

THE INFLUENCE OF THE POSSIBLE RATIFICATION OF THE ISTANBUL CONVENTION ON DIVORCE DISPUTES IN THE CZECH REPUBLIC CONSIDERING DIFFERENT THEORIES OF THE INCIDENCE OF VIOLENCE

Jitka Fialová *, Tomáš Zdechovský

University of South Bohemia in České Budějovice, Faculty of Health and Social Sciences, České Budějovice, Czech Republic

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Abstract

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) is the most comprehensive international agreement dealing with these serious human rights violations. It aims at zero tolerance for such violence, and the cornerstones are the prevention of violence primarily in the form of promoting gender equality in society, as well as the protection of victims and the prosecution of perpetrators. Opinions on the Convention differ not only from the lay public but also from the professional public.

To analyse the possible effects of the ratification of the Istanbul Convention on divorce proceedings in the Czech Republic.

Research strategy of documents of the Government Office of the Czech Republic – Department for Gender Equality, documents of the European agency EIGE, decisions of the monitoring body GREVIO, and other available academic publications.

In terms of legislation, the Czech Republic fulfils everything required by the Istanbul Convention and, on a short-term basis, ratification will not have any significant influence on divorce proceedings. However, based on the analysis of European documents and the GREVIO decisions, it can be stated that there is not sufficient assurance that it will not give women an unfair advantage in the future – and it may negatively affect the use of interdisciplinary cooperation within the framework of Cochem practice.

The Czech Government Office's Action Plan for the Prevention of Domestic and Gender-Based Violence for 2019–2022 already uses the Istanbul Convention as one of the sources of inspiration, although it does not anticipate its ratification. The Action Plan also deals with divorce proceedings.

Keywords: *Cochem practice; Domestic violence; False accusations; Istanbul Convention*

INTRODUCTION

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) is the most comprehensive¹ international agreement containing 81 ar-

ticles and dealing with these serious human rights violations. Its main goal is to protect women from all kinds of violence and amend different preventive mechanisms, prosecutions and suppression of violence against women and domestic violence.

It was approved on the 7th April 2011 by the Committee of Ministers of the Council of Europe and signed on the 11th May 2011. 45 out of 47 states from the Council of Europe signed it by July 2020 and it has been ratified by 34 states (Fig. 1). Some countries added their remarks (Chart of Signatures and Ratifications of Treaty 210, 2020). The Czech Republic signed the Convention on the 2nd May 2016 as the 41st country² but the ratification has been adjourned³. The EU also joined the Convention on the 13th June 2017 and used

resolutions⁴ to invite all member states to ratification (Scheu, 2018).

The goal of this article is to find out what the possible ratification of the Convention would bring to the Czech legislation regarding domestic violence. Our main goal is to concentrate on custodial disputes.

We chose the method of expert literature research and document analysis (Government Office of the Czech Republic, decisions of the monitoring body GREVIO and the European institute for Gender Equality (EIGE).

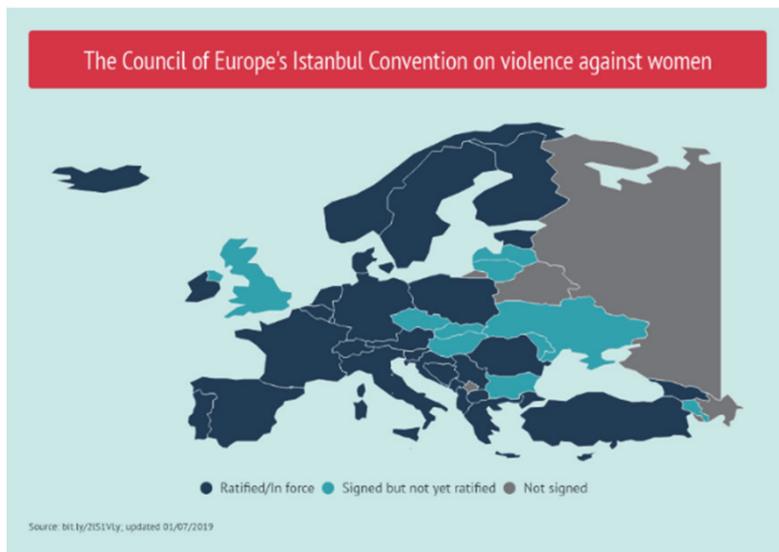


Fig. 1 – Overview of signatures and ratifications of the Istanbul Convention on the 1st July 2019 (GREVIO, 2020)

Current situation

Domestic violence is a significant socially pathological phenomenon. In the Czech Republic, domestic violence was a taboo for a long time, but became more frequently discussed around the year 2000 (Topinka, 2016). In the Czech Republic today, the Charter of Fundamental Rights and Freedoms is valid, and the criminal code contains cases of limiting personal freedoms (§ 171), blackmail (§ 175), oppression (§ 177), rape (§ 185), sexual constraint (§ 186), sexual abuse (§ 186), common household maltreatment (§ 199), endangering child education (§ 201), sexual attempt (§ 202), bodily harm (§ 146) and grievous bodily harm (§ 145). The minimum age for criminal prosecution is 16 years. Since the

1st January 2017, the act No. 135/2006 Coll. on the protection from domestic violence has been in effect. It was implemented by the so-called exile institute, which authorizes police officers to order the violent person out from the common household for 10 days (Vitoušová and Durdík, 2006). This period is used for the workers of intervention centres to work with the endangered household members. They provide the psychosocial and legal help.

The Czech Republic has elaborated the *Government Office's Action Plan for the Prevention of Domestic and Gender-Based Violence* and annually assesses its fulfilment. The Action Plan is elaborated by the Department for Gender Equality, the Human Rights Section of the Government Office of the Czech

Republic, together with the Committee for the Prevention of Domestic Violence and Violence against Women – which is the working body of the Government Council for Gender Equality (The Action Plan for the Prevention of Domestic and Gender-Based Violence for 2019–2020, 2019). The contemporary version for 2019–2020 contains 24 ordinances and is divided into 3 strategic areas: (1) Prevention of domestic and gender-based violence; (2) Protection and support of people endangered by domestic and gender-based violence (including children); (3) Ensuring justice for every person endangered by domestic and gender-based violence.

The Action Plan follows several human rights conventions and strategic documents regarding gender equality, and other documents that were approved in Europe and internationally. It is, among others, inspired by the Istanbul Convention, whose ratification is not anticipated (by its own claim) (The Action Plan for the Prevention of Domestic and Gender-Based Violence for 2019–2020, 2019).

