

FEM IUS

SHADOW REPORT

**FOR THE GREVIO BASELINE EVALUATION PROCEDURE OF THE
EUROPEAN UNION'S IMPLEMENTATION OF THE COUNCIL OF
EUROPE CONVENTION ON PREVENTING AND COMBATING
VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE**

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This report was written by Elena Laporta Hernández and Samara de las Heras Aguilera on behalf of Fem Ius, an organisation advocating for women's rights.

FEM IUS

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Fem Ius is an organisation that, from a rights-based, gender and intersectional approach, advocates for all women to be able to fully exercise their rights, free from discrimination and violence. It is coordinated by two jurists, Elena Laporta Hernández and Samara de las Heras Aguilera, who have a broad experience in research, legal aid and support for victims of violence against women, as well as in advisory and consultancy services at European, national and local level.

During the last legislative mandate of the European Parliament (2019-2024), we both worked as legal advisors to the First Vice-President of the Committee on Gender Equality and Women's Rights, which allowed us to establish contacts with numerous institutions, political representatives, organisations and experts in the field. We have also been part of the European Parliament's negotiating teams regarding several files and, in that context, contributed to the reports, resolutions and directives mentioned in this document, in particular to the Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence.

Considering that this role provides us with privileged knowledge, we submit this shadow report in the hope that it will contribute to the baseline evaluation procedure of the EU's implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence.

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Views and opinions expressed in this report are those of the authors.

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1. Introduction

This report does not intend to provide an exhaustive analysis of the role and obligations of the European Union in relation to violence against women following the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (hereinafter, the 'Istanbul Convention'), but rather to highlight some issues that we believe may be decisive in its proper implementation, being aware of the limited competences of the European Union (matters related to judicial cooperation in criminal matters, asylum and non-refoulement and institutions and public administration of the Union).

As stated in the Baseline report, Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence (hereinafter, 'the Directive') builds on the Istanbul Convention and aims to implement its main sections in the area of judicial cooperation in criminal matters. It is a key instrument for addressing gender-based violence within the European Union.

In our opinion, the Directive was the best possible agreement at the time of its adoption, given the political situation at that period and its enormous potential to harmonise the differences that exist in legislation and public policies between Member States. In addition to the challenges involved in its implementation in a global context of backlash against advances in women's and girls' rights, especially with regard to combating gender-based violence, we believe it is also important to address some issues that remain unfinished.

GREVIO has repeatedly highlighted the importance of adopting comprehensive approaches that address all forms of violence against women. In this regard, we consider that the refusal to recognise violence against women as one of the crimes listed in Article 83(1) of the Treaty on the Functioning of the European Union (hereinafter, "TFEU") has hindered the scope of the Directive and the protection of women and girls from such common forms of violence as sexual violence. We therefore devote the first section of this Report to this issue.

Furthermore, GREVIO has expressed concern over the fact that rights are not equally guaranteed to all women and girls. In this regard, it is essential to provide substance and practical guidance so that intersectionality does not remain an empty concept and can reach its full potential, as we argue in the second section.

The third section covers another key part of fighting violence against women: coordination to make sure that existing laws and policies are implemented in a consistent and comprehensive way at the European, national, and local level. This calls for well-articulated multi-institutional cooperation mechanisms and the effective involvement of civil society organisations, which are often the ones protecting, supporting, and repairing survivors of violence against women.

Finally, we cannot ignore the current context, in which thousands of women's voices around the world have uncovered the magnitude of forms of violence that were silenced or considered isolated cases. At the same time, we are confronted with global movements, with political and institutional representation at the highest level, which seek to impose narratives that deny or minimise violence against women and its structural nature, and advocate for setbacks in the protection of women's rights. Consequently, we discuss these issues in the last section, suggesting measures to combat these ideas, which are undoubtedly contrary to the values that are the foundation of the European Union and the Council of Europe.

2. Protecting women from all forms of violence

Protecting women against all forms of violence (linked with articles 1, 2, 7, 8, 10, 11, 12, 18, 24, 26, 48, 49, 50, 53, 62 of Istanbul Convention)

GREVIO often emphasises an issue that is widely accepted by International and European legislation on women's rights: women and girls must be protected from all forms of violence, understanding that these are "forms of gender-based violations of human rights and a worldwide phenomenon"¹.

However, with regard to the prosecution and punishment of crimes and, consequently, victims' access to justice, the list of crimes has been severely restricted in the Directive. Without disregarding the importance of recognising violence in the digital sphere, along with forced marriages and female genital mutilation, other crimes that affect thousands of women and girls in Europe, such as sexual violence, have been left out.

