

Re: The EU accession to the Istanbul Convention

What is the Istanbul Convention?

The Council of Europe's Convention on preventing and combating violence against women and domestic violence ([Istanbul Convention](#)) is a comprehensive international treaty which seeks to harmonize parts of national legislation concerning violence against women and domestic violence. It is a mixed agreement, meaning that some aspects of its provisions fall within EU competence, while other aspects fall within Member States' competence. The European Commission itself confirmed that 'the Member States remain competent for substantial parts of the Convention'.¹ The Istanbul Convention has been ratified by half of the EU Member States. On 11 May 2017, the Council, on behalf of the EU, adopted [two decisions](#) on the signing of the Istanbul Convention.

What are the concerns with the Istanbul Convention?

- It codifies a controversial, non-consensual definition of 'gender' as a social construct that is independent of biological reality. This understanding departs from the definition given to 'gender equality' in the EU Treaties, which refers to equality between men and women (Article 2 TEU, Article 8 TFEU).
- It aims to eradicate any 'tradition based on stereotyped gender roles.' The binary view of mankind and of marriage, held by all major religions, may be stigmatized as a 'tradition based on stereotyped gender roles' and therefore could be opposed in teaching materials or school curricula.
- It could infringe on the right of parents to educate their children in accordance with their moral and religious convictions, especially by redefining gender (as a social construct) in education.
- It calls for the establishment of a far-reaching monitoring mechanism (GREVIO) that could erode national sovereignty and undermine the exclusive position of the CJEU in reviewing the legality of EU acts.

What do the Council decisions mean?

While the European Commission had initially aimed for an extensive accession to the Istanbul Convention, the Council, representing the Member States, decided that the EU should accede only within the limits of exclusive EU competence, with a particular focus on *asylum, non-refoulement and judicial cooperation in criminal matters* (Articles 78 (2), 82 and 83 TFEU).

What do the Council decisions *not* mean?

The Council decisions, on behalf of the EU, on the signing of the Istanbul Convention do not mean that Member States are bound to the Convention concerning the areas which fall within their national competence (unless they have ratified the Convention domestically). The Council decisions also do not mean that Member States are obliged in any way to ratify the Istanbul Convention at a national level.

Member States are not obliged to introduce the definition of gender as a social construct, nor are they obliged to mainstream it in their educational or social systems. All the substantive aspects which fall within Member States' national competence (regarding education, Church autonomy, parents-children relationship) are retained.

The process of EU ratification of the Istanbul Convention is far from over: this is a lengthy process that can take up to two years. However, the decisions on a limited accession (concerning competence) cannot be modified.

Find out more at www.adfinternational.org/istanbul-convention

¹ European Commission, '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) 109 final, 7 point 2.1