



ENSURING THE NON-DISCRIMINATORY IMPLEMENTATION OF MEASURES AGAINST VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE: ARTICLE 4, PARAGRAPH 3, OF THE ISTANBUL CONVENTION



A collection of papers
on the Council of Europe Convention
on preventing and combating violence
against women and domestic violence

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Introduction

Women and girls face multiple forms of discrimination and violence.¹ The combination of gender-based discrimination and inequality with other forms of discrimination such as racism, ableism, xenophobia, lesbophobia, transphobia or ageism can result in specific forms of violence against women, impacting women's experiences of violence and their subsequent needs. Despite advances in the domestic implementation of the Council of Europe Convention on Preventing and Combating of Violence against Women and Domestic Violence (hereinafter referred to as "Istanbul Convention" or "the convention"), the ongoing process of GREVIO's first baseline evaluations indicates a scarcity of effective measures addressing the needs of women who are or might be at risk of intersectional discrimination and a general lack of awareness among national authorities and relevant professionals with regards to their specific needs.²

1. See 2014 FRA survey on violence against women in relation to violence affecting women with disabilities, lesbian women and women with migrant background (fra-2014-vaw-survey-main-results-apr14_en.pdf (europa.eu)). Similarly, the EU-MIDIS II (2019) survey provides data on violence against Roma women in 9 EU countries (Roma women in nine EU Member States | European Union Agency for Fundamental Rights (europa.eu)). The EU LGBTI Survey II (2020) gives data on violence against LGBTI women (https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-lgbti-equality-1_en.pdf).
2. The Committee of the Parties to the Istanbul Convention has recently highlighted that measures taken in the contexts of the current COVID-19 pandemic may put women at a higher risk of suffering from certain forms of gender-based violence. The Committee calls on states parties to fully implement the Convention keeping in mind that such risk is particularly high for women and girls belonging to disadvantaged groups or at risk of multiple discrimination, with regards to ethnic/national origin, women with disabilities, women in prostitution, elderly women, migrant and asylum-seeking women. *Declaration of the Committee of the Parties to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence on the implementation of the Convention during the COVID-19 pandemic*, Strasbourg, April 2020.

This paper provides an examination of the scope of obligations contained in Article 4, paragraph 3, and offers an intersectional reading of the Istanbul Convention, in line with this core provision of the Istanbul Convention.³ It starts with a description of the scope of Article 4, paragraph 3, based on a close reading of the convention. This description is followed in section 3 by an introduction of the main notions and different approaches to intersectionality and their implications for gender-based violence against women. Then, drawing from the baseline evaluation reports of GREVIO and state reports, the study provides an overview of the approaches taken by the Expert Group and by states parties to comply with Article 4, paragraph 3. Based on these findings, section 5 proposes an 'intersectional model' to guide states' implementation of Article 4, paragraph 3, and section 6 provides some concluding observations. Finally, the study includes a checklist and relevant sources for designing measures that comply with Article 4, paragraph 3.

3. For a more detailed and theoretical discussion of intersectionality in the context of the Istanbul Convention, see: Lorena Sosa and Ruth M Mestre i Mestre, 'Intersectionality and the Istanbul Convention (in Press)' in Sara De Vido and Micaela Frulli (eds), *Istanbul Convention. A commentary* (Edward Elgar Publishing 2022). Similarly, Johanna Niemi, Lourdes Peroni and Vladislava Stoyanova (eds), *International Law and Violence Against Women: Europe and the Istanbul Convention*. (Routledge 2020).

Scope of Article 4, paragraph 3

The Istanbul Convention establishes a wide-ranging set of legally binding obligations to ensure a holistic response to all forms of gender-based violence against all women and girls and domestic violence. It combines provisions for violence prevention, the protection and support of victims, the prosecution of perpetrators, and the development of comprehensive and coordinated policies to achieve those goals. While Article 4, paragraph 2, of the Istanbul Convention affirms the principle of substantive equality between women and men, paragraph 3 prohibits discrimination *in implementing* the convention. Drawing on Article 14 of the European Convention of Human Rights (ECHR) and the list contained in Protocol No 12 to the ECHR, Article 4, paragraph 3, provides an open-ended list of discrimination grounds.

Article 4, paragraph 3, of the Istanbul Convention

The implementation of the provisions of this convention by the parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.

The Explanatory Report to the convention explained that the reasoning behind the selection of these grounds of discrimination followed from several regional studies indicating that women often lack access to support services due to discrimination based on their migrant or refugee status, sexual orientation, gender identity, or face discrimination at the hands of enforcement agents.⁴ However, looking at discrimination and inequality exclusively in connection to only one of these grounds at a time would be insufficient for several reasons.

4. Explanatory report of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Explanatory Report), paragraph 53.

Firstly, such an approach can overlook some forms of discrimination, and fails to capture the complexity of inequality.

Secondly, a single-ground approach to discrimination disregards the fact that human experience cannot be reduced to one's gender, age, race,⁵ nationality, religion, sexual orientation, state of health, or any other status, since our experiences are affected by the combination of all these and more. Consequently, such single-ground approaches tend to delineate groups (women, migrants, persons with disabilities, children, older persons, etc.) rigidly and stereotypically, failing to notice the diversity within them. By contrast, a comprehensive and in-depth view of discrimination calls for a consideration of the relation between different grounds of discrimination. Accordingly, the Explanatory Report warns that 'women tend to experience multiple forms of discrimination as may be the case of women with disabilities or/and women of ethnic minorities, Roma, or women with HIV/AIDS infection, to name a few.'⁶

The convention reflects in different provisions attention to the potential impact of a combination of grounds of discrimination. In addition to the requirement of Article 4, paragraph 3, to implement the convention without discrimination on any ground, other provisions require specific attention to the particular situation of some women and the circumstances that lead to such situations. For instance, Article 12, paragraph 3, establishes that measures pursuant to the prevention of violence 'shall take into account and address the specific needs of persons made vulnerable by particular circumstances and shall place the human rights of all victims at the centre.' A similar approach is taken in relation to the obligation to provide protection and support, which requires that measures adopted by states parties 'address the specific needs of vulnerable persons' (Article 18, paragraph 3). Both the Explanatory Report and GREVIO baseline evaluation reports indicate that 'persons made vulnerable by particular circumstances include: pregnant women and women with young children, persons with disabilities, including those with mental or cognitive impairments, persons living in rural or remote areas, substance abusers, prostitutes, persons of national or ethnic minority background, migrants – including undocumented

5. This study uses this term to refer to discrimination based on the skin colour, ethnic background or national origin, in a similar way as non-discrimination clauses list 'race' among the prohibited grounds. That said, the authors reject racist theories based on the existence of different "races" since all human beings belong to the same species. The European Commission on Racism and Intolerance has taken the same stance, in its Recommendation No.7 National legislation to combat racism and racial discrimination and General Policy Recommendation No.15 Combating Hate Speech .

6. Explanatory Report, paragraph 53.

migrants and refugees, gay men, lesbian women, bi-sexual and transgender persons as well as HIV-positive persons, homeless persons, children and the elderly.⁷ These persons, the drafters argue, are often targeted by perpetrators because they are less likely to be able to defend themselves or seek justice.

When focusing on migration and asylum, the convention recognises in Chapter VII the role that residence status plays in relation to the vulnerable position of women. The Explanatory Report explains that: ‘migrant women, including undocumented migrant women, and women asylum-seekers form two subcategories of women that are particularly vulnerable to gender-based violence. Despite their difference in legal status, reasons for leaving their home country and living conditions, both groups are, on the one hand, at increased risk of experiencing violence against women and, on the other hand, face similar difficulties and structural barriers in overcoming violence.’⁸

Even in the absence of an explicit reference in the provisions of the convention to the specific characteristics or situation of vulnerability or certain women, their adequate implementation requires such attention. For instance, Article 19 requires states ‘to ensure that victims receive adequate and timely information on available support services and legal measures in a language they understand.’ This is a challenging request considering the multi-lingual nature of several states, migrant populations who do not understand the local language, and other factors such as literacy levels, disabilities and cognitive limitations, and age-appropriate content. In this case, the drafters were aware that victims in general are not always capable of making fully informed and empowered decisions in the immediate aftermath of violence, even more so when victims cannot understand the dominant language. A similar provision is recommended in relation to helplines (Article 24), or the provision to victims of information about judicial procedures (Article 56 *c* and *h*). Making information accessible (by covering the languages that are most widely used, but also considering how disabilities or age may affect access to information) is crucial for accessing both protection measures and support services.

The convention’s approach towards discrimination resonates with recent international and regional human rights documents that have called on states to pay particular attention to the situation of women and girls facing human rights violations based on multiple factors, such as their age, ethnic origin, disability, sexual orientation, gender identity, migrant status, marital or family

7. Explanatory Report, paragraph 87.

8. Explanatory Report, paragraph 298.

status and their poverty and literacy levels.⁹ The next section describes the main notions and approaches connected to an intersectional approach to gender-based violence against women.

9. E.g. Committee on the Elimination of Discrimination Against Women General Recommendation No.19: Violence Against Women (1992) and General Recommendation No. 35 on gender-based violence against women, updating General Recommendation No. 19; General Recommendation No. 26: Women Migrant Workers (2009); General Recommendation No. 27 on Older Women and Protection of Their Human Rights (2010); General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-Conflict Situations (2013); 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 (2014); General Recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women (2014); and General Recommendation No. 34 on the rights of rural women (2016). Intersecting forms of discrimination are also relevant in the Committee's views on *Jallow v. Bulgaria*, *S.V.P. v. Bulgaria*, *Kell v. Canada*, *A.S. v. Hungary*, *R.P.B. v. Philippines* and *M.W. v. Denmark*. See also the work of the Human Rights Committee: A/HCR/20/5 Human Rights Council Thematic study on the issue of violence against women and girls with disabilities.

Intersectionality and gender-based violence against women: main notions and different approaches

Legal and policy documents have attempted to address the limitations of single-ground approaches in responding to the complexity of inequality by making reference to ‘multiple discrimination’, ‘compounded discrimination’, and ‘intersectional discrimination’.¹⁰ Several of those documents have explicitly pointed out ‘intersectionality’ as the best lens for addressing discrimination and violence against women¹¹ since its core propositions contribute to understanding gender-based violence against women as the result of multiple forms of inequalities. Although the Istanbul Convention does not explicitly refer to any of these notions, the drafters made reference to ‘multiple discrimination’ in the interpretation of Article 4, paragraph 3. Similarly, GREVIO makes regular use of comparable notions such as women facing ‘compounded difficulties’,¹² ‘compounded discrimination’,¹³ ‘multiple inequalities’,¹⁴ ‘interlocking issues’,¹⁵ ‘multiple discrimination’,¹⁶ ‘intersectional

10. Lise Rolandsen Agustín, *Gender Equality, Intersectionality, and Diversity in Europe* (2013); Lorena Sosa, *Intersectionality in the Human Rights Legal Framework on Violence against Women: At the Centre or the Margins?* (Cambridge University Press 2017).

