or reserved for people who benefit from social assistance, are unemployed or have no regular income, and is provided by the Office of Legal Aid of Brčko District.

313. **GREVIO encourages the authorities of Bosnia and Herzegovina to take the necessary legislative and other measures to provide for the right, *de jure* and *de facto*, where it does not yet exist, to legal assistance and to free legal aid in all parts of the territory to assist, *inter alia*, victims of all forms of violence against women covered by the Istanbul Convention, including those that live in rural areas; and to ensure that such legal aid is provided by lawyers adequately trained in the area of violence against women.**

VII. Migration and asylum

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

315. GREVIO acknowledges the specific challenges presented by Bosnia and Herzegovina being a transit country through which increasing numbers of asylum seekers travel in order to gain entry into the European Union. Notwithstanding this, GREVIO recalls that Article 4, paragraph 3, of the convention requires parties to apply the protections within the convention, without discrimination, to *all* women and girls currently in its territory.

316. Despite reforms having been undertaken in 2015 and 2016 and the adoption of the Law on Aliens in 2015²¹⁰ and the Law on Asylum in 2016,²¹¹ some shortcomings still persist as regards compliance with Chapter VII of the Istanbul Convention.

317. GREVIO notes further positive steps that have been taken, such as the establishment of the Ministry of Human Rights and Refugees and the Agency for Gender Equality that is able to make recommendations and provide opinions on laws and policies applicable to migrants and asylum seekers. Moreover a Co-ordination Body for Migration Issues has been set up and a Strategy in the Area of Migration and Asylum and an Action Plan for the period 2016-2020 have been developed.²¹² However, GREVIO expresses regret that the co-ordination body does not have sufficient power to fulfil its role effectively and that the migration strategy and action plan fail to cite the requirements of Chapter VII of the Istanbul Convention or prioritise the protection of victims of gender-based violence within its foremost goals. The 2018 Ombudsman's Report in the area of Migration similarly fails to cite or analyse the obligations arising from Bosnia and Herzegovina's ratification of the convention in the field of immigration and asylum.²¹³ GREVIO notes within these strategic documents Bosnia and Herzegovina's priority of securing its borders to address the increasing numbers of individuals entering and transiting across its territory.

A. Residence status (Article 59)

318. The number of women seeking to enter Bosnia and Herzegovina on a family reunification visa for the purpose of joining a spouse or partner has been steadily rising in recent years.²¹⁴ It is therefore of increasing importance that the provisions of Article 59 of the convention relevant to the protection of migrant women are enshrined in domestic law and/or policy and are fully implemented.

319. The Law on Aliens is state-level legislation that applies across all territories of Bosnia and Herzegovina. It regulates the entry and residence of foreign nationals in Bosnia and Herzegovina.

210. Official Gazette of Bosnia and Herzegovina, No. 88/15 (replacing the previous "Law on the Movement and Stay of Aliens and Asylum"): www.fipa.gov.ba/publikacije_materijali/zakoni/04.02.2017%20Law_on_foreigners_of_BiH.pdf.

211. Official Gazette of Bosnia and Herzegovina, No. 11/16 (replacing the previous "Law on the Movement and Stay of Aliens and Asylum").

212. GREVIO was informed that a new Strategy on Migration and Asylum has been drafted and is currently being finalised for 2021 onwards. GREVIO has not had sight of the new strategy.

213. The Institution of Human Rights Ombudsman of Bosnia and Herzegovina, "Special report on [the] situation in the area of migrations in Bosnia and Herzegovina" (November 2018) [at paragraph 1.1.2 /page 12] www.ombudsmen.gov.ba/documents/obudsmen_doc2019010713545979eng.pdf.

214. According to statistics provided to GREVIO by the Ministry of Security, the number of family reunification visas approved has increased in recent years; 316 visas approved in 2016, 187 visas approved in 2017, 158 visas approved in 2018, 381 visas approved in 2019, 622 visas approved in 2020 and 549 visas approved in 2021.

The Service for Foreigners' Affairs implements this law and is responsible for making first-instance decisions pertaining to the grant of residence permits. Appeals against these decisions are dealt with by the Sector for Immigration within the Ministry of Security. There are no specialist teams within the Service for Foreigners' Affairs or Immigration Sector who consider cases involving violence against women, but case workers do undertake training in the area of gender-based violence.

320. Articles 48 to 50 of the Law on Aliens regulates the grant of family reunification visas. After a qualification period of three years, a spouse or partner can apply for independent temporary residence, subject to satisfying certain conditions.²¹⁵ If the marriage or partnership ends during the qualification period, Article 51 of the Law on Aliens allows for access to an independent temporary residence permit in cases in which the applicant has custody over a child that is a citizen of Bosnia and Herzegovina; the sponsoring partner/spouse has died; or divorce proceedings and related decisions on custody over a child of Bosnia and Herzegovina citizenship are ongoing. The exemptions do not extend to cover the difficult circumstances envisaged by Article 59, paragraph 1, of the convention, such as the forms of violence covered by the scope of the convention.

321. A migrant woman fleeing domestic violence during the qualification period who does not fall within the remit of Article 51 must therefore seek temporary residence on one of the other permissible grounds.²¹⁶ For migrant women who are unable to fulfil the accompanying requirements of independent financial resources, adequate accommodation and health insurance, the only remaining option is to seek autonomous residence based on humanitarian grounds prescribed by Article 58 of the Law on Aliens. However, Article 58 of the Law on Aliens is applicable to victims of human trafficking only, or reserved for specified circumstances such as granting humanitarian residence permits to Syrian nationals.²¹⁷ The Ministry of Security confirmed that Article 58 is not envisaged for migrant women who have experienced gender-based violence or are seeking to escape an abusive relationship.

322. GREVIO was unable to identify any domestic legislation or other measures that correspond to the requirements of Article 59, paragraph 2, of the convention to protect migrant women from expulsion alongside an abusive partner. Article 93, paragraph 1, indent f of the Law on Aliens allows the Ministry of Security to terminate the residence of dependants on family reunification visas in the event of expulsion of the sponsoring spouse. In deciding whether to impose an expulsion measure, Article 106 paragraph 2 of the Law on Aliens requires the competent authority to consider "all circumstances". However, this is a generic provision and there is no evidence that domestic violence or other forms of gender-based violence are a relevant factor that must be considered, as envisaged by Article 59, paragraph 2 of the convention.

323. GREVIO welcomes Article 58, paragraph 3, of the Law on Aliens that corresponds with the requirements provided under Article 59, paragraph 3b, of the convention, namely the possibility of issuing a temporary residence permit to migrants who co-operate with the authorities in reporting criminal offences. Unfortunately, the Law on Aliens is not compliant with Article 59, paragraph 3a, of the convention insofar as access to autonomous temporary residence based on "personal situation" is restricted to victims of trafficking only and does not extend to victims of gender-based violence.²¹⁸

324. The Law on Aliens contains a further omission in relation to the requirements of Article 59, paragraph 4, of the convention as there is no corresponding domestic legislation or other measure

215. See Article 50(6) of the Law on Aliens, which allows for an independent temporary residence permit after a qualification period of three years and Article 49 of the Law on Aliens, which stipulates the general requirements for a temporary residence permit, namely: a valid passport, evidence of financial resources, evidence of adequate accommodation and health insurance, a medical attestation and criminal records check.

216. Article 48 of the Law on Aliens lists the options for temporary residence: a) family reunification; b) education; c) humanitarian reasons; d) employment with a work permit; e) employment without a work permit; f) other justified reasons.