It defines domestic violence as any physical, sexual, psychological, economical or other act of violence in a family or household or between former or current husband and wife, partners or close people (The Action Plan for the Prevention of Domestic and Gender-Based Violence for 2019–2020, 2019). It emphasizes that the indicator of domestic violence is that it is a repeated, long-term, cyclic and escalated issue, where the roles of the endangered and transgressor are clearly separated and the violent acts are not public.

The issue of divorce is mentioned twice – in the introductory part (the assisted contact of parents with their children) and in ordinance No. 18: To ensure the possibility of continuous education of judicial claimants, judges and advocates regarding the decision-making in the issue of consigning a child, to modify the contact between a violent parent and their child and standardize the work of legal experts in domestic and gender-based violence (The Action Plan for the Prevention of Domestic and Gender-Based Violence for 2019–2020, 2019).

The justification of the inclusion of this clause is as follows: “*Contemporarily, meditation is commonly suggested in cases of violence, e.g. divorce. Judges do not resolve such disputes using civil proceedings; however,*

such an approach can lead to secondary victimization because the victim is pressured to settle on an agreement with the transgressor.” (The Action Plan for the Prevention of Domestic Violence and Gender-Based Violence for 2019–2020, 2019)

In 2019, this provision was respected by organizing a three-day seminar by the Judicial Academy, which included 91 women and 19 men, primarily custodial judges (Report for 2019 on fulfilling the Action Plan for the Prevention of Domestic Violence and Gender-Based Violence for 2019–2022, 2020).

Summary of the most significant studies regarding domestic violence in the Czech Republic

In the Czech Republic, several studies dealing with domestic violence were carried out. They differed in their assignments, goals, methodology and findings. Their overview with comments can be found in the government’s *Analysis of the incidence and latency of domestic violence in partnerships* from 2017, where nine studies were relevant – 6 aimed at women, 1 at both men and women, and 2 at men. There has not been a research that studied whether and to what level only one or both partners were violent. Thus, there was no control of the imbalance of violent behaviour (Dohnal et al., 2017).

In 2017, the Government Office of the Czech Republic published the *Analysis of the Economic Impacts of Domestic Violence*. This used 2 studies – Violence against women: an EU-wide survey (European Union Agency for Fundamental Rights, 2014) and Women as victims of partnership violence: a sociological perspective (Pikálková et al., 2015). The level of violence on men was estimated using the study of Violence on men: a probe into the nooks and crannies of partnerships (Buriánek et al., 2014). Table 1 and 2 show that women experience violence more frequently. The level of the incidence of domestic violence in the last studied year was similar (1.3% men, 1.4% women).

Gender-based violence

There are different theories regarding the etiology of domestic violence and violence in general in the relationships of close persons. Herdová et al. (2016) claim that this theo-

Table 1 – The percentage of men and women who have experienced the given type of violence at least once in the last 12 months (Všetičková et al., 2017)

	Women (%)	Men (%)
Threatened to be physically harmed	0.9	0.1
Throwing things or an fist punch	0.6	0.2
Pushing, firm grip, arm twisting, hair pulling	1.1	0.2
Slapping, kicking, biting, punch with the fist	1.1	1.1
Strangling, choking attempt, drowning, burning, scalding	0.1	–
A knife or a gun	–	–
Other physical violence	–	–
Forced sexual intercourse	0.1	–
Forced sexual intercourse attempt	0.1	–
Touching	0.1	–
Forced sexual activity with somebody else	0.1	–
Other sexual violence	–	–
Total	1.4	1.3
Number of respondents	1,502	1,001

Table 2 – Survey summary of the incidence of domestic violence in the Czech Republic (Všetičková et al., 2017)

Study	Period	Incidence of domestic violence from 18 years of age (15 in FRA)		Incidence of domestic violence in the last year		Type of domestic violence	Age category	Number of respondents	
		women	men	women	men			women	men
European Union Agency... (2014)	2012	18%	–	3%	–	physical, sexual	18–74	1,620	–
Buriánek et al. (2014); Pikálková et al. (2015)	2013	17%	10%	1.4%	1.3%	physical, sexual	18–70	1,502	1,001

retical paradigm can be divided into three streams:

- 1) sociocultural approaches based on the feminist theory that emphasizes especially the influence of societal factors;
- 2) systemic approach that is based on emphasizing the influence of interacting with the surrounding environment;
- 3) individual approaches – psychological intervention models focused on individual characteristics that lead to violent behaviour.

In its article 3 – *Definition*, the Istanbul Convention explains the concept of “violence on women”, which means the violation of human rights and the discrimination of women (Council of Europe Convention..., 2011). It includes all violent acts based on gender that lead or may lead to physical, sexual, psychological or economic harm, or the suffering of women including threats, forcing or arbitrary deprivation of liberty in public or private.

The European agency of EIGE (European Institute for Gender Equality), whose activity

is directly related to the requirements of the Istanbul Convention, specifies this definition by including all types of violence on women because they are women, or happen to women more than men. It considers it to be so-called gender-based violence, although it admits that it may concern men as well (What is gender-based violence?, 2020).

The government Action Plan against violence is focused on gender-based violence. However, not all cases are gender-based, e.g. “dangerous prosecution”, an offence that is not always gender-based but can be politically based (The Action Plan for the Prevention of Domestic Violence and Gender-Based Violence for 2019–2020, 2019). It also states that prevention, training of relevant professions and other ordinances of the Action Plan will result in helping all victims of violence; regardless of whether an act of violence was gender-based or not.

We can briefly mention other theories of the incidence of violence. The first, *biological theory* of crime, was formulated by C. Lombroso (1835–1909). He stated that 25% of criminals have this inborn anomaly and 75% commit a crime out of passion or opportunistically (Veveřa et al., 2011). If we go further back in time, we can also mention the work of the representatives of psychotherapy (e.g. Freud), dynamic psychotherapy and the theory of aggression. Konrad Lorenz saw aggression as an inborn instinct that contributed to maintaining the species; aggression is to be satisfied as any other instinct (Veveřa et al., 2011). “*If the inducing conditions are not suitable, the energy of aggression accumulates until it explodes on the basis of a minimum trigger - the so-called hydraulic model of aggression.*”

We can also mention Dollard’s *Frustration-aggression theory*⁵. According to this hypothesis, aggression is always anticipated by frustration that increases the urge for aggressive behaviour/incites such behaviour (Veveřa et al., 2011). Frustration does not always arise from the behavior of other people but also from one’s own inability to achieve the intended goal.

