

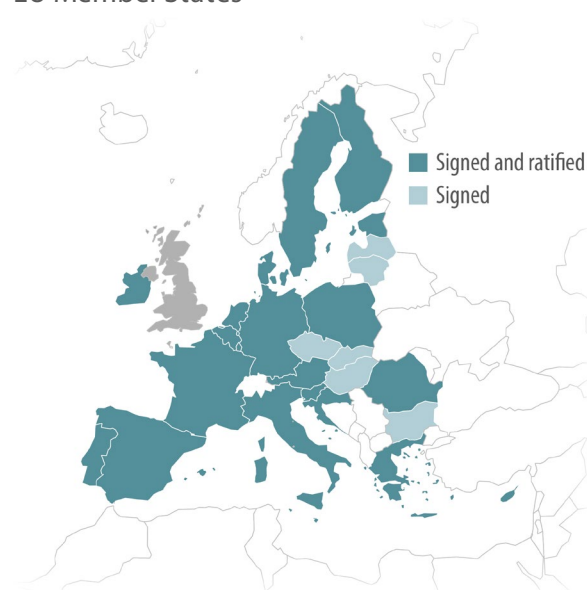
EU accession to the Istanbul Convention

On 25 January 2023, the Committees on Women's Rights and Gender Equality (FEMM) and Civil Liberties, Justice and Home Affairs (LIBE) jointly adopted, by a substantial majority, their interim report on EU accession to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). The report calls for swift European Union (EU) ratification, noting that the 2021 opinion of the European Court of Justice enables EU accession even in the absence of a common accord among Member States. A lack of consensus in the Council has proved an obstacle to ratification to date, however the Swedish Council Presidency has made it one of its priorities.

What is the Istanbul Convention?

The Council of Europe's [Convention](#) on preventing and combating violence against women and domestic violence (known as the Istanbul Convention) was adopted in 2011 and entered into force in 2014. It sets out standards on prevention, protection, prosecution and adequate provision of services to victims and persons at risk of gender-based violence (GBV). GBV includes crimes that disproportionately impact women, such as rape, stalking, and domestic violence. The Istanbul Convention provides for obligations on its states parties to adopt measures ranging from awareness-raising and data collection to legal measures on criminalising different forms of violence. It defines and criminalises several forms of violence against women (including physical, sexual and psychological violence, stalking, sexual harassment, female genital mutilation, forced marriage, forced abortion and forced sterilisation). It also focuses on prevention, obliging parties to invest in education, training for experts, and treatment programmes for perpetrators. It provides protection to victims by obliging states to establish appropriate support services. It also addresses the issues of GBV in the context of asylum and migration.

Istanbul Convention – Ratification status among EU Member States



Source: CoE [Chart of signatures and ratifications of Treaty 210](#) (as of January 2023).

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If ratified, the convention would be the second international human rights treaty to which the EU itself is a party. The EU is already party to the UN Convention on the Rights of Persons with Disabilities ([CRPD](#)), which was ratified by the EU in December 2010, several years earlier than had all EU Member States done so ([2018](#)). Both the EU and its Member States have competences in the areas covered by the Istanbul Convention, and the Union participated as an observer in the negotiation of the convention. While all EU Member States have signed the convention, only 21 have ratified it. Of these, Poland has [warned](#) that it could withdraw. Six EU Member States (BG, CZ, HU, LV, LT and SK) have not ratified, invoking legal uncertainty and incompatibility with their constitutional framework. [Experts](#) have pointed to several issues shaping the debate in these states, despite [attempts](#) to debunk them as unfounded: the definition and use of the term 'gender' in the convention; the provision obliging states parties to provide teaching on 'non-stereotyped gender roles' at all levels of education; the convention's supposed bias against men; as well as allegations that it threatens state sovereignty.



The procedure for concluding international agreements in areas other than trade (the EU has exclusive competence in trade) is defined in Title V of the [Treaty on the Functioning of the EU](#), Article 218. Based on a recommendation from the Commission or the High Representative, the Council authorises the opening of negotiations, nominates the Union's negotiator, adopts negotiating directives, authorises the signing of agreements and concludes them. The Council acts by qualified majority throughout the procedure, or unanimously when the agreement covers a field for which unanimity is required for the adoption of a Union act. In practice, it also [tends](#) to seek unanimity when it is not legally required. The European Parliament's consent is required inter alia for EU [accession](#) to the European Convention for the Protection of Human Rights and Fundamental Freedoms; and for 'fields to which either the ordinary legislative procedure applies, or the special legislative procedure where consent by the European Parliament is required'.