217. Article 58(2) of the Law on Aliens allows for temporary residence on humanitarian grounds if a person is unable to meet the "general requirements" for temporary residence, but (a) is available for victims of trafficking only; (b) is for a minor child, (c) is for a stateless person; (d) is for other (unspecified) reasons.

218. See Article 58(2)(a)(1) of the Law on Aliens.

that offers migrant women protection from losing their residence status in the event of forced marriage abroad.²¹⁹

325. GREVIO urges Bosnia and Herzegovina to undertake a formal review of the Law on Aliens in order to make the necessary amendments to:

- a. afford migrant women an autonomous residence permit in the event of particularly difficult circumstances, including being a victim of the forms of violence covered by the scope of the Istanbul Convention committed and/or condoned by the spouse or partner. This could be achieved, for example, by extending the scope of Article 58(2)(a) of the Law on Aliens to include victims of domestic or gender-based violence, beyond victims of human trafficking;**
- b. ensure that migrant women victims of gender-based violence have the right to be granted an autonomous residence permit in the event of expulsion of the abusive spouse or partner;**
- c. ensure that women and girls who lose their residence status as a result of being forced into marriage abroad may regain their residence status.**

B. Gender-based asylum claims (Article 60)

1. Gender-sensitive asylum determination procedure

326. The Law on Asylum and the By-law on Asylum regulate the conditions for obtaining refugee status, subsidiary protection and temporary protection.²²⁰ Although it is state-level legislation that applies across all territories of Bosnia and Herzegovina, it is important to note at the outset that, in practice, a full asylum determination procedure is only implemented in the Federation of Bosnia and Herzegovina. Indeed, although Republika Srpska covers 49% of the territory of Bosnia and Herzegovina, it does not register claims for asylum in its jurisdiction, nor offer reception facilities as will be described below.²²¹

327. GREVIO welcomes that sexual violence and acts related to gender-based violence are recognised within the Law on Asylum as a form of persecution.²²² While the state report acknowledges the requirement that a gender-sensitive interpretation is applied to all grounds of persecution, GREVIO observes that Bosnia and Herzegovina would benefit from producing gender guidelines, as required by Article 60, paragraph 3, of the convention. Indeed, GREVIO is aware of only one case in which a woman accompanied by two children was recognised refugee status as a result of gender-based violence as a form of persecution – the ground of persecution that was examined was membership of a particular social group.²²³

328. GREVIO notes that Bosnia and Herzegovina is predominantly a transit country which faces unique challenges in how it meets its obligations pursuant to Article 60 of the convention. Following closure of the “Western Balkans migratory route” in 2017, an increasing number of migrants have been entering Bosnia and Herzegovina in order to cross into the Republic of Croatia and the European Union. Although Bosnia and Herzegovina has significant numbers of migrants entering its

219. Article 96, paragraph 1(o), and Article 97 of the Law on Aliens allow for cancellation of residence based on prolonged absence from Bosnia and Herzegovina. There are no exceptions in recognition of the particular situation of victims of forced marriage abroad.

220. Law on Asylum (Official Gazette of Bosnia and Herzegovina, No. 11/16); www.ilo.org/dyn/natlex/docs/ELECTRONIC/104618/127694/F-1919999782/BIH-2016-L-104618.pdf.

221. The authorities have clarified that in the territory of Republika Srpska it is possible to express the intention to seek asylum in one of the Field Office of the Service for Foreigners' Affairs.

222. Article 20(2)(a) and (f) of the Law on Asylum. See also Article 40(1)(c) of the Law on Asylum, which stipulates that the situation and personal circumstances of the asylum seeker, including his/her gender and age, shall be taken into account when making a decision upon the asylum application, in order to assess, on the basis of personal circumstances of the asylum seeker, if the treatment and the actions to which he/she was or could be exposed constitute persecution or severe violation.

223. By way of comparison from January to November 2019, 304 women had applied for asylum in Bosnia and Herzegovina.

territory, the number of asylum applications that are formally registered and result in the grant of international protection remains extremely low.

329. The asylum determination procedure consists of a three-stage process. First, an individual must express their intention to seek asylum to the Border Police or at a Field Office of the Service for Foreigners' Affairs. They are issued with an "Attestation on Expressed Intent to Seek Asylum", which is forwarded to the Asylum Sector within the Ministry of Security. The Asylum Sector then conducts the initial interview to formally register the claim for asylum. Finally, once the claim is registered, the Asylum Sector conducts a substantive asylum interview and determines the claim. GREVIO observes that case workers working in the Asylum Sector do undergo some training on gender-based violence.

330. GREVIO notes that concerns have been expressed about the asylum procedure that have a bearing on the low number of asylum applications being formally registered.²²⁴ First, insufficient written information in the required languages is provided to asylum seekers about the asylum procedure, their rights and their obligations, and interpreters are lacking.²²⁵ Second, the Attestation of the Intention to Seek Asylum is only produced in the official languages of Bosnia and Herzegovina. Moreover, there are significant delays in the registration and processing of asylum claims, which leaves vulnerable individuals in a precarious situation and may contribute to their motivation to abandon their claim and consider onward travel. Finally, notwithstanding the relevant training of case workers, GREVIO has received criticism of the poor quality of refugee status determinations by the Asylum Sector, namely that decisions are poorly reasoned and lack proper analysis.

331. As regards, in particular, compliance with the requirement to have in place gender-sensitive asylum procedures, the Law on Asylum contains a number of procedural safeguards available to women such as the express recognition that victims of gender-based violence are particularly vulnerable²²⁶ and that priority and special attention shall be given to their applications;²²⁷ the right of women asylum seekers to request an interviewer and interpreter of the same sex;²²⁸ and the right to access legal aid provided by a specialist NGO.²²⁹ GREVIO further notes that under the Law on Asylum, interviews of adult asylum seekers are conducted individually and that the asylum seeker may be accompanied, *inter alia*, by a UNHCR representative and an interpreter. GREVIO considers that additional gender-sensitive safeguards, however, should be foreseen such as ensuring regular breaks, adapting questions to reduce the risk of traumatising and the possibility of being accompanied in the interview by a lawyer. Moreover, there should be sufficient capacity within the Service for Foreigners' Affairs and the Asylum Sector to register and process expressions of intention and asylum claims within a timely manner as well as sufficient access to interpreters to ensure that information is accurately recorded. It is also important to stress that vulnerability screening should be routinely undertaken at the earliest possible opportunity and throughout the asylum procedure. This is particularly important to ensure that vulnerable women who have experienced gender-based violence are identified in a timely manner to inform decisions regarding access to appropriate accommodation and specialist support services and to ensure the application of procedural safeguards. In the absence of vital information obtained through a proper vulnerability assessment, the guarantees contained within the Law on Asylum regarding priority and special attention being afforded to vulnerable individuals are ineffective. The timely identification of vulnerability would also enable the Asylum Sector to introduce and implement further procedural adjustments for vulnerable women who are victims of gender-based violence designed to support their disclosure during their interviews, such as regular breaks, adapted questions to reduce the risk of traumatising and the possibility of being accompanied in the interview by a lawyer or support worker. GREVIO was informed during the evaluation visit that the International Organization for Migration are in the process of developing a vulnerability screening procedure, which it welcomes.

224. See the Institution of Human Rights Ombudsman of Bosnia and Herzegovina, Special report on [the] situation in the area of migrations in Bosnia and Herzegovina, November 2018, p. 60.

225. These issues have been raised as part of the proposed reforms to the By-law on Asylum.

226. See Article 2(ii) of the Law on Asylum; vulnerable groups include "victims of trafficking, victims of torture, rape or other psychological, physical and sexual violence, such as victims of female genital mutilation".

