



I s t a n b u l
Convention:
P o l i c y
B r i e f

OVERVIEW

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence¹ (hereinafter referred to as the Istanbul Convention/ Convention) is an international treaty aimed at preventing and combating violence against women and domestic violence. It aims for zero tolerance for such violence and is an important tool for making Europe and its surrounding areas safer.

Prevention of violence, protection of victims of violence, and accountability of perpetrators are the cornerstones of the Convention. It also aims to change the perception of individuals by urging all members of society to change their attitudes toward violence. In essence, the Convention is a new call to promote equality between women and men, as violence against women is deeply rooted in the inequality between women and men and has been perpetuated by a culture of intolerance and denial.

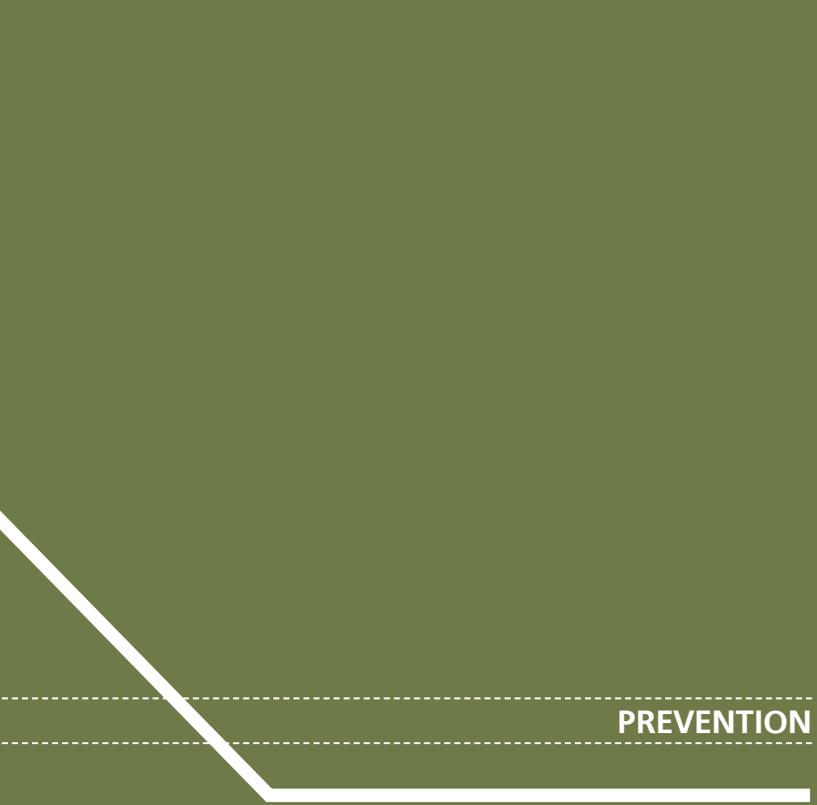
The Convention applies to all women and girls without discrimination, regardless of age, race, religion, social class, migrant status, gender identity or sexual orientation.

It sends a clear message that violence against women and domestic violence are not private matters. On the contrary, in order to emphasize the distinctive traumatic effect of the crimes committed within the family, a more severe punishment can be imposed on the perpetrator if the victim is his wife, partner or family member.

