



German Institute  
for Human Rights

National Rapporteur Mechanism on gender-based violence

Summary

# Monitoring Report: Violence Against Women

Implementation of the Istanbul Convention in Germany

First Periodic Report

## **The Institute**

The German Institute for Human Rights is the independent National Human Rights Institution of Germany (§ 1 GlHR law). It is accredited according to the Paris Principles of the United Nations (A-status). The Institute's activities include the provision of advice on policy issues, human rights education, information and documentation, applied research on human rights issues and cooperation with international organizations. It is supported by the German Bundestag. The Institute is mandated to monitor the implementation of the UN Convention on the Rights of Persons with Disabilities and the UN Convention on the Rights of the Child and established Monitoring Bodies for these purposes. It is also mandated as National Rapporteur Mechanism under the Council of Europe Conventions on Violence against Women and Domestic Violence (Istanbul Convention) and on Trafficking in Human Beings.

## **National Rapporteur Mechanism on gender-based violence**

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) has entrusted the German Institute for Human Rights with the task of monitoring and supporting, as an independent body, the implementation of the Convention on preventing and combating violence against women and domestic violence (CoE: Istanbul Convention) in Germany. The Institute set up the National Rapporteur Mechanism on gender-based violence for this purpose.



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# I. Introduction

Gender-based violence against women is a grave violation of human rights and a problem of global dimensions. An expression of unequal power relations between women and men that have taken shape over the course of history, it is a mechanism for the oppression of women. Gender-based violence violates the fundamental human rights of women and girls, in particular their rights to physical and mental integrity and (sexual) self-determination. This structural violence has social roots and social consequences, and it is manifest in both private and public life. **Gender-based violence happens every day in Germany**, as it does worldwide: between intimate partners, within families, in workplaces and in public spaces. The exposure to the risk of gender-based violence is greater among women who are made more vulnerable by particular circumstances, such as an insecure residence status, homelessness or a disability.

Governments at the federal, federal state and local level have an obligation to combat and prevent gender-based violence and to protect women and girls. This duty arises from the 81 articles of the Council of Europe Convention on preventing and combating violence against women and domestic violence. Known as the Istanbul Convention, this international instrument has applied in Germany with the force of federal law since 1 February 2018. According to the Istanbul Convention, violence against women is gender-based violence if it is directed against women **because they are women** or if it **affects women disproportionately**. The term encompasses all forms of violence: physical, sexual, psychological, and economic violence all fall within its scope, including gender-based violence in its digital dimension. The term “gender” as used in the Convention should not be understood solely in a biological sense. Thus, the term “woman” as used in this Monitoring Report encompasses all cis and trans women

and girls as well as intersex and non-binary persons, irrespective of sexual orientation.

The German Institute for Human Rights has been tasked by the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ) with the independent monitoring of (and reporting on) the implementation of the Istanbul Convention in Germany. To fulfil this task, the Institute set up the National Rapporteur Mechanism on gender-based violence (below: the National Rapporteur Mechanism) in November of 2022. Helping to establish an extensive and robust set of data on gender-based violence in Germany is part of its mandate.

With the Monitoring Report: Violence Against Women (also referred to as “the Monitoring Report” below), the National Rapporteur Mechanism presents its assessment of the status of implementation of the Istanbul Convention in Germany, identifying areas where action is needed and drawing attention to developments of relevance. The report also presents the National Rapporteur Mechanism’s findings on the scale of gender-based violence in Germany.

This Monitoring Report is the first of a series of reports to be issued at regular intervals. It is aimed at **policymakers, public administration officials, civil society, the research community, and the interested public**. With its in-depth consideration of gender-based violence through the lens of human rights, it creates a foundation for the continuous improvement of the protection and support of women and girls affected as well as for effective efforts to combat future human rights violations. The Monitoring Report also presents practical, action-oriented recommendations based on the results of the monitoring activities carried out.

## II. Methodology and Data

The Monitoring Report covers the results of two kinds of monitoring activity: **data-based monitoring** and **legal monitoring**. The latter involves the systematic analysis of national legislation (also considering relevant developments at the European and international levels) as well as current case law.<sup>1</sup>

In its analyses, the Monitoring Report uses human rights indicators that enable the review of the state of implementation in relation to defined norms. Human rights indicators provide information “on the state or condition of an object, event, activity or outcome that can be related to human rights norms and standards”. **Structural indicators** depict the existence (or absence) of legal instruments and institutional mechanisms ensuring compliance with human rights norms. **Process indicators** capture the measures being taken by the state to implement its obligations and the corresponding allocation of financial or personnel resources. **Outcome indicators** reflect the immediate outcomes of these efforts for individuals and groups in society.

In addition to the assessment of case law and legislation, the Monitoring Report includes an analysis of the empirical data gathered by the National Rapporteur Mechanism. Data collection began in February 2024 and continued into July 2024. The data itself relates mainly to the years from 2020 through 2022.<sup>2</sup> All 16 of Germany’s federal states (referred to collectively as “the Länder” below) contributed to the data compiled. The National Rapporteur Mechanism also requested and received data from entities at the federal level, among them the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth

(BMFSFJ), the Federal Ministry of the Interior and Community (BMI), the Federal Office for Migration and Refugees (BAMF), the German Judicial Academy (DRA), the national Violence against Women Helpline at the Federal Office of Family Affairs and Civil Society Functions (BAFzA), and the Sexual Abuse Helpline, which is funded by the Independent Commissioner for Child Sexual Abuse Issues (UBSKM). Three civil society organisations also contributed data: the Federal Association for Work with Perpetrators of Domestic Violence (BAG TähG), the Federal Association of Women’s Counselling and Rape Crisis Centres (bff) and the Association of Women’s Shelters (FHK). The data on the scale of gender-based and domestic violence was drawn from the German Police Crime Statistics (PCS/PKS) and the Criminal Police Reporting Service (KPMMD).

The data relating to the federal states in the report refers only to measures fully or partially funded by a federal state. The availability and quality of data vary greatly both between federal states and between subject areas. As a result, there are (in some cases substantial) gaps in the data presented. However, an absence of information does not necessarily indicate a deficit in implementation of the Istanbul Convention and should not be equated with one.

<sup>1</sup> In principle, the analysis covers only developments up to July 2024; however, the Monitoring Report does address some individual developments of significance and relevance that occurred after that period.

<sup>2</sup> Data that came in after the end of the collection period but on or before 23 August 2024, was included in the analysis if it could be incorporated into the relevant areas without difficulty.

### III. Gender-Based and Domestic Violence: Analysis of Available Statistics

Article 11(1), lit. a, of the Istanbul Convention obliges Germany to collect precisely disaggregated relevant statistical data on gender-based and domestic violence at regular intervals. This is not yet happening. The statistics available from state and civil society actors at this time provide only an approximate representation – slices of the whole from certain specific angles – and thus cannot give rise to a full and detailed picture of the situation (or changes in it).

The **National Rapporteur Mechanism on gender-based violence presents the first systematic evaluation of existing statistics and studies through the lens of the Istanbul Convention**. The evaluation considers both gender-based violence, differentiating between different forms of violence, and domestic violence, treating intimate partner violence and intrafamily violence separately.

#### Structure and focus of the analysis

The National Rapporteur Mechanism first considers the results from surveys on experiences of violence, which can shed light on experiences that are not registered by the police or the assistance system. It then turns to examine statistics from the support system that provide information about the number of persons seeking help, either as a woman affected by violence or as someone supporting one. Finally, the report analyses data for the 2019–2023 period from the German Police Crime Statistics (PCS/PKS). The National Rapporteur Mechanism selected criminal offences of relevance to the Istanbul Convention and assigned each to one of the forms of violence covered by the Convention (see Monitor Gewalt gegen Frauen, Mapping-Tabelle, Anhang A). The analysis also considers data from the Criminal Police Reporting

Service for Politically Motivated Crime (KPMD-PMK) on crimes involving any of three motivating factors: hostility towards women (misogynistic offences), gender-diversity and sexual orientation.

The situation of women and girls is at the focus of the analysis. The National Rapporteur Mechanism has chosen not to use gender-neutral language out of the desire to justly reflect the reality of gender-based violence as a mechanism of social oppression. Thus, masculine pronouns are used to refer to perpetrators, suspects, and intimate partners in the report because the vast majority of these acts of violence are perpetrated by men. As the police crime statistics do not, as a rule, include the motives for offences, all crimes directed against women or girls are considered, including attempted crimes. Where the Monitoring Report cites numbers of victims, these are numbers of victimizations, rather than of unique victims, as women who are the victim of multiple crimes registered during the course of one year appear in the statistics as multiple victims. The National Rapporteur Mechanism considers both the absolute number of victims (victimisations) per year, or per day, and victimisation rates per 100,000 of the population of women in a specific age group. Due to differences in the mandates and perspectives of the collectors of data, the compiled data can capture only an approximation, not the full scale, of gender-based and domestic violence.

#### Key results from analysis of gender-based and domestic violence recorded by police:

**Forms of violence<sup>3</sup> disproportionately affecting women and girls (2023, based on PCS/PKS):**

<sup>3</sup> On the criminal offences associated with the individual forms of violence see Monitor Gewalt gegen Frauen, Mapping-Tabelle, Anhang A.



- **sexual violence:** 85.7 percent of victims are women or girls (94.5% in the case of rape; 91.7% for sexual harassment)
- **stalking:** 79 percent of victims are women or girls (for the purposes of this analysis, stalking comes under psychological violence)
- **forced marriage:** 80 of 83 victims are women or girls

**Forms of violence most commonly experienced by women and girls** (2023, based on PCS/PKS data<sup>4</sup>):

- **physical violence:** an average of 728 victimisations of women and girls per day, including 2.5 possible **femicides** per day<sup>5</sup>
- **psychological violence:** an average of 394 victimisations of women and girls per day, including 55 cases within the scope of **stalking** and 84 cases of coercion (*Nötigung*) per day
- **sexual violence:** an average of 171 victimisations of women and girls per day, including 32 **rapes** per day
- **digital dimension of violence:** an average of 409 victimisations of women and girls per day

One of the rarest forms of violence registered by the police was forced marriage, with women, around half of whom were below the age of 18, making up the overwhelming majority of those being forced to marry. The number of cases of **female genital mutilation/cutting** (FGM\_C) registered by the police per year is in the very low single-digit range. The **PCS/PKS contain no data revealing the numbers of victims** of either economic violence or abortion or sterilisation without free and informed consent.

**Research results** help to put these numbers in context. Surveys on experiences of violence collect information about how frequently women and girls experience violence and how likely they are to file a criminal complaint. “Sicherheit und Kriminalität in Deutschland” (SKiD: Safety and crime in Germany) is a representative survey of Federal Criminal Police Office (BKA) and the police forces of the Länder that is carried out on a regular basis. The 2020 survey found that six percent of women aged 16 or older had experienced a sexual offence addressed by criminal law within a 12-month period, 1.3 percent of them had sustained bodily harm, and 4.6 percent had experienced verbal violence online. The survey also showed that women and girls are significantly less likely to report sexual offences than they are, for example, to report offences of bodily harm. Hence, one can assume that the percentage of cases of sexual violence that are not registered by the police is much higher than it is for cases of bodily harm – and this should be borne in mind when considering the most frequent forms of violence recorded in the police crime statistics, presented above. Another representative survey carried out in 2024 found that women with disabilities are more likely to be affected by various forms of gender-based violence compared to population of women as a whole.