227. See Article 29, paragraph 3, of the Law on Asylum.

228. See Article 29, paragraph 1e, of the Law on Asylum.

229. See Article 29, paragraph 1d, of the Law on Asylum.

332. **GREVIO strongly encourages the authorities of Bosnia and Herzegovina to take measures such as the development of guidelines and the training of all officers in contact with migrants to ensure that gender-based violence is detected and that a gender-sensitive interpretation is applied to all grounds of persecution provided for in Article 1.A.2 of the 1951 Convention relating to the Status of Refugees. Progress in this area should be measured by collecting relevant administrative data on asylum applications raising issues of gender-based violence. It further strongly encourages the authorities to:**

- a. introduce/support a vulnerability screening procedure and implement it across all Field Offices of the Service for Foreigners' Affairs and reception centres; vulnerability screening should be routinely undertaken at the earliest possible opportunity and throughout the asylum procedure;**
- b. improve migrant women's access to information on the asylum determination procedure and their right to ask for asylum on grounds of gender-based violence by providing written information and relevant forms in all relevant languages;**
- c. take measures to address and remove the significant delays in the registration and processing of asylum claims;**
- d. provide for additional gender-sensitive safeguards, notably: ensuring regular breaks; adapting questions to reduce the risk of traumatising; and allowing the possibility of being accompanied in the interview by a lawyer.**

2. Accommodation

333. As noted above, Republika Srpska has not set up any reception centres for asylum seekers/migrants and does not provide any accommodation or support services in its territory. The extent of the involvement from the Republika Srpska is to provide transportation to any migrants or asylum seekers they encounter away from their territory and into the territory of the Federation of Bosnia and Herzegovina. In the Federation of Bosnia and Herzegovina, once an asylum seeker has expressed an intention to seek asylum, s/he is eligible to access reception centre accommodation allocated by the Ministry of Security.²³⁰ The Asylum Sector bears the overall responsibility for ensuring access to reception accommodation, healthcare and psychosocial support for asylum seekers, although these services are often delivered through partnerships with international organisations.

334. Within Bosnia and Herzegovina there are currently two government-run reception centres; Delijas near Sarajevo and Salakovac near Mostar. A further five temporary reception centres are run by the IOM in co-ordination with the Service for Foreigners' Affairs.²³¹ Occupancy of these centres varies greatly during the course of the year as a result of migration patterns in relation to onward travel. Many centres are empty in the summer but during the winter months there is insufficient capacity to accommodate all eligible persons.

335. GREVIO commends the valuable work being undertaken by NGOs and international organisations in providing vital services such as psychosocial support, interpretation services and recreational activities to vulnerable women and victims of gender-based violence and domestic violence in the reception centres. During a visit to Ušivak Reception Centre (a mixed centre), GREVIO observed examples of excellent practice in relation to the provision of specialist support services delivered by international organisations as well as examples of gender-sensitive procedures designed to protect and support women and girls. Families with children and single women sleep in containers that are separated from single men. The Danish Refugee Council is responsible for on-site medical assistance with the ability to make referrals to local hospitals for specialist services and the United Nations Population Fund (UNFPA) organises weekly gynaecology appointments. If concerns of gender-based violence are identified in the initial health screening, a referral is made to the protection team which includes representatives of UNFPA and the Centre for Social Work.

230. See Article 34, paragraph 2, of the Law on Asylum.

231. According to data provided by the Ministry of Security, the Temporary Reception Centres have the following capacity: Ušivak (800), Blažuj (2 400), Borići (580), Miral (700) and Lipa (720; when it is reopened following a recent fire).

Covid-19 vaccinations have recently been made available to Ušivak residents and there are strict procedures in place to isolate those with suspected or confirmed symptoms. Other international organisations such as UNICEF also manage a specialist mother and baby unit. Moreover, there is a separate and dedicated play, shower and laundry space for mothers and babies. Many women have participated in fashion workshops that teach tailoring and design and a dedicated brand for handmade products has been established entitled “Made in Bosnia and Herzegovina by People on the Move”. UNFPA organises empowerment sessions and provides psychosocial support to women and girls, particularly to victims of gender-based violence. Fortnightly psychosocial co-ordinating and case-management meetings take place with relevant support workers. The NGO Vasa Prava further provides free legal advice and representation to asylum seekers. GREVIO was particularly impressed to learn that all asylum-seeking children in Ušivak aged between 6 and 16 are enrolled in and attend the local school and are appointed a legal guardian (by UNICEF working in collaboration with the Centre for Social Work).

336. UNFPA and IOM deliver specialist training to reception centre staff, including training on gender-based violence. In Ušivak there are operational guidelines relating to gender-based violence, however it is not clear whether these are universally applied in all temporary reception centres.

337. Despite this example of good practice, it is unclear how representative Ušivak Reception Centre is of conditions elsewhere. GREVIO has received reports of overcrowded, unsanitary and unsafe conditions within other reception centres and reports of a significant number of asylum seekers sleeping rough on the streets, despite efforts undertaken by the Ministry of Security to relocate rough sleepers into temporary reception centres. Reports have also been received of women and girls being placed in mixed reception centres that lack adequate segregation of spaces and of incidents of violence against women. Difficulty in accessing specialist support services, including shelters or services provided by Centres for Social Work have also been discussed.²³² During the evaluation visit, the Asylum Sector confirmed that there are no universally applied protocols or guidelines relevant to the prevention of violence against women in reception centres. It is understood that the Council of Ministers is currently considering drafting a new rule book containing standard operating procedures for reception centres, however its application may be limited to those centres managed solely by the Ministry of Security and would not be universally applicable. GREVIO underscores that it is imperative that all women and girls have access to safe, separated and sanitary accommodation and access to specialist support services, particularly given the absence of any women-only temporary reception centre.

338. **GREVIO invites the authorities of Bosnia and Herzegovina to ensure:**

- a. access to adequate and safe accommodation for all women and girls during the asylum procedure;**
- b. that universal gender-sensitive standards are implemented in all reception centres.**

C. Non-refoulement (Article 61)

339. Article 61 of the convention requires states parties to respect the principle of *non-refoulement* in relation to victims of gender-based violence (regardless of their immigration status) who may fear persecution if returned. States must not expel or return an asylum seeker or refugee to any country where their life or freedom would be threatened. Equally, states must not prevent asylum seekers from accessing their territory or crossing borders and must refrain from any practices that might be tantamount to indirect *refoulement*.

340. GREVIO welcomes the domestic law provisions that enshrine the principle of *non-refoulement*, namely Articles 6 and 7 of the Law on Asylum and Article 109 of the Law on Aliens.

341. In relation to indirect *refoulement*, GREVIO is aware of reports of violent pushbacks at the Bosnia and Herzegovina/Croatian border, perpetrated by Croatian officials. GREVIO condemns this

²³². See in this respect Chapter IV, Article 20.

practice and encourages Bosnia and Herzegovina to pursue all avenues of dialogue and action with its regional neighbours and the EU to monitor and resolve these occurrences.

342. On a domestic level, GREVIO recalls the importance of the *non-refoulement* provisions within domestic law being effectively implemented. GREVIO has received concerns from civil society that Bosnia and Herzegovina's criminal legislation pertaining to extradition is inconsistent with its obligations to respect the *non-refoulement* principle. In particular, that the Ministry of Justice and domestic courts apply the Law on International Legal Assistance in Criminal Matters in such a way as to preclude an individual from protection from *non-refoulement* if their request for asylum post-dates the extradition request.

