

Legal frame of violence against women in Cyprus and Greece: the Konstantinoupolis (Istanbul) Convention regarding violence against women¹

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Introductory Remarks

As an introduction, it should be pointed out that domestic violence

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is an “invisible criminality”.² Simultaneously, it must be noted that violence within the family is not only a private matter.³ That means, it is not only a personal matter of the offender and the victim, but also a social matter⁴. It is noteworthy that 80% of the victims of this extremely sad and multifactorial phenomenon are women, followed by children, the elderly and people with disabilities. Violence against women is now tackled, especially in the Convention of the Council of Europe on preventing and combating violence against women and domestic violence, widely known as the “Istanbul Convention”, which is inspired by the position that violence against women is a form of violence based on gender, (*gender-based violence*), which is directed against women, just because they are women.

Tackling Domestic Violence in the Frames of Cypriot Legal Order

In the frames of Cypriot legal order, the legal framework on tackling and suppression of violence within family is not included in one piece of legislation only. Since 1990 and pursuant of at least 5 laws, Provincial criminal jurisdiction Courts and Family Courts resolve criminal and civil disputes which arise because of violence incidents within the family.⁵

Criminal law provisions, regarding violence within the family, are contained in the Cypriot law 119 (I) of 2000 on violence in the family (prevention and protection of victims),⁶ as it is applicable upon amendments made by law 212 (I) of 2004. In the case *Attorney General v. Geor-*

² See S. Tomaras., ‘Dimensions of domestic violence: Law 3500/2006 and the role of mental health specialists’, *Proceedings of Education Day Conference*, Publications Ant. N. Sakkoulas, p. 80 (in Greek), Giovanoglou S., *Criminal Justice* 2009 (law journal in Greek) 94 et seq.

³ See D. Papadopoulou-Klamari, *Nomiko Vima* 2012 (law journal in Greek), 244.

⁴ See relevant elaboration in D. Gerostathou, *Theory and Practice of Civil Law & Civil Procedural Law* 2014 (law journal in Greek).987 et seq.

⁵ It is noted that Cyprus has adopted a National Action Plan to prevent and fight domestic violence (2010-2015).

⁶ Which replaced the law 47 (I)/1994 on violence in the family (prevention and protection of victims).

giou,⁷the following are noted: “The use of violence by a husband against his wife is a particular aspect of violent crimes inside the family, of which the underlying cause is the use of violence as a means of a husband’s willpower enforcement upon his wife and his sovereignty upon his family on the basis of his physical strength. Violence replaces speech and power replaces logic. The equality that should characterize the relationships between the spouses is lost...”

In articles 2 and 3 of the law 119 (I) of 2000, definitions are included and the meaning of violence and its scope are defined,⁸ whereas in article 4 there are offenses listed that are based on articles of the Cypriot Penal Code, which, when committed by one member of a family against another, have increased criminal demerit and increased penalties are predicted compared to those provided for in the corresponding articles of the Cypriot Penal Code.⁹

The third part of law 119 (I) of 2000 (articles 6-8), refers to auxiliary, guidance and counseling institutions that aim to tackle domestic violence, to report the relevant incidents and behaviors from the victims, to protect the latter and to enable police and judicial authorities initiate the relevant judicial procedures. This particularly concerns the institution of Family Advisor (article 6), the Advisory Committees (article 7) and the Multidisciplinary Teams (article 8).¹⁰

⁷ (2002) 2 Supreme Court of Cyprus 464, see specifically p. 469.

⁸ See indicatively judgments of the Cypriot criminal courts: Limassol District Court, case number: 11383/13/11.4.2014, *Police of Limassol v. N.B.*, www.cylaw.org, Limassol District Court, case number: 23186/14/17.10.2014, *Police of Limassol v. L.M.*, www.cylaw.org; Nicosia District Court, case number: 23435/12/17.01.2014, *Police of Nicosia v. N.P.*, www.cylaw.org, Limassol District Court, case number: 175/2014/9.4.2014, *Police of Nicosia v. M.D.*, www.cylaw.org.

⁹ See *Th. Th. v. Police*, (2008) 2 Supreme Court of Cyprus 575/17.7.2008-L.S. v. *Police*, (2012) 2 Supreme Court of Cyprus 627/19.10.2012. See also Paphos District Court, case number: 10419/27.11.2013, *Police of Paphos v. P.P.*, www.cylaw.org; Limassol District Court, case number: 7385/08/30.12.2009, *Police of Limassol v. I.O.*, www.cylaw.org.

