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Article 1 – Purposes, definitions, equality and non-discrimination, general obligations

Sara De Vido and Micaela Frulli*

1. *The purposes of this Convention are to:*
 - a) *protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence;*
 - b) *contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women;*
 - c) *design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence;*
 - d) *promote international co-operation with a view to eliminating violence against women and domestic violence;*
 - e) *provide support and assistance to organisations and law enforcement agencies to effectively co-operate in order to adopt an integrated approach to eliminating violence against women and domestic violence.*
2. *In order to ensure effective implementation of its provisions by the Parties, this Convention establishes a specific monitoring mechanism.*

1. Introduction

International treaties commonly contain provisions explaining their purpose and scope. The Istanbul Convention is not different than other treaties in that respect. Article 1 opens the 2011 CoE Convention by setting its purposes and anticipating the key elements of the legal text. In these pages, we will present the reasons why the Convention must be considered an innovative legal instrument in international human rights law to protect women from violence (2), its contribution to the achievement of substantive equality (3), the 4-pillars structure (4), the importance of international ‘external’ cooperation and domestic ‘internal’ cooperation among different actors in countering violence against women and domestic violence (5). In paragraph 6 we will briefly refer to the monitoring mechanism. This chapter is aimed not only at providing an analysis of Article 1, but also at anticipating the content of the entire commentary.

2. The Istanbul Convention: a new legal instrument to protect women from violence

The Istanbul Convention overtly declares to aim at the protection of women against all forms of violence, and at the prevention, prosecution, and elimination of violence against women and domestic violence (letter a). The legal instrument, adopted within the framework of the Council of Europe, must be located within the international and regional legal framework on combating violence against women which has consolidated since the

1970s.¹ As it is well known, the 1979 UN Convention on the elimination of all forms of discrimination against women did not contain a provision on violence against women. The public/private divide determined the absence of the ‘private’ dimension from States’ obligations in countering discrimination against women, which is at the basis of VAW.² This public/private divide has been gradually dismantled since 1990s, thanks to soft law and hard law acts, along with international quasi-jurisprudence and regional jurisprudence, defining legal obligations of a different nature – obligations of result, of due diligence, of progressive realization – in countering gender-based violence against women. Hence, for example, the Committee established by the 1979 Convention brought violence against women within the terms of the CEDAW, defining it as a form of discrimination against women in its General Recommendation No. 19, later replaced by General Recommendation No. 35.³ In UN General Assembly Resolution No. 58/147 (2003) on domestic violence, it was clearly stated that ‘domestic violence is of *public concern* and requires States to take serious action to protect victims and prevent domestic violence’.⁴ The ECtHR jurisprudence clearly established that violence against women in the private sphere may amount to a violation of the ECHR and gave a significant contribution in outlining States’ positive obligations about domestic violence.⁵ In its constantly evolving and expanding case law the Court not only relied on Article 8, but more and more often on Article 3 and one of the debated issues has lately become whether domestic violence should be expressly conceptualized as torture.⁶ The Istanbul Convention formally acknowledged in a binding legal text the structural nature of violence against women and domestic violence, that is in itself an expression of historically consolidated unequal power relations between men and women.

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¹ See Rosa Celorio, ‘The Istanbul Convention in comparison with the African and American systems of protection of women’s right to be free from violence’ and Sara De Vido, ‘Article 71: Relationship with other international instruments’ in this Commentary.

² Bonita Meyersfeld, *Domestic Violence and International Law* (Hart Publishing 2012) 100.

³ CEDAW Committee, General Recommendation No. 19: Violence against women (1992) UN Doc. A/47/38; CEDAW Committee, *General recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No 19 (1992)* (26 July 2017) UN Doc. CEDAW/C/GC/35.

⁴ UN Doc. A/RES/58/147, para 1, letter c).