**Crime statistics: key figures**

Gender-based violence often occurs within the **closer social environment** (family, neighbourhood, friends, etc.) of the woman or girl it targets. For most of the forms of violence, the suspect in the majority of cases was someone the victim knew:

<sup>4</sup> The data collection of the National Rapporteur Mechanism on Gender-Based Violence is based on the numbers for intimate partner violence and intrafamily violence in the PCS/PKS. The figures it contains are slightly higher than those in the BKA’s annual report on domestic violence (Bundeslagebild Häusliche Gewalt) although they are in the same general range. The deviation is due to a difference in methodology: the National Rapporteur Mechanism analyses the PCS/PKS data according to the criteria of the Istanbul Convention, which results in the inclusion of a wider range of criminal offences than that on which the figures in the BKA report are based (see also note 3, above).

<sup>5</sup> Criminal offences considered as possible femicides: murder (Mord), manslaughter (Totschlag), not including killing upon request (Tötung auf Verlangen); both attempted and completed crimes are included.

- **stalking:** 80.8 percent
- **rape:** 76 percent
- possible **femicide:** 74.4 percent
- **physical violence** (overall): 70.3 percent
- **psychological violence** (overall): 60.8 percent
- **digital dimension of violence:** 59.1 percent

### Different rates of violence against women and girls, by age group

**While gender-based violence is experienced by women and girls of all age groups (considered here), it does not affect all age groups with the same frequency (victimisation rates).**

- The victimisation rate for gender-based violence are **highest among young women aged 18 through 20**. This is true for physical, sexual, and psychological violence, including violence along the digital dimension.
- **Women aged 21–59** are **less likely to be affected by violence** than those in the 18–20 age group. In absolute terms, the 21–59 age group experienced the most incidents of gender-based violence.
- **Women aged 60 or over** are also affected by all forms of violence, particularly by physical violence and forms of violence that can be perpetrated digitally.
- **Young women and girls under 18 years of age** are victims of all forms of violence, including sexual, physical, and psychological violence.

### Intimate partner violence and intrafamily violence

The analysis of intimate partner violence and intrafamily violence (based on PCS/PKS data for 2023) shows:

- **Intimate partner violence:** an average of 367 victimisations of women and girls per day; 79 percent of all victims of intimate partner violence are women or girls.
- **Intrafamily violence:** an average of 132 victimisations of women and girls per day; 54 percent of all victims are women or girls.

Services like the national Violence against Women **Helpline** and the Sexual Abuse Helpline registered high numbers of calls, with **a tendency to increase over time**. The **Sexual Abuse Helpline** provided counselling to people in up to **2,800 documented phone calls** per year over the 2020–2022 period. Since the calls are not documented unless the caller agrees, the actual numbers of calls that came in were higher. For each of the years from 2020 through 2023, the national **Violence against Women Helpline** registered between **51,400 (2020) and 59,050 (2023) calls or contacts** via other channels. The distribution of the service’s users over the individual groups the helpline seeks to serve – women affected by violence, people who want to support them, and professionals who deal with victims in their work – remained constant over the years. The majority of helpline users were people who had or were experiencing violence themselves. The percentage of female users remained stable throughout the period, at around 96 percent. There were no changes in the percentage distribution of calls/contacts over the years with respect to the individual forms of violence on which advice was obtained.

From the standpoint of the Istanbul Convention, the statistics on **politically motivated crime** compiled by the Criminal Police Reporting Service (KPMD-PMK) cover only a small part of the full spectrum of gender-based violence.

The Monitoring Report finds **upward trends** in the numbers of crimes reported to the police over the **2019–2023** period **for many forms of violence**, for instance psychological and physical violence. The same applies for sexual violence and the digital dimension of violence, but with certain caveats: changes in the legal situation with regard to sexual abuse and sexual harassment limit the extent to which the observed upward trend can be interpreted. Similarly, changes in the legal situation in relation to intimate partner violence and intrafamily violence must be borne in mind when interpreting the trend observed in that area.

The impact of the societal changes during the **Covid 19 pandemic** on violent behaviour varied among and within the different forms of violence. As these uneven developments are difficult to

interpret in the absence of additional data, they are not considered individually in the Monitoring Report. The steady rise in the numbers of women affected by violence may be due to one or more of the following: an increased willingness to report offences to police in connection with societal debates, a greater concentration of police investigation activities on cases involving multiple victims or a general increase in violent behaviour. Only the regular conduct of surveys on experiences of violence that shed light on unreported violence (“dark figures”) can contribute to an explanation of these changes over the course of time.

The National Rapporteur Mechanism **recommends**, inter alia, the following to governments at the federal and federal state level, and in particular, to the BKA, but also to research institutions:

- **the conduct, on a regular basis, of population surveys on experiences of violence:** state bodies like the BKA and the BMFSFJ should work with research institutions to carry out regular representative surveys on gender-based and domestic violence that support even stronger linkages with the definitions in the Istanbul Convention. The surveys should address all of the forms of violence. Moreover, more quantitative and qualitative research should be conducted to investigate specific phenomena of violence and specific groups of women and girls affected by it: for instance, studies investigating the digital dimension of violence against women and girls, and particularly, against women in public office and against groups of women and girls made vulnerable by particular circumstances. Research on the accessibility of help-system services, police, and the justice system is also needed. Research should adopt an intersectional perspective. For this quantitative and qualitative research, a participative approach integrating self-advocacy organisations of the groups being studied is recommended. The conduct of longitudinal studies should be considered;
- action to ensure **closer alignment with the forms of violence addressed by the**

**Istanbul Convention** in the **collection of data by the support system** to facilitate comparison and a fuller understanding of the violence taking place. Efforts to **increase the coordination of data collection** among service providers within the support system are also recommended, as this might serve the aim of arriving at a coherent overall picture of the use of these services and enable trends and needs to be identified more easily and with greater accuracy;

- expanding the scope of **police crime statistical reporting** with the aim of **greater contextualisation** of the data collected, for instance, through the incorporation of survey results as background information. The incorporation of more detailed information on certain offences, through additional data collection and processing is also recommended: for example, the inclusion of the motives for offences in cases where women or girls are killed and the number of victims of other criminal offences (such as criminal insult under § 185 of the German Criminal Code (StGB) and the systematic collection of data on the digital dimension of violence. In addition, the recognition of gender diversity is recommended (diversity ranging beyond the binary understanding of gender that has applied in the past). Also recommended is action to enable crime statistics to be linked up with court statistics, enabling flow statistics that track crime from the report of an offence to the police through to the trial verdict;
- the continuation of the **human rights oriented and evidence-based discussion** on which forms of gender-based violence and which relevant criminal offences can and should be depicted in the statistics on politically motivated crime (associated with the motivating factors considered here, “misogyny”, “gender diversity, and “sexual orientation”). From the standpoint of the Istanbul Convention, the statistical account of femicide and intimate partner violence, in particular, is not comprehensive in this context.

## IV. Implementation of the Istanbul Convention

The Monitoring Report's presentation of the status of implementation of the Istanbul Convention **focuses on eight areas**. Material from several sources was considered in determining the selection of these areas: the Convention itself, reports issued by GREVIO and by the Committee on the Elimination of Discrimination against Women (CEDAW), the national legal situation, and civil society surveys. To assess the status of implementation of the Istanbul Convention at the structural level, the Monitoring Report analyses the action plans at the federal and federal state level. The Monitoring Report provides (primarily) a data-based analysis in its assessment of the following areas: prevention, access to protection and support; protection against violence, and asylum and migration. The sections on custody and visitation rights, femicides, and the digital dimension of violence focus primarily on the results of legal monitoring. The report also takes a brief look at the legal implementation of the Istanbul Convention and examines recent developments in the legal area that are of relevance to gender-based violence in Germany.

### 1 Analysis of federal and federal state action plans

Under Article 7 of the Istanbul Convention, Germany has an obligation to prepare and implement comprehensive and coordinated policy measures. This obligation is fulfilled through action plans. The aim is an **overall strategy to prevent and combat gender-based violence and to protect those affected by it**. The National Rapporteur Mechanism examines the extent to which Germany fulfils

this obligation through a comparative analysis of the content of seven federal state action plans or strategy documents drawn up in the period from 2018 through March 2024.<sup>6</sup> The content analysis was based on indicators developed in accordance with the Istanbul Convention, as well as on criteria derived from the Explanatory Report to the Istanbul Convention and the Convention itself and also from publications by GREVIO. The analysis considers only measures identified in the documents analysed and thus should by no means be understood as assessing interventions carried out or intervention or support structures established prior to the period under report.

#### Summary of findings on federal implementation

Germany does not yet have a national protection strategy to combat gender-based violence. An interministerial strategy is currently being developed at the federal level, with the aim of adoption during the current legislative period. However, the absence of this strategy thus far is quite evident. Key definitions – starting with a detailed explanation of what the terms gender-based violence and domestic violence mean – have not been formulated, and national objectives have not been set. A national protection strategy is of crucial importance for other areas of activity as well, such as data collection, research, initial and continuing training, the support of victims, and protection against violence. The launch of the **planned national coordination body** for implementation of the Istanbul Convention will be very welcome.

<sup>6</sup> The analysis does not consider federal state action plans/strategy documents that were prepared before the Istanbul Convention entered into force in 2018, as these are not sufficiently current. As of July 2024, seven Länder were in the process of developing an overhauled version of a plan/strategy they had introduced prior to 2018. For a detailed overview, with descriptions of the current status and the documents considered in the analysis, see the full Monitoring Report: Monitor Gewalt gegen Frauen, Kap. IV.1 Tabelle 12.

### The findings on implementation in the

**Länder** are more encouraging: many Länder already have a strategy document detailing measures to prevent and combat violence against women. The mere existence of such documents does not reveal anything about how well they accord with the commitments and aims of the Istanbul Convention though, nor about the implementation and evaluations of the measures they contain.

The detailed analysis of the content of the federal state action plans and strategy documents reveals **significant differences** among them with respect to form, content, status and the extent to which they are binding, as well as in relation to the initiation and process of their development, the evidence and expertise upon which they are based, and their thematic breadth. The documents also vary greatly from one federal state to the next in their chief focuses and the extent to which they contain specific measures. Although such variation with regard to focus areas is both natural and inevitable in a federal system, greater coordination among and harmonisation of the action plans/strategy documents of the Länder would be advisable. Gender-based violence is a problem affecting society as a whole: it does not stop at federal state borders, and **collective action** is required in order to combat it effectively.

Encouragingly, the analysis of the action plans and strategy documents makes it clear that the Länder attach a great deal of importance to **data collection, research, and evaluation**. Data that precisely reflects the extent and distribution of gender-based violence in Germany is and will continue to be needed. A nationally uniform approach to the collection of data nationwide is necessary – including with respect to the collection of data by the justice system and health system, two areas that have been neglected in this respect in the past. The plans must address **women made vulnerable by particular circumstances**. For instance, it is important that concept documents outlining protection requirements for refugee accommodation facilities address, specifically and in detail, the **protection of refugee women** against gender-based violence. None of the action plans/strategy documents mention measures for women experiencing poverty as another group made vulnerable by particular circumstances.

While the **diversity among the measures** in the plans of the Länder is welcome, in many cases the degree of coherency among the planned measures is insufficient, and the measures themselves are not comprehensive. Questions of economic participation are not adequately addressed, for instance, particularly with respect to the measures for re-integration into the labour market or the promotion of women's housing projects in the area of social housing construction. Moreover, there is **no indication of a uniform and coordinated approach** across the Länder. It is necessary to ensure that the plans/strategies provide for the allocation of sufficient and secure resources to the relevant state entities and civil society organisations.

