

# REFLECTIONS ON HUMAN RIGHTS PROTECTION: THE ISTANBUL CONVENTION AND ITS IMPACT IN ROMANIA

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## ***Abstract***

*This article provides an in-depth analysis of the European system for the protection of human rights, with a special focus on the Istanbul Convention and its implementation in Romania. Firstly, it explores the structure and mechanisms of the European human rights system, highlighting the essential role of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Emphasis is placed on the importance of the Istanbul Convention as a key instrument in combating gender-based violence and domestic violence. The commitment and efforts of member states, including Romania, in adopting and applying its principles are examined.*

*Keywords: human rights, the Istanbul Convention, the European system of rights, protection mechanism, combating gender-based violence*

***JEL Classification: [K38]***

## **1. Context**

In 1945, Europe emerged from the chaos of World War II, moving towards an era of cooperation driven by historical necessities. Faced with the post-war realities and the Cold War division between the Western bloc, led by the United States and its democratic allies, and the Eastern bloc, represented by the Soviet Union and its allies, a series of organizations focused on promoting cooperation were formed. A significant event in this direction was the organization of the "Congress of Europe" in May 1948 in The Hague. Here, under the honorary presidency of Winston Churchill, who had previously suggested the idea of a "United States of Europe", revolutionary concepts such as the formation of a parliamentary assembly, the establishment of a human rights court, and the recognition of the individual right of petition were proposed, laying the foundations for a tighter European cooperation framework (Brian Simpson, 2004, p. 604).

At that time, the creation of a regional human rights protection mechanism was perceived as a bastion against totalitarianism and communism, a reaction to past and current events in Europe. The idea was to proclaim the principles upon which Western European states were based and to provide a remedy to protect these principles from undemocratic undermining. It was believed that the Council of Europe, and primarily the Convention, would function as an early warning system to alert other member states about serious human rights violations, allowing them to act in time to prevent them, in order to avoid the horrors of war (Haris & O'Boyle, 1995, p. 2).

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## 2. Council of Europe and Its Main Structures

The Council of Europe emerged following the Congress of Europe, on May 5, 1949. Its founding document is its Statute. The preamble reaffirms the commitment of the contracting states "to the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom, political liberty, and the rule of law, principles that form the basis of any true democracy..."<sup>1</sup> Article 1 of the Statute of the Council of Europe outlines that the Council's objectives are "to achieve greater unity among its members for the purpose of safeguarding and realizing the ideals and principles which are their common heritage, and to facilitate their economic and social progress"(Brian Simpson, 2004, p. 604).

Additionally, it stipulates that any European state can become a member of the Council of Europe, provided that it accepts the principles of the rule of law and ensures within its jurisdiction the respect for human rights and fundamental freedoms for all individuals.

The second body of the Council of Europe, initially called the Consultative Assembly, has been known since February 1994 in all Council documents as the Parliamentary Assembly of the Council of Europe (PACE). This assembly consists of delegations of parliamentarians from the legislatures of the contracting states, unlike the European Parliament of the EU, which is directly elected by the populace. The number of representatives allotted to each state is determined through a formula roughly based on population, granting larger states the same number and smaller ones an equal number. For instance, France, Germany, Italy, Turkey, and the United Kingdom each have 18 representatives, while other countries have between two and 12 representatives; for example, Liechtenstein has two, and Poland has 12 representatives. Article 22 describes PACE as "the deliberative organ of the Council of Europe," with the purpose of debating issues and making recommendations to the CM. It also elects the judges of the European Court of Human Rights.

The Secretary-General of the Council of Europe and their deputy are elected by the Parliamentary Assembly of the Council of Europe (PACE), based on the recommendations of the Committee of Ministers (CM). The Secretary-General is in charge of appointing and managing the remaining staff of the Council of Europe, consisting of international officials accountable solely to the Council. These officials must be "uninfluenced by national considerations" (as per Article 36 (e) of the Statute). This underscores the significance of neutrality and independence within the organization.

### *2.1. The Convention for the Protection of Human Rights and Fundamental Freedoms – An Overview*

The first major treaty produced by the Council of Europe, following the Statute and the General Agreement on Privileges and Immunities, was the European

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<sup>1</sup> Statute of the Council of Europe, Preamble, May 5, 1949, 87 U.N.T.S. 103, E.T.S. No. 1, 6, 7, 8, 11.

Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).<sup>2</sup>

The Convention was signed on November 4, 1950, and came into effect on September 3, 1953. It was the first real treaty on human rights. The Universal Declaration of Human Rights was proclaimed during the drafting process of the Convention, but it was a proclamation, not a treaty. Unlike the Universal Declaration, which was intended to be universal and a statement of ideals, the ECHR was designed to be a binding regional agreement. The preamble, referring to "European countries which... share a common heritage of political traditions, ideals, freedom and the rule of law...", indicates that one of the intentions of the ECHR is to delineate and embody the political and ethical culture of Europe.<sup>3</sup>

The ECHR had a preamble, listed fourteen fundamental rights, and established two law enforcement bodies: a European Commission of Human Rights and a European Court of Human Rights (ECHR or the Court). Most importantly, Article 46 (formerly Article 53) of the Convention stipulated that contracting states must abide by the decisions of the Court.

The first section of the European Convention on Human Rights specifies the particular human rights and fundamental freedoms that are to be protected (Harris, O'Boyle & Warbrick, 2018).

The first 13 articles (from Article 2 to Article 14) in the original ECHR were intended to restrict governments from tyrannizing their people. This was a result of the experience with totalitarian regimes that emerged on the continent in the first half of the 20th century. Thus, the Convention essentially incorporates "first generation" human rights - the right to life and personal integrity, liberty, freedom of expression, religion, and assembly, fair trial, etc. Article 15 limits the ability of contracting parties to derogate from the ECHR in times of emergency, to the "extent strictly required by the exigencies of the situation." This provision requires states to inform the Secretary-General of the Council of Europe about their intention to derogate and establishes conditions and limits for such derogations.<sup>4</sup>

Article 17 of the European Convention on Human Rights prevents the abuse of rights by those relying on other provisions of the Convention. It stipulates that rights and freedoms should not be used to undermine the foundation of the Convention-based system of governance. Its text is derived from Article 30 of the Universal Declaration of Human Rights and applies to both states parties and private individuals.

Finally, Article 18 prevents the State from limiting the rights guaranteed by the Convention for inappropriate purposes. This last article aims to prevent the

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<sup>2</sup> Original Version: The Convention for the Protection of Human Rights and Fundamental Freedoms, November 4, 1950, 213 U.N.T.S. 221.

<sup>3</sup> For context and history of the drafting, see, for example, "The Conscience of Europe: 50 Years of the European Court of Human Rights", page 16, Council of Europe, 2010.

<sup>4</sup> For the most recent information on the use of derogations in the context of the Covid health crisis, refer to the case *Terheş v. Romania* (decision), 2021. Also, for an analysis of Article 15 derogations and their necessity during the COVID-19 pandemic, see the work of Dzehtsiarou, K., (2020).

abuse of power by states, which could lead to the undermining of the Convention's objectives under the pretext of legal actions.<sup>5</sup>

In the decades that followed, several additional protocols to the Convention were adopted, either to supplement it with additional substantive rights or to change the Convention mechanism, modify the procedures before the Court, redefine its powers, and so forth.

## *2.2. Evolution of the Mechanism for Implementing the European Convention Over Time*

In its original form, the Convention established a complex enforcement mechanism: at the primary level, there was the European Commission of Human Rights (abolished in 1998); at the secondary level, the European Court of Human Rights (which has evolved over time and is still operational today). These two institutions were tasked with examining complaints filed by individuals against member states; essentially, they acted as supranational courts, developing the principles outlined in the Convention through interpretation. Additionally, the Committee of Ministers played a significant role in the implementation of the Convention, even though its role has changed over time. The evolution of the Convention's enforcement mechanism is further elaborated below.

### *The Right to Individual Petition*

One of the significant innovations introduced by the Convention was Article 34 (formerly Article 25), which granted the right to "any person, non-governmental organization, or group of individuals" to submit a complaint regarding a violation of their human rights. Prior to the end of World War II, international law did not place limitations on how a sovereign state could treat its own citizens. This underwent a substantial transformation. "The underlying message of international human rights law is that the manner in which a state treats individuals under its jurisdiction is... a matter of international interest" (McCaffrey 2006, p. 252). The previous Article 25 mandated that governments must allow their own citizens to register complaints against them with the Commission (and, following 1998, directly with the Court) (Janis et al., 2008).

