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# REJECTION (OR INTENDED REJECTION) OF THE COUNCIL OF EUROPE'S ISTANBUL CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE IN 2019-2020, IN THE NAME OF CHRISTIAN AND ISLAMIC VALUES

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**ABSTRACT:** The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) is an international treaty of the Council of Europe, committing the signatory states to the elimination of all forms of violence against women, including domestic violence. It was signed by the Ministers of Justice of the Member States at the beginning of 2011 in Istanbul. Yet, in the last few years, this Convention has been the object of an intense political debate in several European countries, and often in countries which are not completely open to religious freedom. The object of this debate was that national parliaments accept or refuse ratification of this Convention, signed by all the member states of the Council of Europe since 2011, except Russia (without much surprise) and Azerbaijan. At the end of this year, ten years later, 4 parliaments refused to ratify it, the Czech Republic, Slovakia, Hungary, and Bulgaria, while the last two countries have not yet ratified it, the United Kingdom and Ukraine, but have announced that they will do it soon. And one state, Turkey, among the first to have signed, ratified and implemented it, has withdrawn in March 2021. We will briefly present the history of this Convention and its provisions. Then we will explain why ten years later there are still some states that have not ratified the Convention, like Hungary, why some states ratified it after a long inner battle, like Croatia, or are threatening to leave it now, like Poland, or have left it like Turkey. The reason was similar: these countries are ruled by powerful parties or political majorities that call themselves Christian or Islamic, which say that this Convention was destroying traditional (Christian-Islamic) families and promoting gender theory and homosexuality instead.

**KEYWORDS:** Istanbul Convention, domestic violence, Christian and Islamic values

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## 1. WHAT IS THE ISTANBUL CONVENTION?

It is the first legally binding instrument at the pan-European level, providing a comprehensive legal framework for the prevention of violence, the protection of victims and an end to impunity for perpetrators of violence. The Council of Europe has undertaken a series of initiatives to promote the protection of women against violence since the 1990s. In particular, these initiatives have resulted in the adoption, in 2002, of the Council of Europe Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence,<sup>2</sup> and the running of a Europe-wide campaign, from 2006 to 2008, to combat violence against women, including domestic violence<sup>3</sup>. The Parliamentary Assembly of the Council of Europe has also taken a firm political stance against all forms of violence against women. It has adopted several resolutions and recommendations calling for legally binding standards on preventing, protecting against and prosecuting the most severe and widespread forms of gender-based violence.

The Council of Europe decided it was necessary to set comprehensive standards to prevent and combat violence against women and domestic violence. In December 2008, the Committee of Ministers set up an expert group mandated to prepare a draft convention in this field. Over the course of just over two years, this group, called the CAHVIO (Ad Hoc Committee for preventing and combating violence against women and domestic violence),<sup>4</sup> developed a draft text. During the later stage of drafting of the convention, Russia and the Holy See proposed one amendment (among several others for Russia) to limit the requirements provided by the convention in the article 4 on fundamental rights, equality and non-discrimination. *The Russian Federation and the Holy See have proposed excluding violence against lesbian, bisexual and transgender women from the scope of this treaty, as it seeks to delete the reference to sexual orientation and gender identity as impermissible grounds of discrimination against women in Article 4(3)*. But the final draft of the convention was produced in December 2010 without modifying this article.

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<sup>2</sup> Recommendation No. R (2002) 5 of the Committee of Ministers to member states on the protection of women against violence. Adopted by the Committee of Ministers on 30 April 2002, at the 794th meeting of the Ministers' Deputies.

<sup>3</sup> Council of Europe. 2006-2008. "Campaign to Combat Violence against Women, including domestic violence (2006-2008)." Brussels: Council of Europe.

<sup>4</sup> Council of Europe. 2009. "Ad Hoc Committee on preventing and combating violence against women and domestic violence (CAHVIO)." Brussels: Council of Europe.



