RESISTANCE TO THE ISTANBUL CONVENTION AND IMPACT ON LEGAL/POLICY FIELD

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THE ISTANBUL

Council of Europe Convention on preventing and combating violence against women and men.

Comprehensive: 81 Articles, 25 pages

Adopted 2011, enters into force 2014

To do so "parties shall take the necessary measures to promote changes in the social and cultural patterns of behavior of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men." Art 12.

By eliminating VAW and DV discrimination against women is addressed.

VAW a form of discrimination against women:

Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence
THE NORMATIVE FRAMEWORK

Pillars:
- Prevention, promote equality, protect and support, compensation
- Coordinated approach, civil society
- Physical, psychological, economic violence; domestic violence; stalking; sexual violence
- Specific articles on cooperation with civil society: Art 7 (coordination, resources)
- Parties shall recognise, encourage and support, at all levels, the work of relevant nongovernmental organisations and of civil society active in combating violence against women and establish effective co-operation with these organisations.

GREVIO

Comprehensive monitoring and enforcement mechanism.
RATIFICATION

2021

Watershed success of ratification

Contestation emerged in the process particularly in countries of post-communist Eastern Europe: makes ratification highly contested and even manages to block it in several countries (Krizsán and Roggeband 2021).
34 Ratifications in 7 years

<table>
<thead>
<tr>
<th>Country</th>
<th>Ratification Status</th>
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<tbody>
<tr>
<td>Turkey</td>
<td>Ratified in 2012</td>
</tr>
<tr>
<td>Montenegro, Portugal, Serbia, Albania, Austria, Bosnia and Herzegovina, Italy</td>
<td>Ratified in 2013</td>
</tr>
<tr>
<td>Andorra, Denmark, France, Monaco, Morocco, Spain, Sweden</td>
<td>Ratified in 2014</td>
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<tr>
<td>Finland, Netherlands, Poland, Slovenia</td>
<td>Ratified in 2015</td>
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<tr>
<td>Belgium, Romania, San Marino</td>
<td>Ratified in 2016</td>
</tr>
<tr>
<td>Cyprus, Estonia, Georgia, Germany, Norway, Switzerland</td>
<td>Ratified in 2017</td>
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<tr>
<td>Croatia, Greece, Iceland, Luxembourg, North Macedonia</td>
<td>Ratified in 2018</td>
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<tr>
<td>Ireland</td>
<td>Ratified in 2019</td>
</tr>
<tr>
<td>Armenia, Azerbaijan, Bulgaria, Czech Republic, Hungary, Latvia, Liechtenstein, Lithuania, Republic of Moldova, Russian Federation, Slovak Republic, Turkey (withdrawn), Poland</td>
<td>Not ratified as of March 2021</td>
</tr>
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Ratification status

2021
DEBATED POINTS

• Art. 3 defines gender as "socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for women and men."

• Art. 60 gender-based violence as grounds for asylum claims

• Art. 12-16 states to "promote changes in the social and cultural patterns of behavior of women and men by means of education and other methods."
<table>
<thead>
<tr>
<th>Country</th>
<th>Signing</th>
<th>Ratification</th>
<th>Reservations</th>
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<tbody>
<tr>
<td>Bulgaria</td>
<td>21/04/2016</td>
<td>06/2018</td>
<td>withdrawing consideration</td>
</tr>
<tr>
<td>Croatia</td>
<td>22/01/2013</td>
<td>01/01/2015</td>
<td>Withdrawal considered (entry into force: 01/01/2015) Yes: disclaimer on gender ideology</td>
</tr>
<tr>
<td>Hungary</td>
<td>14/03/2014</td>
<td>01/01/2014</td>
<td>Blocked by Parliament May 2020</td>
</tr>
<tr>
<td>Poland</td>
<td>18/12/2012</td>
<td>01/01/2015</td>
<td>Withdrawal considered (entry into force 01/08/2015) Withdrawal considered Yes: ratification within the limits allowed by constitutionally stated sovereignty with respect to morality issues</td>
</tr>
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</table>
OPPOSITION AND IMPACT

What is opposed, by whom and why?