11. E.g. Committee on the Elimination of Discrimination Against Women General Recommendation No. 25: Temporary Special Measures (2004); General Recommendation No. 28: Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (2010).

12. GREVIO baseline evaluation report of Albania, on paragraphs 15-17.

13. GREVIO baseline evaluation report of Serbia, on paragraph 17: “Their individual characteristics as women and, for example, members of a minority ethnic group... interact in a way that compounds discrimination”.

14. GREVIO baseline evaluation report of Portugal, on paragraph 17.

15. GREVIO baseline evaluation report of Sweden, on paragraph 25.

16. GREVIO baseline evaluation report of France, on paragraphs 24 and 25.

discrimination¹⁷ and the ‘intersection of potential grounds of discrimination.’¹⁸ While these notions point to different situations, they are often treated as interchangeable. So, what is specific about the intersectional approach and how could states adopt it? This section clarifies the main theoretical aspects underlying intersectionality and highlights the main implications for addressing gender-based violence against women and girls.

The term ‘intersectionality’ (although not the approach itself) was coined by Crenshaw.¹⁹ Intersectionality draws from feminist perspectives contesting the idea that women formed a homogenous category, sharing common, inherent attributes and experiences regardless of differences based on race, class (‘socio-economic status’) or sexual orientation.²⁰ It advances an overarching notion arguing that individuals (and groups) are affected by multiple inequalities based on various grounds of distinction rather than by discrimination based on one ground at a time. Therefore, discrimination, inequality and gender-based violence cannot be examined in relation to only one category of difference – for instance, gender – while precluding others – such as race, class, age, disability, sexual orientation or gender identity – because social categories intersect and interlock in multiple systems of discrimination that

17. GREVIO baseline evaluation report of Andorra, on paragraph 17; GREVIO baseline evaluation report of Turkey, on page paragraph 13.

18. GREVIO baseline evaluation report of Belgium, on paragraph 18.

19. Kimberlé Williams Crenshaw, ‘Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Policies’ [1989] *The University of Chicago Legal Forum* 139; Kimberlé Williams Crenshaw, ‘Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color’ (1991) 1 *Stanford Law Review* 1241 <www.jstor.org/stable/10.2307/1229039>.

20. Combahee River Collective, ‘The Combahee River Collective Statement’ [1983] *Home girls: A black feminist anthology* 272; Gloria E Anzaldúa and Cherrie Lawrence Moraga (eds), *This Bridge Called My Back: Writings by Radical Women of Color* (Kitchen Table- Women of Color Press 1981); Floya Anthias and Nira Yuval-Davis, ‘Contextualizing Feminism: Gender, Ethnic and Class Divisions’ (1983) 15 *Feminist Review* 62; Bonnie Thornton Dill, ‘Race, Class and Gender’ (1983) 9 *Feminist Studies* 131; Patricia Hill Collins, ‘Knowledge, Consciousness, and the Politics of Empowerment’ [1990] *Black Feminist Thought* 132; Angela Y Davis, ‘Rape, Racism and the Capitalist Setting’ (1981) 12 *Black Scholar* 39 <<https://eric.ed.gov/?id=EJ257323>>; Linda M Perkins and Bell Hooks, ‘Ain’t I a Woman: Black Women and Feminism.’ (1983) 98 *Political Science Quarterly* 145; Audre Lorde, *Sister Outsider: Essays and Speeches* (1984); Valli Kanuha, ‘Women of Color in Battering Relationships’, *Women of color: Integrating ethnic and gender identities in psychotherapy* (1994); Bell Hooks, ‘Choosing the Margin as a Space of Radical Openness’ [1989] *Yearnings: Race, Gender and Cultural Politics* 203.

simultaneously affect an individual's life.²¹ This notion is beneficial for revealing how various intersecting categories of difference shape the inequalities women face and the complexity of the violence they suffer.²²

Intersectionality can then be defined as a 'lens' or an 'approach' that helps to reveal 'the interaction between gender and other social categories of distinction in individual lives, social practices, institutional arrangements, and beliefs and the outcomes of these interactions in terms of power.'²³ In line with Hill Collins and Bilge, this chapter looks at intersectionality as a tool for critical inquiry²⁴ for the effective implementation of the convention. Key to such intersectional approaches, therefore, is to clarify the way categories of distinction are created and used in particular contexts, how they interact with each other and where such intersection of categories manifests itself, creating and sustaining hierarchies or power relations. Furthermore, since categories intersect at different levels (such as norms, policies, implementation), intersectionality connects gender-based violence against women with structural (institutional and social) inequalities and attests that violence can occur in multiple policy domains (family, workplace, educational institutions, and so on). In this sense, intersectionality gains 'volume' since the analysis is carried out at different levels of implementation.

The intersection of social categories of distinction manifest itself at the level of personal experience, at group level, or at the systemic level through their configuration within social institutions, social practices, organisations, and the law. For that reason, responses to intersectional inequality need to address the structural aspects in these social and political dimensions. That said, intersectional analysis has been deployed in different ways, with a different focus and to different aims, some of which may have negative consequences.²⁵ For instance, some intersectional studies refer to 'intersecting identities' or focus on '(vulnerable) groups', rather than power relations or the existing systems of discrimination, as 'structural inequality' promotes. Below, the implications of different policy approaches to intersectionality is discussed.

21. Natalie J Sokoloff, 'Expanding the Intersectional Paradigm to Better Understand Domestic Violence in Immigrant Communities' *Critical Criminology* (2008) 1 229.

22. Kimberlé Williams Crenshaw, 'Beyond Racism and Misogyny', *Words that wound: critical race theory, assaultive speech, and the first amendment* (1993).

23. Kathy Davis, 'Intersectionality as Buzzword: A Sociology of Science Perspective on What Makes a Feminist Theory Successful' (2008) 9 *Feminist Theory* 68.

24. Patricia Hill Collins and Sirma Bilge, *Intersectionality* (Polity Press 2016) 64.

25. Sandra Fredman, *Intersectional Discrimination in EU Gender Equality and Non-Discrimination Law* (European network of legal experts in gender equality and non-discrimination 2016) 29.

Focus on identities

Since its origin, intersectionality has been concerned with power relations and disadvantage, but it has also been used to theorise individual and social identities. Identities are individual and collective narratives that answer the question ‘who am/are I/we?’.²⁶ By considering only one aspect of the identity as representative of the full experience of a person, all other constitutive elements of one’s identity are ignored. Identities, however, can be ‘multiple’ and ‘contradicting’. Intersectionality provided a new articulation to this notion and captured the discontent with essentialising views of ‘women’ that ignore the experiences of those who are not white, heterosexual, middle class, nationals, able-bodied, young, etc.

Although intersectionality cannot be reduced to the analysis of ‘intersecting identities or focus on women’s ‘qualitatively different experience’,²⁷ this does not mean that identities are not important. When attention to identities is coupled with the confrontation of power, intersectionality helps to uncover how power works through the creation and deployment of overlapping identity categories.²⁸ So, rather than ignoring the impact of intersectional categories on the formation of identities, these should be considered a manifestation of the intersection of multiple hierarchies and a way of maintaining such hierarchies. What matters ‘is not the subjectivity of the victims but the reality of their status,’ not their identity but the consequences of how they are socially identified and hence treated.²⁹

Focus on groups

Group-centred approaches pay attention to marginal groups located at the intersection of two or more axes of inequality. The main aim of focusing on groups is to ensure their inclusion in policies and institutional arrangements. Crenshaw argued that intersectional groups are marginalised and overlooked by inequality policies.³⁰

26. Nira Yuval-Davis, ‘Intersectionality and Feminist Politics’ (2006) 13 *European Journal of Women’s Studies* 193, 197 <<http://ejw.sagepub.com/content/13/3/193>>.

27. Kimberlé Williams Crenshaw, ‘Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color’ (1991) 43 *Stanford law review* 1241 <www.jstor.org/stable/1229039>.

28. Sumi Cho, Kimberlé Williams Crenshaw and Leslie McCall, ‘Toward a Field of Intersectionality Studies: Theory, Applications, and Praxis’ (2013) 38 *785, 797*.

29. Catharine A Mackinnon, ‘Intersectionality as Method: A Note’ (2015) 38 *Signs: Journal of Women in Culture and Society* 1019, 1028.

30. Crenshaw, ‘Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Policies’ (n 27).

The idea is that qualitatively-different experiences arise from the intersectional position of different groups, and consequently there is a need to provide those groups with the opportunity to voice their reality, distress, and desires.³¹

At the European level, this group-focused approach has often been subsumed under a 'vulnerable groups' notion, highlighting the special vulnerability of some groups,³² as reflected in legal documents and case law. These often provide a list of such *vulnerable groups*, such as migrant and refugee women mentioned in the Explanatory Report to the Istanbul Convention, or references to Roma or Sámi women, or lesbian, bisexual, transgender and intersex (LBTI) women. While this approach can be considered an improvement in relation to one-size-fits-all approaches that refer to 'women' without any consideration to their diversity, it has some shortcomings and limitations. For instance, this 'vulnerable approach' often lacks attention to the social and institutional context that creates vulnerability, and instead pays excessive attention to groups.³³ Such an approach can trigger stigma and promote stereotyped views, if the underlying causes of the differential social positioning of groups are not sufficiently considered and tackled.

That said, the problems of gender stereotyping have been recognised in human rights law and states are called upon to prevent it.³⁴ The need to counter practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men has been incorporated in Article 12 of the convention

31. Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color' (n 19).

32. See for instance, UN Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation No. 26 on women migrant workers, 5 December 2008, CEDAW/C/2009/WP.1/R, available at: www.refworld.org/docid/4a54bc33d.html.

33. Ruth Mestre i Mestre, 'Exploring Intersectionality: Female Genital Mutilation/Cutting in the Istanbul Convention' in Johanna Niemi, Lourdes Peroni and Vladislava Stoyanova (eds), *International Law and Violence Against Women* (Routledge 2020).