¹⁰ These institutions are not provided for in the provisions of the Greek law on domestic violence.

The sixth part of the law consists of 5 articles (articles 21-25) which are associated with the issuing of orders from a criminal jurisdiction court and an alternative treatment of the accused for domestic violence offenses, however again decided by the court. Therefore, the following are regulated: *a*) removal order for minors *b*) temporary order restraining the suspect or removing the victim (article 22), *c*) restraining order (article 23) and *d*) guardianship or suspension of imprisonment under special conditions (article 25), as an alternative.

The eighth part of the law (articles 31-35A), contains provisions relating to the establishment and operation of housing for the provision of safe accommodation and protection to victims of violence in Cyprus. In addition, there are criminal offenses that are regulated as separate, harassment (by the accused or by any other person) of a victim, of a witness of a violence case or of their family member, in the knowledge of the offender, of course, that those persons bear the above property (article 32), the prohibition of identification data disclosure (name, address etc.) of the victim of violence or of the complainant or of the person against whom the complaint is made (article 34¹¹), as well as the prohibition of delivery, receipt or publication of given evidence to any person (article 35). Finally, the criminal treatment of a certain citizen's failure to report a case of violence that has come to his knowledge (article 35^A), against a minor person or a person with serious mental deficiencies is regulated as well.

During the adjudicating of a dispute between spouses, the Family Courts of Cyprus may have to deal with a case of domestic violence.

Article 27 of the Marriage Act Law 104 (I) /2003,¹² provides for the reasons for divorce.¹³ In the third paragraph of the article in question, a

¹¹ Regulation similar to that of article 20 of the (Greek) law 3500/2006.

¹² Law 104 (I)/2003 also applies to members of the Turkish community (temporary provisions), as provided for by law 120 (I)/2003. See also law 21/1990 on civil marriage, where article 28 (2) provides that only the reasons mentioned in paragraph 2B of Article 111 of the Cypriot Constitution can be determined as reasons for divorce.

¹³ See also article 14 of Law 23/1990 on Family Courts.

rebuttable presumption of breakdown of the marriage is introduced, in case of (among others) an attempt on the applicant's life by the defendant or the use of violence by the defendant, within the meaning assigned to the term "violence" in the law on violence in the family, that is the above-mentioned criminal law on domestic violence.

The resolution of domestic violence disputes, at least in its mild versions of occurrence, if there are such, e.g. when it comes to disturbed conjugal relationships characterized by outbursts of anger and tensions etc. could, however, be resolved through the institution of "family mediation", at least before these cases "knock" the door of the judge.

Hellenic Legal Order: Law 3500/2006 on Domestic Violence

In law 3500/2006 on domestic violence, violence inside the family is tackled independently and, at the same time, in many ways, that is, at a criminal, civil and administrative level.¹⁴ In article 1 case a' of the subject law, it is stated that "domestic violence"¹⁵ is considered to be the commission of a criminal offense against a family member, according to certain legislative provisions (articles 6, 7, 8 and 9 of this law and articles 299 and 311 of the Greek Penal Code), relating to homicide and fatal injury.

¹⁴ See indicatively, Th. Papazisi, *Theory and Practice of Civil Law & Civil Procedural Law* 2014 (law journal in Greek) 218 *et seq.*; P. Brakoumatsos, *Criminal Justice* 2007 (law journal in Greek), 1455 *et seq.* A. Maniati & P. Kapralou, *Scientific Yearbook of Armenopoulos* 2009 (law journal in Greek) 89 *et seq.*; V. Vlachou, *Poinikos Logos* 2008 (law journal in Greek), 735 *et seq.* Law 3500/2006 organized the institutional framework for domestic violence, so as for the Greek legal system to adapt to the international legal framework, as it is determined by the recommendations of the Council of Europe, UN Conventions and EU decisions and Directives.

¹⁵ Regarding the definition of violence in general, the World Health Organization provided, after relevant processing, in the year 1995, the following definition: "Violence is the intentional use of physical force or power, threatened or actual, against another person, of himself or of a group of people, which has as a result the occurrence or increased risk of occurrence of injury, death, psychological harm, distorted development or deprivation" (W.H.O., 1997).

