The accession of the EU to the Istanbul Convention and its possible impacts on criminal law

Fatma Karakaş

Abstract

The Council of the European Union concluded the accession of the European Union to the Istanbul Convention on 1 June 2023, with regard to matters related to judicial cooperation. Following the deposition of the instruments of accession with the Secretary General of the Council of Europe on 28 June 2023, and a three-month period after this date, the Convention entered into force for the EU on 1 October 2023. The Court of Justice of the EU played a leading role in this process. Some EU states oppose the Convention and have not ratified it yet in accordance with their national law. The Istanbul Convention is a dual-nature treaty and includes both human rights and criminal law provisions regarding gender-based violence. This article tries to analyse whether the EU's ratification of the Istanbul Convention impacts the criminal laws of the EU States and EU law itself. It does not deal with the Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence.

Keywords: Istanbul Convention, European Union, criminal law, discrimination, gender-based violence

Zusammenfassung

Der Beitritt der Europäischen Union zum Übereinkommen von Istanbul wurde vom Rat der EU am 1. Juni 2023 im Hinblick auf die justizielle Zusammenarbeit beschlossen. Nach Hinterlegung der Ratifizierungsurkunden beim Generalsekretariat des Europarates am 28. Juni 2023 und Ablauf der vorgesehenen Dreimonatsfrist ist das Übereinkommen für die Union am 1. Oktober 2023 in Kraft getreten. Die Rolle des Europäischen Gerichtshofs war in diesem Prozess von entscheidender Bedeutung. Einige EU-Staaten haben aufgrund von Einwänden das Übereinkommen noch nicht ratifiziert und mit ihrem nationalen Recht in Einklang gebracht. Als Vertrag mit doppeltem Charakter enthält das Übereinkommen sowohl menschenrechtliche als auch strafrechtliche Bestimmungen zu geschlechtsspezifischer Gewalt. Dieser Beitrag versucht zu analysieren, ob die Ratifizierung der Istanbul-Konvention durch die EU Auswirkungen auf das Strafrecht der EU-Staaten und das Recht der EU hat; er behandelt nicht die Richtlinie (EU) 2024/1385 des Europäischen Parlaments und des Rates vom 14. Mai 2024 zur Bekämpfung von Gewalt gegen Frauen und häuslicher Gewalt.

Schlüsselwörter: Istanbul-Konvention, Europäische Union, Strafrecht, Diskriminierung, geschlechtsspezifische Gewalt

1. Introduction

The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, known as the Istanbul Convention (IC), was opened for signatures in 2011 and entered into force in 2014 (UK Parliament House of Lords Library News 2022). The IC aims to eliminate gender-related violence by creating a social system based on gender equality. The IC defines violence against women as a form of discrimination and a violation of human rights, which makes its approach innovative, and it is the first binding international instrument to combat such violations at the international level.

For the time being, the total number of signatory states not followed by ratifications is 6, and the total number of ratifications is 39. The EU is the only international organisation that signed and ratified the IC. The IC entered into force in 2023 for the EU after an extended ratification process that is examined in this paper (Council of Europe Treaty Office News 2024a). Certain EU countries are considering withdrawing from the IC, while others have objections to some provisions of it and have not yet ratified it. Turkey, on the other hand, became the first country to withdraw from the IC, although it had been the first signatory country and had held the opening signing ceremony in Istanbul (Council of Europe Treaty Office News 2021; Karakaş-Dogan 2021).[1]

2. The ratification process

2.1 The interpretation of the Court of Justice of the EU and the Council of the European Union

The EU signed the IC on 13 June 2017 in accordance with Council Decisions (EU) 2017/865 and (EU) 2017/866 in relation to issues concerning judicial cooperation in criminal matters as well as asylum and non-refoulement. On 10 May 2023, the European Parliament voted on its consent to the IC, and on 1 June 2023 the Council voted on its approval. Eventually it

1 Denunciation contained in a note verbale from the Permanent Representation of Turkey to the Council of Europe on 22 March 2021: "The Republic of Turkey withdraws from the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210) done at Istanbul on 11 May 2011, pursuant to Article 80 thereof" (Council of Europe Treaty Office News 2021).

entered into force for the EU on 1 October 2023. The ratification process, however, was prolonged due to the inability to reach a consensus within the EU (Uzelac Vedris 2024).