Initially, the right to individual petition was discretionary, requiring each member state to furnish a declaration of concurrence to the Secretary-General. This provision only became operational upon acceptance by six member states. A notable discord emerged within the Council regarding the inclusion of this provision in the Convention (Janis et al., 2008, pp. 15-19). It necessitated five years for six contracting parties to reach an agreement, and it eventually became effective in 1955. As we shall observe, it proved to be highly successful and emerged as an integral cornerstone of the Council of Europe's human rights protection framework.

Member states also possessed the option to submit applications; interstate applications were permissible under the former Article 24, subsequently redefined

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<sup>5</sup> Merabishvili v. Georgia [GC], 2017, §§ 303 and 306, and Navalnyy v. Russia [GC], 2018, § 164.

as Article 33 after Protocol No. 11 in 1998. Individual applications were sanctioned by the former Article 25 (now Article 34). While interstate applications were relatively infrequent, they regained attention after 2008, primarily due to cases initiated against Russia by several states amid armed conflicts. As of April 2023, seven out of the 15 pending cases before the Court involve allegations against Russia.

In the original version of the Convention, individuals and private entities such as NGOs and companies had the right to file complaints with the Commission but were precluded from escalating the matter to the Court. This underwent modification in 1990 and was subsequently reaffirmed in 1998 through Protocol No. 11, coinciding with the dissolution of the Commission. Consequently, complainants now possess direct access to the European Court of Human Rights.

### *2.3. The context of implementing the Istanbul Convention.*

As the primary human rights organization in Europe, the Council of Europe has taken significant measures to protect women from violence since the 1990s. These actions include legislative and policy measures for preventing and investigating violence against women, supporting victims, addressing perpetrators, promoting awareness, providing education and training, and collecting relevant data. Regular monitoring assesses the implementation of these recommendations, with member states kept informed about progress and identified gaps.<sup>6</sup>

These initiatives are based on the acknowledgment that violence against women, encompassing domestic violence, constitutes a severe violation of gender-based human rights. It hinders women's enjoyment of fundamental freedoms and poses a significant barrier to gender equality. Despite positive strides in policies and practices, various forms of violence against women persist across all levels of society in Council of Europe member states.<sup>7</sup>

In 1993, the 3rd European Ministerial Conference on Equality between Women and Men deliberated strategies for eliminating societal violence against women. Subsequently, the 1997 Action Plan for Combating Violence against Women provided a policy framework, followed by the adoption of Recommendation Rec(2002)5 in 2002. This was the first international tool proposing a comprehensive strategy to prevent violence and protect victims, covering all forms of gender-based violence. Monitoring implementation informs member states about progress and existing gaps.<sup>8</sup>

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<sup>6</sup> Stop domestic violence against women, Council of Europe, available online at: [https://www.coe.int/t/dg2/equality/domesticviolencecampaign/Fact\\_Sheet\\_en.asp](https://www.coe.int/t/dg2/equality/domesticviolencecampaign/Fact_Sheet_en.asp), accessed on: 16.01.2024.

<sup>7</sup> Special report 21/2023: The Spotlight Initiative to end violence against women and girls, pp. 11-15

<sup>8</sup> The ratification and implementation process of the Istanbul Convention: good practices of the signatory states, Valentina Andrasek, international consultant, Natalia Vilcu, national consultant, p.7-9, available online: <https://rm.coe.int/prems-138920-rom-2573-procesul-de-ratificare-couv-tex-te-a4-web/1680a06544>.

In May 2005, the Third Summit of Heads of State and Government of Council of Europe member states adopted an Action Plan detailing specific measures to combat violence against women, including domestic violence. This involved establishing a Task Force on Combating Violence against Women and Domestic Violence (EG-TFV) to evaluate national progress and create tools for quantifying developments at the pan-European level. This task force, comprised of eight international experts, followed a decision made at the Summit (Pascariu, 2020, pp. 10-12).<sup>9</sup>

Additionally, in 2006, the Council of Europe launched a Campaign to Combat Violence against Women, including Domestic Violence. This campaign, with intergovernmental, parliamentary, and local and regional dimensions, partnered with organizations focused on protecting women from violence. The campaign aimed to raise public awareness about violence against women as a human rights violation, urging citizens to combat it and member states to demonstrate political will by allocating resources to eradicate violence against women effectively.