⁵ For an overview of the jurisprudence of the ECtHR on domestic violence, see Ronagh McQuigg, *The Istanbul Convention, Domestic Violence and Human Rights* (Routledge 2017) 60-67. See, recently *Kurt v Austria*, App No 62903/15 (ECHR, 4 July 2019); *Landi v Italy*, App No 10929/19 (ECHR, 7 April 2022); *De Giorgi v Italy*, App No 23735/19 (ECHR, 16 June 2022).

⁶ Ronagh McQuigg, ‘The European Court of Human Rights and Domestic Violence: Volodina v. Russia’ [2021] 10 *International Human Rights Law Review* 155-67 and Ronli Sifris, *Reproductive Freedom, Torture and International Human Rights* (Routledge 2014).

The Istanbul Convention learns the lesson of previous legal instruments, jurisprudence of regional human rights courts and quasi jurisprudence of UN treaty bodies and sets the highest standard (which has been called ‘gold standard’)⁷ at the international level for women to be free from violence through a set of measures that covers four pillars, as it will be discussed below.

Chinkin argued that it is not ‘simply a classic human rights treaty, but rather a treaty that incorporates the advances in human rights conceptualization that have taken place since the early 1990s’, previously located in soft law instruments.⁸ In terms of obligations, for example, the Convention explicitly includes due diligence, but contemplates in its provisions obligations of result and obligations *à realization*,⁹ and refers to the action of both States’ agents and non-State actors, codifying the dismantling of the public/private divide. Compared to other human rights treaties, the Istanbul Convention endorses a gender-sensitive approach, which means that gender must be mainstreamed in all measures adopted to counter gender-based violence against women and domestic violence, considering the specific risks and the differentiated impact on women and girls.¹⁰ The Convention is also open to a gender-transformative approach, which addresses the causes of gender-based inequalities and works to transform harmful gender roles, norms and power relations.¹¹ The effectiveness of these approaches depends on a strong gender analysis and an understanding of local contexts.¹² As it was argued, the Istanbul Convention ‘codifies and further develops CEDAW standards’.¹³ The synergy¹⁴ between the two emerges from the preamble of the Convention, where reference is made

⁷ During a side event at the 57th session of the Commission on the Status of Women (CSW57) on 4 March 2013, UN Women Deputy Executive Director Lakshmi Puri praised the Council of Europe’s Convention on preventing and combating violence against women and domestic violence as a ‘gold standard’ and welcomed the legally binding instrument as an important addition to existing treaties and the evolving body of norms and standards around the world, <<https://www.unwomen.org/en/news/stories/2013/3/the-istanbul-convention-strengthening-the-response-to-ending-violence-against-women>> accessed 24 August 2022.

⁸ Christine Chinkin, ‘Regional Approaches to Combating Violence against Women: the Istanbul Convention’ [4 February 2016] *LSE Centre for Women, Peace and Security* 1-3.

⁹ See Riccardo Pisillo Mazzeschi, ‘Le chemin étrange de la due diligence : d’un concept mystérieux à un concept surévalué’ in Société Française pour le Droit International (SFDI), *Le standard de due diligence et la responsabilité internationale* (Pedone 2018). And for its application in the context of violence against women’s health, Sara De Vido, *Violence against women’s health in international law* (Manchester University Press 2020).

¹⁰ See Lourdes Maria Peroni, ‘Article 6: Gender-sensitive policies’ in this Commentary.

¹¹ UNFPA, UNICEF, UN Women, *Technical Notes on Gender-transformative Approaches in the Global Programme to End Child Marriage Phase II: A summary for practitioners*, available online at: <<https://www.unicef.org/media/58196/file>> accessed 5 September 2022.

¹² *Id.*

¹³ Dubranka Šimonović, ‘Global and regional standards on violence against women: the evolution and synergy of the CEDAW and Istanbul Conventions’ [2014] 36 *Human Rights Quarterly* 605.

