

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

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**Comments submitted by Denmark
on GREVIO's final report on the implementation
of the Council of Europe Convention
on preventing and combating violence
against women and domestic violence
(Baseline Report)**

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Comments from the Danish Government on GREVIO's final report on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence by Denmark

The Danish Government would like to underline the importance that it attaches preventing and combating violence against women and domestic violence as well as its firm commitment to the Istanbul Convention. The Danish Government fully acknowledges the role of GREVIO as well as the great efforts made by GREVIO throughout the process of evaluating the implementation of the Istanbul Convention by Denmark.

The Danish Government fully supports the Convention and as such puts emphasis on an interpretation of the Convention which remains close to the text of the Convention and the explanatory report. The Danish Government encourages GREVIO to consolidate through its work the meaning and intention of the Convention as follows from the wording hereof and the explanatory report.

Further, the Danish Government takes the recommendations provided by GREVIO under due consideration and welcomes the opportunity to provide the following comments to the report:

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

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

Para. 6-8 and 10:

The Danish Government is not in agreement with the analysis in the section, that e.g. the National Action Plan (NAP) on honour related conflicts and negative social control deflects attention from the issue of violence against women.

On the contrary, the initiatives set out in the NAP on honour related conflicts, and the Ministry's efforts in the area more generally, provide valuable tools for local government, civil society and at-risk groups which target specific dynamics pertaining to honour related conflicts. This also includes cultural aspects which are intimately gendered in nature.

To that effect, the Danish Government finds that the specific NAP on honour related conflicts supports rather than restricts the comprehensive implementation of the Convention.

C. Fundamental rights, equality and non-discrimination (Article 4) and IV.D. Specialist support services (Article 22) and shelters (Article 23)

Para 11-12 and para 119

The Danish Government does not agree with the assessment in para. 11 that support available to women without a residence permit is extremely limited. The Danish Government refers to the obligation to support irregular migrants who fall under the provision of the Danish Immigration Service, including providing necessary measures free of charge.

The Danish Government is of the opinion that an obligation to extend specific national legislation, in this case the Danish Act on Social Services, to irregular migrants in the Member State cannot be derived from the Convention. Furthermore, the Danish Government does not recognise the description that these women are excluded from general and specialist support in relation to gender-based violence they may have experienced. The Danish Immigration Service is obliged to support irregular migrants who fall under the provision of the Danish Immigration Service.

Asylum seeking women and women without legal stay in Denmark who fall under the provision of the Danish Immigration Service have access to accommodation in asylum centers, including a special accommodation center for women. Furthermore, they have access to accommodation in crisis centers, safe houses or other forms of protective lodging based on their individual needs.

Asylum center operators are under contractual obligation to identify asylum seekers and other migrants with special needs, including women who are victims of violence. Asylum seeking and migrant women who fall under the provision of the Danish Immigration Service are provided with necessary health care and social measures including psychosocial support initiated by the asylum center operator. Necessary health care and necessary social measures are provided based on an assessment of the particular needs of the person in question.

II. Integrated policies and data collection

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

Para. 17 and 19:

The NAP on honour related conflicts is in para. 17 singled out as an acute example of strategies that ‘do not seem to pay particular attention to women victims of gender-based violence.’ It is purported first, that the emphasis on “cultural” dimensions of honour-related conflicts, ‘obscures the root causes of honour-based violence as a form of gender-based violence ...’ and ‘prevents a broader perspective on the different manifestations of violence

against women and might also serve to perpetuate stereotypes about ethnic minorities and lead to discrimination against them’.

The Danish Government disagrees with the analysis in the report. It is simply incorrect to state that the gendered nature of honour-related conflicts is not considered in the NAP. On the contrary, the asymmetrical exposure of women and girls to honour-related conflicts is consistently referred to throughout the text of the NAP.

A singular focus on the effects of honour-based violence only on women, as proposed in the report, would risk missing forms of honour-based conflicts that affect men and boys, including but not limited to conflicts regarding sexuality, while neglecting the intimate relation between cultural notions of honour and gender. The Danish Government does furthermore not accept that an obligation to ensure such a singular focus in state policy derives from the Convention.

Additionally it should be noted that the specific implementation of projects in the NAP on honour-related projects may be, and in most cases is, targeting specific forms of honour-related conflicts as well as at-risk groups, including women.

B. Financial resources (Article 8)

Para. 22 and 27-28:

It is correct that the NAP on honour-related conflicts is funded by the so-called rate adjustment pool (Satspuljen). Agreements on funds through the rate-adjustment pool are made for a four-year period. This may result in funding ‘one-off’ projects as well as projects that run across the four years. Projects intended for permanent funding may receive such either at the first instance, or after it has run for one (or more) four-year periods, and has proven effective. Funding through the rate adjustment pool does therefore not preclude continuous funding.

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

Para. 30-31 and 33:

The Danish Government is in agreement with the analysis that civil society can be instrumental in integrating ethnic minorities in Danish society and preventing exclusion.