### 2.3.1. *Turkey: From Signing to Withdrawal (2011-2021)*

To comprehend Turkey's decision to withdraw, it is imperative to trace the trajectory of authoritarianism it has followed over the past decade. In 2011, President Erdoğan presented Turkey's participation in the Istanbul Convention as evidence of the government's commitment to defending women's and human rights. Up until then, the Turkish government, led by the Justice and Development Party (Adalet ve Kalkınma Partisi, AKP) since 2002, aimed to portray itself as a "model" of compatibility between Islam, democracy, and secularism during a period of significant economic growth and increased potential for "soft power" in foreign policy (Cerami, 2013). This framework enabled Erdoğan's government to sign the Istanbul Convention. However, significant changes unfolded shortly thereafter, both domestically and internationally.

The AKP's third electoral victory bolstered the party leaders' confidence, particularly as political power became more concentrated within the AKP. The party exerted tight control over the economy, civil service, judiciary, and media. Simultaneously, the party's interest in concluding the internal democratization process waned. Internationally, Turkey's excessive involvement in the internal dynamics of Mediterranean and Middle Eastern countries, coupled with its inability to play the role of a trusted regional mediator, weakened Turkey's capacity to present itself as a model of Islamic democracy (Öniş, 2012).

On the domestic front, events like the Gezi Park protests in 2013 became visible signs of growing discontent in the country. The repressive behavior of the Turkish police, coupled with Erdoğan's increasing authoritarianism, fueled

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<sup>9</sup> European Community Law, "Ștefan cel Mare" University of Suceava, pp. 10-12, available at: [https://fdsa.usv.ro/wp-content/uploads/sites/12/2023/04/%E2%80%8Efdsa-old.usv\\_roarhivacursuri20203sem232DREPT-COMUNITAR-EUROPEAN.pdf](https://fdsa.usv.ro/wp-content/uploads/sites/12/2023/04/%E2%80%8Efdsa-old.usv_roarhivacursuri20203sem232DREPT-COMUNITAR-EUROPEAN.pdf), accessed on: 16.01.2024.

dissatisfaction within Turkish civil society, which unsuccessfully sought pluralism, democracy, respect for minorities, individual freedom, the preservation of public spaces, freedom of the press and speech, and non-interference in citizens' religious choices (Cerami, 2015, cited in Airò & Zaccaria, 2015).

From that point onward, Erdoğan defined and solidified his authoritarian path. On August 10, 2014, Erdoğan, formerly the Prime Minister of the Republic of Turkey, won the presidential elections with the aim of replacing parliamentary democracy with a presidential system. Turkey transitioned towards a form of "illiberal democracy," wherein formal democratic institutions existed but were led by a majority (constituted by religious conservatism) that monopolized power (Öniş, 2015).

The attempted coup in 2016 and the subsequent purges allowed Erdoğan to exert greater control over the military, economy, public administration, judiciary, and media. The constitutional referendum in 2017 and the presidential elections in 2018 ushered in a new power structure in Turkey: the Head of State acquired almost unlimited powers, and the position of prime minister was eliminated. Erdoğan also formed an electoral alliance with the far-right ultranationalist MHP party. Meanwhile, facing an increasingly pronounced economic crisis and an aggressive foreign policy, he outlined a more authoritarian, Islamist, and conservative agenda.

This context has generated criticism of the Istanbul Convention and led to the decision to withdraw from the treaty. Women's rights became the latest point of contention in Erdoğan's efforts to garner support from a more conservative electorate (Boulton, 2021). Islamic and conservative religious groups have a close relationship with President Erdoğan and are considered essential in challenging times. The government defends its position by arguing that the Convention has become a source of discord in Turkish society. The text is accused of undermining traditional family values and promoting LGBTQ culture, referencing a semantic controversy related to the concept of "gender."

On March 22, 2021, Turkey's Directorate of Communications released a statement providing "official" reasons for withdrawal: the Istanbul Convention, initially designed to promote women's rights, had been hijacked by a group attempting to normalize homosexuality – which is incompatible with Turkey's social and family values. This decision has sparked controversy, not only among women and women's rights movements but also within the broader LGBTQ community and a growing segment of society.<sup>10</sup>

The "official" justification provided by the Turkish government has ignited another realm of controversy, garnering dissent not only from women and women's rights movements but also from the entire LGBT community and an expanding segment of society.

