



# GREVIO

## Baseline Evaluation Report San Marino

” 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)  
**San Marino**

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

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## Foreword

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

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

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

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

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

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

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

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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.

and other pertinent bodies), as well as other international treaty bodies. Within the framework of the evaluation of San Marino, GREVIO received written contributions from the NGOs Unione Donne San Marino (UDS), Soroptimist, Emma Rossi Association and Il Confine, as well as from the trade union Confederazione Sammarinese del Lavoro (CSdL).

The state report has been made public and is 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 San Marino. Where available, significant legislative and policy developments up until 20 June 2021 have also been taken into account.

According to the Istanbul 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 San Marinese authorities with regard to all aspects of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the “Istanbul 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 San Marinese authorities and additional information submitted by NGOs) and a three-day evaluation visit to San Marino. A list of the bodies and entities with which GREVIO had exchanges can be found in Appendix II.

The report highlights the San Marinese authorities’ political commitment to align the country’s legislation with the convention and to adopt measures enabling its implementation. The favourable reception of the convention in San Marino and the recognition, by the authorities, of its importance in preventing and combating violence against women and domestic violence has led to several positive developments. These include the enactment of two laws and several decrees aimed at addressing violence against women, which introduced assistance and protection measures for victims as well as several amendments to the Criminal Code.

Efforts on preventive measures must also be highlighted, such as awareness raising of violence against women in schools through a cross-curriculum approach as well as the enhancement of training of professionals who deal with victims of violence. A particular emphasis is put on law-enforcement officials and on social and healthcare professionals whose training on sexual violence results in high levels of awareness of the rights and needs of women and girls who experience sexual violence and/or rape.

Regarding support services, the report welcomes the San Marinese authorities’ efforts to establish a mobile phone application for victims of violence against women and domestic violence (TECUM), especially at a time when the Covid-19 health crisis has demanded innovative tools to ensure victims’ access to information and support. In addition, the report highlights the highly professional service for victims of sexual violence provided by the San Marino hospital, where crucial medical and forensic services are available to victims.

However, the absence of a co-ordinated approach and comprehensive action plan or strategy is resulting in several gaps in relation to the set of integrated policies and data collection required under the convention. While efforts are shown by the authorities and relevant institutions to establish protocols and guidelines, there is no document setting out the principles of joint, cross-cutting participation aimed at achieving predetermined shared objectives. In terms of financial resources, unstable sources of funding for victim support initiatives and the absence of remuneration for the members of the Authority for Equal Opportunities inevitably impact on the ability of the authority to fulfil its tasks, including its co-ordination activities, and to ensure the sustainability of its work. The absence of a public funding scheme benefiting civil society organisations is also of concern, together with their lack of involvement in multi-agency co-operation. Indeed, it seems that the expertise of civil society organisations and their desire to play an active role in a co-ordinated response to all forms of violence is not sufficiently made use of by the San Marinese authorities.

Despite the enactment of laws and decrees to address violence against women and the amendment of several provisions to the Criminal Code, further efforts are required to comply with the convention’s requirements regarding substantive law. The San Marinese legislation does not explicitly recognise the need to take into account incidents of domestic violence when deciding on custody and visitation rights of children, and no channels of communication exist between civil and

criminal jurisdictions and social services on such cases. Regarding sexual violence, legal provisions are not based on the notion of freely given consent as required by Article 36 of the convention. In addition, there is no specific criminal offence or other legislation on sexual harassment. Finally, no provision in San Marinese law covers the particular situation of women protected by Article 59, paragraph 1, of the convention, namely victims whose status depends on that of their spouse and who find themselves in particularly difficult circumstances because of the dissolution of their marriage with the perpetrator.

Another area of concern is the length of investigations into cases of violence against women. Without specific measures in place prioritising cases of violence against women and thus ensuring that investigations and judicial proceedings in relation to all forms of violence covered by the scope of the convention are carried out without undue delay, lengthy proceedings often lead to cases being time-barred. In addition to failing to deliver justice in pending cases, lengthy proceedings are also reported to discourage victims from filing complaints, thus hindering women's access to justice.

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

- adopt further measures to ensure the practical realisation of the principle of equality between women and men, and ensure that the provisions of the Istanbul Convention are implemented without discrimination on any of the grounds listed in Article 4, paragraph 3;
- take measures to enhance the co-ordination, implementation, monitoring and evaluation of policies and measures with regard to violence against women;
- improve data collection in line with the requirements of Article 11 of the convention;
- pursue awareness-raising efforts in a sustainable way, including by promoting or conducting regular campaigns accessible to all and programmes for the empowerment of women and girls, including women and girls at risk of multiple discrimination;
- support, through institutional and financial measures, preventive intervention and treatment programmes for perpetrators of sexual and domestic violence;
- further encourage the involvement of the private sector and the media in preventing and combating violence against women, including by fostering a work environment where violence against women is openly condemned, adequately responded to and reported on in a gender-sensitive way;
- improve the provision of support services, in particular by ensuring an institutionalised co-ordinated multi-agency response to violence against women, widely disseminating information on support services and legal measures available to victims, ensuring that victims have access to services facilitating their recovery; making available in sufficient numbers shelters for accommodating women and their children in emergency situations; and ensuring that children who witness domestic violence receive counselling and support;
- ensure that women victims of violence have access to effective compensation systems, including by informing them of their right to obtain such compensation;
- ensure appropriate investigation, prosecution and sanctions of cases of violence against women, including through increasing reporting levels;
- improve the system of barring and protection orders in line with the requirements of Article 52 of the convention, on the basis of co-ordinated risk assessments.

Furthermore, GREVIO has identified a number of additional areas in which improvements are required in order to comply fully with the obligations of the convention. These relate, among others, to the need to offer appropriate training to teachers to equip them with the necessary skills to address subjects related to violence against women, as well as to ensure harmonised and systematic training for relevant professionals based on clear protocols and guidelines. Efforts should

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also be stepped up to promote the telephone helpline and the mobile phone application TECUM and to monitor the use and effectiveness of both services. Lastly, the San Marinense authorities should review the threshold required for a behaviour to qualify as stalking to align its legislation with the requirements of Article 34 of the convention.

## Introduction

San Marino ratified the Istanbul Convention on 28 January 2016. San Marino did not enter any reservation upon the deposit of its instrument of ratification of the convention. The convention entered into force in San Marino on 1 May 2016.

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 San Marino 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 San Marinese authorities 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 San Marino, which took place from 15 to 17 September 2020. The delegation was composed of:

- Marie-Claude Hofner, Member of GREVIO
- Per Arne Håkansson, Member of GREVIO
- Johanna Nelles, Executive Secretary of the Istanbul Convention monitoring mechanism

and was supported in its tasks by Camille Goy, member of the Secretariat of the Istanbul Convention monitoring mechanism.

During the evaluation visit, the delegation was welcomed by high-level public figures, including the State Secretary for Foreign Affairs, the State Secretary in charge of Family, the State Secretary for Health, and the State Secretary for Education and Culture. The delegation also met with the Institutional and Technical Panel, which aims to co-ordinate actions of public institutions to fight violence against women. 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, including law-enforcement, legal, health and education professionals, social workers, religious representatives and representatives of non-governmental organisations. 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 Stefano Palmucci, Expert at the Directorate of Legal Affairs of the San Marinese Foreign Affairs Department, 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 San Marinese authorities.

As part of this first baseline evaluation, GREVIO examined the implementation measures taken by the San Marinese 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.

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

2. 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”, as explained by paragraph *b*, 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”.

3. 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 the 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*b*, Chapter V of the convention specifies the forms of violence against women that are to be criminalised (or, where applicable, otherwise sanctioned). These are psychological violence, stalking, physical violence, sexual violence, including rape, forced marriage, female genital mutilation, forced abortion, forced sterilisation and sexual harassment. Owing to the seriousness of domestic violence, Article 46 of the convention requires ensuring that the circumstance in which the offence was committed against a former or current spouse or partner, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority, may entail a harsher sentence either as an aggravating circumstance or a constituent element of the offence.

4. GREVIO notes with appreciation that in San Marino, the Council of Europe Campaign to Combat Violence against Women, including domestic violence, carried out partly during the San Marinense presidency of the Council of Europe – which took place from November 2006 to May 2007 – led to several advancements on the issue of violence against women, both at the policy and the legislative level. In particular, San Marino undertook a strong commitment to promote awareness raising and capacity building among health and social assistance services, as well as police forces.<sup>2</sup>

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2. Taddei A. (2017), *Contro la violenza di genere: tra formazione ed intervento. Riflessioni da una ricerca nella Repubblica di San Marino*, p. 38.

At the end of this pan-European campaign in 2008, San Marino adopted Law 97/2008 on prevention and criminalisation of violence against women and gender-based violence, which introduced assistance and protection measures for victims, preventive action by law-enforcement agencies and several amendments to the Criminal Code. A few years later, and in view of ratifying the Istanbul Convention, the San Marinese authorities carried out an analysis of the legal framework and of the existing administrative and social-health structures to identify gaps where changes would be necessary in order to conform with the requirements of the convention. The process led to the adoption of Law 57/2016 on rules adjusting the San Marino legal system to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

5. GREVIO welcomes the efforts made in San Marino to adopt legislation aimed at addressing violence against women by translating the requirements of the Istanbul Convention into national law. This is particularly the case as regards criminal legislation which criminalises most forms of violence against women, as required by the convention.<sup>3</sup> Beyond criminal legislation, however, GREVIO notes that laws and policies tend to focus on intimate partner violence with support and protection measures tailored to the needs of victims of this specific form of violence, leaving other forms of violence – such as sexual violence, stalking and sexual harassment – less addressed. GREVIO emphasises that any comprehensive response to violence against women must supplement laws with carefully planned policies, including, for example, measures aimed at protecting and supporting victims of various forms of violence.

6. In terms of definitions, Article 2 of Law 57/2016 translates key definitions set out in the Istanbul Convention into national law. Gender-based violence as defined by this law hence covers all acts of physical, sexual, psychological or economic harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life; whereas domestic violence is defined as 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 considered equivalent to spouses, whether or not the perpetrator shares or has shared the same residence with the victim.

7. While the two principal laws addressing violence against women are drafted in gender-neutral terms, Law 57/2016 specifically requires the San Marinese authorities to adopt a gender perspective in the design of the measures implementing the convention and in the evaluation of their impact. In this regard, GREVIO notes with appreciation that the different protocols and guidelines framing the interventions of institutional bodies, in particular health and social services and law-enforcement agencies, showed a strong gender perspective in recognition of the structural nature of violence against women.<sup>4</sup>

**8. GREVIO encourages the San Marinese authorities to ensure that San Marinese legislation, policies and programmes aimed at preventing and combating violence against women address all forms of violence against women covered by the Istanbul Convention, in particular sexual violence and sexual harassment.**

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3. See Chapter V, Substantive law.

4. See, for example: State Secretariat for Health and Social Security, “Social and healthcare plan of the Republic of San Marino. 2015-2017” (in Italian), p. 75; Social Security Institute, Protocol “taking care of adult victims of violence” (in Italian), April 2020; Gendarmerie corps, “Protocol of intervention for San Marino police officers in preventing and combating gender-based violence” (in Italian), 2015.

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

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

9. As of 2000, formal gender equality is enshrined in Article 4 of the “Declaration of the Rights of Citizens and Fundamental Principles of San Marinese Law”, which foresees that all are equal before the law, without distinction on the basis of sex, sexual orientation, or personal, economic, social, political opinion or religion. To ensure the full implementation of this principle, San Marino established the Commission for Equal Opportunities in 2004 in order to promote and guarantee full equality and equal opportunities among all. The prerogatives of the commission include, *inter alia*, suggesting initiatives – including legislative amendments – to competent institutions in order to promote equality before the law and equal opportunities; monitoring implementation of relevant legislation; receiving complaints by civil society organisations and submitting complaints to competent institutions; raising awareness and collecting data; and intervening in civil, criminal and administrative legal proceedings in defence of collective interests pertaining to equality and equal opportunities.

10. While overall data on gender equality are scarce in San Marino,<sup>5</sup> the information that is available indicates persisting inequalities between women and men. In 2019, women made up around 44% of the workforce, most being employed in the public sector. In the private sector, only 22% of managers are female. The unemployment rate for women (10.56%) is significantly higher than for men (4.7%).<sup>6</sup> GREVIO is further concerned by the information it received during its evaluation visit according to which 95% of people who lost their jobs as a result of the first wave of the Covid-19 health crisis are women.<sup>7</sup> Moreover, the representation of women in politics remains weak, with 33% of members of parliament being women, despite legislative measures adopted to reinforce women’s political participation, such as Law 1/2007 which forbids political parties to present lists with more than two thirds of candidates of the same gender. Civil society organisations further shared their concern with GREVIO about the lack of representation of women in leadership positions and the persistence of stereotyped gender roles.

**11. GREVIO strongly encourages the San Marinese authorities to adopt further measures to ensure the practical realisation of the principle of equality between women and men, and to reinforce data collection in this field in order to better assess gender gaps and define relevant policies and programmes accordingly.**

### **2. Intersectional discrimination**

12. Article 4, paragraph 3, of the convention requires parties to secure the implementation of their undertakings under the convention without any discrimination. This provision provides an open-ended list of grounds of discrimination which draws on that of Article 14 of the European Convention on Human Rights as well as the list contained in its Protocol No. 12<sup>8</sup> 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.<sup>9</sup>

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5. The Women Count Data Hub shows that only 7.1% of indicators needed to monitor the Sustainable Development Goals from a gender perspective are available in San Marino, with gaps in key areas such as violence against women, unpaid care and domestic work, and key labour market indicators such as gender pay gap. More information available here: <https://data.unwomen.org/country/san-marino>.

6. According to official statistics available on the website of the Office of economic planning, data processing and statistics of San Marino: [www.statistica.sm/on-line/en/home/statistics/employment-and-unemployment.html](http://www.statistica.sm/on-line/en/home/statistics/employment-and-unemployment.html).

7. See also: UDS, “le donne pagano il prezzo più alto del Covid-19”, 3 August 2020: [www.sanmarinortv.sm/news/comunicati-c9/uds-le-donne-pagano-il-prezzo-piu-alto-del-covid-19-a192160](http://www.sanmarinortv.sm/news/comunicati-c9/uds-le-donne-pagano-il-prezzo-piu-alto-del-covid-19-a192160).

8. 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.

9. Explanatory Report to the Istanbul Convention, paragraphs 52-54.

13. GREVIO notes the adoption, in recent years, of several laws aimed at protecting groups exposed to intersectional discrimination, such as Law 28/2015 on assistance, social inclusion and the rights of persons with disabilities; Law 147/2018 on civil unions, which foresees the possibility for a judge to adopt measures to protect victims of intimate partner violence within a civil union; or Law 1/2019, which bans discrimination on the grounds of sexual orientation. In addition, Law 57/2016 on rules adjusting San Marino's legal system to the provisions of the Istanbul Convention amended the Criminal Code to criminalise hatred or violence on the grounds of race, ethnicity, nationality, religion, sexual orientation or gender identity. There is, however, no national action plan against discrimination.

14. With the exception of statistical data on criminal proceedings which indicate victims' citizenship and thus indicate the prevalence of gender-based violence against foreign women, there are no official data in San Marino to assess the prevalence of the various forms of violence committed against certain groups of women exposed to intersectional discrimination, including women with disabilities, LGBTI women and women in prostitution. In addition, GREVIO is unaware of any existing measure or programme of action in San Marino that takes an intersectional approach to violence against women.

15. Approximately 15% of the population of San Marino is made up of foreign residents, most of whom are Italian citizens, followed notably by citizens of Romania, Ukraine, Russia, Poland, Latin America countries (Argentina, Brazil) and Albania.<sup>10</sup> Foreign workers are mostly employed in the hospitality and commerce sector, or as private carers.<sup>11</sup> GREVIO notes with concern that statistical data on criminal proceedings from 2016 to mid-2020 indicate that 39% of victims of gender-based violence are foreign women. In this regard, it notes the setting up of a dedicated helpdesk to provide private carers with information on their rights and the relevant laws and regulations in a language they can understand, as well as to assist them in understanding and verifying the conditions stipulated in their contracts.<sup>12</sup> GREVIO was also informed that the annual renewal of residence permits for domestic workers is used by the Foreigners Office as an opportunity to assess their living conditions. However, no information made available to GREVIO would indicate that these measures are geared towards providing information and/or support in cases of violence against women.

**16. GREVIO urges the San Marinese authorities 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;**
- b. take measures to ensure that women exposed to multiple discrimination, including women with disabilities, LGBTI women and migrant women, receive adequate information about their rights and entitlement to access protection and support services, in accordance with the provisions of the Istanbul Convention;**
- c. promote research and ensure the collection of data on gender-based violence affecting groups of women exposed to multiple discrimination, so as to assess the prevalence of the various forms of violence and access by such groups to support services, protective measures and justice;**
- d. 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.**

10. According to official statistics available on the website of the Office of economic planning, data processing and statistics of San Marino. More information available here: [www.statistica.sm/on-line/home/dati-statistici/popolazione.html](http://www.statistica.sm/on-line/home/dati-statistici/popolazione.html).