¹⁴ This is the word used by Šimonović, *id.*

to important human rights instruments, including the CEDAW Convention, and to General Recommendation No. 19. The Istanbul Convention complements and specifies the international legal instrument and works on both a gendered and a gendered neutral approach (gender neutral definition of domestic violence), adding a combination of human rights and criminal law provisions.¹⁵

As a criminal law treaty, it is the first treaty at the international and regional level that provides for the criminalization of specific behaviors that fall within the concept of violence against women, an umbrella term encompassing different forms of violence that can or cannot amount to an offence.¹⁶ Forced marriage, psychological violence, stalking, physical violence, sexual violence, including rape, female genital mutilation, forced abortion and forced sterilization, sexual harassment are contemplated in the Istanbul Convention,¹⁷ demonstrating on the one hand its wide scope, on the other hand some missing illicit behaviors, such as femicide or other forms of mutilations which are common in Europe (not necessarily within migrant communities).¹⁸ The Convention is innovative because it also details the elements of the prosecution of the offences, including, as criminal law conventions generally do, jurisdictional issues.¹⁹ The specificity of the provisions demonstrates that the Istanbul Convention goes even beyond the jurisprudence of regional human rights courts, which apply the relevant provisions contained in the conventions of which they are guardians to the specific case but cannot identify the content of criminal legislation.²⁰

Another landmark aspect of the Istanbul Convention consists in its holistic approach, combining different layers of action – criminal and civil law remedies, prosecution, and protection measures, the public and the private sector for example – in countering gender-based violence against women and domestic violence.²¹ Criminal law responses only are

¹⁵ Chinkin (n 8) 1-2.

¹⁶ Sara De Vido, *Donne, Violenza e Diritto Internazionale: La Convenzione di Istanbul del Consiglio d'Europa del 2011* (Mimesis Edizioni 2016).

¹⁷ See Barbara Giovanna Bello, 'Article 33: Psychological violence'; Leonie Steinl, 'Article 34: Stalking'; Barbara Giovanna Bello, 'Article 35: Physical violence'; Ludovica Poli, 'Article 36: Sexual violence, including rape'; Chiara Ragni, 'Article 37: Forced marriage'; Ruth M. Mestre, 'Article 38: Female genital mutilation'; Daniela Alaattinoglu, 'Article 39: Forced abortion and forced sterilisation'; Valeria Tevere, 'Article 40: Sexual harassment' in this Commentary.

¹⁸ For example, genital cosmetic surgery (on this aspect here see S. De Vido (n 10) 159) and forced surgical decision of the sex of intersex people (see the case developed in Sara De Vido S and Lorena Sosa, *Criminalisation of Gender-Based Violence Against Women in European States, including ICT-Facilitated Violence* (European Equality Law Network 2021) 103 ff.). See also Daniela Alaattinoglu, 'Article 39: Forced abortion and forced sterilisation'; Ruth M. Mestre, 'Article 38: Female genital mutilation' and Lucia Berro Pizzarossa, 'Health and Reproductive Rights and the Istanbul Convention' in this Commentary.

¹⁹ See Elena Carpanelli, 'Article 44: Jurisdiction' in this Commentary.

²⁰ Chinkin (n 8) 3.

²¹ See Maria Calloni, 'Article 7: Comprehensive and co-ordinated policies' in this Commentary.

not sufficient indeed to respond to violence against women. Preventive and protective measures must be contemplated along with criminal law measures to construe the most efficient response to violence.

3. The Istanbul Convention: a step forward in the achievement of substantive equality

Both CEDAW and the Istanbul Convention, despite having different scope, are based on the premise that eradicating violence against women means to work on substantive gender equality. Both Conventions treat violence against women as a form of discrimination against women, one implicitly and one explicitly. The Istanbul Convention openly aims at ‘the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women’ (Article 1(1) letter b). It considers the principle of non-discrimination in a very broad way – including for example disability, sexual orientation, migrant status, and state of health as grounds – and opens to intersectionality.²² The concepts of equality and non-discrimination are often used to describe two sides of the same coin: one positive, meaning equality of treatment, and one negative, meaning elimination of differential treatment based on unreasonable grounds. As it was argued, however, in recent years there has been ‘an increased emphasis on the positive formulation’: this means that equality also implies a duty to ‘recognize differences between people and to take positive action to achieve real equality’.²³ If on the one hand, non-discrimination corresponds to the concept of formal (*de jure*) equality,²⁴ the term ‘equality’ is more relational and aims at the achievement of substantive (*de facto*) equality. In international human rights law, equality and non-discrimination are recognized in several international and regional human rights instruments, both binding and non-binding. It represents the cornerstone of the entire system of protection of human rights.²⁵ The CEDAW was the first binding legal