But the Danish Government retains its right to formulate relevant policies aimed at implementing the Convention and does not find that an obligation to financially support specific organisations derives from the Convention, as is intimated in para. 33.

NGOs and civil society are key contributors and partners in government policies aimed at ethnic minorities, together with national and local government.

As an example of this, the Ministry of Immigration and Integration facilitates a network of individuals who have experienced honour-related conflicts and negative social control. The aim of the network is exactly to support community voices standing up to repressive norms, such as those related to gender.

D. Co-ordinating body (Article 10)

Para. 34:

The Danish Government would like to note that the correct name is the Ministry *for* Children and Social Affairs and not the Ministry *of* Children and Social Affairs.

E. Data collection and research (Article 11)

1. Administrative data collection

Para 47-52:

The Danish Government notes that data categories regarding gender and age are already recorded in the statistical system of the Danish Immigration Service. The other data categories identified by GREVIO are not available in the statistical system of the Danish Immigration Service.

The Danish Immigration Service has no current plans to introduce data categories such as the motive for asylum applications, including gender-related persecution, types of violence or the type of relationship between victim and perpetrator. The reason for this is two-fold. First, this would extend the case processing time. If such registration were to be introduced, it would also mean introducing registration of a large amount of similar data (e.g. motive for asylum such as LGBT, religious belief, political activity, conscientious objector). Second, registering such highly sensitive data is a concern for the Danish Immigration Service due to the strict and comprehensive demands for processing personal data.

Para 48 and 49:

The Danish Government does not recognise the description in para. 48 of the final report of 'the exclusive power to determine custody and visitation rights is vested in the State Administration'. The Danish Government would like to note that the State Administration does not have the power to make decisions in custody cases nor to determine the child's place of residence when the parents disagree. This power is vested in the courts. An exception from this is interim decisions on custody and the child's place of residence. An interim decision of

the State Administration on custody or the child's place of residence may be appealed to the court.

The Danish Government finds the example mentioned in para. 49 of the final report 'in the form of a cap on the number of times an application for child visitation/custody/residence may be brought and on what basis' misleading. Pursuant to section 39 of the Act on Parental Responsibility, the State Administration may reject an application for a change of custody, the child's place of residence or visitation if the circumstances have not changed significantly.

III. Prevention

C. Training of professionals (article 15)

Para. 80-81:

The police officers who handle cases of domestic violence are chosen for the task by the police districts management based on an evaluation of the district's operational needs and the competence of the individual employee.

With regards to the question of police special units on domestic violence it is noted that some police districts have anchored the effort at the local police where specific employees have been appointed to carry out tasks related to domestic violence, whereas other police districts have chosen to anchor the effort in specialised units covering the entire district. However, all police districts have investigational units dedicated to violence and other offences against the person, including domestic violence, and there is no correlation between the organisation of the effort in the police district and the possibility of further education for the employees within area of domestic violence.

The Danish National Police offers continued education in the use of the risk assessment tools which are used to assess the risk of violence and homicide in cases of domestic violence, honour-related violence and stalking. During the training, the employees are given a thorough introduction to the nature of the various forms of violence, as well as the perpetrators' risk factors and the vulnerability factors of the victims. Employees are also given insight into the options available to the police, for example the Restraining Order Act, the possibility of handing out an alarm telephone or granting so called special address protection and referring the victim to shelters, treatment facilities etc.

Para. 82:

The Danish Government does not recognise the description in para. 82 of the final report of "widespread inability of social workers to recognise and identify cases of domestic and other forms of violence covered by the Istanbul Convention". GREVIO makes reference to the several reports received by GREVIO. As these reports are not identified and the Danish Government does not possess similar information, the Danish Government has to consider the claim of widespread inability to be unsubstantiated.

Para. 84-86:

The Danish Immigration Service educates its staff on international conventions in general. It is, however, correct that an education as mentioned in article 15 is not offered. The Danish Government will take the statement into consideration.

IV. Protection and support

A. General obligations (article 18)

Para 104:

The Danish Government would like to underline that the core matter of cases concerning custody and visitation is the assessment of the best interest of the child. The Danish Government acknowledges that there may be a conflict between the child's best interest and the interest of the child's mother who has been abused by the child's father. This conflict of interest is very delicate and is taken into consideration in decisions concerning these matters. The Danish Government respectfully disagrees with the views of GREVIO concerning article 31 of the Convention and does not consider the Act on Parental Responsibilities to be in violation of article 31.

Further the Danish Government cannot recognise GREVIO's description of the difficulties of having a decision on visitation overturned. Such a decision shall be based on the best interest of the child as mentioned above.

The Danish Government would also like to draw the attention to the possibility to set conditions for the visitation, e.g. that visitation must be supervised, the exchange of the child must be supervised or take place in a neutral place where the parents do not meet such as a kindergarten or school. Such conditions can for example be used in high conflict cases or cases where the father has abused the mother.