In the study of Holá et al. (2016), we can find theories that say *domestic violence is conditioned by many factors* and it is impossible to establish one specific cause, e.g. society (the level of tolerance towards domestic

violence, making this topic a taboo and the indifference of the environment), family education (a dominant violent father can evoke the tendency of his daughters to identify with the role of a victim), violent personality characteristics (e.g. addiction to substances, anomalous personality, mental problems or psychiatric illness) and/or social situations evoking stress – e.g. financial problems or serious problems at work.

It is also important to mention the *theory of social education/learning*, which is based on the creation of the dispositions for violent behaviour or adjusting to violence in the early stages of development (Vargová et al., 2008). According to the WHO, it is the reason why all children who grow up in families where violence is present are considered maltreated (Holá et al., 2016). Topinka (2016) points out that the results of the representative sociological research of domestic violence in the Czech Republic (carried out by the SocioFactor association with the Association of Intervention Centre Workers of the Czech Republic) show that 50% of the respondents admitted that children were present during partnership violence.

Cochem practice

Cochem practice emerged in Cochem, Germany, over 20 years ago. It was a reaction to the shortcomings of the system at the time, and the need to find better solutions to parental conflicts during divorce disputes (Methodology of implementing interdisciplinary co-operation..., 2020). It is based on the interdisciplinary co-operation of professional representatives, who participate in solving judicial parental conflicts regarding the modification of the relationships with their children during the divorce. The concept of interdisciplinary was chosen intentionally because it gives a true picture of the character and effect of the co-operation in this area as well as the interdigitation of scientific disciplines that meet here: LAW, PSYCHOLOGY, SOCIAL WORK.

The Methodology of implementing interdisciplinary co-operation... (2020) also states that it should not only be the “concurrency” of more scientific disciplines, but their interaction as well. They should all have a common goal, which is the child. i.e. cushioning the impacts of the parents’ conflict on the

child. It also states that when a family falls apart, the state is obligated to ensure that the child's rights are met by its parents and act in the child's best interest. The state can be represented by court and/or the Authority for Social and Legal Protection of Children (OS-POD). It/they can have the role of a necessary guardian or, in case the child is endangered, by § 6 Act No. 359/1999 Coll. on social and legal child protection, ensure that the child's rights are met by its parents and act in the child's best interest⁶.

“Parental education is carried out at the beginning of the process as a preventive intervention that eliminates child endangerment. Child protection is necessary in the last phase when a decision about the modification of the relationship with a child is about to be made by the court, i.e. when the parents have undergone the process of interdisciplinary co-operation but are still failing at their parental competences, cannot achieve an agreement, and the intensity of their conflict endangers their child. In such cases, OSPOD assesses the level of child endangerment by the parental conflict. Working with parents, it finds and assesses other inputs that could indicate child endangerment, e.g. domestic violence, neglect, psychological or physical violence etc.” (Methodology of implementing interdisciplinary co-operation..., 2020)

While setting up the procedure (or rather after it), many other issues that are necessary to be solved may occur. The most frequent include involving a child in the custodial process during the interdisciplinary co-operation, and the contraindication of the arranged procedure, which is e.g. domestic violence, parents' addictions to substances etc. In such cases, it is important to set clear standpoints of the interdisciplinary team and agree on the issues.

DISCUSSION

There are different opinions on the Istanbul Convention. They are professional and non-professional in the Czech Republic⁷ and other countries of the Council of Europe, such as Slovakia⁸, Hungary⁹ and Bulgaria¹⁰, which have already indicated that they would not agree to the ratification. Poland is specific. Its

ministry of justice has already initiated withdrawal from the Convention¹¹, which has met sharp criticism from the Council of Europe¹² (although, this option is counted within article 80) (Council of Europe Convention..., 2011). In this context, it is appropriate to mention the fact that Turkey will also probably withdraw from the Convention. This decision evoked protests from the country's women¹³. Amnesty International¹⁴ was one of the founders of the campaign against the decision.

In the Czech Republic, the Convention became more widely known to the public in October 2018, when a Czech female lobbyist filed a criminal complaint against the retired minister of education and priest, prof. Petr Piřha, for the alleged scaremongering about the Convention¹⁵ (Stelzerová and Poláková, 2018). The press report mentioned that one of the contributions of the Convention was the creation of the system of interconnected care so that the maltreated woman is not forced to meet her former partner because their child was placed in shared custody.

It is relevant to ask how it is possible that such a specific contract evokes such contrary reactions. On one side, there are costly¹⁶ educative campaigns¹⁷ and supporting resolutions¹⁸, and, on the other, there is the unprecedented step of withdrawing from the ratification of an international human rights convention. The rejections may be caused by campaigns of misinformation^{19, 20}, or the fact that, in the Nordic countries, which are very egalitarian and where the so-called gender equality index²¹ is highly respected, there is a high number of rapes and murders of women²². It is not only the professional literature that mentions “the Nordic gender equality paradox” (Wemrell et al., 2019).

We would like to focus on divorce disputes. We will try to analyse 6 possible post-ratification situations if the ratification of the Convention is interpreted too dynamically and if there is evidence of this possibility. Divorce disputes are specific for the fact that the views of the parents on one situation can be very different and subjective. This can often result in using untruthful and false accusations. Čírtková (2017) points out that they can occur in good faith as well, or because of various external and internal circumstances.

The first unknown: Will the Czech Republic use the principle of zero tolerance towards violence?

“Domestic violence is a serious psychosocial phenomenon with many long-term traumatizing impacts on the victim’s mental condition and social life.” (Čírtková et al., 2010)

What is more hurtful is that the perpetrator is a close person with whom the victim has an emotional relationship. This relationship is often the reason why the victim does not leave the perpetrator, and the manifestation of cyclic domestic violence may be the reason the victim thinks that the situation will get better. The cycle (the circle of domestic violence) is explained by Holá et al. (2016). They distinguish the phases of creating tension, the period of maltreatment, and the period of reconciliation.

Čírtková et al. (2010) define three basic feelings of the victims of domestic violence – shame (at the beginning), guilt (when maltreatment continues) and fear (after the long-term maltreatment).

“Domestic violence can be characterized as a relationship disorder between close people. However, there are various relationship disorders between close people. It means that not every relationship disorder that contains elements of violence is domestic violence.” (Čírtková et al., 2010)

The authors describe domestic violence as a specific form of aggression, which is defined by the following indicators. According to them, the incidence of all indicators is important to identify domestic violence, and the third is crucial (Čírtková et al., 2010):

- 1) *“the incidence of incidents, i.e. the presence of physical violence (psychological, sexual, social, economic, ...) between close people in a common household;*
- 2) *the incidents include permanent and constant differentiation of the roles of the victim and perpetrator;*
- 3) *repeated incidents in the form of a typical domestic violence cycle;*
- 4) *potential escalation (regarding the frequency and intensity of violence).”*

Čírtková et al. (2010) point out that it is probably a different type of partnership violence if the role of the perpetrator and the victim switch, or the partners attack each other. It is highly probable that it is not a case of domestic violence.