²² See Lorena Sosa and Ruth Mestre, ‘Definitions and General Background: Equality, Non-discrimination, and Intersectionality’ in this Commentary.

²³ Daniel Moeckli, ‘Equality and non-discrimination’ in Daniel Moeckli, Sangeeta Shah, Sandesh Sivakumaran (eds), *International Human Rights Law* (3rd edn, OUP 2018) 149. See also Sandra Fredman, *Discrimination Law* (2nd edn, OUP 2010).

²⁴ For the concept of *de facto* equality as ‘identity’ see E.W. Vierdag, *The Concept of Discrimination in International Law, With Special Reference to Human Rights* (Springer 1973) 9; on *equality in the law*, see *id.*, 17.

²⁵ See Articles 2, 3 and 26 of the International Covenant on Civil and Political Rights; Articles 2(2) and 3 of the International Covenant on Economic, Social and Cultural Rights; but also specialised conventions related to certain forms of discrimination, such as the International Convention on the Elimination of All Forms of Racial Discrimination, the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 14 e Protocol No. 12), Charter of Fundamental Rights of the European Union (Articles 20, 21(1), 23), the African Charter on Human and Peoples’ Rights (Articles 2, 3, 18(3)(4),

instrument at the international level to incorporate a specific obligation State parties must abide by to achieve substantive equality.²⁶ According to Article 1 of CEDAW: ‘(...) the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field’.

The provision prohibits both direct and indirect discrimination, both intentional and the one that is the outcome of specific behaviors.²⁷ The CEDAW Committee dealt with the issue of substantive equality identifying several obligations for contracting parties to respect, protect and fulfill the women’s right not to be discriminated and to ensure women’s empowerment ‘in order that they improve their position and implement their right of *de jure* and *de facto* or substantive equality with men’.²⁸ Promoting substantive equality means to identify and take action to remove structural patterns of discrimination against women and unequal power relations between women and men. As Sandra Fredman clearly pointed out: ‘instead of aiming to treat everyone alike, regardless of status, substantive equality focuses on the group which has suffered disadvantage’.²⁹ Fredman described substantive equality as a multi-dimensional concept, pursuing four intersecting purposes:

First, it aims to break the cycle of disadvantage associated with status or out-groups. This reflects the redistributive dimension of equality. Secondly, it aims to promote respect for dignity and worth, thereby redressing stigma, stereotyping, humiliation, and violence because of membership of an identity group. This reflects a recognition dimension. Thirdly, it should not exact conformity as a price of equality. Instead, it should accommodate difference and aim to achieve structural change. This captures the transformative dimension. Finally, substantive equality should facilitate full participation in society, both socially and politically. This is the participative dimension.³⁰

Formal equality presents several limits, indeed, despite having characterized the first feminist movements.³¹ The elimination in the law of a differentiated treatment between women and men in the law – granting the right to vote for example – was considered the

28), the American Convention on Human Rights (Articles 1 and 24), the American Declaration of the Rights and Duties of Man (Article II), the Arab Charter on Human Rights (Articles 2, 9 and 35), and the ASEAN Human Rights Declaration (Articles 1, 2, 3, and 9).

²⁶ D. Otto, ‘Women’s Rights’ in Moeckli, Shah, Sivakumaran (eds), *International human rights law* (n 23) 315.

²⁷ *Id.*

²⁸ CEDAW Committee, *General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women* (16 December 2010), UN Doc. CEDAW/C/GC/28, para 16 (emphasis added).

