

The Convention on preventing and combating violence against women and domestic violence, so called the Istanbul Convention, turned 11 years old in May this year 2022.

It seems few in the eyes of the instruments that preceded it and inspired those who drafted it.

CEDAW, for example, was born in the late 1970s against all discrimination against women, but does not mention violence. Not because it was unwanted, but at that time violence against women, including domestic violence, was not yet a matter of public opinion. CEDAW incorporated this issue with Recommendation No. 19, in 1993, when the time was ripe and the voice of women's movements had managed to break the wall of silence, of shame, of fear, because what happened in private, within a couple, within a family, could no longer remain taboo. Recommendation 19 was later expanded and renewed until the present day with Recommendation 35 of 2017.

There are also other similar, sister conventions that predate the ICC, and which have, like the Istanbul Convention, a regional scope. For example, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, better known as the Convention of Belém do Pará, the first of the regional conventions on the human rights of women specific to violence, adopted by the Inter-American Commission on Women (IACHR) of the Organisation of American States at a conference in Belém do Pará, Brazil, on 9 June 1994. It is the first international treaty that binds the countries of Latin America (Central and South) and criminalises all forms of violence against women, in particular sexual violence. In 2004, the Convention was equipped with a follow up mechanism, a monitoring mechanism, with the MESECVI agency to ensure compliance with the Convention by the contracting states.

I also recall the other sister convention, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa of 2003, the so-called Maputo Protocol, by the African Union, ratified today by 42 states. Difficult to enforce because some states have partly delegitimised the protocol, which has reduced, for example, female genital mutilation and forced marriage as traditional practices and not as forms of violence and thus human rights violations to be prosecuted as crimes.

In 2005, the council of Europe, comprising 47 member states from Russia, now suspended due to the war in Ukraine, to Portugal, questioned what to do to equip itself with instruments to prevent and combat violence against women. From an initial survey that was carried out in 2007 among the various member states, it became clear that laws, measures and the meaning and meaning of certain words and crimes changed from country to country. One could no longer pretend that this phenomenon did not exist, that it was sporadic or marginal. The convention was born precisely out of the need to give an answer to a phenomenon that affects all women in the world, to create a standard and a common language, to set up a systemic work thanks to the provisions that make it clear to all states that gender-based violence against women is a violation of human rights and gender discrimination, which is based on patriarchal culture, on the mechanisms of subordination continued over centuries of men over women of all ages.

This European legal instrument was negotiated by the political representatives of 47 Member States with experts in the field between 2009 and 2011. The text was adopted on 7 April 2011 by the Committee of Ministers and opened for ratification by the member states.

The convention is known as the Istanbul Convention after the city where it was opened for signature on 11 May 2011. There was great hope, a wind of change. In fact within 3 years it entered into force, on 1 August 2014, following the tenth ratification. Today, 2022, 35 governments have ratified the treaty, binding themselves to its obligations. In addition, 12 member states have signed it, along with the European Union.

We can clearly say that the CoE is the most relevant legal document adopted so far in the European context to prevent and combat violence against women and domestic violence, and the Council of Europe, which is

an institution that promotes democratic processes, plays a great role in guiding the policies of the states that have ratified it.

The Council of Europe's mechanisms to compel the implementation of the CoE rely on the independent monitoring mechanism of GREVIO, the group of experts against violence, the only one authorised to interpret the Convention itself and to signify it in its monitoring reports and recommendations.

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Moreover, we should not forget that the jurisprudence of the European Court of Human Rights on the issue of violence against women is increasingly moving towards an interpretation of the provisions of the ECHR in the light of all the provisions and principles of the Istanbul Convention and the Grevio reports.

I would like to remind you that the European Court acts to ensure the application of and respect for the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), of which the Istanbul Convention itself is a child.

The European Court of Human Rights is based in Strasbourg and can be accessed by anyone who claims to be a victim of a violation of the rights enshrined in the ECHR by national authorities. It can be accessed as a last resort after having completed the internal procedure in one's own country to establish the existence of a violation. The Court can therefore condemn a state, pushing it to take all necessary measures to avoid new violations in the future.

In the Convention's 11 years of existence, there have been many achievements but also many attacks.

In the first years of its existence, Grevio received a letter of request from about 300 organisations to amend Article 14 on education, due to a misinterpretation of the word Gender Stereotypes.

Surely there are different ways of interpreting the words. For the Convention, reproducing gender stereotypes in education means restricting the development of girls' and boys' natural talents and abilities, their educational and professional choices and their life opportunities. The education children receive significantly influences the way they think about themselves, their peers and the way they interact with the opposite sex. Nothing taught in educational institutions should lead the younger generation to believe that gender discrimination and violence against women are acceptable. This is why the Istanbul Convention seeks to promote, through the educational sector, the values of gender equality, mutual respect and non-violence in interpersonal relations, non-stereotypical gender roles, the right to personal integrity and awareness of gender-based violence and the need to combat it (Article 14). Teaching children these values helps them to become respectful and democratic citizens. It does not condition them in their sexual orientation or gender identity.