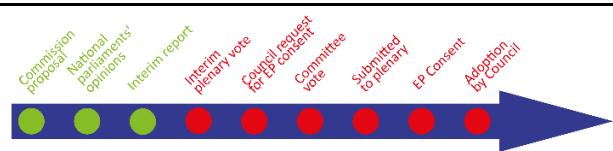
The Commission proposed the [relevant legislation](#) to the Council in 2016. The Council decided to split the draft decision on signature of the convention into two decisions, one covering judicial cooperation in criminal matters, and the other asylum and *non-refoulement*. This would allow Ireland and Denmark, in line with Protocols to the Treaties [No 21](#) and [No 22](#), respectively, to be exempt from the relevant provisions. The Council adopted the two decisions on signing the convention on behalf of the EU with regard to [judicial cooperation in criminal matters](#) (2017/865) and [asylum and non-refoulement](#) (2017/866) in May 2017. The EU signed the convention on 13 June 2017. According to the Council decision's recitals, EU accession to the convention serves the realisation of equality between women and men – a core EU objective and value, as well as upholding the human rights of women and combating discrimination – further objectives enshrined in the Treaties.

Ratification stalled due to uncertainty around the legal basis, which has implications for two crucial issues: the legislative procedure required to ratify (unanimity or qualified majority) and the scope of EU accession to the convention. The EU can only join those parts of the convention covering areas of its shared or exclusive competences. In its resolution of [4 April 2019](#), the European Parliament decided to request an opinion from the Court of Justice of the EU (ECJ) concerning the choice of the appropriate legal basis. The Court delivered its Opinion 1/19 on [6 October 2021](#). It clarifies that unanimity is not needed (as the scope of the convention falls under the ordinary legislative procedure) and that the EU does not have to wait for ratification by all its Member States to proceed with its own ratification, although in practice the Council can postpone its decision to seek consensus. The Court found that the appropriate legal basis consists of Articles [78\(2\)](#) on asylum and *non-refoulement*, [82\(2\)](#) and [84](#) on judicial cooperation in criminal matters and [336](#) TFEU on obligations of the EU institutions and public administration. In this respect, the Court confirmed the Council's [freedom](#) to choose a narrow legal basis that would limit EU accession to its exclusive external competence (as defined in [Article 3\(2\)](#) TFEU), rather than opt for a broad accession, as Parliament demands in its 2017 and 2019 resolutions.

European Parliament position

Parliament has [repeatedly called](#) for EU accession to the Istanbul Convention and for its ratification by individual Member States. In September 2017, it adopted an [interim resolution](#), based on a report by the Committees on Civil Liberties, Justice and Home Affairs (LIBE) and Women's Rights and Gender Equality (FEMM), welcoming EU signature of the convention. In a [2019 resolution](#), the Parliament condemned campaigns against the convention based on 'deliberate misinterpretations' and demanded adoption of a comprehensive EU legal act on GBV. On 25 January 2023, the FEMM and LIBE committees (acting jointly under Rule 58) [adopted](#), by a substantial majority (68 for to 3 votes against and 13 abstentions), the interim report on EU accession to the convention. The report highlights the ECJ decision dispelling the legal uncertainty and allowing the Council to proceed to ratification, and notes the positive impacts of EU accession; calls for a constructive dialogue to address Member States' concerns and to clarify misleading interpretations. The report stresses that EU accession to the Istanbul Convention does not exempt Member States from individual ratification. It also advocates a comprehensive and integrated response to GBV that goes beyond criminal justice.

Interim report: [2016/0062R\(NLE\)](#); Committees responsible: FEMM and LIBE (Rule 58); Rapporteurs: Arba Kokalari (EPP, Sweden), Łukasz Kohut (S&D, Poland). For further information see our '[At a glance](#)' note on the Istanbul Convention (November 2022).



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