Most of the Länder include general **awareness raising measures** in their action plans and strategy documents, which is to be welcomed. However, the measures themselves are focussed on just a few forms of violence, for example, domestic violence. Female genital mutilation/cutting (FGM\_C) and forced marriage, for instance, are not addressed, nor is the digital dimension of violence. Moreover, only a few of the plans devote sufficient attention to ensuring the **involvement of the media** in these measures. One other positive aspect is that the action plans and strategies recognise **risk management** and police interventions as important areas of activity, though the scope and specificity of measures in these areas vary from one federal state to the next. Another constructive aspect of the plans and documents is their consideration of **protection measures in the context of custody and visitation rights** and of the **protection of children**. This is an area where the Länder should seek to promote increased networking and professionalisation among all relevant actors and work towards the establishment of minimum standards that would always apply throughout the country.

Another positive aspect that is worth highlighting is that most of the Länder identify measures for the area of **criminal proceedings and the protection of victims**. In this area, too, it would be desirable to establish national standards in line with the Istanbul Convention to ensure that the level of protection provided to victims during criminal proceedings does not vary across the Länder.

In addition, priority should be placed on tackling the issue of **funding for and access to shelters** in the action plans of the Länder. A number of bodies, including GREVIO, have strongly urged Germany to increase the number of shelter spaces, particularly for women and girls made vulnerable by particular circumstances, and to ensure non-discriminatory access to shelter spaces.

Most of the documents analysed set out measures for the **initial and continuing (in-service) training of relevant groups of professionals**. However, the **insufficient efforts to ensure the involvement of relevant professionals** and civil society must be viewed as problematic, as must the deficits with respect to the **systematic integration of the perspectives of women affected by violence**. One federal state has set up an advisory council made up of women who have been affected by violence. As the only one to do so, this federal state deserves to be hailed as exemplary in this respect – a body of this kind is a necessity in order to ensure that the rights of victims are placed at the centre of all measures, as called for in the Istanbul Convention.

Addressing the Federal Government and the governments of the federal states, the National Rapporteur Mechanism recommends, inter alia, the following:

- the development of and efforts towards the adoption of an extensive **national protection strategy** to combat gender-based violence that can serve as a framework for all relevant actors and sets out, inter alia, definitions of key terms and national objectives;
- the establishment (currently underway) of the **national coordinating body** in line with Article 10 of the Istanbul Convention that is furnished with financial and human resources sufficient to its purpose;
- action towards greater **coordination and coherence** among the action plans of the Länder and the promotion of exchange and knowledge transfer among all relevant actors;
- action to ensure the systematic and continuous **involvement** of women affected by violence, civil society, and the research community in and beyond the development processes;

- the definition of uniform **standards for federal state action plans**, the specification of a binding timeline, including the formulation of concrete and measurable **indicators** for use in assessing the progress and effectiveness of implementation, as well as the integration of a **monitoring and evaluation system**;
- the allocation of sufficient **financial and human resources** for the development and implementation by the Länder of high-quality action plans that include detailed descriptions of measures;
- the promotion of **cooperation across the Länder**, especially in areas such as data collection, research, initial and continuing (in-service) training, the support of victims, and the protection against violence.

## 2 Prevention

Chapter III (Prevention) of the Istanbul Convention requires states to take **measures aimed at preventing gender-based violence**. These must take a variety of forms, including awareness-raising activities (Art. 13), the training of professionals (Art. 15), and preventive intervention and treatment programmes (Art. 16). The National Rapporteur Mechanism requested an extensive range of data on these topics from the Länder and assesses the information supplied in the Monitoring Report. The bottom line: **the absence of a comprehensive prevention strategy in Germany is obvious**.

### Awareness raising campaigns and programmes

Awareness raising as one means of prevention constitutes a key obligation arising from the Istanbul Convention. To assess its implementation, the National Rapporteur Mechanism analysed information supplied by 14 of the Länder. In total, they reported 35 campaigns and many other prevention measures, for example, events or individual media formats. In general, it emerged that the groups of persons who ought to be **priority target groups** for preventive awareness raising measures were seldom at the focus of the campaigns. Most of the campaigns and measures reported were aimed at the victims of violence, the wider public, and relevant professions (48.6% for each group). Very few of the campaigns were specifically aimed at

perpetrators of violence (8.6%) or at persons made vulnerable by particular circumstances (14.3%).

**Domestic violence** (60%) and **sexual violence** (57.1%) were the **primary focuses** of these activities. Less evident forms of violence, or forms of violence that are seldom addressed in the public arena (such as sterilisation or abortion without free and informed consent, forced marriage, FGM\_C) were addressed significantly less frequently, and thus were not the subject of awareness raising. Yet, awareness raising is all the more necessary in relation to these issues because they are so seldom discussed in public. Overall, 40–49 percent of the campaigns used **formats** like flyers, websites, social media, posters and information specifically addressed to relevant professionals accounted. All of them made reference to at least one of the available **support services**. Almost a third of the campaigns mentioned the national **Violence against Women Helpline**, likewise, almost a third mentioned the **specialised counselling centres**.

A key point of criticism raised in the Monitoring Report in this area is that only four of the campaigns were subsequently evaluated. Evaluation is a crucial component of quality assurance as it can provide important information as to whether and how well a campaign's objectives have been achieved.

In order to meet the standards of the Istanbul Convention regarding awareness raising, the National Rapporteur Mechanism **recommends** the following to the responsible authorities at the federal and federal state level, but also to civil society:

- the formulation of **definitions and objectives** for awareness raising that will apply nationwide, for instance as part of a comprehensive national prevention strategy or federal action plan;
- the continuing evaluation of these awareness raising measures to study their effectiveness;
- **increasing the focus** of campaigns on women and girls made vulnerable by particular circumstances, such as women with refugee and migration backgrounds, women with disabilities, homeless women or women with addiction issues;

- **broadening the definition of violence**, because campaigns should sensitize people to all forms of gender-based violence;

and to the responsible authorities at the federal state and state level, the National Rapporteur Mechanism **further recommends**:

- action to ensure greater **participation** by civil society in the design and implementation of measures and policy in this area.

### **Training of professionals in law enforcement and the justice system**

Another important pillar of prevention under the Istanbul Convention is the training of certain professional groups (particularly Art. 15). As the Länder have extensive data on training of police officers, public prosecutors and judges, the Monitoring Report concentrates on these groups. It begins by examining whether the Länder have written **concept documents** for the in-service training for these groups of professionals and examining the extent to which these concept documents meet the **requirements arising from the Istanbul Convention**. Initial and continuing in-service training must address the causes, manifestations and consequences of all forms of gender-based violence falling within the scope of the Istanbul Convention. The aim should be to bring about a change of outlook and a change of conduct towards those affected by violence to facilitate their needs-oriented support and prevent secondary victimisation.

Only nine of the Länder reported having at least one written concept document for **in-service training** for police requiring that such training include content on gender-based violence. The information provided by the Länder also included information on 52 training courses. Ten of the Länder also supplied a **written outline of the structure of the training** in some cases. A review of a random selection of these revealed that the training courses and their concept documents are not fully in line with the requirements arising from the Istanbul Convention. The vast majority of training courses examined encompassed content addressing at least one of the central aspects of gender-based violence: **the rights of women affected by violence** were almost always addressed (more than 90 percent) as was the

**prevention and detection** of gender-based violence (just under 90 percent). A significantly smaller percentage of the training courses (70 percent) dealt with secondary victimisation or multiple discrimination.

**None of the Länder** reported having written concept documents on the **training courses for legal professionals working the justice system** that require specific content on gender-based violence. Thus, no assertions can be made about the content covered in this training. Individual federal states reported that some of the **voluntary** service training offerings incorporate the topic of gender-based violence. However, this does not meet the standard of a systematic and mandatory training programme for justice system professionals.

In addition to the requirements set out in training concept documents, the Monitoring Report considers the **practical implementation** of training. The total number of **in-service training courses for police officers** per year increased over the reporting period from 75 (2020) to 104 (2022). Accordingly, the number of persons trained each year also increased. According to the Länder, this should also be viewed in the context of the easing of restrictions on person-to-person contacts that applied during the Covid 19 pandemic. Participation was voluntary for 80 percent of the training measures – hence, a systematic, obligatory programme of in-service training has not been established for police officers either.

A full picture of the practical implementation of **training for justice system professionals** cannot be presented due to the **patchy and undifferentiated nature** of the data that came back in response to the National Rapporteur Mechanism’s requests.

The German Judicial Academy (DRA) also supplied data on the in-service training of justice system professionals. The DRA reported offering a total of **16 in-service training courses** for judges and public prosecutors in the period from 2020 through 2022. Due to the pandemic, these offerings were limited to 30 participants per event, and three of them had to be cancelled. According to the DRA, most of the training courses covered

many of the topics arising from the Istanbul Convention, such as information on the “rights of victims”, “all forms of gender-based violence” and “femicides”. Topics less frequently addressed were “coordinated multi-agency cooperation”, “aggravating circumstances”, and “digital violence”.

Addressing the Federal Government and the governments of the Länder, and also particularly the police authorities, the justice system, and other relevant authorities, the National Rapporteur Mechanism **recommends** the following regarding the in-service training of police and justice system professionals:

- the design at the national level of a systematic and comprehensive programme of in-service training;
- action to ensure **mandatory** participation and a regular follow-up training with incorporation of more in-depth material (online formats may be appropriate for this);
- the introduction of a focus on the prevention of secondary victimisation and on sensitising professionals to **intersectional and multiple discrimination**;
- the development and implementation of **additional offerings on all topic areas addressed in the Istanbul Convention**, and in particular on victim-blaming narratives and gender-specific stereotypes;
- **the allocation of additional financial resources** for in-service training programmes at the federal state level and for the German Judicial Academy
- and also, the establishment of a system for the **systematic collection of comprehensive and differentiated data** on in-service training measures.

### **Work with perpetrators**

**Preventive intervention and treatment programmes for perpetrators** of domestic violence and sex offenders are another component of prevention in the meaning of the Istanbul Convention (Art. 16). The states parties are required to develop measures aimed at preventing recidivism among perpetrators of domestic and sexual violence and showing them ways to change their behaviours and attitudes. It is essential that the



**safety, support, and rights of victims should be at the centre of** all programmes. An examination of the extent to which these requirements are being met in Germany was carried out for the Monitoring Report.

The National Rapporteur Mechanism examined whether binding standards apply in connection with work with perpetrators of domestic violence and assessed the availability of places in counselling and treatment programmes. The **standards for work with perpetrators of domestic violence** (“intervention programmes”) developed by the BAG TäHG in close collaboration with women’s shelters are very much in line with the victim-centred, safety-oriented approach of the Istanbul Convention. These standards are intended to serve as binding minimum standards for the work of the member organisations of BAG TäHG. Based on the information received by the National Rapporteur Mechanism, **78 of the 114 reported providers of perpetrator work programmes** funded or subsidised by a federal state work in accordance with these standards.

There are **no national standards for work with (potential) sexual offenders** (“treatment programmes”). Unlike the work with perpetrators of domestic violence, the treatment of (potential) sex offenders is often embedded not only in a criminal justice setting but also, and above all, in a psychotherapy setting. Thus, as one would expect, none of the nine reported programmes for the treatment of (potential)<sup>7</sup> sex offenders work according to the BAG TäHG standards.

In total, **114 providers of perpetrator programmes** were reported, with 15 federal states reporting. Of those, **108** worked with perpetrators of **domestic violence** (at least one per federal state) and **42** worked with perpetrators of **sexual violence**. Due to the variation in programme formats (one-on-one counselling, group counselling, workshops and classes), a systematic determination of the number of places available in programmes for perpetrators of domestic violence was not possible.

For appropriate perpetrator work to be carried out in accordance with uniform standards, an appropriate number of **professionals skilled and trained in this work** must be available to do so. In eight of the federal states reporting, the average per-provider personnel capacity available for this work in 2022 was **less than one full-time equivalent** (FTE). The figure was higher only in the city-states (Berlin, Hamburg and Bremen) and in federal states where providers run programmes in more than one location. However, gaps in the data make it difficult to compare changes in this respect over time across regions. Nearly all federal states use **project funding** (limited-term funding) to support and finance work with perpetrators. Only Rhineland-Palatinate ensures sustained support for this work through institutional funding.

