

PES Women Briefing

Istanbul Convention

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1. Background: Violence against Women in Europe

Violence against women is a serious violation of the human rights of women and girls. There are many different interrelated and overlapping forms of violence against women, such as: domestic violence, sexual violence including rape, human trafficking, female genital mutilation, physical violence, sexual harassment, forced marriage, 'honour' crimes, psychological violence including stalking and verbal abuse in public places. In addition, women now experience violence online, which has implications for the offline world. Most forms of violence against women are inflicted on them by men and is therefore considered gender-based violence.

Violence against women generates costs for the society as a whole. In addition to the immeasurable physical and psychological cost of trauma, the total cost of gender-based violence in the EU is estimated to be close to €256 billion, 87% of which (almost €226 billion) come from violence against women specifically.¹

Its causes are varied and interrelated, but gender-based violence is deeply rooted in gender inequality and power structures. Poverty, economic dependency, and women being in an unequal and disadvantaged position to men facilitate violence against women. In the EU:²

- One in three women has been a victim of physical and/or sexual violence since the age of 15.
- One in 20 women has been raped.
- One in two women has experienced sexual harassment.
- One in three women has experienced psychological abusive behaviour by a partner.
- One in three women has experienced physical or sexual violence by an adult during childhood.

¹ <https://eige.europa.eu/gender-based-violence/estimating-costs-in-european-union>

² <https://eige.europa.eu/gender-based-violence/what-is-gender-based-violence> ;
<https://eige.europa.eu/gender-based-violence/cyber-violence-against-women> ;
https://ec.europa.eu/info/sites/info/files/factsheet_istanbul_convention_web_en.pdf ;

- One in ten women has experienced online harassment since the age of 15.
- One in five women has experienced stalking.

It is for these reasons that the *Council of Europe Convention on preventing and combating violence against women and domestic violence* (the Istanbul Convention)³ was drawn up in 2011, aiming at combatting violence against women and domestic violence. It is the first instrument in Europe to set legally binding standards specifically to prevent gender-based violence, protect victims of violence and punish perpetrators. The Convention defines and criminalises the various forms of violence against women as well as domestic violence. Accession to the Convention would be a major step forward in making Europe a safer place for and to have a comprehensive approach towards all women and girls. This is particularly important since intimate partner violence has risen in Europe during the COVID-19 lockdown and women have had difficulty accessing helplines and shelters. According to a recent study by the European Parliament,⁴ while domestic violence is notoriously hard to measure and there are concerns about how lockdown has limited women's ability to report domestic violence, calls to domestic violence hotlines have increased by 20 – 60 % across the EU. This shows the seriousness of the situation and the need for decisive action at EU level.

2. Key aspects of the Istanbul Convention

- It addresses violence against women through measures aimed at 1) preventing violence, 2) protecting victims, and 3) prosecuting perpetrators.
- It recognises violence against women as a human rights violation.
- It aims at bringing societal change by challenging acceptance or denial of such violence and gender stereotyping.⁵ It calls on men and boys to become key actors in this process.
- It protects victims from all types of violence regardless of Member State.

3. Objectives of the EU ratification of the Istanbul Convention

- Step up education and awareness-raising to increase understanding of the issue of violence against women and its consequences.
- Improve skills of professionals working in the field, allowing for better support and advice for women experiencing violence.
- Support the role of NGOs, civil society and the media in combatting violence against women.
- Give victims of violence a stronger role and better rights in criminal proceedings.
- Improve the reporting of incidents of violence against women.

³ <https://www.coe.int/en/web/istanbul-convention/the-convention-in-brief>

⁴ [https://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU\(2020\)658227](https://www.europarl.europa.eu/thinktank/en/document.html?reference=IPOL_STU(2020)658227)