The law contains the definition of the term “family”¹⁶ in article 1 § 2 case b’. However, the implementation of its provisions presupposes the existence of a relationship of a certain affinity of the listed persons and cumulatively with it and the actual fact of their cohabitation. “Victim of domestic violence”, is, according to law 3500/2006, every person from all those mentioned in it, against which an offense is committed according to articles 6, 7, 8 and 9 of the law. “Victim” is also a member of the family wherein the offense was committed, according to articles 299 and 311 of the Greek Penal Code, as well as a minor in front of whom one of these criminal offenses are committed, without being directed directly against him or her,¹⁷ a provision which is thought to be pioneering. In the second article of law 3500/2006, the unlawfulness of domestic violence, which may be in any form (physical, psychological, verbal or any other form), is independently established, regardless if it is considered a criminal act or not or whether the conditions about injury, fault and causal link to substantiate a claim for damages etc. are met.

Law 3500/2006 has set out the criminal “aspects” of domestic violence and introduced new institutions to tackle it,¹⁸ mainly of a repressive character. The criminal law provisions of law 3500/2006 are listed:

¹⁶ See D. Papadopoulou-Klamari, *Nomiko Vima* 2012 (law journal in Greek), 233 *et seq.* In relation to the breadth of the definition of family in law 3500/2006, see A. Charalambakis, *Poinika Chronika* 2011 (law journal in Greek). 562-563· Ch. Zarafonitou, ‘Conclusions’ in the Minutes of a Further Education Day Conference of 28/06/2007 on domestic violence, p. 356, *op. cit.* footnote number 2 (in Greek); St. Grozzos, ‘Law 3500/2006 on domestic violence’ in the Minutes of a Further Education Day Conference of 28/06/2007 on domestic violence, p. 154 (in Greek); P. Brakoumatsos, ‘Comments – Thoughts – Recommendations on the new law on tackling domestic violence’ in the Minutes of a Further Education Day Conference of 28/06/2007 on domestic violence, pp. 204-206 (in Greek).

¹⁷ A classic example of this is marital beating in front of the children, see D. Papadopoulou-Klamari, *Nomiko Vima* 2012 (law journal in Greek) 238-239.

¹⁸ Relevant to deviant behavior issues within family relations, is also law 3625/2007 on child trafficking, child prostitution and child pornography. See relevant G. Papadimitraki, *Criminal Justice* 2009 (law journal in Greek) 1007 *et seq.*

a) to those that concern substantive criminal law provisions¹⁹ and are articles 6-10, 16 and 24 with which the criminal offenses of domestic violence are either standardized independently (crimes sui generis.), e.g. the offense of domestic physical injury²⁰ or replaced the relevant articles of the Greek Criminal Code, b) to those that regulate the institution of criminal mediation, which is regulated in articles 11-14 regarding domestic violence misdemeanors, by the person responsible for conducting a public prosecutor criminal prosecution²¹ and c) in provisions of criminal procedural law (articles 17-20), which are related to the initiation of criminal prosecution, of restrictive conditions which can be imposed on the accused, of the examination of witnesses and confidentiality obligation by the competent preliminary investigating police authorities.

The institution of criminal mediation, as a “decompression” means, of a “sensitive” private dispute and a simultaneously “restoration” of both the victim and the family peace, is really modern and promising. However, its practical implementation, does not seem to be truly realized and show “results” in Greece. And this is because, on the one hand, the existing (necessary) support structures of the Greek public prosecutors²² and judicial authorities are inadequate and, on the other hand, the communication and interconnection required among the (competent) departments in order to work together, is entirely problematic and slow, while a lack in the competent departments of accredited scientific experts, such as psychologists, psychiatrists, social work-

¹⁹ See D. Zimianitis, *Criminal Justice* 2011 (law journal in Greek) 1206 *et seq.*; Th. Papatheodorou, *Criminal Justice* 2007 (law journal in Greek) 71 *et seq.*, especially p. 77 *et seq.*

²⁰ Supreme Court of Greece 963/2012, *Armenopoulos* (law journal in Greek) 2013.114. Supreme Court of Greece 1558/2013, NOMOS LAW DATABASE, Criminal Court of Piraeus 94/2008, *Criminal Justice* 2008 (law journal in Greek) 292.

²¹ See St. Grozzos, ‘Law 3500/2006 on domestic violence’ in the Minutes of a Further Education Day Conference of 28/06/2007 on domestic violence, pp. 157-161 (in Greek).

²² The Public Prosecution Service in particular needs, in this case, the help of the Family Curators Department.

ers etc. is a fact.

Articles 17-20 of law 3500/2006 constitute provisions of criminal procedural law. Therefore, criminal prosecution for crimes of domestic physical injury (article 6), of domestic unlawful violence and threat (article 7), of domestic sexual abuse (article 9) and obstruction of administration of justice (article 10), is provided for and carried *ex officio*²³ and the “*in flagrante delicto procedure*” is applied (mandatory) (articles 417 et seq. Greek Criminal Law Code). In this way, quick administration of justice is ensured and perpetuation of tensions in family relations is avoided.