On multiple occasions, the EU Commission put forward proposals for the EU to join the IC under Article 82(2)[2] and Article 84[3] of the Treaty on the Functioning of the European Union (TFEU). The European Parliament called for ratification despite facing opposition from certain EU member states in response (The CJEU News 2021).

On 9 July 2019, the European Parliament formally requested the Court of Justice of the EU (the CJEU) to provide an opinion on the issue. The CJEU, however, waited until the EU had established an appropriate legal foundation for the ratification of the IC (The CJEU News 2021). Finally, the CJEU concluded the request under Article 218(11) of the TFEU, which specifically refers to the CJEU's opinion. The CJEU highlights the provisions of the IC that pertain to judicial cooperation in criminal matters, asylum and non-refoulment, and the obligations of EU institutions and public administration, within the EU's jurisdiction. In this regard, the CJEU bases its examination on Articles 82(2), 84, 78(2) and 336 of the TFEU.[4]

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2 See the TFEU (2012) Article 82(2): "To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, the European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States."

3 See the TFEU (2012) Article 84: "The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may establish measures to promote and support the action of Member States in the field of crime prevention, excluding any harmonisation of the laws and regulations of the Member States."

4 The TFEU (2012) Article 218(11): "A Member State, the European Parliament, the Council or the Commission may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the Treaties. Where the opinion of the Court is adverse, the agreement envisaged may not enter into force unless it is amended or the Treaties are revised." The CJEU (2021) Grand Chamber Opinion, no. 1/19, 6 October 2021, prg. 338: "[…] the requirements laid down in Article 218(2), (6) and (8) TFEU, the Treaties do not prohibit the Council of the European Union, acting in conformity with its Rules of Procedure, from waiting, before adopting the decision concluding the […] Istanbul Convention on behalf of the European Union, for the 'common accord' of the Member States to be bound by that convention in the fields falling within their competences. However, the Treaties do prohibit the Council from adding a further step to the conclusion procedure laid down in that article by making the adoption of the decision concluding that convention contingent on the prior establishment of such a 'common accord'. The appropriate substantive legal basis for

The CJEU has the authority to issue an opinion on whether an agreement envisaged is compatible with the EU treaties or whether the EU has competence to conclude it. This affirmation was confirmed in the judgment of 1/19, which was released on 6 October 2021. The CJEU clarified that the EU has the ability to ratify the IC without obtaining the consent of all the EU states. It emphasises that the IC, as a mixed agreement, falls under both the EU's competence and the competence of the EU States. The CJEU further asserts that the decision of whether the EU exercises its shared competence is a matter of its political discretion. In its opinion, the CJEU stated that, in principle, political discretion should be exercised by a qualified majority within the Council of the European Union to decide whether to conclude an international agreement, in accordance with the provisions of its Rules of Procedure. The CJEU pointed out that this qualified majority should be ensured following the approval of the Parliament (The CJEU 2021).

Consequently, the Council of the European Union restricted its endorsement of the IC to matters falling exclusively within jurisdiction of the EU, as outlined in Article 78(2), Article 82(1) and Article 84 of the TFEU in conjunction with Article 219(6). In accordance with Article 75 of the IC, the EU may become a Party to the Convention as it is mentioned in the decision of the Council of Europe. The Council of the European Union further stated that the access of the EU to the IC is limited to certain provision of the IC relating to asylum and non-refoulement. It is underlined that the EU is responsible for the implementation of the provisions of the IC falling under its competence, while the EU States that ratify the IC are responsible for the implementation of provisions falling under their national competence (The Council Decision (EU) 2023/1076 of 1 June 2023).

2.2 EU's declaration

Following the approval of the Council of the EU, the EU, recognized as an international legal person, deposited the decisions with the Council of Europe on the specific areas of its competence in the matters covered by the IC. Articles 3 and 4 of the TFEU outline how the EU and EU Member states

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the adoption of the Council act concluding, on behalf of the European Union, the part of the Istanbul Convention covered by the envisaged agreement, within the meaning of Article 218(11) TFEU, is made up of Article 78(2), Article 82(2) and Articles 84 and 336 […]."

share authority in specific areas. According to Article 4(1) of the Treaty on European Union (TEU), the EU States retain competence in all matters where the EU lacks authority. The declaration affirms that the EU possesses the competence to accept the obligations set out in the IC concerning its institutions and public administration, as defined in Article 336 of the TFEU. In this regard, the EU has the sole power to conclude its accesion to the IC, but only if its provisions have the potential to affect shared regulations or alter their extent as stated in Article 3(2) of the TFEU (Council of Europe Treaty Office News 2023).