11. GRETA (2019), Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by San Marino, Second evaluation round, paragraphs 36-37.

12. Ibid., paragraph 37.

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

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

## II. Integrated policies and data collection

18. 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)

19. Article 7 of the Istanbul Convention requires states parties to devise and implement policies which would comprise a multitude of measures to be taken by different actors and agencies, and which, taken as a whole, offer a holistic response to violence against women.

20. In San Marino, both Laws 97/2008 and 57/2016 foresee several measures for the support and protection of victims. Nonetheless, GREVIO is concerned that the enactment of this legal framework has not been followed by the adoption of a comprehensive action plan or a strategy framing the interventions and the co-ordination of the various institutions involved in preventing and combating violence against women in San Marino. While taking positive note of the efforts shown by the authorities and relevant institutions to establish protocols and guidelines on assistance and support to victims, as well as the significant efforts to organise training or awareness-raising activities predominantly on domestic violence, GREVIO emphasises that a sustainable and comprehensive approach to the problem of violence against women requires the implementation of co-ordinated policies based on the commitment of all relevant stakeholders.

21. While the Institutional and Technical Panel, which is composed of representatives of socio-health authorities, law-enforcement agencies, the judiciary, schools, the association of lawyers and the association of psychologists, provides a forum to discuss critical issues and possible solutions for improving the assistance and support services for victims provided by the social and healthcare system,<sup>13</sup> there is no single document setting out the principles of joint, cross-cutting participation aimed at achieving predetermined shared objectives. The panel has indeed not been involved in drafting any comprehensive policy document of this sort. The adoption of a national action plan and/or of shared policy objectives would make it possible to keep track of the direction taken by different stakeholders in the area of violence, focusing on the responsibility borne by each institution in achieving the expected outcomes.

22. GREVIO points out that Article 7 of the convention requires states parties to ensure that all policies adopted are implemented on the basis of effective multi-agency co-operation. It calls for the involvement of all relevant actors, such as government agencies, parliament, authorities and civil society organisations. In this regard, GREVIO regrets that the expertise of civil society organisations and their desire to play an active role in a co-ordinated response to all forms of violence is not sufficiently made use of by state authorities.

**23. GREVIO urges the San Marinese authorities to reinforce their interinstitutional approach to violence against women by developing a long-term and comprehensive action plan/strategy giving due importance to all forms of violence covered by the Istanbul Convention and based on the involvement of all relevant actors, including civil society organisations.**

### B. Financial resources (Article 8)

24. Article 8 aims to ensure the allocation of appropriate financial and human resources for both activities carried out by public authorities and those of relevant non-governmental and civil society

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13. Article 13 of Decree 56/2018 on the Provisions for the Operational Independence of the Authority for Equal Opportunities.

organisations. In San Marino, it is impossible to determine the share of public funding that goes on preventing and combating violence against women, as there is no document listing amounts specifically allocated to this area in the various ministries and institutions. In that respect, GREVIO underlines the added value of adopting gender budgeting at all levels of public interventions so as to plan and monitor public funding devoted to the prevention and eradication of violence against women.

25. The Authority for Equal Opportunities<sup>14</sup> – which is responsible for promoting and upholding initiatives aimed at preventing gender-based violence – receives a yearly envelope of €15 000, which is mainly used for awareness-raising activities and educational programmes. The authority also manages a financial assistance fund for victims, made up of the damages awarded to it in the legal proceedings to which it was a party,<sup>15</sup> making it an unstable source of funding. GREVIO questions the ability of such financial resources to fund the co-ordination, information, training, prevention, data monitoring and awareness-raising activities as well as the promotion of support services the authority is responsible for. GREVIO notes that members of the authority serve as volunteers without remuneration and must carry out their duties in addition to their respective professions. Despite their demonstrated commitment, GREVIO notes that this inevitably impacts on the ability of the authority to fulfil its tasks and to ensure the sustainability of its work. Moreover, GREVIO notes that the convention rests on the premise that adequately responding to all forms of violence against women entails state responsibility, making this task unfit for volunteer work.

26. As for the Commission for Equal Opportunities – which deals with all issues related to equality and is mandated to combat racism, homophobia, discrimination of persons with disabilities and other forms of discrimination – the only available information on the funding of initiatives related to the prevention of violence against women and domestic violence concerns an annual allocation of €5 000 to organise awareness-raising activities, such as events on the occasion of the International Day for the Elimination of Violence against Women.

27. Regarding civil society, GREVIO is gravely concerned by the absence of public funding available to NGOs. It appears that the only public funding scheme benefiting NGOs is that which is based on a system of voluntary contributions made by citizens when filing their income tax returns. This situation makes it very difficult for civil society organisations to carry out and expand their activities, especially for organisations offering support services for women victims of violence.

**28. GREVIO urges the San Marinese authorities to:**

- a. increase the human and financial resources allocated to preventing and combating violence against women, including in particular for the Authority for Equal Opportunities and the professionalisation of its work;**
- b. take steps, in particular by planning earmarked funding, to make it possible to identify more effectively the sums spent on the issue of violence by all relevant institutions;**
- c. ensure appropriate funding through suitable and sustainable funding opportunities for civil society organisations involved in combating violence against women.**

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

29. Several NGOs are active in promoting women's rights and combating gender-based violence in San Marino. They are mainly involved in awareness-raising activities, while some provide victim support services, despite the inadequacy of their financial resources. Several women's organisations are committed to promoting women's rights and fostering gender equality. Several charity organisations offer psychological and housing support, while one organisation was specifically set

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14. See Chapter II, Co-ordinating body (Article 10) for further information on the Authority and Commission for Equal Opportunities.

15. The entitlement of the Authority for Equal Opportunities to become a party to the legal proceedings instituted in cases of violence against women is foreseen by Article 20 of Law 97/2008.

up to provide perpetrators with intervention programmes,<sup>16</sup> and trade unions provide support to victims of violence in the workplace environment.<sup>17</sup>

30. As explained above, GREVIO is concerned that civil society organisations receive no funding from the authorities and are not involved in multi-agency co-operation. NGOs do not form part of existing co-ordination mechanisms and are not consulted in the drafting of laws relevant to the issue of violence against women. The precarious situation of civil society organisations makes it impossible for them to expand their activities and develop support services. This is all the more regrettable considering that civil society organisations regularly step in and provide support to victims when social and healthcare institutions face difficulties in doing so, and are keen to partner with the authorities to strengthen their ability to respond to the needs of victims.

31. GREVIO recalls that civil society organisations play a major role in preventing and combating all forms of violence covered by the scope of the convention. Article 9 therefore requires states parties to recognise their work and involve them as partners in multi-agency co-operation and in the implementation of comprehensive government policies.<sup>18</sup> A new approach needs to be developed in San Marino to ensure that NGOs receive active government support and are able to take part in the design, implementation, monitoring and evaluation of the country's measures and policies for preventing and combating violence against women.

**32. GREVIO urges the San Marinese authorities to:**

- a. **take measures to support and recognise civil society organisations involved in preventing and combating violence against women, by acknowledging the value and expertise they bring;**
- b. **set up co-operation mechanisms for consulting and co-operating with civil society organisations for the purposes of the design, monitoring, evaluation and implementation of measures and policies to prevent and combat violence against women.**

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

33. Several bodies coexist in San Marino to oversee the co-ordination of measures to prevent and combat violence against women in pursuance of Article 10 of the Istanbul Convention. These are the Commission for Equal Opportunities and the Authority for Equal Opportunities.

34. The Commission for Equal Opportunities was first established in 2004, with the mission to contribute to the implementation of the principle of equality enshrined in the Declaration of the Rights of Citizens and Fundamental Principles of San Marinese Law. The commission deals with all issues related to equality and is mandated to combat racism, homophobia, discrimination of persons with disabilities and other forms of discrimination. The commission is appointed by Parliament at the beginning of each legislature. It is composed of 10 members chosen to proportionally represent political forces within Parliament. The prerogatives of the commission are set down in Law 26/2004 and include, *inter alia*, suggesting initiatives – including legislative amendments – to competent institutions in order to promote equality before the law and equal opportunities; monitoring the implementation of relevant legislation; receiving complaints by civil society organisations and submitting complaints to competent institutions; raising awareness and collecting data; and intervening in civil, criminal and administrative legal proceedings in defence of collective interests pertaining to equality and equal opportunities.

35. The commission co-operates closely with the second body in San Marino designated to act as national co-ordinating body, namely the Authority for Equal Opportunities. The authority was

16. See Chapter III, Prevention, Preventive intervention and treatment programmes (Article 16).

17. See Chapter III, Prevention, Participation of the private sector and the media (Article 17).

18. Explanatory Report to the Istanbul Convention, paragraph 69.

established following the adoption of Law 97/2008 and became operational in January 2009. Whereas the commission deals with all issues related to equality, the authority was specifically given the task of promoting and upholding initiatives aimed at preventing gender-based violence. Under the terms of Article 34 of Law 97/2008, the authority is composed of three members appointed by Parliament for a four-year mandate, chosen from among legal experts, representatives of associations or NGOs operating in the field of gender equality, as well as experts in communication and psychology. GREVIO notes however that at the time of its evaluation of the implementation of the convention in San Marino, the authority was composed of a lawyer, a psychologist and a medical doctor, without including a representative of an NGO involved in the field of gender equality.

36. The responsibilities of the authority are listed partly in Law 97/2008 and partly in Decrees 60/2012 and 56/2018 implementing this piece of legislation. The authority pursues its mandate of preventing violence against women and gender-based violence by: (a) supporting the implementation of support services, such as legal aid and psychological assistance; (b) promoting the conclusion of co-operation protocols with relevant stakeholders; (c) disseminating information on support services; (d) promoting awareness-raising and prevention activities; (e) organising training of relevant professionals; (f) collecting statistical data; and (g) publishing an annual report on violence against women. Law 97/2008 also gives the authority the role of preventing the circulation of images or information that are discriminatory or contrary to human dignity.

37. In addition, the Authority for Equal Opportunities co-ordinates an Institutional and Technical Panel, composed of representatives of several institutions dealing with cases of violence against women. The institutions concerned are the Social Security Institute, law-enforcement agencies, the judiciary, schools, the association of lawyers and the association of psychologists. The role of the panel is to identify gaps in the legal and institutional framework and to put forward suggestions about possible institutional measures to be taken to improve the situation.

38. GREVIO notes that in the absence of a national action plan or predefined policy objectives, these different bodies do not base their work on strategic and operational tools that define the steps needed to achieve objectives set. This lack of planning of public action undermines the clarity of the different bodies' prerogatives, activities and achievements as bodies responsible for co-ordinating and implementing policies and measures to prevent and combat violence against women. In addition, GREVIO recalls that besides co-ordinating and implementing policies and measures to prevent and combat violence against women and domestic violence, the tasks assigned to national co-ordinating bodies under Article 10 of the convention encompass monitoring and evaluating such policies and measures to assess whether they achieve their aim and/or expose any unintended effects. GREVIO notes that this function is currently not performed in San Marino.

39. Moreover, GREVIO reiterates its concern about the inadequate allocation of human and financial resources to the Authority for Equal Opportunities, whose members work on a voluntary basis without any remuneration. GREVIO also notes that until 2018, the authority did not have dedicated office premises. The weakness of the arrangements under which the authority operates has been found to pose a risk to the effectiveness of its actions and to undermine its authority.<sup>19</sup> In view of these observations, GREVIO expresses its reservations as to the ability of the current co-ordination set-up to effectively enable the co-ordination, implementation, monitoring and evaluation tasks which are required of a national co-ordinating body pursuant to Article 10 of the convention.

**40. GREVIO strongly encourages the San Marinese authorities to take measures to enhance the co-ordination, implementation, monitoring and evaluation of policies and measures with regard to violence against women, in particular by:**

- a. enhancing the complementarity and the effectiveness of the initiatives taken by the Commission and the Authority for Equal Opportunities designated to serve as co-**

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19. Taddei A. (2017), *Contro la violenza di genere: tra formazione ed intervento. Riflessioni da una ricerca nella Repubblica di San Marino*, p. 43.

**ordinating bodies by fully institutionalising these and equipping them as separate bodies with the necessary powers, competences and adequate financial and human resources in order to ensure, on the one hand, the co-ordination and implementation of policies and measures to prevent and combat all forms of violence against women on the basis of a holistic strategy and, on the other hand, their independent monitoring and evaluation;**

- b. ensuring that the functions of the co-ordinating bodies are exercised in close consultation with relevant NGOs and civil society and that they are supported by adequate and appropriate data.**

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

41. 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.<sup>20</sup>

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

42. In pursuance of Article 34 of Law 97/2008, the Authority for Equal Opportunities is in charge of collecting administrative data on violence against women. Decree 56/2018 specifies that the authority can request relevant institutions to provide data. Law-enforcement agencies, the judiciary and the Social Security Institute collect data and deliver them to the authority. Data published so far in the annual reports of the authority are however limited to criminal and civil proceedings. Furthermore, the data published only provide information on cases of violence perpetrated against women and children but do not provide a comprehensive picture of crime and civil measures statistics.

43. Statistics on criminal proceedings related to violence against women and domestic violence, covering acts of violence against women and children, are broken down by type of offence as defined in the Criminal Code of San Marino, by phase of the proceeding to which they relate, by citizenship of the victim and perpetrator, by age of the victim, by type of act instituting the proceeding (complaint or report by various professionals) and by the relationship between the victim and perpetrator. Statistics on civil proceedings related to violence against women indicate the type of violence, the age, citizenship and professional activity of the victim, the relationship between the victim and the perpetrator, and the reporting entity.

44. GREVIO notes that data collected are not disaggregated based on the sex and age of the perpetrator and that it is not possible to retrace all stages of judicial proceedings in cases of violence against women as data on prosecution and stages of proceedings are not broken down by type of violence. In addition, there are no data on the number of protection orders or other protective measures requested and ordered to protect women victims of violence and their children. Moreover, there are no data to illustrate how civil child custody proceedings take into account incidents of domestic violence.

45. GREVIO recalls that service-based administrative data are also crucial to record how victims are using services and how, in return, government agencies and support services are supporting them in seeking medical care, counselling, housing or other type of support.<sup>21</sup>

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

21. Explanatory Report to the Istanbul Convention, paragraph 75.

**46. GREVIO strongly encourages the San Marinese authorities to:**

- a. set up a common data-collection system for all levels of the judiciary and law-enforcement agencies based on a common set of data categories that includes all forms of violence covered by the Istanbul Convention and is broken down by sex, age of both the victim and the perpetrator, type of violence and the relationship of the perpetrator to the victim, with a view to allowing cases to be tracked at all levels of the criminal justice system;**
- b. collect judicial data on prosecution and conviction rates by type of violence and type/severity/duration of the sentences handed down;**
- c. collect data on the issuing of protection orders, including the number of protection orders requested and issued, the number of violations of these orders and the penalties imposed further to those violations;**
- d. ensure that healthcare and social welfare services collect data on all forms of violence against women broken down by sex, age of both the victims and perpetrators and the relationship of the perpetrator to the victim.**

**2. Population-based surveys**

47. No population-based survey has been conducted in San Marino to assess the prevalence of and trends in violence against women. According to Article 11, paragraph 2, of the Istanbul Convention, population-based surveys supplement the collection of administrative and judicial data which, by themselves, provide only an incomplete account of the prevalence of and trends in violence committed against women. More specifically, the value of prevalence surveys depends on the way in which they reveal the extent, nature, determining factors and consequences of all forms of violence covered by the convention. They are also useful for shedding light on victims' experiences of violence, the reasons for not reporting the violence, the services that have provided them with support and their opinions of and attitudes towards the violence they experienced. Prevalence surveys also help raise public, political and professional awareness and are an important component to guide policy making and related budget allocation.

**48. GREVIO strongly encourages the San Marinese authorities to conduct regular victimisation surveys to assess the prevalence of and trends in all forms of violence against women covered by the scope of the Istanbul Convention.**

**3. Research**

49. Article 11, paragraph 1b, of the convention creates the obligation for parties to support research, out of the consideration that it is essential that parties base their policies and measures to prevent and combat all forms of violence covered by the convention on state-of-the art research and knowledge in this field. As a key element of evidence-based policy making, research can contribute greatly to improving day-to-day, real-world responses to violence against women and domestic violence by the judiciary, support services and law-enforcement agencies.<sup>22</sup>

50. A study analysing the impact of Law 97/2008 in terms of training of professionals and raising public awareness of gender-based violence was conducted by a research fellow at the University of Bologna and published in 2017.<sup>23</sup> The study highlights changes brought about by the new legal framework and aims at identifying training needs in order to consolidate and expand skills already acquired by relevant professionals. Apart from this study, GREVIO is not aware of any other research on the situation of women exposed to the various forms of violence covered by the convention, nor on the implementation of legislation and public policies to prevent and combat violence.