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<sup>10</sup> Statement by the Directorate of Communications on Turkey's withdrawal from the Istanbul Convention. Directorate of Communications. (n.d.). Retrieved January 16, 2024, from <https://www.iletisim.gov.tr/english/duyurular/detay/statement-by-the-directorate-of-communication-on-turkeyes-withdrawal-from-the-istanbul-convention>.

### 2.3.2. *The context of implementing the Istanbul Convention in Romania*

In 2016, Romania ratified the Istanbul Convention, showcasing its commitment to protecting women's rights and gender equality.<sup>11</sup> This was a significant move actively supported by civil society organizations such as the Civil Society Development Foundation (FDSC).

#### *Progress in Convention Implementation:*

Following ratification, Romania enacted crucial legislative changes to align national laws with the provisions of the Convention.<sup>12</sup>

The Romanian government developed and expanded assistance and support services for victims of gender-based violence, including counseling centers and shelters for abused women.

Awareness campaigns and educational programs contributed to increased awareness and the promotion of gender equality in Romanian society.

#### *Challenges in Implementation:*

- One of the main challenges was the insufficient allocation of resources for victim services, impacting the quality and coverage of these services.
- Despite concerted efforts, awareness of gender-based violence remains low in certain regions and communities in Romania.

#### *Impact on Society:*

- The implementation of the Istanbul Convention in Romania has had a significant impact, providing victims with greater protection and resources for recovery.<sup>13</sup>
- Awareness and education regarding gender equality have contributed to changing attitudes and behaviors among the public, reducing tolerance for gender-based violence.

## 3. Case Study

Since the ratification of the Istanbul Convention eight years ago, Romania has made progress in combating gender-based violence by implementing measures such as provisional protection orders, establishing centers and shelters for victims, and introducing electronic monitoring of perpetrators since last year. However, these actions have been carried out in a disorganized manner, lacking a unified and effective strategy, with insufficient collaboration between institutions and well-established working methodologies for preventing and combating domestic violence (Gîndu, 2023).

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<sup>11</sup> Source: Romanian Government, *Ratification Report of the Istanbul Convention by the Parliament of Romania*, 2016.

<sup>12</sup> Law No. 174/2018 on the Prevention and Combating of Family Violence, 2018.

<sup>13</sup> The Impact Assessment of the Implementation of the Istanbul Convention in Romania, 2022.



This deficiency in Romania's approach to combating violence against women and girls is reflected in multiple aspects: from data collection and reporting to the access and quality of services provided to victims, and even cultural biases and social tolerance towards violence. PressOne, a publication, conducted a detailed investigation into these issues by consulting NGOs active in supporting victims of domestic violence in Romania and posing questions to the National Agency for Gender Equality (ANES), the institution responsible for preventing and combating this phenomenon.<sup>14</sup>

*Alarming Increase in Femicides in Europe and the Lack of Data in Romania: A Post-Pandemic Perspective*

A recent investigation by the Mediterranean Institute for Investigative Journalism (MIIR), analyzing data from 20 European countries, highlighted a concerning rise in femicide cases in Europe amid the pandemic. The results indicate that nearly all analyzed countries experienced an increase in these tragic incidents.

For instance, Greece reported a significant surge, rising from 8 incidents in 2020 to 23 in 2021. Slovenia, Germany, and Italy also observed a notable increase in femicides during the 2020-2021 period compared to 2019, according to the same investigation.

Femicide, as per the statistical definition accepted by the European Institute for Gender Equality (EIGE), refers to "the killing of a woman by a partner and the death of a woman as a result of practices that harm her." Only two European states recognize femicide as a distinct crime: Malta and Cyprus.

According to Eurostat, between 2011 and 2021, there were 6,593 intentional homicides of women, 4,208 by partners, and 2,385 by relatives (representative data for 20 countries, excluding Romania).

When faced with the question of "How does Romania stand regarding femicides?", the answer remains unclear and uncertain: "We can only guess." Data collected by the V.I.F. (Violence Against Women) network from the Romanian General Police Inspectorate (IGPR) indicates that in 2021, 40 cases of murder were recorded, with women and girls as victims. While this statistic offers a partial picture, it fails to provide a comprehensive perspective on the femicide situation in Romania.<sup>15</sup>

Out of these cases, in 29 instances, the perpetrator was the victim's partner, potentially placing Romania higher than Greece in a femicide ranking for 2021. However, an analysis of the phenomenon's evolution is impossible because the way Romanian authorities collect data does not allow the isolation of femicide cases.