The matters that have been adopted in the EU law address various issues, including combating gender-based discrimination, coordinating diplomatic or consular protection for citizens of non-represented EU Member States in third countries, asylum, subsidiary protection, temporary protection and migration, judicial cooperation in civil and criminal matters, police cooperation and promoting gender equality in the labour market (Council of Europe Treaty Office News 2023).

The EU, as a member of the IC, ensures that women and girls have a safe and equal life without fear, violence or insecurity by setting minimum legal standards to combat violence against women and domestic violence (The Council Decision (EU) 2023/1076 of 1 June 2023).

3. Possible impacts of the ratification on criminal law

3.1 Legal framework of EU criminal law

The term "European criminal law", for the time being, does not refer to a set of offenses that stem from a European source of law that is directly applicable to criminal acts in all EU States (Satzger 2018: 45). Despite the lack of a European Criminal Code, approximation in criminal matters has been developing within the EU.

The direct influence of EU law over the national laws of the EU Member States derives from the founding treaties of the EU. Secondary influence, however, is established by the European institutions based on EU primary law. Regulations and directives issued by EU institutions are directly applicable in all Member States in the same sense as domestic legislation. As the CJEU confirmed, EU law has a priority of application over national laws because of the autonomy of the European legal order (Satzger 2018: 46, 55).

The relevant chapters of the EU founding treaties serve as the fundamental characteristics of EU criminal law. The Charter of Fundamental Rights

of the European Union (CFR) contains provisions on criminal justice that guarantee the basic rights of accused persons, such as the presumption of innocence, the right of defence and the transnational ne bis in idem principle. The Charter also includes some guarantees of the principle of legality and proportionality as well as a catalogue of general fundamental rights defined in the European Convention on Human Rights (ECHR) and the jurisprudence of the European Court of Human Rights (ECtHR).

The CJEU applies the fundamental rights enshrined in the ECHR by upholding EU law (Satzger 2018: 50–51). The ECHR case law on violence against women influences the interpretation of fundamental rights of women (Nousiainen 2017). As the IC is derived from the jurisprudence of the ECtHR and is a convention of the Council of Europe, the ECtHR can indirectly monitor some guarantees covered by the IC.

The TFEU guarantees in Article 6 that the EU shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States. Chapter 4 of the TFEU is on judicial cooperation in criminal matters, mentioning the approximation of the laws within the EU (TFEU 2012, Chapter 4: Judicial Cooperation in Criminal Matters). However, substantive criminal law still has a national character, which limits the impact of supranational law in this field.

Even in the absence of an EU criminal code, international and supranational law will continue to harmonise criminal law within the EU. Through Article 83 of the TFEU, EU legislation can interfere with the substantive national laws of Member States (The Parliament Magazine News 2023). Article 83 of the TFEU states that EU legislation may interfere in the EU Member States' substantive criminal laws.

In the first paragraph of Article 83 of the TFEU, a range of serious crimes is outlined, and it imposes restrictions on the EU Member States' authority to criminalise certain actions. The EU states are obliged to enact laws that classify any actions falling under the serious crimes mentioned in the aforementioned Article (TFEU 2012).

However, gender-based discrimination or violence is not mentioned as a serious crime under the TFEU. The IC, on the other hand, requires criminal law measures to be within the scope of EU competence for legislative approximation (Nousiainen 2017: 10). The EU intends to identify[5]

5 The Parliament Magazine News (2023): "[…] Parliament had scheduled a debate on its own efforts to combat these crimes, with an own initiative report by the committees on Civil Liberties, Justice and Home Affairs (LIBE) and on Women's Rights and Gender

gender-based violence as a new area of serious crime under Article 83(1) of the TFEU[6] by calling for a treaty change. The last paragraph of Article 83(1) states that adopting a new area of crime to the list is possible; however, it requires a unanimous decision of the Council of the EU.[7] Adding gender-based violence to the list of EU crimes in Article 83(1) would provide a better approximation of legal definitions and minimum penalties for similar acts.