## 2. WHAT ARE THE MAIN PROVISIONS OF THIS CONVENTION?

The Convention characterizes violence against women as a violation of human rights and a form of discrimination (Art.3(a)). Countries should exercise due diligence when preventing violence, protecting victims and prosecuting perpetrators (Art. 5). Moreover, the treaty establishes a series of offences characterized as violence against women. States which ratify the Convention must criminalize offences, including: psychological violence (Art.33); stalking (Art.34); physical violence (Art.35); sexual violence, including rape, explicitly covering all engagement in non-consensual acts of a sexual nature with a person (Art.36), female genital mutilation (Art.38), forced abortion and forced sterilisation (Art.39). The Convention states that sexual harassment must be subject to "criminal or other legal sanction" (Art. 40). Some other provisions of this Convention revealed to be "problematic" if we follow the logic of its opponents, as for example the Convention asked to criminalize forced marriage (Art.37), Article 3 on Definitions and article 12 on the State General obligations focused the most criticism:

"This preamble recognizes that violence against women is a manifestation of historically unequal power relations between men and women that have led to the domination and discrimination of women by men, that the structural nature of violence against women is gender-based, and that violence against women is one of the mechanisms by which women are maintained in a position of subordination to men".

Article 3 on Definitions, defines key terms among them

*domestic violence*: all acts of physical, sexual, psychological or economic violence that occur with 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

That supposed the State shall modify its own articles by recognizing husband or partner as a potential perpetrator, exercising physical violence, sexual violence including rape -

article 3 defines *gender-violence* too: The convention contains a definition of gender as "the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men".

This article has been interpreted as endorsing the "gender theory", used by sociologists and activists to free people's sexual identity from social and cultural assignment. But the article doesn't go so far. It characterizes violence against women on the basis of their gender, i.e. "simply because they are women" and female gender is full of stereotypes, we know that all,



and some of them are unbearable for women. The article does not introduce the possibility of a "third" or forth, or fifth gender...

Then article 12 on the State General obligations, Sections 1 and 4 are about the fight against prejudices, customs, traditions which are based on the idea of inferiority of the women or on stereotyped roles for women and men, to the purpose explained in the section 5: **Parties shall ensure that culture, custom, religion, tradition or so-called "honour" shall not be considered as justification for any acts of violence covered by the scope of this Convention.**

Political-religious opponents to the Convention will see that religious values are seen as prejudices and stereotypes and that the Convention wants to turn upside down the divine order of family and the divine order for women, when the Convention asks to free religious values from protecting or legitimating violence towards women.

### 3. FINAL RATIFICATIONS

As it is known, Russia never signed this Convention, what was not surprizing as this State, considering any improvement of human protection as an American Trojan Horse while it is killing its journalists and prohibiting Human Rights and Religious organisations as foreign spies, this kind of State would not sign a Convention protecting women from men violence. Russia is now excluded from the Council of Europe and has been excluded from the Council of Europe from 2014 to 2019 because of the Crimean annexation. There is a report, published in 2018 by Human Rights Watch<sup>5</sup>, about the complete Russian lack of legal provision and prevention concerning women safety, and women domestic safety. The report is titled "*I could kill you but and no one would stop me: Weak State Response to Domestic Violence in Russia*".

Which States signed and ratified it in the following years? 17 before 2015- among them Albania, Austria, Bosnia, Denmark, Finland, France, Italy, Malta, Montenegro, Netherlands, Poland, Portugal, Serbia, Slovenia, Spain, Sweden, and Turkey in 2012!

Turkey was one of the first signatories of the Istanbul Convention on Violence against Women in 2012, having the name of its most glorious city. And Turkey has put in place ambitious national action plans. A

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<sup>5</sup> Human Rights Watch. 2018. "I Could Kill You and No One Would Stop Me": Weak State Response to Domestic Violence in Russia." October 25, 2018, <https://www.hrw.org/report/2018/10/25/i-could-kill-you-and-no-one-would-stop-me/weak-state-response-domestic-violence>.



programmatic law known as the Family Protection Law has been passed, which was primarily a prevention law against domestic violence. The Turkish government's report to the Istanbul Convention's monitoring committee on its action between 2012 and 2017 reveals three plans, the third running from 2016 to 2020.

Between 2015 and 2019, many other States signed and ratified the Convention, Croatia, Estonia, Greece, Ireland, Luxemburg, Macedonia, Norway, Switzerland, but some with difficulties and strong debates like Croatia.

The European Union has signed it in June 2017 (that means The Council of the Chiefs of State under its competence given by the Treaty) and the European Parliament adopted a resolution in November 2019 to enjoin the national parliaments of the Union which are late to ratify it.

In 2021, later comer countries ratified the Convention, immediately after Turkey decided to withdraw: there were Latvia and Lithuania: Ukraine and United Kingdom announced they will ratify it soon too, in reaction of Turkish withdraw.