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

23. Taddei A. (2017), *Contro la violenza di genere: tra formazione ed intervento. Riflessioni da una ricerca nella Repubblica di San Marino*.

**51. GREVIO strongly encourages the San Marinese authorities to promote research activities, including through cross-border or international research initiatives, on the situation of women victims of all forms of violence covered by the Istanbul Convention, along with the specific experiences of women exposed to or at risk of intersectional discrimination, such as women with disabilities, LGBTI women and migrant women.**

### **III. Prevention**

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

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

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

54. In San Marino, patriarchal attitudes and stereotypes regarding the roles, responsibilities and the expected behaviour of women and men in society and in the family seem to persist, as indicated by many experts in the field. GREVIO welcomes the efforts made by the San Marinese authorities to address gender stereotypes through education and to promote a culture of equality between women and men. GREVIO notes, however, that there is a need for increased awareness among the general population about the negative impact of gender stereotypes in terms of perpetuating violence against women. GREVIO recalls in this connection the value of Recommendation CM/Rec(2019)1 of the Committee of Ministers to member states on preventing and combating sexism which comprises a broad catalogue of measures both to prevent and to condemn sexism.

**55. GREVIO strongly encourages the San Marinese authorities to take proactive and sustained measures to promote changes in sexist social and cultural patterns of behaviour that are based on the notion of the inferiority of women, and which accordingly contribute to perpetuating violence against women.**

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

56. Every year, the San Marinese authorities conduct awareness-raising activities on the issue of gender-based violence to mark the International Day for the Elimination of Violence against Women. On this occasion, a variety of events are organised under the high patronage of the Captains Regent – San Marino's Heads of State – in collaboration with the Authority and the Commission for Equal Opportunities. Most recently, these events have included, for example, theatre performances, round tables, interactive sessions intended for high-school students, a campaign inviting men to wear t-shirts displaying the message "one lives on love, one does not die from it" ("d'amore si vive, non si muore"), and the inauguration of a red bench in a public park as a monument to condemn violence against women.

57. While welcoming these initiatives, GREVIO notes that awareness-raising activities in San Marino focus around the International Day for the Elimination of Violence against Women and are not conducted all-year long. GREVIO underlines that one of the requirements of Article 13 of the convention is that awareness-raising campaigns and programmes must be conducted on a regular basis so as to reach as many people as possible. They should inform the general public of the various forms of violence that women experience, as well as the different manifestations of domestic violence, in order to help members of society to recognise such violence, speak out against it and support its victims where possible and appropriate.

58. GREVIO notes that the study analysing the impact of Law 97/2008 in the area of prevention found that the audience reached by awareness-raising activities in San Marino is limited. With the aim of overcoming this limitation, the study suggested diversifying tools of communication in order to reach a wider audience.<sup>24</sup> In that regard, GREVIO underlines the importance of developing partnerships with grass-roots civil society organisations. Synergy with NGOs involved in promoting women's rights and/or victims support can significantly increase the impact of public action by addressing new issues and raising awareness among a wide range of groups.

**59. GREVIO strongly encourages the San Marinese authorities to pursue and to expand their awareness-raising efforts by promoting or conducting regular campaigns throughout the year in relation to all forms of violence covered by the Istanbul Convention, including through means of communication accessible to all and with the collaboration of civil society organisations. GREVIO also strongly encourages the San Marinese authorities to promote programmes and activities for the empowerment of women and girls, including women and girls at risk of multiple discrimination.**

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

60. 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 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.

61. GREVIO welcomes the emphasis placed by the San Marinese authorities on raising awareness of violence against women in schools. In the framework of the Council of Europe "Competences for Democratic Culture" project,<sup>25</sup> San Marino introduced, in 2018, a vertical curriculum offering official guidance for schools to include subjects covered by Article 14 of the convention in educational programmes. This document identifies respect for diversity and the ability to overcome stereotypes and prejudices, including those based on gender, as a fundamental competence for pupils of all ages. In relation to this competence, the document mentions the importance for children to develop the capacity to settle disputes amicably and the need for teachers to address topics such as gender-based violence and consensual sexuality.<sup>26</sup> It also foresees a vertical and cross-curriculum approach to gender equality, aiming to address it in all subjects rather than limiting it to a specific class.

62. Based on this educational framework, workshops and projects are carried out throughout the year in middle and high schools. These initiatives are designed to address gender stereotypes, emotions management and sexual relations based on consent, as well as the prevention of bullying,

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24. Taddei A. (2017), *Contro la violenza di genere: tra formazione ed intervento. Riflessioni da una ricerca nella Repubblica di San Marino*, p. 94.

25. More information available at: [www.coe.int/en/web/education/about-the-project-competences-for-democratic-culture-and-intercultural-dialogue](http://www.coe.int/en/web/education/about-the-project-competences-for-democratic-culture-and-intercultural-dialogue).

26. Segretaria di Stato Istruzione e Cultura, "Indicazioni curriculari per la scuola sammarinese", available at: [www.educazione.sm/on-line/home/docenti/indicazioni-curriculari.html](http://www.educazione.sm/on-line/home/docenti/indicazioni-curriculari.html).

including cyberbullying, and to foster positive relationships among pupils, which GREVIO welcomes. In addition to teachers, professionals from social services specialised in child support participate in these workshops. GREVIO notes that despite this collaboration, teachers in San Marino report a lack of specific training on violence against women and gender stereotypes, leaving them poorly equipped to appropriately address these issues in class and anticipate any difficulties that might arise in teaching-related programmes.<sup>27</sup>

63. Regarding informal educational facilities, GREVIO notes that a vast majority of children in San Marino participate in faith-based educational activities. In that respect, GREVIO notes with appreciation that the representatives of religious organisations it met during the evaluation visit shared their will to address equality between men and women as well as violence against women in their activities.

**64. GREVIO encourages the San Marinense authorities to pursue their efforts aimed at providing education on the subjects covered by Article 14 of the Istanbul Convention. GREVIO further encourages the authorities to offer appropriate training to teachers in order to equip them with the necessary skills to adequately address these subjects.**

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

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

66. In San Marino, Law 97/2008 introduced the obligation to provide specific training for judges and law-enforcement agencies dealing with cases of violence against women. This obligation was expanded by Delegated Decree 60/2012, according to which compulsory specialist in-service training must be provided every year to magistrates, law-enforcement officials, members of professional associations, social and health services professionals, schools operators and family mediators.

67. Professionals in San Marino often receive their initial training in Italian institutions, as San Marino only has a limited number of university courses and higher education programmes. Nevertheless, GREVIO takes positive note of the availability of courses on issues related to violence against women at the University of San Marino, namely the course on gender-based violence of the master's degree in criminology and the course on the representation of women in the media of the bachelor's degree in communications and digital media.

68. The University of San Marino also arranges in-service training on issues related to domestic violence against women for civil servants, including law-enforcement officials. This training is mandatory and covers the legal framework applicable to issues of violence against women, how to handle cases of violence – in particular in relation to victims – prejudices and stereotypes about violence against women, risk-assessment methodology, protection services available to women victims of violence and important aspects and elements of proof to record when in contact with a woman victim of violence.

69. Training is also provided to teachers and school operators so that they may identify cases of violence among pupils. In particular, GREVIO takes positive note of the training module on how to detect cases of ill-treatment in the school environment, which was provided in 2018 to the entire teaching staff of San Marino by the University of San Marino in collaboration with the Italian Co-ordination of Services against Child Ill-treatment and Abuse (CISMAI).

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27. Taddei A. (2017), *Contro la violenza di genere: tra formazione ed intervento. Riflessioni da una ricerca nella Repubblica di San Marino*, p. 140.

70. Judges and prosecutors serving in San Marino only receive training in Italy, at the National School of Magistrates. No training related to the issues covered by Article 15 of the convention is thus provided to the judiciary in San Marino, although judges serving in the country may be introduced to issues of violence against women when attending training courses at the Italian National School of Magistrates.<sup>28</sup>

71. Regarding social and healthcare professionals, the Social Security Institute organises internal training for its staff, namely social workers, psychologists, medical doctors, nurses, midwives and other healthcare professionals. Training is common to all staff and covers the relevant legal framework, as well as internal guidelines and procedures of the institute. GREVIO notes with appreciation that the training provided follows an interdisciplinary approach and covers the Social Security Institute's common protocol on care for victims of gender-based violence. In addition, specific courses are offered to the various units of the institute, covering different subjects related to the area of work of the professionals concerned. In this context GREVIO welcomes the training on sexual violence which is delivered by the University of Bologna to the staff of the Social Security Institute on a regular basis, resulting in high levels of awareness of the rights and needs of women and girls who experienced sexual violence and/or rape.

72. GREVIO welcomes the efforts made by the San Marinese authorities to fulfil their obligations under Article 15 of the convention, including by collaborating with Italian institutions to complete their training. However, in the absence of a training policy in the field of violence against women, training courses seem to vary largely from year to year as well as from one group of professionals to another. A comprehensive approach would allow for more systematic training based on a complete set of training courses offered to all relevant professionals and on the basis of clear objectives and methods of evaluation. Moreover, it would be important for relevant training to be supported and reinforced by clear protocols and guidelines that set the standards staff are expected to follow in their respective fields. Improvements in this area should be followed by monitoring the quality and impact of training.

**73. GREVIO encourages the San Marinese authorities to pursue their efforts to provide adequate training for relevant professionals in relation to all forms of violence against women covered by the Istanbul Convention, in particular the judiciary, including by ensuring harmonised and systematic in-service training based on clear protocols and guidelines for the different professional categories involved.**

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

74. In San Marino, Law 97/2008 provides for sexual domestic violence perpetrators to be placed on probation subject to their agreement to participate in rehabilitation programmes. However, there appears to be no general obligation made in the law for the provision of such programmes as part of a multi-agency and co-ordinated response to violence against women and domestic violence. In addition, GREVIO notes that there are no data illustrating to what extent this provision is enforced in practice.

75. GREVIO welcomes, however, the recent initiative taken by civil society to introduce programmes for perpetrators of sexual and domestic violence in San Marino. In May 2019, with the support and training of the Italian NGO CAM<sup>29</sup>, operating in Florence, the San Marinese NGO Il Confine was created, which now forms part of wider national and international networks of perpetrator programmes, namely the Italian network Relive and the European Network for the Work with Perpetrators of Domestic Violence. It also applies the quality standards developed by these networks. It is composed of psychologists and psychotherapists specifically trained in sexual and

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28. For more information on training provided to the Italian judicial sector, see GREVIO's baseline evaluation report on Italy (paragraph 102), which indicates that the High Judiciary Council offers, in co-operation with the National School of Magistrates, courses on gender-based violence of three to four days on a yearly basis to serving judges and prosecutors, while training programmes at local level vary from district to district and is thus not ensured in a uniform manner.

29. Men Perpetrators Support Centre ("Centro di Ascolto Uomini Maltrattanti").

domestic violence. The association does not receive any public funding and covers its basic expenses by requiring a fee from participants, while professionals offer their services on a voluntary basis in their own private practice premises.

76. The programme has so far dealt with three individual cases, all of which were referred to the association *Il Confine* by the Social Security Institute based on a co-operation agreement.<sup>30</sup> The association runs a telephone line and offers individual counselling as well as group therapy sessions. In addition, the association provides services dedicated to awareness raising and prevention of violence. It organises a monthly discussion group, which participants attend on a voluntary basis and where they are invited to share and reflect on their experiences and to examine their attitudes to violence and its consequences. All interventions are based on the voluntary participation of the perpetrators and are carried out in liaison with the victim, namely for the purposes of assessing risks.

77. While perpetrator programmes in San Marino are well integrated with social services (the Social Security Institute, the Child Protection Unit and the Assistance Centre for victims of violence), GREVIO notes with concern that no form of co-operation with the judiciary exists and, to date, no perpetrators subject to criminal proceedings have been referred to the programme by the judicial system.

**78. GREVIO strongly encourages the San Marinese authorities to support preventive intervention and treatment programmes for perpetrators of sexual and domestic violence, including by:**

- a. **monitoring the implementation of Article 25 of Law 97/2008 which provides for sexual domestic violence perpetrators to be placed on probation subject to their agreement to participate in rehabilitation programmes;**
- b. **encouraging or requiring perpetrators of violence to attend programmes fostering responsible behaviour in order to prevent any occurrence and/or reoccurrence of acts of psychological, physical, sexual or economic violence, including in the domestic environment;**
- c. **providing financial and/or material support to existing preventive intervention and treatment programmes;**
- d. **ensuring that preventive intervention and treatment programmes are implemented in close co-ordination with specialist support services for victims, as well as with the judiciary, and form an integral part of a co-ordinated multi-agency response to violence against women and domestic violence;**
- e. **ensuring that the valuation of preventive intervention and treatment programmes is based on recognised best practices to assess the success of the programmes and their impact on recidivism.**

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

79. In San Marino, Law 97/2008 dedicates a specific provision to the role of the media in promoting gender equality and preventing discrimination against women, which GREVIO welcomes. It states that the media should contribute to fostering and safeguarding equality between men and women and should avoid any form of gender-based discrimination. It further prohibits the use of images or expressions that are detrimental to individual dignity and identity or have a discriminatory content.

80. The law also provides for the Authority for Equal Opportunities to seek an intervention by the judiciary to remove any discriminatory or prejudicial content from the media and remedy the damage inflicted. Proceedings are adversarial, and the final decision adopted by the civil judge is subject to an appeal. No use of this complaint mechanism was however reported to GREVIO.

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30. "Agreement between the Social Security Institute and the association *Il Confine* for the provision of counselling services for men perpetrators of violence to end gender-based violence" (in Italian), December 2020.

81. A code of conduct for media professionals was issued by the Order of Journalists of San Marino in 2016. It states that media professionals have a duty to respect the person, his/her dignity and right to privacy and should not disclose names of victims of sexual violence or details which could lead to their identification. GREVIO notes that the code does not integrate a gender perspective and fails to mention the prohibition of harmful gender stereotyping or degrading images of women. In its previous baseline evaluation reports,<sup>31</sup> GREVIO stressed the importance for the authorities of encouraging the national media, including social networks, to establish, apply and monitor the use of self-regulatory standards on the non-stereotypical portrayal of women, including in the context of reporting on violence they have suffered, while fully respecting freedom of expression and media freedom. Such standards should prohibit any violent and degrading content that normalises violence, reinforces the idea of women's submissive role in the family and society and feeds into hate and/or sexist speech against women.<sup>32</sup>

**82. GREVIO strongly encourages the San Marinese authorities to take further measures to ensure the full implementation of Article 3 of Law 97/2008 on the role of the media in preventing violence against women and the use of the complaint mechanism foreseen therein. The authorities should further encourage the media sector to develop specific self-regulatory standards on the non-stereotypical portrayal of women and on how to report cases of violence in a gender-sensitive way.**

83. Article 17 of the Istanbul Convention also requires states parties to encourage employers to participate in drawing up and implementing policies and to establish self-regulatory standards to prevent violence against women and to enhance respect for their dignity. This requirement must be understood as encouraging more private companies to draw up protocols or guidelines on various topics such as how to deal with cases of sexual harassment at work. No initiative taken by the authorities to comply with this obligation has been reported to GREVIO.

84. However, GREVIO takes positive note of the active role played by San Marinese trade unions in supporting employers and workers in addressing work-related situations of violence, as well as violence experienced at home. This potential should be tapped into by involving trade unions and professional groups in contributing to a comprehensive response to all forms of violence against women in San Marino. Similarly, religious institutions and organisations have much to contribute to preventing and combating violence against women, not only by offering help and support to victims but also as employers and in their role as a source of moral authority in the country. This is particularly important against the backdrop of the clear desire expressed by both trade unions and religious organisations to take on an active role and to form part of a co-ordinated response to violence against women in San Marino.<sup>33</sup>

**85. GREVIO strongly encourages the San Marinese authorities to seek the involvement of employers in preventing and combating violence against women, including by co-operating with trade unions. To this end, employers should be encouraged to take part in the implementation of policies such as awareness-raising campaigns and to foster a work environment where violence against women, including sexual harassment, is openly condemned and adequately responded to.**

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31. See, for example, GREVIO's baseline evaluation reports on Finland (paragraph 88), Italy (paragraph 122b), the Netherlands (paragraph 116) and Andorra (paragraph 88).

32. See Council of Europe Gender Equality Strategy (2018-23), paragraph 40.

33. Information obtained during GREVIO's evaluation visit to San Marino.

## IV. Protection and support

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

### A. General obligations (Article 18)

87. 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 support 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, perpetrators, 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 are key to ensuring an effective and cohesive response to all forms of violence.