This is partially opposed by Herdová et al. (2016). They state that, while solving the issue of domestic violence, it is not desirable to focus only on cases that include one-sided violence (so-called intimate terrorism) because, in many cases, violence in close relationships is the first stage (or one of the phases of) the complex situation of domestic violence.

The Istanbul Convention is much more general in defining domestic violence than the cited authors in article 3 *Definitions*. It states that domestic violence includes all acts of physical, sexual, psychological or economic violence that happen in a family or household, or between former or contemporary partners, regardless of whether the perpetrator shares or shared a household with the victim (Council of Europe Convention..., 2011).

The Convention does not contain detailed information about the typical repeated cycle of domestic violence. In article 46 *Aggravating circumstances* par. b), we can find that an aggravating circumstance is any repeated criminal act, which, according to article 40 *Sexual harassment*, includes any form of undesirable verbal, nonverbal or physical action that can violate a person’s dignity (Council of Europe Convention..., 2011). The definition is very expansive. It could possibly include a sole joke²³ that is offensive to a woman, or “uncomfortable staring”^{24, 25}.

In article 50 – *Immediate response, prevention and protection* – it is required that authorised agencies for promoting lawfulness react immediately and accordingly to any form of violence that is included in this Convention, and offer adequate and immediate protection to its victims (Council of Europe Convention..., 2011). Considering the fact that the word “accordingly” is relatively subjective and the Convention is based on zero tolerance towards violence, e.g. in the Nordic countries^{26, 27}, it is not certain whether it will complicate custodial disputes, because such wide-ranging definitions could enable anything to be considered domestic violence.

The second unknown: Will not paying alimony be considered as domestic violence?

We should pay special attention to the definition of economic violence, which is not explained in detail by the government’s Action against violence. Dvořáčková (2017) defines it

as the deliberate abuse of economic power to control another person. *“It typically includes not providing money for the household, disabling access to family incomes, forcing the victim to ask for money, daily shopping check-ups, forbidding the victim to work and, thus, maintaining economic dependence, not paying living costs, and absolute control over the victim’s incomes and expenses.”*

The Istanbul Convention does not specify this definition. The Explanatory Report only states that domestic violence more frequently happens to women. For this reason, it is gender-based (Explanatory Report to the Council of Europe Convention..., 2011).

The publication of the EIGE (Terminology and indicators for data collection..., 2017) states that economic violence is any kind of behaviour that causes one’s partner financial harm, including not paying alimony. In their publication entitled *Understanding intimate partner violence in the EU* (from 2019), they include larceny or damaging property in partnership violence (European Institute for Gender Equality, 2019).

If economic violence were similarly interpreted in the Czech Republic, the non-paying parent would become a “perpetrator” as well. This stigmatization could cause the escalation of parental disputes to such a level that the obligated parent could lose the motivation to fulfil their obligations. There is also the danger of questioning the serious issue of domestic violence because the reason for not paying alimony does not have to be the desire to show dominance and hurt one’s partner. It can be the simple inability to pay alimony because it has been incorrectly counted²⁸.

The third unknown: Can promoting the theory of gender-based violence in divorce disputes be in women’s favour?

As mentioned before, the Istanbul Convention is based on the feminist opinion that violence is gender-based and it asymmetrically concerns women more than men. The preamble of the Convention states that violence towards women is the historic display of unequal power relationships between men and women, which led to the dominance of men over women, and *“it is the crucial social mechanism that forces women to be inferior to men”* (Council of Europe Convention..., 2011).

The Department for Gender Equality of the Government Office of the Czech Republic published *Myths and facts about the Istanbul Convention* from 2018, where they defend the ratification of the Convention: *“Domestic violence is related to power disbalance, and mostly men commit it on women. There are certainly inverse cases, although far fewer. This is confirmed not only by expert studies but the statistical data of the police and courts as well, where men are perpetrators of domestic violence in 90–95% of cases.”* (Marvánová Vargová, 2018)

Experts do not unanimously agree on the fact that domestic violence is asymmetric in gender up to this level. Based on various criteria, there are also opposite views on this issue²⁹ (Herdová et al., 2016). A large comparative study is offered by Straus (2010) in his study: *Thirty years of denying the evidence on gender symmetry in partnership violence: implications for prevention and treatment*. He compared more than 200 studies that proved the level of violence of men and women is very similar. He described 7 strategies that disputants use to try to hide, deny, or distort this evidence.

The fact remains that it is not easy to determine the level of violence committed on men. Dvořáčková (2017) confirms that this data is scant, and this is not only a Czech issue; several large international studies primarily deal with violence on women (Dvořáčková, 2017). Čírtková et al. (2010) present the *theory of the double-door phenomenon* – the first door is equal regardless of gender and the second door is specific to men. They relate to the social stigmatization of a man who admits he is a perpetrator, which conflicts with the stereotypical opinions about men and women. Male victims do not see themselves as victims of domestic violence for a long time and hesitate to call the police because they fear that they will not be believed, and the police will accuse them³⁰.

The same authors assume that it would be appropriate to reassess the basic approach that the victims of domestic violence are primarily women.

In divorce disputes, excessive emphasizing of violence on women can cause positive discrimination of women – who gain an advantage because they are automatically seen as victims.

The fourth unknown: Will we be able to reliably prove that a woman has falsely accused a man?

In article 27 (*Reporting*), the Istanbul Convention requires that ratifying countries support reporting to competent organizations or authorities from whomever witnessed an act of violence that falls under the Convention, or whomever has reasonable suspicions of such an act having been committed or is expected to be committed in the future (Council of Europe Convention..., 2011). Article 49 (*General obligations*) requires that investigations and prosecutions regarding all forms of violence that fall under the Convention³¹ be carried out without undue delay and the victim's rights considered at all degrees of criminal proceedings. Article 18 (General obligations) par. 4 states that the provision of services shall not depend on the victim's willingness to press charges or testify against any perpetrator. Article 55 proceedings (*Ex parte a ex officio*) specifies that the investigation or prosecution of acts³² will not only depend on reports or complaints filed by victims, and the proceedings can continue even if the victim withdraws their report or complaint.