¹ See <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e>

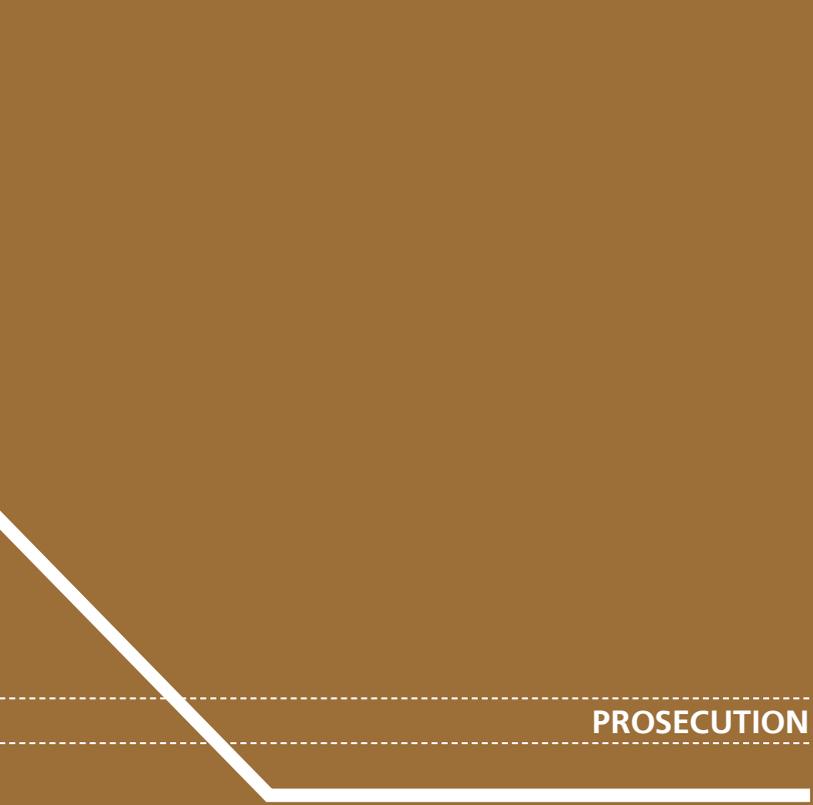
The structure
of the Convention
is based
on the
“four Ps”:

1. *prevention,*
2. *prosecution of perpetrators,*
3. *protection and support of victims of violence,*
4. *integrated policies.*



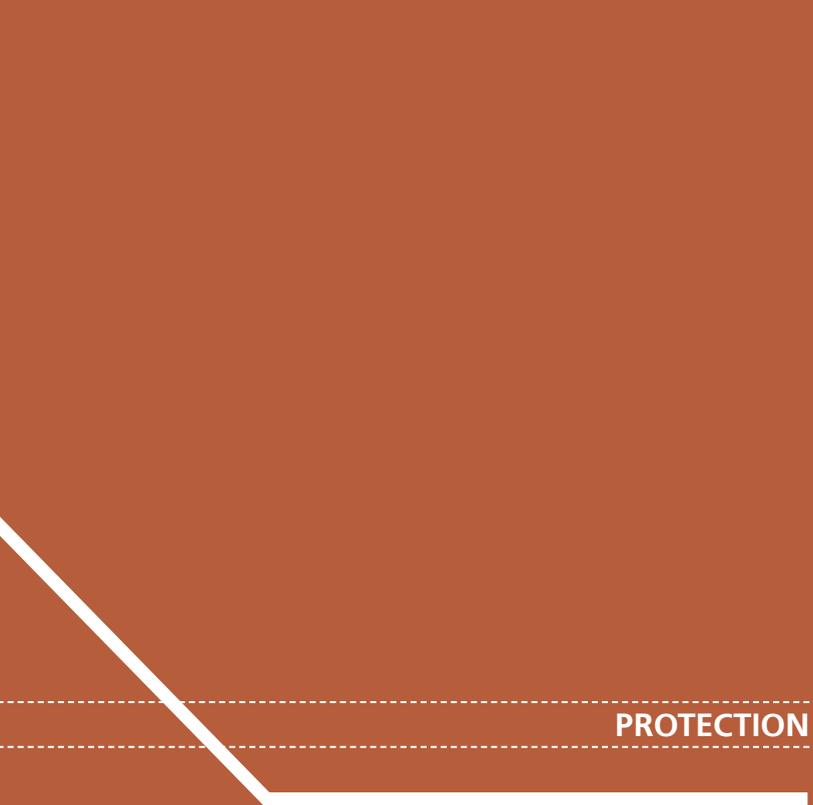
PREVENTION

- change behaviors, gender roles and stereotypes that make violence against women acceptable;
- raise awareness of different forms of violence and their traumatic effects;
- include teaching materials on issues relating to equality in school curricula at all levels;
- train specialists working with victims of violence;
- etc.



PROSECUTION

- ensure that violence against women is criminalized and punished appropriately;
- ensure that reasons attributed to culture, customs, religion or so-called “honour” are considered unacceptable for any act of violence;
- ensure that special means of protection are available to victims of violence during investigations and judicial proceedings;
- ensure that law enforcement responds immediately to calls for help and handles dangerous situations appropriately;
- etc.



