

PARLIAMENT OF ROMANIA

CHAMBER OF DEPUTIES

DECISION

adopting the Opinion on the Proposal for a Council Decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence COM(2016) 109

and

the Proposal for a Council Decision on the signing, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence COM(2016) 111

pursuant to the provisions of Articles 67 and 148 of the Constitution of Romania, republished, of Law No 373/2013 on cooperation between Parliament and the Government in the area of European affairs, and of Articles 160 to 185 of the Rules of Procedure of the Chamber of Deputies, republished,

The Chamber of Deputies adopts this Decision.

Sole Article - Having regard to Opinion No 4 c-19/530 adopted by the Committee for European Affairs at its meeting of 17 May 2016, the Chamber of Deputies:

1. Welcomes the conclusion and signing, on behalf of the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence, since the Convention:

- recognises the phenomenon of violence against women as an infringement of human rights and a form of discrimination;
- represents the most comprehensive international treaty on the serious infringement of human rights, which places the focus in particular on preventing the violence, protecting the victims and prosecuting the offenders;
- refocuses on the need to adopt firmer appropriate measures to minimise tolerance of anyone who resorts to acts of violence of any kind against women – acts which are growing rapidly in number with the burgeoning flow of migrants in Europe;
- it acts as an instrument for the protection of human rights which explicitly applies in peacetime and in situations of armed conflict, and it lays down obligations not only as regards women; it encourages their application also in the case of all victims of domestic violence, and more specifically in the case of men and boys.

2. It supported ratification of the Convention by the Romanian authorities and became involved in promoting the principles and the benefits of the adoption of this comprehensive international document in neighbouring countries, because:

- it represents a treaty on international judicial cooperation which creates a complete and multi-dimensional legal framework for the protection of women against all forms of violence and seeks to prevent and eliminate violence against women and girls and domestic violence;
- it is the first international treaty to contain a full definition of the concept of gender which is not confined only to differences of a biological nature; account is also taken of the social roles assigned to women and men by society as well as the behaviours and attributes specific to women and men;
- for the first time, girls under 18 years old are included in the definition given of the concept of 'woman';
- thus, 'gender-based violence against women' is defined as any form of violence directed against a woman, merely because she is a woman, or which affects women disproportionately compared with men;
- the definition of violence against women, which is considered to be an infringement of human rights and a form of discrimination against women, expressly includes any acts resulting in psychological or economic harm to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;
- the document raises the importance of economic violence and its potential effects on communities by disadvantaging and restricting the independence of women in the labour market, acts which will have a negative impact on the health and well-being of whole communities;
- Signatories are obliged to condemn all forms of discrimination by ensuring respect for the principle of equality between women and men in their legal orders, specifically stating that measures of positive discrimination may be adopted;
- 'domestic violence' is explicitly defined, and the definition expressly states that account is taken of all acts that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim;
- it introduces a series of offences that were not criminalised, such as forced sterilisation, female genital mutilation or psychological violence – offences that must be included in the national legislation of all signatory States and for which the measures necessary must be adopted;
- it supports and recommends the establishment and development of specialist services to provide medical assistance and psychological and legal counselling to victims and in particular the development of the network of shelters for women and children who are victims of domestic violence;
- it introduces the obligation for Signatories to set up a national coordinating body responsible for the implementation and proper functioning of the mechanisms generated by

policies on prevention, protection and assistance, which must be in constant contact with the bodies set up by all the Signatories;

- it recommends increasing the number of projects involving the private sector and the media as far as possible for framing and implementing gender policies;
- mention is made of unacceptable justifications for crimes, including crimes committed in the name of so-called 'honour', which may not be taken into consideration in the event of an act of violence against women or any member of the family (so-called justification based on culture, custom, religion or tradition);
- in their decisions, Signatories must bear in mind that legislative measures or other related measures must not be subordinated to the condition that the acts are criminalised in the territory where they were committed;
- the Convention sets up a specific monitoring mechanism that allows the Signatories to implement their provisions effectively;
- it lays down an obligation for Signatories to put in place integrated policies and to offer a holistic response to this phenomenon;
- it identifies those forms of violence that require a criminal law response and requires Parties to cover a number of offences in their criminal law.