88. Under the terms of Article 4 of Law 57/2016, the effective and co-ordinated provision of support services for victims of violence against women and domestic violence in San Marino is the responsibility of the Authority for Equal Opportunities. To this end, the authority is mandated to conclude co-operation agreements with the following institutions: the Association of Lawyers for the provision of legal assistance and advice; the competent structures of the Social Security Institute for the provision of psychological support services; the offices responsible for assisting victims in accessing education, training courses and employment; and shelter facilities. The co-ordinating role of the Authority for Equal Opportunities in the provision of support services was further reinforced with the adoption of Delegated Decree 56/2018, which mentions protocols to be also concluded with the national Association of Psychologists and organisations running perpetrator programmes. In practice, it is the Social Security Institute which directly concludes agreements with relevant partners. It has indeed already signed protocols with the association Il Confine regarding perpetrator programmes, with Italian shelters regarding the provision of emergency accommodation, and is in the process of drafting a protocol with the Association of Psychologists regarding psychological support.

89. The Social Security Institute's internal network plays a crucial role in the co-ordination of services in San Marino. It is composed of professionals from various units, namely Women's Health, Gynaecology-Obstetrics, Paediatrics, Mental Health, Primary Health Care, Emergency Room and Child Protection. Every case of violence against women is discussed within a multidisciplinary team and an individual support plan is prepared with the collaboration of all members of the network. The Social Security Institute has established a protocol on care for victims of gender-based violence<sup>34</sup> which provides guidelines to all services on the allocation of responsibilities and steps to take, as well as a description of support measures and operating methods. The protocol specifies that all healthcare professionals must avoid secondary victimisation and respect the victim's decision to accept or not the different kinds of support suggested. GREVIO congratulates the authorities for setting up such a mechanism which offers a great basis for co-ordination among social and healthcare services while ensuring that victims are treated in the most sensitive way.

90. GREVIO welcomes the co-ordination of social and healthcare services within the Social Security Institute, which facilitates multidisciplinary follow-up and allows victims to access different kinds of support under the same roof. However, GREVIO notes that the co-ordination with agencies outside of the Social Security Institute seems to be arranged on an ad hoc basis rather than in the framework of a multi-agency co-ordination mechanism. In addition, no civil society organisation is involved in co-ordination efforts. GREVIO recalls the importance of having appropriate mechanisms in place that provide for effective co-operation among all relevant agencies, authorities and NGOs.

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34. Social Security Institute, Protocol "Taking care of adult victims of violence" (in Italian), April 2020.

In the case of San Marino, it could particularly contribute to the improvement of some of the downsides examined in various sections of this report, such as the co-ordination between services and civil society organisations, risk-assessment processes or the recognition of incidents of violence against women in decisions settling issues of custody and visitation.

**91. GREVIO strongly encourages the San Marinese authorities to step up their efforts to ensure an institutionalised co-ordinated multi-agency response to all forms of violence against women, which involves all relevant state agencies, including the judiciary and law-enforcement agencies, as well as civil society organisations.**

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

92. The provision of information to victims of violence on the different types of support services and legal measures available is foreseen by Article 4 of Law 97/2008. Law-enforcement agencies are required to inform victims about their rights to receive support, including specific support provided by the Assistance Centre for victims of violence, to request protection orders, to benefit from free legal aid in case of indigence, and to be immediately accompanied to a hospital to receive care and protection.<sup>35</sup> As for healthcare and social workers, the Social Security Institute's protocol foresees that professionals must inform the victim about the existence of specialist support services and how to reach out to them.<sup>36</sup> The document is however silent on the provision of information regarding legal measures available to victims of violence. Criticism was shared with GREVIO about the lack of information provided by healthcare professionals and social workers to victims on legal measures available to them and on the course of legal proceedings.

93. While welcoming the efforts pursued by law-enforcement agencies and the Social Security Institute to inform victims, GREVIO is concerned by the limited information made available to women victims of violence outside of social and healthcare services and law-enforcement agencies. With the exception of the information brochure drafted and distributed by the Assistance Centre for victims of violence in 2014, GREVIO found no evidence of the existence of a website, leaflets or other information material on the different forms of violence against women, nor on the support services and legal measures available to victims. It seems that information to victims is provided predominantly once victims have made the first step by reaching out to the Social Security Institute or to law-enforcement agencies. GREVIO wishes to emphasise the importance of making information easily accessible to the general public and to women victims of violence on the available avenues for help and the services that may assist them, irrespective of their desire to formally report their experiences of violence.

**94. GREVIO strongly encourages the San Marinese authorities to ensure the wider dissemination of information on the support services and legal measures available to victims of all forms of violence covered by the Istanbul Convention. This should include measures such as the dissemination of posters and leaflets as well as the intensification of efforts to ensure that professionals of all relevant institutions are familiar with the available legal measures and inform victims accordingly.**

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

95. The provision of support services for victims of violence is framed by Article 4 of Law 97/2008. Under the terms of this law, support services must be equipped with specialist staff and be easily accessible to victims. Both short-term emergency interventions and long-term support services must

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35. Gendarmerie corps, "Protocol of intervention for San Marino police officers in preventing and combating gender-based violence" (in Italian), 2015, p. 7.

36. Social Security Institute, Protocol "Taking care of adult victims of violence" (in Italian), April 2020, p. 7.

be available and include psychological counselling, financial assistance, housing, education, training and assistance in finding employment.

96. In San Marino, both general and specialist support services are provided by the Social Security Institute which manages a wide range of services, from healthcare to social and financial assistance. It consists of three different departments: the prevention department, the social and healthcare department, and the hospital department, each comprising several units. The institute's protocol on care for victims of violence<sup>37</sup> provides information to all services on the allocation of responsibilities and steps of the procedure. According to the protocol, social workers from the Mental Health Unit play a central role, as they act as reference persons within the institute for each case of violence against women. They interview the victim, assess the situation and proceed to a risk assessment. In emergency cases, they refer the victim to a protected structure outside of San Marino or arrange accommodation in the state hospital. The multidisciplinary team, composed of members of the institute's network, then establishes a support plan and victims may access the different kinds of support offered by the Social Security Institute. GREVIO notes that the approach adopted by the Mental Health Unit is one of victim empowerment and orientation rather than psychiatric assignment and treatment, which it welcomes.

97. The health sector provides a range of services to victims of violence against women, and training initiatives within the Social Security Institute have sought to ensure that all staff members are familiar with internal guidelines and procedures for cases of violence against women.

98. Of concern to GREVIO is the limited financial and housing support victims of violence may have access to. Regarding financial support, Article 5 of Law 57/2016 establishes a fund for the assistance of women victims of violence, managed by the Authority for Equal Opportunities. Under the terms of the law, the fund can be accessed by victims of all acts of violence covered by the convention which have been either committed or attempted on the territory of San Marino, in cases of economic difficulty, including temporary difficulty, irrespective of whether the victim is a citizen or resident of San Marino. In the past, the fund has been used to provide short-term support such as a short hotel stay and clothing in exceptional cases.

99. Little information is available on other forms of financial or housing support provided by the Social Security Institute and accessible for women victims of violence. Yet the study on the impact of Law 97/2008 identified, on the basis of data collected from 2008 to 2016, that behind much intimate partner violence there often lie economic difficulties, such as the inability of the victim to support herself and a subsequent financial dependence on her partner.<sup>38</sup> In that view, GREVIO is concerned by the lack of services facilitating the victim's recovery from violence and the shortcomings of the current support system. It was indeed informed that civil society organisations are regularly asked by social workers to step in to provide financial and housing support to women victims and their children when social services lack resources to provide it themselves. In its 2018 report, the Authority for Equal Opportunities also pointed to these shortcomings and highlighted the need to adequately satisfy victims' needs in terms of accommodation and financial support to help women victims work towards financial security.<sup>39</sup>

**100. While noting with satisfaction the efforts made to provide different support services within the structure of the Social Security Institute, GREVIO strongly encourages the San Marinese authorities to:**

- a. ensure that victims of violence have access, including at an early stage of experiencing violence, to services facilitating their recovery from violence, including**

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37. Social Security Institute, Protocol "Taking care of adult victims of violence" (in Italian), April 2020.

38. Taddei A. (2017), *Contro la violenza di genere: tra formazione ed intervento. Riflessioni da una ricerca nella Repubblica di San Marino*, p. 57.

39. Authority for Equal Opportunities, Annual Report 2018 (in Italian), p. 5.

- financial assistance, housing, education, training and assistance in finding employment;**
- b. provide the general social services with adequate financial and human resources to enable them to assist women victims of violence effectively.**

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

101. While GREVIO acknowledges the difficulties that small states parties to the convention face in providing sufficient levels of specialist support services for all forms of violence against women covered therein, it recalls that the aim of specialist support is to ensure the complex task of empowering victims through optimal support and assistance catered to their specific needs. Much of this is best ensured by women's organisations and by support services provided, for example, by local authorities with specialist and experienced staff with in-depth knowledge of gender-based violence against women. It is important to ensure that these services are 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.

102. In San Marino, both general and specialist support services are provided by the Social Security Institute. Following the enactment of Law 97/2008, the Assistance Centre for victims of violence was established within the Women's Health Unit of the Social Security Institute as a specialist entity. It is composed of one psychologist and offers specialist psychological support to women victims of violence. The Social Security Institute also offers specialist medical support for victims of sexual violence and professionals receive specific training on the reception of victims as well as the procedure for collecting and storing evidence.

103. GREVIO notes that except for the Assistance Centre for victims of violence, no specialist support service is available to women victims of violence. Specialist support thus seems limited to psychological counselling and to the medical and forensic needs of victims of sexual violence, which are only some of several forms of specialist support the convention calls for. GREVIO also notes that most services are provided in a hospital setting, as all services are part of the Social Security Institute. In this context, GREVIO wishes to recall the obligation laid down in Article 22 to set up or arrange for a well-resourced specialist support sector, accessible to all victims of all forms of violence covered by the scope of the convention, including victims of forms of violence which may not require care in a hospital setting.

**104. GREVIO encourages the San Marinese authorities to set up or arrange specialist support services in compliance with Article 22 of the Istanbul Convention, in order to meet the needs of victims of all forms of violence covered by the Istanbul Convention, in particular sexual harassment, female genital mutilation and forced marriage.**

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

105. There is no shelter on the territory of San Marino. Several agreements are in place between the Social Security Institute and Italian shelters for the purposes of fulfilling the requirements of Article 23 of the convention. Four agreements have been concluded so far with sheltering facilities in the neighbouring region, with a total of four places reserved for women and women with children from San Marino.

106. In emergency cases, social workers from the Social Security Institute refer the victim to one of the shelters outside San Marino. An emergency is evaluated on the basis of three criteria: the

inability to return home safely; the absence of external support to turn to immediately; and the risk of repetition of violence.<sup>40</sup>

107. Of concern to GREVIO are obstacles encountered in accessing Italian domestic violence shelters, such as waiting periods before being allocated a place or inaccessibility of the facilities during weekends. When the Social Security Institute is unable to refer victims in the immediate future to an Italian shelter, the institute's protocol on care for victims of violence foresees the arrangement of what is known as "social hospitalisation". In specific terms, victims and their children are accommodated in the state hospital for the necessary period. GREVIO was also informed of the case of a woman who was accommodated in a hotel as no emergency shelter solution could be found. No data are available on the frequency of these social hospitalisations or hotel stays, nor their duration. Nevertheless, GREVIO wishes to recall that such temporary solutions do not provide the necessary support or empowerment that should be offered by specialist women's shelters, nor a serene environment for victims and their children to recover.

108. The lack of domestic violence shelters on the territory of San Marino and the obstacles encountered in accessing Italian shelters seem to cause difficulties in finding suitable emergency accommodation.<sup>41</sup> In this regard, GREVIO notes that in its 2018 report, the Authority for Equal Opportunities stated that appropriate accommodation should be identified within the territory of San Marino, both for emergency and non-emergency situations.<sup>42</sup>

**109. GREVIO strongly encourages the San Marinese authorities to make available in sufficient numbers shelters for accommodating, 24/7, women and their children in emergency situations. To that end, GREVIO encourages the authorities to establish shelters within the territory of San Marino specifically dedicated to women victims of violence.**

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

110. San Marino's obligation to set up a telephone helpline was enshrined in domestic law in 2018, with the enactment of Delegated Decree 56/2018. Under the terms of the decree, the Authority for Equal Opportunities is responsible for identifying structures, services or associations that can provide the requested service, and for monitoring the effectiveness and functionality of the helpline.

111. Based on a collaboration between the Authority for Equal Opportunities, the Social Security Institute and law-enforcement agencies, the San Marinese telephone helpline was launched in April 2020, at a time when a confinement was imposed to contain the spread of the Covid-19 virus. In addition to this number, an e-mail address is available from which to request information and assistance by message, which the Assistance Centre responds to. The helpline is free of charge and active 24 hours a day, seven days a week, including on public holidays. It offers support and information on support services available for victims of gender-based violence. Calls are answered by the psychologist of the Assistance Centre for victims of violence during the opening hours of the centre and by law-enforcement officials when the centre is closed. While welcoming the initiative of the authorities to establish this service, GREVIO notes the latter arrangement with concern. Many victims find it difficult to actively seek help and the threshold for making a call and sharing intimate and personal details is high. In addition, victims often call telephone helplines at a time when they may be unsure whether they want to initiate any legal proceedings. It is therefore important that callers have the opportunity to remain anonymous and that telephone helplines are operated by persons who are trained in dealing with such situations and are able to provide support, crisis counselling and information.

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40. Social Security Institute, Protocol "Taking care of adult victims of violence" (in Italian), April 2020.

41. Taddei A., *Contro la violenza di genere: tra formazione ed intervento. Riflessioni da una ricerca nella Repubblica di San Marino*, 2017, p. 54.

42. Authority for Equal Opportunities, Annual report 2018 (in Italian), p. 5.

112. In addition to the telephone helpline, the application TECUM for victims of gender-based and domestic violence was developed through a collaboration between the Authority for Equal Opportunities, the Social Security Institute, the University of San Marino, law-enforcement agencies and private companies, and was launched in September 2020. Users can register their mobile phone number in the application and enter their name and GPS position. These data will be saved on a database accessible to law-enforcement agencies. An emergency call button allows a call to be made automatically to the emergency number. The person calling can either speak directly with a police official or, if she/he is not in a position to speak, a live audio recording can be played so that law-enforcement officials can listen and locate the victim immediately. As soon as the call begins, the mobile phone number, name and GPS location of the person calling is made available to the law-enforcement agencies. At the end of the call, or at the end of the audio recorded by the user, the call is saved on the mobile phone in a section of the application protected by a chosen password, as well as on a cloud database accessible to law-enforcement agencies. Finally, a section of the application provides information on different types of violence and available support services.

113. While no sufficient data are available to assess the use of the telephone helpline and the mobile application, or their effectiveness – because of their very recent launch – GREVIO welcomes the authorities' efforts to implement both services in a co-ordinated manner among several relevant agencies, and at a time where the Covid-19 health crisis called for innovative tools to ensure victims' access to information and support.

**114. GREVIO strongly encourages the San Marinense authorities to ensure that the newly established telephone helpline is operated by persons who are trained to provide support, crisis counselling and information confidentially, on all forms of violence against women covered by the scope of the Istanbul Convention. GREVIO further encourages the authorities to actively promote the telephone helpline and the mobile phone application TECUM to ensure they are both widely known among the general public, as well as to collect data and monitor the use and effectiveness of both services.**

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

115. The Gynaecology and Obstetrics Unit of San Marino's hospital provides crucial medical and forensic services. Professionals receive specific training on sexual violence with the aim of ensuring appropriate reception of victims and avoiding secondary victimisation. Medical personnel use a rape kit for the collection of evidence, which includes the taking of DNA samples and the careful documentation of other evidence, such as injuries. The victim's clothes are also preserved as evidence and new clothes are offered to the victim. The examination takes place in a special room, where medical personnel are instructed not to rush the process and to explain every step to the victim so as to ensure nothing is done without her consent.

116. The procedure for medical and forensic examinations is the same for all victims whether they intend to press charges or not. Where victims have first turned to law-enforcement agencies, they are referred to the hospital and may be accompanied there by law-enforcement officials who will draw up a report on the crime. The evidence is stored for up to six months or longer if required by the judiciary. GREVIO welcomes this highly professional service for rape victims in San Marino.

