

ISSUES IN THE PRACTICE OF IMPLEMENTING THE INSTANBUL CONVENTION

Rostyslav Onyshkevych

E-mail: roonysh@gmail.com

Mykolas Romeris University, Lithuania

Abstract. On May 11, 2011, in Istanbul, Turkey, the Council of Europe Convention on preventing and combating violence against women and domestic violence, better known as the Istanbul Convention, was opened for signature. The Istanbul Convention, along with the CEDAW Convention, is a gender-asymmetric antidiscrimination instrument. This differentiates these instruments from the Universal Declaration of Human Rights of 1948 and all major UN and regional human rights instruments, which establish gender-neutral or symmetric prohibition of discrimination on the grounds of sex.

Keywords: the Istanbul Convention, the CEDAW, violence against woman, ratification, implementation, gender-neutral or symmetric prohibition of discrimination on grounds of sex, gender asymmetric women's antidiscrimination instruments, the criminalization of certain types of conduct, gender-based violence.

Introduction

The Council of Europe Convention on preventing and combating violence against women and domestic violence, commonly known as the Istanbul Convention, was opened for signature on May 11, 2011, in Istanbul, Turkey. It became effective after ten ratifications, eight of which had to be from Council of Europe Member States. It has been signed by 45 countries and the European Union as of March, 2019. After denouncing the convention on March 20, 2021, Turkey became the first and only country to withdraw from it.

The Istanbul Convention was the conclusion of more than three decades of effort by the United Nations Commission on the Status of Women, which was founded in 1946 to monitor women's status and promote their rights. The work of the Commission has been critical in bringing to light all of the areas where women are denied equal rights with men. Several declarations and conventions have come from these efforts for the progress of women, the most important and comprehensive of which being the Convention on the Elimination of All Forms of Discrimination Against Women.

Since the Istanbul Convention was opened for signature, plenty of disputes and objections have arisen. The possible explanation for this seems to be that, unlike gender neutral or symmetric prohibition of discrimination on the basis of sex established by the Universal Declaration of Human Rights of 1948 as well as all major UN and regional human rights instruments, the Istanbul Convention is a gender asymmetric women's anti-discriminatory instrument.¹ To be more explicit, its 81 articles, which are organized into 12 chapters, contain measures and prohibitions that are the actual subject of debate and controversy.

Although the Istanbul Convention was published 10 years ago, it is difficult to find scientific publications on the subject. Most of the publications on the Council of Europe portal are for information purposes only.² Research reports on the implementation of the Convention are also

¹ Dubravka Šimonović, "Global and Regional Standards on Violence Against Women: The Evolution and Synergy of the CEDAW and Istanbul Conventions", *Human Rights Quarterly* 36, 3 (2014): 591.

² "Council of Europe. Key facts about the Istanbul Convention", Council of Europe, accessed 27 March 2022, <https://www.coe.int/en/web/istanbul-convention/key-facts>.

available.³ The research project “End Violence: Women’s Rights and Safety Online” was led by Rima Athar, an independent researcher, human rights activist, and feminist organizer. The role of IT in the realization of women’s equal rights was examined by Anita Gurumurthy, Amrita Vasudevan, and Nandini Chami,⁴ as well as by Nikole Shephard.⁵

The purpose of this article is to clarify the main issues of implementing the Istanbul Convention and investigate concrete examples of the Istanbul Convention’s implementation in various jurisdictions with the aim of examining the reality of this endeavor. The importance and relevance of this scientific research consist in establishing what the consequences may be in case of the Istanbul Convention’s implementation for countries that did not sign and/or ratify the Istanbul Convention, such as Ukraine.

1. Meaning and place within other anti-discrimination instruments

The Istanbul Convention was not the first gender asymmetric anti-discrimination instrument. Originally, the first international law instrument that changed the gender-neutral standard of discrimination prohibition on the ground of sex was the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted in 1979 by the United Nations General Assembly. Adoption of the CEDAW Convention was a formal international recognition of women’s rights as human rights and their inclusion in the global human rights framework of the United Nations. The CEDAW Convention mainly introduces two innovations in anti-discrimination law regarding human rights:

- 1) It functions as an asymmetric instrument to protect women from any forms of direct and indirect discrimination in almost all realms of life.
- 2) It provides an obligation for State parties to adopt “all appropriate

³ Rima Athar, “End violence: Women’s rights and safety online. From impunity to justice: Improving corporate policies to end technology-related violence against women”, *Ministry of Foreign Affairs* (2015), https://genderit.org/sites/default/files/flow_corporate_policies_formatted_final_1.pdf.