⁵ <http://www.ohchr.org/EN/Issues/Women/WRGS/Pages/GenderStereotypes.aspx>

4. Opportunities of the Istanbul Convention

- **Implement a step-by-step action plan with concrete measures to prevent violence against women and domestic violence** on state level, including to create a Europe free from all forms of violence against women and domestic violence and having women and men work hand in hand to break down harmful stereotypes and to end discrimination and misogynistic attitudes towards women.
- **Guarantee a structure and follow-up procedure to provide victims and witnesses with protection and support.** This means police intervention and protection as well as specialised support services such as shelters, telephone hotlines, accessible rape crisis or sexual violence referral centres etc. Ensure trainings for general social services to understand the realities and concerns of victims of domestic violence and violence against women and support them accordingly in their quest to rebuild/resume their lives, making sure victims are informed of their rights and know where and how to get help.
- **Establish a comprehensive legal framework, introducing a number of new offenses that do not exist yet,** targeting psychological and physical violence, sexual violence and rape, stalking, female genital mutilation, forced marriage, forced abortion and forced sterilisation. In addition, state parties will need to ensure that culture, tradition or so-called 'honour' are not regarded as a justification for any of the above-listed courses of conduct.
- **Build up an effective collaboration amongst all involved actors.** The Convention asks state parties to implement comprehensive and co-ordinated policies involving government agencies, NGOs as well as national, regional and local parliaments and authorities. The aim is that policies to prevent and combat violence against women and domestic violence are carried out at all levels of government and by all relevant agencies and institutions.
- **Improve and implement gender equality policies and empower women.** The Convention frames the eradication of violence against women and domestic violence in a context of achieving de jure and de facto equality. Its preamble recognises the structural nature of such violence, which is both a cause and a consequence of unequal power relations between women and men and which limits the full advancement of women.
- **Broaden the scope of impact towards men.** The Convention also recognises that there are other victims of domestic violence, such as boys and men. This may include gay men, transgender men or men that do not conform to what society considers appropriate behaviour. States can choose whether or not to apply the Convention to these victims of domestic violence.
- **Protect migrant women, women asylum-seekers and women refugees.** The Convention prohibits discrimination on the grounds of migrant or refugee status when it comes to implementing its provisions. It contains a number of obligations that aim at

generating a gender-sensitive understanding of violence against migrant women and women asylum-seekers, establishing the obligation to introduce gender-sensitive procedures, guidelines and support services in the asylum process. It reiterates the obligation to respect a well-established principle of asylum and of international refugee protection, which is the principle of nonrefoulement.

- **Strengthen and support the work of non-governmental organisations.** The Convention recognises the work of NGOs and seeks to ensure greater political and financial support for their work. It includes provisions that oblige parties to encourage and support their work by tapping into their expertise, involving them as partners in multi-agency co-operation and supporting their awareness-raising efforts. NGOs will also play a role in the monitoring of the implementation of the Convention.
- **Address special vulnerability of children.** Exposure to physical, sexual or psychological violence and abuse has a severe impact on children. It breeds fear, causes trauma, and adversely affects their development. In order to counteract these harmful consequences for the health and lives of children in the context of violence against women and domestic violence in its direct or indirect form, the Convention encourages several provisions that deal explicitly with children in the area of prevention, protection and persecution.

5. State of Play: Ratification Process

So far, **all Member States have signed the Convention but only 21 of them have ratified it** (Austria, Belgium, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Italy, Ireland, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovenia, Spain, Sweden). In September 2020, six Member States have not yet ratified the Convention (Bulgaria, Czech Republic, Hungary, Latvia, Lithuania, Slovakia). In total, 34 Council of Europe members have ratified the Convention, whilst 12 countries have signed but not ratified.⁶

Unfortunately, a vast majority of the countries which have not yet ratified fail to consider the Convention as the best available instrument when it comes to fighting violence against women. The reluctance to ratify the text is often based on conservative, populist misconceptions and misleading arguments regarding how the words 'gender', 'gender identity' and 'sexual orientation' are used in the document. Caught up in a wave of conservatism and regressive policies, the debate around the Convention is more and more being used for the purpose of political strategizing and blanks out its basic aim of combating violence against women. Some Council of Europe Members such as Poland and Turkey even communicated their intention to withdraw from the Convention.