343. **GREVIO invites the authorities of Bosnia and Herzegovina to review the Law on International Legal Assistance in Criminal Matters to ensure that the principle of *non-refoulement* is respected in full, in line with Article 61 of the Istanbul Convention.**

Concluding remarks

344. Bosnia and Herzegovina has taken a range of measures which attest to the political commitment to move towards the Istanbul Convention's full implementation, which GREVIO welcomes. In the area of data collection, the authorities have introduced obligations on the collection of data on domestic violence under their respective Laws on the Protection of Domestic Violence and have ensured that such data is periodically made available through dedicated public reports. Strides forward have also been made in respect of training of professionals, as continuous training on domestic violence is now foreseen as a legal obligation for judges and prosecutors in parts of the country. Moreover, important training on multi-sectoral co-operation and a co-ordinated response to violence against women and on the standards of the Istanbul Convention has been carried out for different categories of professionals. It is also important to recall that officially recognised victims of conflict-related sexual violence benefit from a monthly pension and welfare rights, which GREVIO also welcomes.

345. While the authorities in Bosnia and Herzegovina have taken important steps to adopt and implement policies to prevent and combat domestic violence both at the state, entity and cantonal levels, the challenges that stem from the multi-layered political and administrative articulation of its institutions, however, do strongly impact on the coherence, comprehensiveness and the co-ordination of such policies. This report highlights how victims, depending on the entity and/or canton they live in, benefit from different levels of prevention, protection and prosecution of violence against women. It further shows how following the expiration of the Framework Strategy, there no longer exists a comprehensive policy at the state level which can assess and level the playing field in the protection afforded to victims of violence against women across the country. For this reason, in this report, GREVIO has called on the authorities to carry out an independent comparative analysis focused on identifying promising practices and harmonising the policies in the area of violence against women, as well as identifying any overlap between the existing policies in this area.

346. Likewise, GREVIO has also identified a risk of overlap and/or gaps with regards to co-ordination, monitoring and implementation of policies in the area of domestic violence due to the existence of a large number of bodies that are competent to implement the various strategies at state, entity and cantonal levels. Because of the risk of insufficient implementation of the relevant strategies and the ineffective functioning of some of these co-ordination bodies, this report also identifies the measures to be taken in this regard.

347. The report also shows that the current legal framework and practice on custody and visitation rights after domestic violence in the two entities and in Brcko District do not comply with the convention on many fronts. In addition to requiring mandatory mediation prior to filing for divorce, without any exception being made for cases of domestic violence, incidents of violence against the non-abusive parent and the witnessing thereof by the child are not foreseen as a legal criterion to be taken into account in decisions on custody and visitation and when assessing the best interest of the child. Moreover, GREVIO has observed that Centres for Social Work and courts overwhelmingly interpret the best interest of the child as requiring joint custody and having contact with both parents, including in cases of domestic violence.

348. With the present report, GREVIO wishes to support the authorities of Bosnia and Herzegovina in reaching higher levels of compliance with the Istanbul Convention in the areas identified and invites them to keep it regularly informed of developments with regard to the implementation of the Istanbul Convention. GREVIO looks forward to continuing its fruitful co-operation with the authorities of Bosnia and Herzegovina.

349. With a view to facilitating the implementation of its suggestions and proposals, GREVIO requests the national authorities to translate this report into their official national language(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 GREVIO

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

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

1. GREVIO urges the authorities to enhance the implementation of the Istanbul Convention in relation to all forms of violence against women, beyond domestic violence, which are currently less addressed by policies, programmes and support services with due regard to their gendered nature, including, rape and sexual violence, sexual harassment, FGM, forced marriage, forced abortion, forced sterilisation and stalking (paragraph 12).
2. GREVIO furthermore recalls that Article 2, paragraph 1, of the Istanbul Convention affirms that all forms of violence against women, including domestic violence, affect women disproportionately and are a form of discrimination against women. It therefore strongly encourages the authorities to ensure that both national legislation and policies reflect this fundamental principle of the Istanbul Convention (paragraph 13).
3. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to align more closely to the Istanbul Convention the definitions of domestic violence and gender-based violence in use, as well as to harmonise the legal definitions of domestic violence across all areas of law, in order to improve its application (paragraph 14).

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

2. Intersectional discrimination

4. GREVIO strongly encourage the authorities of Bosnia and Herzegovina to (paragraph 22):
 - a. take measures to ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3, including on the basis of place of residence or on the basis of residence status, particularly when it comes to ensuring access to specialist support services;
 - b. promote research and ensure the collection of data on gender-based violence affecting groups of women who are, or may be exposed to, intersectional discrimination, including women with disabilities, LGBTI women and migrant women, so as to assess the prevalence of the various forms of violence and access by such groups to support services, protective measures and justice;
 - c. integrate the perspectives and needs of such groups into the design, implementation, monitoring and evaluation of comprehensive and co-ordinated policies for preventing and combating violence against women, in partnership with the specialist associations concerned and by including representatives of these associations in these processes.

II. Integrated policies and data collection

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

5. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to conduct an independent comparative analysis focused on identifying promising practices and harmonising the policies in the area of violence against women, as well as identifying any overlap between the

existing policies in this area. It further strongly encourages the development of long-term co-ordinated policies (paragraph 35):

- a. that address all forms of violence against women, including domestic violence where the partners or former partners do not or did not live under the same roof;
- b. that fully reflect the specific needs of women who are exposed to intersectional discrimination;
- c. in all parts of the territory of Bosnia and Herzegovina, including Brčko District.

Co-ordination in the design and implementation of such policies should be ensured with all relevant parties, at all different levels of government, including state-level bodies and civil society. Civil society should encompass NGOs that represent women who are subject to intersectional discrimination.

B. Financial resources (Article 8)

6. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to ensure appropriate, sustainable and long-term financial resources for all of the policies, measures and legislation at state, entity and local level aimed at preventing and combating violence against women and domestic violence and for the institutions and entities mandated for their implementation (paragraph 42).

7. GREVIO urges the authorities of Bosnia and Herzegovina to ensure sustainable funding levels for women's NGOs that run specialist support services for women victims of all forms of violence or who assist them, in all parts of the territory. Such suitable funding opportunities should be guaranteed, for example, through long-term grants based on transparent procurement procedures. GREVIO further encourages the authorities to valorise, tap into and privilege the extensive victim-centred expertise of NGOs and ensure that civil society is not put in a position whereby it needs to compete for funds with institutional or international bodies (paragraph 43).

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

8. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to (paragraph 47):

- a. ensure, *inter alia*, through adequate financing, an independent role for women's NGOs in providing essential support services to women victims of all forms of violence against women, in all parts of the country;
- b. establish at different levels of government consultative dialogues with women's rights organisations in order to incorporate their opinions and experiences into the design of policies and measures to prevent and combat all forms of violence against women.

D. Co-ordinating body (Article 10)

9. GREVIO strongly encourages the authorities to ensure, on the one hand, the co-ordination and implementation of policies and measures in relation to *all* forms of violence against women, and on the other hand, their independent monitoring and evaluation, in order to ensure objectivity in the evaluation of policies at all levels of the territory (paragraph 55).

10. GREVIO urges the authorities of Bosnia and Herzegovina to streamline the plethora of existing co-ordination bodies, and to strengthen the principal co-ordination bodies (notably the Gender Equality Agency of Bosnia and Herzegovina, the Gender Centres in the two entities and the Republika Srpska Ministry for Family Youth and Sport). These bodies should be resourced with sufficient and stable human and financial resources. GREVIO further urges the authorities to ensure overall co-ordination and information exchange between such bodies, so that the standards of the

Istanbul Convention are complied with in all parts of the territory, in close consultation with relevant NGOs and civil society (paragraph 56).