Based on information supplied by the federal states, there was a **slight downward trend** in the average **number of perpetrators of domestic violence enrolled per intervention programme provider**: 57.2 (2020), 48.5 (2021) und 52.8 (2022). Although the information on the number of individuals attending an intervention programme who stopped doing prematurely (drop-outs) does not permit an exact depiction, it does support the statement that drop-out numbers ranged from 6.6 to 13.7 during the period under report, with no identifiable increasing or decreasing trend. The number of **domestic violence offenders assigned to a social training programme by courts** (intervention programmes) in Germany varied over the period under report, ranging from **9.7 to 22.2**. In this case, the information from the Länder enabled the identification of an **upwards trend**, which can be traced to a variety of factors. For instance, the extent to which judges make use of the option of assigning offenders to take part in intervention programmes varies across the Länder in connection with the efforts to cooperate with intervention programme providers at the local level. As **public prosecutors and judges tend to be unfamiliar with how intervention programmes work**, the number of sessions an offender is ordered to attend is often quite low.

<sup>7</sup> The abuse prevention project “Kein-Täter-Werden” (Don’t become an offender) offers therapy aimed at persons who feel a sexual attraction to children and are not a subject in an ongoing investigation. Therefore, the term “(potential) sex offenders” is used here, in order to encompass persons who have not committed a sexual offence.

The result: a long-term change in behaviour – which would constitute a key contribution towards violence prevention – is seldom achieved. Based on the information from the Länder, there is a **general downward trend** in the number of individual-specific intervention programmes being completed as planned by perpetrators of domestic violence. In general, the information on case numbers is very patchy. The Länder reported that 73 percent of the intervention programmes engaged in some form of cooperation with a provider of specialised support services for women, such as a shelter or a specialised counselling centre, or with a women’s counselling service.

BAG TÄHG is making an essential contribution to the work with perpetrators of domestic violence. As of 2023, this national association had 88 member organisations and institutions nationwide. Data on their activities was supplied to the National Rapporteur Mechanism. It shows that in 2022, the average number of assigned perpetrators per programme provider was 14.5, 19.6 counselling processes were completed as planned and 23.4 counselling processes were prematurely terminated. On the average, the number of perpetrators undergoing counselling per intervention programme provider was 78.6 in 2022.

Addressing the Federal Government and the governments of the Länder, and also particularly the justice system and the legislature, the National Rapporteur Mechanism **recommends** the following with a view to effective prevention of violence through work with perpetrators:

- placing intervention and treatment programmes on a permanent footing through the provision of basic funding that is not project-dependent;
- swift action **to expand the counselling services** available for perpetrators of domestic violence and (potential) sexual offenders in walk-in settings and in prisons;
- the introduction of long-term structures to support work with perpetrators and to support cooperation and networking between providers of **programmes for perpetrators** and the courts, public prosecutors, and the police;

- action to encourage an increase in the level of knowledge about work with perpetrators in the relevant institutions, such as the courts, public prosecutor’s offices and the police;
- the use and expansion of the **possibilities under criminal law and especially civil law** to assign perpetrators of domestic violence to intervention programmes;
- and finally, the systematic and uniform collection of comprehensive **data** on work with perpetrators

### 3 Protection and counselling

Articles 20 through 25 of the Istanbul Convention lay an obligation on states parties to ensure that women affected by gender-based violence have **access** to general and specialised support services. The Monitoring Report assesses Germany’s implementation of this obligation based on **quantitative and qualitative data** supplied by the Länder and by the Association of Women’s Shelters (FHK: Frauenhauskoordinierung e.V.) as well as information from the Federal Association of Women’s Counselling and Rape Crisis Centres (bff).

The ability to offer short- and long-term support to women affected by gender-based violence requires **access to legal, medical, and psychological counselling**, as well as **financial assistance**. Appropriate and effective protection to women requires **accessible, non-discriminatory access** to the system that provides them with assistance, support, and safe accommodation, and this includes shelter places in sufficient numbers. Also necessary is access to services providing **counselling by telephone** that can inform women about the responsible authorities or support services, and these should be available nationwide at no cost and around the clock.

#### Shelters

A review of the data collected makes it clear that there are no **binding quality standards governing the staffing, rooms/facilities and operation of shelters for women at the national level or within individual federal states**. The Länder reported a total of **380** women’s shelters that

meet the standards of the Istanbul Convention; these encompass accommodation facilities for the protection of women in various formats that try to provide refuge and support to women and their children 24 hours a day, 7 days a week. Collectively, these 380 shelters had a capacity of 8,184 individual beds in 2022, however **none of the Länder had a shelter capacity as great as that recommended by the Istanbul Convention** of one family place per 10,000 inhabitants.<sup>8</sup> Capacities vary substantially, not only from one federal state to the next, but also between urban areas and rural areas, where women are often forced to travel long distances to obtain protection and counselling. Although 78.2 percent of the shelters reported can **admit** women 24-hours a day, only 25.5 percent have **specialised staff** on duty around the clock. Eleven percent of the shelters provide accommodation at no cost. In 60.8 percent accommodation is free only subject to certain conditions, such entitlement to social benefits on the part of the woman concerned. In 26.8 percent of the shelters, women seeking refuge are charged for some of the **costs** for their stay. Regarding **accessibility**, 15.8 percent of the shelters provide information in simple German (*Leichte Sprache*), 17.1 percent are wheel-chair accessible, and 15 percent offer sign-language interpreting. According to the information received, only 10.5 percent of the shelters provide access for personal assistance, 7.4 percent have signage in Braille, and 6.3 percent allow assistance dogs. **Foreign language interpreting** services can be provided if needed in most (82.9 percent) of the shelters.

Only 10.3 percent of the shelters **admit** women with addiction issues; more than twice as many, and yet still too few, admit women with mental health disorders (23.4 percent) or women accompanied by children with disabilities (25.8 percent). The portion of shelters that accept women who are homeless is a low 13.7 percent.

It was possible to determine from the information supplied by the Länder that 14.6 percent of the shelters had admitted at least one girl (under the

age of 18) as an affected woman (rather than as the dependent child of one) and that 22 percent had not done so. The information also revealed that 19.6 percent had admitted at least one woman over the age of 60, and a similar percentage (18.8 percent) had not done so.

The **number** of shelter residents remained constant over the period under report. In 2022, each shelter provided safe accommodation to an average of 37.7 women and 43.6 accompanying children.

The data on occupancy conveys a sense of how great the burden on the shelters was: in 2022, the average **utilization of maximum shelter capacity** was **75.9 percent**. Occupancy rates that high represent a serious problem for shelters, because a rate over 75 percent often means that they can only admit additional women in cases of acute emergencies. It also limits to the extent to which they can fulfil their duty to protect and support residents. In 2022, about 15,018 women, an average of 104 women per shelter, were denied admission and/or referred to another shelter. If the first shelter they contact has no space available, women have to contact multiple shelters looking for a place and may end up having to accept one at a shelter quite a distance away.

The **lack of a uniform, binding legal framework nationwide** is also evident with regard to the **financing** of women's shelters – which fall within the responsibility of the Länder. Over the period under report, the average amount of federal state funding allocated to a shelter rose from 150,584 euros in 2020 to 176,137 euros in 2022. Most of this was limited-term project funding: 246 of the shelters (65.8%) received funding of this kind; total volume of project funding was 44,434,559 euros (on average, 180,628 euros).

**Specialist support services/specialised counselling centres and intervention centres**  
Specialised counselling centres are counselling services that work with women affected by at least one of the forms of violence addressed by

<sup>8</sup> A family place corresponds to one bed for the woman seeking protection and two beds for her children. The recommended number of beds for children in Germany is based on the average birth rate: 1.54 children per woman.

the Istanbul Convention and/or have a focus on gender-based violence. Thus, they include specialised counselling services for persons affected by any form of **gender-based violence** and services with a more specific focus, such as on **sexual violence** (against adults or children), **stalking**, or violence against **LBTIQ\***. Only nine of the Länder reported having binding federal state standards in place for the work of these specialised support services. Some of the national associations representing organisations active in the relevant areas have developed minimum standards<sup>9</sup> that are binding for their members, which could serve as a model for the Länder in this respect.

A total of **526 services** were considered for the Monitoring Report. Their numbers and geographical distribution vary greatly from one federal state to the next. The Istanbul Convention requires state parties to take necessary legislative or other measures to ensure that women affected by violence receive adequate and timely information in a language they understand. The Länder reported the provision on **interpreting services**, if necessary, in **349 of the centres**. There is also significant variation with respect to the **accessibility** called for in the Istanbul Convention: 9.3 percent of the specialised counselling centres offer material written in simple language (*Leichte Sprache*) and 8.6 percent of them are wheelchair accessible; however, only 0.6 percent have a tactile guidance system for blind and visually impaired women. The Länder were asked to supply data on which groups of women made vulnerable by particular circumstances are generally provided with counselling. The groups they most frequently identified were older women, women with insecure residence status, women with disabilities, and girls. Also mentioned were women with mental health disorders, **LBTIQ\***, and women with no fixed abode or affected by homelessness. According to the data provided by the Länder concerning the **different forms of violence** addressed, 75.8 percent of the specialised counselling centres (reported) generally provide counselling in cases of **domestic violence**, and more than 50 percent

generally provide counselling to in cases of **sexual violence**. Less than half of the counselling centres provide counselling in cases of **stalking, psychological violence, physical violence, economic violence** or with regard to the **digital dimension of violence, forced marriage** or **sexual harassment**. Less than 10 percent generally provide counselling to women who have undergone abortion or sterilisation without free and informed consent or female genital mutilation/cutting (FGM\_C). One should bear in mind when considering these figures that in some cases the information provided addressed only the primary focus of the counselling centre rather than all forms of violence available from the services. The specialisation of counselling services is beneficial, as it helps ensure that the counselling is appropriate and efficient. However, counselling is not available to the same extent for all forms of violence. Having a wider range of specialised counselling services available, including specialised counselling for the forms of violence for which coverage is very limited thus far, would make an important contribution towards implementation, especially in major metropolitan areas. In rural areas, however, where the availability of counselling services of any kind is relatively low, it would be more advantageous to have specialised counselling centres that are set up to provide counselling in relation to a broader range of cases, so that women affected by a particular form of violence are not left without any appropriate support services at all.

The **number of persons using counselling services is on the rise**: according to the information provided by the Länder, on the average, each specialised counselling centre provided guidance and advice to 565 individuals in 2020, 517 in 2021 and 630 in 2022. Regarding the range of **ages** of counselling service users, the Länder reported that 218 of the centres counselled at least one girl under the age of 18 and 168 of the centres counselled at least one woman in the over 60 age group.

<sup>9</sup> The Federal Association of Women's Counselling Centres and Women's Emergency Centres (bff), for instance, provides its members with a detailed handout on quality development that serves as a source of guidance. In addition, bff has ethical guidelines that are binding for all specialised counselling services affiliated with it.

The data situation is also a reflection of the **low levels of staffing** at the centres. Another problematic aspect is **fragmented funding structures**; funding is primarily received from the relevant federal state and local governments. Overall, the average amount of **federal state funding** that went to specialised counselling services increased by 4.8 percent over the period under report, but only a small portion of that funding was in the form of institutional funding: 80.3 percent of the funding allocated to these centres in 2022 was short-term project funding. Not all of the Länder returned information about funding provided by **local governments**. The data that did come in shows an overall increase in this kind of funding over the years under report. Thus far, the federal government does not contribute to the regular financing of specialised counselling centres or intervention centres, though it does support the expansion of the protection and support system through a BMFSFJ funding programme and contributes to the financing of federal associations of organisations and institutions active in this area.