²⁹ Fredman (n 23) 26.

³⁰ *Id.*, 25.

³¹ H. Charlesworth and C. Chinkin, *The boundaries of international law. A Feminist Analysis* (Manchester University Press 2000) 39.

means to ensure women's participation in the society. This action to remove obstacles to gender equality is not enough, though. Formal equality which considers women and men the 'same'³² does not respond to the challenges posed by centuries of discrimination against women. In other words, as it was pointed out, formal equality is 'too formalistic', because it does not take into account the social and historical realm that relegated women in a subordinate position compared to men and the patterns of discrimination present in all our societies.³³ As the Committee on economic, social and cultural rights highlighted: 'The enjoyment of human rights on the basis of equality between men and women must be understood comprehensively. Guarantees of non-discrimination and equality in international human rights treaties mandate both *de facto* and *de jure* equality. *De jure* (or formal) equality and *de facto* (or substantive) equality are different but interconnected concepts (...)'.³⁴

This reflection also matters with regard to countering violence against women and domestic violence.³⁵ The Istanbul Convention acknowledges that the prohibition of discrimination against women and the recognition of substantive equality between men and women as prerequisite to counter violence against women. The preamble makes it crystal-clear: 'Recognising that the realisation of *de jure* and *de facto* equality between women and men is a key element in the prevention of violence against women'.³⁶ This commentary has been guided by this understanding of equality and non-discrimination as two concepts that entail States' positive actions which combine changes in the law with measures that are aimed at eradicating structural patterns rooted in our societies, for which the contribution of several actors – including NGOs working for the protection and enhancement of women's rights – seems pivotal.

4. The Istanbul Convention: the 4-pillars structure

In order to protect women, to promote substantive equality, and to 'design a comprehensive framework, policies and measures for the protection of and assistance to

³² On the concept of sameness and difference, see S. De Vido, *Donne, Violenza e Diritto Internazionale: La Convenzione di Istanbul del Consiglio d'Europa del 2011* (Mimesis Edizioni 2016) 107 ff.

³³ A. Timmer, 'Toward an anti-stereotyping approach for the European Court of Human Rights' [2011] 11(4) *Human Rights Review* 711.

³⁴ CESCR, *General comment No. 16 on the equal right of men and women to the enjoyment of all economic, social and cultural rights* (2005) UN Doc. E/C.12/2005/4, para 7.

³⁵ Sara De Vido, La parità di genere nel contesto dell'Agenda 2030 per lo sviluppo sostenibile, in *Le Nazioni Unite di fronte alle nuove sfide economico-sociali 75 anni dopo la loro fondazione*, Quaderno 23, *La Comunità internazionale*, 2021, 81-102, <https://www.comunitainternazionale.it/uploads/model_15/files/9_item_2.pdf?v=1638522254> accessed 30 August 2022.

³⁶ See in that respect Lourdes Maria Peroni, 'Article 4: Fundamental rights, equality and non-discrimination' in this Commentary.

all victims of violence against women and domestic violence' (letter c), the Istanbul Convention is structured around four pillars (4 Ps). Hence, State Parties to the Convention are required to take a wide range of measures around the following issues:

1. Prevention,
2. Protection,
3. Prosecution,
4. Coordinated Policies.

The ultimate aim of the Istanbul Convention is the **prevention** (the first P) of all forms of violence covered by its scope.³⁷ To reach this goal, it is essential to eliminate the root causes of violence against women and GBV, that are deeply embedded in all societies and entrenched in the largely prevailing patriarchal culture. State parties must thus invest in education programs at all levels that explain the endemic and structural nature of violence against women and GBV, promote non-violence and gender equality. Investments in education programs shall go hand in hand with measures to challenge gender stereotypes and with awareness-raising campaigns on different forms of violence (including psychological and digital violence). It is also crucial to invest in training of professionals in all fields (teachers, police officers, judges and lawyers, medical personnel, journalists and so on) as well as in programs for perpetrators.