117. Scientific research has shown that women victims of sexual violence, including in the context of intimate partner violence, face many risks relating to their sexual and reproductive health such as sexually transmitted diseases, unwanted pregnancies, miscarriages, obstetric complications and recourse to non-medical abortion practices.<sup>43</sup> These harmful effects are amplified by attacks on the right of these women to self-determination when perpetrators control their ability to make their own reproductive choices. This control can have the effect of hampering their access to means of

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43. See Pallitto C. et al. (2005), "Is Intimate Partner Violence Associated with Unintended Pregnancy?", in *Trauma, Violence, & Abuse*, 6(3), pp. 217-235; Fanslow J. et al (2019), "Intimate partner violence and women's reproductive health", in *Obstetrics, Gynaecology & Reproductive Medicine*, 29(12), pp. 342-350.

contraception and/or of forcing them to carry an unwanted pregnancy to term or, conversely, requiring them to terminate a pregnancy. In such complex situations, women experience major psychological suffering linked both to sexual violence and reproductive coercion. Psychological distress may be exacerbated by social isolation and, where applicable, economic dependence which characterises sexual violence in the domestic sphere. Since sexual violence has a direct impact on victims' sexual and reproductive health, its consequences must be addressed by support services in a manner that deals with the victim's trauma and prevents long-term harmful effects.<sup>44</sup>

118. Several European studies reveal that a large share of women who opt for emergency contraception or an abortion, particularly successive abortions, have undergone sexual violence, which is often carried out by a former or current intimate partner.<sup>45</sup> Victims with an unwanted pregnancy must have access to support services on an equal footing with any other victim of sexual violence, including when they wish to terminate their pregnancy. In countries such as San Marino, where abortion is penalised in the event of rape, an assessment should be made, within the field of application of the convention, of the impact of this context on the application of Article 25.<sup>46</sup> GREVIO recalls in this respect that one of the general obligations placed upon states parties by Article 18, paragraph 3, of the Istanbul Convention is that all protection and support measures must seek to avoid any secondary victimisation and to empower victims. GREVIO further stresses that any obstacle to accessing support services may result in victims' reluctance to report sexual violence, which in turn may contribute to low reporting rates and mask the extent of sexual violence. In San Marino, GREVIO notes that healthcare professionals address the matter of preventing sexually transmitted diseases and unwanted pregnancies by informing victims of the possibility to use an emergency contraception pill.

**119. GREVIO encourages the San Marinese authorities to ensure that all victims of sexual violence have access to specialist services providing forensic expertise and short-term medical care along with long-term psycho-social support, and to examine, within the scope of application of the Istanbul Convention, the impact that the criminalisation of abortion may have on women's access to such specialist services.**

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

120. The obligation set out in Article 26 is to ensure that whenever children have witnessed domestic violence, rape, sexual harassment or other forms of violence covered by the convention, the services provided to direct victims are also equipped to address the needs and rights of any children who were present. While this is most relevant to domestic violence cases, it is important to bear in mind that other forms of violence may also be witnessed by children.

121. Research has shown that children who witness one of the parents assaulting the other one in the home often develop emotional problems, cognitive functioning disorders and accept attitudes around violence that need to be addressed in the long term.<sup>47</sup> It is thus of crucial importance to

44. See, in this connection, the recent statement by the Council of Europe Commissioner for Human Rights ("COVID-19: Ensure women's access to sexual and reproductive health and rights") dated 7 May 2020: "In their response to the COVID-19 pandemic, Council of Europe member states must ... ensure full access to sexual and reproductive health care information, services and goods for all women without discrimination, and with specific attention for women at risk or victims of gender-based violence and other vulnerable groups of women".

45. See, for example, Citernes A. et al. (2015), "IPV and repeat induced abortion in Italy: A cross sectional study", in *The European Journal of Contraception & Reproductive Health Care*, 20(5), pp. 344-349; Öberg M. et al. (2014), "Prevalence of IPV among women seeking termination of pregnancy compared to women seeking contraceptive counselling", in *Acta Obstetrica et Gynecologica Scandinavica*, 93(1), pp. 45-51; Pinton A. et al. (2017), [www.sciencedirect.com/science/article/abs/pii/S2468718917301605](http://www.sciencedirect.com/science/article/abs/pii/S2468718917301605), in *Gynécologie, Obstétrique, Fertilité & Sénologie*, 45 (7-8), pp. 416-420; Lewis N. et al. (2018), "Use of emergency contraception among women with experience of domestic violence and abuse: a systematic review", in *BMC Women's Health*, 18 (156).

46. See also GREVIO's baseline evaluation report on Andorra, paragraphs 121-128; and GREVIO's baseline evaluation report on Malta, paragraphs 122-131.

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

ensure their protection and access to psychological counselling and therapy as soon as they come to the attention of the authorities.

122. In San Marino, Law 97/2008 foresees several protection measures for children who are direct victims of violence committed by a parent, guardian or other relatives, such as the appointment of a curator to represent the minor in court (Article 18) or the assistance of a child psychologist in criminal proceedings (Article 23). In addition, Article 6 of Law 57/2016 extended the applicability of support services foreseen by Laws 97/2008 and 57/2016, originally designed for adult women victims of violence, to child witnesses as well, thus recognising their status as indirect victims of violence.

123. The Child Protection Unit, within the Social Security Institute, is responsible for the psychological support and protection of children, in response to all problems related to child abuse. The Social Security Institute has also signed an agreement with the association “Segno”, a reception facility in Italy which provides care services for children removed from their families by the authorities, awaiting adoption or foster care. While welcoming the availability of child protection services, GREVIO notes that they are mostly dedicated to children who are direct victims of child abuse and may need protection, including by removing them from the family unit.<sup>48</sup> In that regard, GREVIO recalls that measures should be taken to ensure that children can remain with the non-abusive parent - preferably in the safety of their own home - and receive the care and support they need. Solutions should therefore focus on making greater use of emergency and protection orders in order to remove perpetrators from the family home and ensuring that when assistance is provided to victims with children, the latter’s rights and needs are taken into account.

**124. GREVIO strongly encourages the San Marinese authorities to ensure that children who witness domestic violence receive counselling and support, while ensuring 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)**

125. San Marinese legislation envisages extensive reporting obligations for professionals who may, in the course of their work, come into contact with victims of violence against women. Under Article 19 of Law 97/2008, social services, law-enforcement agencies and public and private healthcare professionals must report any case of violence to the judicial authorities, regardless of the gravity of the offence. If the violence qualifies as an offence prosecutable on the basis of a complaint, the violence is to be reported to the civil court who may order an investigation by social services and adopt any necessary protective measures, after hearing the victim. In cases of offences prosecutable *ex officio* or where a complaint has already been submitted, the violence is to be reported to the criminal court. The same obligation applies to teachers who must report to the Child Protection Unit any situation where there are grounds for suspicion that a child is a victim of violence. Violation of the reporting obligation entails the imposition of a €500 fine.

126. 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.<sup>49</sup> 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 by 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,

48. San Marino’s replies to the general overview questionnaire of the Lanzarote Committee’s first monitoring round, p. 5.

49. Explanatory Report to the Istanbul Convention, paragraphs 146-147.

financial insecurity, social isolation or the removal of children from their care). Where the authorities have introduced mandatory reporting obligations for professionals, GREVIO notes that these should allow for the balancing of the victims' protection needs – including those of her children – with the 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 such as where the victim is a child or is unable to protect her/himself due to disabilities.<sup>50</sup>

**127. Recalling the principle of women's empowerment mainstreamed throughout the Istanbul Convention, GREVIO strongly encourages the San Marinese authorities 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 San Marinese authorities to review the obligation for professionals 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 due to disabilities.**

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50. Explanatory Report to the Istanbul Convention, paragraph 148. 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 female genital mutilation, 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

128. 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)

129. A core aim of the Istanbul Convention is to end impunity for acts of violence against women. This not only requires that individual perpetrators be held accountable through criminal law and other measures, but also that legal avenues be available to challenge and address any wrongdoing by state actors. If a state agency, institution or individual official has failed diligently to prevent, investigate and punish acts of violence (Article 5, paragraph 2, of the convention), victims and/or their relatives must be able to hold them accountable.

130. In San Marino, this is, in principle, possible under Article 8 of Law 57/2016, which foresees that victims of violence have the right to take legal action in order to obtain compensation for any damages resulting from the authorities' failure to adopt the necessary preventive or protective measures provided for by law, due to wilful misconduct or gross negligence.

131. GREVIO recalls that the obligation stemming from Article 29, paragraph 2, of the convention is in line with case law of the European Court of Human Rights concerning the failure of public authorities to comply with their positive obligation under Article 2 of the European Convention on the Protection of Human Rights (right to life). This case law explicitly established that responsibility for such failure should not be limited to gross negligence or wilful disregard of the duty to protect life.<sup>51</sup>

132. In the absence of data, it has not been possible for GREVIO to ascertain to what extent the Article 8 of Law 57/2016 is applied to uphold the rights of victims of breaches by the authorities of their duty to take the necessary measures to prevent, investigate and punish acts of violence covered by the convention. Legal professionals with whom GREVIO met during the evaluation visit indicated that they were not aware of any case in which this provision had been applied.

**133. GREVIO strongly encourages the San Marinese authorities to ensure that women victims of any of the forms of violence covered by the Istanbul Convention are informed of their right to obtain compensation for any damages resulting from the authorities' failure in their duty to take the necessary preventive or protective measures, and are given the practical means to exercise this right. GREVIO encourages the authorities to compile relevant statistics regarding the number of claims made against the authorities and the number of remedies granted as a result.**

#### 2. Compensation (Article 30)

134. Article 20 of Law 97/2008 foresees the possibility for the Authority for Equal Opportunities to participate in legal proceedings concerning violence against women and to claim compensation on behalf of victims. To this end, the investigating judge is required to inform the authority of any criminal proceedings underway. Sums awarded by the judge to the authority feed into the assistance fund which is used to provide financial support to victims. In the 2020 state budget, this sum represented a total of €3 435.

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51. Explanatory Report to the Istanbul Convention, paragraphs 162-163.

135. Victims may bring a civil action for the damage suffered as a result of an offence in criminal proceedings, in which case the criminal court may also recognise and assess the damage suffered or may bring an independent civil action.<sup>52</sup> There are however no available data to evaluate the rate of granting of such compensation orders nor their amount. Concerns were raised by civil society and legal professionals about the difficulty for victims to obtain compensation from perpetrators in practice, owing to the non-availability of provisional measures aimed at preserving the perpetrator's solvency. GREVIO recalls that the first paragraph of Article 30 of the convention establishes the principle that it is primarily the perpetrator who is liable for damages and restitution, while the second paragraph establishes a subsidiary obligation for the state to compensate. In that regard, GREVIO notes that San Marino did not enter a reservation to Article 30, paragraph 2, of the convention in respect to the establishment of a state compensation scheme to victims who have sustained serious bodily injury or impairment of health.

**136. GREVIO strongly encourages the San Marinese authorities to ensure that women victims have access to effective compensation systems, including adequate compensation from the state.**

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

137. 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.

138. According to the San Marinese Law on Family,<sup>53</sup> in separation cases, the competent judicial authority (the Law Commissioner) decides which parent is entrusted with custody rights, having exclusive regard to the interests of the child. The Law Commissioner determines the extent and manner in which the non-custodial parent must contribute to the maintenance, education and upbringing of the children, as well as the manner of exercising his or her rights in relation to them.

139. In order to protect children from violence, the Law on Family, as amended by Law 68/2008, foresees several measures. In cases involving violence, the judge may limit the exercise of parental authority and order support interventions of the Child Protection Unit, withdraw parental authority from a parent who violates or seriously neglects his or her duties to the detriment of the child, or remove the child from the family. These measures can be adopted by a judge upon notification of the other parent, a relative of the child or the Child Protection Unit, after having obtained all useful information and after hearing the parents and the child. In urgent cases, the judge may also order these measures without a hearing for a maximum duration of one month, at the end of which a hearing must take place.

140. These measures were further supplemented with the enactment of Article 31 of Law 97/2008 which foresees the suspension of "parental rights held by the defendant or the parent who tolerated the violence until liability is ascertained" when violence is committed against children. In this regard, GREVIO recalls that Article 31, paragraph 1, of the convention, while upholding the principle of a child's best interests, provides that decisions on custody, frequency of visits and the relationship between parents and children must take into account instances of violence not only against the child but also against the non-abusive parent.

141. In addition, GREVIO notes with concern that the wording of Article 31 of Law 97/2008 fails to acknowledge the power imbalance between perpetrators and victims in cases of domestic violence against women and treats them equally by stipulating that the suspension of parental rights may be ordered with respect to both the defendant and the parent who tolerated the violence. GREVIO is

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52. CEPEJ, San Marino Evaluation Exercise – 2012 Edition, p. 9.

53. Article 112 of Law 49/1986.

concerned that the implementation of this provision may lead to protection mechanisms turning against women victims of intimate partner violence and exposing them to secondary victimisation by restricting the exercise of their parental rights.

142. Despite the existence of protection measures, GREVIO notes with concern that the legal framework in place does not require courts to consider incidents of domestic violence when deciding on the exercise of parental responsibility. It is thus unclear to GREVIO to what extent judges consider this issue when determining custody and visitation rights, especially since, in the last two years, there were no cases of the withdrawal of parental authority on account of domestic violence. GREVIO stresses that intimate partner violence is an essential factor in the determination of child custody.<sup>54</sup> In light of ample research showing that child custody and visitation arrangements that are inattentive to such issues may expose women to post-separation abuse<sup>55</sup> and secondary victimisation, GREVIO underlines that the safety of the parent victim of violence and children must be a central factor when deciding the best interest of the child in relation to custody and visitation arrangements. This would require establishing official channels of communication between civil and criminal jurisdictions and social services which would ensure that acts of violence, not only against children, but also by one parent towards the other, are communicated to courts deciding on the exercise of parental responsibility.

143. In cases where, in the interests of the child, the judge confers the exclusive custody to the victim, the Istanbul Convention calls for special attention to be paid to the increased risks of post-separation violence, especially in the exercise of visitation rights. In San Marino, the possibility of arranging supervised visits exists, upon the decision of a judge or by agreement between the parents. They take place within the Child Protection Unit, which is in charge of their organisation. Professionals from this service observe the interaction between the parent and the child behind a mirror.

**144. GREVIO urges the San Marinese authorities to take the necessary measures, including legislative amendments, to ensure that courts are under the obligation to consider all issues related to violence against women when determining custody and visitation rights. To this end, the authorities should:**

- a. consider amending their legislation to explicitly recognise the need to take into account incidents of violence covered by the scope of the Istanbul Convention in the determination of custody and visitation rights of children;
- b. take measures to incorporate a systematic process for screening cases related to the determination of custody and visitation rights to determine whether violence has been an issue in the relationship between the parents and whether it has been reported;
- c. ensure co-operation between the judiciary and support services, including the Child Protection Unit, to ensure that cases of violence are brought to the attention of the courts determining custody, visitation rights and parental authority.

## **B. Criminal law**

145. The Law 97/2008 introduced several provisions into the San Marinese Criminal Code (CC) to criminalise acts of violence against women. The ratification by San Marino of the Istanbul

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54. See statement dated 31 May 2019 of the Platform of United Nations and regional independent mechanisms on violence against women and women's rights.

55. An overview of research in this area shows that for many women and children, violence intensifies after separation; that child contact arrangements (including court-ordered contact) are a significant site for the perpetuation of physical and emotional abuse towards children and women, even where there are high levels of supervision; that child contact often replaces the intimate relationship as the avenue for men to control women, so that child contact can become a form of post-separation violence. See Thiara R. and Harrison C., "Safe not sorry: Key issues raised by research on child contact and domestic violence", Women's Aid, 2016, available at: [www.womensaid.org.uk/wp-content/uploads/2016/01/FINAL-Safe-not-sorry-FOR-WEB-JAN-2016.pdf](http://www.womensaid.org.uk/wp-content/uploads/2016/01/FINAL-Safe-not-sorry-FOR-WEB-JAN-2016.pdf).

Convention has led to further amendments of the Criminal Code aimed at qualifying as criminal offences the different types of violent conduct described in Chapter V of the convention. These amendments were brought about through the adoption of Law 57/2016 which introduced separate offences to criminalise forced marriage (Article 176*bis* CC), female genital mutilation (Article 156*bis* CC) and forced sterilisation (Article 154*bis* CC).

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

146. In San Marino, several provisions of the Criminal Code cover psychological violence: these are the provisions criminalising threat (Article 181), defamation (Article 183) and insult (Article 184). Article 181 requires a threat to cause a wrongful damage, while Articles 183 and 184 only apply to public spaces.

147. While these offences seem suitable to cover serious forms of psychological violence or psychological violence perpetrated outside the private sphere, GREVIO is concerned that they do not capture the conduct set out in Article 33 of the Istanbul Convention, which consists of any intentional conduct that seriously impairs another person's psychological integrity. This can be done by various means or methods, such as isolation, control, coercion and intimidation. Article 33 is intended to capture the criminal nature of an abusive pattern of behaviour occurring over time.