### Telephone helplines

In operation since 2013, the national **Violence against Women Helpline** provides guidance and advice over the telephone 24 hours a day, seven days a week in German and in 18 other languages, as well as in simple German (*Leichte Sprache*), and with sign language interpretation. Advising can also be provided by email or chat. This helpline is aimed primarily at women who are affected by violence, their family members, relevant professionals and anyone in need of support in this area. The counselling is free and anonymous. The national Violence against Women Helpline and the Pregnancy Emergency Helpline were financed through federal funds in a total amount of 9,880,000 euros in 2022.

The **Sexual Abuse Helpline** provides help and support specifically for children affected by sexual abuse, their family members, concerned persons from their social circles, and relevant professionals. The counselling, available during specified hours on weekdays, is anonymous and free of charge. If necessary, it can be provided in spoken languages other than German or in sign language. The Sexual Abuse Helpline received 1,113,847 euros of funding in 2022.

The **frequency of use** of the national Violence against Women Helpline increased over the period under report. The **number of calls or contacts via other channels** (emails, chats) **rose steadily** from 39,600 in 2020 to 42,798 in 2023. The majority of those seeking advice were women affected by violence (2023: 74.1%), around 20 percent of contacts were from persons supporting someone affected by violence, and around five percent were relevant professionals. The helpline was used by persons in all age groups.

The **reasons for seeking counselling** varied: counselling on domestic violence/ (ex)intimate-partner violence was being sought in 60% of the contacts initiated, making that the most frequent topic, followed by sexual violence (12%), psychological violence (7.5%), and stalking (5.4%). Other forms of violence considered in the Monitoring Report that were the topic of counselling via the helpline were physical violence, forced marriage, and economic violence. The digital dimension of violence was also a topic.

Addressing **all relevant actors**, the National Rapporteur Mechanism **recommends** the following action towards the provision of protection and counselling, in line with the Istanbul Convention, for women affected by gender-based violence:

- the nationwide introduction of a **legal entitlement** enabling swift, unbureaucratic access to protection and counselling at no cost;
- the needs-oriented expansion of the protection and support system in a manner ensuring that it is free of discrimination, accompanied by a comprehensive needs analysis adopting an **intersectional perspective**;
- the establishment of a binding legal framework for the financing of this system that will apply nationwide;
- the provision of sustained and comprehensive funding to **civil society organisations**;
- the systematic collection nationwide of **data supporting an intersectional approach** and addressing all **forms of violence**, including data on the number of **family places** as well as on the numbers of **women admitted/referred** to another

shelter. In addition, to facilitate the continuous evaluation of the support system and to allow the identification of discrimination, racism, and barriers to access, the nationwide standardization of the collection of data on the facilities and furnishing of shelters, their accessibility, needs, and financing is necessary.

And towards the full implementation of **Article 23** (Shelters), the National Rapporteur Mechanism further recommends:

- the introduction of **national minimum standards** for the work of shelters;
- the establishment of more (needs-oriented) shelters, considering the need for an appropriate geographical distribution;
- the creation of **additional shelter places**, including **places for families** (one per 10,000 inhabitants, each family place having one bed for the woman and 1.54 places for children);
- action to ensure that all shelters have **financial resources sufficient** to enable all of them to admit women/ families 24 hours a day, 7 days a week, to have specialist staff on hand at all times, to provide their services at no cost to residents, and to be able to provide interpreting services for all relevant languages;
- action to ensure **access** to women's shelters **for all women affected by violence** – irrespective of disability (or lack thereof), age, residence status, sexual orientation, or gender identity and whether they have addiction issues or mental health disorders. Aspects such as **accessibility**, the needs of **homeless women**, and the needs of **children and adolescents** should also be considered;
- the revision of residence rules/geographic restrictions.

Towards the full implementation of Article 22 (Specialist support services), the National Rapporteur Mechanism also recommends:

- the introduction of **national minimum standards** for the work of specialised counselling centres;

- the establishment of **more specialised counselling centres**, considering the need for an appropriate geographical distribution;
- the provision of **interpreting services** into all relevant languages in all specialised counselling centres;
- action to ensure **accessibility** for women and children with disabilities of any kind and to ensure access for **women made vulnerable by any circumstances**;
- the provision of **specialised counselling** and support services in connection with all forms of violence;
- action to build up services for the **proactive counselling** and **outreach counselling** for affected women who are difficult to reach, with the aim of ensuring a well-functioning referral mechanism between the support system and authorities that directly benefits those affected;
- and finally, action to increase the number of **specially trained professionals** through the creation of targeted **initial and continuing training programmes**, attractive employment conditions, and/or financial incentives.

#### 4 Visitation rights and custody

Under Article 31 of the Istanbul Convention, domestic violence must always be considered in the determination of custody and visitation rights. Moreover, the safety of victims and children must be ensured. **Visitation arrangements after a separation can present a serious safety risk for affected women and their children.** Face-to-face encounters with perpetrators frequently lead to harmful behaviour, which can involve grievous acts of violence or even killings. On the question of the extent to which the situation under the current statutory law and case law meets the requirements arising from the Istanbul Convention, the Monitoring Report comes to the following conclusion: **Germany only partially satisfies the requirements arising from Article 31** (Custody, visiting rights and safety) and **does not at all satisfy** the requirements arising from **Article 48** (Prohibition of mandatory alternative dispute resolution processes or sentences).

Taking account of the National Rapporteur Mechanism’s analytical paper of November 2023 on domestic violence in the context of custody and visitation rights, the Monitoring Report determines that the conventional **principles** currently applied in contact and proceedings relating are **often inadequate or even counterproductive** in cases involving domestic violence. Approaches that have proven problematic in this context include the rule on mutual agreement, the so-called good behaviour clause,<sup>10</sup> the presumption that contact with the violent parent is in the child’s best interests, and the requirement that both parties make efforts to reach mutual agreements. **In principle**, the current legal framework allows **domestic violence** to be **considered in (court) proceedings and decision-making** on custody and visitation rights. **In practice**, however, **this frequently does not occur**. One reason for this is that many of the professionals involved are unfamiliar with the dynamics of domestic violence and do not recognise the effects it has on victims and children or even deny their legitimacy due to discriminatory gender stereotypes. Germany has had an obligation to fulfil the requirements established in the Istanbul Convention since the Convention’s ratification in this country in 2018, yet references to the Convention by German judges are very rare. A crucial deficit in implementation is the **absence of an explicit statutory provision** addressing the consideration of domestic violence in relation to visiting rights and custody and the protection of parents who have been the victims of violence. In light of the foregoing, there is an urgent need for legislative action on this point from the perspective of human rights.

The Monitoring Report welcomes the initiative in this area on the part of the Federal Ministry of Justice (BMJ), which brought important points to the focus through its publication of two documents over the course of 2024: a **white paper** on a reform of the law governing parent-and-child relationships and a **draft bill** on improving the protection of women affected by violence in family-court proceedings. However, taken together, the measures the BMJ is proposing do not go far enough because they do not establish comprehensive

rules for and ensure the protection of children and parents affected by violence. It is of crucial importance that new legal rules concerning, for instance, the shared-parenting model or third-party visitation arrangements, should explicitly address the right of affected parents to protection, in addition to the best interests of the child. Extensive changes to both substantive and procedural law are necessary. The **notion of protection** must be embedded as **a holistic approach** in all relevant legal provisions. Children’s right to be heard and have their views receive due weight under Article 12 of the UN Convention on the Rights of the Child must be upheld in this context. Moreover, action is needed to ensure that the courts apply a comprehensive definition of “violence”, one encompassing all of the relevant forms of violence, including, in particular, economic violence. A positive aspect is the **planned legal clarification** that the rule that joint custody should not generally be considered in cases of violence directed against a child also applies in cases of intimate partner violence.

Considering all this and addressing primarily the legislature and judiciary, the National Rapporteur Mechanism **recommends**, inter alia, the following:

- **the anchoring of the protection interests of the parent** affected by violence alongside that of the best interests of the child as a principle of equal weight;
- the reversal of **the legal presumption** in cases involving domestic violence so that the courts must always arrive at a positive finding that contact with violent parent is in the child’s best interests;
- the amendment of **the good behaviour clause** so as to ensure that any review of “good behaviour” concerns the behaviour of both parents and takes into account whether and how the parent who has used violence has assumed responsibility for this;
- the establishment of a legal presumption in favour of short-term **restrictions and suspensions of visiting rights** and the concretisation of the **duty to conduct necessary**

<sup>10</sup> This provision lays an obligation on each parent to promote a positive attitude on the child’s part towards contact with the other parent and to cooperate with that parent in arranging visits with the latter.

**inquires ex officio** and to carry out a risk assessment;

- the modification of the **principle of expediting proceedings** in cases of domestic violence: specifically, a separate hearing should be held in the advance first hearing;
- the revision of § 156 of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction (FamFG): in cases of domestic violence, the court should not attempt to work towards **agreement** between the parents;
- the introduction of **binding initial and continuing in-service training** for all professionals involved in relevant proceedings, particularly for judges, child and youth welfare officers, guardians ad litem (*Verfahrensbeistände*), court experts, and relevant employees of non-statutory providers of child and youth welfare services;
- and, addressing holders of relevant data, the following: **the improvement of the data situation** through the expansion of existing sets of data, such as family court statistics and child and youth welfare statistics.

## 5 Femicides

Femicides constitute the most extreme escalation of gender-based violence. As there is not yet a generally accepted definition of this phenomenon of violence, the Monitoring Report begins by setting out and discussing some of the definitions of femicides/feminicides that have been proposed, as well as some of its forms. While the term “femicide” is not explicitly mentioned in the Istanbul Convention, this deadly violence falls within the scope of provisions on physical violence under Article 35 of the Convention. Moreover, the expert body GREVIO has stated that femicides, or gender-based killings are “homicides of women at the hands of men for reasons of their gender”. This is in line with the general understanding of gender-based violence in the Convention, under which it encompasses violence that is directed against women because they are women. The Istanbul Convention envisages a combination of measures in the areas of prevention, protection and prosecution to combat violence of this kind. The National Rapporteur Mechanism **focuses on the situation in criminal law and criminal practice**

in its treatment of this topic, because the data currently available on gender-related killings is not adequate to support meaningful conclusions that could be used to **depict this phenomenon in a comprehensive manner** (one reason for this being that the statistics do not record the motives for crimes). An approximate depiction, using numbers of femicides, which draws on data from existing statistics, can be found in Chapter III of the long version of the Monitoring Report and above, in Section III of this summary.

As a phenomenon, gender-based killing exists – worldwide – and can be characterised, even though there is not yet a standardised definition of the term. Calling femicides by that name is important, because this increases the visibility of the phenomenon. Sheer hatred of women. Offences committed against women “because they are women” cannot be construed so narrowly as to encompass only acts motivated solely by a sheer hatred of women. Femicides take different forms, but all of them – be they killings of intimate partners, sex workers, trans women or so-called “honour killings” – are an expression of a deeply rooted power imbalance between the genders, discrimination against the female gender, heteronormativity, and gender role stereotypes. This deadly form of violence serves to uphold existing patriarchal power structures and ideas, as well as to punish women who oppose them. Femicides should not, therefore, be viewed as isolated acts, but rather as an **urgent problem for society as a whole**. Moreover, femicides are committed independent of the origin, socialisation, religion, social class, or some other differentiating characteristic on the part of their perpetrators, and thus they are in no way a **culture-specific phenomenon**. In the following, the Monitoring Report focuses on gender-based killings committed by a current or former intimate partner (“intimate partner femicides”, sometimes called “intimicides”), and specifically on **“separation killings”** (“*Trennungstötungen*”), which take place in the context of (intended) separations. Separation killings must also be considered femicides to the extent that they are a manifestation of male claims to the control and ownership of women, whose right to self-determination is denied.