Furthermore, the Danish Government would like to note the possibilities provided under Danish legislation to exchange information about abuse or stalking between authorities.

According to the general Danish regulation on processing of personal data (the Danish Act on Processing of Personal Data), information about abuse or stalking can be submitted (disclosed) by other authorities to the State Administration if it is necessary for *inter alia* the performance of the activities of the State Administration or required for a decision to be made by the State Administration. See Section 8 (2) of the Act.

Specifically for administrative authorities performing tasks in the social field, such data may – pursuant to Section 8 (3) of the Act on Processing of Personal Data – only be disclosed if the data subject has given his explicit consent to such disclosure, if disclosure takes place for the purpose of pursuing private or public interests which clearly override the interests of secrecy, including the interests of the person to whom the data relate, if the disclosure is a necessary step in the procedure of the case or if the disclosure is necessary for the performance by an authority of its supervisory or control function.

Disclosure according to section 8 (2) and (3) may be conducted on the authorities own initiative, as long as the conditions are satisfied.

Apart from the general regulation on processing of personal data, there may be provisions in other parts of the Danish regulation that take precedence over the rules laid down in the Danish Act on Processing of Personal Data. Such provisions can for instance be found in the Danish healthcare regulation which governs disclosure of information from health services. For more details about these rules, please contact the Danish Ministry of Health.

Pursuant to section 115(1)(1) of the Danish Administration of Justice Act the police can submit information regarding private individuals personal affairs to other public authorities if it is considered necessary for the sake of crime preventive cooperation. This includes *inter alia* cases regarding violence against women and domestic violence.

Finally, in the end of the paragraph it is stated that “... offering stalkers an opportunity to continue. The Danish Government disagrees with this description and dissociate from any criminal act.

Para. 106:

The Danish Government does not recognise the requirement in para. 106 that women should be represented by a special support service to be an obligation deriving from the Convention.

C. General support services (article 20)

Para. 111:

The Danish Government assumes that GREVIO refers to the illegal immigrants, as asylum seekers' healthcare is covered by the Immigration Act section 42a.

The Danish Government would like to point out that everyone - regardless of their place of residence - is entitled to emergency treatment in Denmark. Further, the Ministry has no knowledge of deportations as mentioned in this paragraph ("subsequent deportations have come to GREVIO's attention").

D. Specialist support services (Article 22) and shelters (Article 23)

Para. 115:

The Danish Government would like to inform GREVIO that prior to the initiation of a women's shelter the Social Supervision Authorities have to approve the shelter. Approval is granted based on an assessment of whether the women's shelter is of the requisite quality. The assessment is carried out within 8 themes:

1. Education and employment
2. Independence and relations
3. Target group, methods and results
4. Health and welfare
5. Organisation and management
6. Qualifications
7. Finances
8. Facilities

The Social Supervision Authorities are obliged to apply a Government determined quality model, which includes criteria and indicators applicable for the assessment within 7 of the 8 themes (financial requirements are regulated separately).

The Social Supervision Authorities continually conduct operational supervision of the particular women's shelter and are in this regard obliged to carry out at least one supervision visit annually. Based on the operational supervision the Social Supervision Authorities shall assess whether the women's shelter continues to possess the requisite quality. The Social Supervision Authorities applies also in this regard the quality model.

Para. 112-119:

In regard to the recommendation in para. 118 the Danish Government would like to inform GREVIO, that the municipalities are obliged to offer introductory and coordinative counselling to women.

Assistance and support for women victims of violence are in Denmark based on the needs of the individual woman. This may in some cases include psychological counselling. The Danish Government notes that article 22 of the Convention does not prescribe the specific

measures to be employed, but rather lists a number of measures which may be relevant. The Danish Government would hence encourage GREVIO to pay due regard to the margin of appreciation granted by the Convention.

In regard to the recommendation in para. 119 of the final report the Danish Government notes that Danish authorities provide a wide range of services to women victims of violence in intimate relations. The Danish Government refers in this matter to information provided by the Danish Government to GREVIO on 18 January 2017.

The Danish Government recognises that there is always room for improvement in the important matter of providing support for women who have been subjected to violence. Due to the gravity of violence against women and its significance to the persons involved, continuous efforts are made by Danish legislators and authorities to improve the services and assistance to all parties concerned.

For instance, the Danish Government just established a National Unit against Domestic Violence, which receives 36.4 million DKK in funding during the period 2017-2020. The unit is i.a. responsible for collecting and disseminating knowledge and best practices to relevant stakeholders who are working in the field of domestic violence. The unit is also responsible for establishing social networks for victims of domestic violence and their children. The Danish Government just granted 13.1 million DKK in funding in 2017-2019 to Dialogue against Violence, which is an NGO that offers therapeutic treatment to perpetrators of domestic violence as well as their partners and children. The National Council for the Unmarried Mother and her Child also just received funding (16.1 million DKK in 2017-2019) from the Danish Government to expand their counselling and treatment services for women who have been subject to domestic violence.