148. In the absence of data on the number of prosecutions and convictions for psychological violence in abusive relationships, it is difficult to draw conclusions as to how effective these provisions are in holding domestic abusers accountable for psychological violence. Nevertheless, GREVIO points to the important need to adequately respond to allegations of psychological violence, which may take various forms, including very serious ones such as death threats. Threats of violence often escalate into actual physical violence. Explicit threats of harm and death are often concurrent with other forms of violence, distress and fear, all of which are aspects of coercive control in a relationship.

**149. GREVIO strongly encourages the authorities to introduce a specific criminal offence of psychological violence to effectively criminalise all acts that seriously impair the psychological integrity of a person as required by Article 33 of the Istanbul Convention.**

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

150. Stalking is criminalised under Article 181*bis* of the Criminal Code, introduced in pursuance of Article 13 of Law 97/2008. The provision covers the conduct of "repeatedly pestering or threatening a person", while also providing for an aggravated form of stalking which addresses mobbing in the workplace. A legislative amendment is underway to add an aggravating circumstance to the provision which would cover online stalking.

151. While GREVIO welcomes the addition of such an offence to the Criminal Code, it is concerned by the restrictive wording of Article 181*bis*, as it requires that the threatening conduct causes severe moral suffering and harm to the victim's dignity to the point of either upsetting the victim's usual life conditions, intimidating him/her, causing substantial physical or psychological distress or reasonable fear for his/her safety of the safety of his/her close ones. GREVIO recalls that Article 34 defines the offence of stalking as the intentional conduct directed at another person, causing her or him to fear for her or his safety, irrespective of any severe moral suffering and harm.

**152. GREVIO encourages the San Marinese authorities to review the threshold required for a behaviour to qualify as stalking in order to ensure that threatening conduct causing the victim to fear for her or his safety, irrespective of any severe moral suffering and harm, is criminalised.**

### 3. Physical violence (Article 35)

153. Several provisions of the San Marinese Criminal Code cover physical violence: personal injury (Article 155), beatings (Article 157), sequestration (Article 169), injury or beatings followed by death (Article 158) and murder (Article 150).

154. Of particular relevance to domestic violence is, however, the specific domestic violence offence established by Article 235 on ill-treatment of family members or cohabitants. This offence covers the conduct of “ill-treating a family member, a cohabitant, or a person who was or is linked by an emotional relationship, even if not involving cohabitation, or against a person subject to his/her authority or entrusted to him/her”.

155. While welcoming the broad scope of Article 235, it is difficult for GREVIO to assess how this provision is interpreted and enforced by courts in the absence of pertinent data which would, *inter alia*, specify to which forms of violence covered by Chapter V of the Istanbul Convention this offence is applied. In particular, GREVIO was not in a position to ascertain if this provision is suitable and/or adequately enforced in order to both capture isolated events in an abusive relationship and a course of conduct that is typical of domestic violence cases. However, GREVIO notes that the statistics on criminal proceedings related to violence against women, published by the Authority for Equal Opportunities, show that from 2016 to May 2020, only six offences of ill-treatment were recorded, out of a total of 231 offences of violence against women.

**156. GREVIO strongly encourages the San Marinese authorities to investigate, prosecute and punish effectively acts of intimate partner violence by making full use of the available provisions in the San Marinese Criminal Code, including by ensuring prosecution under Article 235 of the Criminal Code.**

### 4. Sexual violence, including rape (Article 36)

157. Sexual offences are criminalised in a number of provisions of the San Marinese Criminal Code (Articles 171-173). The main provision, Article 171, punishes the conduct of forcing or deceiving a person into committing sexual acts by using violence, threats or suggestion, including hypnotic suggestion. Penetration is construed as an aggravating circumstance. The punishment is also further increased if the offence was committed against a spouse or a person cohabiting with the victim or if the perpetrator is or was in an emotional relationship with the victim. An aggravating circumstance applies as well if the offence is committed against a victim with disabilities or by a parent, an adoptive parent, a tutor, an educator, a teacher, a healthcare provider or a person having custody over the victim.

158. Article 172*bis* covers gang sexual assault, defined as the participation of at least two people in sexual acts covered by Article 171. The participation may be direct or consisting of a causal contribution to the commission of the offence, including the presence at the time and place where the violence is perpetrated.

159. Article 173 addresses sexual violence committed without violence, threat or deceit against victims who are under the age of 14, who are presumed to be unable to consent, and persons unable to resist the perpetrator owing to their physical or mental conditions.

160. In the light of the foregoing, GREVIO notes that the various offences of sexual violence in San Marino are not based exclusively on the absence of consent, although this is the central element in which the Istanbul Convention frames sexual violence. In San Marino, the seriousness of sexual violence is still assessed according to the use of violence or threat or according to the victim's state: evidence has to be found that the victim's physical or mental faculties made her incapable of

defending herself. As GREVIO has already had occasion to note,<sup>56</sup> the problem with this approach is that it does not fully reflect the realities of women experiencing sexual violence and the various ways in which they respond to the threat of sexual violence, which can be summed up using the formula “flight, fight, freeze, flop or befriend”. GREVIO underlines that, in implementing Article 36 of the convention, “Parties to the convention are required to adopt criminal legislation which encompasses the notion of lack of freely given consent to any of the sexual acts listed”.<sup>57</sup> It thus appears from the above that the definition of sexual violence in San Marino is not aligned with the requirements of the convention insofar as it is not based on the absence of freely given consent.

161. In addition, GREVIO notes with concern that according to the statistics on criminal proceedings published by the Authority for Equal Opportunities, the offences of sexual violence (Article 171 CC) and sexual violence on a minor or persons unable to resist (Article 173 CC) together amount only to 2.6% of all offences related to violence against women recorded between 2016 and May 2020, representing a total of six offences. In light of the information GREVIO received from civil society organisations and when compared to other countries, this low number seems to point to a lack of reporting and/or a lack of investigation of such offences.

162. GREVIO welcomes, however, that legislative amendments are underway to criminalise the illegal dissemination of sexually explicit images or videos, which would punish the act of sending, publishing or disseminating images or videos of sexually explicit content that were intended to remain private without the consent of the person depicted in the images or videos, whether the perpetrator made or stole them. GREVIO is hopeful that such changes will allow the criminalisation of image-based abuse online – a more and more frequent form of violence against women.

**163. GREVIO urges the San Marinense authorities to reform the Criminal Code in order to base all legal provisions covering sexual violence on the notion of freely given consent as required by Article 36 of the Istanbul Convention. It further strongly encourages the authorities to take measures to increase reporting levels of sexual violence.**

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

164. GREVIO welcomes the introduction of the specific offence of forced marriage in the Criminal Code of San Marino, following the ratification of the Istanbul Convention. Forced marriage is now criminalised under Article 176*bis* of the Criminal Code and covers the acts of forcing a person into a marriage, or intentionally deceiving a person into the territory of a state other than the one in which he/she resides in order to force that person to enter into marriage, in accordance with the requirements of the convention. No cases of forced marriage have been recorded by the authorities since the introduction of this offence.

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

165. GREVIO welcomes the introduction of the specific offence of female genital mutilation in the Criminal Code of San Marino, following the ratification of the Istanbul Convention. Article 156*bis* of the Criminal Code now criminalises the acts of excising, infibulating or performing any other mutilation to the whole or any part of a woman’s labia majora, labia minora or clitoris, as well as coercing or inciting a woman to undergo any such acts. The offence does not however encompass the conduct of procuring a woman or a girl to undergo any of the acts listed in Article 38 of the convention, which is a conduct that does not seem to be covered by any other criminal provision. No cases of female genital mutilation have been recorded by the authorities since the introduction of this offence.

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56. See, for example, GREVIO’s baseline evaluation report on Finland (paragraph 165) and GREVIO’s baseline evaluation report on Andorra (paragraph 160).

57. Explanatory Report to the Istanbul Convention, paragraph 193.

166. **GREVIO encourages the San Marinese authorities to amend their criminal law so as to ensure that the conduct of procuring a woman or a girl to undergo any of the acts listed in Article 38a of the Istanbul Convention is criminalised.**

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

167. GREVIO welcomes the introduction of the specific offence of forced sterilisation in the Criminal Code of San Marino, following the ratification of the Istanbul Convention. Forced sterilisation is now criminalised under Article 154*bis* of the Criminal Code and covers the act of performing surgery which has the purpose or effect of permanently terminating a person's capacity to naturally reproduce without his/her prior and informed consent or understanding of the procedure. No cases of forced sterilisation have been recorded by the authorities since the introduction of this offence.

168. Forced abortion is also criminalised under Article 153 of the Criminal Code, which bans abortion and foresees as an aggravating circumstance the conduct of performing an abortion on a woman without her prior consent.

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

169. There is no specific offence criminalising sexual harassment in the San Marinese legislation, nor has GREVIO found any evidence that the conduct described in Article 40 of the Istanbul Convention is sanctioned under any other relevant provision of law. GREVIO recalls that Article 40 of the Istanbul Convention requires states parties to ensure that 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 is subject to criminal or other legal sanction. The type of conduct covered by this provision is manifold and can occur in multiple contexts. Verbal conduct refers to any unwanted words or sounds such as jokes, questions or remarks, whether expressed or communicated orally or in writing. Non-verbal conduct, on the other hand, covers any expressions or communication on the part of the perpetrator that do not involve words or sounds, for example facial expressions, hand movements or symbols. Physical conduct refers to any sexual behaviour of the perpetrator and may involve contact with the body of the victim.<sup>58</sup>

170. GREVIO was informed that cases of sexual harassment are treated under the framework of the general provision on sexual violence (Article 171 CC). However, GREVIO is concerned about the application of Article 171 to cases of sexual harassment, as the criminal behaviour described in this provision differs from that foreseen by Article 40 of the Istanbul Convention, in terms of object, purpose or effect, and also in view of the necessity to use violence, threats or suggestion enshrined in Article 171.<sup>59</sup>

**171. GREVIO urges the San Marinese authorities to take the necessary measures to ensure that 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 is subject to criminal or other legal sanction.**

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

172. GREVIO notes with satisfaction that Article 14 of Law 57/2016, adopted following the ratification of the Istanbul Convention, specifically foresees that culture, custom, religion, tradition or so-called honour cannot be regarded as justification or mitigation for punishment for the offences covered by the scope of the convention.

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58. Explanatory Report to the Istanbul Convention, paragraph 208.

59. See Chapter V, Substantive law, Sexual violence, including rape (Article 36).

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

173. In San Marino, there are no mandatory alternative dispute resolution processes, either in criminal or in civil legislation, that would contravene the obligation to ban all such processes in relation to all forms of violence covered by the scope of the convention.

174. Nevertheless, the use of family mediation is an integral part of separation proceedings. In the presence of children, the civil judge presiding over the proceedings systematically invites the parties to contact a family mediator to acquire information on the possibility to have recourse to a family mediation process and, if interested, to initiate it (Article 110*bis* of Law 49/1986). Participation in a mediation process is voluntary and can be interrupted at any time at the request of one of the parties.

175. GREVIO notes that the rules on mediation are silent as to possible issues of violence against women and children witnessing violence. GREVIO considers that in cases of domestic violence characterised by a relationship of domination and control over the victim associated with undue influence and fear, the free consent of the individuals involved cannot be guaranteed. Consequently, screening measures should ensure the systematic detection of domestic violence by professionals involved in implementing family mediation, and those professionals should inform victims that mediation is not mandatory.

176. **GREVIO encourages the San Marinese authorities to introduce measures ensuring the systematic detection of domestic violence by all professionals involved in implementing family mediation and to support the application of these measures through training efforts. It further encourages the authorities to ensure that women victims of violence to whom family mediation is offered are informed of their rights, in particular as regards the non-mandatory nature of mediation.**

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

177. 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 into and prosecutions and convictions for the various forms of violence covered therein.

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

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

178. 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. In San Marino, the duty of law-enforcement agencies to engage promptly and appropriately in the prevention of and protection from violence against women is laid down in Article 32 of Law 97/2008. Under the terms of this legal provision, whenever a victim of violence or a third party witnessing the violence reports the violence to a law-enforcement agency, the latter must immediately take action and, in any case, intervene within an hour from the receipt of the report. Law-enforcement agencies may forcibly enter the victim's house and seize any weapon found. Besides taking immediate action to stop the violence, law-enforcement officials are under the duty to inform the victim about her rights, including the right to request protection orders.

179. In case of concerns about a risk of serious or irreparable prejudice to the victim, law-enforcement officials must immediately report the violence, either to the competent social services or to the investigating judge, with a view to issuing the necessary precautionary measures. Reports of violent cases handled by law-enforcement agencies are made available to the civil court for the purposes of adopting any necessary protection orders. Data collected by these agencies are further transmitted to the Authority for Equal Opportunities in its role as the national co-ordinating body in charge of compiling and analysing national administrative data.

180. GREVIO welcomes the significant rise in training of law-enforcement officials that followed the entry into force of Law 97/2008 and that appears to have meaningfully increased awareness among law-enforcement agencies about violence against women, especially domestic violence, as GREVIO was able to witness during the evaluation visit in San Marino. Training is now mandatory for all law-enforcement agencies and is provided by the Education Department of the University of San Marino. GREVIO was informed that judges and medical doctors also provide training to law-enforcement agencies so that officials know what immediate measures need to be taken in order to safeguard medical evidence, and what elements should particularly be noted down in reports to be used by the judiciary.

181. In addition, GREVIO takes positive note of the existence of the intervention protocol for San Marino law-enforcement officials in cases of gender-based violence,<sup>60</sup> which clearly recognises the structural nature of gender-based violence and underlines the crucial role of the police as one of the first interlocutors for victims. The protocol warns police officials against the risk of secondary victimisation and prescribes to never question a victim's narrative nor blame her, but instead make clear that the only person responsible for the violence is the perpetrator. GREVIO welcomes the translation of principles enshrined in the Istanbul Convention into such a protocol.

182. Law-enforcement agencies in San Marino consist of three different corps: the Uniformed Fortress Guard, the Civil Police and the Gendarmerie. The Gendarmerie, which is the main corps

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60. Gendarmerie corps, "Protocol of intervention for San Marino police officers in preventing and combating gender-based violence" (in Italian), 2015.

responding to cases of violence against women, includes a special unit on gender-based violence. The manager of the unit, who is a female officer, is specially trained to hear victims of gender-based violence, including rape. Furthermore, a Gendarmerie officer has been appointed as a liaison person with other services to ensure due co-ordination and exchange of information on cases of gender-based violence. While welcoming the existence of this special unit and the appointment of a liaison person, the precise mandate and composition of the gender-based violence unit remains unclear to GREVIO.

183. Of particular concern to GREVIO are the indications given by civil society organisations that in some instances women victims of violence have been discouraged by law-enforcement officials from pressing charges against the perpetrator, with disregard for applicable guidelines. Moreover, GREVIO notes a very low percentage of female officials within law-enforcement agencies. It was indeed informed that there are only 10 women officials out of 70 in the Civil Police and seven out of 82 officials in the Gendarmerie, while there are none in the Uniformed Fortress Guard. While noting that, according to the authorities, a female official was always available to hear a woman victim of violence, GREVIO recalls that compliance with the obligation laid down in Article 50 of the convention requires, *inter alia*, providing for an adequate number of female law-enforcement officials, including at senior levels of responsibility.<sup>61</sup>

184. Despite the above measures to ensure responses by well-trained and female law-enforcement officials, the statistics on criminal proceedings related to violence against women, published by the Authority for Equal Opportunities, show that from 2016 to May 2020, only six offences of ill-treatment were recorded, out of a total of 231 offences of violence against women. GREVIO understands these numbers to indicate ongoing criminal proceedings, but no data on conviction rates related to this specific provision are available. However, this low number, which seems to point to a lack of reporting of domestic violence, is of concern to GREVIO in terms of the effective implementation of the specific domestic violence offence and the level of awareness of the legal framework that is in place of professionals dealing with victims of this form of violence.

**185. GREVIO strongly encourages the San Marinese authorities to take measures to increase reporting levels of domestic violence, notably by ensuring adequate reception of victims and strengthening awareness among all relevant professionals dealing with women victims of violence on the legal framework in place, as well as the consequences of domestic violence, both physical and psychological. It further encourages the authorities to ensure the effective application of all relevant criminal provisions. Moreover, GREVIO encourages the San Marinese authorities to increase the number of female officials within law-enforcement agencies.**

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

186. In San Marino's judicial system, there appears to be no specific measure in place prioritising cases of violence against women and thus ensuring that investigations and judicial proceedings in relation to all forms of violence covered by the scope of the convention are carried out without undue delay.<sup>62</sup> The evaluation of the effectiveness of San Marino's judicial response to violence against women comes up against a major obstacle, which is that the data collected in this area are scarce. In that respect, there are no data indicating the average duration of criminal trials nor statistics on attrition cases, conviction rates or types of sentences by type of violence. However, GREVIO is particularly concerned by the data collected by the Authority for Equal Opportunities showing that between 2016 and May 2020 there were only two convictions for cases of violence against women, regardless of the form of violence.

