

Violence against Women: Psychological violence and coercive control¹

ABSTRACT

This study, commissioned by the European Parliament's Policy Department for Citizens' Rights and Constitutional Affairs at the request of the FEMM Committee, explores whether psychological violence against women is criminalised in select EU Member States, how data is collected regarding this particular form of gender based violence and, in close relation to this, whether custody and visiting rights of perpetrators are affected.

Psychological violence and coercive control against women

Intimate partner violence is one of the most common forms of violence against women (VAW) and encompasses physical, sexual, and psychological abuse and also controlling behaviours by an intimate partner.

In Europe it is the **2011 Council of Europe Convention on preventing and combatting violence against women and domestic violence (CoE Istanbul Convention)**² which serves as the blueprint for defining the various forms of VAW. The CoE Istanbul Convention is of particular importance to the EU Member States, all of them have signed the Convention and the EU itself has signed it as well.³

The **criminalization of psychological violence** against women is provided for under the CoE Istanbul Convention in three ways.

- First in the context of **domestic violence**, where the comprehensive definition of domestic violence is given, which includes psychological violence that occurs within the family or domestic unit or between former or current spouses or partners. The notion of domestic violence is understood as to have two dimensions: **intimate-partner violence (IPV)** between current or former spouses or partners and **inter-generational violence**, typically occurring between parents and children.

¹ Full study in English: [http://www.europarl.europa.eu/RegData/etudes/STUD/2020/650336/IPOL_STU\(2020\)650336_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2020/650336/IPOL_STU(2020)650336_EN.pdf)

² The Convention on preventing and combating violence against women and domestic violence was adopted by the Member States of the Council of Europe and other signatories on 11 May 2011 (2011 CETS No 210) (hereinafter the CoE Istanbul Convention). It was opened for signature on 11 May 2011 on the occasion of the 121st Session of the Committee of Ministers in Istanbul. Following its 10th ratification by Andorra on 22 April 2014, it entered into force on 1 August 2014.

³ As of 28/03/2020 the following EU MSs have signed and ratified the Istanbul Convention: AT, BE, CY, DK, EE, FI, FR, DE, EL, ES, IRL, IT, LUX, MT, NL, PL, PT, RO, SE, SL. The following MSs have only signed, but yet to ratify the Istanbul Convention: BG, CZ, HU, LT, LV, SK. The EU has also signed the Istanbul Convention on 13/06/2017.



- Second, **psychological violence** is defined as a **self-standing intentional offence** to be criminalized which seriously impairs a person's psychological integrity through coercion or threats
- The third is **stalking** as a specific form of psychological violence that is also criminalized.

Criminalisation of psychological violence against women in select EU Member States

Most of the reviewed EU Member States include psychological violence as a component of domestic violence/intimate partner violence, and only a few of them record a separate offence of psychological violence with the victim-perpetrator relationship. Except for Finland and Germany, all the reviewed EU Member States – Cyprus, France Greece, Italy, Portugal, Poland, Romania and Spain - criminalise domestic violence or specifically intimate partner violence.

In most of the reviewed EU Member States **psychological violence** falls within the scope of intimate partner or domestic violence and is identified as psychological or mental violence, mistreatment or harassment. In all the reviewed EU Member States **separate criminal offences** are also available to capture the notion of psychological violence.

Data collection regarding psychological violence and coercive control against women

While reliable, systematic and comparable data would be crucial to the in-depth understanding of the phenomenon of violence against women and psychological violence/coercive control in particular, adequate data collection is difficult for a number of reasons.

The predominant reason for this difficulty is that **EU Member States use various terms and definitions for legal and statistical purposes in describing the phenomenon of violence against women.** When it comes to data collection this is often called as the “**principal offence rule**”. Thus, if multiple offences are committed at the same time, the **less serious crimes are subsumed by the more serious ones and may go unrecorded** when it comes to data administering. In addition to this, the availability of data depends largely **to what extent the respective national system prescribes and encourages reporting and recording.**

The comprehensiveness and reliability of data also depends on the **capacity of authorities**, chiefly the police officers entrusted with administrative data collection, to identify the manifestations of psychological violence/coercive control in a domestic/intimate partner violence scenario and to be able to make the subtle distinctions among the various forms of VAW. The other general structural difficulty regarding data collection in relation to VAW is the phenomenon of **underreporting**. It is to overcome this difficulty **that national survey-based data collection** is particularly encouraged by the CoE Istanbul Convention.

Data collection regarding psychological violence and coercive control against women in the EU Member States

The currently available data collected by the police and justice sectors do not give a clear picture of the scale of domestic/intimate partner violence in the Member States. The comparability and quality of available data is limited for multiple reasons, including the various definitions of the criminal offences in Member States' legislation to denote the phenomenon of intimate partner violence; limited cooperation and coordination between the police and justice sectors; lack of detailed information recorded on the victim; insufficient recording of the relationship between the victim and the

perpetrator. In addition, methodological rules, such as the stage of the proceedings where data recording occurs, the units of measurement and the counting rules also vary considerably.

The collected data on psychological violence against women in an intimate partner context will only partially cover all the instances of psychological violence. This is because in most of the reviewed EU Member States psychological violence is also criminalized under other criminal offences, such as coercion or menace, or it is not criminalized at all.

How custody and visiting rights of VAW perpetrators are affected?

The CoE Istanbul Convention, with its Article 31, is the only legally binding instrument that has an explicit provision on child custody in intimate violence situations.

In all the reviewed EU Member State legislation in **general family law provisions allow for the revoking or limiting of parental responsibility rights**. The limits and modalities of the application of these provisions is decided by courts, enjoying broad discretionary powers in this regard.

In a few EU Member States **criminal conviction** of the parent will entail the revocation or limitation of parental responsibility, varying between automatic consequences if the offence was against the child, or allowing discretion for the courts to take into consideration various circumstances, either provided by law or generated in case law.

In intimate partner violence cases it seems that the **default rule of joint custody prevails** in making decisions regarding custody and visitation, irrespective of the violent behaviour of one parent.

The reviewed EU Member States' legislation reveal that in cases where sole custody is awarded to the victim parent the limits and modalities of the **visiting right** of the other parent seem to be more affected by intimate partner violence.

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External Authors:

Petra JENEY, in collaboration with Clara COTRONEO, Igor DIZDAREVIC, Virgil-Ivan CUCU, Tomasz KRAMER, Juan Diego RAMÍREZ-CÁRDENAS DÍAZ, Roberta RIBEIRO OERTEL, European Institution of Public Administration (EIPA).

Research Administrator responsible: Martina SCHONARD

Editorial assistant: Sandrina MARCUZZO

Contact: poldep-citizens@europarl.europa.eu

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