The Danish Government would furthermore like to draw attention to the support provided to girls as well as boys under the age of 18 by the Children's Houses. The Children's Houses are established to ensure professional help and treatment to children who are victims of abuse and the Houses cover all municipalities in Denmark. Children who are victims of violence or sexual abuse receive coordinated help from social services, police and/or health services in a child friendly environment in the Children's Houses. The National Board of Social Services is tasked with ensuring close cooperation between the relevant authorities working on protecting children and providing assistance to children who are victims of abuse. Children in Denmark are protected by the Danish Act on Social Services. The municipal authority is obliged to ensure that a child receives relevant support if the child is in need of special assistance e.g. due to violence. This also includes adequate mid- and long-term support subsequent to the initial crisis support provided to the child in the Children's Houses.

The Danish Government hence finds that the implementation of the Convention is comprehensive in this area.

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

Para. 135 and 136:

The Danish Government rejects GREVIO's view that 'While any suspicion of harm done to children must be acted upon by the municipality child protection services, this protection is unavailable to children who are the object of a custody dispute. The Danish Government finds it necessary to emphasise that support by the municipal social services of course is available to all children who are lawfully staying in Denmark. When a child is in need of protection, support or assistance legislation on social services including the Act on Social Services does not differentiate between children whose parents have received a decision in a family law case or are awaiting a decision and those who do not.

Regardless of the competence of the State Administration the municipal Children and Young person's Committee may under certain circumstances determine the scope and exercise of access and contact between parents and a child, when the child is placed in care or during a child or young person's stay at an institution, in a hospital or during an examination in a Children's House.

Furthermore the Danish Government strongly rejects GREVIO's description that 'the processes before the State Administration are guided by the principle of upholding contact with both parents, not that of ensuring the safety and well-being of children'.

It appears from the Act on Parental Responsibility that children have the right to care and security and must be treated with respect for their person, that decisions made pursuant to the act must be based on the best interest of the child, and that in all matters related to the child, the child's own views must be taken into consideration depending on the child's age and maturity.

Decisions on custody and visitation are always made with regard to the specific child, and what has to be taken into consideration when visitation is determined, therefore depends on the specific case and the specific child.

V. Substantive law

A. Civil law

3. Custody and visitations rights (Article 31)

Para. 147 to 160:

With reference to the comments of GREVIO in para. 135 and 136 of the final report, the Danish Government would like to note that pursuant to the Act on Parental Responsibility an assessment of what is in the best interest of the child must always be based on an individual assessment of the specific child in connection with the knowledge and experience that is available or may be brought to the case in the form of e.g. a child welfare examination.

It is the view of the Danish Government that the Act on Parental Responsibility is accordingly fully in line with Denmark's international obligations, including the fundamental rights of the child as set out in the UN Convention on the Right of the Child, in particular Articles 3 and 12, and the European Convention on Human Rights, in particular Article 8 on the right to respect for private and family life. The Danish Government is also of the clear opinion that Danish legislation on parental responsibility is in line with the Istanbul Convention.

The Danish Government notes that article 31 of the Convention does not prescribe the specific measures to be employed, but rather stipulates that all necessary legislative or other measures are taken to ensure the rights and safety of both the child and the victim in cases of custody and visitation. The Danish Government finds that Denmark fulfils this obligation. It is the view of the Danish Government that GREVIO in the assessment of these matters shall pay due regard to the margin of appreciation granted by the Convention.

The Danish Government does not recognise the description in para. 151 of the report 'In the current system, the risk assessment, if any, is based on information submitted by the applicant only, and is thus necessarily incomplete. The Danish Government would like to note that the State Administration's first contact with a family is an application, hence the primary contact and therefore the primary risk assessment will be based on information from the applicant. However, the other parent may at any time during the case provide information to the State Administration, and this information will be taken into account and may change the initial risk assessment.

The Danish Government does furthermore not recognise the description in para. 154 of the report of 'widespread practice by the State Administration of considering a woman who raises the issue of domestic violence as a reason for not agreeing to custody or visitation, or who for

safety reasons, fails to attend joint meetings, is seen as a parent who is unwilling to cooperate with the other parent and thus unfit for parenting.' In para. 152 a reference is made to that GREVIO having received information on numerous cases. The Danish Government does not possess similar information and is therefore concerned about the accuracy of the information which GREVIO has based its assessment on. In para. 155 reference is made to that 'GREVIO received information on several cases that led to the imprisonment of mothers who has not been able to convince the State Administration of the safety risk which visitation with the father could present their child'. The Danish Government considers the references on the claim of 'several cases' to be weak and hence has to consider the claim of several cases to be unsubstantiated. The Danish Government finds that this applies as well to the claim in para. 157 of the report that 'the exercise of visitation and custody rights in Denmark frequently endangers the physical safety and psychological well-being of domestic violence victims and their children.'