In article 18, anything relevant to the restrictive conditions which may be imposed on the accused, is regulated. Equally important, where possible, for the protection of the victims and for the prevention of the so-called “*secondary victimization*” in courts, is the setting of article 19, which provides for the fact that in cases of domestic violence, the members of the family are examined as witnesses without giving an oath, whereas the children are not summoned as witnesses in the audience,²⁴ but their testimony is being read, if it exists, unless their inquisition is deemed necessary by the court.

The provisions of law 3500/2006 of civil content can be systematically classified into 2 groups, that is in provisions of substantive and procedural civil law²⁵ and can be found in articles 3, 4, 5, 15, 19 § 1 and 22, and in civil law provisions in the criminal mediation which can be found in articles 11 § 2 c, 12 § 6 and 14.

Serious marital breakdown should be proven, according to the gen-

²³ The *ex officio* criminal prosecution in the present case (positively) contributes to the increase of references in relevant cases that have been brought to courts. In cases of offenses against children which are prosecuted by a criminal complaint and wherein the offender seems to be one the children’s parents, different views have been expressed, for which you need to see A. Charalambakis, *Poinika Chronika* 2011 (law journal in Greek) 566-568).

²⁴ See about this Supreme Court of Greece 1196/2011, NOMOS LAW DATABASE.

²⁵ See D. Papadopoulou-Klamari, *Nomiko Vima* 2012 (law journal in Greek) 239.

eral provisions of the Greek law, by the person who claims marital breakdown as a reason for divorce. To facilitate such proof, the Greek Civil Code establishes presumptions for breakdown. To these, the case of domestic violence was added with article 3 of law 3500/2006 and the second subparagraph of article 1439 of the Greek Civil Code was replaced.

The procedural provisions of law 3500/2006 start with article 15 of law 3500/2006, where upon the temporary adjustment of the situation on incidents of domestic violence is determined. The provision adds a “special” interim measure to the “legal arsenal” of the victims. So far, its practical implementation is considered to be very important. The same measure may also be instructed by a temporary order of the judge, according to article 691A of the Greek Code of Civil Procedure. In the last paragraph of article 735 of the Greek Code of Civil Procedure, therefore, it is stated that in cases of domestic violence removal from the family home, living in another house, a prohibition (for the offender) to approach the residence or work places of the person making the request, close family residences, the educational institutions of the children and hostels may be ordered.²⁶ The above prohibitions are ordered not only through interim measure, but also with a principal claim, in front of the competent court.

The legislative-institutional framework on domestic violence in Greece is considered to be complete and sufficient. However, effective protection of the victims is not considered to be sufficient, at least as sought by the legislator.²⁷ It is obvious that the improvement of the ac-

²⁶ The list is obviously indicative.

²⁷ See the Minutes (in Greek) of a Further Education Day Conference of 28 June 2007, co-organization of the Department of Law of the University of Athens, and of the Laboratory of Criminal and Forensic Investigations on: Domestic violence: Prospects after law 3500/2006 (pp. 390-409), useful lists for employment institutions and institutions that deal with women-victims of domestic violence – issues related to family and the child, list of psychological support centers of private law, social welfare and child protection services, welfare addresses, municipal social services addresses, juvenile curator services, as well as a list of other organizations and

tual implementation of the law requires actions both social and organizational. The creation of a wider network of reception centers of psychosocial, financial and legal assistance is considered to be necessary, as well as the development of continuous training programs for officers and staff involved.²⁸ The aforementioned actions and many others have already been the content of the provisions of the Istanbul Convention on violence against women. Those shall certainly acquire "*flesh and bones*", only if the Convention is incorporated into the national laws of the parties that have signed it.

Comparatively and conclusively, it is observed that within the legislative framework of the Cypriot legal system, a "*reconciliation*" process between the offender and the victim of domestic violence, within the framework of the "*criminal management*" of the offender's behavior is not provided for. That is, neither criminal mediation nor (civil) compensation of the victim by the offender is provided for. Furthermore, criminal law provisions of domestic violence crimes are considered rather stricter than those in the Greek legal system, at least in terms of penalties laid down.