In other words, if a neighbour, mother-in-law or a mother's partner reports possible violence or suspicion of possible violence in a family, who could have personal interests in harming a woman's partner, authorities in criminal prosecution will have to deal with such accusations and immediately provide protection to the potential victim even if they deny everything and refuse to give a statement.

The point is to show that the well-intended protection of women can be misused. This protection is suitable when domestic violence takes the form of so-called intimate terrorism – and the victim is afraid of the perpetrator up to the level that they will not testify against them. As mentioned, this is one of the forms of domestic violence. The misuse attempt can arise from the mentioned persons³³, or a divorcing woman who wants to have an advantage in court and (for example) have the children placed in her care.

The Convention could become a powerful instrument for a woman who decides to “destroy” her partner because of a high protection level of potential victims as well. According to article 56 (*Measures of protection*) par.

d), h) and i), a victim can testify only in the presence of an intermediary³⁴, who can testify in their stead in case they are not present. Par. g) ensures that contact between victims and perpetrators within court and law enforcement agency premises is avoided where possible due to the effort of not exposing the victim to secondary victimization. Article 54 *Investigations and evidence* is also to their benefit. It requires that parties take the necessary legislative or other measures to ensure that, in any civil or criminal proceedings, evidence relating to the sexual history and conduct of the victim shall be permitted only when it is relevant and necessary. (Council of Europe Convention..., 2011).

All of this would complicate and delay the disclosure of purpose accusations, which would, in the following criminal procedure, fall under § 345 of criminal Act No. 40/2009 Coll., when the victim could be imprisoned for one to five years.

The possibility of misusing the Convention is pointed out by Daniela Kovářová (2018), former minister of justice, intermediary and the president of the Union of Family Advocates, which criticizes the Convention.³⁵

We could certainly polemize about the number of the above-mentioned cases that could happen and compare these to the number of lives that this system could save. However, it is not the purpose of this article. It only points out that accusations of sexual violence with a motive are coming to light³⁶. They do not appear only in custodial disputes, and the Istanbul Convention does not reflect them.

The fifth unknown: Can one slap prevent an agreement in divorce dispute?

Kovářová (2018) and other experts³⁷ consider article 48 (*Prohibition of mandatory alternative dispute resolution processes or sentencing*) to be unclear as well. It prohibits mandatory alternative dispute resolution processes, including mediation and conciliation (Council of Europe Convention..., 2011). This definition includes dispute resolutions of the Cochem practice, which is a preventive measure in the escalation of disputes due to the education of parents and explaining the principles of common parental responsibility. The long-standing and critical disputes often end

in accusations of violence due to an increased sensitivity of one of the parents or purposely.

At the expert seminar of *Family breakdown – the largest obstacles to a successful resolution of critical situations*³⁸ on the 12th May 2017, Kateřina Šimáčková, a constitutional judge, stated: “The principle of custodial proceedings is the harmonization of a child’s interests, its rights and its parents’ rights so that the father, the mother and the children can accept the agreement or decision and live with it. The most serious consequences of a family breakdown include a long-term disturbed relationship between the child and one of the parents. For this reason, it would be suitable to support the adjustments of care, which would enable the child to adequately continue developing the relationships with both parents.” This summarizes the reasons why Cochem practice is supported in the Czech Republic, although it is rather a support from courts and workers of SPOD (Child protection) than a decision of the Ministry of Justice.

The introduction contains two pieces of information: (1) Cochem practice begins with the education of parents, i.e. they are to meet each other, and the system is based on their mutual communication. (2) The introduction points out ordinance 18 of the Action plan against violence, which criticized the fact that divorce disputes commonly suggest mediation, which should be changed. The Action plan fully reflects article 48 of the Istanbul Convention and its ratification would not bring any changes in this context. This requirement can lead judges and other SPOD workers to a complicated situation – whether the parents should first be educated or there should be an investigation on any forms of gender-based violence, as defined in the Convention. Using the methods of Cochem practice would immediately be contraindicated. The existing decisions of the GREVIO control authority show that automatic setting of mediation in divorce disputes is interpreted as an obligation that puts a woman at a disadvantage (GREVIO, 2020)³⁹.

GREVIO beseeched Danish authorities⁴⁰ to recognize the power inequality in the relationships with violence and ensured parents separate meetings. They also ensured that the child’s right to meet its parent did not endanger the mother’s and children’s safety.

Regarding Italy⁴¹, GREVIO found that it did not have mandatory alternatives to dispute resolutions regarding violence, but it found evidence of mediation being forced in custodial disputes, which defies article 48. Experts in this issue allegedly failed to identify and correctly name domestic violence when they labelled it as partnership violence. For this reason, they used mediation, where allegedly women and children were branded culprits for their perpetrator’s acts and experienced secondary victimization. The best interests of the child and maintaining its relationship with the perpetrator were prioritized before the victim’s rights, which only prolonged the perpetrator’s feeling of dominance and power. The professionals in this case did not proceed by the instructions of the Convention and risked the victim’s further possible abuse.

GREVIO recommended Albania⁴² to ensure the principle of arbitration not be mandatory in divorce disputes with violence.

GREVIO strongly suggested Portuguese authorities⁴³ maintain and effectively uphold the prohibition of arbitrations in divorce disputes where domestic violence had occurred, and encouraged the elaboration of instructions and trainings in the methods of investigating domestic violence.

Article 48 of the monitoring report regarding Monaco⁴⁴ states: GREVIO urges the authorities to confirm the principle from article 48 of the Convention regarding the prohibition of mandatory alternative dispute resolutions, including familiar mediation, in all cases regarding violence related to the Convention. Meanwhile, the authorities should ensure that all responsible courts of law not use familiar mediation in cases of violence.

In the monitoring report regarding France⁴⁵, GREVIO explicitly urged French authorities to harmonize legislative provisions regarding familiar mediation in situations that include violence. It should prohibit mandatory alternative dispute resolutions from article 48. It also welcomed the fact that the responsible authorities had already started working on provisions for the protection of the rights of victims and their children.

Regarding the Netherlands⁴⁶, GREVIO stated that there were two types of mediation – between the victim and perpetrator in criminal law cases, and between parents who cannot agree on the division of care between

children. Mediation in divorce disputes is voluntary in this case, but parents must elaborate a parental plan, to which mediation helps. For this reason, GREVIO urges Dutch authorities to review and adjust legal regulations and instructions regarding alternative dispute resolutions in all criminal issues and ensure that such practices not be decriminalized, and victims' rights upheld. GREVIO urged Dutch authorities to implement clear protocols and instructions in all areas of law that use mediation and ensure that all offers of mediation be accepted voluntarily without pressuring women to accept mediation alternative dispute resolutions.