¹ GREVIO General Recommendation No. 1 on the digital dimension of violence against women, 2021. Available at: <https://rm.coe.int/grevio-rec-no-on-digital-violence-against-women/1680a49147>

In addition to outright opposition from some Member States, one of the major limitations to the Directive has been the failure to recognise violence against women as a EU crime, as well as the narrow (and incomprehensible) interpretation given to the EU crime of sexual exploitation of women and children (that left out rape), a crime which, together with human trafficking, is already recognised in Article 83(1) of the TFEU.

Since 2014, the majority of the European Parliament has repeatedly called for the inclusion of violence against women in Article 83(1) of the TFEU, as in [Resolution of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83\(1\) TFEU, 2021/2035\(INL\)](#).

We are not unaware of the difficulty of making progress in this area, given that, in addition to the European Parliament's consent, a unanimous Council decision is required², but it would be essential to have a strong legal basis for establishing common legal definitions of violence against women. In this regard, it should be noted that [a report made by the European Parliamentary Research Service](#) in 2021 concluded that violence against women meets the necessary criteria to be included in Article 83(1) of the TFEU and that this would likely generate greater harmonisation in the understanding and treatment of gender-based violence; greater prosecution of perpetrators and protection of victims in the short-term, and more prevention in the longer-term (effectiveness), ultimately leading to lower prevalence of this violence.

Considering that the Directive itself allows for the revision of the current list of offences, and that some of the Member States most reluctant to include such serious forms of violence against women as sexual violence, as France or Italy, are beginning to legislate on this matter, focusing on the lack of consent, it is worth advocating once again for the expansion of the list of so-called EU crimes to include violence against women and for the inclusion of rape in the Directive.

Beyond the criminal offences, the Directive in line with the Istanbul Convention, provides for measures to be taken in the areas of prevention, protection and support for survivors according to Article 1.2, meaning victims of acts criminalised under the Directive and victims of any other acts of violence against women or domestic violence, as criminalised under other European Union legal acts or under national law. That implies that there will be differences depending on national laws

²European Parliament has repeatedly called for the Council to activate the "[passerelle clause](#)" to add gender-based violence to the list of serious crimes that fall under Article 83(1) of the Treaty on the Functioning of the EU (TFEU) allowing the EU to move from unanimity voting to qualified majority.

regulating the different forms of violence against women. This should also be monitored.

3. Protecting all women, addressing their diverse realities and needs

Intersectional discrimination (linked with articles 4, 12, 18 Istanbul Convention)

One of the most recent legal milestones within the European Union has been the incorporation of the concept of intersectional discrimination into binding legal texts. First in 2023, in [Directive 2023/970](#) of the European Parliament and of the Council to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms, which defines intersectional discrimination, and a year later in [Directive \(EU\) 2024/1385](#) of the European Parliament and of the Council of May 14, 2024, on combating violence against women and domestic violence, in [Directive \(EU\) 2024/1712](#) of the European Parliament and of the Council, amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (although in the latter it is not included in the articles but in a whereas clause) and in the Directives on the Status and Powers of National Equality Bodies (EU) [2024/1499](#) and [2024/1500](#).

From our experience as advisors and negotiators in the European Parliament, but also considering other sources such as the European Parliamentary Research Service, which, in a [briefing on combating multiple discrimination through EU law and policy](#), refers to intersectionality as a “complex and contentious tool”, its implementation in relation to gender-based violence will undoubtedly be challenging. Therefore, within the powers of the European Union, its common understanding should be facilitated and tools for its use should be provided. We are particularly concerned about how it may impact access to general and specialized services and access to justice for women made vulnerable by particular circumstances and that might be experiencing intersectional discrimination facing an increased risk of violence against women.

4. Towards more complex, multidisciplinary and multi-stakeholder coordination

Coordinator on gender-based violence (linked with Article 10 Istanbul Convention)

Taking as a starting point Article 10, we consider that the measures implemented so far by the European Union and described in the Baseline Report are not strong enough.

The European Parliament suggested in its [report on the proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence](#) the establishment of and the tasks of a Coordinator on gender-based violence (recital 63b new, 65a, article 39a, and 43) who would have been "responsible for improving coordination among, and the coherence of the actions taken by, Union institutions, bodies, offices and agencies and Member States and international actors as regards combating violence against women and domestic violence and for developing and monitoring the implementation and transposition of Union policies to address gender-based violence".

And although it was not possible to incorporate it into the final text of the Directive, we believe that its creation would contribute to compliance with the provisions of the Istanbul Convention and the Directive in this area.

And not only because MEPs involved considered it so (taking into account the inputs received), but also because we already have a [EU Anti-Trafficking Coordinator](#) who has fulfilled a similar mission with outstanding results. What's more, as technical leaders in the negotiation of the anti-trafficking [Directive \(EU\) 2024/1712](#), we had the opportunity to work with the Coordinator hand-to-hand and verify the usefulness of the institution.