#### 4. REASONS TO REFUSE, POSTPONE OR DELETE

Now, let see why 4 European States, members of the European Union (Slovakia, Czech Republic, Hungary and Bulgaria), why historical members of the Council of Europe like Turkey (since 1950) or why recent members of the Council of Europe, like Russia (since 1996) have expressed their opposition by not signing, not ratifying or by leaving the Convention?

The reason has been and is still the same: This Convention was destroying traditional (Christian-Islamic) families, was promoting gender theory and homosexuality. Let me give you some examples with Croatia, Poland and Hungary. Croatia ratified in 2018 after an intense political campaign to refuse the ratification/ Poland had announced its intent to oust in 2020, Hungarian Parliament refused to ratify in May 2020, as the Slovakian one in March 2019 and the Bulgarian one in August 2018.

##### CROATIA:

Croatia, secessionist State from the communist Yugoslav Federation has proclaimed in its 1990 Constitution its secular regime, the rights and freedoms of its citizens, including gender equality (Articles 3 and 14) and it proclaimed freedom of conscience and religion, freedom to manifest one's religion (Article 40), plus the protection of national minorities (Article 15).

But its liberal impetus soon ran out of steam, under the domination of a conservative nationalist-Catholic party. In the nineties, Croatia signed



a concordat with the Catholic Church, defined legal impediments for religious minorities and declared itself favourable to a pro-birth policy. But this did not mean new legal provisions for helping mothers at work, through careful monitoring of their maternal health, through incentive family allowances, through special care to very young children; This meant insisting on motherhood as a univocal vocation of women in the 1994 *Family Law*. Similarly, while the number of women victims of war was considerable two years after the end of the war with the Yugoslav Federation following the declaration of independence, and while domestic violence - undoubtedly also due to the trauma of that war - was at a dramatic peak, no legislation was put in place to protect Croatian women.

The immediate aftermath of the war was marked by a major economic crisis that ultimately increased the number of relegated or disadvantaged women. At the turn of the 2000s, Croatia passed laws on women's equality in politics and in the workplace. These changes were mainly because they were conditional on Croatia's entry into the European Union, which finally took place in 2013. The Croatian Parliament now has 22% female members. Local women's associations, aided by international groups and European aid, have been given a free hand to provide support to women victims of war, battered women and discrimination at work. However, the Croatian atmosphere remains unfavourable to women. The issue of repealing abortion, which has been legal since 1976, is a recurring one. The conservative party has never put it on the agenda, although it has been used as an electoral argument.

The Istanbul Convention in this context? Its ratification has been the subject of a real political and national struggle. Supported by the Catholic Church and the right wing of the ruling HDZ party, Croatian traditionalists opposed the ratification, because I quote "it introduced gender theory and undermined traditional values, family and Christianity" ... For their part, women's rights organizations accused conservative groups and the Croatian church of inventing a gender theory to protect a repressive and macho system in families.

#### POLAND:

At the end of July 2020, the Polish government said it would withdraw from the Istanbul Convention, according to the Minister of Justice, Zbigniew Ziobro, who belongs to the nationalist and ultra-conservative Law and Justice party (PiS).

According to him, the text would imply "a construction of the so-called socio-cultural gender in opposition to biological sex". Already, when



it was signed in 2012 by the then liberal government, Zbigniew Ziobro said it was "an invention, a feminist creation that aims to justify gay ideology".

This announcement by the Polish government occurred in a particular political context, just after the re-election of President Andrzej Duda on July 12 2021. And the presidential campaign led to a confrontation, for months, between two very opposed camps, notably on the representation of the family and women. Duda began his political career as a liberal, but he joined the Kaczynsky's government in 2006 and became gradually head of the Law and Justice party. He was elected President twice, the second time against the liberal Mayor of Warsaw. Duda based much of his campaign on his vision of the Catholic Polish family.

#### HUNGARY:

Hungary's parliament in May 2020 rejected ratification, as Viktor Orban's government declared it as promoting "destructive gender ideology" and "illegal migration." I quote: "Its "ideological approach is contrary to Hungarian law and the government's convictions and all the guarantees for women's safety are already provided by the legislator at the national level". The refusal of the Convention was supported into the Hungarian Parliament by deputy Lorinc Nacsa, from the ranks of the Christian Democrats, the minority coalition partners of Viktor Orban's sovereignist and Catholic Fidesz Party.