These decisions show that GREVIO is very strict in the interpretation of article 48. Although, its conclusions are only "recommendations" and countries are not obligated to implement them, they are and will be pressured to uphold them. Therefore, one slap will possibly prevent divorce agreements because it will be classified as violence and, in these cases, protection of victims' rights should be prioritized.

The sixth unknown: Will we divest parents of parental rights due to violence?

Article 31 *Custody, visitation rights and safety* also evokes questions, which requires that in the determination of custody and visitation rights of children, incidents of violence covered by the scope of this Convention are taken into account. Ratifying parties shall take the necessary legislative or other measures to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children. (Council of Europe Convention..., 2011).

If we look at the decision of GREVIO regarding this article, the conclusion is unequivocal – if there is violence in a family, the child should be in the mother's custody because her and her children's safety is a priority.

The child's right to both parents, according to article 7 of the Convention on the Rights of the Child, should be less important than the protection from violence. Divesting parents of parental rights according to article 31 of the Istanbul Convention is an adequate reaction to ensuring safety.

GREVIO strongly encourages Monegasque authorities⁴⁷ to ensure that when the courts

decide on custody and visiting rights, they take account of the principle whereby instances of violence against the mother must be taken into account as well as instances of violence against children. The authorities are to expressly lay down this principle when adopting Bill No. 922 on shared custody.

GREVIO urges the Finnish⁴⁸ authorities to take the necessary measures, including legislative amendments, to ensure that courts are under the obligation to consider all issues related to violence against women when determining custody and visitation rights and to ensure the recognition of witnessing violence against a close person as jeopardising the best interest of the child. The courts should also restrict custody and visitation rights where this is warranted to guarantee the safety and best interest of the child.

GREVIO urges the Portuguese⁴⁹ authorities to take measures to ensure that all statutory agencies and civil society organisations involved in deciding and carrying out arrangements for supervised visitations *prioritise the safety and the respect of the rights of the child and the mother, including by refraining from attempting to reconcile the victim and the perpetrator*. Statutory authorities are to expand the availability throughout the country of suitable premises – equipped with properly trained staff – for implementing supervised visitations which comply with the requirements of the Istanbul Convention.

GREVIO reminded Austria⁵⁰ the significance of article 31 and strongly encouraged the Austrian authorities to step up measures to ensure that the safety and needs of child witnesses of domestic violence are guaranteed in child custody decisions.

Regarding Sweden⁵¹, GREVIO welcomes recent steps to ensure quality risk assessment by social services and courts in the context of decisions on child contact in domestic violence cases. GREVIO is nonetheless concerned that not all actors are fully aware of the possible negative impact on the safety and protection of abused women and their children, of decisions taken on child custody, residence and visitation rights. GREVIO therefore urges the Swedish authorities to ensure that in the determination of child custody decisions, the family law sections of social services and courts take all appropriate measures to ensure that such decisions do not jeopardise the safe-

ty of abused women and their children. In this context GREVIO stresses the need for more effective training and support to be provided to family law judges.

GREVIO urges the Netherlands⁵² to take the necessary measures, including any required legislative amendments, to ensure that courts are under an obligation to:

- a) consider all issues relating to violence against women and domestic violence when determining custody and visitation;
- b) *ensure that the risk of witnessing future violence against a close person is recognised as the perpetrator jeopardising the best interests of the child*⁵³;
- c) adopt gender-sensitive guidelines to ensure that the gender-based nature of the violence and the impact of any power imbalance in the relationship on the ability to negotiate fairly are recognised and that necessary support requirements for women victims of violence are in place in child procedures⁵⁴;
- d) restrict the custody and visitation rights where this is warranted to guarantee the safety and best interests of the child⁵⁵.

Regarding Montenegro⁵⁶, GREVIO strongly encourages the Montenegrin authorities to make more use of and professionalise the supervised visitation scheme for children who have witnessed or experienced domestic violence. Recalling the importance of Article 31 of the Istanbul Convention, GREVIO also strongly encourages the Montenegrin authorities to step up measures to ensure that the safety and needs of child victims and witnesses of domestic violence are guaranteed in all child custody and visitation decisions. To this end,

- a) all applications to family courts should include a mandatory question on whether violence has been an issue in the relationship and whether it has been reported to law-enforcement officials or Centres for Social Work;
- b) where violence has been reported, family courts should ask for the disclosure of the risk assessment and safety plans drawn up by law-enforcement agencies and/or Centres for Social Work and take them into account when determining any issue involving a party who has alleged violence;

- c) where there is an ongoing criminal investigation and/or where a protection order has been issued, family courts should seek the opinion of law-enforcement agencies and the prosecution, and give reasons as to why they choose to either follow or disregard those opinions;
- d) if the criminal investigation is closed or suspended, family courts must conduct their own investigation as to whether violence occurred and what effect the violence has had on the child;
- e) safeguards should be built into the procedures, such as offering the parents separate appointments and creating separate waiting areas in courts, to take into account the imbalance of power between the victim and the perpetrator and to prevent the risk of revictimisation. The Montenegrin judges are to be provided with appropriate training and the development of professional guidelines, aimed at raising awareness among the professionals concerned as to the harmful effects of violence on children, including child witnesses, and at familiarising them with the requirements of the Istanbul Convention.

It is similar regarding Albania⁵⁷, Turkey⁵⁸, France⁵⁹ or Italy⁶⁰. Serbia⁶¹ was criticized for placing children in foster care instead of with their nonviolent mother, although the mother was deemed to be lacking parental ability. It was interpreted as the discrimination of mainly Roma women.

CONCLUSIONS

The Istanbul Convention has a relevant and completely legitimate goal of preventing violence against women and domestic violence. Regarding legislation, the Czech Republic meets all the requirements of the Istanbul Convention and, in the short term, the possible ratification regarding custodial disputes will not imply larger changes because the Action plan against violence already fully reflects its requirements.

Based on the analysis of the European documents and decisions of GREVIO, we can say that there is not sufficient evidence that, in the future, women will not be at an unfair advantage in divorce disputes and that there

will not be negative influences on interdisciplinary co-operation regarding Cochem practice, which helps to prevent divorce disputes.

The Istanbul Convention does not reflect the possibility that women do not always tell the truth about domestic violence. The possible implementation of zero tolerance towards violence would lead to the atomisation of society – and one reported argument could lead to a family separation.