34. See for instance, CEDAW Article 5. The European Court of Human Rights has addressed gender stereotyping in multiple cases, starting with *Konstantin Markin v. Russia*. Also, see a long list of commentators: Simone Cusack and Alexandra SH Timmer, 'Gender Stereotyping in Rape Cases: The CEDAW Committee's Decision in *Vertido v. The Philippines*' (2011) 11 Human Rights Law Review 329; Simone Cusack, 'The CEDAW as a Legal Framework for Transnational Discourses on Gender Stereotyping' in Anne Hellum and Henriette Sinding Aasen (eds), *Women's Human Rights: CEDAW in International, Regional and National Law* (Cambridge University Press 2013); Eva Brems and ASH Timmer, *Stereotyping and Human Rights Law* (Intersentia 2016); A Timmer, 'Toward an Anti-Stereotyping Approach for the European Court of Human Rights' (2011) 11 Human Rights Law Review 707 <<http://hrhr.oxfordjournals.org/content/11/4/707.full>>. On a more critical note on anti-stereotyping approaches, see: 'The glass-ceiling of anti-stereotyping', Timmer and Sosa (forthcoming).

regarding States' general obligations to prevent violence against women and domestic violence. Addressing other stereotypes that intersect with sexism, such as those related to socio-economic status, age, disability, national minority status, etc. would contribute to acknowledging the structural elements that put women in vulnerable positions and, thereafter, to develop tailored measures recognising their agency and allowing them to rise out of such disadvantaged positions.

Thus, an intersectional approach can enhance the 'vulnerable group' approach commonly found in European legal and policy documents in three ways.

Firstly, considering that certain established practices in law, such as listing some groups as inherently vulnerable, can pre-empt the examination of how such vulnerability comes to exist. An intersectional approach suggests that measures tackling the underlying factors creating such vulnerability should be preferred, leading to policies that aim to counter the disadvantaged position of individuals and groups. Vulnerability refers then to a social positioning that can be changed, not an immutable group characteristic.

Secondly, an intersectional approach advances that each category of difference, such as gender, race, ethnicity, class, sexual orientation, gender identity, disability, and other social categories, contains diversity and contrasting characteristics within. Intersectionality calls for the recognition of *diversity within the groups, and not only between them*. The recognition of such internal diversity makes it impossible to refer to any group of individuals as homogeneous, and thus counters stereotyped views.

Thirdly, an intersectional approach recognises that the relation between and importance of categories of difference cannot be determined a priori.³⁵ In other words, one cannot assume that gender is predominant over other categories, or vice versa. Instead, it calls for a comprehensive examination and questioning of the multiple inequalities at play in a specific context. For instance, GREVIO has noted how seasonal workers in Andorra or Spain are often vulnerable to sexual violence or sexual harassment at work,³⁶ suggesting that globalisation, labour markets, precarious agricultural job conditions, migratory policies and gender stereotypes often interact to place women at risk. How do age, origin, ethnicity, and socio-economic status or class intersect

35. Ange-Marie Hancock, 'When Multiplication Doesn't Equal Quick Addition: Examining Intersectionality as a Research Paradigm' (2007) 5 *Perspectives on Politics* 63, 67.

36. See, for instance, GREVIO baseline evaluation report of Andorra, on paragraph 21, and GREVIO baseline evaluation report of Spain, on paragraph 21.

and interlock in those cases, exposing women to such forms of violence? In addition to gender inequality, recognising other categories and inequalities can shed light on the complexity of violence against women.

Structural intersectionality

Unlike identity-based or group-based approaches, structural intersectionality emphasises the links between categories, and their construction. The unequal positioning of individuals and groups relates to the categories used to distinguish and differentiate between them. Social, economic, cultural, and institutional structures interlock and form a complex system that creates (and perpetuates) inequality.³⁷ Thus, 'structural intersectionality' examines the dynamics and processes that create categories of difference leading to subordination,³⁸ also in contexts of violence. The focus lies not on 'groups' ('migrant women', 'Roma women', 'women with disabilities', 'older women', 'lesbian women', 'transgender women') but on the categories or 'grounds' of discrimination and inequality (e.g. 'migrant status', 'national minority status', 'sexual orientation', 'disability', 'age') and how these sustain systems of inequality (e.g. 'racism', 'ageism', 'ableism', 'lesbophobia', 'transphobia').

This structural intersectional approach is entirely in line with the understanding of violence against women as a form of gender-based discrimination, which argues that violence against women is not incidental and sporadic, but rather represents a structural issue and a social phenomenon deeply rooted in mindsets.³⁹ However, intersectionality expands the analysis to incorporate other systems of inequality, such as racism or lesbophobia, transphobia and socio-economic inequalities.

In sum, an intersectional approach can contribute to understanding gender-based violence as the result of multiple forms of discrimination or inequalities. It confirms the connection of gender-based violence against women with structural (institutional and social) inequalities and highlights that violence can take place in multiple settings (households, workplace, educational

37. Michelle Madden Dempsey, 'Toward a Feminist State: What Does "Effective" Prosecution of Domestic Violence Mean?' (2007) 70 *The Modern Law Review* 908 <www.jstor.org/stable/4543184>.

38. Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color' (n 27).

39. CEDAW, 'Report on Mexico Produced by the Committee on the Elimination of Discrimination against Women under Article 8 of the Optional Protocol to the Convention, and Reply from the Government of Mexico' (2005) paragraph 159.

institutions, etc.). In addition, it suggests that certain groups of women located at the intersection of two or more grounds of discrimination may be *made* more vulnerable to (specific types of) violence and/or face specific difficulties, yet it demands an examination of the structural elements that place them in such a position and the recognition that, within the same group, some women may have different experiences or needs.

Overview of approaches found in the monitoring procedure regarding article 4, paragraph 3, to ensure the implementation of the convention without any discrimination

This section explores the different approaches taken by states parties to the convention and GREVIO's evaluation thereof to ensure that the convention is implemented without discrimination. It then draws from the reports submitted to GREVIO by the states parties pursuant to Article 68, paragraph 1, of the Istanbul Convention ('state reports') and the subsequent GREVIO baseline evaluation reports. This section will focus on the reports related to the 17 states parties which have been monitored by GREVIO between 2017 and 2020. This includes the state reports and baseline evaluation reports of Albania, Andorra, Austria, Belgium, Denmark, Finland, France, Italy, Malta, Monaco, Montenegro, the Netherlands, Portugal, Serbia, Spain, Sweden, and Turkey.

GREVIO baseline evaluation reports assess the measures of implementation taken by member states regarding all aspects of the convention. The analysis comprises the sections of the reports devoted to Article 4, paragraph 3, the Executive summary, as well as the List of Proposals and Suggestions. However, as intersectionality and its implementation can be tracked in different sections of the convention, the analysis also draws, when appropriate, from the sections dedicated to prevention, protection, prosecution, and integrated policies. State reports are analysed in their entirety, since they have no section specifically dedicated to Article 4, paragraph 3, or intersectionality.

The section starts by explaining the terminology used by GREVIO and the states parties, then outlines the main approaches used towards an implementation of the convention without discrimination, as required by Article 4, paragraph 3.

Terminology

The recognition that a single-ground approach to discrimination is insufficient to ensure a life free from violence for all women is at the heart of the convention. As for the terminology used, GREVIO employs a variety of terms to describe the coexistence and interaction of discriminatory grounds but has embraced ‘intersectional discrimination’ as an umbrella term to systematically assess whether states parties pay attention to the different manifestations of gender-based violence affecting women, both in the design and implementation of public policies emanating from the Istanbul Convention. In fact, evaluation reports analyse action taken by states parties under Article 4, paragraph 3, under the heading ‘intersectional discrimination.’ Here, GREVIO calls attention to the fact that some groups of women encounter ‘compounded difficulties’⁴⁰ in escaping gender-based violence and finding protection; face ‘complex and interlocking issues’;⁴¹ or are confronted with ‘extra hardships’;⁴² ranging from difficulties in accessing information about their rights, seeking help, receiving adequate support, and benefiting from existing specialist services for women victims of violence. GREVIO focuses on the harms caused by intersectional discrimination and calls on states parties to tackle it.

General approach

As a general approach, GREVIO baseline evaluation reports call on states parties to take into account that several categories of women are likely to face specific obstacles in relation to the forms of violence covered by the convention ‘because of their position at the intersection of several potential grounds of discrimination.’⁴³ Factors such as disability, socio-economic status, sexual orientation, gender identity, or belonging to a national minority create additional barriers. Women are then further exposed to violence as a result

40. GREVIO baseline evaluation report of Albania, on paragraph 16.

41. GREVIO baseline evaluation report of Sweden, on paragraph 42.

42. GREVIO baseline evaluation report of Turkey, on paragraph 19.

43. GREVIO baseline evaluation report of Belgium, on paragraph 18.

of the high levels of prejudice they face. GREVIO clearly highlights that the obligation of states parties to take this into account falls within the principle of due diligence.⁴⁴

Due diligence obligation

‘The obligation of due diligence in the Istanbul Convention requires states to take into account the specific needs of women who face multiple and intersecting forms of discrimination and disadvantages’

GREVIO baseline evaluation report of Malta, on paragraph 19.

Most of the states parties monitored by GREVIO do not explicitly indicate the approach taken in relation to gender-based violence against women and intersecting inequalities, nor have they introduced specific terminology to refer to the intersectional inequality affecting women. However, they have adopted several measures to address specific needs. In several states parties, the legal and policy framework applicable to violence against women relies on the constitutional principle of equality and non-discrimination that prohibits discrimination based on sex or gender, complemented by action plans or specific measures focusing on gender-based violence against women. The approaches taken by Finland and Malta can be highlighted as relevant examples. On the one hand, despite the fact that Finland has not yet adopted a dedicated law on domestic violence, it follows a ‘human rights strategy’ in which gender equality remains central, combined with an approach that recognises ‘multiple discrimination’ against women and some ‘vulnerable situations.’⁴⁵ By highlighting the connection between human rights and gender equality, crucial for tackling gender-based violence, this approach is in line with international human rights standards on the issue.

44. Article 5 of the convention addresses the obligation of states parties to exercise due diligence in relation to acts of gender-based violence perpetrated by non-state actors. The principle of due diligence establishes an obligation of means, so states parties are required to organise their response to all forms of violence covered by the scope of the Convention in a way that allows relevant authorities to diligently prevent, investigate, punish and provide reparation for such acts of violence. Failure to do so incurs state responsibility for an act otherwise solely attributed to a non-state actor. See paragraphs 57-59 of the Explanatory Report.

45. State report of Finland, on page 8.

A gender-sensitive human rights strategy

‘The promotion of the rights of women and girls is one of the emphasised areas of the Finnish human rights policy. Finland is committed to the full implementation of the international instruments concerning women’s rights and works actively in the EU, the UN and its organisations and international conferences as well as in other international organisations to strengthen women’s rights. Particular attention shall be paid to women and girls in vulnerable situations and who are often subjected to multiple discrimination.’

Report submitted by Finland pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 8.

On the other hand, Malta follows a ‘double’ non-discrimination approach. While this also stems from an equality and non-discrimination approach, it adopted a set of laws and policies focusing on gender-related issues. Similarly to the Istanbul Convention, a non-discrimination clause has been incorporated into the Maltese Law on Gender-based Violence and Domestic Violence.