Precisely due to the nature of cases concerning custody, place of residence and visitation and their significance to the parties involved, not least the children, continuous efforts are made to adapt and improve the governance and administration of the field. By the enactment of the 2007 Act on Parental Responsibility, much greater focus are given to the child's perspective and the best interests of the child as compared to previously, and subsequently further improvements have been made on an ongoing basis to the management of parents' conflicts about children.

In conclusion, the Danish Government respectfully disagrees with the recommendations in para. 159 and 160 of the report and consider them partly based on biased information from individuals.

B. Criminal Law

1. Psychological violence (Article 33)

Para. 162-164:

The Danish Government takes note of the invitation by GREVIO to introduce a specific criminal offence concerning psychological violence to capture more adequately the criminal conduct covered by Article 33 of the Istanbul Convention. The Danish Government notes that the verb "invites" points to small gaps in implementation which the Party is requested to consider closing or to proposals made to provide guidance in the implementation process.

Article 33 of the Convention states that Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats is criminalised. The Danish Government

notes that it is not a requirement to have a specific offence of psychological violence, which is also acknowledged by GREVIO, cfr. para. 161. Further, as confirmed in section 180 of the explanatory report, the Convention does not define what is meant by serious impairment as defined in Article 33. It does state, however, that use must be made of coercion or threats for behaviour to come under Article 33.

As described in the baseline report by the Danish Government, psychological violence as defined in Article 33 is criminalised in sections 245(2), 260 and 266 of the Criminal Code Code concerning respectively aggravated violence, coercion and threats. On this basis, the Danish Government is of the view that Denmark meets its obligations under Article 33 of the Convention.

Regardless, the Danish Government can inform GREVIO that a dialogue with a series of relevant stakeholders on how to improve protection against psychological violence will be initiated in the near future.

2. Stalking (Article 34)

Para. 169:

It is noted that the data provided on the number of breaches of restraining orders is based on the number of charges brought for a breach of a restraining order pursuant to Section 21 of the Restraining Order Act. In the event that a perpetrator has violated a restraining order more than once or has violated restraining orders against more than one victim a charge is registered for each individual incident of contact etc. and each individual restraining order. Therefore, the numbers of charges may include several violations by the same perpetrator of the same restraining order.

Para. 170:

The Danish National Police has initiated a number of initiatives towards improving the handling of cases regarding stalking. In January 2017, the Danish National Police has issued national guidelines for the handling of cases of harassment, persecution and stalking. The guidelines are aimed at ensuring that the cases are recorded and processed uniformly and with the required speed, and that victims of stalking are provided with the help they need from the police. The guidelines include sections concerning guidance on correct documentation, correct recording of the case with a search key in order to allow for subsequent identification of stalking behaviour across different legal acts and offenses, issuing of temporary restraining orders when necessary, risk assessment as well as necessary help and protection measures for the victim and referrals to the relevant counselling services.

It is also noted that since 2014 South East Jutland Police have participated in a pilot project in cooperation with the Danish Stalking Centre. The purpose of the project is to develop new models for preventive cooperation and intervention regarding stalking and to establish fixed procedures for the police's referral of stalkers and stalking victims to counsellors/meetings at the Danish Stalking Centre in order to strengthening the shared anti-stalking efforts. The Danish National Police is following the project and participates in the steering groups quarterly meetings. A number of the experiences drawn from the project have already been implemented nation-wide, partly by including them in the guidelines for police handling of cases of harassment, persecution and stalking. The project is expected to be completed in 2018 and is to be evaluated afterwards.

It is further noted that the rules of temporary restraining orders entered into force on 1 January 2017. The Danish Ministry of Justice has committed to carry out an evaluation no later than 1 January 2020 concerning among others the extent of the use of temporary restraining orders in the police districts.

Para. 171:

Concerning exceptions to restraining orders with regards to contact concerning common children, it is important to stress that both immediate restraining orders and ordinary restraining orders prohibit any contact. However, pursuant to Section 13 of the Restraining Order Act such restraining-, exclusion- and expulsion orders do not cover contact, stay or movements which for particular reasons in the specific situation must be considered authorised. It follows from the legislative explanatory notes that the provision e.g. applies to situations where a common child is acutely ill and there is no other person to take the child to the hospital. As such, not all contact concerning common children is authorised and it is for the perpetrator to substantiate the particular reasons why contact in the specific situation should be authorised.

Para. 172:

The number of committed violations of a restraining order may be explained by the fact that the data does not take into account repeated infringements committed by the same perpetrator (see explanation in the comment to paragraph 169). For instance, in 2015 one person was accountable for more than 40 percent of all charges of violations of restraining orders. Please also see the comment to paragraph 170 concerning the continued focus on stalking.

3. Sexual violence and rape (Article 36)

Para. 174-177:

As recent as in 2012, the Danish Government asked the Standing Committee on Criminal Law to evaluate the Criminal Code's chapter on sex crimes and among other issues

considered whether all instances of unwanted sexual activity was covered by the criminal code. Based on the recommendations from the Standing Committee on Criminal Law the entire chapter on sex crimes in the Criminal Code was modernised in 2013. The main purpose of the chapter is to protect the sexual freedom and right to self-determination of any individual. The chapter is based on the notion of valid consent, cfr. Article 36 of the Convention. The Danish Government believes that the chapter adheres to the requirements of the Convention by including all factors that preclude valid consent to sexual activity.