The second pillar is **protection**, and it covers the social aspects of the issue: ensuring that victims are informed of their rights, that they have access both to general services such as legal advice and psychological assistance, financial aid, housing, healthcare, social services and assistance in finding employment, and to specialized women's support services. States must also set up easily accessible shelters for women and children, rape and sexual violence centers, as well as free 24-hour telephone helplines.

It is also necessary that victims are informed that they have access to regional and international complaints mechanisms. The Convention not only adopts a holistic approach from the point of view of a variety of measures and approaches, but it also aims to create a synergy with other international and regional treaties devoted to the protection of human rights and women's rights, in order to ensure that victims of GBV can have recourse to all possible means to escape from a situation of violence and to access remedies at the supranational level in case their State does not fulfil its obligations.

³⁷ CoE, *Explanatory Report to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, ETS No. 210, 11 May 2011, para 110.

The third P stands for **prosecution**, and it covers the criminal aspects of violence. As already mentioned, the Istanbul Convention is not only a human rights instrument, but also a criminal law treaty and it requires State parties to penalize various forms of violence including physical, psychological and sexual violence, sexual harassment, stalking, female genital mutilation, forced marriage, forced abortion and forced sterilization. States must also take into account aggravating circumstances such as the presence of a child or an intimate relation with the victim, whereas so called ‘honor laws’ cannot be taken as a valid justification for any kind of violence. State parties are also obliged to investigate any allegation of violence against women, always considering that women are disproportionately affected by violence, that women may not report violence or may even withdraw previously submitted complaints.

In terms of victim’s rights, investigations and judicial proceedings shall respect victims and refrain from any behaviors which blame victims and cause them additional distress. The right to privacy of victims must be ensured and special measures to protect the victims must be adopted at all stages of investigation and proceedings, with specific regard to child victims of abuse.

The last pillar is **comprehensive and coordinated policies**. The Convention is based on the assumption that no single agency or institution can deal with violence against women and GBV violence alone. An effective response to such violence requires joint and collaborative action by many different actors. State parties are asked to implement comprehensive and coordinated policies involving governmental agencies, NGOs as well as national, regional and local parliaments and authorities. The aim is that policies to prevent and combat violence against women and GBV violence are carried out at all levels of government and by all relevant agencies and institutions. States must develop national strategies and plans of action to ensure an effectively coordinated multi-agency response. The reports show that results in terms of fighting GBV, violence against women and domestic violence are improved when law enforcement agencies, the judiciary, NGOs, child protection agencies and other relevant partners work together according to consistent guidelines and protocols, supported by adequate training of all professionals and volunteers involved.³⁸

³⁸ GREVIO, *Mid-term Horizontal Review of GREVIO baseline evaluation reports*, 10 May 2021, chapter II, 28 ff., available at <<https://rm.coe.int/prems-010522-gbr-grevio-mid-term-horizontal-review-rev-february-2022/1680a58499>> accessed 25 August 2022.

5. The Istanbul Convention: two axes of cooperation

The Istanbul Convention identifies two main axes of cooperation: the international or external one (Article 1(1) letter d) and the internal cooperation among domestic actors engaged in countering violence against women (Article 1(1) letter e).

First, the Istanbul Convention acknowledges the transnational dimension of violence against women and domestic violence already in Article 1 and in more detail in its Chapter VIII. Not only does violence against women no longer represent a mere ‘private’ matter for which States do not have legal obligations, but also it is no longer limited to national borders. Protection orders issued in one State and implemented in another State, exchange of evidence to support prosecution are just two examples of the relevance of the international dimension for dealing with cases of violence against women and domestic violence. The international dimension is subject to the rules pertaining to judicial cooperation in civil matters, which cover jurisdiction, conflict-of-law, recognition and enforcement, the administrative dialogue between national central authorities.³⁹ International cooperation is not limited to Chapter VIII, though. Migration issues, to which an entire chapter of the Istanbul Convention is devoted, present an international dimension in the assessment of the situation of the country of origin of the woman requiring international protection or evidence concerning ongoing proceedings of which the woman requiring international protection is party in her country of origin.⁴⁰ International cooperation can be also appreciated looking at the rule on jurisdiction.⁴¹ For example, according to Article 44, paragraph 6, ‘When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult each other with a view to determining the most appropriate jurisdiction for prosecution’.

