

To: The representatives of the main political groupings in the EU Parliament

From: The Domestic Abuse and Violence International Alliance (DAVIA)

Subject: Interim Report EU Accession Istanbul Convention



European Parliament Plenary Session of 14/02/2023, 13:00 - 15:00, Strasbourg: Debates - KOHUT, KOKALARI LIBE/FEMM - Council of Europe Convention on preventing and combating violence against women and domestic violence: EU accession - Interim report

Date: February 13, 2023

To the representatives of the main political groupings in the EU Parliament, Dear Sir/Ms,

As the '*Domestic Abuse and Violence International Alliance*' (further [DAVIA](#), more below) we would like to take this opportunity from a human rights perspective to express our deep concern about the Directive before the EU Parliament relating to the proposed ratification of the Istanbul Convention by the European Union that will be up for debate in tomorrow's European Parliament's plenary meeting on Valentine's Day, February 14.

As an international alliance, we are against any form of violence and are well aware that much is still needed worldwide to prevent violence against women and girls. And at DAVIA we fully share your intend of formulating and implementing effective, sound, non-discriminative and balanced policies against the abuses of domestic violence across the whole spectrum of this social problem.

However, these efforts in the Western world seem to be overshooting their mark. Efforts to prevent violence against women and girls in the Western world have progressed to a free pass for women (and sometimes girls) to be above the law. The decades of experience of the EU member organizations of DAVIA have shown that accusing men/boys by women/girls pays off and that, without an independent investigation, men/boys are convicted and put away as perpetrators both in the media and by government organizations.

Example 1: Netherlands

From a human rights perspective having been committed to permanent and equal parenting, our member organizations have supported both men and women in this process for many years. In helping men, however, we have for years experienced prejudices with which government organizations justify decimating the role of fathers in society by largely excluding them from their children. And after discussions with representatives of the Dutch Public Prosecution Service and the Dutch National Police, we have found that no action is taken by these organizations if mothers (women) withdraw the children from the parental authority of fathers (men) (child abduction), which is a criminal offense for which in the Netherlands a prison sentence of 6 to 9 years is imposed by law. However, if mothers (women) who committed this withdrawal subsequently report stalking to the father who is

looking for his children, an offense punishable by a prison sentence of up to 3 years, the father will be arrested and prosecuted for this. This and other examples indicate that the position of women in the Netherlands, apparently partly due to the Istanbul Convention, has been emancipated to such an extent that women are now above the law.

Example 2: Spain

In 2004 the Spanish Government created a law against 'gender-based violence' which introduced 'mandatory arrests' for claims of domestic abuse even if there is no indication of abuse. The consequence: from 2004 to 2022, there have been more than 2,260,000 judicial proceedings, with more than 1,705,000 defendants (80%) being declared innocent. Falsely accused are prosecuted with public money. Encouraged by lawyers, it is common for (usually) mothers to use this law to gain full child custody. During the judicial process, the accused is deprived of child visitation rights.

Example 3: Scotland

The Scottish government recently introduced the Gender Recognition Act which now allows men to identify as women without diagnosis or transition (and vice versa) and to have access to women's safe spaces such as bathrooms and prisons. Two male rapists have already tried to take advantage of this law to enter female prisons by suddenly identifying as Trans. We warned of this and the outcome was predictable, because it was a poorly worded bill. Now we see an increase of transphobia as result of the bill, the opposite of what was intended.

In all three cases and examples above the law was meant to protect victims of abuse but is now more often used as a weapon of abuse.

Issues we have experienced with the Istanbul Convention are almost the same all over Europe. These are:

- Men are more harshly sentenced than women when committing a felony or a criminal act; sometimes committing the same things results in the imprisonment of a man, but a woman is let free without a charge.
- Men's reports on domestic violence or abuse are not properly investigated and/or accepted by the police and prosecution authorities.
- When a woman abducts a child, nothing happens to her, while a man is arrested and jailed.
- Women are widely using false reports and false allegations, sometimes they are even lying in court, to get sole custody of their children, and are not sanctioned when they would be caught lying. Years ago, out of 10 allegations of sexual abuse, 8 were real and there were 2 false, nowadays it turned the opposite - out of 10 reported cases 8 turned out to be false, and only 2 were real. That is damaging also to the real victims of sexual abuse, as professionals less believe them.
- Acts against DV are written only for women, accusing only men to be perpetrators, this is neglecting men and boys victims of DV. Neglected are also lesbian victims as women are never considered to exercise DV.
- Gender ideology is damaging to children, and as shown in example 1 above in a Scottish case, women were in danger because of their recently accepted Gender Recognition Law. This was later also problematic because of a subsidiary of Scottish legislation to UK legislation. Etc.

We are further convinced that the ratification of the Convention was carried out with little or no attempt at public discussion in most EU countries (with the exception of certain Eastern European countries) and believe this was a mistake. Other groups in Europe such as ADF, with whom we are forging close links, have already opposed the convention.

We believe that this Convention needs much closer scrutiny of its provisions than it has hitherto received.

The road to hell is often paved with good intentions. Legislation is no exception in this regard. Many bills that were meant to improve society as a whole or the experience of specific groups end up causing more harm than good, even to those who were meant to benefit from it.

