



2016/0062(NLE)

31.5.2017

OPINION

of the Committee on Legal Affairs

for the Committee on Civil Liberties, Justice and Home Affairs and the
Committee on Women's Rights and Gender Equality

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)0109 – 2016/0062(NLE))

Rapporteur: Jiří Maštálka

SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women's Rights and Gender Equality, as the committees responsible, to incorporate the following suggestions into their report:

Recitals

- A. whereas gender equality is a core value and an objective of the Union, recognised in the Treaties and in the Charter of Fundamental Rights of the European Union (the “Charter”), which it has committed to integrating into all its activities; whereas women’s rights are human rights and gender equality is fundamental to achieving the overall Europe 2020 objectives of sustainable growth, decent employment and social inclusion;
- B. whereas the right to equal treatment and to non-discrimination is a defining fundamental right, which is recognised in the Treaties;
- C. whereas the Charter recognises the right to human dignity, the right to life, and the right to the integrity of the person, and prohibits inhuman or degrading treatment, as well as all forms of slavery and forced labour (Articles 1 to 5 of the Charter);
- D. whereas, despite the fact that the Union has adopted firm positions¹ on the need to eradicate violence against women, running special campaigns and local projects to combat this phenomenon, and that current legislation, for example in the field of the protection of victims of crime, sexual abuse and the sexual exploitation of children, asylum and migration, takes into account the special needs of victims of gender-based violence, the scale of violence against women continues to give serious cause for concern across the Union;
- E. whereas, according to the European Union Agency for Fundamental Rights’ study on “Violence against women: an EU wide survey” published in 2014,² gender-based violence is still a widespread phenomenon, with one-third of all women in Europe having experienced physical or sexual acts of violence at least once during their adult lives, 20 % of young women (18-29 years of age) having experienced online sexual harassment and one in five women (18 %) having been stalked, one in twenty women having been raped and more than one in ten having suffered sexual violence involving lack of consent or the use of force, with most incidents of violence not being reported to any authorities;
- F. whereas, according to the European Added Value Assessment, the annual cost to the Union of violence against women and gender-based violence was estimated at EUR 228 billion a year, of which EUR 45 billion a year was in the form of spending on

¹ See, for example: Commission Communication COM(2010) 491 final – Strategy for equality between women and men 2010-2015 – <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52010DC0491&from=EN>; Council conclusions on the Eradication of Violence Against Women in the European Union – https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lsa/113226.pdf

² <http://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report>.

public and state services and EUR 24 billion in lost economic output;

- G. whereas the Commission stressed in its strategic engagement for gender equality 2016-2019 that violence against women and gender-based violence, which damages women's health and wellbeing, working lives, financial independence and the economy, is one of the key problems to be addressed in order to achieve genuine gender equality;
- H. whereas the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) is the first internationally legally binding detailed and comprehensive instrument on preventing and combating violence against women at an international level, which addresses the issue of violence not only against women, but also men and children, based on the principles of prevention, protection and support, prosecution and elimination of violence against women and domestic violence, and stresses the need for integrated policies at national level;
- I. whereas the Council under the Maltese Presidency has shown willingness and progress in the process of concluding and finalising the accession of the Union to the Council of Europe's Convention on preventing and combating violence against women and domestic violence (Istanbul Convention); whereas the commitment of the Council, the Commission and Parliament to a zero tolerance approach to violence against women and girls in Valetta on 3 February 2017 is a prerequisite for a full and effective implementation of the Convention;
- J. whereas all Member States have signed the Istanbul Convention but only 14 have ratified it so far;
- K. whereas sexual and reproductive health and rights (SRHR) are human rights, violations of which constitute breaches of women's and girls' rights to equality, non-discrimination, dignity and health and of women's rights to freedom and self-determination;
- L. whereas opposition to SRHR has increased in Europe and around the world;
- M. whereas violence against women or gender-based violence is a violent crime that is directed against a person because of that person's gender, gender identity or gender expression or that affects persons of a particular gender disproportionately; whereas gender-based violence is both a cause and a consequence of inequalities between women and men;

Recommendations

- (i) Recalls that the Member States, institutions, agencies, bodies and offices of the Union, and the Union as a whole, are bound by the Treaties and by the Charter of Fundamental Rights of the European Union (the "Charter") to guarantee and promote gender equality, in particular by Articles 2 and 3 of the Treaty on European Union (TEU) and by Article 8 of the Treaty on the Functioning of the European Union (TFEU), and by Article 23 of the Charter;