E. Data collection and research (Article 11)

1. Administrative data collection

11. GREVIO urges the authorities of Bosnia and Herzegovina to regularly and systematically collect administrative data for all forms of violence against women at all stages of the criminal justice process (from reporting, to investigation, to the opening of criminal proceedings and their outcome), disaggregated by sex and age of both the victim and the perpetrator, type of violence and the relationship of the perpetrator to the victim, in the whole territory of Bosnia and Herzegovina. Such data should be collected by all sectors of the administration, including law-enforcement agencies, prosecutors' offices, the judiciary, social services, the public health sector and other relevant public services, in order to analyse the pathway of cases through the criminal justice system, the levels of conviction, attrition and recidivism, and the identification of gaps in the response of institutions. GREVIO further urges the authorities of Bosnia and Herzegovina to train and raise the awareness of the staff working in these administrations of the importance of submitting the required data to those charged with the task of collecting it and analysing it (paragraph 67).

12. In addition, data on the following should be collected (paragraph 68):

- a. the number of protection orders issued in the context of civil proceedings and the number of protection orders issued in the context of criminal proceedings, their violations and the sanctions imposed as a result of such violations in cases of all forms of violence against women and the number of cases where the woman was revictimised or murdered in spite of such orders;
- b. the number of decisions on custody/visitation/residence of children that have expressly taken into account reports of domestic violence;
- c. the number of cases in which women victims of violence have claimed and have obtained compensation either from the perpetrator or the state for offences covered by the Istanbul Convention;
- d. the number of victims of war-related sexual violence who have requested, been granted or been denied the status of civil victims of war and have therefore benefited from the rights stemming from such status, including receiving compensation.

13. GREVIO encourages the authorities of Bosnia and Herzegovina to introduce a data-collection system that records asylum claims on the basis of gender-related persecution, the grounds for persecution considered and the outcome of the claims (paragraph 70).

2. Populations-based surveys

14. GREVIO invites the authorities in Bosnia and Herzegovina to carry out population-based surveys on the prevalence of forms of violence against women covered by the scope of the Istanbul Convention that so far have not been explored, including those that affect particularly disadvantaged groups of women, at regular intervals. It further encourages the authorities to ensure that harmonised and comparable methodologies are applied in order to ensure the comparability of the results (paragraph 75).

3. Research

15. GREVIO encourages the authorities of Bosnia and Herzegovina to step up efforts to support research, including financially (paragraph 80):

- a. on all manifestations of violence against women, including those that are not currently explored, and on the effects that witnessing domestic violence has on children;

- b. that aims to evaluate existing policies and legislative measures and assess their level of implementation.

II. Prevention

A. Awareness raising (Article 13)

16. GREVIO urges the authorities of Bosnia and Herzegovina to promote on a regular basis long-term awareness-raising campaigns to increase awareness among the population of the different manifestations of all forms of violence covered by the scope of the Istanbul Convention, beyond domestic violence, including in co-operation with women's rights organisations, in all parts of the territory, including Brčko District. These campaigns should address underlying patriarchal and stereotypical attitudes towards women and should portray a gendered understanding of violence against women. The authorities should in particular conduct targeted awareness-raising campaigns on violence against women for women at the intersection of discrimination in order to provide them with information on their rights and the support service available to them (paragraph 88)

B. Education (Article 14)

17. GREVIO encourages the authorities of Bosnia and Herzegovina, in full respect of its constitutional framework, to explore a common baseline approach on education policies on the topics covered by Article 14 of the Istanbul Convention, by tapping into existing co-operation structures to discuss common aims. GREVIO further encourages the authorities to introduce at all levels of education and in all parts of Bosnia and Herzegovina, mandatory courses and teaching material on the promotion of equality between women and men, positive gender relations, mutual respect, non-violent conflict resolution in interpersonal relationships, the right to personal integrity and on violence against women, with a view to preventing gender-based violence against women and promoting equality between women and men. In parallel, teaching curriculums and textbooks should be reviewed with a view to removing negative stereotypes of women and girls (paragraph 94).

C. Training of professionals (Article 15)

18. GREVIO urges the authorities of Bosnia and Herzegovina to introduce systematic and mandatory initial and in-service training on all forms of violence against women for the relevant professionals who deal with victims or perpetrators, particularly, law-enforcement officers, prosecutors and judges, staff in Centres for Social Work and medical personnel, in line with the requirements of the Istanbul Convention. Particular attention should be paid to overcoming entrenched stereotypes and a patriarchal culture and to ensuring the continuity and sustainability of such training, so that it is not project-based or dependent on donor funding. Such training should be supported by protocols and guidelines that set the standards professionals are expected to follow in their respective fields (paragraph 105).

19. GREVIO, in addition, invites the authorities of Bosnia and Herzegovina to further develop mandatory initial and in-service training for teachers on the different forms of violence against women and on gender equality, so that they have the tools to teach these subjects adequately and so that they can detect girls and boys at risk and refer them to appropriate mechanisms of support and protection (paragraph 106).

D. Preventive intervention and treatment programmes (Article 16)**1. Programmes for perpetrators of domestic violence**

20. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to ensure that perpetrator programmes focus on psychosocial treatment. Such treatment should be centred on the examination of perpetrators' attitudes and beliefs towards women and place the responsibility upon them for the violence perpetrated, with a view to achieving lasting behavioural change. GREVIO further strongly encourages the authorities to (paragraph 111):

- a. ensure that such programmes guarantee the safety of, support for and the human rights of victims and are set up in close co-ordination with specialist support services for victims;
- b. develop common minimum standards to apply to perpetrator programmes, in line with the principles of the Istanbul Convention and recognised best practices;
- c. raise the awareness of criminal justice actors on the importance played by perpetrator programmes and remove any obstacle of a financial or other nature which de facto hinders court referrals;
- d. ensure the training of the staff mandated to implement such programmes;
- e. conduct an independent evaluation of perpetrator programmes, with the aim of assessing whether the intended impact has been achieved.

2. Programmes for sex offenders

21. GREVIO urges the authorities of Bosnia and Herzegovina to take steps to comply with the requirements of Article 16, paragraph 2, of the Istanbul Convention concerning the establishment of treatment programmes for sex offenders, taking due account of best practices developed internationally and guaranteeing a human rights-based approach (paragraph 113).

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

22. GREVIO invites the authorities of Bosnia and Herzegovina to promote the involvement of the private sector, the communication technology sector and the media in the development and implementation of policies to prevent and combat all forms of violence against women (paragraph 118).

IV. Protection and support**A. General obligations (Article 18)**

23. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to adopt the necessary measures to ensure that multi-agency co-operation under the local/cantonal co-ordination mechanisms extends to victims of all forms of violence against women. Such a multi-agency co-operation mechanism should encompass the participation of civil society and be based on a gendered understanding of violence against women and domestic violence and on the empowerment and economic independence of victims. It further encourages the authorities to ensure that protection and support services are made available as much as possible on the same premises (paragraph 125).

B. Information (Article 19)

24. GREVIO invites the authorities of Bosnia and Herzegovina to ensure the wide dissemination of information on the support services and legal measures available to victims of domestic violence and other forms of violence against women, including through posters, leaflets and a more proactive approach by professionals in the relevant institutions. GREVIO further encourages the authorities to

take additional steps aimed at reaching out to hard-to-reach groups such as Roma women and women living in rural areas, and providing them with the necessary information; to develop material adapted to the needs of women with disabilities; and to ensure that interpreters are made available for asylum-seeking/migrant women at police stations or other first points of entry for victims of violence (paragraph 128).