⁴ Anita Gurumurthy, Amrita Vasudevan and Nandini Chami, “A feminist perspective on gender, media and communication rights in digital times”, *IT for Change 2018*, https://itforchange.net/sites/default/files/1459/GAMAG_Position_Paper_2017.pdf.

⁵ Nikole Shephard, “Big Data and sexual surveillance”, APC (2016), accessed 27 March 2022, <https://www.apc.org/en/pubs/big-data-and-sexual-surveillance>.

measures” to fully develop and advance women or to empower women.⁶

In order to achieve substantive gender equality, the CEDAW Convention obliges State parties to pursue “a policy of eliminating discrimination against women” (Article 2) and to adopt “all appropriate measures,” including legislation, to ensure the “full development and advancement of women” (Article 3), “temporary special measures aimed at accelerating de facto equality between men and women” (Article 4.1), “special measures” aimed at protecting maternity (Article 4.2), and “all appropriate measures” to remove stereotypes on gender roles (Article 5). Through these provisions the Convention sets a broad legal framework for achieving substantive gender equality by requiring State parties to undertake adequate positive measures that could be called a policy of empowerment of women in addition to a policy on eliminating discrimination.⁷

The Istanbul Convention declares the following as its objective: “Condemning all forms of violence against women and domestic violence,” and intends to “contribute to the elimination of all forms of discrimination against women” at the same time. Consequently, there is a definite connection between violence against women and discrimination. It also includes measures linked to the adoption and achievement of the concept of substantive gender equality and women’s empowerment that are similar to those in the CEDAW Convention. As the most current authority in this field, the Istanbul Convention is a contemporary, complete instrument created and based on a holistic approach: it encompasses violence prevention, victim assistance measures, offender prosecution, and comprehensive policies.

The Istanbul Convention, unlike the CEDAW Convention, is based on the concept of “due diligence.” The due diligence requirement, which was first established in the case of *Velasquez-Rodriguez v. Honduras*, compels States to take active measures to protect, prosecute, and punish private actors that violate human rights. This criterion should be on the basis of the State’s domestic violence obligations. Aside from that, the Istanbul Convention recognizes the transnational aspect of violence against women and commits to a global solution. Furthermore, the Istanbul Convention emphasizes the importance of gender-based asylum petitions.

During the creation of the Istanbul Convention, the European Court

⁶ Šimonović, *supra* note, 2: 592.

⁷ *Ibid.*

of Human Rights' (ECtHR) case law, as well as the CEDAW Committee's jurisprudence on instances of violence against women, were considered, which improved the Istanbul Convention's normative requirements addressing the prevention of such incidents. In the 2009 case of *Opuz v. Turkey*, the ECtHR for the first time mentioned domestic violence and treated gender violence against women as a violation of Article 14 of the European Convention on Human Rights. In the cases of *A.T. v. Hungary* and *Yildirim v. Austria*, the ECtHR also mentioned the CEDAW Convention and the CEDAW Committee's jurisprudence. These cases recognize the importance of implementing comprehensive mechanisms for preventing, protecting, and promoting women's status in accordance with the CEDAW and Istanbul Convention requirements.

2. Implementation Issues

Pursuant to the international law of treaties, in order to be a Member State to an international treaty, States can issue a process of ratification, which is the formal act by which the contracting party concerned gives its final acceptance to the treaty. International law requires States to observe international treaties,⁸ which are binding upon them. In other words, international law requires implementation, which can be a complicated process. Understanding the implementation issues that can arise after the Istanbul Convention ratification requires analysis of the actual Convention itself.

2.1. Dispositivity of the Istanbul Convention

Despite the fact that the Istanbul Convention contains provisions requiring Member States to take certain positive actions in combating violence against women, plenty of them are ambiguous, leaving to the Member States the right to choose its practical implementation. Thus, the Istanbul Convention provides some dispositive norms for the domestic law of Member States that establish the first implementation issue of the Istanbul Convention. Examples of such provisions include obligations of

⁸ The Vienna Convention codifies the legal principle *pacta sunt servanda* in Article 26 ("Vienna Convention on the Law of Treaties", [legal.un.org](https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf), accessed 27 March 2022, https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf).

