In her political guidelines, the current European Commission President, Ursula von der Leyen, stated that the EU ‘should do all it can to prevent domestic violence, protect victims and punish offenders’. In this context, she reaffirmed the Commission’s commitment to EU accession to the Council of Europe Convention on preventing and combating violence against women and girls and domestic violence (Istanbul Convention), while also evoking the possibility of considering other options to address violence against women at EU level.

In the EU Gender Equality Strategy 2020-2025, issued in March 2020, the Commission announced its intention to propose other legislative and non-legislative measures to achieve the same objectives as the Istanbul Convention, within the limits of EU competence, should EU accession remain blocked in the Council. These include additional measures to prevent and combat the forms of gender-based violence already covered under the areas of serious crime listed in Article 83(1) TFEU, and a proposal to add ‘specific forms of gender-based violence’ to the existing areas of crime. This procedure, which requires a unanimous Council decision and the consent of the European Parliament, could then serve as a basis for the Commission to propose an EU directive on combating gender-based violence.

In October 2020, while maintaining the commitment to EU accession to the Istanbul Convention, the European Commission included a legislative proposal to prevent and combat specific forms of gender-based violence in its 2021 work programme under the priority “A new push for European democracy”. The proposed legal bases are Articles 82(2), 83 and 84 TFEU and the initiative is foreseen for Q4 2021. An impact assessment published by the Commission in December 2020 notes that the initiative could take three forms:

- The first option would be to make no changes to the existing European legislative framework, but to “continue to monitor its implementation” while implementing the non-legislative measures on gender-related violence contained in the European Strategy for Gender Equality, including the establishment of a European network dedicated to preventing such violence and funding for training, capacity building and support services.
- The second option would be to adopt these non-legislative measures and to accompany them with “targeted legislative measures in specific areas”, such as a recommendation on the prevention of harmful practices and further legislation to strengthen protection for victims.
- The third and most ambitious option would be a holistic legislative initiative on preventing and combating gender-based and
domestic violence that would establish binding minimum standards in areas of EU competence.

The Commission has stated that whichever option is chosen, the initiative will share “the same objectives as the Istanbul Convention”. The Commission held a public consultation on the proposal from 8 February to 10 May 2021.

The European Parliament has consistently taken a strong stance on the issue of violence against women and has repeatedly called for action to prevent and combat it. In 2014, Parliament adopted a resolution calling for a unanimous Council decision adding gender-based violence to the crimes listed in Article 83(1) TFEU (activating the passerelle clause). In the same resolution, Parliament also asked the European Commission to submit a proposal for a legal act, based on Article 84 of the Treaty on the Functioning of the European Union, establishing measures to support Member States’ action to prevent violence against women and girls. Parliament has subsequently reiterated these calls including, during its current term, in a resolution on measures to combat gender-based violence, adopted in November 2019. On 21 January 2021, Parliament welcomed the Commission’s intention to propose measures in 2021 to achieve the Istanbul Convention’s objectives, if some Member States continue to block its ratification.

Pending the Commission proposal, Parliament’s Committees on Women’s Rights and Gender Equality (FEMM) and Civil Liberties, Justice and Home Affairs (LIBE) are preparing an own-initiative legislative report with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU (rapporteurs: Malin Björk (Sweden, The Left) Diana Riba i Giner (Spain, Greens/EFA). The FEMM and LIBE Committees have also begun work on a joint own-initiative legislative report on the specific issue of gender-based cyberviolence (rapporteurs: Elissavet Vozemberg-Vrionidi (Greece, EPP) and Sylwia Spurek (Poland, Greens/EFA)). Both legislative own-initiative files were discussed in a joint FEMM/LIBE meeting on 25 May 2021. An accompanying EPRS European Added Value Assessment on gender-based cyberviolence was published in March 2021. A further EPRS European Added Value Assessment on Gender based violence as a new area of crime listed under Article 83 TFEU was published in June 2021.

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Further reading

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- EPRS, Unlocking the potential of the EU Treaties: An article-by-article analysis of the scope for action, 5. Extending the list of crimes addressed by EU criminal law policies, pp. 37-38, May 2020

Related legislative train carriages:

- EU gender equality strategy
- EU accession to the Istanbul Convention
- Prevention of violence against women (November 2019).

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Read more on the Parliaments’ fight for gender equality in the EU

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HYPERLINK REFERENCES

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