The Danish Government notes that it follows from paragraph 193 of the explanatory report that Parties to the Convention are required to provide for criminal legislation which encompasses the notion of lack of freely given consent to any of the sexual acts listed in Article 36(1). It is, however, left to the Parties to decide on the specific wording of the legislation and the factors that they consider to preclude freely given consent.

It is accordingly the view of the Danish Government that sections 210, 216, 218-223 and 232 of the Danish Criminal Code fully capture the criminal conduct covered by Article 36 of the Istanbul Convention.

5. Prohibition of mandatory alternative dispute resolution processes or sentencing (article 48) and V.A.3. Custody and visitations rights (Article 31)

Para. 151, 185 and 186:

According to the Act on Parental Responsibility, the State Administration summons the parents to a joint meeting when it receives an application for a decision on custody or visitation. It is possible to conduct separate meetings with each of the parents if e.g. one of the parents has been violent to the other parent. It is also possible for a parent to attend the meeting with a friend, a relative or any other person whom the parent trusts. Alternatively, a parent may be represented by a lawyer. This is directly set out in the Act on Public Administration. The Danish Government rejects GREVIO's view in the final report, para. 151, 185 and 186, that there is 'a practice of insisting on joint meetings between the abusive and non-abusive parent to reach an agreement on child custody/residence/visitation could be considered as de facto mandatory mediation'.

VI. Investigation, prosecution, procedural law and protective measures

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

1. Reporting to and investigations by law enforcement agencies

Para. 189-190:

Please see comment to paragraph 80-81.

Para. 192:

In 2016, the Danish National Police issued national guidelines for dealing with cases of rape in order to strengthen the handling of these cases and to establish a general standard for the overall processing of cases in the police districts, particularly regarding the victim's first encounter with the police.

Para. 193:

Attention is drawn to the guidelines issued by the Director of Public Prosecutions regarding the handling of cases concerning violence in intimate relations that include sections on investigative steps carried out by the police, the use of restraining-, exclusion- and expulsion orders, implementation of safeguards etc.

Para. 194:

In relation to the recommendation to increase the proportion of female police officers, it can be mentioned that both male and female officers can conduct a professional questioning of women who have been exposed to violence. All police officers are recruited on the basis of a collaboration test and a personal interview, testing personal skills of holistic understanding, ability to communicate, collaboration skills, analytical approach, empathy, sense of situation, psychological resilience, adaptability and maturity. In addition, the officers are trained in cognitive questioning techniques that are specifically suited for the questioning of vulnerable victims. However, if a woman requests that a female officer carries out the questioning the police districts make great efforts towards granting this wish.

B. Risk assessment and risk management (Article 51)

Para. 203:

The Danish National Police encourages the police districts to carry out the risk assessments in close cooperation with the external partners, including the Dialogue against Violence, the Danish Stalking Centre, LOKK and Ethnic Youth, men's centers, municipalities and the psychiatry. This is stated in the guidelines in the use of the risk assessment tools issued by the Danish National Police in December 2016. Furthermore, the Danish National Police has just revised the Danish versions of the user manuals and the assessment forms for the risk assessment tools in order for them to be applicable for other authorities and NGO's working with honour-related violence, violence in close relationships and stalking. This ensures that the different actors in the field have the same understanding of risk when cooperating on the issues. The review was conducted on the basis of a wish expressed by other authorities and NGO's.

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

Para. 207:

The Danish Government is of the opinion that the victim shall be free to choose whether to stay in the household or to relocate to a crisis center if this will make the victim feel safer.

Para. 209:

The notification to the municipalities is given in order to grant social assistance to the parties and not just a common child.

Please see comment to paragraph 170 regarding South East Jutland Police's participation in a pilot project in cooperation with the Danish Stalking Centre.

Para. 210:

Please see comment to paragraph 171.

Para. 211-212:

It is noted that restraining-, exclusion- and expulsion orders only constitute a part of a number of instruments available in cases of partner violence, domestic violence etc.

VII. Migration and asylum

A. Migration (Article 59)

Para. 225:

The amendment of the rule in section 19.8 of the Danish Aliens Act aims to ensure that foreign nationals who have a residence permit based on a relationship/marriage/co-habitation, do not have to remain in violent relationships in Denmark out of fear of losing the residence permit before having gained sufficient attachment to Denmark.

Following the amendment, the authorities are to give considerable weight to the foreigner's desire and capacity to integrate into the Danish Society, regardless of how long they have resided in Denmark. It is the assumption that a foreigner, in this particular situation, with more than 2 years of legal residence in Denmark will have sufficient attachment to the country – provided that the foreigner has made an effort to integrate – and that a revocation therefore may cause undue hardship. In the assessment of the attachment, it shall be taken into consideration whether the integration has been complicated by the (Danish) spouse.