The widespread issue of domestic violence in Romania is challenging to analyze due to the lack of coherent and unified data. This problem has been

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<sup>14</sup> SINTESIS REGARDING: EU Guidelines on Violence Against Women and Combating All Forms of Discrimination Against Women, available at: [https://publications.europa.eu/resource/cellar/3969f8be-d131-4bd1-8516-271b917df533.0014.03/DOC\\_2](https://publications.europa.eu/resource/cellar/3969f8be-d131-4bd1-8516-271b917df533.0014.03/DOC_2).

<sup>15</sup> IGPR (Inspectoratul General al Poliției Române) (2023, a).

acknowledged by the National Agency for Gender Equality (ANES), as conveyed in a response to PressOne: "Currently, at the national level, we have different systems for collecting data on domestic violence, which vary depending on the specificities of the institutions involved in this field, such as the police, prosecutors, county forensic medicine services, health units, etc." This means that Romania lacks a uniform and integrated methodology for collecting and analyzing data on domestic violence, making it challenging to obtain a clear and complete picture of this serious social problem (Gându, 2023).

For an accurate and comprehensive representation of domestic violence, establishing a uniform data collection procedure from various domains into a common database is essential. This is the position of the National Agency for Gender Equality (ANES), as specified in a statement to PressOne. ANES mentioned that an order approving such a unified data collection procedure is under approval.

However, until the implementation of this procedure, errors and deficiencies in data reporting are possible. A recent example of these shortcomings was highlighted by the newspaper *Libertatea*, which reported that, according to emergency hospitals' data, only 15 patients were received in the ten centers for victims of sexual violence in Romania over two years, a surprisingly low number considering the seriousness and prevalence of the phenomenon. This reporting error was committed by ANES itself, emphasizing the difficulties encountered in collecting and analyzing data related to domestic violence in Romania.<sup>16</sup>

ANES provided a different figure from the initially reported one, indicating that 22 patients, not 15, benefited from the services of the ten centers for victims of sexual violence, not just 15, as previously mentioned. For instance, ANES claimed that there were two individuals at the county hospital in Piatra Neamț who benefited from the center's services, while data obtained by *Libertatea* from the hospital indicated that there were no beneficiaries.

In response to these discrepancies, ANES later offered a right of reply, stating that when communicating the number of sexual violence cases recorded at the level of the ten centers, they included cases treated in other sections of the respective hospitals. This clarification highlights possible confusions and difficulties in collecting and communicating data about sexual violence in Romania, especially in the context of a reporting system that is not yet unified or fully streamlined.

*We Have Protective Orders and Electronic Bracelets. But Monitoring is Missing, and Victims Lack Trust.*

While data collection and reporting on domestic violence remain deficient, Romania has made significant progress in the past decade in providing support tools

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<sup>16</sup> Five out of the ten centers for victims of sexual violence have not had any patients since their establishment in a country with thousands of sexual assaults and rapes each year. Authorities contradict each other on figures. [Meseșan & Marin, 2023].

for victims. However, there are implementation issues affecting the effectiveness of these measures.<sup>17</sup>

Since 2012, Romania has had protective orders issued by judges after a legal process. In 2018, an additional measure was introduced: the provisional protective order, which can be quickly issued by the police in cases of violence with the victim's consent. This measure is intended to provide immediate protection to victims of domestic violence.

However, according to Andreea Bragă, a gender violence expert at the FILIA Center, there are still significant challenges in implementing these protective orders. Approximately 30% to 40% of victims refuse the provisional protective order, even in cases where a high risk of violence has been identified. This indicates the need for a more complex approach, including not only legal measures but also psychological and educational support, to encourage victims to accept and use the available protection tools (Gându, 2023).

Why? „*The lack of trust is a crucial issue. Ultimately, this protective order is just a piece of paper. Aggressors tend to learn this, and because there are no clear or proportional sanctions when they violate the protective order, it begins to lose its value, lacking the symbolic power conferred by the law*”, explains Andreea (Gîndu, 2023).

According to recent data published by the Romanian Police, in the first two months of the current year, 1,977 provisional protective orders were issued. Of these, 115 were violated. Also, out of the 1,799 protective orders issued by the judicial authorities, 641 were violated, representing a 27% increase compared to the number of violations recorded in a similar period in 2022.<sup>18</sup>

These figures underline not only the frequent use of protective orders as a safety measure for victims but also the issues related to their compliance, indicating the need to improve the enforcement and monitoring mechanisms of protective orders.