The party and the government also feared that ratifying the Convention, which Hungary signed in 2014, would require to grant asylum to female refugees persecuted in their home countries because of their gender or sexual orientation. After returning to power a decade ago, Viktor Orban had marriage enshrined in the basic law as the exclusive union of "one man and one woman." In 2018, he had removed gender studies from the list of accredited degrees in Hungary. A legislative amendment under discussion aims to define gender by "biological sex, on the basis of birth and genome."

#### TURKEY:

In March 2021, A Presidential Order nullified the Turkish involvement to the Convention. The issue had been debated for several months, after an official of the ruling Islamo-Conservative AKP party openly suggested last year that the treaty should be abandoned. The reason was that the Convention would damage family unity, encourage divorce and its references to equality would favour the LGBT community, which the authorities have decided to eliminate. The government argued that it did not need such a treaty to ensure women respect. Some see in these decisions a dual desire on the part of Erdogan to strengthen his religious conservative



base, while giving pledges to his ultranationalist allies in the run-up to the 2023 presidential election. A balancing act that is both risky and dangerous for the future of the country that Europe - which had just begun a thaw with Erdogan - is watching with concern. "Turkey's decision (...) is devastating news (...) that compromises the protection of women," the Council of Europe said in a statement.

## 5. CONCLUSION

In conclusion, alongside Islamist activists and parties who have always contested human rights liberal logic in the name of sharia, a position that President Erdogan endorses when it can help to strength his political power, there is now a strong 'Christianist' movement, which has emerged in the last decade, which contests human rights liberal logic when it is applied to women (and LGBTQ), and whose arguments are taken up by national-Catholic or national-orthodox or Christian populist parties in Europe.

I have followed some Christian networks, new networks, connected to and financed by American Christian conservative lobbies, developing in Europe, which have contributed to a simultaneous campaign against women and homosexual rights, intending to stop or withdraw legislation on "gender equality". But they don't hesitate to achieve this goal to enter in the political arena by officially create or support parties, which non only declare war to 'gay lobby' but accuse this supposed lobby to plot against Christians and to organize Christian discrimination, as it is for exemple the case in Spain with the new party *Vox*, created in December 2013. With the goal of repealing same-sex marriage, it was supported by the American organizations *Howard Center for Family and Religion and Society*. *Vox* relates to the Spanish association *Hatze Oir*, which fights against "the gay inquisition" and was founded by a man working in the past for the *American Phoenix Institute*.

Another example, the transatlantic Catholic- Christian network *Agenda for Europe*, founded in 2013 in London, has set out to thwart any legalization on abortion and sexual and reproductive rights in the name of restoring the natural order. The legislative - or judicial - effectiveness of *Agenda for Europe's* national affiliates since 2014, has been both significant and underappreciated. Its work has led to numerous restrictions, and even blockages, on the legalization of abortion and same-sex marriage in Poland, Croatia, Slovenia, Slovakia, but also Romania and Bulgaria<sup>6</sup>. In Poland, this

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<sup>6</sup> "Croatians vote to ban gay marriage." *The Guardian*, December 1, 2013. "Slovenia says No to gay marriage." *Politico*, 20 December 2015. "Over 3 million sign petition to reinforce Romania's marriage law."



network includes the Polish legal association called *Ordo Juris* which is directly counselling the Polish government and its Party PIZ.

Agenda for Europe includes also namely the Croatian deputy Zejlka Markic, founder of the new nationalist party *Hrast* acting against the Istanbul Convention. It includes too and namely American Brian Brown, who is President of *American National Organization for Marriage* and the President of the very rich and powerful *World Congress of Family*. World Congress of Family organised a Summit in Verona, Italy, in March 2019 during the European Elections campaign. At this Summit, *The World Congress of Families* has enough ties with populist and nationalist politicians and movements from several European countries, to invite them. Matteo Salvini, then Italian Deputy Prime Minister and Secretary General of the League, received a standing ovation when he congratulated the World Congress of Families for being a showcase for "the Europe we love," a Europe without the European Union, seen as ideological machinery of liberal deviancy.

Human concern about this Christianist movement is the following. We can understand when people are denouncing the political correctness of gender respect and strongly disagree with the new correctness ideology, but not at the point to condemn the human rights system and to deny it is the best way today to protect people, to protect women, children, civilians, any people who is vulnerable to physical and social violence. Opposing human rights to Christian values and Christianity, as Islamists do with Islam and Islamic norms- by thinking they are now on the verge to discriminate Christians and to destroy Christian civilisation, it is dangerous and self-destructive.

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