61. Explanatory Report to the Istanbul Convention, paragraph 258.

62. See also the European Commission for the Efficiency of Justice (CEPEJ)'s Evaluation Questionnaire on San Marino, 2012, p. 21.

187. In addition, concerns from civil society and law professionals were shared with GREVIO about the length of investigations, which often lead to cases being time-barred without any preliminary investigation being carried out. Article 54 of the San Marinese Criminal Code foresees different statutory limitation periods depending on the applicable sentence, varying from two to 20 years. A case may be time-barred even if prosecution has been initiated. Despite the unavailability of clear data, legal practitioners drew GREVIO's attention to the fact that an estimated 545 cases were time-barred in 2017, many of which were cases of domestic violence. In addition to failing to deliver justice in pending cases, lengthy proceedings are also reported to discourage victims from filing complaints, thus hindering women's access to justice.

**188. GREVIO urges the San Marinese authorities to take the necessary measures to ensure that all acts of violence against women covered by the Istanbul Convention are prosecuted and sanctioned swiftly, including by:**

- a. **reinforcing the capacity of the criminal judicial system to reduce the number of time-barred cases;**
- b. **conducting a study to assess the impact of statutes of limitation applicable to offences of violence against women and taking measures to ensure they do not constitute an undue obstacle to victims' access to justice;**
- c. **collecting administrative and judicial statistics to enable a proper assessment and analysis of the judicial response to violence against women, including conviction rates, with a view to identifying and addressing any factors reducing victims' access to justice.**

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

189. 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.

190. The "Protocol of intervention for San Marino police officers in preventing and combating gender-based violence" provides for a standardised risk-assessment tool.<sup>63</sup> This is an evaluation form with questions on the type and history of violence, violent conduct towards children, death threats against the victim and/or her children, as well as the victim's fear of the perpetrator seriously injuring or killing her children, and her intention to leave the perpetrator. It also includes questions on specific circumstances regarding the perpetrator, such as the possession of firearms and other weapons, the use of substances, criminal records and suicide intent.

191. When it is established that the victim has suffered significant injury, police forces must arrest the perpetrator immediately if one of the following three elements justifies the arrest: risk of escape, risk of tampering with evidence or risk of repetition of the offence.<sup>64</sup> On the basis of these arguments, the judge may validate the pre-trial detention.

192. The Social Security Institute also uses a standardised risk-assessment form, which social workers specially trained on the matter fill in with the required information. The form gathers information on the violence perpetrated, the characteristics of the perpetrator, any reasons for the victim to be particularly vulnerable and any aggravating circumstances such as possession of firearms, violence perpetrated against children or an ongoing process of separation.

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63. Appendix 6 of the Protocol of intervention for San Marino police officers in preventing and combating gender-based violence: "Risk assessment form – Objective elements and factors aimed at assessing the risk of danger and repetition of the alleged offender" (in Italian).

64. Gendarmerie corps, "Protocol of intervention for San Marino police officers in preventing and combating gender-based violence" (in Italian), 2015, p. 7.

193. While commending the authorities for putting in place tools for assessing risks, GREVIO notes that there is scarce information and no data illustrating how risk assessments are put to use in practice for the purposes of implementing and managing safety plans meant to protect the victim and her children. Moreover, it is unclear whether subsequent assessments are performed which are necessary in order to monitor the risks over time. In addition, GREVIO has found no evidence that risk-assessment and management processes are an integral part of a multi-agency approach to violence, in particular that risk assessments carried out by different authorities are co-ordinated within the framework of an effective multi-agency co-ordination mechanism.<sup>65</sup>

**194. GREVIO strongly encourages the San Marinese authorities to ensure that risk assessments are carried out in a co-ordinated manner between all institutions concerned and give rise to effective protection measures and/or safety plans shielding victims and their children from the risk of further violence. The authorities should furthermore guarantee that subsequent assessments are performed to consider any changes in the level of risk.**

### **C. Emergency barring orders (Article 52) and restraining or protection orders (Article 53)**

195. In San Marino, Law 97/2008 foresees two different types of protection measures: orders issued as special precautionary measures in criminal proceedings by an investigating judge (Article 22) and protection orders issued by judges as civil protection measures (Articles 26-30).

196. The first types of orders apply in criminal proceedings for offences against personal safety, personal freedom or family ill-treatment. When addressing these offences, the investigating judge may, upon the victim's request, order the defendant to stay away from the family home and if necessary, establish visitation rules. In cases where the safety of the victim or of his/her close relatives is considered to be at risk and needs to be protected, the judge may, upon the victim's request, also order the defendant to stay away from places usually frequented by the victim. The judge may adopt these measures, including pre-trial measures, after collecting relevant information and hearing the defendant, except for urgent cases.

197. These types of measures, *a fortiori* when adopted in urgent cases, appear to be the closest to emergency barring orders in the sense of Article 52 of the Istanbul Convention. However, GREVIO notes that it can take a judge up to 48 hours to issue such an order. During that time, the police may invite the perpetrator to leave the home or the victim may find protection in a shelter or at the hospital. GREVIO recalls that the purpose of Article 52 is to allow victims to remain in their home and to require perpetrators to vacate the family home, which underlies the need for an emergency barring order to be issued without delay in order to ensure victims' safety. In addition, GREVIO draws attention to the fact that, as a measure of protection, emergency barring orders must not depend on the will of the victim but must immediately be ordered *ex officio* as part of the state obligation to prevent any act of violence covered by the Istanbul Convention that is perpetrated by non-state actors (Article 5, paragraph 2).<sup>66</sup>

198. The second type of protection measures, civil protection measures, may be adopted when the conduct of the spouse or cohabitant seriously affects the physical or psychological integrity or freedom of the other partner but does not constitute an offence prosecuted *ex officio* or has not been the subject of a criminal complaint. In these cases, upon the victim's request, the judge may order the perpetrator to be removed from the family home, not to visit the places usually frequented by the victim and not to come in proximity of educational facilities attended by the couple's children. The protection order cannot last more than six months but may be extended upon a party's request if there are serious reasons to do so. In urgent cases, the judge may immediately enact the protection order by fixing the hearing for parties within 15 days. At the hearing, the judge then validates, amends or repeals the protection order.

65. See Chapter IV, Protection and support, General obligations (Article 18).

66. See GREVIO report on Denmark, paragraph 207.

199. The enforcement of protection orders relies on the intervention of law-enforcement agencies, including for the forced removal of a person who fails to spontaneously comply with a barring order. Violations of protection orders entail criminal penalties. According to the authorities, a total of five barring orders were in force (two since 2015, two since 2016 and one since 2019) at the time of finalising San Marino's report to GREVIO on the implementation of the convention.

200. GREVIO notes with concern that the different protection measures enshrined in Law 97/2008 only apply to intimate partner violence. Despite the principle enshrined in Article 3 of Law 57/2016 that victim protection and assistance measures should be understood as applying to all victims of all forms of violence covered by the scope of the Istanbul Convention, GREVIO fears that this principle is not systematically applied in the judicial practice concerning protection orders and that further legislative and/or policy amendments may be necessary to this end.

201. The proportion of cases in which such measures are granted, as well as the average time for issuing them is unknown to GREVIO. However, law professionals have shared their concern about these measures being rarely requested by victims due to the difficulty in obtaining them. It appears that the different proceedings, criminal and civil, all dependent on the victim's request and un-co-ordinated between civil and criminal courts, place an important administrative burden on victims and law professionals assisting them.

**202. GREVIO strongly encourages the San Marinese authorities to review their system of barring and protection orders with a view to:**

- a. **ensuring that victims of domestic violence have access, in situations of immediate danger, to emergency barring orders that meet the requirements of Article 52 of the Istanbul Convention;**
- b. **ensuring that restraining and/or protection orders are available in relation to all forms of violence covered by the scope of the Istanbul Convention, such as stalking, sexual harassment and digital forms of violence against women, and without undue administrative burden placed on the victim;**
- c. **assessing the use of protection measures in order to identify and remedy any obstacles in the implementation of Laws 97/2008 and 57/2016;**
- d. **developing a comprehensive data-collection system on the issuing of emergency barring and protection orders, including the number of orders requested and issued, the number of violations of these orders and the penalties imposed further to those violations.**

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

203. 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.

204. GREVIO welcomes the legislative amendments modifying the rules on *ex parte* and *ex officio* proceedings (Article 17 of Law 57/2016) in order to comply with the Istanbul Convention. However, GREVIO notes that while San Marino did not enter a reservation to Article 55 of the Istanbul Convention in respect to physical violence regarding minor offences, minor physical injuries – defined as injuries resulting in less than 10 days of sick leave – are not prosecuted *ex officio* in San Marino. It appears that this threshold leaves aside many cases of violence, in particular domestic violence, and results in a significant burden put on victims to file complaints. In this regard, GREVIO is concerned by the intimidation or pressure likely to be put on victims, whether by perpetrators, relatives, the community at large or figures of authority, to withdraw their complaint, which results in a lack of convictions.

**205. GREVIO strongly encourages the San Marinense authorities to review their legislation in respect of *ex officio* proceedings in order to comply with Article 55, paragraph 1, of the Istanbul Convention.**

**E. Measures of protection (Article 56)**

206. GREVIO takes positive note of the measures which have been adopted in San Marino to conform with the obligation, under Article 56 of the Istanbul Convention, to put in place protective mechanisms for victims during legal proceedings. In that respect, Article 23 of Law 97/2008 requires providing victims with psychological support, whenever the victim is examined as a witness or during her confrontation with the defendant or other witnesses. This provision further requires that any court-ordered expert mandated to conduct a judicial or medical and legal examination in these criminal proceedings should preferably be of the same sex as the victim. Moreover, it establishes the principle that the victim should not be required to repeat her testimony and that adequate measures, such as videotaping, should be taken to this end. In addition, Article 24 of Law 97/2008 foresees that criminal proceedings should be held behind closed doors if the victim is a child or upon the request of the victim.

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

207. Legal assistance is regulated by Article 17 of Law 97/2008. It applies widely to civil, criminal or administrative proceedings and can benefit any victim of violence who is a citizen of San Marino and cannot afford the costs of legal assistance. The Association of Lawyers is responsible for drawing up a list of registered legal professionals ready to provide their assistance to victims. The list is then made available to social services, law-enforcement agencies, tribunals and the Authority for Equal Opportunities. Legal assistance provided is free of charge for the victims.

## VII. Migration and asylum

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

### A. Residence status (Article 59)

209. No provision in San Marinese law covers the particular situation of women protected by Article 59, paragraph 1, of the Istanbul Convention, namely victims whose status depends on that of their spouse and who find themselves in particularly difficult circumstances because of the dissolution of their marriage with the perpetrator. The authorities have informed GREVIO that in such situations, the general legal provisions apply and in cases where the residence status was granted to the spouse of a San Marino resident by virtue of marriage, it is immediately revoked in the event of legal separation or *de facto* separation if the marriage has not been followed by actual cohabitation for at least five years, unless the married couple have had children (Article 17 of Law 118/2010).

210. Victims of violence whose residence status depends on that of the perpetrator may, through fear of losing this status, be prompted to endure relationships marked by abuse and violence rather than putting an end to their marriage or relationship with the abusive partner. Article 59 of the Istanbul Convention thus seeks to protect these victims by requiring parties to take measures to ensure that women migrants who are victims of violence and whose residence status depends on that of their spouse or partner are granted a separate residence permit in the event of dissolution of the marriage or relationship, irrespective of the duration of the marriage or relationship. In that respect, GREVIO is concerned by the absence of such a possibility in San Marinese Law and notes that no amendments to the legislation were adopted to bring it into conformity with Chapter VII of the Istanbul Convention.<sup>67</sup>

211. GREVIO takes notes of the fact that victims of violence may be granted an extraordinary residence permit on the basis of Article 14 of the Law on Entry and Stay of Foreigners, amended in 2015.<sup>68</sup> This applies to victims of trafficking and to victims of violence, as defined by international human rights instruments ratified by San Marino. Based on the favourable opinion of the Authority for Equal Opportunities, the permits are granted for renewable periods of one year, for humanitarian reasons of social protection, having regard to the victims' personal situation, and/or for the purpose of their co-operation in the investigation or criminal proceedings. Data shared by the authorities indicate that only one request for this type of permit was submitted in the last three years, and it was granted in 2017.

212. As for the requirements of Article 59, paragraph 4, of the Istanbul Convention, namely the obligation to ensure that victims of forced marriage brought into another country for the purpose of the marriage and who, as a result, have lost their residence status in the country where they habitually reside, may regain this status, GREVIO takes positive note that it was translated into national law with the enactment of Article 18 of Law 57/2016.

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67. Authority for Equal Opportunities, Annual Report 2018, p. 3.

68. The law was amended following GRETA's recommendation made in its first evaluation report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings.

**213. GREVIO urges the San Marinense authorities to take the necessary measures, including legislative, to meet the requirements of Article 59 of the Istanbul Convention, in particular with regard to the residence status of victims of violence against women whose residence status depends on that of the spouse or partner.**

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

214. San Marino is not party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol. GREVIO was informed that there is no specific procedure for requesting asylum in San Marino. The San Marino Government can accord protection to people at risk of persecution based, *inter alia*, on race, religion, social group affiliation or political opinions. Applications for such protection have been very rare.<sup>69</sup> It is unknown to GREVIO whether women victims of gender-based violence have ever been identified among persons seeking international protection in San Marino.

215. Insofar as the protection scheme in San Marino does not amount to a right to asylum, GREVIO considers that it is not required to examine the implementation in San Marino of the provisions of Article 60 of the Istanbul Convention. However, it does draw the authorities' attention to the requirements of this article, particularly in terms of the gender-sensitive interpretation of the various grounds for persecution which may be invoked by asylum seekers and in terms of gender-sensitive reception procedures and support services.

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69. GRETA, "Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by San Marino", second evaluation round, 2019, paragraph 59.

## Concluding remarks

216. GREVIO welcomes the San Marinese authorities' political commitment to align the country's legislation with the Istanbul Convention and to adopt measures enabling its implementation. This commitment has resulted in the enactment of two laws and several decrees aimed at addressing violence against women, which introduced assistance and protection measures for victims as well as several amendments to the Criminal Code. GREVIO also welcomes the emphasis placed by the authorities on raising awareness of violence against women in schools. Based on a recently introduced educational framework, several workshops are regularly carried out and a cross-curriculum approach to gender equality is adopted in schools. In recent years, several measures have also been implemented to enhance training of professionals who deal with victims of violence, with a particular emphasis put on law-enforcement officials and social and healthcare professionals whose training on sexual violence has resulted in high levels of awareness of the rights and needs of women and girls who have experienced sexual violence and/or rape. GREVIO notes with appreciation the favourable reception of the Istanbul Convention in San Marino and the recognition, by the authorities, of the importance of the convention and its standards to prevent and combat violence against women and domestic violence.

217. GREVIO's review of existing laws and measures aimed at preventing and combating violence against women has revealed, however, the need to enhance the implementation of the legislative framework and to reinforce the interinstitutional approach to violence against women by developing a long-term and comprehensive action plan giving due importance to all forms of violence. In order to effectively implement, co-ordinate and monitor policies and measures with regard to violence against women, GREVIO flagged the urgent need to enhance co-ordination efforts among all relevant agencies, including in close consultation with relevant civil society organisations, to increase human and financial resources allocated to preventing and combating violence against women, and to improve data collection. In their current form, the data do not sufficiently allow lessons to be drawn as to how health and social services, law-enforcement agencies and the judiciary serve women victims of violence.

218. Moreover, while GREVIO welcomes the efforts of the San Marinese Social Security Institute to provide different support services to victims of violence by trained professionals, the evaluation has shown the need to strengthen victims' access to services facilitating their recovery from violence as well as to reinforce specialist support services, including shelters. In addition, the lack of an effective co-operation mechanism among all relevant agencies, authorities and NGOs results in difficulties regarding co-ordination, risk-assessment processes and recognition of incidents of violence against women in decisions settling issues of custody and visitation. Lastly, GREVIO points to the need to take the necessary measures to strengthen women victims' access to justice, including by ensuring swift prosecution and sanction of all acts of violence against women covered by the Istanbul Convention.

219. With the present report, GREVIO wishes to support the San Marinese authorities in this endeavour 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 San Marinese authorities.

220. 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.