3.2 The IC from a criminal law perspective

The Council of Europe has continuously played a significant role in establishing standards to promote human rights and the rule of law. The numerous conventions adopted by the Council have effectively harmonised legislation across the continent. It is acknowledged in international public law that treaties should be interpreted in good faith, considering their objects and purposes (Bek/Sitarz 2019). Likewise, the IC should be interpreted under the general principles above.

The IC recognises violence against women as a form of discrimination against women and violation of human rights. It is based on four pillars: prevention, protection, prosecution and coordinated policies, to create a discrimination-free social structure. Raising awareness, challenging gender stereotypes, training professionals, providing access to shelters, facilitating reporting on violence and holding perpetrators criminally accountable are some of the issues addressed by the IC. As the reports of the IC together with the Group of Experts on Action against Violence against Women and Domestic Violence (the GREVIO) have clearly shown, the fight against discrimination against women requires a unified policy and collective ac-

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Equality (FEMM), entitled 'Identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU', in effect calling for a change in the Treaty […]. The own initiative report was adopted in plenary on Thursday with 427 members voting for it, 119 against and 140 abstaining."

6 The TFEU (2012) Article 83(1): "These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime."

7 The TFEU (2012) Article 83(1): "[…] On the basis of developments in crime, the Council may adopt a decision identifying other areas of crime that meet the criteria specified in this paragraph. It shall act unanimously after obtaining the consent of the European Parliament."

tion. Therefore, not only acts of violence but also actions that tend to be discriminatory in the future should be avoided now.

The IC, on the other hand, is a mixed convention due to falling within both the competence of the EU States and the EU (Uzelac Vedris 2024: 5). It is also considered a dual-nature treaty as it contains provisions regarding gender-based violence in both human rights and criminal law. Due to its character as a human rights law treaty, it reflects a victim-centred approach (Uzelac Vedris 2024: 13).

Another significant feature of the IC is defining and criminalising different forms of violence against women, thus ensuring effective investigation in response to allegations, and making sure that culture, custom, religion, tradition and honour cannot be used to justify such acts (Uzelac Vedris 2024: 14). With the ratification of the IC, the EU, as a member of the IC, guarantees that minimum legal standards apply to countering violence against women and domestic violence across the EU (Council of Europe News 2023).

3.3 Potential impact of the IC on EU States' criminal laws

As aforementioned, the IC obliges the Member States to criminalise several conducts that constitute violence against women and domestic violence. Criminalisation of forced marriage, female genital mutilation, forced abortion, stalking, sexual harassment, physical and psychological violence, and sexual violence is obliged under the IC. Furthermore, the state parties shall ensure that culture, custom, religion, tradition or so-called honour is not used to justify violent and discriminatory acts against women in criminal proceedings. The IC demands the establishment of sanctions that are proportionate and effective and that reflect the aggravating nature of the circumstances (De Vido 2017: 75–76).

Furthermore, the accession of the EU to the IC will bring more coordinated policies to ensure that all state authorities, professionals and non-governmental organisations work together to achieve a violence-free social structure. Additionally, it sends a clear message of disapproval, stating that violence will not be accepted in the EU or anywhere else (Council of Europe Treaty Office News 2024b). The EU's ratification of the IC manifests that individuals can rely on certain provisions of the IC before national courts even if the relevant EU country has not ratified it. It brings more guarantees amid ongoing discussion on potential withdrawals (Uzelac Vedris: 14–15).

As recognised under Article 47 of the TFEU (2012), the EU has a legal personality that makes it independent, with the capacity to conclude, negotiate and sign international agreements that are directly binding and have primacy over the laws and constitutions of the EU states (EUR-Lex Access to European Union Law 2024). The competence of the EU on this issue is also stated under Article 216 of the TFEU.[8]

In this context, Article 82(2) of the TFEU provides minimum rules to facilitate mutual recognition in judgments and judicial decisions as well as police and judicial cooperation in criminal matters. Article 84 of the TFEU, on the other hand, points out measures to promote and support the actions in the field of crime prevention, excluding and harmonising the laws and regulations of the EU states (De Vido 2017: 81–82).