The EU signed the Istanbul Convention in 2017 with the intention of acceding as far as its competences allow. Concluding the EU's accession to the Convention is one of the priorities in the European Commission's new EU Gender Equality Strategy 2020-2025. Accession is supported by the European Parliament, but negotiations are still ongoing in the Council. The

⁶ <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures>

European Court of Justice was supposed to present a legal opinion on the Convention, with the purpose of clarifying the legal uncertainty about the accession and resolving how EU ratification can be possible, but this has been postponed to 2021.⁷

6. Debunking False Arguments and Myths about the Istanbul Convention⁸

- *The Istanbul Convention promotes homosexuality, transgender identity, 'LGBTI ideology' and 'destructive gender ideology' in schools and is being used by international lobbies to force recognition of a 'third gender'.*

False: Although the Convention does state that gender equality must be enshrined in the constitutions of all signatory states, there is no mention of a third gender or equal marriage. A 'third gender' is not introduced by the Convention, nor is there an obligation to recognise it. States are only required to protect victims' rights without discrimination on any grounds, including sex, race, religion, language, age, marital status, sexual orientation, and gender identity. The Convention is about domestic violence and violence against women. The text just separates the terms "sex" and "gender"; gender refers to how social structures can lead to a lack of respect for women's rights, resulting in increased violence, thus serving as an interpretation tool. Regardless, it does not force countries to adopt that position nor does it replace any biological definition or the use of the terms 'woman' and 'man'. When it comes to education, the Convention does not impose a specific education model for teaching gender equality and fighting stereotypes. States are free to take into account different possibilities when choosing the most appropriate teaching material and approach.

- *The Istanbul Convention threatens the nuclear family and traditional family values.*

False: The Convention poses no threat to the 'traditional' concept of family. The Convention does not regulate family life or structures and states do not have to change the traditional understanding of families, nor religious beliefs. The Convention only states that traditions, culture or religion cannot be used as a justification for acts of violence against women. The Convention does not affect national civil law rules on same-sex marriage. No specific lifestyle is promoted, and the Convention merely stipulates that women who are subjected to domestic violence have the right to receive protection and the support they need to leave a violent relationship.

⁷ <https://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-eu-accession-to-the-istanbul-convention>

⁸ Read more about the myths and how to debunk them:

<https://ec.europa.eu/justice/saynostopvaw/downloads/materials/pdf/istanbul-convention-leaflet-online.pdf> ;
<https://euobserver.com/opinion/149358>

- *The Istanbul Convention legitimates illegal migration.*

False: The Convention does not call for a new refugee status. Instead, it is about women's right to due asylum procedure, taking into account why they are seeking protection, adopting a gender-sensitive approach and additionally considering the violence aspect. Existing migration and asylum policies are not put into question. The Convention does recognise that migrant women and women asylum seekers are particularly vulnerable to gender-based violence and asks states to take into account the specific needs of these women.

- *The Istanbul Convention only cares about women, not men who also experience domestic violence.*

False: Men who experience violence are not excluded. The provisions on domestic violence can be applied to men and boys too, if the states so chose.

- *Because a large majority of citizens oppose ratifying the Convention, progressive forces should withdraw from their commitment to the Istanbul Convention.*

False: Being more a false conclusion than an affirmation, it is important that progressive actors such as political parties, women's organisations and other forces from civil society determine the public debate around this topic based on facts and not false information. Instead of justifying one's own position with an argumentation represented by the majority of the population, it is in the hand of the progressive actors to un-divide the split in people's minds, to argue against misconceptions fuelled by populist parties and to shift the debate towards the true and important subject of violence against women and domestic violence in all its forms.

- *Ratifying the Istanbul Convention will lead to negative changes in the constitution of a Member State.*

False: While ratifying the Convention can lead to changes in the constitution, the question here at stake is, what this means in terms of a country's constitution; If constitutional texts do not comply with the standards of the Istanbul Convention to end all forms of violence against women, one may want to question the human rights – and thus women's rights – credentials of such a constitution.

- *Ratifying the Istanbul Convention is not necessary, when a government puts in place national legislations/an alternative text to combat violence against women instead.*

False: The Convention is the first legally binding instrument which creates a comprehensive legal framework and approach to combat violence against women, which has been put forward by joint forces of multiple nations. All women across Europe and neighbouring countries will enjoy the same rights, protection and support because violence against women does not know borders. That is why the Convention will not only send a clear message to recognise violence



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against women as a human rights violation, but also provide equal rights and treatment for all women despite their geographic location, including women refugees. Its functionality and implementation will be coordinated and audited on a wide European level. Finally, the provisions of the Convention do not become law in Member States unless and until they are ratified by the individual nation states in question, for which reason it is even more crucial to promote its effect on the improvement of women's lives.