When the proposal for accession of the EU to the Istanbul Convention was previously discussed in the four EU Parliament committees, DAVIA– expressed its concerns and its willingness to be consulted and involved in formulating effective, sound, non-discriminative and balanced policies against the abuses of domestic violence across the whole spectrum of this social problem – by writing two letters to that extent to both the Committees and the political groupings involved in the EU Parliament. As we had no reply yet on our two previous letters, we will include them again as attachments to this letter and express renewed willingness and wish to be included and consulted in the debates on these issues.

In both letters DAVIA provides a further elaboration of its concerns about the EU ratification of the Istanbul Convention from a) a human rights point of view, b) a scientific point of view, and c) an EU law point of view.

The full article on Domestic Violence in Europe is [here](#).

DAVIA: While DAVIA is a global alliance it represents about twenty civil society groups from different EU states, including groups working for gender equality and equal parenting, united in their opposition to this proposal.

Yours Sincerely



Peter Tromp MSc, Chair
DAVIA Task Force on IC

Attachments:

- A. Previous DAVIA Letter to the four EU Committees
- B. Previous DAVIA Letter to the seven main political groupings in the EP

Attachment A: Previous DAVIA Letter to the four EU Committees

Dear Sir/Ms,

We at [DAVIA](#) (more below) are writing to you on the Directive relating to the Istanbul Convention currently before the EU Parliament.

The EU [Charter of Fundamental Rights](#) is the foundation of the policies of the European Union, and of European society itself. But a review reveals that the EU Convention on Preventing and Combating Violence against Women, known as the Istanbul Convention, IC, represents a historic threat to the human rights of Europeans. Nine years after the Convention came into force in 2014, Bulgaria, Czechia, Hungary, Latvia, Lithuania, and Slovakia have not ratified the treaty, Turkey withdrew in 2021, and Poland has doubts about the treaty. Bulgaria's constitutional court ruled the [treaty was unconstitutional](#).

The Istanbul Convention ascribes domestic violence to a power imbalance between men and women that arises from [patriarchal beliefs](#). This idea is factually incorrect, for several reasons:

- Research conducted in [Europe](#) and [internationally](#) shows men and women engage in domestic violence at similar rates.
- Women in lesbian [same-sex relationships](#) experience especially high rates of abuse, compared to women in heterosexual relationships. It is difficult to understand how [female-on-female](#) domestic violence can be blamed on the “patriarchy.”
- Men and women engage in partner aggression for a [variety of reasons](#), including anger and jealousy. Claiming that a “power imbalance” is the sole reason is a simplistic idea that ignores the many causes of domestic violence.

This model of domestic violence has been “heavily criticised as a theory that is ideologically based, rather than empirically supported. Indeed, hundreds of research findings exist that undermine the exclusivity of the gendered perspective,” according to researcher [Nicola Graham-Kevan](#).

Several studies demonstrate that about half of all domestic violence cases involve [reciprocal violence](#). This is a hugely important issue for the way police officers approach incidents, how judges rule on cases and for the treatment of offenders.

Ironically, the Istanbul Convention makes no mention of mutual domestic violence.

HUMAN RIGHTS CONCERNS

The Istanbul Convention has a number of serious human rights shortcomings:

Rights to a Fair Trial and the Presumption of Innocence

1. The Charter of Fundamental Rights emphasizes the right to a fair trial with an independent and impartial tribunal (Article 47), and upholding the presumption of innocence (Article 48). But inexplicably, the Istanbul Convention avoids all mention of key due process protections:
 - No mention of the presumption of innocence.
 - Allows for the issuance of *ex parte* restraining orders, without the accused being present to defend themselves.
2. The EU Charter emphasizes that “Equality between women and men must be ensured in all areas” (Article 23). Even though [domestic violence rates](#) between the sexes are similar, the IC text uses the phrase, “violence against women,” 56 times, while “violence against men” is not mentioned once.

The IC also insists that discriminatory measures should not be considered to be discrimination (Article 4.4).

3. The Charter of Fundamental Rights calls for “due regard for the principle of subsidiarity. But the Istanbul Convention mandates a heavy-handed monitoring mechanism on Member States by means of the Grevio.

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David Walsh Chair
DAVIA Task Force on IC

Attachment B: Previous DAVIA Letter to the seven main political groupings in the EP

Dear Sir/Ms,

We at [DAVIA](#) (more below) are writing to you on the Directive relating to the Istanbul Convention currently before the EU Parliament. Since its publication much further evidence on domestic violence has become available which casts doubt on the premises of the Convention.

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This model of domestic violence has been “heavily criticised as a theory that is ideologically based, rather than empirically supported. Indeed, hundreds of research findings exist that undermine the exclusivity of the gendered perspective,” according to researcher [Nicola Graham-Kevan](#).

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Yours Sincerely

David Walsh Chair
DAVIA Task Force on IC

DAVIA has just published a survey of DV in 19 EU countries which confirms similar rates between men and women

<https://docs.google.com/spreadsheets/d/1hf1zRYHNDJvunWWeoOI33VTVmPADtjzMniAmxBPRE/edit#gid=0>