Member States:

- to designate or establish one or more official bodies responsible for the coordination, implementation, monitoring, and evaluation of policies and measures to prevent and combat all forms of violence covered by the Istanbul Convention;⁹

- to 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;¹⁰

- to take the necessary legislative or other measures to set up or support programs aimed at teaching perpetrators of domestic violence to adopt non-violent behavior in interpersonal relationships with a view to preventing further violence and changing violent behavioral patterns.¹¹

2.2. The criminalization of certain types of conduct

As mentioned above, the provisions of the Istanbul Convention establish a new framework within which new criminal offenses have to be implemented and new strict measures should be applied. Those offenses and measures are objects for debates and some amount of criticism.

Chapter V of the Istanbul Convention specifies Member States' obligations to take the required legislation or other steps to guarantee that certain types of conduct are criminalized, namely psychological violence, stalking, physical violence, sexual violence (including rape), forced marriage, female genital mutilation, forced abortion, forced sterilization, and sexual harassment. If criminalizing "forced marriage," "female genital mutilation," or "forced abortion and forced sterilization" does not raise any concerns, criminalizing "psychological violence" or "stalking" does. This is because it is debatable whether "damaging a person's psychological

⁹ Article 10 of the Istanbul Convention ("Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, 11.V.2011", Council of Europe, accessed 27 March 2022, <https://rm.coe.int/168008482e>).

¹⁰ Paragraph 1, article 12 of the Istanbul Convention, ("Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, 11.V.2011", *supra note*, 10).

¹¹ *Ibid*, paragraph 1, article 16.

integrity by compulsion”¹² or “intentionally participating in threatening activity directed at another person”¹³ should be treated equally to murder, robbery, terrorism, or rape. Those definitions of certain types of conduct that should be criminalized at least need to be clarified in a more specific manner.

To be more concrete on this implementation issue, there is a need to mention that, according to criminal law doctrine, certain behaviors may only be recognized as criminal and implemented into criminal law if they pose a distinct risk to society. In other words, any criminalization of certain types of behavior should correspond to the general purposes and functions of criminal law and criminal punishment: in particular, special deterrence, general deterrence, and retribution or just deserts.¹⁴ Besides this, there are plenty of theoretical objectives of criminal law, such as serving as a truth-finding mechanism, as a mechanism for reconciliation, and as a peace-building and foundational mechanism.¹⁵ Nevertheless, the study of many punishments has revealed that punishment, in the form of the imposition of a subsequent evil, can only be reasonably justified through its preventative impact. At the same time, one cannot deny the possibility that punishment has a positive impact on the victim, such as publicly exposing the injustice endured and providing a guarantee of non-recurrence. This would meet the victim’s need for justice, restore the victim’s faith in the judicial system and society, and help them to avoid desocialization. It is important to remember, however, that these expressions of justice are based on the reciprocity mechanism, which, in the end, serves to preserve both the group and the individual as social beings.

The State may therefore try to offer satisfaction to victims’ claims through other mechanisms (such as truth-finding mechanisms, official apologies, public events acknowledging the victims and their suffer-

¹² Notion of psychological violence according to the Istanbul Convention, (“Violence against Women: Psychological violence and coercive control”, European Parliament, access 27 March 2022, [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/650336/IPOL_STU\(2020\)650336\(SUM01\)_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/650336/IPOL_STU(2020)650336(SUM01)_EN.pdf)).

¹³ Notion of stalking according to the Istanbul Convention, (“Stalking”, Council of Europe, access 27 March 2022, <https://rm.coe.int/stalking-and-the-istanbul-convention-eng/16808c6592>).

¹⁴ Elena Maculan and Alicia Gil Gil, “The Rationale and Purposes of Criminal Law and Punishment in Transitional Contexts”, *Oxford Journal of Legal Studies* 40, 1 (2020): 132–157.

¹⁵ Maculan, *supra note*, 15: 132–157.

ing, memorials, or material and symbolic reparations), measuring them against other aims and needs in the search for the best possible solution to fulfil the ultimate aim of maintaining social order – that is, the set of protected legal interests in a society.

Another question raised by the Istanbul Convention's criminalization of specific forms of behavior is what penalties should be imposed. The majority of these offenses are hazardous to society, although they are of varying degrees of danger. As a result, the concept of proportionality, which is the foundation of fairness, must be applied: sanctions must be appropriate in severity to the degree of the defendant's unlawful action. In other words, the criminalization of certain types of conduct mentioned above will require the integration of new offenses into a balanced system of criminal sanctions, taking into account the risk to society. The first way of implementing this is criminalization according to the so-called model of ordinal proportionality.