B. Gender-based asylum claims (Article 60)

Para. 232:

The Danish Government would like to underline, that the Danish Red Cross is in charge of approximately *a third* of the residence centers located throughout the country, while local municipalities run the other *two thirds*, and the Danish Prison and Probation Service run the departure centers.

Furthermore, the Danish Government would like to underline, that it is correct, that separate accommodation for single asylum-seeking women with or without children is available at Center Sandholm, but it is not in form of a separate wing.

Single female asylum seekers are in all stages of the application process accommodated with other groups of asylum seekers including families and male asylum seekers. It is ensured that the single female asylum seekers have their own separate living quarters at the asylum centers e.g. in a separate building or a section of a building. Furthermore, one residence center has a section for female asylum seekers that have been trafficked or have a special need for care. This center has a higher number of specialised staff than other centers and is manned around the clock. The asylum seekers living in this section of the residence center are offered specialised help and guidance from the staff at the center as well as from several interest groups. Furthermore, they are offered more comprehensive healthcare than other asylum seekers.

The single female asylum seekers attend tuition and activation alongside other asylum seekers.

The Danish Immigration Service has not observed a need to change the approach towards accommodation of female asylum seekers.

Para. 233-234 and 237

The Danish immigration Service will in most cases be able to provide female staff and interpreters if the applicant puts forward such a request. If a woman will give information about particularly sensitive gender-related experiences, she will be advised of the opportunity to be assigned a female caseworker and interpreter. The Danish Immigration Service will, however, – without a request from the applicant – provide female staff and interpreters, if it is deemed necessary.

As part of the initial registration all adults and unaccompanied minors are required to watch a 20 minute long movie about the asylum procedure. Applicants are here informed that the

interpreter and the representative of the Danish Immigration Service must observe professional secrecy and that it is a punishable act to provide information about the applicant to others.

Example from the movie:

[We will summon an interpreter for your interviews with the Danish Immigration Service. The Danish Immigration Service uses certain interpreters authorised to attend the asylum application interviews. You are not entitled to choose the interpreter to be used during your interview. The interviews will be conducted in a language you understand or you are assumed to master and in which you can reasonably communicate. We do not guarantee that the interpreter speaks your mother tongue or comes from a particular country or territory. The interpreter will only translate what you and the representative of the Danish Immigration Service say and must not make his/her personal comments. The interpreter's knowledge of the conditions in your home country will not form part of the assessment of your asylum application. The interpreter will not have any impact on the decision in relation to your asylum application. The interview will be kept confidential. None of the information you provide us with - nor the fact that you have applied for asylum - will be passed on to other persons or authorities unless you have given consent thereto. This also applies to authorities in your country of origin. The interpreter and the representative of the Danish Immigration Service must observe professional secrecy. It is a punishable act to provide information about you to others without your prior consent.]

Para. 235:

The above mentioned asylum movie also contains information about the sort of questions that will be asked during the interviews:

Example from the movie:

[At the first interview with the Danish Immigration Service, you will be asked some detailed questions regarding your identity, e.g. questions concerning your family and relatives. We will also ask you questions in relation to your travel route and longer stays outside your home country. Finally, we will ask you to tell about the reasons why you are applying for asylum. You are under an obligation to provide information for your asylum application and accurate details about you and your case.]

[Under certain circumstances, we may have to invite you to an extra interview before we can determine your asylum application. At the extra interview with us you may be asked to elaborate on the reason why you have applied for asylum. At this interview you can expect to be asked detailed questions about why you have come to Denmark.]

The Danish Immigration Service performs an individual assessment in each case, including cases regarding revocation of residence permit and including cases where the asylum claim is based on a risk of female genital mutilation (FGM). In a number of cases, The Danish Immigration Service rejected claims based on a risk of FGM and consequently revoked those residence permits. In several cases, the Danish Refugee Appeals Board (the appeal authority) has confirmed such decisions. As the risk of FGM was rejected in the cases in question, the principle of non-refoulement has not been violated.

Para. 236:

All adult applicants including married couples and unaccompanied minors are summoned individually to their asylum interviews and interviews with married couples are always kept separate from each other and in most cases with different caseworkers and interpreters. All applicants are without exception asked and encouraged to talk about their own personal fears.

Para. 238:

The Danish Immigration Service uses a cognitive approach when conducting interviews with applicants for asylum. The method is based on the caseworker asking open questions and encouraging the applicant to elaborate on his/her experiences. As an important part of the training that the caseworkers receive, they are educated on the ability of the human memory. The caseworkers are also educated on and instructed to adapt the interviews according to the applicants' personal circumstances and capability.

Consequently, the staff is asking gender specific questions when appropriate.

Comments related to the realm of social affairs and family law:

Further, the Danish Government would like to provide comments related to the realm of social affairs and family law which pertains to several parts of the final report as well as comments pertaining to specific paragraphs.