Regarding the requirements of Article 46 lit. a of the Istanbul Convention, attention should be drawn to one highly problematic aspect of the



case law of the criminal courts. Specifically, the issue is the presence of “otherwise base motives”, one of the aggravating circumstances enumerated as “murder criteria” (*Mordmerkmale*) in the offence of “*Mord*” (murder<sup>11</sup>). Regarding intentional homicides, **German criminal law** distinguishes between the offence of “murder (*Mord*, § 211 StGB) and that of “manslaughter”<sup>12</sup> (*Totschlag*, § 212 StGB), with the existence of at least one the specified murder criteria as the distinguishing factor. A finding of base motives (as the sole murder criteria) has a substantial impact on sentencing: *Mord* is punishable with (mandatory) lifelong imprisonment, whereas the sentence for *Totschlag* is generally no more than 15 years. Under German **case law on separation killings**, the objective circumstance of separation or imminent separation has been considered as speaking against an assumption of base motives. This line of argumentation has led to a situation in which the (former) existence of an intimate relationship between the offender and the victim has often resulted in milder sentences – and thus runs completely counter to the requirements arising from Article 46 (Aggravating circumstances) of the Istanbul Convention, under which courts should have the possibility to impose **more severe sentences** in cases where offences are committed against a former or current intimate partner (Article 46, lit. a). The situation regarding so-called “**honour killings**” is quite different. The GREVIO evaluation report on Germany emphasises that German courts do tend to find base motives in such cases and therefore apply the offence of *Mord* (murder), including in cases of an actual or perceived cultural background on the part of the offender that is identified as “foreign”. With regard to this aspect of cultural background, there are justified concerns that (attempted) killings are being explained only with reference to some “other”, foreign culture (regarded as “backward looking”), which is treated as being outside the boundaries of one’s “own, modern culture” (“othering”). This approach of relating certain crimes to particular (groups of) cultures reinforces (racist) stereotypes and leads to the discriminatory treatment of certain groups of persons. It also results in a failure to recognise or address the real prob-

lem shared by both “honour killings” and separation killings, which is the **gender-based motivation** that usually underlies these acts. This thwarts the holistic response to deadly violence called for under the Istanbul Convention.

The Monitoring Report **welcomes a legislative amendment that has been in effect since 1 October 2023** that resulted in the addition of “gender-based” and “directed against sexual orientation” to the list of motives and objectives that judges must weigh when determining sentences.

Addressing above all the legislatures (especially at the federal state level), the National Rapporteur Mechanism **recommends** action to ensure the following:

- that the courts can begin to consider the aggravating circumstance set out in litera a of Article 46 of the Istanbul Convention as grounds for more **severe sentences**;
- the introduction of **mandatory in-service training** for police officers, public prosecutors and judges to facilitate a better understanding of the contexts, dynamics and causes of gender-based killings.

Addressing above all the BKA, the National Rapporteur Mechanism **recommends** the following action to improve the data situation:

- the recording of **motive for the offence** in connection with the intentional killings of women (in the PCS/PKS). This information is critical for the identification of femicides because not every killing of a woman is gender-based.

Addressing public entities (such as ministries) at the federal and federal state levels, the National Rapporteur Mechanism recommends:

- the provision of **sustained funding for further research and analyses** to investigate (at greater depth) this phenomenon of violence and its causes.

11 Sometimes also referred to as “murder under specific aggravating circumstances”.

12 Sometimes also referred to as “murder”.

## 6 Protection against violence

Chapter VI (Investigation, prosecution, procedural law and protective measures) of the Istanbul Convention contains explicit rules aimed at effective and extensive protections against violence – covering all forms of violence falling under the Convention. The Monitoring Report evaluates (a) the federal states’ **concept documents** on risk assessment and risk management (Art. 51), (b) **emergency barring orders** under public security law (Art. 52), and (c) restraining orders and **protection orders** (Art. 53) at the federal and federal state levels. One of the key aims in this chapter is to depict the “intervention chain” of interlocking protection measures under civil, criminal and public security law, which build on and supplement one another. However, the analysis of the data also reveals that the availability and quality of data varies substantially from one federal state to the next.

The analysis of the information first makes it clear that there is **neither sufficient data nor national standards** in relation to protection against violence in cases of gender-based violence. The Monitoring Report arrives at a positive assessment of certain individual federal state measures and standards but also identifies substantial gaps in protection.

### Concept documents on risk assessment

Fifteen of the Länder reported having a concept document or another policy document on risk assessment specifically for cases of gender-based violence. Positive findings in relation to these included that 13 of the Länder reported that risk assessment encompasses a systematic examination as to whether the perpetrator has access to a firearm. Moreover, 14 of the Länder reported that the **rights and needs of children** who have witnessed domestic violence are addressed in their concept documents. And while the primary responsibility for the risk assessment lies with the police, the youth welfare authorities are also involved in 12 of the Länder, and 11 of the Länder also bring in **providers of shelters** for women.

**Needs for improvement** emerged regarding numerous other aspects. Only eight of the Länder reported that their concept documents addressed

risk assessment for all **forms of violence** covered by the Istanbul Convention. A cursory perusal of the concept documents reveals that the majority of them concentrate on domestic violence. On the positive side though, half of the Länder integrate standardised questionnaires in their risk assessment procedures, and these apply throughout the territory of the relevant federal state. Eight of the Länder have a clearly defined **process** for **transferring relevant information** to other authorities, courts or external bodies, such as schools. Only nine of the Länder provide for measures that are appropriate as a means of preventing a **secondary victimisation** in this context. This is not in line with Istanbul Convention, which obliges states parties to ensure that none of the measures taken aggravate the harm experienced by victims and or lead to secondary victimisation. To prevent this from happening and to instil a deeper understanding of the dynamics of gender-based violence, it is essential to have systematic training programmes for police officers and other relevant groups of professionals, such as judges, public prosecutors and social workers. In addition, only 10 of the Länder provide for the **involvement of federal state and local public prosecutor’s offices** in their risk assessment process and only eight of them involve the **courts** in it.

### Concept documents on risk management

An encouraging finding in this area is that 12 of the Länder reported that their concept documents call for risk management to be aligned with the federal **Violence Protection Act** (GewSchG) and take into account the **measures** under that legislation.

However, the information provided by the Länder makes it clear that some of the **central aspects of the Istanbul Convention** have **yet to be fully implemented** in the concept documents. Only nine of the Länder indicated that they were adjusting their measures to meet the special needs of women exposed to intersectional forms of discrimination. Only 10 of the Länder set out an explicit rule that risk management measures must not aggravate the harm experienced by the affected person. Interdisciplinary working groups to confer on cases, another key element of risk management, are not found everywhere in Germany: of the Länder surveyed, only 12 bring

specialised counselling centres into the risk management process, the same number bring in shelters, and youth welfare authorities are involved in 13 of the Länder. It is worth noting that 13 of the Länder also bring in the providers of perpetrator intervention programmes.

A more detailed assessment of the **practical implementation** cannot be made, because only three of the Länder submitted information as to the number of risk assessments and risk management processes conducted.

Addressing primarily the Federal Government and the governments of the Länder, the National Rapporteur Mechanism **recommends** the following:

- the establishment of **uniform standards nationwide** addressing all aspects of risk assessment and risk management in line with the Istanbul Convention;
- the review of **concept documents** with an eye to **completeness in respect of binding content** and participating actors, their further improvement specifically with a view to protection against gender-based violence, and the consideration of **all relevant forms of gender-based violence** in this context;
- action to ensure the involvement, above all in risk management processes, of **all relevant actors** – across authorities of relevance and including civil society organisations – and the adoption of an interdisciplinary approach in this respect;
- the adjustment of **data protection measures** in the context of risk management to enable internal and external information chains and interdisciplinary working groups to confer on cases;
- **the systematic collection of data** on the numbers of risk assessments and risk management processes carried out;
- and also action to ensure that the protection of persons affected is at the centre of all measures and that they do not give rise to secondary victimisation.

### Emergency barring orders

Under Article 52 of the Istanbul Convention, the authorities must be able to issue “emergency barring orders” in situations of immediate danger or in connection with repeated instances of domestic violence. These orders serve as a means of achieving physical distance between the perpetrator from the victim for an appropriate period. They include **orders** requiring perpetrators **to leave a residence** (*Wohnungsverweisungen*), **barring the perpetrator’s return** (*Rückkehrverbote*) or **barring contact with the victim** (*Kontaktverbote*). This is implemented in Germany by the Police Acts of the individual federal states, which regulate such orders. The **safety of victims must be the primary focus** in connection with the selection and implementation of these measures.

**One positive finding** in this area is the strong focus on **protection against domestic violence** in the provisions in the police laws of the federal states regulating the issue of an order to leave a residence by police. Also welcome is the establishment of sexual self-determination as an interest to be protected in its own right, alongside life, liberty and health, in the police law of individual federal states. However, the (legal) meaning of the wording of the provisions setting out the circumstances under which an order to leave a residence or a stay-away order can or must be extended is often unclear and do not always address communication between the police and the courts on this point. This could give rise to **gaps in protection between emergency barring orders and court-issued protection orders** – and thus effective protection is not guaranteed.

Another problematic aspect is the (lack of) application of **police emergency barring orders in accommodation facilities** in which both perpetrator and victim (have to) live. These include housing facilities for persons who are homeless or for persons with disabilities, refugee accommodation facilities and psychiatric wards. Moreover, there are **deficits** in the **protection of women exposed to intersectional discrimination**, such as women with experiences of forced displacement or women of colour. Due to negative past experiences with police or other authorities and a resulting lack of trust, these women may not seek protection from a state entity or may do so much less frequently.

How often police **actually issue emergency barring orders in practice** and whether these orders are enforced cannot be determined due to the gaps in the data supplied by the Länder. The introduction of a **uniform approach to the collection of differentiated data nationwide** would be advisable to facilitate the measurement of the effectiveness of state efforts to protect those affected by domestic violence.

Addressing primarily legislatures at the federal state level, the National Rapporteur Mechanism **recommends** the following:

- the adaptation of the provisions of police law to standardise the timing of the steps in the procedure associated with **emergency barring orders** (*Wohnungsverweisungen* and *Rückkehrverbote*) with the aim of preventing possible confusion from arising in interactions between the courts and the police, as well as action to ensure close communication between them;
- the incorporation of **sexual self-determination** as an interest to be protected in the police law of all the Länder;
- the compilation of practical **handouts** and the **training** of police officers on how and when to use emergency barring orders in cases of domestic violence;
- the commissioning of research into the causes of deficits in the protection of women exposed to intersectional discrimination and action to eliminate them;
- the review of the implementation of emergency barring orders and the systematic collection of administrative data.

### **Court-issued restraining orders and other protection orders**

Women affected by gender-based violence **have the right** to have courts issue **no-contact orders, restraining orders,** and other protective orders **to the perpetrators.** Court orders of this kind remain valid either for a clearly defined period or until modified or discharged by a court. If protection orders are issued it must be possible to introduce them in any other court proceedings against the same perpetrator. This is to ensure that judges take these into account when making other decisions, for instance, relating to custody and visitation right.