Non-discrimination clause

‘The implementation of the provisions of this Act, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as age; association with a national minority; belief, creed or religion; colour, ethnic origin and, or race; disability; family responsibilities and, or pregnancy; family and, or civil status; gender expression and, or gender identity; genetic features; health status; language; migrant or refugee status; national or social origin; political or other opinion; property; sex or sex characteristics; sexual orientation or any other status’ [Chapter 581 of the Laws of Malta (Gender-Based Violence and Domestic Violence Act, Article 4, paragraph 1)].

Report submitted by Malta pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 57.

In addition, Malta explicitly adopts an intersectional perspective in relation to the provision of services.

Intersectionality and inter-sector collaboration

‘Where the aspect of intersectionality is concerned, the Domestic Violence Unit collaborates closely with other specialist services. For example, in cases of disability, the service liaises with specialist services within the area of disability. Where migrant women are concerned, the service liaises with the Office of the United Nations High Commissioner for Refugees (UNHCR), the Jesuit Refugee Service (JRS) and the Migrant Women Association depending on the nature of the situation being dealt with. Some of this collaboration is regulated by an agreement as in the case of work with elderly.’

Report submitted by Malta pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 30.

All in all, four states parties referred to ‘multiple discrimination’ in their State reports (Finland, Italy, Montenegro, and Portugal) and only one state party made an explicit reference to ‘intersectionality’ (Malta).

Despite the scarcity of measures and policies conceived with an intersectional lens, GREVIO has welcomed many initiatives and policies that states parties have developed to implement the convention without discrimination. Although leaving states parties room for manoeuvre to choose their approach, GREVIO also invites them to equip themselves with ‘a robust strategy to clarify the normative and conceptual framework around multiple discrimination’⁴⁶ All reviewed states parties adopted a combination of measures aimed at addressing women’s diversity, intersectional discrimination and, to some extent, structural inequalities. Three overlapping approaches can be identified:

1. Approaches focusing on specific groups or on policy dimensions,
2. Mainstreaming strategies
3. Intersectional approaches aimed at tackling structural discrimination.

These are discussed below.

Attention to groups or policy dimensions

A review of GREVIO baseline evaluation reports indicates that states parties pay attention to some social categories of distinction in two ways. Firstly,

46. GREVIO baseline evaluation report of France, on paragraph 26.

states parties often recognise that the multiple inequalities affecting women act as 'barriers' to accessing different services or protection. The grounds for discrimination identified by GREVIO as intersecting with gender inequality are national minority status or ethnic origin,⁴⁷ disability status, sexual orientation, gender identity, geographical location⁴⁸ and age.⁴⁹ Second, GREVIO has also expressed concern about specific forms of disadvantage and discrimination faced by women using psycho-active substances, women in prostitution or institutionalised women – either in detention or in care facilities – when accessing general and specific services and in receiving protection. Women's socio-economic status is also often addressed in connection to national minority status or residence status.

Socio-economic vulnerability of migrant women in an irregular situation

'The high socio-economic vulnerability of many live-in carers and domestic workers, many of whom are in an irregular situation, expose them to forms of violence such as sexual harassment and sexual violence. GREVIO is concerned by the absence of approaches to enable these women to realise their right to a life free from violence.'

GREVIO baseline evaluation report of Spain, on paragraph 21.

States parties' reports pay attention to several categories in addition to gender, such as ethnic origin or 'minority belonging' (Albania, Belgium, Denmark, Finland, Italy, Malta, Montenegro, Portugal, Serbia, Spain, Sweden and Turkey), and also focus on the needs of specific minority groups, such as Roma women (Albania, Italy and Serbia) and Sámi women (Finland). Other categories emerging in states parties' reports are disability (Albania, Austria, Denmark, Finland,

47. We include here national and linguistic minorities (i.e. Sámi) and national minorities in situations of conflict (i.e. Kurds). Because the categories of national/linguistic and ethnic minority sometimes collapse as in the case of Sámi women, both categories are next to each other in this study.

48. This refers to disparities in the provision of services across the territory of the states parties, and comprises the urban/rural divide, the regional/central administrations divide and the continental/ overseas territories divide.

49. Many reports call attention to the need to address young girls in the different measures undertaken to fight violence against women. See, i.e. Finland: "GREVIO encourages the Finnish authorities to review their central policy documents and materials, including school materials, in order to ensure that all forms of violence against women and girls are addressed in an age-appropriate way". GREVIO baseline evaluation report of Finland, on pages 12. Only six baseline evaluation reports specifically detail barriers faced by elderly women: Albania, Andorra, Belgium, France, Montenegro and Portugal.

Italy, Malta, Portugal, Serbia, Spain, Sweden and Turkey) and gender identity (Albania, Finland, Italy, Malta, Montenegro, Portugal, Serbia and Sweden). Socio-economic status is also mentioned (Finland, Malta and Turkey), in addition to recognising lower education, unemployment, or dependence on welfare institutions as factors increasing women's vulnerability.

In addition to references to specific grounds of discrimination, a review of State reports indicates that, predominantly, states parties pay attention to specific 'groups', referring to them through various terms: 'disadvantaged groups of women' (Turkey); 'groups with special needs' (Italy); and 'vulnerable groups' (Albania, Finland, Italy, Montenegro, Portugal, Serbia, Sweden and Turkey). In all cases, the identification of such groups results in the potential adoption of special measures or policies in relation to them. For instance, Italy offers extra protection to 'women with special needs', namely 'pregnant women and women with small children'.⁵⁰

States parties' reports also refer to 'vulnerable persons' (Albania, Denmark) and 'groups in vulnerable situations' (Finland, Italy). In fact, the notion of 'vulnerability' is used to attribute particular attention to either groups or categories (found in 12 state reports), more often than inequality (mentioned in 9 state reports) or disadvantage (Albania, Denmark, Sweden and Turkey). From this, it appears that 'vulnerability' is used in two ways. Firstly, by a priori identifying a group as vulnerable, as in Portugal, where a category of 'particularly vulnerable victims' has been defined, leading to a differential assessment during court proceedings that considers the victim's personal characteristics.

Vulnerable victims

'It should be highlighted that the legislation establishes, as well, the concept of "particularly vulnerable victims" and therefore individual assessments that must be done, should take into account, in particular, victim's personal characteristics entitled to special protection measures. Sexual violence, gender-based violence or intimate relationship victims can have same special treatment when they provide statements.'

Report submitted by Portugal pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, pages 37-39.

50. State report of Italy, on page 110.

There are other states parties in which ‘vulnerability’ or ‘special needs’ are not attributed to specific groups but indicate the need for special attention. For instance, service providers in Malta must assess the specific situation and adopt special mechanisms if needed. A similar approach is suggested in Denmark, where ‘vulnerable persons’ will have received differential treatment in Court, and judges and prosecutors will receive special training to deal with it. However, who is considered a ‘vulnerable person’ is left undefined.⁵¹

Persons made vulnerable by circumstances

‘Any measures taken pursuant to this chapter shall take into account and address the specific needs of persons made vulnerable by particular circumstances and shall place the human rights of all victims at their centre’, Maltese law on Gender-Based Violence and Domestic Violence, Article 12, paragraph 3.

Report submitted by Malta pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 72.

In relation to the groups mentioned in the state reports, special attention is paid to women with disabilities (Albania, Austria, Finland, Malta, Serbia, Spain and Sweden), older women (Austria, Malta and Portugal), girls (mentioned in 12 reports), Roma women (Albania, Italia and Serbia) and LGBTI women (Malta). Migrant women, refugee women and asylum women are addressed in all state reports under review, which is not surprising considering the special attention given to migration and asylum in the convention. In the context of asylum, attention is paid to unaccompanied children (Montenegro) and women who travel alone (Austria and Montenegro). In a few states parties, special attention is given to socio-economic status. This is expressed as ‘socially excluded’ women (Albania) or by focusing on concrete aspects such as women-headed or single-parent households (Albania), and persons living in welfare institutions (Serbia).

In some cases, the attention to specific groups is mediated by focusing on specific forms of violence addressed by the convention. References to ‘honour-related’ violence, forced and early marriages and female genital mutilation (FGM) redirect the attention to migrant or ethnic minorities. For instance,

51. State report of Denmark, on page 12.

Malta carried out a research study on FGM⁵² which resulted in two leaflets published by the National Commission for the Promotion of Equality: one for healthcare professionals and the other for migrant women. The latter was published in Maltese and English, Arabic, Somali and Tigrinian to cater for a larger *multicultural* audience.⁵³ This is an example of an effective combined reading of the prohibition of FGM (Article 38) with the state parties' obligations to undertake data collection and research (Article 11) and awareness-raising (Article 13, paragraph 2).

Another positive example is found in Italy, where prevention and information campaigns on FGM target not only migrant women who could be affected, but also the general population, including youth. This is furthermore carried out with the involvement of local women's non-governmental organisations (NGOs), in line with the obligation that states parties recognise, encourage and support, at all levels, the work of relevant NGOs (Article 9).

Civil society involvement with specific forms of violence

'The FGM programme has been implemented throughout the region thanks to the partnership with the provincial capitals and with three NGOs of second level involved in specific relevant sectors (i.e. the second generation's people, migrant women, intercultural communication). Actions have been implemented with the aim of prevention and information regarding female genital mutilation from a health, legal, and social standpoint, being beneficial for the foreign female population but, more generally, for all citizens, both women and men. By a three-fold action, measures are intended to: young generations; training of social workers; awareness-raising, information and communication actions.'

Report submitted by Italy pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 58.

To avoid the risk of stigmatising and further reinforcing stereotypes and prejudices, the incorporation of an intersectional approach requires considering the impact of those categories of difference – migrant background, national

52. NCPE (2015). Female genital mutilation in Malta – A research study. Available at https://ncpe.gov.mt/en/Documents/Projects_and_Specific_Initiatives/Forms%20of%20Violence/Report%20-%20FGM.PDF.

53. Ibid.

origin, etc. – beyond the forms of violence more commonly associated with groups belonging to such categories. In other words, attention to women with a migrant background or belonging to a national minority must go beyond forced marriages, female genital mutilation or ‘honour-related’ violence. While the prevalence of those forms of violence may be higher in relation to migrant minorities or national minorities compared to the majority population, other forms of violence such as domestic violence, stalking, sexual violence, and sexual harassment may be equally and perhaps more prevalent. This approach is necessary for established migrant communities and for newly arrived migrants.

State reports and GREVIO baseline evaluation reports present gender mainstreaming and mainstreaming gender-based violence against women into general policies as a useful strategy to pay attention to the circumstances and specific needs of women who suffer from multiple discrimination.