PROTECTION

- create specialized support services to provide medical assistance as well as psychological and legal counseling to victims and their children;
- create a sufficient number of shelters;
- invest in a free hotline service that is available around the clock;
- etc.



POLICY

- ensure that all the measures described are part of a comprehensive and coordinated policy that offers a thorough response to violence against women and domestic violence.

The Convention established a monitoring mechanism to assess how its provisions are being implemented in practice. The monitoring mechanism consists of two pillars:

1. The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO)², which is an independent expert body;
2. The Committee of the Parties to the Convention³, which is a political body composed of official representatives of the member states to the Convention.

The findings and recommendations of these bodies help ensure that countries comply with the Convention and guarantee its long-term effectiveness.

² See <https://www.coe.int/en/web/istanbul-convention/grevio>

³ See <https://www.coe.int/en/web/istanbul-convention/committee-of-the-parties>

**SUCCESSFUL EXAMPLES
OF RATIFYING
THE CONVENTION**

With the ratification of the Istanbul Convention, states assume responsibility to take active steps against gender-based violence. These steps are multifaceted, with impacts reflected in the legislative sphere and in the policy-making process, as well as in the introduction of new services and the implementation of existing, victim-centred services.

This section discusses the actions taken by the member states of the European Union (EU), which, as a result of the ratification of the Istanbul Convention, have made appropriate changes to ensure an effective fight against violence against women and domestic violence.

All EU member states have criminalised the use of various forms of violence under their domestic law. In most cases, the criminal offences apply to the context of violence against women, among others. Most of the criminalized articles, among other things, also apply to violence against women.

Violence against women is itself considered an aggravating circumstance under criminal law in a number of member states. When the act is committed by a family member or intimate partner or when it is committed on the basis of sex/gender discrimination, more severe penalties are applied. Such regulations exist in the legislation of Belgium⁴, Bulgaria⁵, Estonia⁶, France⁷ and Italy⁸. The Swedish Criminal Code⁹ includes a separate criminal offence on violence against women entitled “gross violation of a woman’s integrity”.

Legislation on violence against women is most likely to be implemented effectively when accompanied by a comprehensive policy framework that is included in state strategies or national action plans. In their national action plans, a number of EU member states have addressed the issue of preventing and combating violence against women. For example, national action plans in Belgium¹⁰ and

4 See https://www.legislationline.org/download/id/8240/file/Belgium_CC_1867_am2018_fr.pdf

5 See https://www.legislationline.org/download/id/4152/file/PENAL_PROCEDURE_CODE_am2011_en.pdf

6 See https://www.legislationline.org/download/id/8244/file/Estonia_CC_am2019_en.pdf

7 See https://www.legislationline.org/download/id/8546/file/France_CC_am012020_fr.pdf

8 See https://www.legislationline.org/download/id/4357/file/Italy_CPC_updated_till_2012_Part_1_it.pdf

9 See https://www.legislationline.org/download/id/8569/file/Sweden_CC_1962_am022020_en.pdf

10 See http://igvm-iefh.belgium.be/sites/default/files/comprehensive_press_file_0.pdf

Germany¹¹ are aimed at preventing and combating all forms of violence against women, while in other countries like Poland and Romania¹² only one form of violence against women is addressed: domestic violence and the fight against it.

With regards to the above-mentioned, further evaluation of the implemented policies is important in showing the effectiveness of actions taken by the state. For example, a study of the Estonian context¹³ shows that, as a result of legislative and policy-making processes carried out in parallel, the number of deaths resulting from domestic violence have decreased and the number of protective orders issued to victims of domestic violence have increased.

The existence of services enshrined in the Convention (hotline services, a unified database on cases of gender-based violence, support centres, shelters, legal and psychological support, etc.) is also important in preventing and combating domestic violence.