According to the convention, the use of the term 'gender' aims to recognise how harmful attitudes and perceptions about the roles and behaviour expected of women and men in society play a role in perpetuating violence against women. This terminology does not replace the biological definition of 'gender', nor those of 'women' and 'men', but aims to emphasise how inequalities, stereotypes and violence do not stem from biological differences, but from harmful preconceptions about women's attributes or roles that limit their ability to act. The Convention speaks of the 'gendered' nature of violence against women or 'gender-based violence' because it addresses forms of violence that are directed against women because they are women and/or affect women disproportionately.

Accordingly, the Convention frames the elimination of violence against women and domestic violence in the context of achieving gender equality de jure and above all de facto. 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.

This is not the first time the term 'gender' has appeared in international legal instruments. However, the difficulties in translating the term 'gender' and distinguishing it from the term 'sex' in languages that do not have an exact equivalent have sometimes been used to fuel controversy over the convention and its implications. Such difficulties cannot become a pretext for rejecting the Convention or an obstacle to its implementation: the Convention does not require an adaptation of national legal systems to incorporate the use of the term 'gender', but uses it to explain the purpose of the measures it asks states to adopt and implement. The Convention has already been ratified and implemented in countries that use languages that do not have an exact equivalent of the term 'gender' (belonging to different linguistic groups, such as the Germanic, Romanic and Slavic families), without this having led to controversy.

Another major obstacle that has often allowed the spirit and values of the convention to be misunderstood is the protective measures aimed at women in particular in the domestic sphere. Among the toxic narratives around the convention is the one about the convention's provisions promoting the destruction of families because it empowers women to leave men. I wonder, since when has ensuring more rights for women been a threat to families?

The Convention is not intended to regulate family life and/or family structures; likewise, it does not contain a definition of 'family', nor does it promote a particular type of family environment. The Convention requires governments to ensure the safety of victims who are at risk in the home or are threatened by family members, spouses or intimate partners, which unfortunately represent the most common form of violence. Since the goal is to address violence against women and domestic violence wherever it occurs, the Convention does not limit its application to legally married partners, but extends it to all partners, married or not, whether same-sex or different-sex. No group of victims is excluded from protection on the basis of their marital status or other grounds of discrimination covered by the Convention, including sexual orientation and gender identity.

For anyone living in an abusive relationship, the convention aims to provide safety, protection and support and to offer the prospect of rebuilding a life without violence. This is especially important when children are involved, because witnessing abuse/violence in the home is not only psycho-emotionally damaging for children but is also the best way to transmit violence to the next generation. This is why the Convention prioritises safety over visitation and foster care rights in families scarred by violence.

The Istanbul Convention does not question the benefits of shared custody in conflict situations but distinguishes conflict from violence in the family. It therefore aims to ensure that contact with children

does not jeopardise the rights and safety of female victims and children. The real threat to families is the violence itself, not the measures intended to protect and support those who experience and witness violence.

These disputes have led to internal rifts within governments and countries that have not always patched up.

I recall that the first of the signatory states, Turkey, notified its withdrawal from the Convention in March 2021, which entered into force on 1 July 2021. Turkey's exit was a bitter moment, and I imagine even more bitter for that civil society of women who work tenaciously in their country for the advancement of human rights, for their sisters who suffer violence, for themselves.

Today, for all of them, the Convention is no longer an umbrella under which to seek shelter. For Turkey, it is no longer an obligation to pursue, so there is no longer a Convention that serves as an international standard because it was agreed by so many countries at once through a consensual path. Turkey's exit is a unicum in human rights conventions. A Unicum let me say from my personal point of view that it touches women, half the world in the first place but actually touches the whole world without distinction.

Turkey's exit left not only the world of civil society organisations bewildered. As a reverse reaction, many states relaunched the work of the Council of Europe by actively working to have the Istanbul Convention ratified, and other countries outside the Council of Europe region also expressed their interest in joining, as required by the Convention, for example Tunisia and Israel.

Another hope that has stalled in the process is the EU's ratification. The EU signed the Convention in 2017 and as you know, full consensus was not reached to ratify the Istanbul Convention by all EU member states, in particular Bulgaria. Ratification with the EU would have involved some important chapters of the Convention such as the chapter on crimes of violence and the chapter on asylum seeker migration. In 2021, the EU Advocacy issued an opinion at the request of the European Parliament, in which, among many legal aspects dealt with, it stated that ratification can proceed even without all EU Member States being parties to the Istanbul Convention.

In order to overcome this impasse and to fill an important gap in terms of EU jurisprudence on the specificity it entails, on 8 March 2022, the European Commission presented the proposal for a directive on combating violence against women and domestic violence along the lines of the IC provisions.

GREVIO has followed with interest the development of the draft EU Directive on Violence against Women. In many ways it can be seen as being complementary to the Istanbul Convention, and this is what has been emphasised by our colleagues in the European Commission.