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## **Appendix I**

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

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

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

1. GREVIO encourages the San Marinese authorities to ensure that San Marinese legislation, policies and programmes aimed at preventing and combating violence against women address all forms of violence against women covered by the Istanbul Convention, in particular sexual violence and sexual harassment. (Paragraph 8)

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

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

2. GREVIO strongly encourages the San Marinese authorities to adopt further measures to ensure the practical realisation of the principle of equality between women and men, and to reinforce data collection in this field in order to better assess gender gaps and define relevant policies and programmes accordingly. (Paragraph 11)

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

3. GREVIO urges the San Marinese authorities 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;
- b. take measures to ensure that women exposed to multiple discrimination, including women with disabilities, LGBTI women and migrant women, receive adequate information about their rights and entitlement to access protection and support services, in accordance with the provisions of the Istanbul Convention;
- c. promote research and ensure the collection of data on gender-based violence affecting groups of women exposed to multiple discrimination, so as to assess the prevalence of the various forms of violence and access by such groups to support services, protective measures and justice;
- d. 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. (Paragraph 16)

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

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

4. GREVIO urges the San Marinese authorities to reinforce their interinstitutional approach to violence against women by developing a long-term and comprehensive action plan/strategy giving due importance to all forms of violence covered by the Istanbul Convention and based on the involvement of all relevant actors, including civil society organisations. (Paragraph 23)

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

5. GREVIO urges the San Marinese authorities to:

- a. increase the human and financial resources allocated to preventing and combating violence against women, including in particular for the Authority for Equal Opportunities and the professionalisation of its work;
- b. take steps, in particular by planning earmarked funding, to make it possible to identify more effectively the sums spent on the issue of violence by all relevant institutions;
- c. ensure appropriate funding through suitable and sustainable funding opportunities for civil society organisations involved in combating violence against women. (Paragraph 28)

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

6. GREVIO urges the San Marinese authorities to:

- a. take measures to support and recognise civil society organisations involved in preventing and combating violence against women, by acknowledging the value and expertise they bring;
- b. set up co-operation mechanisms for consulting and co-operating with civil society organisations for the purposes of the design, monitoring, evaluation and implementation of measures and policies to prevent and combat violence against women. (Paragraph 32)

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

7. GREVIO strongly encourages the San Marinese authorities to take measures to enhance the co-ordination, implementation, monitoring and evaluation of policies and measures with regard to violence against women, in particular by:

- a. enhancing the complementarity and the effectiveness of the initiatives taken by the Commission and the Authority for Equal Opportunities designated to serve as co-ordinating bodies by fully institutionalising these and equipping them as separate bodies with the necessary powers, competences and adequate financial and human resources in order to ensure, on the one hand, the co-ordination and implementation of policies and measures to prevent and combat all forms of violence against women on the basis of a holistic strategy and, on the other hand, their independent monitoring and evaluation;
- b. ensuring that the functions of the co-ordinating bodies are exercised in close consultation with relevant NGOs and civil society and that they are supported by adequate and appropriate data. (Paragraph 40)

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

**1. Administrative data collection**

8. GREVIO strongly encourages the San Marinese authorities to:

- a. set up a common data-collection system for all levels of the judiciary and law-enforcement agencies based on a common set of data categories that includes all forms of violence covered by the Istanbul Convention and is broken down by sex, age of both the victim and the perpetrator, type of violence and the relationship of the perpetrator to the victim, with a view to allowing cases to be tracked at all levels of the criminal justice system;
- b. collect judicial data on prosecution and conviction rates by type of violence and type/severity/duration of the sentences handed down;

- c. collect data on the issuing of protection orders, including the number of protection orders requested and issued, the number of violations of these orders and the penalties imposed further to those violations;
- d. ensure that healthcare and social welfare services collect data on all forms of violence against women broken down by sex, age of both the victims and perpetrators and the relationship of the perpetrator to the victim. (Paragraph 46)

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

- 9. GREVIO strongly encourages the San Marinese authorities to conduct regular victimisation surveys to assess the prevalence of and trends in all forms of violence against women covered by the scope of the Istanbul Convention. (Paragraph 48)

## **3. Research**

- 10. GREVIO strongly encourages the San Marinese authorities to promote research activities, including through cross-border or international research initiatives, on the situation of women victims of all forms of violence covered by the Istanbul Convention, along with the specific experiences of women exposed to or at risk of intersectional discrimination, such as women with disabilities, LGBTI women and migrant women. (Paragraph 51)

# **III. Prevention**

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

- 11. GREVIO strongly encourages the San Marinese authorities to take proactive and sustained measures to promote changes in sexist social and cultural patterns of behaviour that are based on the notion of the inferiority of women, and which accordingly contribute to perpetuating violence against women. (Paragraph 55)

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

- 12. GREVIO strongly encourages the San Marinese authorities to pursue and to expand their awareness-raising efforts by promoting or conducting regular campaigns throughout the year in relation to all forms of violence covered by the Istanbul Convention, including through means of communication accessible to all and with the collaboration of civil society organisations. GREVIO also strongly encourages the San Marinese authorities to promote programmes and activities for the empowerment of women and girls, including women and girls at risk of multiple discrimination. (Paragraph 59)

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

- 13. GREVIO encourages the San Marinese authorities to pursue their efforts aimed at providing education on the subjects covered by Article 14 of the Istanbul Convention. GREVIO further encourages the authorities to offer appropriate training to teachers in order to equip them with the necessary skills to adequately address these subjects. (Paragraph 64)

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

14. GREVIO encourages the San Marinese authorities to pursue their efforts to provide adequate training for relevant professionals in relation to all forms of violence against women covered by the Istanbul Convention, in particular the judiciary, including by ensuring harmonised and systematic in-service training based on clear protocols and guidelines for the different professional categories involved. (Paragraph 73)

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

15. GREVIO strongly encourages the San Marinese authorities to support preventive intervention and treatment programmes for perpetrators of sexual and domestic violence, including by:

- a. monitoring the implementation of Article 25 of Law 97/2008 which provides for sexual domestic violence perpetrators to be placed on probation subject to their agreement to participate in rehabilitation programmes;
- b. encouraging or requiring perpetrators of violence to attend programmes fostering responsible behaviour in order to prevent any occurrence and/or reoccurrence of acts of psychological, physical, sexual or economic violence, including in the domestic environment;
- c. providing financial and/or material support to existing preventive intervention and treatment programmes;
- d. ensuring that preventive intervention and treatment programmes are implemented in close co-ordination with specialist support services for victims, as well as with the judiciary, and form an integral part of a co-ordinated multi-agency response to violence against women and domestic violence;
- e. ensuring that the valuation of preventive intervention and treatment programmes is based on recognised best practices to assess the success of the programmes and their impact on recidivism. (Paragraph 78)

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

16. GREVIO strongly encourages the San Marinese authorities to take further measures to ensure the full implementation of Article 3 of Law 97/2008 on the role of the media in preventing violence against women and the use of the complaint mechanism foreseen therein. The authorities should further encourage the media sector to develop specific self-regulatory standards on the non-stereotypical portrayal of women and on how to report cases of violence in a gender-sensitive way. (Paragraph 82)

17. GREVIO strongly encourages the San Marinese authorities to seek the involvement of employers in preventing and combating violence against women, including by co-operating with trade unions. To this end, employers should be encouraged to take part in the implementation of policies such as awareness-raising campaigns and to foster a work environment where violence against women, including sexual harassment, is openly condemned and adequately responded to. (Paragraph 85)

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

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

18. GREVIO strongly encourages the San Marinese authorities to step up their efforts to ensure an institutionalised co-ordinated multi-agency response to all forms of violence against women,

which involves all relevant state agencies, including the judiciary and law-enforcement agencies, as well as civil society organisations. (Paragraph 91)

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

19. GREVIO strongly encourages the San Marinese authorities to ensure the wider dissemination of information on the support services and legal measures available to victims of all forms of violence covered by the Istanbul Convention. This should include measures such as the dissemination of posters and leaflets as well as the intensification of efforts to ensure that professionals of all relevant institutions are familiar with the available legal measures and inform victims accordingly. (Paragraph 94)

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

20. While noting with satisfaction the efforts made to provide different support services within the structure of the Social Security Institute, GREVIO strongly encourages the San Marinese authorities to:

- a. ensure that victims of violence have access, including at an early stage of experiencing violence, to services facilitating their recovery from violence, including financial assistance, housing, education, training and assistance in finding employment;
- b. provide the general social services with adequate financial and human resources to enable them to assist women victims of violence effectively. (Paragraph 100)

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

21. GREVIO encourages the San Marinese authorities to set up or arrange specialist support services in compliance with Article 22 of the Istanbul Convention, in order to meet the needs of victims of all forms of violence covered by the Istanbul Convention, in particular sexual harassment, female genital mutilation and forced marriage. (Paragraph 104)

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

22. GREVIO strongly encourages the San Marinese authorities to make available in sufficient numbers shelters for accommodating, 24/7, women and their children in emergency situations. To that end, GREVIO encourages the authorities to establish shelters within the territory of San Marino specifically dedicated to women victims of violence. (Paragraph 109)

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

23. GREVIO strongly encourages the San Marinese authorities to ensure that the newly established telephone helpline is operated by persons who are trained to provide support, crisis counselling and information confidentially, on all forms of violence against women covered by the scope of the Istanbul Convention. GREVIO further encourages the authorities to actively promote the telephone helpline and the mobile phone application TECUM to ensure they are both widely known among the general public, as well as to collect data and monitor the use and effectiveness of both services. (Paragraph 114)

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

24. GREVIO encourages the San Marinese authorities to ensure that all victims of sexual violence have access to specialist services providing forensic expertise and short-term medical care along with long-term psycho-social support, and to examine, within the scope of application of the Istanbul Convention, the impact that the criminalisation of abortion may have on women's access to such specialist services. (Paragraph 119)

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

25. GREVIO strongly encourages the San Marinese authorities to ensure that children who witness domestic violence receive counselling and support, while ensuring their safety in conditions that allow them to remain with the non-abusive parent, preferably in their own home. (Paragraph 124)

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

26. Recalling the principle of women's empowerment mainstreamed throughout the Istanbul Convention, GREVIO strongly encourages the San Marinese authorities 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 San Marinese authorities to review the obligation for professionals 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 due to disabilities. (Paragraph 127)

# **V. Substantive law**

## **A. Civil law**

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

27. GREVIO strongly encourages the San Marinese authorities to ensure that women victims of any of the forms of violence covered by the Istanbul Convention are informed of their right to obtain compensation for any damages resulting from the authorities' failure in their duty to take the necessary preventive or protective measures, and are given the practical means to exercise this right. GREVIO encourages the authorities to compile relevant statistics regarding the number of claims made against the authorities and the number of remedies granted as a result. (Paragraph 133)

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

28. GREVIO strongly encourages the San Marinese authorities to ensure that women victims have access to effective compensation systems, including adequate compensation from the state. (Paragraph 136)

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

29. GREVIO urges the San Marinese authorities to take the necessary measures, including legislative amendments, to ensure that courts are under the obligation to consider all issues related to violence against women when determining custody and visitation rights. To this end, the authorities should:

- a. consider amending their legislation to explicitly recognise the need to take into account incidents of violence covered by the scope of the Istanbul Convention in the determination of custody and visitation rights of children;
- b. take measures to incorporate a systematic process for screening cases related to the determination of custody and visitation rights to determine whether violence has been an issue in the relationship between the parents and whether it has been reported;
- c. ensure co-operation between the judiciary and support services, including the Child Protection Unit, to ensure that cases of violence are brought to the attention of the courts determining custody, visitation rights and parental authority. (Paragraph 144)

## **B. Criminal law**

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

30. GREVIO strongly encourages the authorities to introduce a specific criminal offence of psychological violence to effectively criminalise all acts that seriously impair the psychological integrity of a person as required by Article 33 of the Istanbul Convention. (Paragraph 149)

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

31. GREVIO encourages the San Marinese authorities to review the threshold required for a behaviour to qualify as stalking in order to ensure that threatening conduct causing the victim to fear for her or his safety, irrespective of any severe moral suffering and harm, is criminalised. (Paragraph 152)

### **3. Physical violence (Article 35)**

32. GREVIO strongly encourages the San Marinese authorities to investigate, prosecute and punish effectively acts of intimate partner violence by making full use of the available provisions in the San Marinese Criminal Code, including by ensuring prosecution under Article 235 of the Criminal Code. (Paragraph 156)

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

33. GREVIO urges the San Marinese authorities to reform the Criminal Code in order to base all legal provisions covering sexual violence on the notion of freely given consent as required by Article 36 of the Istanbul Convention. It further strongly encourages the authorities to take measures to increase reporting levels of sexual violence. (Paragraph 163)

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

34. GREVIO encourages the San Marinese authorities to amend their criminal law so as to ensure that the conduct of procuring a woman or a girl to undergo any of the acts listed in Article 38a of the Istanbul Convention is criminalised. (Paragraph 166)

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

35. GREVIO urges the San Marinese authorities to take the necessary measures to ensure that 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 is subject to criminal or other legal sanction. (Paragraph 171)

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

36. GREVIO encourages the San Marinese authorities to introduce measures ensuring the systematic detection of domestic violence by all professionals involved in implementing family mediation and to support the application of these measures through training efforts. It further encourages the authorities to ensure that women victims of violence to whom family mediation is offered are informed of their rights, in particular as regards the non-mandatory nature of mediation. (Paragraph 176)

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

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

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

37. GREVIO strongly encourages the San Marinese authorities to take measures to increase reporting levels of domestic violence, notably by ensuring adequate reception of victims and strengthening awareness among all relevant professionals dealing with women victims of violence on the legal framework in place, as well as the consequences of domestic violence, both physical and psychological. It further encourages the authorities to ensure the effective application of all relevant criminal provisions. Moreover, GREVIO encourages the San Marinese authorities to increase the number of female officials within law-enforcement agencies. (Paragraph 185)

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

38. GREVIO urges the San Marinese authorities to take the necessary measures to ensure that all acts of violence against women covered by the Istanbul Convention are prosecuted and sanctioned swiftly, including by:

- a. reinforcing the capacity of the criminal judicial system to reduce the number of time-barred cases;
- b. conducting a study to assess the impact of statutes of limitation applicable to offences of violence against women and taking measures to ensure they do not constitute an undue obstacle to victims' access to justice;
- c. collecting administrative and judicial statistics to enable a proper assessment and analysis of the judicial response to violence against women, including conviction rates, with a view to identifying and addressing any factors reducing victims' access to justice. (Paragraph 188)

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

39. GREVIO strongly encourages the San Marinese authorities to ensure that risk assessments are carried out in a co-ordinated manner between all institutions concerned and give rise to effective protection measures and/or safety plans shielding victims and their children from the risk of further

violence. The authorities should furthermore guarantee that subsequent assessments are performed to consider any changes in the level of risk. (Paragraph 194)

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

40. GREVIO strongly encourages the San Marinese authorities to review their system of barring and protection orders with a view to:

- a. ensuring that victims of domestic violence have access, in situations of immediate danger, to emergency barring orders that meet the requirements of Article 52 of the Istanbul Convention;
- b. ensuring that restraining and/or protection orders are available in relation to all forms of violence covered by the scope of the Istanbul Convention, such as stalking, sexual harassment and digital forms of violence against women, and without undue administrative burden placed on the victim;
- c. assessing the use of protection measures in order to identify and remedy any obstacles in the implementation of Laws 97/2008 and 57/2016;
- d. developing a comprehensive data-collection system on the issuing of emergency barring and protection orders, including the number of orders requested and issued, the number of violations of these orders and the penalties imposed further to those violations. (Paragraph 202)

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

41. GREVIO strongly encourages the San Marinese authorities to review their legislation in respect of *ex officio* proceedings in order to comply with Article 55, paragraph 1, of the Istanbul Convention. (Paragraph 205)

**VI. Migration and asylum**

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

42. GREVIO urges the San Marinese authorities to take the necessary measures, including legislative, to meet the requirements of Article 59 of the Istanbul Convention, in particular with regard to the residence status of victims of violence against women whose residence status depends on that of the spouse or partner. (Paragraph 213)

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## **Appendix II**

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

#### **National authorities and public bodies**

- Authority for Equal Opportunities
- Commission for Equal Opportunities
- Department of Foreign Affairs
  - o State Secretary for Foreign Affairs
  - o Directorate of Legal Affairs
- Department of Institutional Affairs and Justice
  - o Judicial Council
- Department of Education
  - o State Secretary for Education and Culture
  - o Human Science Department of the University of San Marino
  - o Professional training centre
- Institutional and Technical Panel
- San Marinese Civil Police, Gendarmerie and Uniformed Fortress Guard
- State Secretary in charge of Family
- State Secretary for Health and Social Security
  - o Health Authority
  - o Health Directorate
  - o Social Security Institute

#### **Non-governmental and civil society organisations**

- Association of Psychologists
- Association of Lawyers
- Arcigay
- Caritas
- Comunione e Liberazione Association
- Emma Rossi Association
- Il Confine Association
- Information Council in San Marino
- Pope John XXIII Association
- Roman Catholic Diocese of San Marino
- Soroptimist
- Trade union Confederazione Democratica Lavoratori Sammarinesi (CDLS)
- Trade union Confederazione Sammarinese del Lavoro (CSdL)
- Unione Donne San Marino

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

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

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

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

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.