11 See <https://www.bmfsfj.de/blob/93228/77ac63e8f600d39c8fb5ae9ed2080653/aktionsplan-ii-zur-bekaempfung-von-gewalt-gegen-frauen-data.pdf>

12 See [https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596815/IPOL_STU\(2017\)596815_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596815/IPOL_STU(2017)596815_EN.pdf)

13 See https://www.valitsus.ee/sites/default/files/content-editors/arengukavad/ves_2015_aasta_luhikokuvote_kinnitatud.pdf

In all EU member states, without exception, hotline services exist for either women victims of violence specifically or victims of violence more generally. Some states have hotline services that specifically focus on domestic violence and/or sexual violence, which is available to both women and men (e.g. Belgium, Hungary, Luxembourg and Poland)¹⁴. In some countries that are multilingual, such as Germany¹⁵, the state hotline is available in around 15 languages for the country's inhabitants.

Some states also use alternatives to hotlines in addition to them. For example, in France¹⁶, there is a special phone application that provides quick access to services for everyone. Termed the “Grave Danger Phone” (Téléphone Grave Danger¹⁷), this is a specific phone available throughout the country that allows a victim of domestic violence to immediately get in contact with relevant authorities and the police, while allowing the latter to geolocate them. It is provided to the victim by the prosecutor, who assesses its

¹⁴ See [https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596815/IPOL_STU\(2017\)596815_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/596815/IPOL_STU(2017)596815_EN.pdf)

¹⁵ See <https://www.hilfetelefon.de/das-hilfetelefon/beratung/beratung-in-17-sprachen.html>

¹⁶ See <http://www.justice.gouv.fr/aide-aux-victimes-10044/un-nouvel-outil-pour-protoger-les-femmes-victimes-de-violence-27491.html>

¹⁷ See <https://www.prefectures-regions.gouv.fr/content/download/9761/62904/file/T%C3%A9l%C3%A9phone%20grave%20danger-1.pdf>

appropriateness for each case. The phone is often provided in cases where the abuser and the victim do not live together and a restraining order is in place. In situations where the abuser may try approaching the victim, there is a question of the victim's safety.

With reference to databases on cases of gender-based violence in EU member states, the database collected by the German police¹⁸ can be singled out as a good example. It distinguishes all types of violence corresponding to their criminal code, the type of relationship between perpetrator and victim, and other details. Another successful example is the model in Spain¹⁹, where cases of gender-based violence are collected from all bodies.

The ratification of the Istanbul Convention and the continued implementation of successive, multi-sectoral policies is an important tool in preventing the manifestations of gender-based violence and, if necessary, responding appropriately to violence and its consequences.

¹⁸ See https://www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/PolizeilicheKriminalstatistik/PKS2015/pks2015_node.html?jsessionid=BE64ADC5624E9A942EA32471B3181DEE.live2291

¹⁹ See <http://estadisticasviolenciagenero.mssi.gob.es/>

SITUATION IN ARMENIA

The Government of the Republic of Armenia (RA) approved²⁰ the signing of the Istanbul Convention on 28.12.2017 and signed it on 18.01.2018. In 2019, during discussions on the possible ratification of the Convention, a number of groups and individuals manipulated²¹ the content of the Convention in various ways, thus attempting to obstruct the ratification process.

At present, there is no official information on when the state plans to ratify the Convention and make multi-sectoral changes to prevent and combat gender-based violence. Moreover, the National Strategy for the Protection of Human Rights and its action plans for 2020-2022²² did not address the ratification of the Convention, despite it being a key document.

²⁰ See <https://www.e-gov.am/sessions/archive/2017/12/28/>

²¹ See Appendix 1 which deals with the misconceptions of the Convention

²² See <http://www.justice.am/page/575>

Although the RA Law on Prevention of Domestic Violence, Protection of Victims of Domestic Violence and Restoration of Peace within the Family²³ was adopted in 2017 and amendments were made to the relevant legal acts, there is still no systemic response to cases of gender-based violence in the country. Domestic legislation can be described as gender neutral and services provided by the state as not appropriately victim-centred or protecting the rights and interests of victims of gender-based violence.

The dearth of structures for combating domestic violence is yet another manifestation of the lack of institutional response. In Armenia, not all types of domestic violence are subject to accountability mechanisms under domestic legislation.

According to the RA criminal legislation, some types of physical and sexual violence are considered criminal acts. Legislation also partially regulates psychological violence. However, domestic law does not criminalise economic violence, stalking, forced marriage, or forced abortion. The provisions of the Convention (articles 33-44) address this

²³ See <https://www.arlis.am/DocumentView.aspx?DocID=118672>

issue by establishing liability measures for perpetrators as a means of combating violence.