Mainstreaming Strategies

The previous section suggests that policies focusing on specific groups and ‘sectorial policies’ focusing on areas that have an impact on the prevention of violence or the protection of women victims – education, media, housing, health, employment, asylum, migration etc. – require the adoption of a gender mainstreaming and a ‘gender-based violence’ mainstreaming strategy to incorporate and address the needs of women suffering from multiple forms of discrimination and violence. Similarly, ‘diversity’ mainstreaming can be used as a strategy to introduce intersectionality into different policy dimensions, including gender-based policies, by incorporating specific measures to address the needs of *all* women.

Mainstreaming actions on gender and on gender-based violence against women into general policies

GREVIO encourages states parties that have adopted sectorial policies and programmes devoted to marginalised/targeted groups to mainstream the prevention of gender-based violence against women within them, in order to enhance the efficacy of measures to prevent and combat it.⁵⁴ It insists on the need to include measures to prevent and combat violence against women into general policies and programmes dedicated to the specific needs of these groups, such as disability policies or migration policies.⁵⁵ For example, GREVIO

54. GREVIO baseline evaluation report of Italy, on paragraph 27; GREVIO baseline evaluation report of France, on paragraph 26.

55. GREVIO baseline evaluation report of Turkey, on paragraph 23.

observes that the French national strategy for autism does not place sufficient emphasis on measures to prevent and combat sexual violence against women with autism spectrum conditions.⁵⁶ The review of state reports shows that, while gender mainstreaming is a policy by itself in states parties such as Sweden or Finland, there is also a clear tendency among states parties to incorporate a gender sensitive perspective into general policies, particularly in relation to migration and asylum policies. Several states parties have also ‘mainstreamed’ gender-based violence strategies into different policies.

Italy provides two useful examples of both ‘gender mainstreaming’ and ‘gender-based violence mainstreaming’ into migration policies. Within its migration policies, Italy has paid particular attention to the field of employment, where it also incorporated a gender perspective. This is a good example of a comprehensive approach towards migrant women that goes beyond the mere attention to migrant women *only* in the context of specific forms of violence, as discussed in the subsection above.

Gender-mainstreaming in migration policies

‘In the annual report on the presence of migrants in the labour market in Italy, published annually by the Directorate for Immigration and Integration, there is an in-depth analysis of all aspects of the employment situation of migrants; and special attention is paid to women migrants, thus contributing to the definition of interventions in favour of the female employment rate. The Directorate on Immigration and Integration publishes the annual reports on migrant communities in Italy, which contain gender disaggregated data, thus making them an important tool for understanding the characteristics of migrant women in Italy [...] and for contributing to define gender-sensitive public policies.’

Report submitted by Italy pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 22.

The review of GREVIO baseline evaluation reports and state reports also shows that attention to specific grounds of discrimination emerge in relation to some measures in two ways. On the one hand, the convention pays particular attention to migration status (Article 59), and asylum determination procedures (Articles 60 and 61) on the other hand.

56. GREVIO baseline evaluation report of France, on paragraph 25.

A clear example of gender-based violence mainstreaming in relation to asylum policies is further provided by the Italian Plan of Action 2017-2020, which aimed at ‘identifying and revealing’ the violence that migrant women may be subjected to. In doing so, the action plan recognised that women ‘experience several discriminations at the same time’, based on the intersection of their gender and their migrant status. While it enumerates specific groups (migrant women, refugee women, asylum seeking women, Roma, Sinti and itinerant women, and working migrant women), it did not immediately portray them as ‘vulnerable’, noticing instead that they may be subject to ‘specific vulnerabilities’.⁵⁷

Regardless of the importance of mainstreaming measures against gender-based violence against women into policies affecting marginalised groups, GREVIO is aware that this on its own does not suffice. The Expert Group recognises that targeting specific groups can shed light on their circumstances and facilitate data collection and the identification of potential barriers. The next section explores some of the ways in which states parties have incorporated attention to these aspects in their legal and policy measures addressing gender-based violence against women.

Mainstreaming diversity into policies on gender-based violence against women

Article 4, paragraph 3, of the Istanbul Convention requires that, despite the commonalities of all forms of gender-based violence against women, all measures adopted in relation to each of the four ‘pillars’ of the convention – prevention, protection, prosecution and integrated policies – be designed and implemented bearing in mind the circumstances that make certain women more vulnerable to some manifestations of violence, and more vulnerable to secondary victimisation by institutions and services in contact with victims. The positionality of women makes their experiences, needs, and required remedies qualitatively different from each other. Although violence as such might not be different, responses that ignore the multi-layered dimensions of the subordination of some women fail to identify their needs, and to properly allocate resources to respond to those needs.

Mainstreaming diversity into general policies entails introducing the perspectives and needs of marginalised groups into policies addressing a more general population. Thus, introducing difference in gender-based violence policies requires incorporating the views and needs of women and girls located at the

57. State report of Italy, on page 41.

intersection of various grounds of discrimination in the process of prevention, protection, prosecution, and policy co-ordination. While there are multiple examples of measures adopted in relation to the four pillars which are tailored to cover the circumstances making women vulnerable to violence,⁵⁸ this subsection will illustrate how one basic factor – language – has been considered across the four pillars of the convention, since the adoption of an effective policy on language can have important implications for the prevention and prosecution of violence against women, the protection of victims and the establishment of effective and coordinated policies.

One of the measures mandated by the convention in relation to the prevention of violence consists of the adoption of awareness-raising campaigns. Mindful of the multicultural character of societies in Europe, it is necessary to carry these out at the very least by covering the most widely spoken languages within a state. Not only must migrant or language minorities be included, but also women and girls with disabilities or learning impediments should be able to access those messages as well. Serbia provided a good example of such practices.

Awareness-raising

‘The Outreach Campaign on Violence in Family and Intimate Partner Relationships was developed by the Provincial Secretariat competent for gender equality to improve the public awareness on domestic violence, explain the protective measures and provide the contact information of competent services. To this purpose, the Secretariat printed and distributed 50 000 leaflets with information in Serbian, Hungarian, Romanian, Ruthenian, Slovak and Romani languages. A brochure called “Stop to Violence against Women” was printed in Serbian and national minority languages, with information about the types of violence, legal framework, survival tactics and roles of competent institutions. In addition, 15 000 promotional leaflets were printed in Serbian, Hungarian, Slovak and Romani, providing information about the unique SOS hotline for Vojvodina.’

Report submitted by Serbia pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 22.

58. Some of these are mentioned in subsections 0 and 0, and some included in section 0 of this paper.

Minority languages and sign language

‘Based on [the Law on Public Information and Media (2014)], the Ministry of Culture and Information opens an annual call for the co-funding of projects in the area of public information which produce content contributing to raising of public awareness about the position of women in our society, gender stereotypes, violence against women, etc. The project funding allows the media to produce stories that raise the awareness on [gender-based violence] and contribute to changes of patriarchal cultural models and behaviour patterns. The Ministry is also co-funding programs of public information in national minority languages and sign language.’

Report submitted by Serbia pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 30.

Also, in terms of protection, accessibility of information for *all women and girls* is crucial. Article 19 mandates states parties to ‘take the necessary legislative or other measures to ensure that victims receive adequate and timely information on available support services and legal measures in a language they understand.’ Thus, not only should states parties consider minority languages and sign language but using a language that can be understood by the victims is also required. For instance, in Finland, the brochure with information for victims is also printed in an ‘easy to read’ version.

‘Easy to read’ information

‘The printable brochure is meant to be distributed to victims and to support the giving of information especially in the work of the Police and other criminal investigation authorities. The brochure can also be used by judicial authorities, victim support services and others coming in contact with victims. The brochure is available in the following languages: Finnish, easy-to-read Finnish, Swedish, easy-to-read Swedish, Sami, English, Estonian, Russian, Sorani, Arabic and Somali.’

Report submitted by Finland pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 45.

Attention to language diversity is also important for the provision of services. Hotlines are perhaps the most evident example. However, judicial procedures

also require attention to language diversity. Article 56 of the convention mandates states parties to provide victims with independent and competent interpreters when they are parties to proceedings or when they are supplying evidence. The review of state reports shows a wide variety of measures being adopted, ranging from involving a translator when victims are interviewed by the police or judges, to more comprehensive measures which enable victims to act in their own name and contribute to the successful prosecution of the crime. This requires access to interpreters and the translation of documents. A good example of such measures is found in Austria.

Interpretation and translation

‘Victims who are unable to communicate adequately in the language of the proceedings are entitled to translation or interpretation assistance. This right not only includes oral interpretation but also written translation of essential case documents (including grounds for suspension, judgement)’

Report submitted by Austria pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 59.

As part of the policy-coordination pillar, the convention also states the importance of collecting data and carrying out research on gender-based violence against women in Article 11. States parties must collect relevant disaggregated statistical data at regular intervals on cases of all forms of violence covered by the scope of this convention, including population-based surveys to assess the prevalence of and trends in all forms of violence. Language accessibility is also relevant to properly meet this obligation and determine violence prevalence and trends from the victims themselves. Finland provides a positive example in relation to population-based services.

Population-based surveys

‘The National Crime Victim Survey is a nationally representative crime victimisation survey, which has been carried out annually since 2012. The survey is conducted as a postal survey with an option to participate online. The gross sample size is 14 000 persons aged 15 to 74 years with a permanent residence in Finland. The survey is conducted in four languages: Finnish, Swedish, Russian and English and it has national coverage, including the self-governing province of the Åland Islands.’

Report submitted by Finland pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 26.

Strategies addressing structural discrimination

The previous sections indicate that merely mainstreaming gender-based violence into policies targeting specific groups runs the risk of ignoring the broader context of inequalities affecting women, and how different policies affect the efficiency of preventive and protective measures adopted in response to different forms of violence. In fact, a combination of mainstreaming strategies into group-based or sectorial policies have a higher chance in succeeding if they incorporate the needs and perspectives of women and girls located at the intersection of several grounds of discrimination.

GREVIO reminds states parties that an extensive policy to combat gender-based violence against women does not, *per se*, extend to or reach groups of women who belong to national or other minorities and whose circumstances, life options, cultural context and dependencies differ significantly from those of majority women.⁵⁹ Their circumstances and position regarding social services and other service providers is also different. Women who are subject to intersectional discrimination may encounter barriers, constraints, and difficulties in seeking protection from authorities,⁶⁰ even more so when a relation of trust is absent,⁶¹ service providers lack cultural sensitiveness⁶² or simply lack training and awareness.⁶³ GREVIO has thus encouraged states parties to shift towards a more structural and comprehensive response to gender-based violence against women that includes and protects all women equally, and that examines the structural elements that place some women and girls in such a position of social disadvantage. To do so, states parties need to undertake measures aiming at addressing the root causes of intersectional discrimination, the different systems of inequality and the ways in which they interact. This can be done by developing strategies to fight stereotypes and prejudice and eliminating the barriers some women encounter when seeking help.