3. It considers that:

- the assumption and signing of this document on behalf of the EU constitutes progress for consolidation of the legal framework for the protection and promotion of human rights;
- the signing of this international legal cooperation treaty on behalf of the European Union represents a politically positive signal, a commitment by the EU to respect and promote, both in the Member States and elsewhere, firm measures to prevent and combat the phenomenon of violence against women;
- the signing of this Convention on behalf of the EU allows harmonisation of the legal framework and of the measures for prevention, protection and provision of assistance to the victims of violence against women and family members for all Signatories, which will make the European system much more consistent and hence it will become a positive example worthy of being copied by other States, even if they are not members of the EU;
- the signing of the document will help to accelerate and deepen the policies of prevention and protection and related measures to implement those policies, as well as to bring about coherence in the policies in the field;
- the conclusion of the Convention is the expression not only of the EU's commitment to combating violence against women and ensuring the coherence of its measure internally and externally, but also of the complementarity of the national level with the European level; all this will reinforce credibility and accountability vis-a-vis international partners and will also consolidate the EU's representation and role in international forums;
- the EU must ratify the Convention together with the Member States as it has competence in relation to a large part of the provisions of the Convention (such as combating discrimination and gender equality under Article 157 TFEU, secondary legislation under

Articles 82 and 84 TFEU which deal with protection and support for victims and investigation, prosecution, procedural law and protective measures, under Articles 81 and 82 TFEU on cross-border civil and criminal matters concerning international cooperation, and Article 16 TFEU concerning data protection, legislative acts of the Union on aspects of Member States' cooperation on EU citizens' consular protection, etc.);

- since part of the competences of the Convention are under the responsibility of the Member States and a sizeable part fall within the responsibility of the European Union, the EU must be a signatory along with the Member States.

4. It appreciates that:

- the provisions on the basis of which the Signatories must recognise, encourage and support, at all levels, the work of relevant non-governmental organisations and of civil society active in combating violence against women and establish effective co-operation with these organisations are welcome since the networks of staff at the level of authorities for the collection of information and provision of the services of prevention, protection and provision of assistance are undersized and require ongoing investment in order to specialise in this field;

- the mainstreaming of the provisions of the international treaty, with implications for all fields of activity and at all levels, is fully in keeping with the broad objectives and complex problems that the provisions of the Convention must address, and at the same time it necessitates a reassessment and revival of policy-making and of the measures necessary to implement the policies at European level;

- the complex definitions adopted by the Convention for violence-related concepts have again brought to the fore reconsideration of policies in the field of gender equality, both horizontal and vertical, in order to create a harmonised and coherent model;

- the Parties must cooperate on the implementation of the Convention, make use of the relevant international and regional cooperation instruments and ensure that complaints relating to infringements on the territory of another party may be lodged in the country of residence of victims;

- it is justified to introduce gender-related aspects when developing asylum procedures so that gender-related violence is recognised as a form of persecution, and when establishing refugee status;

- the provision according to which the national parliaments are invited to participate in the monitoring activity should be further detailed;

- the Signatories' freedom also to conclude other international agreements on questions already regulated by the Convention is justified in so far as they consider it necessary to supplement or consolidate those provisions.

5. It draws attention to the following aspects that the European Commission should consider:

- although there do not appear to be any gaps or inaccuracies in the content of the two proposals, there are some elements that need to be clarified at this stage and which relate to the structure of competences that fall exclusively to the EU and those that are shared between the EU and the Member States;