Criminalisation of domestic violence is effective. It can either be used for one isolated act of crime or when investigating criminal acts more generally, as an aggravating circumstance when the act was committed as a result of domestic violence²⁴.

The legal settlement of cases under public and private prosecution in cases of domestic violence is also problematic. At present, the RA Criminal Procedure Code²⁵ stipulates that, regardless of the victim's complaint, the prosecutor has the right to initiate a criminal case in cases of domestic violence if the person cannot protect their legitimate interests due to their helplessness or dependence on the alleged perpetrator. In these cases, the criminal case should be initiated and examined in accordance with the general procedure established by the RA Criminal Procedure Code, and the criminal investigation should not be discontinued if the victim and

²⁴ See Article 46, <https://rm.coe.int/168046246d>

²⁵ See Article 183.4, <https://www.arlis.am/DocumentView.aspx?docid=141381>

the accused reconcile their relationship. However, when assessing the criteria set out in the RA Criminal Procedure Code, it is important to take into account that domestic regulation is based solely on the victim's situation. This is in contrast with the standards of the European Court of Human Rights, which assesses the offender's behavior. Related to this issue, the European European Court of Human Right sets more comprehensive criteria in the "Opus v. Turkey" case²⁶, which includes the following:

- the severity of the offense;
- whether the victim's injuries were physical or psychological;
- whether the perpetrator used a weapon;
- whether the perpetrator made threats after the offense;
- whether the perpetrator planned the attack;

²⁶ See [https://hudoc.echr.coe.int/eng-press#\(itemid%22:%22003-2759276-3020932%22\)](https://hudoc.echr.coe.int/eng-press#(itemid%22:%22003-2759276-3020932%22))

- whether any child in the family was impacted (including psychological);
- the possibility of the perpetrator carrying out a repeat offense;
- whether there is a continuing threat to the health and safety of the victim or any other person involved;
- the current relationship between the victim and perpetrator, the impact of the criminal prosecution on the ongoing relationship, and whether the criminal prosecution is against their wishes;
- the history of the relationship, particularly whether violence has been used in the past; and
- whether the perpetrator has a criminal history, particularly if violence has been carried out previously²⁷.

Taking the above into consideration, it is necessary to ensure that prosecutors have the right to initiate and continue the proceedings, even when the victim withdraws the complaint.

²⁷ See idem, § 138

In addition to the above-mentioned, the regulations regarding the institution of reconciliation in the law are also problematic. It should be noted that, based on international experience, the use of the institution of reconciliation is in itself effective only when parties have an equal status, which is absent in the relationship between those who have committed domestic violence and those who have been subjected to domestic violence. In its 33rd periodic review, the UN Committee on the Elimination of All Forms of Discrimination against Women also stated its position on the problematic and ineffective use of reconciliation for domestic violence cases²⁸.

The effective fight against domestic violence is also hampered by the lack of adequate protection measures for victims, the lack of state services and cooperation between state agencies, the absence of accurate statistics on domestic violence, and the insufficient professional trainings and lack of awareness of state and local self-governing bodies and officials.

²⁸ See https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_33_7767_E.pdf

**WHY RATIFY THE
CONVENTION?**

The Convention is the first international document to establish comprehensive mechanisms for preventing violence against women and domestic violence. It aims for zero tolerance for gender-based violence.

The ratification of the Convention will give the state a roadmap and support mechanisms to improve the prevention of domestic violence and promote its elimination.

It should also be noted that international organizations have also addressed the ratification of the Convention by Armenia in their observations. Back in 2015, during the UN Second Universal Periodic Review²⁹, Armenia was advised on steps to take in order to solve problems related to the prevention of domestic violence. In turn, the Council of Europe Commissioner for Human Rights

²⁹ See <https://www.ohchr.org/EN/HRBodies/UPR/Pages/AMIndex.aspx>

also highlighted the issue of violence against women and domestic violence in a report³⁰ developed as a result of his visit to Armenia in 2018.

The monitoring mechanisms of the Convention, in turn, will be aimed at assessing the actions of the state and thus supporting the prevention of gender-based violence and the implementation of further continuous actions by the state.