How does this affect VAW policies and law?
• Places VAW in the center of backlash against gender equality: the war on gender

• Contestation brings women’s rights and gender equality to the center of debates with much CE (Krizsan and Roggeband 2018)

• VAW a field of relative success, somewhat controversial but never in terms of gender (policy regime and public never in terms of gender – policy regime and public debate without much CE (Krizsan and Roggeband 2018))

WHY PUZZLING?
WHAT IS OPPOSED?
GENDER AS A PROBLEMATIC LEGAL CATEGORY

“The Constitution and the entire Bulgarian legislation are built on the understanding of the gender binary of the human species. ... The rule of law in the formal sense requires the meaning of legal terms to be clear and unambiguous. The principle of legal certainty and predictability precludes the existence of two parallel and mutually exclusive terms for ‘gender’.” Constitutional Court, Bg
We do not agree to mix up violence against women and gender-based violence, and that violence against women has always a structural nature. Center for Human Dignity, Hu
TO EBOLA

GENDER + KONWENCJA

O TAK ZWANEJ "PRZEMOCY WOBEC KOBIEC! PRZEMOCY W RODZINIE"

+ SMIERTELNA PIGUIKKA WZROSTU INNEGO DRUGI

DLA POLSKÍ, SIEBIE I SWOICH DZIECI

DZIAŁAN RZADU WYRAŻ SWÓJ SPRECZ!

DEFEND POLEN, YOURSELF AND YOUR CHILDREN

EXPRESS YOUR RESISTANCE FOR THE WRONG ACTIVITY OF THE POLISH GOVERNMENT!

AND VIOLENCE IN THE FAMILY - THIS IS THE EBOLA FROM BRUSSELS
"We will do everything to suppress such illegal, morally unacceptable, socially destructive efforts of 'holy cows' of civil society in Croatia, at all (legal, scientific and parliamentary) levels. Vigilare, Croatia.

"FOREIGN AGENTS"

FEMINIST ENEMIES AND
WHO?

Common in all four countries:
• Variety of actors, many of whom have never been engaged in VAW debates: political parties, civil society (religious), churches, think tanks, experts, (illiberal) governments

Different in the four countries:
• Who orchestrates/initiates the process and drives who speaks?
  (Pl: church, Ordo Iuris; Hu: state; Croatia: CS, church; court; Bg: CS, church)
• Role of state/government
• Role of church
• Role of grassroots organizations

Think tanks, experts, churches, think tanks and experts, (illiberal) governments, in VAW debates, political parties, civil society (religious), role of actors, many of whom have never been engaged
• Gender becomes an axis of polarization; central to government ideology in 2 cases.

• Appropriation of HR and democracy language/repertoires:
  - petitions, asking for referenda (appealing to majority)
  - expert knowledge and expert contributions
  - litigation, particularly at the constitutional level (legalistic approach)

• Infiltration into states/capture of state power: policy consultations, but also power positions:
  - expert knowledge and expert contributions
  - petitions, asking for referenda (appealing to majority)
  - litigation, particularly at the constitutional level (legalistic approach)

• Violence:
  - smear campaigns;
  - state as perpetrator (Pl and Hu); raids, smear campaigns, intimidation, blockades in government media;
  - smear campaigns?

• Grassroots action: church infrastructure (Cr, P1, Bg); widescale participatory action

• Important political positions

State failure to defend – vilification of women’s rights organizations, semiotic violence.

Violence:

How?
Policy Implications

Expectation: Politicization and international norms lead to activation, more/better policies

• Here: Istanbul Convention together with new EU legislation
  • Indeed: new legislation, more services/shelters, more budget
  • Some of these new policies mean progress

But: more thorough analysis:

• Laws and policies: focus on criminalization
  • Frame and policy: unveils some problematic framing (family protection, anti-gender)

Some of these new policies mean progress
IMPLEMENTATION: SERVICES AND BUDGETS

• EU money accessible for VAW, but this money does not go to existing services
• Replacement/appropriation:
  • existing infrastructure and instruments (sidelining feminist VAW advocates/experts)
  • existing services/women’s rights expertise by “alternative” services and experts
• Women’s organizations/VAW experts excluded from policy processes at all levels:
  • NOW excluded or marginalized in: policy consultation, monitoring, implementation and service provision
  • Women’s organizations key to victim centered, gender sensitive VAW policies
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• VAW policy field: services taken over by anti-gender actors/hostile (corrupt) states
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IMPLEMENTATION: SERVICES AND BUDGETS
CONCLUSION

• New, comprehensive, innovative instrument, which clearly links VAW to discrimination and inequality.

• Convention attacked because of its focus on the roots of problem (gender inequality), not on problem of protection. Not roots of problem.

• Opposition because of the mismatch between the nature of previously adopted VAW policies and the Convention’s gender specific content and transformative objectives.

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• Attacks challenge gender equality transformation but willing to address women as different, women as victims, to be protected. Root of problem (gender inequality).
Women's rights and equality in the center of debates.

Reinvigorating feminist activism and strengthening link to democracy.

Leads to a skewed violence against women policy regime that is disconnected from.

But also instills fear, and poisons the policy environment for combating VAW.

Women's rights and gender equality in the center of debates.