It is also necessary to say that the presented analysis was mainly based on the text of the Convention, and the Explanatory Report, which specifies the meaning of individual articles, was not fully reflected. In the authors' opinion, the actual interpretation by GREVIO is more important.

Conflict of interests

The authors have no conflict of interests to declare.

FOOTNOTES:

- 1 The European Convention on Human Rights, which covers a much broader human rights scope, contains only 59 articles. The 1994 Inter-American Convention on the Prevention, Punishment and Elimination of Violence against Women (the so-called Belém do Pará Convention), devoted to the same issue, was sufficient with 25 articles.
- 2 See e.g.: <http://www.dejmezenamsanci.cz/aktuality/ceska-republika-se-jako-41-zeme-pripojila-k-istanbulske-umluve/>
- 3 More information available from e.g.: <https://denikn.cz/minuta/407679/>
- 4 See e.g. in the European Parliament's press release entitled Combating violence against Women: all EU countries must ratify the Istanbul Convention from 13th March 2018; available from: <https://www.europarl.europa.eu/news/cs/press-room/20180309IPR99425/boj-proti-nasili-na-zenach-vsechny-zeme-eu-musi-ratifikovat-istanbulskou-umluvu>
- 5 One of the most frequently cited works, based on the above hypothesis, was Hovland's study from 1940. (Veveřa et al., 2011).
- 6 This obligation arises from several international and national legislation regulations - such as the Convention on the Rights of the Child (CRC), information of the Federal Ministry of Foreign Affairs No. 104/1991 Coll., European Convention on the Exercise of Children's Rights (ECECR), information of the Ministry of Foreign Affairs No. 54/2001 Coll. m. s., European Convention for the Protection of Human Rights and Fundamental Freedoms (ECPHRFF), information of the Federal Ministry of Foreign Affairs No. 209/1992 Coll., the Constitution of the Czech Republic (Constitutional Act No. 1/1993 Coll.) and the Charter of Fundamental Rights and Freedoms (CFRR, resolution of the Presidency of the Czech National Council No. 2/1993 Coll.), Methodology of introducing interdisciplinary cooperation... (2020).
- 7 See e.g. <https://advokatnidenik.cz/2019/08/01/na-istanbulskou-umluvu-se-rozchazeji-nazory-laicke-i-odborne-verejnosti/>
- 8 See e.g.: <https://www.echo24.cz/a/S9GNs/slovaci-drtive-odmitli-kontroverzni-istanbulskou-umluvu>
- 9 The ratification process was rejected by the Hungarian parliament, See e.g.: <https://advokatnidenik.cz/2020/05/11/madarsky-parlament-prijal-usneseni-proti-istanbulske-umluve/>
- 10 In Bulgaria, the Constitutional Court ruled that the IC was incompatible with the Bulgarian Constitution – See e.g. <https://eurozpravy.cz/zahranicni/eu/230865-sireni-genderove-ideologie-bulharsko-se-razne-postavilo-proti-istanbulske-umluve/>
- 11 See e.g.: https://www.idnes.cz/zpravy/zahranicni/istanbulska-umluva-genderova-studia-polsko-madarsko-romunsko-odstoupeni-svoboda.A200729_091239_zahranicni_vlc
- 12 See e.g. press release of the Secretary General of the Council of Europe Marije Pejčinović Burić, entitled Poland should not withdraw from the Istanbul Convention, says Secretary General from 16th July 2020; available from: <https://www.coe.int/en/web/istanbul-convention/-/poland-should-not-withdraw-from-the-istanbul-convention-says-secretary-general>
- 13 See e.g.: <https://edition.cnn.com/2020/08/05/europe/turkey-gender-protests-istanbul-convention-intl/index.html>
- 14 More information available from: <https://www.amnesty.org/en/latest/news/2020/08/turkey-convention-on-combating-violence-against-women-must-be-implemented-not-abandoned/>

- 15 In January 2019, the public prosecutor ruled that the submission was unfounded – See e.g. https://www.idnes.cz/zpravy/domaci/ceska-zenska-lobby-monsignor-petr-pitha-trestni-oznameni.A190114_142514_domaci_lre
- 16 The European Parliament has earmarked EUR 193.6 million, which should be used under the Rights and Values Programme for 2021-2027 for measures of prevention (therefore, information campaigns as well) and combat all forms of gender-based violence.
- 17 This is primarily the #zaistanbul campaign, for which more information can be found, e.g. in a government press release entitled Minister Dienstbier supported the global campaign to end violence against women on 13th February 2015; available from: <https://www.vlada.cz/cz/clenove-vlady/pri-uradu-vlady/jiri-dienstbier/aktualne/ministr-dienstbier-podporil-celosvetovou-kampan-za-ukoncen-nasili-na-zenach-126747/>
- 18 Meaning, e.g. the European Parliament resolution of 6 February 2019 on negative reactions to women's rights and gender equality in the EU, available from: https://www.europarl.europa.eu/doceo/document/B-8-2019-0096_CS.html
- 19 The portal Seznam Zprávy - List of Conspiracy Theory Reports associated with the Convention named the biggest fake news of 2018, see: <https://www.seznamzpravy.cz/clanek/top-5-nejvetsich-fake-news-ktere-loni-kolovaly-internetem-62806>
- 20 The government's Department for Equality and Men also talks about the disinformation campaign (Marvánová Vargová, 2018).
- 21 See EIGE web: <https://eige.europa.eu/gender-equality-index/2019/SE>
- 22 The topic appeared many times in the mainstream media, at random: <https://www.washingtonpost.com/news/worldviews/wp/2016/06/10/the-best-countries-for-gender-equality-may-also-have-a-domestic-violence-problem/>
<https://www.forbes.com/sites/realspin/2016/02/18/bernie-sanders-scandinavian-utopia-is-an-illusion/#454b35491aab>
či <https://www.thelocal.se/20190329/number-of-victims-of-fatal-domestic-violence-in-sweden-doubled-last-year>
- 23 The FRA already mentions a joke or an unpleasant comment in its research on violence against women – see European Union Agency for Fundamental Rights (2014).
- 24 A specific feminist term is also the so-called “male gaze” – see <https://www.oxfordreference.com/view/10.1093/oi/authority.20110803100128610>
- 25 In this context, we can mention that as part of the preventive actions associated with the #metoo campaign in the Anglo-Saxon sphere, e.g. Netflix issued instructions for its employees in which they banned “staring for more than 5 seconds”. See e.g.: <https://www.nationalreview.com/2018/06/netflix-five-second-staring-rule/>
- 26 These countries are particularly sensitive in cases of violence against children; Sweden banned corporal punishment as early as 1979. – see <https://sweden.se/society/smacking-banned-since-1979/>
- 27 In Norway, for example, parents have to reckon with the fact that one slap may be the cause for going to prison for up to 6 months, paying high fines; similar cases often end in the complete removal of the children from the family and handing them over to foster parents. One of the stories when the mother was fined for beating and the children ended up in foster care was brought by idnes.cz in an interview with Nor Tor Berglid – viz https://www.idnes.cz/zpravy/zahranicni/norsko-odebirani-deti-barnevern-socialni-sluzbator-age-berglid-rodice-barnets-beste.A180730_141647_zahranicni_fer.
- 28 E.g. tax advisor Veronika Mindlová, who runs the vyzivne.com website, presented an overview of errors that occur in the calculation of maintenance by judges at a seminar on maintenance at PSP on 26 October 2018; one of them was the calculation of alimony from the company's total gross income. Více: <https://vyzivne.com/pozvanka-na-seminar/>
- 29 For example, the work of experts holding the theory of the so-called “gender scepticism”, e.g. here: <http://www.work-with-perpetrators.eu/index.php?id=101&L=0>
- 30 The co-author of this article had a similar experience – viz <https://hradecky.denik.cz/zlociny-a-soudy/prelom-soud-priznal-muzi-odskodneni-za-stalking-od-dvou-zen-20140425.html>
- 31 Thus, even in the case of sexual harassment as defined in article 40, as described above.
- 32 Only articles 35, 36, 37, 38 a 39.
- 33 The family may be in conflict with the neighbour for various reasons; the mother-in-law may be motivated by exaggerated worries, the lover by revenge or an effort to speed up the separation of the original couple.
- 34 Typically female non-profit organizations.