Ordinal proportionality is the requirement that penalties should be scaled according to the comparative seriousness of crimes.¹⁶ There are two basic sub-requirements in action. First, there is parity. The proportionality principle allows for variances in penalty harshness only if they reflect differences in the degree of blameworthiness of the behavior. As a result, unless special circumstances (i.e., aggravation or mitigation) can be identified that render the offense, in the particular context, more or less deserving of blame than would normally be the case, when offenders have been convicted of crimes of similar seriousness they deserve punishments of similar severity. Second, there is the matter of ranking. Punishing one crime more severely than another indicates more disapproval of the former crime, and is only appropriate if the latter offense is more serious. Punishments are therefore to be assigned to a penalty scale such that their relative severity matches the gravity of the offense. This defines the scope to which the penalty scale's layout can be changed internally for crime prevention objectives. Imposing exceptional penalties for a specific type of infraction to stop a recent increase in its incidence, for example, would upset the ranking of offenses unless other penalties were changed to compensate.

¹⁶ Andrew von Hirsch, "Proportionality in the Philosophy of Punishment", *Crime and Justice* 16 (1992): 55–98.

2.3. Rights abuse

The Istanbul Convention takes a victim-centered perspective. By providing practical tools to protect their safety and empowerment, it promotes respect and equality for all women and girls who may be victims of violence.

The purposes of the Istanbul Convention are the empowerment of women and designing a comprehensive framework, policies, and measures for the protection of and assistance to all victims of violence against women and domestic violence. In order to fulfil those purposes, the Istanbul Convention provides for different legal instruments regarding investigation, prosecution, procedural law, and protective measures (Articles 49–58). Those Articles, due to the above-mentioned problem of the dispositivity of the Istanbul Convention, may lead to rights abuses from the perspective of the “theoretical victim” which can undermine the significance of the Istanbul Convention. In order to avoid such a situation, every government that ratifies the Istanbul Convention should establish legislative instruments provided by the Istanbul Convention in such a way that will make it impossible to abuse rights or, at least, will minimize this.

3. The practice of implementation

3.1. French experience

The Istanbul Convention was ratified by France in 2014, and the Law for Equality between Women and Men was passed to bring French law into conformity with it. France has signed and ratified the Istanbul Convention, which makes it legally effective. In order to implement the Istanbul Convention, France created four national action plans.¹⁷

After a suggestion from the European Union, the first national action plan (2005–2007) was launched, and was followed by three more (2008–2010, 2011–2013, and 2014–2016). Legislation has: increased criminal penalties in cases of domestic violence, including rape and sexual assault,

¹⁷ Gill Allwood, “Gender-based violence against women in contemporary France: domestic violence and forced marriage policy since the Istanbul Convention”, *Modern & Contemporary France* 24, 4 (2016): 377–394.

and including married, cohabiting, and civil partnership couples and former couples; increased measures aimed at protecting victims; and, in 2014, arranged the fight against violence against women within the context of gender equality. Measures aimed at eliminating forced marriage include: raising the marriage age for girls from 15 to 18; increasing the penalties for violence committed in the course of forcing someone into marriage; and criminalizing forced marriage.

The second national action plan (2008–2010) emphasized the importance of strong inter-ministerial efforts and the need for a coordinated response. An inter-ministerial approach was formally adopted on November 30, 2012 (Vallaud-Belkacem 2013).

Specific initiatives focused on education in schools, public awareness, and educating women to report acts of abuse were included in the first two national action plans (2005–2007 and 2008–2010). This approach was reflected in the 2010 Law, which requires schools to provide information to students of all ages on gender equality, the fight against sexist stereotypes, and the prevention of violence against women and domestic abuse. It also established a national day of awareness regarding violence against women on November 25.

The fourth action plan (2014–2016) has become a comprehensive approach to improving society's views about women. It is divided into three sections: ensuring that all reported acts of violence are investigated; successfully safeguarding victims; and mobilizing the public in the fight against all forms of violence (that is, through prosecution, protection, and prevention). This involves ensuring that women's rights are honored in the media and on the internet, as well as avoiding sexist behavior and violence in schools, sports, and the workplace, and increasing public awareness.