Gender neutrality

The Danish Government does not share the view of GREVIO on gender neutrality as it is expressed in the final report. First and foremost the Danish Government does not consider gender neutrality in legislation and policies to constitute a barrier for a gender based understanding of violence or a barrier for preventing and combatting violence against women - and hence for the implementation of the Convention. In conclusion the Danish Government does not consider gender neutral legislation and policy to impede the fulfilment of Denmark's obligations under the Convention.

On a practical level the Danish Government is of the opinion that a gender neutral law or policy does not prevent or discourage social services and specialised support services from

providing assistance and support based on a gendered understanding of violence against women - when this is relevant for the individual woman in need of assistance. A gendered understanding of violence against women cannot be forced by legislation and legislation is not a prerequisite for its practical implementation. It is the view of the Danish Government that the important point is that support and assistance is tailored to the needs of the individual woman and when relevant is based on a gendered understanding of violence.

The Danish Government would furthermore like to draw GREVIO's attention to the fact, that when needed and deemed relevant i.a. on the grounds of ensuring a gender based understanding of violence Danish legislation, policy initiatives and support measures are tailored exclusively to women who are victims of violence. This includes i.a. women's shelters, cf. section 109 of the Act on Social Services, and the legislative provision which provides for the possibility not to establish paternity if the child is conceived through a criminal action, cf. section 10 of the Child's Act.

The Danish Government considers legislation and policy within the Ministry for Children and Social Affairs' field of responsibility to be fully in line with the obligation under article 18(3) of the Convention.

Support for men who are victims of violence in intimate relations

The Danish Government fails to understand the concern about support for men, who are victims of violence in intimate relations, expressed in the final report.

The Danish Government would like to underline that support and assistance for men who are victims of violence in intimate relations does not "drain resources" or "subtract" from the efforts to help and support for women, who are victims of violence. The Danish Government believes that every individual who has been subject to violence in intimate relations shall receive appropriate assistance and support based on the needs of the individual - and that efforts must be made to prevent violence in intimate relations regardless of the gender of the victim.

Data collection

The Danish Government attaches great importance to data collection and the Danish Government is continuously working on providing data to form basis for informed policy choices. However, the Danish Government does not consider the obligation under article 11(1)(a) of the Convention to be as wide as expressed in the final report. The Danish Government would like to draw the attention to the fact that article 11 of the Convention provides for an obligation to 'collect disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the scope of this Convention'.

In the view of the Danish Government the provision is centred on data regarding violence and does not entail obligations in areas in which violence may be an incidental and supplementary type of information. The Danish Government would furthermore like to recall that the obligation of article 11(1)(a) hinges on the relevance of the data. The Danish Government is of the opinion that the criteria of relevance shall be interpreted in light of the purpose and spirit of the Istanbul Convention and that due regard must be paid to the margin of appreciation granted to the member states in the implementation of the Convention.

Based on the abovementioned the Danish Government considers the final report in parts to be too far reaching in its conclusions on the obligation to collect data. This includes in particular the parts of the final report which describes a duty to collect data in cases concerning visitation and custody, as the core matter of these cases is the assessment of the best interest of the child, cf. article 3 of the UN Convention on the Rights of the Child.

The Danish Government would, however, like to underline that the Danish Government places great emphasis on making informed policy choices and collecting data through various initiatives.

Firstly, women's shelters must inform the relevant municipality on all enrolled women and children, unless they have been granted anonymity. The information includes name and civil registration number of the woman and any children as well as the date of and grounds for admission and discharge. The municipalities are furthermore obliged to report this information to Statistics Denmark.

Secondly, the Danish Government has established a National Unit against Domestic Violence which i.a. provides a 24/7 hotline and legal counselling. The work of the unit will be monitored and evaluated by an external evaluator and the information will be communicated to relevant parties, including municipalities, institutions and politicians. The data obtained by the 24/7 hotline and through legal counselling shall include information about the victim as well as the perpetrator on subjects such as gender, relations and offered treatment.

Thirdly, the Danish Government funds a project by The National Council for the Unmarried Mother and her Child that provides counselling and treatment services for women who have been subject to domestic violence. In order to improve data collection the project must register civil registration numbers on all participants and report it to the Ministry for Children and Social Affairs.

Furthermore, the Danish Government would like to draw attention to the effort to collect data regarding girls under the age of 18 who have been subject to violence. As GREVIO has previously been informed extensive data on all victims is collected by the national Children's'

Houses and data is disaggregated by geographical location of the victim, sex and age of the victim, type of violence and the relationship between the suspected perpetrator and the victim. A national statistic on data from the Children's Houses is published annually by the National Board of Social Services.

In conclusion, the Danish Government is of the opinion that it meets its obligations under the Convention to collect relevant data on violence against women.

Finally, the Danish Government would again like to thank GREVIO for its support in Denmark's continued efforts to prevent and combat violence against women and domestic violence.