Non-governmental organisations and civil society (article 9 Istanbul Convention)

Finally, on civil society participation. Notwithstanding the fact that there are channels of communication available for citizens to share their views on new EU policies and existing law, such as [EU public consultations](#), we are concerned about the difficulty of accessing information on networks and the requirements for accessing them in relation to violence against women. This is the case of the CSO network to support the EU's

implementation of the Convention and the EU network on preventing gender-based violence and domestic violence, both mentioned in the Baseline Report on measures giving effect to the provisions of the Istanbul Convention.

5. Combat narratives that undermine rights

The process of ratifying the Istanbul Convention, both by the Member States and by the European Union, represents a paradigmatic case of how anti-gender narratives are occupying positions of power, from which anti-gender movements spread their agenda against women's rights and the fight against gender-based violence.

As you already know, there are still countries within the European Union that have not ratified the Istanbul Convention. Others are threatening to leave it. Bulgaria, Czechia, Hungary, Latvia, Lithuania and Slovakia have not ratified the Convention. The Polish government announced its intention to withdraw from the Convention even if this has not been enacted. Now Latvia is going in that same direction. And countries like Hungary are using the same anti-gender narratives to oppose the Convention.

As for the European Union, even if it also ratified it in 2023, it was after a long process of obstruction by some Member States, multiple calls by the European Parliament and civil society organisations and the intervention of the Court of Justice of the European Union. The resistance that still exists to the criminalization of gender-based violence and the protection of survivors is clear.

The European Parliament has pointed out this backlash on several [occasions](#). For its part, the European Commission in its [Roadmap for Women's Rights](#) highlights the worrying trends against women's rights that can be observed across the world, questioning existing gender equality legislation, and political discourse too often falling into sexism and gender stereotypes. The [LGBTIQ+ equality strategy 2026-2030](#) also refers to the growing spread of anti-gender and anti-LGBTIQ+ narratives both online and offline.

There has been an increase in voices denying gender-based violence. These narratives not only impact society's awareness of equality and violence against women: as numerous [reports](#) have shown, when the groups that uphold these positions have political and institutional representation, this leads to setbacks in women's rights, cuts in specialised services and

even persecution and disappearance of civil society networks. Along with the responsibilities of Member States, the European Union, within its powers, should take the lead in the fight against anti-gender narratives. The Directive was approved at a very specific political moment, different from the current one, and the challenge now is to ensure that the Directive is correctly transposed and complied with, as this will largely determine whether the standards of the Istanbul Convention are met within the European Union (without prejudice to the obligations of the States that have ratified it).

In the same way that the Council of Europe has a Working Group on positive narratives in the context of anti-gender movements, the EU must urgently address similar work within its remit.

Among other measures, we believe it would be important for the Council to have a [configuration](#) on gender equality. In fact, aware of the importance of mainstreaming gender equality, the European Parliament in its [resolution of 17 December 2020 on the need for a dedicated Council configuration on gender equality](#) mentioned how a structured dialogue at the highest political level is essential to protect and promote women's rights and gender equality through the adoption of gender-responsive Union legislation and that the lack of a dedicated Council configuration on gender equality increases the risk of adopting gender-blind legislation.

And although it is true that several presidencies of the Council of the European Union have made positive efforts to organise informal meetings for ministers and secretaries of state in charge of gender equality and to put gender equality issues on programme agendas, this practice should be institutionalised through a permanent dedicated forum to upwardly converge and harmonise women's rights in Europe, as has been defended by the European Parliament.

Let us also consider that in this legislative term, unlike the previous one, there is no longer a commissioner dedicated exclusively to equality, but rather the same commissioner has two portfolios, [Equality and Preparedness and Crisis Management](#), which have nothing to do with each other (and that we are still awaiting the publication of the new equality strategy).

And even if we have a commissioner that addresses equality and a committee dedicated to Women's Rights and Gender Equality in the European Parliament, there is no specific Council configuration on gender equality. Such a configuration would allow to address, amongst others, anti-gender narratives, intersectionality or the addition of gender-based violence to the list of EU crimes.

7. Conclusions

In summary, although the Directive has been a milestone in protecting women's rights against gender-based violence and largely meets the standards of the Istanbul Convention, there is still much room for improvement. With this Report, we have tried to highlight some of the challenges that lie ahead. In particular: the need to address all forms of violence against women, to protect all women and girls taking into account their needs and realities, to strengthen coordination ensuring the full participation of civil society and to combat the narratives that deny or minimise violence against women and undermine the values of the European Union and the Council of Europe.

FEM IUS

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FEM IUS supports the Sustainable Development Goals