C. General support services (Article 20)

2. Healthcare services

25. GREVIO urges the authorities in Bosnia and Herzegovina to provide adequate human and financial resources to allow the Centres for Social Work to discharge their responsibilities in an effective manner and to provide training for social workers on the gendered nature of violence against women, including domestic violence, by, for example, appointing specialised social workers to work in this area. GREVIO further urges the authorities to remove the system of mandatory referrals from Centres for Social Work to domestic violence shelters, including by offering women victims of domestic violence the possibility to self-refer (paragraph 137).

26. Furthermore, GREVIO strongly encourages the authorities of Bosnia and Herzegovina to remove any legal barriers to accessing support services provided by the Centres for Social Work in order to enable all women victims of domestic violence and other forms of violence to benefit from the services they provide as one of the entry points for protection and support (paragraph 138).

27. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to ensure adequate and sustained training of health and medical personnel on all forms of violence against women and the related protocols and guidelines that have been developed in this respect. Adequate health protocols, standards and training should in particular be developed to address female genital mutilation (FGM) (paragraph 139).

D. Specialist support services (Article 22)

28. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to support the development of alternative low-threshold support services for all forms of violence against women, beyond domestic violence, based on a victim-centred and empowering approach, in addition to state-run services, relying on the long-standing expertise and experience of women's NGOs (paragraph 143).

E. Shelters (Article 23)

29. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to (paragraph 151):

- a. increase the number and capacity of appropriate, easily accessible and specialist shelters providing safe accommodation in relation to all forms of violence covered by the Istanbul Convention;
- b. review existing laws and regulations and remove nationality and residency requirements preventing access to shelters for certain groups of victims, including victims who do not reside in the specific canton/entity and asylum-seeking and migrant women;
- c. ensure that shelters can accommodate women with special needs, including women with disabilities;
- d. develop official minimum quality standards that shelters must meet, where these do not already exist, based on a gendered understanding of violence against women, the empowerment of victims and a victim-centred and human rights-based approach;

- e. ensure the sustainable funding of shelters, which takes into account not only the number of victims benefiting from accommodation but also the fixed costs associated with running the shelter and the salaries of the professionals working therein.

30. GREVIO further invites the authorities to develop guidelines and protocols on how to adapt admission procedures and the delivery of services in times of pandemic or other crises, so as to ensure the continuity of support services for victims of gender-based violence (paragraph 152).

F. Telephone helplines (Article 24)

31. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to ensure that one or more telephone helplines providing support to victims of all forms of violence against women operate and are reachable throughout the whole territory, round the clock, completely free of charge and with due regard to the language barrier that migrant women and other callers may face, as well as with due respect for the confidentiality and anonymity of all callers. GREVIO further strongly encourages the authorities to provide long-term funding for the continuous operation of the telephone helplines (paragraph 158).

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

32. GREVIO urges the authorities of Bosnia and Herzegovina to set up rape crisis centres and/or sexual violence referral centres that provide immediate medical care, trauma support, forensic examinations and psychological assistance by qualified professionals, in line with the standards set by the Istanbul Convention. In the interim, GREVIO urges the authorities of Bosnia and Herzegovina to establish a clear pathway for victims of sexual violence/rape, ensure that forensic examinations are carried out swiftly, without the need for a court order, and provide victims with sufficient trauma care, psychological counselling and legal assistance by trained and specialised staff (paragraph 165).

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

33. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to provide children who witness domestic violence with long-term, tailored psychological counselling by staff trained on the impact on children of witnessing domestic violence. It further strongly encourages the authorities to ensure their safety in conditions that allow them to remain with the non-abusive parent, preferably in their own home (paragraph 171).

I. Reporting by professionals (Article 28)

34. Recalling the principle of women's empowerment mainstreamed throughout the Istanbul Convention, GREVIO strongly encourages the authorities of Bosnia and Herzegovina to ensure that the duty to report imposed on professionals is tempered by full and sensitive information being provided to the victim to allow her to make an informed decision herself and maintain autonomy. To this end, GREVIO strongly encourages the authorities to review the obligation for professionals, including those operating in NGOs, to report cases of violence against women and their children, other than in situations in which there are reasonable grounds to believe that a serious act of violence covered by the scope of the convention has been committed and further serious acts are to be expected. This may well require making the obligation to report contingent upon the prior consent of the victim, unless the victim is a child or is unable to protect her/himself because of disabilities (paragraph 174).

V. Substantive law

A. Civil law

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

35. GREVIO invites the authorities of Bosnia and Herzegovina to ensure that women victims of any of the forms of violence covered by the Istanbul Convention are informed of the civil remedies available against state authorities who failed in their duty to take the necessary preventive or protective measures and to examine and address any barriers to the use of the existing remedies. GREVIO invites the authorities to compile relevant statistics on the number of claims made against the authorities and the number of remedies granted as a result (paragraph 181).

2. Compensation (Article 30)

36. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to adopt measures to facilitate and guarantee access to compensation for victims of all forms of violence against women, including victims of war-related sexual violence, in particular by (paragraph 188):

- a. ensuring that victims are systematically informed of their right to claim compensation and the procedures to be followed;
- b. ensuring that in the context of plea agreements in domestic violence proceedings, the victim is always given the opportunity to claim compensation;
- c. taking legislative or other measures to ensure that compensation can be claimed and obtained in the context of criminal procedures and that the victim is not systematically referred to claim compensation in the context of civil proceedings, which engenders a range of additional financial and administrative hurdles that hinder securing such compensation and entails a further risk of secondary victimisation;
- d. ensuring the fair and adequate compensation of victims of war-related sexual violence and ensuring that, where warranted, their identity is not disclosed;
- e. setting up a state compensation scheme accessible to victims, including victims of conflict-related sexual violence;
- f. monitoring progress in this area, by keeping data on the numbers of compensation claims filed by victims and their outcome.

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

37. GREVIO urges the authorities of Bosnia and Herzegovina to take a number of priority actions in the area of custody and visitation rights to ensure the safety of victims and their children and to break the cycle of power and abuse exercised by the perpetrator, and in particular to (paragraph 195):

- a. provide in law the exemption from mandatory mediation in proceedings dealing with separation, custody and visitation rights in cases of violence, including domestic violence;
- b. explicitly provide in law that incidents of domestic violence against the non-abusive carer must be taken into account in the determination of custody and visitation rights;
- c. ensure that family courts take into account any episodes of violence, including by consulting with all relevant professionals;
- d. ensure that all relevant professionals, especially staff from the Centres for Social Work and judges in family courts, are trained in the area of domestic violence and equipped with guidelines to enable them to discharge their obligation to ensure the safety of a victim and her children in any decisions taken;
- e. ensure that staff supervising visits between children and the abusive parent are trained in violence against women and that the infrastructure employed for supervised visits guarantee the physical safety and psychological well-being of the victim and her children;

- f. review the relevant legislation with respect to provisions that allow for the loss of custody on grounds of failure to protect the child and ensure that in practice children are not removed from non-abusive parents and placed in foster care.

4. Civil consequences of forced marriages (Article 32)

38. GREVIO invites the authorities of Bosnia and Herzegovina to align more closely the provisions on civil consequences of forced marriages with the standards of the Istanbul Convention (paragraph 199).

B. Criminal law

39. GREVIO encourages the authorities of Bosnia and Herzegovina to (paragraph 207):

- a. criminalise psychological violence perpetrated against a current or former partner, irrespective of whether the perpetrator shares or has shared the same residence with the victim or whether they have a child together.
- b. take measures to investigate, prosecute and punish acts of psychological violence in an effective manner, including by stepping up training of law enforcement and criminal justice actors on the harm caused by psychological violence and the importance of its punishment.