The Istanbul Convention underlines the significance of prevention, which needs a holistic or comprehensive strategy. A survey of French domestic violence policy reveals that dedication to a holistic approach has been expressed frequently. There has been a promise, on paper, to coordinate policy actors and agencies, including conversation and collaboration agreements with civil society organizations. The notion that violence against women cannot be dealt with in a policy silo is not new in France. Resources have not always been followed up on, and implementation has frequently been inadequate. However, the approach to prevention has evolved, beginning with particular preventative measures and progressing

to one that recognizes the need for wide societal change and the participation of all members of society in addressing violence against women.

The 2014 Law created an innovative approach, requiring equality between men and women as a precondition for ending violence against women. This is consistent with the Istanbul Convention, which this legislation implements, and affords additional weight to the concept of an integrated or holistic approach. It now refers to the necessity to locate actions aimed at eradicating violence against women within a battle to achieve gender equality, rather than only inter-ministerial and inter-agency cooperation. Unlike prior versions, which focused on victim protection, the prosecution of criminals, and violence prevention, the 2014 Law lists few concrete preventative actions. This represents the notion that prevention necessitates gender equality. A preventative measure that does appear is the establishment of a perpetrator prevention program aimed at making perpetrators accept responsibility for their violent behavior and preventing re-offending. The next part of the law addresses sexist stereotypes by addressing media depictions of women and establishing procedures to combat sexism and homophobia on the internet.

3.2. Romanian experience

In 2016, Romania ratified¹⁸ the Istanbul Convention, and, recently, the harmonization of the internal legislation with the Istanbul Convention provisions was accomplished.¹⁹ Institutional reform in the field of preventing and combating domestic violence was strengthened by new regulations in 2018 and 2019, which places the Romanian system of preventing and combating domestic violence at the level of the European Union standards.²⁰

Thus, the National Agency for Equal Opportunity between Women and Men, as well as the new legislative regulations, aim to assist victims of domestic violence by coordinating an immediate and coordinated response from all responsible institutions, while also increasing victims'

¹⁸ By the Law No. 30/2016.

¹⁹ By passing the Law No. 174/2018, on amending and supplementing the republished Law No. 217/2003 on preventing and combating domestic violence.

²⁰ Calin Stanciu, "Transposing the Istanbul Convention Preventions into Romanian Legislation. Good Practice Examples in the Implementation of Public Policies in the DV and EO Field", *EIRP* 15, 1 (2020): 458–462.

trust in the intervention capacity of authorities. In this regard, starting in December 2018, the Provisional Protection Order (OPP) established an administrative framework providing for a special form of protection for victims of domestic violence. This is regulated as a central pillar, with the goal of extending police officers' prerogatives in order to ensure the protection of victims by removing the perpetrator from the location in situations of immediate danger, in accordance with Art. 52 of the Istanbul Convention. The new regulation provides a unified approach focused on the victim and on developing new measures of combating domestic violence offenses (such as psychological counseling for divorce occasions with a history of domestic violence, or monitoring protection order measures to prevent their violation) and, equally, provides emergency intervention measures in cases of direct danger.

The Provisional Protection Order (OPP) is a recently enacted policy that applies when the health and safety of the domestic violence victim is in jeopardy, and it serves as a supplement to the protection order (OP).²¹ Therefore, when the police officer issues the order, the prosecutor will validate the OPP based on the witnesses and facts acquired by the police officer. After that, the prosecutor must send the OPP, together with all other evidence in the case, to a court, which will make a decision by granting a protection order. As a result of this law, police officers will have the right and obligation to verify and enter the victim's home and issue an OPP, allowing the aggressor to be removed immediately – even if they are the property owner. Although strongly opposed by Ministry of Justice officials, this step is the only method to intervene in an emergency and within the reach of the authorities, allowing the danger to be removed from the person in distress. The OPP will be given on the basis of a Danger Sheet, which will allow the police officer to assess the level of risk at that specific moment.

3.3. Nordic experience

The Nordic countries (Denmark, Finland, Iceland, Norway, Sweden, Greenland, etc.) have perhaps the most interesting practices relating to the implementation of the Istanbul Convention, some of which will be

²¹ The protection order has been regulated in the Romanian legislation since 2012 by the Joint Order MAI & MMJS No. 146/2578/2018.

highlighted in this section. These practices are unconventional, simple, creative, effective, and decent.