The EU does not have the competence to enact substantive criminal laws above the EU states despite having the authority to lead towards an approximation. As the EU's ratification of the IC is solely based on Article 82(2) and Article 84, it is not an infringement of EU law if an EU state that has not yet ratified the IC does not adopt crimes regulated under the IC in its national law, even if the EU ratified the IC (Nousiainen 2017: 10–11). Nonetheless, the absence of laws could be interpreted by the EU, a supranational body, as a breach of the public order of the EU based on its political discretion. In this scenario, the EU has the power to cut off EU funds under EU law. Thus, the EU can play a significant role in cases where member states have varying approaches to addressing discrimination and violence against women, such as in the context of abortion.[9]

The first consequence of the EU's accession to the IC is that the EU, as a legal person, is now bound by the IC since the ratification process has been completed. The EU is now obliged to cooperate on criminal matters as indicated in the IC (Council of Europe Treaty Office News 2024b). Additionally, the EU institutions must take into account the perspective of the IC in the areas where they function.

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8 See TFEU (2012) Article 216: "1. The Union may conclude an agreement with one or more third countries or international organizations where the Treaties so provide or where the conclusion of an agreement is necessary in order to achieve, within the framework of the Union's policies, one of the objectives referred to in the Treaties, or is provided for in a legally binding Union act or is likely to affect common rules or alter their scope. 2. Agreements concluded by the Union are binding upon the institutions of the Union and on its Member States."

9 Reuters News (2024): "The European Parliament urged EU member states on Thursday to fully decriminalise abortion and called on Poland and Malta to repeal laws that ban and restrict it."

The second consequence of the ratification is about the EU states' national law. The IC is a treaty that needs to be concluded by both the EU states and the EU. For instance, the EU states are competent in their national substantive criminal law, while the EU can legislate in other fields, such as the rights of crime victims (Uzelac Vedris 2024: 15). According to the CJEU, a provision of an international treaty necessitates direct application where it includes a specific obligation and serves a particular purpose, as referred to in the agreement. However, the majority of the provisions of the IC contain the state's due diligence obligations.

On the contrary, Article 30(2) of the IC is claimed to possess direct applicability. This means that it imposes an obligation on the EU States to provide compensation to women who have suffered from violence[10], irrespective of whether they have ratified the IC or not. In such a case, the ratification of the IC by the EU allows for the direct application of EU law in the EU states, as outlined in the provision mentioned. Nevertheless, there are objections that the norm lacks direct impact when the state does not have a domestic mechanism for compensation (De Vido 2017: 92–93). The accession of the EU to the IC potentially expedites the adoption of legislation in EU countries concerning gender-based violence (Uzelac Vedris 2024: 15).

Along with its advantages, there are certain risks associated with the EU's ratification of the IC due to the treaty's dual nature. The EU's competence is rather restricted as it lacks a criminal code that can be uniformly applied (Satzger 2018: 45). There is no shared understanding within the EU regarding definition of violent or discriminatory acts. Despite the IC's requirement for the promotion of gender equality through criminal law, the EU is unable to fully meet this obligation. However, the EU does have the ability to propose directives and regulations pertaining to the IC's scope, enabling the EU Institutions to oversee the implementation by member states.

10 "The compensation of damage of victims of violent crimes is a requirement […] for reasons of equity and social solidarity it is necessary to deal with the situation of victims of intentional crimes of violence who have suffered bodily injury or impairment of health and of dependents of persons who have died as a result of such crimes […]" (The European Convention on the Compensation of Victims of Violent Crimes 1983).

3.4 Interaction of the IC with the concepts of European public order and human dignity

The following paragraphs attempt to discuss the potential impact of European public order and human dignity on the harmonisation of criminal laws within the EU. Since the IC originated from cases of gender-based discrimination concluded by the ECtHR, the EU's adoption of the IC could offer the CJEU a legal basis to address issues of inequality and discrimination in its rulings through interpretation.