2. Stalking (Article 34)

40. GREVIO encourages the authorities of Bosnia and Herzegovina to amend the relevant legislation at national, entity or district level in order to adequately criminalise stalking when it is perpetrated outside the family as well as in the family/domestic context, specifying its constituent elements, in line with Article 34 of the Istanbul Convention. It further encourages the authorities to (paragraph 214):

- a. conduct specialised training of law-enforcement officers, prosecutors and judges on the gendered and serious nature of stalking, including post-separation stalking and stalking via digital means and technology, in order to ensure the effective criminalisation in practice and the application of proportionate and dissuasive sanctions;
- b. collect data on the number of cases of stalking, including on its online dimension, to identify the magnitude of this phenomenon and take adequate measures.

4. Sexual violence, including rape (Article 36)

41. GREVIO urges the authorities of Bosnia and Herzegovina to (paragraph 223):

- a. amend the sexual offences provided under the national, entity-level and Brčko District criminal codes to fully incorporate the notion of lack of freely given consent as required by Article 36 of the Istanbul Convention and to specify the type of non-consensual sexual acts that are criminalised, in line with Article 36, paragraph 1a, b and c, of the convention;
- b. adopt the necessary measures to ensure that any offence of sexual violence applies between former or current spouses or partners;
- c. ensure proportionate and dissuasive sanctions for all sexual acts without the consent of the victim, irrespective of personal characteristics.

5. Forced marriage (Article 37)

42. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to ensure that the intentional conduct of forcing an adult to enter into a marriage and the intentional conduct of luring an adult or a child to the territory of another state with the purpose of forcing this person into a

marriage are criminalised in all of the jurisdictions in Bosnia and Herzegovina, as required by Article 37, paragraph 2, of the Istanbul Convention (paragraph 227).

43. GREVIO strongly encourages the authorities in Bosnia and Herzegovina to take appropriate measures, including issuing protocols and training to the police, prosecutors, judges and education professionals, to ensure that traditional forced marriages of both children and adults do not remain unpunished (paragraph 228).

6. Female genital mutilation (Article 38)

44. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to introduce into their criminal legislation and in all jurisdictions an offence covering all forms of female genital mutilation (FGM) as defined in Article 38 of the Istanbul Convention, including coercing or procuring an adult woman or a girl to undergo any acts of FGM and inciting a girl to undergo any acts of FGM (paragraph 231).

7. Forced abortion and forced sterilisation (Article 39)

45. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to (paragraph 235):

- a. align their legislation with Article 39 of the Istanbul Convention, thereby introducing provisions that criminalise the performing of an abortion and the performing of surgery which has the purpose or effect of terminating a woman's capacity to reproduce, without her prior and informed consent or understanding of the procedure;
- b. ensure that legal guardians and medical professionals respect, under all circumstances, the need to act upon and ensure respect for women's informed and free consent to the performance of medical procedures such as abortion and sterilisation, in particular where women with disabilities in residential institutions are concerned.

8. Sexual harassment (Article 40)

46. GREVIO encourages the authorities of Bosnia and Herzegovina to bring the existing definitions of sexual harassment closer in line with Article 40 of the Istanbul Convention, ensuring that non-verbal conduct of a sexual nature falls within the scope of the provision and ensuring that sexual harassment is sanctioned in all cases, irrespective of whom it is perpetrated against (paragraph 240).

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

47. GREVIO encourages the authorities in Bosnia and Herzegovina to take legislative measures to clarify that a victim's supposed transgression of cultural, religious, social or traditional norms or customs of appropriate behaviour shall not be regarded as a justification for such acts and as a ground for applying more lenient sanctions (paragraph 243).

10. Sanctions and measures (Article 45)

48. GREVIO urges the authorities of Bosnia and Herzegovina, inter alia, to ensure – through legislative measures and the effective training of members of the judiciary and prosecution services – that sentences and measures imposed for domestic violence and the different forms of violence against women are effective, proportionate and dissuasive, as required by Article 45 of the Istanbul Convention (paragraph 247).

11. Aggravating circumstances (Article 46)

49. GREVIO encourages the authorities of Bosnia and Herzegovina to take the necessary measures to ensure that in all jurisdictions the aggravating circumstances listed under Article 46 of

the Istanbul Convention can be applied in the determination of a sentence in relation to all forms of violence against women (paragraph 251).

50. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to effectively train judges on violence against women, including a gender-based understanding of the phenomenon and the importance of applying the aggravating circumstances provided by the law when there are factors that justify doing so (paragraph 251).

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

51. GREVIO urges the authorities of Bosnia and Herzegovina to take legislative or other measures to prohibit mandatory alternative dispute resolution processes in connection with any legal proceedings of relevance to women victims of the forms of violence against women covered by the Istanbul Convention, including in divorce and separation proceedings and labour disputes that concern sexual harassment (paragraph 255).

VI. Investigation, prosecution, procedural law and protective measures

A. General obligations, immediate response, prevention and protection (Articles 49 and 50)

2. Effective investigation and prosecution

52. With a view to reducing secondary victimisation and stemming under-reporting of cases of violence against women and domestic violence, GREVIO urges the authorities of Bosnia and Herzegovina to provide initial and in-service training, guidelines and protocols for all police officers on all forms of violence against women, including on (paragraph 275):

- a. how to receive such reports, including when women who are in a particularly vulnerable situation are concerned, such as women with disabilities;
- b. how to respond to call-outs made by victims;
- c. the concept of power and control and the need to adequately record patterns of abuse in the context of domestic violence;
- d. how to interview victims in a victim-centred manner;
- e. the different types of evidence that should systematically be collected, beyond victims' testimony.

53. GREVIO further urges the authorities to set up adequately staffed dedicated units to receive, investigate and prosecute cases of violence against women and domestic violence (paragraph 276).

54. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to take all necessary measures to ensure sustained prosecution of conflict-related sexual violence and to ensure through training or guidelines that sanctions imposed for conflict-related sexual violence are proportionate and dissuasive (paragraph 277).

55. GREVIO urges the authorities of Bosnia and Herzegovina to carry out initial and in-service training of prosecutors and the judiciary on all forms of violence against women underpinned by a truly gendered understanding of this violence with a view to stemming the overwhelming use of plea bargaining, suspended sentences and the imposition of sentences that are not proportionate or dissuasive (paragraph 278).

B. Risk assessment and risk management (Article 51)

56. GREVIO urges the authorities of Bosnia and Herzegovina to take legislative and other measures to ensure that risk assessment and management are systematically carried out in relation to all forms of violence against women covered by the Istanbul Convention using standardised, evidence-based risk-assessment tools that, *inter alia*, take into account whether the victim has recently filed for separation or divorce or has otherwise left the perpetrator. It further urges the authorities to ensure that risk assessments (paragraph 285):

- a. are systematically carried out for the victims' children and take into account any threat made directly to them or pertaining to their removal from the victim;
- b. are repeated at all the relevant stages of proceedings;
- c. involve all relevant stakeholders beyond law-enforcement authorities and are a central element of a co-ordinated multi-agency response;
- d. lead to the development of a safety plan for victims.

57. GREVIO encourages the authorities to introduce a system, such as a domestic homicide review mechanism, to analyse all cases of gender-based killings of women, with the aim of preventing them in the future, preserving the safety of women and holding to account both the perpetrator and the multiple agencies that come into contact with the parties (paragraph 286).