Second, cooperation plays a key role in terms of dialogue between different actors at domestic level engaged in countering violence against women. In particular, according to Article 7 Istanbul Convention, ‘Measures taken pursuant to this article shall involve, where appropriate, all relevant actors, such as government agencies, the national, regional and local parliaments and authorities, national human rights institutions and civil society organisations’.⁴² This dimension, which we called ‘internal’ because it is mainly

³⁹ See, in detail, Ester di Napoli and Francesca Maoli’s comment on Articles 62-64 in this Commentary.

⁴⁰ See Vladislava Stoyanova, ‘Article 59: Residence status’; Fulvia Staiano, ‘Article 60: Gender-based asylum claims’; Anne Lagerwall, ‘Article 61: Non-refoulement’ in this Commentary.

⁴¹ See Elena Carpanelli, ‘Article 44: Jurisdiction’ in the present volume.

⁴² See Maria Calloni, ‘Article 7: Comprehensive and co-ordinated policies’ in the present volume.

operative at the domestic level, is fundamental because a multi-level action on countering violence against women and domestic violence can better grasp the complexity of the situation of dozens of women and girls. The involvement of NGOs is highly supported by the Convention, which dedicates the entire Article 9 to it.⁴³ This kind of cooperation is also the one that determines gradual and progressive changes in the culture in order to eradicate patterns of discrimination against women rooted in all societies, which is pursued under Article 12 Istanbul Convention⁴⁴ and, more generally, Chapter III on prevention, and to endorse gender-sensitive policies, which corresponds to an obligation for contracting parties according to Article 6.⁴⁵

6. The Istanbul Convention: the monitoring mechanism

The Istanbul Convention establishes a monitoring mechanism: the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO). Several chapters are dedicated to GREVIO, also comparing the system with other regional mechanisms.⁴⁶ As international lawyers, we would like to emphasize that despite not being a tribunal or a quasi-judicial body vested with the power of receiving individual complaints, GREVIO has proved – in few years of activity – to be a competent body which allows the interpretation of the provisions of the Convention and the potential of this legal instrument to emerge. This is why all the chapters of this Commentary refer to the activity of this body, including its first general recommendation⁴⁷ and its Mid-term Horizontal Review of GREVIO baseline evaluation reports.⁴⁸ The non-binding nature of the reports and the recommendations should not be read as a weakness of the mechanism, but rather as a point of strength, because, as many other CoE monitoring mechanisms have showed, the pressure exerted through evaluations made by an independent body is enough to push countries to comply – or try to comply at least – with the obligations stemming from the binding legal instrument.⁴⁹

⁴³ See Enza Maria Tramontana, ‘Article 9: Non-governmental organizations and civil society’ in this Commentary.

⁴⁴ See Marcella Ferri, ‘Article 12: General obligations’ in the present volume.

⁴⁵ See Lourdes Maria Peroni, ‘Article 6: Gender-sensitive policies’ in the present volume.

⁴⁶ See Ronagh McQuigg’s comments to Articles 66-70; Martina Buscemi, ‘The practice of GREVIO and its first general recommendation’ and Rosa Celorio, ‘The Istanbul Convention in comparison with the African and American systems of protection of women’s right to be free from violence’ in this Commentary.

⁴⁷ GREVIO, *General Recommendation No. 1 on the digital dimension of violence against women*, 20 October 2021, GREVIO(2021)20.

⁴⁸ GREVIO, Mid-term Horizontal Review (n 38).

⁴⁹ See for example, the role played by Moneyval in countering money laundering at European level and the role of GRETA on countering trafficking in persons in the CoE system.