With the ratification of the Convention, the state assumes obligations to take active steps against gender-based violence. These steps are multifaceted and reflect their impact both in the legislative sphere and in the policy-making process, as well as in the introduction of new services and the implementation of existing services with a victim-centred approach.

These obligations include, but are not limited to, the implementation of the following actions:

³⁰ See <https://rm.coe.int/-/2018-16-20/-/1680920149>

(article
33-40)

Criminalise or otherwise punish various forms of violence against women

(article
29)

Provide victims with adequate civil remedies against perpetrators

(article
30)

Ensure that victims have the right to claim compensation

(article
48)

Ensure that mandatory alternative conflict resolution processes or punishments, including reconciliation and mediation, are prohibited

(article
55)

Ensure that prosecutors have the right to initiate and continue proceedings, even if the victim withdraws the complaint

(article

49)

Ensure that investigations and judicial proceedings are carried out without undue delay

(article

7)

Have a statistical database disaggregated by cases of gender-based violence

(article

56)

Ensure that victims are protected at all stages of investigations and judicial proceedings

(article

57)

Ensure that legal assistance and and free legal aid are available to victims

(article

20)

Ensure the accessibility and availability of healthcare and social services

(article

23)

Provide a sufficient number of shelters for victims of violence and their children in order to ensure their safety

(article

24)

Set up free, 24/7 around- the-clock hotline services

(article

15)

Conduct ongoing training for professionals to ensure that they provide a victim-centred approach to service delivery

APPENDIX 1

Misconception № 1. The Convention contradicts the RA Constitution

Articles 4.3, 12.1, and 14.1 of the Convention are cited as justification for this misconception. Article 4.3, paragraph 53 of the Convention's explanatory report³¹, which is consistently cited, defines "gender identity" as follows:

"Certain groups of individuals may also experience discrimination on the basis of their gender identity which in simple terms means that the gender they identify with is not in conformity with the sex assigned to them at birth. This includes categories of individuals such as transgender or transsexual persons, crossdressers, transvestites and other groups of persons that do not correspond to what society has established as belonging to 'male' or 'female' categories."

31 See <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800d383a>

In citing the article and its alleged contradiction with the RA Constitution, it should be noted that clause 43 of the Explanatory Report of the Convention clearly states:

“In the context of this Convention, the term gender, based on the two sexes, male and female, explains that there are also socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men. Research has shown that certain roles or stereotypes reproduce unwanted and harmful practices and contribute to make violence against women acceptable... The term ‘gender’ under this definition is not intended as a replacement for the terms ‘women’ and ‘men’ used in the Convention.”

It is clear from the quoted passage that the terms gender and gender identity used in the Convention do not imply the existence of another sex and are not intended to replace the notions of “women” and “men.”

With reference to Article 4.3 of the Convention, it should be noted that it generally provides for measures to protect the rights of victims of violence *“without discrimination on any ground such as sex, gender, race, colour, language,*

religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.”

The alleged contradiction of the quoted passage in the article with the RA Constitution is that it is the state’s obligation to protect the rights of victims of violence from discrimination, regardless of “sexual orientation, gender identity.” In connection with the above, it should be noted that Article 29 of the RA Constitution clearly stipulates: *“Discrimination based on sex, race, skin colour, ethnic or social origin, genetic features, language, religion, world view, political or other views, belonging to a national minority, property status, birth, disability, age, or other personal or social circumstances shall be prohibited.”*

The term “other personal or social circumstances” enshrined in the Constitution is quite broad and includes the right to freedom from discrimination, regardless of “sexual orientation or gender identity.” In the same way, Article 14 of the Council of Europe “Convention for the Protection of Human Rights and Fundamental Freedoms”³² stipulates:

³² See https://www.echr.coe.int/Documents/Convention_ENG.pdf

“The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

As one can see, the European Convention and the RA Constitution do not contain a special reference to the prohibition of discrimination on the grounds of sexual orientation or gender identity; however, this does not imply that this form of discrimination is acceptable. In a number of its judgments (*Identoba and Others v. Georgia*³³, *M.C. and A.C. v. Romania*³⁴ etc.), the European Court of Human Rights confirmed discrimination on the grounds of gender identity and/or sexual orientation and declared this a violation of Article 14 of the European Convention.