The list of "computer crime" offences in the Directive is one example. This gives me the opportunity to point out something that is not very widely known about the Istanbul Convention, namely that it extends to many forms of violence perpetrated online or through technology. The drafters had understood violence against women in the online sphere as a continuation of violence against women in the offline sphere, and GREVIO recently offered an extensive interpretation of what this means. So, although it is not referred to in the Directive, GREVIO's first General Recommendation on the Digital Dimension of violence against women explains how the Istanbul Convention's provisions on psychological violence, stalking and sexual harassment can and must be applied to investigate and prosecute those forms of violence against women that are perpetrated on-line.

Against this backdrop, it appears that there is a range of online behaviour harmful to women and girls that do not seem to come within the remit of the draft Directive, but is covered by the Istanbul Convention. For

example, cyber flashing, that is, the sending of unsolicited sexual images to a victim using message Apps or texts would be covered by the definition of sexual harassment of the Istanbul Convention, but would not necessarily be covered by Article 7 of the draft Directive (on Non-consensual sharing of intimate or manipulated material), because of the requirement to share images with other parties. Likewise, harmful online behaviour perpetrated by an abusive partner against a victim would not come under the provision of cyber harassment in the draft Directive, whereas it is captured by the offence of psychological violence under the Istanbul Convention. The Directives' provision on Cyber-harassment in fact requires the element of concertation with third parties and the making material available to a multitude of end users, requirements which do not have to be met under the Istanbul Convention.

On another point, as you may know, the Istanbul Convention understands violence against women as a gendered phenomenon. This means that it frames it as a woman's rights issue and considers it to be the fruit of persisting inequalities and discrimination against women.

I will give you some examples of how this understanding runs through the convention and what it means. Research shows that domestic violence is cyclical and recurring in time; it also shows that leaving an abusive relationship is not a "one-off" event but a process and a risk factor that can cause the violence to escalate. GREVIO has observed throughout its monitoring that where law enforcement officers and criminal justice actors lack an understanding of the processes and dynamics of domestic violence, including its gendered nature, they may not adequately assess a woman's risk, and may not adequately apply the existing legal instruments available, such as protection orders.

The Convention's requirement to ensure effective and prompt investigations through a women's rights lens is essential in creating a justice system responsive to the experiences of women and girl victims of violence.

This women's rights lens is also visible in the requirement to ensure the provision of support services that are mindful of the many ways in which violence such as rape, sexual harassment, stalking etc impacts specifically on women, that is free of gender stereotypes and that seeks to empower women and girls. The Convention gives a role to those specialist support services that have long been offering this type of empowering support, by asking that their expertise be recognised, and their funding secured so that they can continue to play an important role.

These are all crucial elements to ensure an approach to the different forms of violence against women that truly corresponds to the rights and needs of the women and girls who experience such violence. It is what makes the Istanbul Convention so innovative and is the basis on which GREVIO has identified shortcomings in many countries, including EU countries, notably in the way that tendering procedures jeopardise the important work of specialist support services run by women's NGOs and associations because they put them in competition with the private sector. It is on the basis of our monitoring work that I can say with conviction that any future legal instrument on violence against women in Europe and elsewhere would need to follow this approach of promoting women's rights, gender-sensitive policies and true consideration for the persisting inequalities between women and men, gender stereotypes, prejudice and customs that influence the responses of professionals.

Dear students and participants, we cannot underestimate the Istanbul Convention, which offers a comprehensive set of standards and has been recognised by the United Nations as the gold standard in this area. It addresses violence against women from all possible perspectives, including prevention, protection, prosecution and civil action, as well as integrated policies that apply a 'women's rights' lens.

The convention criminalises all major forms of violence against women and is therefore essential to achieve more uniform levels of criminalisation in the different European jurisdictions. In addition, it addresses in depth the implications of gender-based violence for migrant and asylum-seeking women and how to ensure their safe reception - an issue of utmost relevance today when 'fortress Europe' is more than ever

the arrival ground for thousands of people shaken by wars and the consequences of natural disasters and climate change.

Furthermore, the Istanbul Convention through GREVIO and the independent monitoring mechanism provides tailor-made guidance to member states. Each State has its own specificities and I assure you, having served GREVIO for 7 years, I can say that this kind of in-depth guidance is highly appreciated by the States Parties who engage with our findings and actively work to improve their level of implementation of the Istanbul Convention.

In summary, the eleven years of action in implementing the Istanbul Convention have demonstrated its added value as an international legal instrument that goes beyond the borders of the EU.

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Dear all, this is the end of my speech, but to you goes my hope that through the Jean Monet course you will be able to achieve the goals that it sets out to achieve and that will help in the future to better implement the Istanbul Convention,

-a) promote European values of equal opportunities and dignity between women and men as fundamental rights beyond cultural and country differences; b) encourage active European citizenship in a globalised world, strengthening the voice and position of women in civil society and supporting the future of democracy; c) facilitate dialogue between peoples.