- (ii) Welcomes the fact that the Istanbul Convention's approach is fully in line with the Union's multifaceted approach to the phenomenon of gender-based violence and the thrust of measures in place through internal and external Union policies;
- (iii) Stresses and reiterates, in the context of violence against women constituting a violation of human rights and an extreme form of discrimination, that equality and non-discrimination are essential for the development of society and should apply in legislation, in practice, in case law and in daily life;
- (iv) Recognises with grave concern that women and girls are often exposed to serious forms of domestic violence, female genital mutilation, honour killings, prostitution-linked human trafficking, sexual harassment, rape, forced marriage and other crimes, which constitute a serious violation of the human rights and dignity of women and girls;
- (v) Recognises that domestic violence affects women disproportionately, but that men and children may also be victims of domestic violence, including as witnesses of violence in the family;
- (vi) Is concerned that most incidents of violence are considered a private issue and therefore tolerated and not reported to any authorities, which shows that further measures are needed to encourage victims to report their experiences and receive assistance, and to ensure that service providers can meet the needs of victims and inform them about their rights and existing forms of support; recalls that prosecution rates for incidents of violence against women are unacceptably low;
- (vii) Considers that the signing and conclusion of the Istanbul Convention would also help consolidate the Union's legal framework and action targeting violence against women by achieving a more coordinated approach internally and stepping up its role in international fora;
- (viii) Calls on the Council and the Commission to speed up negotiations on the conclusion of the Convention;
- (ix) Calls on the Commission and the Council to ensure that Parliament will be fully engaged in the Convention's monitoring process following the Union's accession to it;
- (x) Recalls that the Union's accession to the Istanbul Convention does not exonerate Member States from ratifying the Convention at national level and from having in place a national action plan combatting violence against women; calls, therefore, on all Member States to ensure that a national action plan combatting violence against women is in place, and on those Member States which have not yet done so to ratify and fully implement the Convention;
- (xi) Stresses that SRHR are fundamental rights which may not be curtailed for any reason;
- (xii) Reiterates that the Union is exclusively competent pursuant to Article 3(2) TFEU for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, therefore the Union's accession to the Istanbul Convention is a legal competence of the Union which may affect common rules or alter their scope as regards

matters pertaining to the residence status of third-country nationals and stateless persons, including beneficiaries of international protection also as regards of the rights of victims of crime;

- (xiii) Reiterates the Parliament's call on the Commission made in its resolution of 25 February 2014, which contained recommendations to combat violence against women, to submit a legal act providing a coherent system for collecting statistical data as well as a strengthened approach by Member States to the prevention and suppression of all forms of violence against women and girls and of gender-based violence, and to making low-threshold access to justice possible;
- (xiv) Notes that the Commission proposal COM(2016)0109 on the accession of the Union to the Istanbul Convention mentions that Article 83(1) TFEU provides a legal basis for action concerning sexual exploitation of women and children; calls, therefore, on the Council to activate the passerelle clause by adopting a unanimous decision identifying violence against women and girls, and other forms of gender-based violence, as an area of crime listed in Article 83(1) TFEU.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	The EU accession to the Council of Europe Convention on preventing and combating violence against women and domestic violence
References	COM(2016)0109 – 2016/0062(NLE)
Committees responsible	LIBE FEMM
Rapporteur Date appointed	Jiří Maštálka 4.10.2016
Discussed in committee	28.2.2017 23.3.2017
Date adopted	30.5.2017
Result of final vote	+ : 21 – : 0 0 : 2
Members present for the final vote	Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Jean-Marie Cavada, Kostas Chrysogonos, Rosa Estaràs Ferragut, Lidia Joanna Geringer de Oedenberg, Sylvia-Yvonne Kaufmann, Gilles Lebreton, António Marinho e Pinto, Pavel Svoboda, József Szájer, Axel Voss, Tadeusz Zwiefka
Substitutes present for the final vote	Pascal Durand, Angel Dzhambazki, Evelyne Gebhardt, Virginie Rozière, Kosma Złotowski
Substitutes under Rule 200(2) present for the final vote	João Pimenta Lopes, Jarosław Wałęsa, Josef Weidenholzer

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

21	+
ALDE	Jean-Marie Cavada, António Marinho e Pinto
GUE/NGL	Kostas Chrysogonos, João Pimenta Lopes
EFDD	Joëlle Bergeron
ENF	Marie-Christine Boutonnet, Gilles Lebreton
PPE	Rosa Estaràs Ferragut, Pavel Svoboda, József Szájer, Axel Voss, Jarosław Wałęsa, Tadeusz Zwiefka
S&D	Mady Delvaux, Evelyne Gebhardt, Lidia Joanna Geringer de Oedenberg, Sylvia-Yvonne Kaufmann, Virginie Rozière, Josef Weidenholzer
Verts/ALE	Max Andersson, Pascal Durand

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ECR	Angel Dzhambazki, Kosma Złotowski

Key to symbols:

+ : in favour

- : against

0 : abstention