59. GREVIO baseline evaluation report of Sweden, on paragraph 13.

60. GREVIO baseline evaluation report of Belgium, on paragraph 18.

61. GREVIO baseline evaluation report of Sweden, Executive summary.

62. GREVIO baseline evaluation report of Spain, on paragraph 23.

63. GREVIO baseline evaluation report of Finland, on paragraph 99.

Fighting stereotypes and bias

In line with the convention's mandate, GREVIO encourages states parties to detect all forms of violence against women covered by the convention, ensure victims' safety, and refer them to relevant specialised services. In doing so, it recalls that victims suffering from intersectional discrimination encounter specific barriers to help-seeking, and thus states parties have an obligation to address these.⁶⁴ The interaction of different systems of inequality and the high levels of prejudice and discrimination certain categories of women face may increase their risk to experiencing violence and secondary victimisation by statutory agencies and practitioners.⁶⁵ Thus, GREVIO has noted that stereotypes and prejudice, including unconscious bias against some women, such as women with disabilities or women belonging to national minorities, can prevent their access to protection and services. For this reason, states parties are obliged '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' (Article 12, paragraph 1).

Looking at the state reports and GREVIO baseline evaluation reports, two main ways of tackling stereotyping and bias emerge. One approach focuses on the transformative dimension and calls for training and education of service providers, awareness-raising and education of the general public and the (self) regulation of media. Regarding the first approach, having identified the persistence of prejudices and stereotypes across states parties regarding certain women, both among the general public and among professionals in contact with women victims, GREVIO encourages states parties to fight persistent discrimination by adopting policies and measures that:

- ▶ create awareness of the specific gendered nature of violence against women;⁶⁶
- ▶ ensure higher degrees of awareness of how gender-based violence against women impacts on different groups of women;⁶⁷

64. GREVIO baseline evaluation report of Serbia, on paragraph 17.

65. GREVIO baseline evaluation report of Sweden, on paragraph 26.

66. GREVIO baseline evaluation report of the Netherlands, on paragraph 44; GREVIO baseline evaluation report of Italy, Executive summary.

67. GREVIO Baseline evaluation report of Italy, on paragraph 27; GREVIO baseline evaluation report of Turkey, on paragraph 23.

- ▶ ensure greater cultural sensitivity of authorities and service providers by eradicating prejudices and stereotyped notions of violence and of groups among state agents;⁶⁸
- ▶ eliminate unequal treatment or biased enforcement of laws and other forms of institutional bias.⁶⁹

By way of another approach, states parties highlight the criminalisation of *hate speech* (incitement to hatred, discrimination, or violence based on the victim's presumed belonging to a group) and *hate crimes* (crimes motivated by the aversion against the victim's presumed belonging to a group) as a punitive response against stereotyping and bias, even though this is not a form of violence explicitly addressed by the convention. In this regard, in addition to the inclusion of an enumeration of grounds that is sufficiently broad and inclusive in the prohibition, preventive measures are necessary. A good example of measures aiming at preventing hate speech and other discriminatory statements is found in the Code of Ethics adopted by the associations of Journalists in Serbia.

Hate Speech and private sector

'The Code of Ethics in Journalism (2006) adopted by the Independent Journalist Association of Serbia and the Journalist Association of Serbia foresees the following: a journalist must oppose all those who violate human rights or support any kind of discrimination, hate speech or incitement to violence; journalism must never support the spreading of sex, gender, ethnic, racial, social, or religious stereotypes; the private prejudices of a journalist must not be broadcasted or published in any context, overtly or covertly; a journalist must avoid using phrases that have chauvinistic, sexist or any other discriminatory undertones.'

Report submitted by Serbia pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 31.

Notably, in Spain, the definition of hate crime not only covers grounds of discrimination, but it also refers to the systems of inequality underlying such crimes (racism, anti-Semitism).

68. GREVIO baseline evaluation report of Sweden, Executive summary.

69. GREVIO baseline evaluation report of Spain, on paragraph 20.

Fighting inequality and discrimination

Shifting attention from groups (e.g. migrant women, women with disabilities, lesbian women, transgender women, older women, etc.) to grounds of discrimination (e.g. migrant status, disability, sexual orientation, gender identity, age, etc.) and the systems of inequality sustained (e.g. racism, ableism, lesbophobia, transphobia, ageism, etc.) allows the envisioning of policies that address the broader context, the different layers of inequality and the complex ways in which they interact.

The review revealed a few cases in which states parties acknowledged the systemic nature of discrimination. In response to these structural elements reinforcing violence and discrimination, GREVIO recommends paying attention to the broader context which may lead to new forms of violence or exacerbate existing violence against women. This could relate to situations such as conflict, but also more the general context, such as migration, and the different sectorial policies adopted in that regard.

In addition, GREVIO asks states parties not to stop at the surface of the violence, or in other words, the manifestation of the violence, but to work on the root or structural causes of it. This could mean, for instance, that recognising migrant women workers' vulnerability to violence requires states parties not only to look at their residence status and working visas, but rather to examine the policies for recruiting migrant women, their working conditions, etc.⁷⁰ While this means extending the examination beyond gender-based violence policies, such an approach would fall within the remit of Article 4, paragraph 3, since it directly impacts on the effective implementation of the convention without discrimination. The Italian strategy to mainstream gender-based violence into migration policies appears as an example of a more 'structural' approach, since it attempts to tackle the different factors that make migrant women vulnerable. This, in addition to highlighting the existence of a *system* of inequality such as racism, as commented above, can have long-lasting and transformative effects.

70. L. Palumbo and A. Scirba, 'The Vulnerability to Exploitation of Women Migrant Workers in Agriculture in the EU: The Need for a Human Rights and a Gender-Based Perspective' 84.

Gender-based violence mainstreaming in migration and asylum procedures

'The [National strategic plan on male violence against women (2017–2020)] intends to develop an intervention (with relative goals and actions) that aims to slow down the mechanism of reproduction and repeating of violence against migrant, refugee and asylum-seeking women in Italy. This means identifying the violence that these women are subjected to and revealing it and providing them with the necessary tools to be free of it, bearing in mind their migratory project. In this regard, it is not possible to omit the fact that migrant women, as women and as migrants, and also Romani, Sinti and itinerant women, experience several discriminations at the same time. In particular there are factors that make the decision to liberate themselves from situations of violence more difficult, e.g. language barriers, the lack of adequate information, the difficult conception of human rights, the different perception and difficulty in identifying male violence against women compared to the cultural contexts that they come from, living with precarious working conditions and difficulty in being legally established in Italy, [...] the possible presence of children, the need to maintain them or the fear of losing them. Special attention must be paid to working immigrant women as they are subject to specific vulnerabilities.

Report submitted by Italy pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on page 41.

In sum, this section has described the three main strategies employed by states parties and discussed by GREVIO – focus on groups and policy domains, mainstreaming strategies, and strategies addressing structural discrimination – that contribute to the implementation of the convention without discrimination, in line with Article 4, paragraph 3. The following sections sketches what the implementation of the Convention from an intersectional approach could look like.

Interpreting the obligations of the Istanbul Convention through an intersectional lens

In line with Article 4, paragraph 3, this section advances an intersectional interpretation of state parties' obligations in connection with the four pillars of the convention: Prevention, Protection, Prosecution, and Policy coordination. The pillars are 'peppered' with a fifth *P* for Participation,⁷¹ which informs the convention and is emphasised by intersectionality. Intersectionality requires states to be mindful of the structural and dynamic consequences of the interaction between two or more forms of discrimination regarding how women experience violence and their subsequent needs. Women made vulnerable by different circumstances may encounter further barriers when seeking help, either because policies are crafted in ways that impose upon them an extra burden, result in discrimination, or because they reproduce stereotypes and stigma.

In addition to Article 4, paragraph 3, two other articles of the convention also act as 'guiding principles' in implementing the whole text: the principle of due diligence (Article 5) and the adoption of gender-sensitive policies (Article 6).

Article 5 of the convention establishes a double obligation for states parties: on the one hand, states must refrain from engaging in acts of gender-based violence against *any* woman and, on the other, ensure that state authorities, agents, institutions, and other public actors act in conformity with this obligation. Adopting an intersectional lens for policies against gender-based violence against women and their implementation without discrimination is part of this obligation. Ensuring that state actors and agencies do not reproduce prejudice and discrimination against women subject to intersecting forms of

71. Elaine Connelly and others, "Missing from the Debate? A Qualitative Study Exploring the Role of Communities within Interventions to Address Female Genital Mutilation in Europe" (2018) 8 *BMJ Open*. The authors suggest adding a fifth *P* for Participation in policy making and implementation.

discrimination is key. States parties need to diligently consider these women's specific needs when drafting and implementing gender-based violence policies. In addition, it requires states parties to take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish, and provide reparation for all acts of gender-based violence covered by the convention and protect all women equally. Therefore, actions undertaken to ensure a life free from violence should serve women of *all backgrounds* and should devote the same level of commitment concerning prevention, protection, investigation, punishment and provision of services.⁷² The obligation of due diligence requires states parties to guarantee equal access to service provision for all victims throughout the national territory, regardless of conditions such as income or migratory status, to ensure that interventions take individual rights into account and are sensitive to the particular situation and needs of each victim in relation to the specific form of violence experienced.⁷³ The Explanatory Report of the Istanbul Convention explains that due diligence is not an obligation of result but an obligation of means that requires states parties to organise their response to gender-based violence in a way that allows relevant authorities to diligently prevent, investigate, punish, and provide reparation to all women who are at risk, or have suffered, violence covered by the convention.

Article 6 of the Istanbul Convention on gender-sensitive policies demands states parties to reduce inequalities by empowering all women in all aspects of life, including political and economic participation. Such participation of women in policy design and service provision is a constitutive part of the strategy to fight and prevent violence, protect women, and provide them with support and redress. Policies should reflect the variety of women's social positions, their experiences, needs, and knowledge to avoid revictimisation and ensure the effective enforcement of the due diligence obligation.

A non-exhaustive reading of the convention obligations is proposed below, informed by GREVIO baseline evaluation reports and state reports. While each pillar in the convention comprises a series of measures and obligations, developing each obligation in detail would exceed the scope of the present study. Thus, the section presents and fully develops a selection of measures per pillar as concrete examples of how to consistently introduce an intersectional perspective.

72. GREVIO baseline evaluation report of Italy, on paragraph 27.

73. GREVIO baseline evaluation report of Serbia, on paragraph 17 and GREVIO baseline evaluation report of Finland, on paragraph 104.