Since October of last year, Romania has begun implementing a system for monitoring aggressors through electronic bracelets, after almost five years of discussions. This system is in the pilot project stage in the capital and three counties—Iași, Vrancea, and Mureș—with plans for national expansion by 2025, according to authorities (Toma, 2023).

The system involves both the aggressor and the victim being equipped with monitoring devices. These devices transmit real-time data to the police about the distance between the two, thereby reinforcing the effectiveness of the protective order. Therefore, the system provides an increased level of safety for victims and allows authorities to intervene quickly to prevent further aggression.

However, a crucial aspect of the system's efficiency is the availability of personnel for continuous monitoring and intervention. Even in the three counties where the system was initially implemented, chosen due to the high number of employees in the Ministry of Internal Affairs (MAI), it faced a shortage of staff to

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<sup>17</sup> GREVIO Report on România, pp 40-44.

<sup>18</sup> IGPR (Inspectoratul General al Poliției Române) (2023, b).

ensure constant monitoring and intervention. This personnel deficit could limit the system's ability to operate at its full potential, highlighting the need for additional resources for the efficient implementation of this system nationwide.

Moreover, Andreea Bragă points out to PressOne that victims are currently hesitant about the measure: *"Some statistical data from the beginning of the year signaled that only 16% of victims accept the electronic bracelets measure (...). I believe it depends a lot on time, that is, the time for this monitoring tool to show its effectiveness, to show that it works.*

*At the same time, I would like to emphasize that these electronic bracelets are not a panacea. That is, we have them, and that's it, we solved the problem. You need people who understand the risks that exist, understand the trauma responses of victims, know how to intervene, understand the behavior of aggressors. Coordinated intervention teams need to exist. They don't work alone, that's what I mean"* (Gîndu, 2023).

Combatting domestic violence in Romania faces several structural challenges. Firstly, directives and policies are established centrally, but the responsibility for their implementation largely falls on the shoulders of local authorities. This can lead to differences in the effectiveness and uniformity of applying prevention and intervention measures in different regions of the country.<sup>19</sup>

Another crucial aspect is the lack of public funding from the state budget for specific programs for preventing and combating domestic violence. This means that many initiatives and services for victims are funded and managed locally or through private sources, leading to a lack of necessary resources and unequal coverage nationally.

There is also a deficiency in effective communication between authorities and victims. This can hinder victims from being aware of the available services and support or understanding the processes and protective measures they can access.

Furthermore, collaboration between public and private institutions in the field of combating domestic violence is often lacking coherence. Closer and more organized collaboration between different entities involved could improve the effectiveness of interventions and ensure better support for victims.<sup>20</sup>

#### 4. Conclusions

The European human rights protection system, facilitated through instruments such as the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights, has played a pivotal role in

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<sup>19</sup> The role of public institutions in Romania in preventing gender-based violence, published on 26/01/2023, accessed on 16.01.2024, available at: <https://icar-evairfam.ro/rolul-institutiilor-publice-din-romania-in-prevenirea-violentei-de-gen/>.

<sup>20</sup> Institutions involved in the protection of domestic violence victims. Available at: <https://www.politiaromana.ro/ro/prevenire/violenta-domestica/institutii-implicate-in-protectia-victimelor-violentei-domestice>.

establishing and upholding high standards in the field of human rights. These mechanisms provide a legal framework for safeguarding individual rights and afford European citizens a means of redress when their rights are violated.

The Istanbul Convention represents a significant extension of this system, specifically addressing gender-based violence and domestic violence. It obliges member states to enact legislative and practical measures for the prevention of violence, the protection of victims, and the prosecution of perpetrators, emphasizing the necessity of a holistic and integrated approach.

Despite a robust framework at the European level, the effective implementation of these standards and conventions at the national level varies significantly. Resource constraints, deficiencies in data collection, and issues of cooperation between different levels of government and the non-governmental sector can undermine the efficacy of these initiatives.

Enhanced collaboration and coherence among the various entities involved in human rights protection are imperative. Harmonizing national laws with European standards, improving cooperation between national and European authorities, and the active involvement of civil society are key to ensuring effective human rights protection throughout Europe.

While significant strides have been made in combating domestic violence in Romania, there are still numerous areas that require substantial improvement to ensure an efficient and integrated approach to this serious issue at the national level.

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