In Germany, the **Violence Protection Act** (*Gewaltchutzgesetz*) encompasses the legal basis for protection orders under civil law. This federal statute governs the power of the civil courts to protect certain legally protected interests: life and limb, health, liberty and sexual self-determination. The Monitoring Report does not evaluate the status of the practical implementation of the Istanbul Convention in this area because comprehensive federal state data relating to the **numbers** of court protection orders issued is unavailable and the data that is available is **too heterogeneous to allow comparisons.** However, **reports from professionals in this area** make it clear that the **number** of relevant **protection orders issued** by courts is **very low.** One explanation for this might be that linguistic and physical barriers prevent many women made vulnerable by particular circumstances from filing for court orders of this kind.

An effective implementation of protection orders requires **effective sanctions** for the breach of such orders (Art. 53(3) Istanbul Convention). In Germany, breaches of (emergency) protection orders issued pursuant to § 1 of the Violence Protection Act are liable to prosecution under § 4 of that Act. In addition, family courts can impose a fine or up to two years of detention for contempt of court. The affected woman is one of the parties entitled to file a request for this. Despite the existence of these provisions de jure, however, the implementation of sanctions for breaches in practice is open to question.

Addressing above all the Länder, the responsible institutions in the justice system, and police authorities, the National Rapporteur Mechanism **recommends** the following:

- the collection of precise **data on the number of protection orders issued and the number of court settlements** in violence protection proceedings, the latter disaggregated by form of execution;
- the proactive and non-discriminatory **provision of information** about protection orders to women affected and the provision of support to them in connection with the implementation of the legal entitlement to protection;

- action to ensure that the Violence Protection Act is applied in cases involving **women with disabilities and women applying for asylum**;
- the establishment of clear guidelines and binding standards, developed on a participative basis, for concept documents on violence protection for facilities for persons with disabilities, taking intersectional aspects into account;
- action to ensure the full use of the existing **sanctions for breaches** and above all the further development of **preventative and sustained measures** aimed at ensuring the effectiveness of court-issued protection orders (for instance, attendance of violence prevention or classes oriented towards perpetrator work);
- the systematic collection of **disaggregated data on breaches of protection orders** and court settlements to enable the assessment of the effectiveness of measures.

## 7 Asylum and migration

The states parties are obliged under **Article 4(3)** of the Istanbul Convention to secure the rights of affected women **irrespective of their asylum or residence status**. Moreover, **Articles 59 through 61** of the Convention contain provisions explicitly requiring measures to address the **special protection needs** of women and girls with experiences of forced displacement or migration.

The Monitoring Report examines the status of implementation of the Istanbul Convention in the areas of residence law, protection under asylum law, and gender-sensitive reception procedures (Articles 59–61).

### Residence law

Article 59 of the Istanbul Convention lays an obligation on states parties to provide a right of residence specifically for women affected by gender-based violence under certain circumstances. Paragraph 1 says that affected women whose residence status depends on that of their spouse should be able to obtain an autonomous residence permit in the event of the dissolution of the marriage and in the event of particularly difficult circumstances – irre-

spective of the duration of the marriage. The second paragraph strengthens this right in procedural law and is intended to prevent women from being deported along with an abusive and violent spouse. Paragraph 3 further obliges the states parties to establish a residence permit for victims of domestic violence – irrespective of their prior residence status. This applies even for persons in Germany who are subject to an enforceable obligation to depart or whose presence in Germany is illegal under the terms of residence law. Under Article 59 of the Istanbul Convention, this residence permit can be issued when the woman's stay is deemed necessary owing to the woman's personal situation (Art. 59(3), lit. a) or for the purpose of cooperation in an investigation or criminal proceedings (Art. 59(3), lit. b). Referring to the analysis of the National Rapporteur Mechanism of October 2023 on residence permits for victims of domestic violence, the Monitoring Report finds that the obligations arising from Article 59 of the Istanbul Convention are **only partially met** in Germany. **Substantial changes are necessary in order to fully implement these provisions of the Convention.**

Germany's Residence Act (AufenthG) contains a hardship clause (§ 31 (2)) relating to the entitlement to a **residence permit** that is **not dependent on marital status** in cases of domestic violence. However, this provision has proven inadequate in legal practice. Two aspects, in particular, have proven problematic. One is a requirement for strict causality between the subjection to violence and the separation. The other is the high bar for the degree of violence. For example, the courts and authorities do not take sufficient account of psychological or economic violence, and they do not give sufficient consideration to the degree of dependence on the perpetrator. Moreover, the provision applies neither to women who do not yet have a temporary residence permit nor to women who have only a temporary residence permit that is dependent on their husband's status. Particularly problematic is the fact that the **burden of proof** lies with the women affected. The requirements arising from Article 59(3) are also not met. Moreover, the existing provisions on the protection of refugees, subsidiary protection and the identification of grounds barring deportation either cannot fulfil the requirements of the Istanbul Convention at all or can do so only in part. The

current legal provisions provide only for the issue of a temporary suspension of deportation (*Duldung*) for the purpose of cooperation in an investigation or criminal proceedings, not for the issue of a residence permit, meaning that the requirements arising from Article 59(3), lit. b, are not being met. In addition, residence restrictions create difficulties with respect to access to shelters for women affected.

### Protection under asylum law

The Istanbul Convention lays an obligation on states parties to ensure that gender-based violence is recognised as persecution or serious harm in the context of subsidiary protection. Article 60(2) of the Istanbul Convention requires action to ensure a **gender-sensitive interpretation of the reasons for flight** that can give rise to refugee status. Gender-based violence is covered by § 3b (1), no. 4, of the Asylum Act (AsylG) as a **reason for flight that may give rise to a protection status** in Germany. In practice, however, the interpretation of this provision is not consistent, with the result that women are often not recognised as belonging to a particular social group. This is not in line with the requirements of the Istanbul Convention. The case law of the Court of Justice of the European Union also makes it clear that women constitute a social group by reason of their gender alone and, as victims of domestic violence, can obtain refugee status. Difficulties also arise, however, when the gender-based violence is perpetrated by non-state agents, such as family members or intimate partners. In such cases, the courts have assumed – at times hastily and without examining the effectiveness of the laws of the countries of origin – that adequate protection against persecution exists if the countries in question have laws providing for gender equality and the punishment of sexual violence.

A glance at the data from the BAMF shows that the **numbers of female applicants whose refugee status was newly recognised** on the basis of gender-based persecution remained fairly constant between **2020** (1,307) and **2021** (1,379). However, this figure **nearly doubled in 2022**, rising to 2,800. A substantial portion of this increase is due to an increase in the number of asylum applicants from Afghanistan who were granted refugee status. Overall, recognitions of gen-

der-based persecution account for only a small fraction of the substantive decisions on asylum applications filed by female applicants. This is striking given the scale of gender-based violence and the lack of legal certainty, particularly with respect to women from countries of origin like Afghanistan. In total, 47,748 decisions were taken on asylum applications filed by women in 2020. Thus, decisions granting protection status to a female applicant on the basis of gender-based persecution account for only 2.7 percent of all substantive decisions taken that year. The percentage was 3.4 in 2021, and though the figure rose somewhat again in 2022, at 4.1 percent, it remained relatively low.

### Gender-sensitive asylum and reception procedures

The Istanbul Convention obliges the states parties to develop gender sensitive asylum and reception procedures. The **early identification** of women affected by **gender-based violence** is very important. In Germany, responsibility for this lies with different authorities, initially falling to the Länder and shifting to the BAMF upon the filing of an asylum application. There are no standardised procedures nationwide for the systematic identification of special protection needs arising from gender-based violence in Germany. Thus, practices used to identify persons whose circumstances make them vulnerable to this form of violence vary from one federal state to the next. None of them have established systematic identification processes, which is one reason why many of the women made vulnerable by particular circumstances are not recognised as such.

As a result of insufficient identification processes by federal state authorities, information of relevance to asylum decisions often fails to be passed on to the BAMF. Moreover, the accelerated proceedings under § 30a of the Asylum Act also contribute to the substantial failings of the identification processes with respect to persons from “safe countries of origin”. While the BAMF has “**specialty commissioned case officers**” (*Sonderbeauftragte*) specifically trained to work on cases involving gender-based persecution, affected women do not have a legal entitlement to have their cases heard by one of these specialised officers. Moreover, it is unclear in what percentage of these cases these specially commissioned

case officers are actually deployed. The information supplied by the BAMF reveals that they are available in all BAMF branch offices but does not specify whether there are enough of them to cover the full demand for their services.

The situation with respect to **refugee accommodation facilities** is similar. In line with § 44 (2a) of the Asylum Act, the Länder are responsible for ensuring, inter alia, the protection of women accommodated in reception centres. The Federal Government prepared a set of minimum standards for the accommodation of refugees in the Länder and in municipalities in 2021, but they are intended as **guidelines** and are not binding. This has resulted in a high degree of heterogeneity across the Länder in the protection standards required of operators of these facilities, both in terms of quality and with respect to legal force. At the time of reporting for instance, only **12 of the 16 Länder had developed legally binding concept documents outlining requirements for protection against violence (Gewaltschutzkonzepte) in federal state facilities**; none of them have processes underway to evaluate the effectiveness of these documents. Binding standards at the local level are also extremely rare. Moreover, not all of the Länder allocate financial or additional human resources for the purpose of ensuring the protection of residents in these facilities.

There were **significant legal developments in the area of asylum and migration** during the period under report. These include, at the EU level, the approval of the reform of the Common European Asylum System (CEAS) by the EU member states and the European Parliament. Over the same period, there were various developments at the national level, including the introduction of independent counselling in asylum proceedings, the entry into force of the “Repatriation Improvement Act” (*Gesetz zur Verbesserung der Rückführung von Ausreisepflichtigen*), the introduction of the payment card for refugees, and the expansion of the list of “safe states”. Overall, regression in the legislative implementation of human rights in the area of gender-based violence can be identified.

Addressing primarily legislatures and relevant authorities at the federal level and federal state level, the National Rapporteur Mechanism **recommends**, inter alia, the following:

- **the incorporation into the Residence Act of two new sets of circumstances** under which a renewable residence permit can be issued to women affected by domestic violence and the **lowering of the threshold for providing evidence of such violence**;
- the expansion of the range of persons protected under the hardship clause in § 31 of the Residence Act to encompass all women affected by domestic violence whose residence status is dependent on their marriage and reduce the **minimum duration of the marriage**;
- action to ensure the **initial and continuing training** of all professionals involved in the relevant procedures and the provision of information to affected women;
- the introduction of a period for reflection and stabilisation for affected women;
- the improvement of the **data situation** through the collection of statistics on residence permits issued under § 31 (2) of the Residence Act, disaggregated by issuance grounds, as well as statistics on denials of such permits and the grounds for non-renewal under the third alternative in the second sentence of that provision;
- the **full recognition of gender-based persecution as a reason for flight** without restrictive conditions, and changes in current practice to reflect the requirements arising from the Istanbul Convention;
- the introduction of a system for the collection of data supporting **flow statistics** (registration of applications for protection under asylum law, result of review of application);
- the introduction of **uniform guidelines and criteria for the identification** of women affected by gender-based violence in asylum and reception procedures;
- action to ensure that there are enough specially commissioned case officers and that these officers are regularly called in to work on cases of relevance, as well as action to ensure the provision of continuing in-service training nationwide to all professionals involved in asylum and reception procedures;
- action to ensure **safe and secure accommodations for women affected by gender-based violence** and the development of concept documents that will ensure **effective protection**.