Prevention

The Istanbul Convention establishes general obligations of prevention that require states parties to promote changes in social and cultural patterns of behaviour based on the idea of the inferiority of women, eradicate prejudices and stereotypes that animate violence and harm towards women, and take measures to empower women (Article 12). The obligation to prevent violence also comprises a wide range of measures regarding awareness-raising (Article 13), the training of professionals (Article 15), education in equality between women and men (Article 14), addressing stereotypes or promoting an active role for men and boys in the eradication of violence. In adopting an intersectional approach to this obligation, states parties must take into consideration how gender-based violence impacts on different groups of women and how different forms of violence may be more prevalent among some women or in some contexts.

Awareness-raising campaigns are a basic measure states parties use to prevent violence and inform potentially affected women of their rights. To do so, states parties need to reach out to groups who have limited access to information, live in remote areas or are in custody, and are more vulnerable to a specific type of violence, as well as provide relevant and sufficient information in a comprehensive way and in an adequate language. An interesting example is the project *Breaking the cycle of violence* in Malta, which was carried out to provide awareness and information sessions to LGBTI women, migrant women, women with disabilities and women residing in second stage shelters. The project was done in collaboration with NGOs and followed by social media campaigns to raise awareness amongst the general public. In Sweden, the online portal www.youmo.se offers young migrants answers in six languages to questions around sexuality, family relations, marriage and violence and informs them of their rights. In Serbia, the institution of Roma health mediators in selected areas is helping to overcome distrust towards healthcare authorities and is leading to higher levels of reproductive health among Roma women, including the prevention of early marriages. Involving women from the targeted communities in awareness-raising campaigns increases the impact such campaigns may have, because they address the community in a culturally appropriate manner.

Training of professionals is key to ensure equal protection and prevent secondary victimisation of women and girls who are victims of gender-based violence. This is especially the case for violence regarding women who are

subject to intersecting forms of discrimination because bias and prejudice are present amongst state agents and professionals in contact with them. Training that ensures knowledge on the particular characteristics or needs of women facing intersectional discrimination, and on the impact of intersectional discrimination in accessing information, services and support allows professionals to gain knowledge to detect violence at early stages, and to avoid revictimisation and discrimination on any grounds in their response. Training should focus on the gendered nature of violence against women and invite professionals to reflect upon their practice and their own prejudices; it should also address negative attitudes and stereotypes that stand in the way of adequately protecting and supporting women victims of gender-based violence, irrespective of their background or circumstances. Because structural violence and secondary victimisation can affect some women's ability to disclose violence to the police or other professionals, such as social workers or healthcare professionals, it is important that they understand women's complex experiences with gender-based violence to adequately respond to their needs. Thus, the training of professionals would benefit from introducing the views and participation of women subjected to intersectional discrimination.

Professional training should be based on clear protocols and guidelines and aim at setting the standards that staff are expected to follow in their respective fields, either for the handling of violence or for assessing the risk. It should include protocols and guidelines for referral amongst agencies as well as coordination/ cooperation procedures amongst authorities dealing with violence, and should incorporate practices for sharing expertise and experience in handling such cases as well as procedures for supervision and accountability.⁷⁴ Training should also refer to the appropriate conditions for professional reporting, and remind professionals that women and girls must retain their autonomy and be informed throughout the process.

74. Professionals who deal with violence against women include health professionals; law-enforcement officials; law-enforcement agencies; the judiciary; legal professionals; professionals involved in supporting judicial decision-making; social workers; psychologists; staff providing general and specific services (shelters, helplines), including those run by NGOs; staff operating in initial landing settings and reception facilities for migrant and asylum-seeking women; immigration and asylum officials; and translators and mediators. For instance, law officials should receive training in all forms of violence covered by the Convention, on prevention and detection of violence, on gender stereotypes and how to avoid judicial stereotyping, on the needs and rights of victims, on rejecting 'honour' or cultural justifications for violence as well as on how to prevent secondary victimisation.

Protection

While the aim of the Istanbul Convention is to prevent all forms of violence against women, victims and women and girls at risk of violence require adequate protection from further violence, support, and assistance to overcome the multiple consequences of such violence. According to the Istanbul Convention, the safety and protection of victims must be at the centre of the protective measures undertaken by states parties. Article 18, paragraph 3, explicitly requires states parties to take the necessary measures to protect all victims from any further act of violence in ways that address the specific needs of women who are made vulnerable by particular circumstances. The obligation to protect includes, amongst others, the provision of information about support services and rights assisting victims of gender-based violence, as well as access to general services facilitating recovery, including legal aid, financial assistance, housing or training and assistance in finding employment. Previous sections of this study refer to the complexities around provision of information and support in a language that is understandable and appropriate for all victims, and the examples provided may guide decisions regarding telephone helplines and the provision of information, as well as helping in the design of other services, whether general or specialist support services.

Access to specialist support services, such as shelters, telephone helplines and sexual violence or rape crisis centres should be guaranteed for all women, irrespective of their background, personal characteristics, or location. This means that service provision must be carefully conceived to avoid causing extra burdens or hardship to women who are made vulnerable by circumstances. Requiring victims to lodge a complaint to access support services, establishing filtering mechanisms that delay immediate protection, or imposing restrictions preventing access to shelters for certain groups of victims, such as older women,⁷⁵ mothers of teenage boys, or mothers of children with disabilities are conditions that may be contrary to the convention. States parties should guarantee access to shelters to migrant women irrespective of their residence status, or grant an independent residence permit to women victims whose residence status is dependent on their abusive partner, without requiring conditions that may be prohibitive, such as the conviction of the perpetrator. Similar difficulties apply to Roma women and women belonging to national minorities, women using

75. For instance, in Turkey women over 60 do not have access to shelters, and in Spain women over 65 face great difficulties. GREVIO baseline evaluation report of Turkey, on paragraph 143 and GREVIO baseline evaluation report of Spain, on paragraph 68.

psycho-active substances, LGBTI women, and women in prostitution. Although states parties must apply due diligence and ensure that general and specialised services provide support and assistance to all women equally across its territory, GREVIO baseline evaluation reports show that states parties fall short in providing shelters to women in rural and remote areas in general, and in particular to older women, migrant women or women with disabilities.⁷⁶

Prosecution

The Istanbul Convention also calls for a criminal justice response to gender-based violence, supporting the idea that gender-based violence against women must be investigated and the perpetrator held accountable, regardless of the type of violence and the background of the victim. States parties must ensure that investigations and judicial proceedings in relation to all forms of violence covered by the convention are carried out without undue delay,⁷⁷ in an effective manner and without causing further harm to victims. The convention includes provisions to ensure effective criminalisation of all forms of gender-based violence against women, effective investigation and prosecution of violence, and measures for victim's protection, such as protection and barring orders, and demands states parties to include the consideration of aggravating circumstances and the rejection of cultural justifications to violence in criminal proceedings.

The requirement to **criminalise all forms of gender-based violence against women** from an intersectional point of view requires that states parties pay attention to the fact that (1) certain forms of violence may be more prevalent among certain groups of women due to their circumstances; (2) violence impacts women differently; and (3) all women deserve protection from all acts of violence covered by the scope of the convention. Women located at the intersection of several systems of power are made more vulnerable to certain forms of violence. Forced sterilisation of Roma women and women with disabilities are clear examples of how racism or ableism intersect with sexism to disempower women.

76. Women with disabilities, whether physical or cognitive, continue to face impediments and difficulties to accessing shelters and enjoying equal protection in most states, being sometimes referred to disability services or to rehabilitation services that are not designed to cater for their needs as victims of violence. In some cases, girls and women with disabilities that report violence are placed in closed institutions where they are prone to suffering from revictimisation and further violence.

77. Explanatory Report, paragraph 255.

States parties should equally pay attention to the fact that violence impacts women differently, and thus the way in which gender-based violence against women is conceived and addressed must reflect these differentiated positions and consequent impact. For example, although all women are exposed to the risk of sexual violence, the implications of rape diverge from the implications of ‘corrective rape’ some LGBTI women may be subject to and are also different from the needs of girls with disabilities, a group particularly vulnerable to sexual violence, whether living at home or in residential facilities. The prevention, protection and prosecution for each case demand a different coordinated policy covering the needs of women who are victims or are at risk of suffering that form of violence.

Finally, regarding **sanctioning**, states parties could consider adding, as aggravating circumstances, the commitment of acts of gender-based violence against persons who are made vulnerable by particular circumstances (Article 46 c of the Istanbul Convention). The rationale behind this lies in the conviction that perpetrators often choose such persons because they know that they are less likely to seek prosecution or other forms of reparation because of the multiple forms of discrimination they are confronted with.⁷⁸ In addition, states parties must ensure that courts reject, in criminal proceedings, any form of cultural justification for violence that occurs within a group and is allegedly sustained by the idea of culture, ‘honour’, or similar.⁷⁹

Policy coordination and data collection

Policy coordination and data collection comprises a variety of obligations ranging from the adoption and implementation of coordinated, comprehensive policies, the allocation of sufficient financial and human resources to sustain a state-wide effective system, the incorporation of NGOs and civil society in the different stages and obligations, and the development of research and collection of data on all forms of violence. The convention also requires states parties to designate a body that coordinates, implements, monitors and evaluates the policies and measures adopted. Read with an intersectional lens, such a body should ensure the convention’s pillars are implemented in ways that diligently take into consideration the experiences and needs of women and girls who are made vulnerable by particular circumstances.

78. Explanatory Report, on page 16.

79. Ruth M Mestre i Mestre and Sara Johnsdotter, ‘Court Cases, Cultural Expertise, and “Female Genital Mutilation” in Europe’ (2019) *Special Is Studies in Law, Politics, and Society* 95.

Article 7 requires states parties to adopt and implement **state-wide effective, comprehensive and co-ordinated policies** encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of the convention, and to offer a holistic response to violence against women. Because the convention understands gender-based violence as a violation of human rights and a form of discrimination against women, it requires states parties to adopt a human-rights approach that is gender sensitive and preserves the autonomy of the victim as part of processes aiming at her protection. States parties must further ensure that measures and policies take the individuals' rights into consideration, from legal and policy design to implementation, whilst addressing the structural causes and circumstances that may make them more vulnerable to violence. Many examples offered have shown the relevance of policy coordination, mainstreaming of strategies and coordination amongst actors in ensuring that the convention is implemented without discrimination, and throughout the territory of the state.