Regarding the “counter-argument” on the same issue relating to the decision of the Bulgarian Constitutional Court, it should be noted that, although the Bulgarian

³³ See <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-154400%22%7D>

³⁴ See <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-161982%22%7D>

Constitutional Court concluded in its decision³⁵ on 13.07.2018 that the Convention contradicts the Constitution of Bulgaria, the political context underlying that decision has been repeatedly mentioned. Four judges of the same court, Rumen Nenkov, Philip Dimitrov, Konstantin Penchev and Georgi Angelov, did not agree with the position of the eight judges of the court and expressed differing opinions. Dimitrov criticized the court for using the controversial term “gender ideology”, and Nenkov and Angelov called the decision a “gift to politicians.”

Misconception № 2. The Convention uproots customs/traditions

With reference to this misconception, it is mentioned that Article 12 of the Convention allegedly obliges that traditions and customs be abolished.

In this regard, it should be noted that Article 12.1 of the Convention clearly stipulates that states should take the

³⁵ See <http://www.constcourt.bg/Acts/GetHtmlContent/f278a156-9d25-412d-a064-6ff6f997310>

necessary measures to eradicate prejudices, customs, traditions and all other practices based on the idea of the inferiority of women or on stereotyped roles for women and men. The Convention does not contain a provision that obliges states to ignore their intra-cultural characteristics or intangible cultural values and heritage. It should be noted that the logic of this article is entirely aimed at eliminating phenomena used as the basis for domestic violence and violence against women.

Clause 43 of the Convention's Explanatory Report, in referring to this article, states that the Convention calls for a gendered understanding of violence against women and domestic violence as a basis for measures to protect and support all victims of violence. This means that these forms of violence need to be addressed in the context of the prevailing inequality between women and men, existing stereotypes, gender roles, and discrimination against women in order to adequately respond to the complexity of the phenomenon.

This means that forms of violence against women and domestic violence must be addressed in the context of a

proper response to the complexity of the phenomenon, that is to say, in the context of the prevailing inequality between women and men, existing stereotypes, gender roles, and discrimination against women. It means that the practices based on the idea of the subordination of women and the stereotypical role of men and women, including prejudices, customs and traditions, must be eradicated and their existence must not justify domestic violence and violence against women. This is the most important cornerstone for the formation of a healthy society without violence.

Misconception № 3. The Convention fuels propaganda and supports educational modules on a “third sex”

This non-existent obligation is attributed to Article 14.1 of the Convention, which states that member parties shall take necessary steps, where appropriate, to integrate teaching material on equality between women and men in interpersonal relationships, non-stereotyped gender roles, mutual respect, non-violent conflict resolution, violence

against women on the basis of gender, and the right to personal integrity, within official curricula at all levels of education and adapted to the evolving capacity of learners.

It should be noted that the Convention does not use the term “third sex” in any article or explanatory report. The Executive Secretary of the Convention also addressed³⁶ this issue, stating that the Convention doesn’t include a concept of “third sex”. Moreover, the groups that point out that the Convention is aimed at introducing a “third sex” use it to mean people who do not identify themselves as a man or woman (i.e. trans or intersex people). It must be clearly stated that even those issues are beyond the scope of the Convention.

Regarding teaching material on equality between women and men, non-stereotyped gender roles, violence against women on the basis of gender, and the right to personal integrity, we must first realize that such an educational system is necessary to form a healthy society based on equality, mutual respect, and non-violent conflict resolution.

³⁶ See <https://vimeo.com/258975674>

Misconception № 4. The Convention provides unlimited opportunities to the LGBT* community and allows children to be adopted by homosexual people

With regards to this misconception, it should be clearly emphasised that the Convention does not in any way address the issue of providing rights and/or opportunities for LGBT* people and does not in any way discuss the issue of adoption of children by homosexual individuals. Regarding the speculation that the concept of “partner” aims to change the concept of “family”, it should be stated that the Convention does not define the notion of “family”, does not regulate family life, and does not suggest anything about family structure. It simply highlights that women with disabilities, women belonging to ethnic minorities, women living with HIV, and members of the LGBT* community may be discriminated against when receiving support services and using protective mechanisms under the Convention.

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