## 8 The digital dimension of violence

As a rapidly growing phenomenon with grave consequences, violence against women and girls in the digital sphere and facilitated by technology is a very serious issue. Although the Istanbul Convention does not explicitly define the digital dimension of violence against women and domestic violence, it does fall within the broad understanding of violence as used in the Convention. In the view of the expert body GREVIO, the term “digital dimension of violence” is comprehensive and includes at least the aspect of online acts of violence and acts of violence facilitated by technology. Further, it should be interpreted from a victim-centred perspective and must be extended to encompass future technologies. Thus, the digital dimension of violence generally refers to a means or method: the use of modern technologies to perpetrate or intensify violence against women and girls. The **scale** of gender-based digital violence in Germany **cannot be reliably depicted empirically** (for an approximate depiction see Chapter III of the full version of the Monitoring Report and Section III, above). For this reason, the Monitoring Report focusses on the situation with respect to criminal law and practice.

Criminal offences committed against women and girls in the digital sphere or via technological devices range from severe (and often sexualised) **insults and threats** on the internet, including **hate speech**; to the **(covert) taking of photos** in saunas or bathrooms or upskirting; to the non-consensual **circulation of intimate images** and uploading of “**revenge porn**”; to the sending of unsolicited sexual images, such as “**dick pics**” or the **posting of private personal information** online, such as addresses or telephone numbers; on to **spying on or tracking** a woman via “spyware”. Moreover, the digital dimension of violence can also lead to physical assaults on the victim, including femicide. Thus, the digital and analogue dimensions of violence should not be considered separately. Rather, the phrase “dimension of violence” should be understood as underlining the reality that expressions of violence along the digital dimension and physical, psychological, and sexual violence all arise from the same source, namely: the deeply rooted imbalance of power

between men and women. Digital experiences of violence are often an extension of physical violence, and (new) technologies allow perpetrators almost limitless access to their victims. In cases of domestic violence, in particular, the digital dimension of violence is often overlooked.

The Monitoring Report concentrates on **three key forms of violence expressed along the digital dimension** that should be subject to legal sanctions/criminal law sanctions under the Istanbul Convention: Article 33 of the Convention defines **psychological violence** as intentional conduct “seriously impairing a person’s psychological integrity through coercion or threats”. It should be emphasised in this context that Article 33 is aimed less at one-off, isolated events than at abusive patterns of behaviour (occurring over a period of time). The reason that psychological violence is of such crucial significance in relation to the digital dimension of violence against women is that violence along this dimension is perpetrated at a distance, and thus without direct physical contact (in the sense of physical violence). In this respect, **all phenomena of digital violence have a psychological impact, and in this sense, can be categorised as psychological violence**, as GREVIO has pointed out. Stalking as a specific form of violence within the meaning of Article 34 also includes **cyberstalking**. Stalking practices committed in the digital sphere include threats, identity theft, the gathering of private information, solicitation for sex, damage to reputation and harassment with the aim of isolating the victim.

**Sexual harassment** under Article 40 is understood broadly to mean “any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person”. Behaviours in the digital sphere that come under this definition include the non-consensual taking or circulation of intimate images, threats (particularly rape threats), sexualised bullying, and/or the sending unsolicited sexual images.

The analysis of the current legal situation in Germany in relation to these three articles of the Convention reveals that the relevant legal provisions are **not always comprehensive and are scat-**



**tered** across the criminal code and in criminal provisions contained in other laws, with no uniform approach or system. This makes legal application more difficult and poses substantial challenges for the effective protection of women affected.

**Psychological violence**, as the term is understood in the Istanbul Convention, falls within the scope of criminal law in Germany only to a certain extent and only some individual cases can be addressed through criminal provisions. This is partly due to the strong emphasis that German criminal law continues to place on bodily harm caused by physical violence. Moreover, German criminal law does not address abusive patterns of behaviour, in the meaning of the Convention, if it involves behaviour that would not, on its own, give rise to criminal liability.

While **cyberstalking** is not a separate offence, specific (typical) forms of cyberstalking fall within the scope of the criminal offence of stalking (§ 238 (1) StGB), analogue stalking so to speak. As an example of a positive development, “revenge porn” now also falls under this provision, thanks to a 2021 amendment. However, criminal liability arises only in connection with repeated acts.

As to **sexual harassment**, while this behaviour can, in principle, be sanctioned through a combination of different criminal law norms, the actual criminal offence of sexual harassment (§ 184i) applies only in cases of direct physical touching. Other expressions of violence along the non-physical, digital dimension of sexual harassment can only be prosecuted via other provisions, such as the offence of insult in § 185 of the Criminal Code. In practice, this approach results in only patchy coverage, with respect to the prosecution of the full range of violence along the digital dimension. Finally, with regards to image-based sexual violence, what emerges is a confusing patchwork stitched together from a wide variety of provisions that creates substantial gaps in protection, especially when it comes to the protection of adult women.

The Monitoring Report arrives at a generally positive assessment of some of the legal developments in this area during the reporting period. For

instance, since its entry into force in February 2024, the EU regulation known as the **Digital Services Act** (DSA) applies to the providers of digital services (gaming and porn platforms, search engines, social networks, etc.) One of the aims of the DSA is to **make reporting illegal content easier**, although the regulation has some deficits in this area (such as the fact that it does not specify the period within which such content must be removed). The German Digital Services Act (DDG) entered into force in May of 2024 to bring national law in line with the European norms.

Moreover, there is a **legislative initiative** underway to enact the so-called “*Gesetz gegen digitale Gewalt*” (Act against Digital Violence), which is aimed at enabling persons targeted by threats and digital hate to, inter alia, obtain “information about the identity of the authors of infringing statements” from the operators of online platforms and messaging services.

Furthermore, the Bundesrat already has already introduced **draft legislation** relating to so-called **deep fakes** (photos or video or audio recordings, frequently of a sexual nature, that appear highly realistic and are created or digitally altered using AI). In addition, the Government of Lower Saxony decided in October 2024 to introduce draft legislation on criminal sanctions for verbal and nonverbal sexual harassment in the Bundesrat.

Addressing in particular legislatures at the federal and federal state level, the National Rapporteur Mechanism **recommends** the following:

- consideration of the creation of a separate criminal offence aimed at **protecting the psyche** (*Schutz der Psyche*), which would encompass, inter alia, abusive patterns of behaviour;
- the extension of **§ 184i of the Criminal Code** in such a way that sexual harassment is no longer restricted to acts committed by physically touching another person;
- the comprehensive review of offences with regards to **image-based sexualised violence** to identify gaps in protection and the overhaul of the patchwork of provisions to facilitate their application;

- the introduction of **binding in-service continuing and advanced training**, to sensitise police officers, public prosecutors and judges to the issue of digital violence;
- **the modification of procedural law**, for instance, to address the fact that many of the offences involved can only be prosecuted at the victim's **request**;
- regarding **law enforcement authorities**, action to ensure the criminal prosecution of digital violence through the provision of uniform and simple **electronic procedures**;
- the continued improvement and more efficient design of the (in-platform) **systems for reporting** digital expressions of gender-based violence and the provision of electronic procedures for purposes like the uploading of evidence.

Addressing the federal and federal state governments, it further recommends:

- **the provision of more support to counselling services and shelters:** adequate personnel and funding should be provided to them, and staff members should receive free training offerings for their support in the battle against and in dealing with the digital dimension of gender-based violence;
- the improvement the **staffing** of police authorities, public prosecutor's offices, and courts, and the creation of a group of public prosecutors with a special focus on the digital dimension of gender-based violence;
- the support of **sensitisation campaigns** and the **media competence** of civil society
- the promotion of scientific studies, surveys, and other **data gathering activities** in a variety of subject areas and the support of **stronger networking** among relevant actors in the area of the digital dimension of violence.

## V. Conclusions

Taken as a whole, the findings in the Monitoring Report indicate that there are **major gaps** in the **implementation of the Istanbul Convention in Germany**. Despite the progress on certain aspects of legislative implementation and with respect to the elaboration of **federal state action plans**, there remains an urgent need for action to create a functioning **system of protection and support** for the women and girls affected by violence. Many aspects of gender-based violence in Germany have yet to be investigated through research in the form of surveys on experiences of violence, which could help create a more comprehensive picture of the actual scale of this violence by shedding light on the “dark figures” of violence that goes unregistered by the police or the support system. However, the human rights analysis of police crime statistics alone presents an **alarming picture of the scale of gender-based violence in Germany**: in 2023, 728 women and girls were victims of physical violence every day, for example. Women and girls were disproportionately affected by sexual violence, stalking, and forced marriage. The majority of assaults occur with the immediate social circle of the women and girls affected.

The sensitivity and urgency of this issue is reflected in the **strong demand for counselling services**. Providers of support services specialising in violence against women and sexual abuse have been recording high and increasing frequencies of use for years now, a finding documented in the Monitoring Report.

Despite the magnitude of the problem, gender-based violence is often treated as specific to the circumstances of individual persons both in the political sphere and in jurisprudence. This means that the issue is played down, rather than recognised as an **expression of the structural power imbalance between men and women**. This lack of understanding allows, among other things, entrenched stereotypical views of gender

to prevent the recognition of the dynamics of violence, or encourages racist attributions. Moreover, not all of the manifestations of **gender-based violence receive sufficient attention**. Too often, courts and authorities place their focus only on purely physical forms of violence – giving little attention to the digital dimension of violence and other, less visible forms of violence. Comprehensive and qualified **introductory and more advanced training** for the relevant authorities and institutions, especially the police and judiciary, would alleviate such problems. However, this training is not yet being carried out systematically nationwide and on mandatory basis.

**Prevention** is one of the key aspects in combating gender-based violence. Yet, as the Monitoring Report makes clear, prevention is not yet receiving sufficient priority in Germany, it is not yet the subject of systematic planning, and – and this is perhaps the most important point – sufficient funding is not yet being allocated for it. **Work with perpetrators** is an important component of violence prevention, but the importance of this is being underestimated: the possibilities provided by legislation are not being used consistently and reliable financing for the work has not been secured.

The Monitoring Report found a **patchwork** stitched together from various **provisions and measures** that are ill-suited to supporting comprehensive protection for women affected by violence. Here, one sees how vital coordination and cooperation are – including within the federal structures of Germany. The situation is exacerbated by the **lack of a uniform national strategy for the protection against violence**, as well as the lack (thus far) of a **national coordination body**. This has far-reaching consequences: key definitions and uniform objectives have not been formulated. With respect to research, to initial and continuing training, to the support and protection of women and girls affected by violence, and to the collection of data: the coordination of coher-

ent measures among the Länder and the federal government is lacking. The Länder collect data and send it to the National Rapporteur Mechanism, but as the data sets differ from one another in numerous and significant respects, they do not support comparisons between the Länder. There are also many gaps in the data they contain.

Another major problem is that there are still **no generally applicable, binding standards or concept documents** outlining key requirements for many areas of activity, for example, requirements for the protection of women in accommodation facilities for persons who are homeless or for refugees, or in facilities for persons with disabilities. Overall, a shift of focus is needed: greater consideration must be given to women whose specific circumstances make them particularly vulnerable to violence to ensure that they receive better protection, in prevention measures and in action plans, and with regard to access to shelters without barriers. The special needs of younger and older children should also be noticed and considered.

Another problem is **inadequate funding**. This is impeding the implementation of the Istanbul Convention. The financing of protection and prevention measures through what is often short-term project funding, and as such could potentially simply end, poses a threat to their quality and sustainability.

It follows from all foregoing that a great deal remains to be done towards the implementation of the Istanbul Convention in Germany. Progress along the path towards the provision of comprehensive and effective protection against gender-based violence and comprehensive support services geared specifically towards the groups of affected women and girls who need them will require far-reaching structural changes, coherent measures coordinated at the national level, and substantial financial investments. First and foremost though, it will require the political will to tackle this issue as a problem for society as a whole and give it the priority that it demands.

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Tel.: 030 259 359-0 | Fax: 030 259 359-59  
info@institut-fuer-menschenrechte.de  
www.institutfuermenschenrechte.de

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**German Institute for Human Rights**

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