C. Emergency barring orders and restraining or protection orders (Articles 52 and 53)

58. GREVIO urges the authorities of Bosnia and Herzegovina to take legislative and or other necessary measures to ensure that (paragraph 296):

- a. emergency barring orders are issued swiftly with immediate effect pending the approval of the competent court, to avert situations of imminent danger, and that they are extended to children in need of protection;
- b. no gap in the protection of the victim arises between the expiry of any emergency barring order and the imposition of a restraining or protection order;
- c. protection orders are available in relation to all forms of violence covered by the scope of the Istanbul Convention, beyond intimate partner violence;
- d. protection orders are available *ex parte*, irrespective of (or in addition) to criminal or other legal proceedings and with immediate effect;
- e. law-enforcement officers are robustly trained on the role and importance of emergency barring and protection orders in placing victims out of harm's way;
- f. an efficient centralised system is set up to record when protection orders are issued as well as any breaches of such orders and the sanctions imposed, if any, as a result of such breaches;
- g. there are sufficient resources and means to monitor and enforce protection orders, including through protocols/regulation and technical means such as electronic tagging;
- h. proportionate and dissuasive sanctions for breaching protection orders are effectively applied in practice.

D. Ex parte and ex officio proceedings (Article 55)

2. Victim support in legal proceedings

59. GREVIO invites the authorities of Bosnia and Herzegovina to ensure the possibility for governmental and non-governmental organisations to assist and/or support victims, upon their request, during investigations and judicial proceedings concerning any of the offences established in accordance with the Istanbul Convention. Moreover, it invites the authorities to provide victim support (provided through the person of trust) to civil proceedings, such as those instituted to settle

a compensation claim or to adjudicate on divorce or custody in domestic violence cases (paragraph 301).

E. Measures of protection (Article 56)

60. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to effectively apply the various existing measures to protect the rights and interests of women and child victims or witnesses, at all stages of investigations and judicial proceedings and for all the forms of violence covered by the Istanbul Convention, in compliance with its Article 56 (paragraph 306).

61. Moreover, it invites the authorities of Bosnia and Herzegovina to (paragraph 307):

- a. amend the applicable laws so that victims are informed if/when the perpetrator has escaped or has been released and, more generally, of the outcome of the investigations or proceedings;
- b. introduce more widely across Bosnia and Herzegovina victim support units capable of implementing the protection measures provided for by the law.

F. Legal aid (Article 57)

62. GREVIO encourages the authorities of Bosnia and Herzegovina to take the necessary legislative and other measures to provide for the right, de jure and de facto, where it does not yet exist, to legal assistance and to free legal aid in all parts of the territory to assist, inter alia, victims of all forms of violence against women covered by the Istanbul Convention, including those that live in rural areas; and to ensure that such legal aid is provided by lawyers adequately trained in the area of violence against women (paragraph 313).

VII. Migration and asylum

A. Residence status (Article 59)

63. GREVIO urges Bosnia and Herzegovina to undertake a formal review of the Law on Aliens in order to make the necessary amendments to (paragraph 325):

- a. afford migrant women an autonomous residence permit in the event of particularly difficult circumstances, including being a victim of the forms of violence covered by the scope of the Istanbul Convention committed and/or condoned by the spouse or partner. This could be achieved, for example, by extending the scope of Article 58(2)(a) of the Law on Aliens to include victims of domestic or gender-based violence, beyond victims of human trafficking;
- b. ensure that migrant women victims of gender-based violence have the right to be granted an autonomous residence permit in the event of expulsion of the abusive spouse or partner;
- c. ensure that women and girls who lose their residence status as a result of being forced into marriage abroad may regain their residence status.

B. Gender-based asylum claims (Article 60)**1. Gender-sensitive asylum determination procedure**

64. GREVIO strongly encourages the authorities of Bosnia and Herzegovina to take measures such as the development of guidelines and the training of all officers in contact with migrants to ensure that gender-based violence is detected and that a gender-sensitive interpretation is applied to all grounds of persecution provided for in Article 1.A.2 of the 1951 Convention relating to the Status of Refugees. Progress in this area should be measured by collecting relevant administrative data on asylum applications raising issues of gender-based violence. It further strongly encourages the authorities to (paragraph 332):

- a. introduce/support a vulnerability screening procedure and implement it across all Field Offices of the Service for Foreigners' Affairs and reception centres; vulnerability screening should be routinely undertaken at the earliest possible opportunity and throughout the asylum procedure;
- b. improve migrant women's access to information on the asylum determination procedure and their right to ask for asylum on grounds of gender-based violence by providing written information and relevant forms in all relevant languages;
- c. take measures to address and remove the significant delays in the registration and processing of asylum claims;
- d. provide for additional gender-sensitive safeguards, notably: ensuring regular breaks; adapting questions to reduce the risk of traumatising; and allowing the possibility of being accompanied in the interview by a lawyer.

2. Accommodation

65. GREVIO invites the authorities of Bosnia and Herzegovina to ensure (paragraph 338):

- e. access to adequate and safe accommodation for all women and girls during the asylum procedure;
- f. that universal gender-sensitive standards are implemented in all reception centres.

C. Non-refoulement (Article 61)

66. GREVIO invites the authorities of Bosnia and Herzegovina to review the Law on International Legal Assistance in Criminal Matters to ensure that the principle of non-refoulement is respected in full, in line with Article 61 of the Istanbul Convention (paragraph 343).

Appendix II

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

Ministries

Ministry for Human Rights and Refugees of Bosnia and Herzegovina
 Ministry of Justice of Bosnia and Herzegovina
 Ministry of Security of Bosnia and Herzegovina
 Ministry of Civil Affairs of Bosnia and Herzegovina
 Ministry of Labour and Social Policy of Federation of Bosnia and Herzegovina
 Ministry of the Interior of Federation of Bosnia and Herzegovina
 Ministry of Justice Federation of Bosnia and Herzegovina
 Ministry of Health of Federation of Bosnia and Herzegovina
 Ministry of Education and Science of Federation of Bosnia and Herzegovina
 Ministry of Family, Youth and Sport of Republika Srpska
 Ministry of Health and Social Protection of Republika Srpska
 Ministry of Interior of Republika Srpska
 Ministry of Justice of Republika Srpska
 Ministry of Education and Culture of Republika Srpska
 Ministry of Labour, War Veterans and Protection of Disabled People of Republika Srpska
 Department of Health of Brčko District
 Judicial Commission of Brčko District
 Law Enforcement Agency of Brčko District
 Healthcare and social protection authorities Brčko District

Entities at national, entity and Brčko District level

High Judicial and Prosecutorial Council of Bosnia and Herzegovina
 Communication Regulatory Agency of Bosnia and Herzegovina
 Agency for Statistics of Bosnia and Herzegovina
 Gender Agency of Bosnia and Herzegovina
 State Investigations Protection Agency
 Gender Centre of Federation of Bosnia and Herzegovina
 Institute of statistics of Federation of Bosnia and Herzegovina
 Gender Center of Republika Srpska
 Institute for Statistics of Republika Srpska
 Working group for Gender Equality of the Government of Brčko District
 Commission for Gender Equality of the Parliamentary Assembly of Brčko District

Non-governmental organisations and civil society

Center for Women's Rights
Medica Zenica
Atlantic Initiative
MyRight
Sarajevo open Centre
Trial International
Vive Žene Tuzla
Foundation Lara
Foundation United Women Banja Luka
Women's Centre Trebinje
Association Stop Mobbing
PROI
Antidiscrimination forum of Brčko District
Vaša Prava
Žene sa Une Bihać
The Bosnia and Herzegovina Women's Initiative
Gender Contact
TRIAL International

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

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

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

www.coe.int/conventionviolence

www.coe.int

The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.