Gender equality policy in Sweden. Sweden's gender equality policy has an overall objective of giving women and men equal authority to affect society and their own lives. Women and men should have equal rights, opportunities, and responsibilities in all aspects of life in order to reach this aim. The government is working toward six sub-goals based on this intent: gender-equal division of power and influence; economic gender equality; gender-equal education; equal distribution of unpaid housework and provision of care; gender-equal health, violence against women must stop; and women and men, girls and boys, must have the same right and access to physical integrity.

Further, "Gender mainstreaming is the Swedish Government's main strategy to achieve the national gender equality objectives. Each minister is responsible for gender equality matters within his or her respective domain. The Minister for Gender Equality coordinates the gender equality policy. The Gender Equality Division – operating under the Ministry of Health and Social Affairs – also works with the coordination of the Government's gender equality policy. At the regional level, all county administrative boards have special staff with gender equality expertise. The county administrative boards are required to promote the fulfilment of the national gender equality objectives at the regional level."²²

The Multicultural Women's Association in Finland. Monika is a national multicultural women's organization dedicated to promoting the equality and integration of migrant women in Finland, as well as eliminating violence against women. This organization has been operational for around 20 years and today employs full-time staff as well as volunteers from all over the world. It also serves as an umbrella organization for 13 non-governmental migrant women organizations.

The organization's purpose is to provide a comprehensive service to users. Integration, which includes involvement in the labor market or education, self-determination, and the development of independence and confidence, is directly linked by the organization to the avoidance of violence. Many users switch between the many sub-organizations based on

²² Elisabeth Stubberud, Karin Hovde and Mari Aarbakke, *The Istanbul Convention – The Nordic Way. The Nordic Countries' Implementation of a selection of paragraphs in The Council of Europe Convention on preventing and combating violence against women and domestic violence* (Forlaget Nora, 2018).

their current needs. Because all of these sub-organizations, with the exception of Shelter Mona, are physically located in the same place, the bar for seeking support for women facing domestic abuse is low, as they may be visiting Monika for other reasons.

Monika is supported by funds from Veikkaus (STEA), the Ministry of Social Affairs and Health/the National Institute for Health and Welfare (THL), the Ministry of Education and Culture, Stiftelsen Den Sjunde Mars Fonden, and the City of Vantaa.²³

The national helpline for the elderly and an e-learning tool for professionals in Norway. This is a service for people over the age of 62, and is a local governmental safety measure to assist elderly people who are at risk of being abused or who have already been abused – “A single or repeated act or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person,” according to the World Health Organization. This service is free and confidential, and its hotline is staffed by specialists who assist callers in finding a solution through counseling, coordinating actions, and developing collaboration amongst aid providers.²⁴

Conclusions

The Universal Declaration of Human Rights of 1948 and all major UN and regional human rights instruments establish gender-neutral or symmetric prohibition of discrimination on the ground of sex. The Istanbul Convention, along with the CEDAW Convention, is a gender-asymmetric antidiscrimination instrument.

The Istanbul Convention, unlike the CEDAW Convention, is based on the concept of “due diligence.” The Istanbul Convention recognizes the transnational aspect of violence against women and commits to a global solution. Plenty of the Istanbul Convention’s provisions are ambiguous and create a dispositive variety of options for Member States to choose the practical implementation of the obligations that it establishes.

The criminalization of certain types of conduct stipulated by the Istanbul Convention raises a lot of questions and disputes, including: What sanctioning rationale is behind the criminalization of a behavior? What

²³ Stubberud, *supra note*, 23.

²⁴ *Ibid.*

actual sanctions should be applied? Ratification and implementation of the Istanbul Convention should not lead to rights abuse established by the Istanbul Convention.

To date, 34 Member States of the Council of Europe have ratified the Istanbul Convention, and must adopt measures to fulfil their commitment to preventing and combating violence against women and domestic violence. In addition, 12 Member States have signed it – along with the European Union. One of its first State parties, Turkey, notified its withdrawal from the convention in March 2021, which took effect on July 1, 2021. Other Member States of the Council of Europe are actively working towards ratification, and countries outside of the Council of Europe region have expressed their interest in joining, which is a possibility under the convention.

All experience of implementing the Istanbul Convention is unique and shows different results. Therefore, all countries aiming towards the ratification and consequent implementation of the Istanbul Convention should analyze those experiences and apply the Istanbul Convention provisions according to the specifics of their region, people, gender situation, etc.