The concept of European public order may influence the approximation of national laws on gender-based violence and discrimination. The term was used by the ECtHR; however, there is no generally accepted definition of it in the judgments or legal scholarship. Additionally, various vague and abstract understandings of public order are available in national and international law. Striking a balance between vagueness and clarity is crucial in establishing an appropriate degree of interference with state sovereignty in the issue of gender-based discrimination (Dzehtsiarou 2021). Developing a shared understanding of European public order is challenging due to the diverse and multicultural nature of European societies. Although the term encompasses significant issues, it remains unclear what falls outside its scope (Dzehtsiarou 2021: 64–65).

As the concept of human dignity is abstract and can be interpreted in various ways, lawmakers and judges often reach different results in different cultural contexts (Habermas 2010), which is typically seen in cases of discrimination against women. The understanding of human dignity according to Kant's approach is that treating people with dignity means treating them as autonomous individuals who can choose their own destiny (McCrudden 2008: 659). It is crucial to respect individuals and acknowledge their inherent worth in order to maintain human dignity. However, the interpretation and implementation of this term can vary when it comes to the autonomy of women.

In many cases there is still a disregard for human dignity, such as unequal treatment of men and women (Habermas 2010: 467). Discrimination against women stems from unwritten and deeply ingrained social norms and can even lead in the establishment of discriminatory laws. Furthermore, it continues to shape social expectations of how individuals should act in order to be recognised and respected (Lata 2023: 36). In this context, social norms play an essential role in the continuation of gender-based inequality. In scholarship, human dignity is considered in the context of

specific provisions against violence against women and other human rights violations (McCrudden 2008: 672, 674). However, theorists have not yet reached consensus on its definition, although the expression of human dignity is well known (De Paula/Mendonca Dias 2022: 314).

4. Conclusion

The EU's accession to the IC began as it entered into force in 2023. The ratification of the IC reflects the EU's determination to eliminate gender-based violence; however, gender-based violence does not appear in the EU's list of the most serious crimes. In addition, due to a lack of consensus on gender-based discrimination within the EU, some EU countries have not yet ratified the Convention while some are considering withdrawal from it.

Despite the fact that the IC entered into force for the EU, some of its provisions remain problematic unless all EU states ratify it.[11] Some questions arise regarding the dual nature of the Convention, which cover provisions of substantive criminal law of Member States that do not fall within the competence of the EU. The criminalisation or decriminalisation of gender-based violence falls within the competence of EU states. As the EU is a supranational legal entity, it may encourage EU countries in their ratification process.

The EU, which is established based on shared values, has the potential to enhance a collective comprehension of European public order in conjunction with the concept of human dignity. The legitimacy of criminalising acts of gender-based violence under criminal law is provided by the European public order alongside the concept of human dignity. As previously stated, the CJEU has the authority to resolve legal disputes between member states and EU law. The Court is capable of analysing law conflicts based on the EU founding treaties and other EU legislation. Hence, the concept of human dignity possesses a prohibitive nature that prohibits discriminatory legislation and practice based on gender and sexuality, thereby requiring the member states to implement effective measures to reverse discriminatory social structures (De Paula/Mendonca Dias 2022: 339).

11 "The EU's accession to the Istanbul Convention does not exempt member states from ratifying it themselves, MEPs have repeatedly said, urging the remaining six countries – Bulgaria, Czechia, Hungary, Latvia, Lithuania and Slovakia – to ratify the Convention without delay, so that it can protect women to the full extent of the Convention's intended scope" (European Parliament News 2023).

The definitions of terms like European public order and human dignity are anticipated to be dynamic to encompass complex and changing social circumstances (De Paula/Mendonca Dias 2022: 338). There is a continuous development being reviewed in the promotion of gender equality which not only enhances criminal law practice but also its underlying norms. As the IC is now a part of EU law and European public order, its provisions will influence jurisprudence and lead to harmonisation in criminal law matters over time. Additionally, the IC is a convention on human rights that was established in accordance with Article 14 of the ECHR. All 47 member states of the Council of Europe, which includes the 27 countries of the EU, are already parties to this convention.[12] The EU's accession to the IC will consolidate its determination to eliminate gender-based discrimination and serve further approximation in criminal matters.

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12 Despite the fact that all 47 Council of Europe member states, including the 27 EU countries, are already parties to the ECHR, the EU itself is not a party to it (Council of Europe 2020).

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