

Human rights and justice for victims of gender based violence

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VAW as a human rights concern

International milestones and mechanisms

- Mid 1990s: Recognition of VAW as a VIOLATION OF HUMAN RIGHTS in international human rights law. Existing instruments:
 - **United Nations**
 - Convention on the Elimination of Discrimination Against Women, (1979). In 1992 : recognition of VAW as discrimination (General Recommendation # 19; also: GR 27, 28).
 - Convention Against Torture (applicability IPV?)
 - Beijing Platform for Action (1995; VAW as one of 12 areas)
 - **Inter-American Convention** on the Prevention, punishment and eradication of VAW (Belem do Para, 1994)
 - Protocol to the **African Charter** on Human and Peoples'Rights on the Rights of Women in Africa (2003)
 - **Council of Europe ISTANBUL CONVENTION on preventing and combating VAW and domestic violence (2011)**
As of March 8, 2017 22 MS ratified

AVAILABLE EUROPEAN MECHANISMS TO LEGALLY ADDRESS VAW

EU-frames (and MS)

- Criminalization as the prominent tendency in EU MS
- Wide divergence in regulating VAW between EU MS
- EU/European Commission: limited competence.
 - VAW as a violation of *criminal law*: no legal recognition of discriminatory nature of VAW. Recent signing of IC bij EC is milestone.

CoE frame

- European Convention of Human Rights
 - *ECHR* - case law. Important changes!
no monitoring/sanctioning mechanism

ISTANBUL CONVENTION (2011) - process

Process

- Preceded by elaborate studies/task force/resolutions (CoEurope - mid 1990s- 2008).
- Intensive drafting procedure (CAHVIO, 2009-2011)
- Comprehensive
 - Based on standards and legal interpretations from different sources (ECHR, CEDAW, Inter American Convention on VAW, CEDAW-views).
 - Explanatory memorandum.
- Intensive launch
 - Website, studies available that elaborate on core articles

ISTANBUL CONVENTION (2011) - innovative approach - general

Innovative elements implying binding (new) national obligations for States

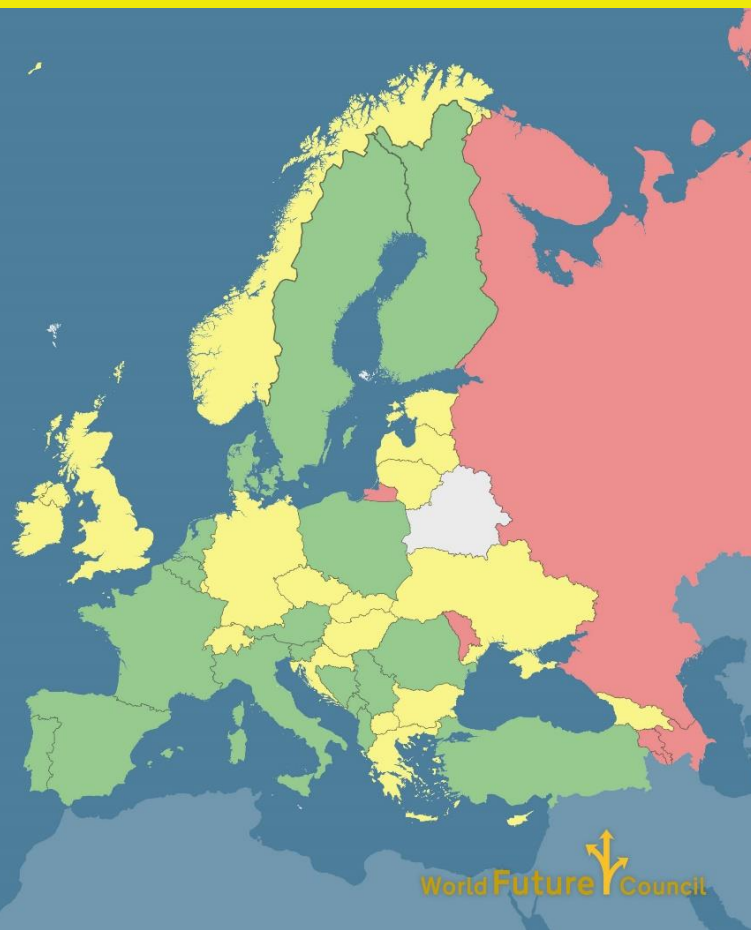
- *VAW as form of discrimination and a hr violation* (art. 3 and 4 of IC) as well as violations of criminal statutes (ch. V and VI of IC).
- *Integrated approach mandatory*: policies, including research and data-collection, and multi-disciplinary/multi-sectoral interventions (chapters II and IV)
- Explicit focus on *prevention*

ISTANBUL
CONVENTION

RATIFICATION

SIGNATURE

NONE



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Innovative elements - specific

- Connection between gender inequality and violence (cause and consequence)
- Distinguishing *gender based* violence and domestic violence (gender sensitive policies – art.6) -> ambiguity (Römkens, 2013; Açar/Popa, 2016)
- Research as obligation
- Strong emphasis on prevention (ch. III)
- Monitoring mechanism (GREVIO); impact?
- Obligation to assign budgets (also to NGOs) – art. 8

JURISPRUDENCE ECtHR – human rights applied to *domestic violence (IPV)*

- Relevant articles ECHR: 2 (right to life), 3 (right to be free of torture), 8 (right to privacy/family life) and 14 (right to be free of discrimination).
- Innovative developments:
 - concept (situations where) *'the police knew or could have known'* to establish states' failure to protect the woman's right to protection.
 - discrimination (Opuz v. Turkey, 2009)
 - Landmark cases:
 - First reference to IC in 2016 to substantiate discrimination-claim (M.G v.Turkey and Halime v. Turkey).
 - Recognition of dv as torture (art.3 -> fist case Eremia v. Moldova, 2013)

FUTURE ISSUES

- Contrast international and national developments and strength of HR: VAW/DV as a form of discrimination vs. gender neutralization and culturalisation of DV (UN CEDAW Cee on the Netherlands)
- Access to justice and the meaning of international human rights: who and how? (future research).
- Impact of case law and role of monitoring mechanism (GREVIO)