Article 11 emphasises that policies to fight gender-based violence against women should rely on evidence and research, and therefore states parties must support research relating to violence against girls and women who suffer from multiple forms of discrimination. Population-based surveys and other forms of **data collection** are encouraged to assess different women's exposure to different types of violence, including the prevalence, impact and structural causes as a starting point for further policy development. In this regard, states parties must add specific indicators in data collection pertaining to violence against women that relate to women and girls who are or might be subject to intersectional discrimination. For instance, in Spain, 'disability' is included as a relevant aspect to register in relation to fatalities and a study focusing on women, disability and gender-based violence was carried out in 2018.⁸⁰

Another relevant aspect in policy coordination is the **participation of NGOs and civil society in the design, implementation and monitoring of policies** adopted to fight gender-based violence, so that states parties benefit from the knowledge and expertise of women's organisations representing women's interests and defending their rights, and from the proximity of civil society with vulnerable groups. Specialist NGOs that are working closely with hard-to-reach women, such as women with disabilities, older women, LGBTI women, migrant women or women belonging to national minorities can bridge the

80. Report submitted by Spain pursuant to Article 68, paragraph 1, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, on pages 14 and 18.

gap between those women and the administration, to improve their access to information, justice and support.

Individual women who speak out, as well as associations of women belonging to groups that are discriminated against in the wider society need to be supported in their efforts to distance themselves from discriminatory practices. Enabling the visibility of women at the intersection of several grounds of discrimination can help in overcoming stereotypes and bias. Therefore, when involving civil society in the drafting and implementation of policies to fight gender-based violence, states parties need to institutionalise the participation of those whose voices are seldom heard, and not only mainstream associations or associations representing only certain women. For example, in Malta, representatives from NGOs sit as board members on the coordinating body. This allows for work carried out by the NGO network to be encouraged and supported through these meetings. It also allows for the exchange of good practices, training and awareness-raising. Through EU co-funded projects, the Maltese coordinating body has partnered with NGOs in order to strengthen service provision and the raising of awareness. This is exemplified in initiatives such as the campaign Breaking the Cycle of Violence and the Rights, Equality, and Citizenship programme of the EU Commission.⁸¹

GREVIO encourages states parties to step up action to recognise, encourage and support, including financially, a greater variety of women's NGOs to ensure diversity and to build policies around the experiences of all women, including by supporting community-based intervention with women who are made vulnerable by particular circumstances.⁸²

81. State report of Malta, on page 11.

82. GREVIO baseline evaluation report of Denmark, on paragraph 33.

Conclusion

This paper has examined what the obligation of states parties to implement the Istanbul Convention without discrimination on any grounds entails from an intersectional perspective. It has clarified that Article 4, paragraph 3, moves away from single-grounds understandings of discrimination, promoting instead an intersectional approach to the prevention, protection, and prosecution of violence, confirmed by the findings of GREVIO. The paper proposes an intersectional approach that combines several strategies: attention to specific groups and the intersection of categories of difference; the incorporation of mainstreaming strategies into different policies; and the adoption of a structural intersectional approach that aims at the elimination of social and institutional barriers, challenging the underlying system of inequality and discrimination. In section 4 and 5, the study provides concrete examples of such strategies in connection to the four pillars covered by the convention.

Whilst paying attention to categories and groups of women is necessary in the short- and medium-term, this is not sufficient to address ‘compounded discrimination’ in a comprehensive way.⁸³ States parties need to undertake measures, both within and outside of the community, aiming at remedying the exposure of women to structural violence,⁸⁴ including institutional violence, and to bear in mind that the convention requires relevant professionals in contact with victims to refrain from discriminating against women, regardless of who they are. Moreover, consideration towards the life and experiences of women from certain groups, or greater awareness of the specific forms of violence some women face, should not conceal the gendered nature of the acts of violence covered by the convention. A group-based approach may risk masking the fact that gender-based violence cuts across all communities and cultures, and lead instead to a culturalisation of violence. Such a view reinforces stereotypes about violent minority cultures and overshadows the role that inequalities between men and women play in perpetuating gender-based violence against all women in their diversity.

83. GREVIO baseline evaluation report of France, on paragraph 25.

84. GREVIO baseline evaluation report of Finland, on paragraphs 99-104; GREVIO baseline evaluation report of Italy, on paragraphs 20, 21, 22.

In addition, this study suggests that different levels of state responses are needed. On the one hand, states parties need to design policies which address the different positions and needs of women, without falling into stereotyping responses that reproduce power relations and deny women agency. On the other hand, interventions at the level of service provision must ensure that the individual characteristics and views of women are taken into consideration. Both levels of state action (policy design and provision of services to women) need to provide a response to the individual situation and aim at structural and socially transformative change. This approach is a constitutive part of states parties' due diligence obligation.

In other words, the focus on the individual must inform structural responses. States parties' responses to gender-based violence against women and girls that are tailored to the specific needs of women will tackle the barriers to those seeking help.⁸⁵ A crucial element of this process is women's participation in the design and implementation of policies, which will capture their experiences, needs and views, while contributing to their empowerment and agency.

85. GREVIO baseline evaluation report of Sweden, on paragraph 14.

Checklist

Article 4, paragraph 3, of the Istanbul Convention requires states parties to implement the convention without discrimination on any grounds. The following checklist can be of help in designing and implementing comprehensive strategies to prevent and combat violence which affects women and girls who are or might be exposed to intersectional discrimination, including, among others, women with disabilities, women belonging to national minorities, migrant and asylum-seeking women, LGBTI women, girls, older women, women in prostitution, women using psycho-active substances and women who are in detention or institutionalised:

- Are there statistics on the prevalence of all forms of violence covered by the convention?
- Does research and data collection on gender-based violence against women incorporate indicators that relate to women and girls who are or might be exposed to intersectional discrimination?
- Do official statistics reflect multiple factors of discrimination?
- Do national action plans, strategies or policies addressing violence against women give due importance to all forms of gender-based violence against women covered by the scope of the Istanbul Convention?
- Do national action plans, strategies or policies fully reflect the specific needs of all women and girls who are or might be exposed to intersectional discrimination?
- Are policies on gender-based violence against women connected to general anti-discrimination policies?
- Is there a strategy to mainstream anti-discrimination into policies on gender-based violence against women?

- ❑ Is the prevention of gender-based violence against women mainstreamed into programmes tailored to the specific needs of particular groups of women (e.g. disability policies, migration policies, national minority policies)?
 - Are there measures in place to prevent and eliminate stereotyping and biases against those groups (e.g. training of professionals, guidelines and protocols, awareness-raising campaigns, complaint mechanisms)?
- ❑ Is the potential impact of laws and policies on the situation of women victims of violence who suffer from intersectional discrimination systematically considered/assessed before their adoption?
- ❑ Are there guidelines on how to address multiple discrimination in different policy areas relevant to preventing and combating all types of violence covered by the Istanbul Convention?
- ❑ Are trainings for professionals gender and diversity-sensitive?
 - Are these carried out with the participation of civil society organisations or NGOs working with or advocating for the rights of women at risk of intersectional discrimination?
- ❑ Do awareness-raising campaigns include strategies to reach out to women and girls facing intersectional discrimination? Are there campaigns to inform them about their rights and entitlements to access protection and support services?
 - Are campaigns available in multiple languages?
 - Are campaigns easy to understand?
 - Are campaigns accessible to women and girls with disabilities?
- ❑ Is information on protection and support services
 - available in multiple languages?
 - easy to understand?
 - accessible to women and girls with disabilities?
- ❑ Are protection and support services accessible to all women and girls?
- ❑ Are there hotlines available in multiple languages or accessible to women with disabilities?
- ❑ Are protection orders and barring orders issued with consideration of the particular circumstances that make women and girls vulnerable?

- ❑ Are criminal procedures accessible to women and girls facing multiple discrimination?
 - Is information accessible (multiple languages, easy to understand, accessible to women and girls with disabilities)?
 - Are there mechanisms to allow women and girls participation in the proceedings regardless of their residence status, age, socio-economic status, disability, nationality, language, etc.?
- ❑ Are the views of women and girls subject to multiple discrimination incorporated into the design, implementation, monitoring and evaluation of policies for preventing and combating violence against women?
 - Are there channels fostering the close cooperation of public institutions with civil society organisations and NGOs representing women and girls' interests?
 - Is there institutional support and funding available for civil society organisations and NGOs representing women and girls' interests?

Key resources

Council of Europe publications addressing the Istanbul Convention and the topic of preventing violence against women can be found at: www.coe.int/en/web/istanbul-convention/publications

Gender equality

Gender Equality Strategy 2018-2023, available at: <https://rm.coe.int/prems-093618-gbr-gender-equality-strategy-2023-web-a5/16808b47e1>

Recommendation Rec(98)14 on gender mainstreaming, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804ec94a>

Recommendation CM/Rec(2007)2 on media pluralism and diversity of media content, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805d6be3

Recommendation CM/Rec(2007)13 on gender mainstreaming in education, available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805d5287

Recommendation CM/Rec(2019)1 of the Committee of Ministers of the Council of Europe on preventing and combating sexism, available at: <https://rm.coe.int/cm-rec-2019-1-on-preventing-and-combating-sexism/168094d894>

Migration and refugee status

Council of Europe publications addressing migrant and refugee women and girls can be found at: www.coe.int/en/web/genderequality/migrant-and-refugee-women-and-girls

Special Representative of the Secretary General on migration and refugees, Country reports are available at: www.coe.int/en/web/special-representative-secretary-general-migration-refugees/country-reports

Racism and national minority status

Framework Convention for the Protection of National Minorities, available at: <https://rm.coe.int/16800c10cf>

European Commission of Racism and Intolerance (ECRI) Compilation of General Policy Recommendations (until 2018), available at: <https://rm.coe.int/compilation-of-ecri-s-general-policy-recommendations-march-2018/16808b7945>

ECRI General Policy Recommendation No. 13 on combating antigypsyism and discrimination against Roma (adopted 2011, amended on 2020), available at: <https://rm.coe.int/09000016808b5aee>

Disability

Recommendation CM/Rec(2010)2 of the Committee of Ministers to member states on deinstitutionalisation and community living of children with disabilities. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cfa92

Resolution ResAP(2005) 1 on safeguarding adults and children with disabilities against abuse. Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805daf83

Council of Europe, Achieving full participation through Universal Design, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805a2a1e>

Sexual orientation and gender identity

Combating discrimination on grounds of sexual orientation and gender identity: Council of Europe Standards (2011), available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168047f2a6>

Council of Europe, Policing Hate Crime against LGBTI persons: Training for a Professional Police Response (2017), available at: <https://rm.coe.int/prems-030717-gbr-2575-hate-crimes-against-lgbti-web-a4/1680723b1d>

Council of Europe, Safe at school: Education sector responses to violence based on sexual orientation, gender identity/expression or sex characteristics in Europe (2018), available at: <https://rm.coe.int/prems-125718-gbr-2575-safe-at-school-a4-web/16809024f5>

Children

Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, 2007), available at: www.coe.int/en/web/conventions/full-list/-/conventions/treaty/201

Council of Europe, Equal opportunities for all children: non-discrimination of LGBTI children and young people (2016), available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806a8d8f>

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Article 4 – Fundamental rights, equality and non-discrimination

3. The implementation of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.

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