- clarifications are necessary concerning the interlinked competences for implementation and monitoring of the mechanisms by means of the coordinating body (Article 10) , the obligations to report and collect data by the group of experts (Article 11(3), Article 66 and Article 70);
- there must be more careful analysis of the provisions of the Convention to correctly determine which provisions are exclusively EU competences and which fall within the scope of the shared competences; this clarification is necessary on the basis of Articles 3 and 4 of the proposal for a Council Decision (COM(2016) 109) which underlines the need for a common agreement between the EU Member States and the European Commission on matters that fall within the exclusive competence of the EU and the competences that are not EU responsibilities within the meaning of Article 4(1) and (2) of the Decision;
- in accordance with the provisions of Article 78(1) and (2) of the Convention, Romania reserves the right not to apply, or to apply only in specific cases or circumstances, the provisions of: Article 30(2), Article 44(1)(e), (3) and (4);
- since the Istanbul Convention has the role of a legal instrument for cooperation in the field of human rights, we consider that the approach could be similar to that followed in the case of EU accession to the European Convention on the Protection of Human Rights and Fundamental Freedoms, particularly since Article 2, second sentence of the Protocol (No 8) annexed to the Treaties provides that the agreement on accession of the Union to the ECHR 'shall ensure that nothing therein affects the situation of Member States in relation to the European Convention, in particular in relation to the Protocols thereto, measures taken by Member States derogating from the European Convention in accordance with Article 15 thereof and reservations to the European Convention made by Member States in accordance with Article 57 thereof';
- given the heterogeneity and diversity at EU level, we consider Article 1 of each of the Decisions should expressly state that the Istanbul Convention is adopted on behalf of the EU in its capacity as a distinct subject of public international law, 'as regards matters falling within Union competence';
- the Member States remain competent for prosecution of the various offences committed against women under national criminal law, as stipulated in the Convention, in order to choose the appropriate means (legislative or other measures) of implementing the Convention;
- we consider it necessary for appropriate regulatory procedures, involving both the Commission and Member States, to be identified to implement and monitor the mechanisms provided for in the Convention for the monitoring of reporting on obligations, in accordance with Chapter IX of the Convention, as follows: select, propose and participate in the nomination of the experts of the group of experts on action against domestic violence, on behalf of the Union; ensure good cooperation on the aspects of monitoring, data collection, reporting, voting system arrangement and functioning of the coordinating body provided for in Article 10 of the Convention;

- the code of conduct provided for in Article 4(2) of COM(2016) 109 should be authorised before the lodging of the instrument of formal confirmation by the Union with a view to ensuring transparency in all legal and practical aspects.

6. Highlights the preliminary measures initiated in Romania arising from implementation of the Istanbul Convention:

- Romania has signed and ratified the Istanbul Convention, lodging the instruments of ratification on 23 May 2016, and it will subsequently enter into force on 1 September 2016. Until then, through activities to promote the objectives and good practices at regional level, it has contributed and will continue to contribute to realisation of the aspirations of all women who can benefit from ratification and implementation of this Treaty;
- Romania has already started implementing the Istanbul Convention. Thus, by way of example, with a view to preventing and limiting economic violence and the adverse effects that such violence may have on communities, Law 229 of 6 October 2015 was adopted to amend and supplement Law 202/2002 on equal opportunities and treatment for men and women. In this connection, consideration was given to:
 - establishing the conditions necessary for elimination of the differences in remuneration between women and men, applying the principle that for equal work, men and women must receive equal pay;
 - introducing the phrase 'budgeting from a gender perspective' with a view to evaluating the impact of the public budget on the lives of women and men, while respecting the principle of equality between women and men.
- At the level of the Chamber of Deputies, within the Committee for European Affairs, a working group has been set up composed of parliamentarians, representatives of ministries with responsibility for implementation of the Convention and representatives of non-governmental and private associations with expertise in the field, in order to identify and prioritise the legislative measures necessary for implementation of the Convention and to monitor the implementation of the measures at regional and local level.

7. It supports these two proposals of the European Commission since, by concluding and signing the Istanbul Convention on behalf of the European Union, the European Commission will send a powerful political message, and signal its commitment to undertaking all measures to prevent and combat any form of violence against women and to supporting the Member States of the Council of Europe in their efforts to sign and ratify the Treaty on judicial cooperation.

8. It supports the proposals since the Convention can be fully implemented only if all those entitled exercise their competences: the competences of the European Union and the competences that belong to the Member States.

This decision was adopted by the Chamber of Deputies at its sitting of 22 June 2016, in accordance with the provisions of Article 76(2) of the Constitution of Romania, republished.

THE PRESIDENT

OF THE CHAMBER OF DEPUTIES

Florin IORDACHE

Bucharest, 22 June 2016

No 58