- 35 Among other things, called it “ideological evil”, see: https://www.idnes.cz/zpravy/domaci/istanbulska-umluva-urad-vlady-zeny-domaci-nasili-komentare-glosy-nazory.A190913_104404_zahranicni_jadv
- 36 See e.g. (Čírtková, 2017).
- 37 For example, PhDr. Mgr. Jeroným Klimeš, Ph.D., in his text from October 2018, the Istanbul Convention is too general and extremist; available from: http://klimes.mysteria.cz/clanky/psychologie/istanbulska_umluva.htm
- 38 See e.g. in a press release for the seminar from 14 May 2017, entitled Parents Must Know What to Agree on after the Divorce; available from: <https://www.zdechovsky.eu/aktuality/rodice-musi-vedet-na-cem-se-maji-po-rozchodu-domloutvat>
- 39 The Government’s Office has published a publication entitled Analysis of the Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in Selected States of the Council of Europe, interpreting the conclusions of GREVIO (Government’s Office, 2019).
- 40 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2017\)14_Denmark_Baseline_Evaluation_Report_eng-34](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2017)14_Denmark_Baseline_Evaluation_Report_eng-34)
- 41 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2019\)18_Italy_Baseline_Evaluation_Report_eng-41](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2019)18_Italy_Baseline_Evaluation_Report_eng-41)
- 42 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2017\)13_Albania_Baseline_Evaluation_Report_eng-46](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2017)13_Albania_Baseline_Evaluation_Report_eng-46)
- 43 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2018\)16_Portugal_Baseline_Evaluation_Report_eng-32](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2018)16_Portugal_Baseline_Evaluation_Report_eng-32)
- 44 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2017\)3_Monaco_Baseline_Evaluation_Report_eng-35](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2017)3_Monaco_Baseline_Evaluation_Report_eng-35)
- 45 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2019\)16_France_Baseline_Evaluation_Report_eng-39](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2019)16_France_Baseline_Evaluation_Report_eng-39)
- 46 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2019\)19_Netherlands_Baseline_Evaluation_Report_eng-46](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2019)19_Netherlands_Baseline_Evaluation_Report_eng-46)
- 47 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2017\)3_Monaco_Baseline_Evaluation_Report_eng-23](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2017)3_Monaco_Baseline_Evaluation_Report_eng-23)
- 48 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2019\)9_Finland_Baseline_Evaluation_Report_eng-31](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2019)9_Finland_Baseline_Evaluation_Report_eng-31)
- 49 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2018\)16_Portugal_Baseline_Evaluation_Report_eng-28](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2018)16_Portugal_Baseline_Evaluation_Report_eng-28)
- 50 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2017\)4_Austria_Baseline_Evaluation_Report_eng-26](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2017)4_Austria_Baseline_Evaluation_Report_eng-26)
- 51 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2018\)15_Sweden_Baseline_Evaluation_Report_eng-32](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2018)15_Sweden_Baseline_Evaluation_Report_eng-32)
- 52 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2019\)19_Netherlands_Baseline_Evaluation_Report_eng-36](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2019)19_Netherlands_Baseline_Evaluation_Report_eng-36)
- 53 “Ensure that the risk of witnessing future violence against a close person is recognised as the perpetrator jeopardising the best interests of the child”
- 54 “Adopt gender-sensitive guidelines to ensure that the gender-based nature of the violence and the impact of any power imbalance in the relationship on the ability to negotiate fairly are recognised and that necessary support requirements for women victims of violence are in place in child procedures”
- 55 “Restrict the custody and visitation rights where this is warranted to guarantee the safety and best interests of the child.”
- 56 Direct link: [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2018\)5_Montenegro_Baseline_Evaluation_Report_eng-34](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2018)5_Montenegro_Baseline_Evaluation_Report_eng-34)
- 57 See [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2017\)13_Albania_Baseline_Evaluation_Report_eng-34](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2017)13_Albania_Baseline_Evaluation_Report_eng-34)
- 58 See [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2018\)6_Turkey_Baseline_Evaluation_Report_eng-40](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2018)6_Turkey_Baseline_Evaluation_Report_eng-40)
- 59 See [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2019\)16_France_Baseline_Evaluation_Report_eng-32](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2019)16_France_Baseline_Evaluation_Report_eng-32)
- 60 See [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2019\)18_Italy_Baseline_Evaluation_Report_eng-33](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2019)18_Italy_Baseline_Evaluation_Report_eng-33)
- 61 See [http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf\(2019\)20_Serbia_Baseline_Evaluation_Report_eng-35](http://hudoc.grevio.coe.int/eng?i=GREVIO-Inf(2019)20_Serbia_Baseline_Evaluation_Report_eng-35)

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 **Contact:**

Jitka Fialová, University of South Bohemia in České Budějovice, Faculty of Health and Social Sciences, J. Boreckého 27, 370 11 České Budějovice, Czech Republic
Email: fialova@zdechovsky.eu