The Istanbul Convention on Violence Against Women

1. The Convention as an international legal instrument and its signing by Greece and Cyprus

The Council of Europe,²⁹ which was established on the 5th of May 1949 (Treaty of London) located in Strasbourg, is an international organization. 47 states of Europe and the eastern region participate in it. Additionally, 5 more states participate as observers of the Council and 3 as observers of its Assembly. The Council of Europe works for European integration, with particular emphasis on the protection of human

governmental organizations.

²⁸ As the Ministry of Public Policy had done, at the time of establishing the law 3500/2006. This handbook was intended for use by police officers and was about handling domestic violence cases.

²⁹ <http://hub.coe.int>

rights, the regulation of legislations and cultural cooperation in Europe.

The Council of Europe Convention on preventing and combating violence against women and domestic violence was signed in Istanbul on 11.5.2011 and includes 81 articles arranged in 12 Chapters. The Convention is open for signature by the states that are members of the Council, the non-member states that have participated in its preparation, as well as the European Union and is subject to ratification, acceptance or approval. The Convention is governed by the basic principle that it is society's duty to raise the issue of gender violence against women,³⁰ to take preventive measures against it, to protect the victims and to persecute the offenders.³¹ Additionally, the Convention leaves no doubt about the fact that there can be no real equality between women and men, if women suffer from gender violence and on a large scale and government authorities and institutions "turn a blind eye" to this unpleasant phenomenon.

Cyprus has recently signed the Convention, on 16.6.2015, but hasn't yet ratified it nor put it into effect.³² Greece has signed the Convention from the very start, on 11 May 2011, but hasn't yet ratified it nor put it into effect, too. Indicatively, it is noted that Albania and Turkey have signed, ratified and put into effect the Convention, whereas Germany, the United Kingdom and many other countries have only signed the Convention, without ratifying it or putting it into effect. Bulgaria has most recently signed the Convention on 21 April 2016. The ratification of the Convention by a party, which has signed it, shall mean that the

³⁰ SGBV: Sexual and Gender-Based Violence.

³¹ See Initial Assessment Report: Protection Risks for Women and Girls in the European Refugee and Migrant Crisis, Greece and the former Yugoslav Republic of Macedonia, United Nations Refugee Agency, United Nations Populations Fund and Women's Refugee Commission, 2015, part: 3.4, Sexual and Gender-Based Violence, page 7. See also: <http://data.unhrc.org/mediterranean/regional.php>

³² See: http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures?p_auth=4dGoRFTr (Accessed: 5 March 2016) on which countries have signed, ratified and put the Convention into effect.

arrangements of the Convention shall be integrated by law in the national legislation of that party and that, furthermore, new laws shall be established or the already existing structures shall change in order for the Convention to be put in effect. By the study of the arrangements and provisions of the Convention it arises that some of these are already provided for in the national legislation of Greece and Cyprus and some more should be established for the first time by legislative reforms, upon its ratification.

2. *Short presentation of the arrangements of the Convention*

At the first chapter, that is the first 6 articles, the purposes of the Convention are defined and definitions, provisions on equality and non-discrimination, as well as general obligations, are included.

The purposes of the Convention, which can be implemented, both in periods of peace and in situations of armed conflict, are set out in article 1 and are mainly about the protection of women against all forms of violence, including domestic violence, prevention, prosecution and elimination of violence against women as well as domestic violence, contributing to the elimination of all forms of discrimination against women and promoting a substantive equality between men and women, designing a complete framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence, etc. Article 3 of the Convention includes the definitions of the terms: “*violence against women*”, “*domestic violence*”, “*gender*”, “*victim*” and “*women*”.

Within the framework of the Convention, “*violence against women*”³³ is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. The term “*domestic violence*” means all acts of

³³ The term “*women*” includes girls under the age of 18.

physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.³⁴

In article 4 of the Convention it is noted that the parties shall take the necessary legislative and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and the private sphere, as well as that they shall condemn all forms of discrimination against women and take, without delay, the necessary legislative and other measures to prevent it, in particular by embodying in their national constitutions or other appropriate legislation the principle of equality between women and men and ensuring the practical realization of this principle by prohibiting discrimination against women, including through the use of sanctions, where appropriate, as well as abolishing laws and practices which discriminate against women. The protective measures that are necessary in order to prevent and protect women from gender-based violence shall not be considered discrimination under the terms of the Convention.

The second chapter of the Convention, mainly articles 7-11, includes arrangements for the coordinated policies which parties should follow by encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of the Convention and offer a holistic response to violence against women. The third chapter, that is articles 12-17, deals with preventive measures, while the fourth chapter, that is articles 18-28, deals with measures for protection and support.

More specifically, article 12 refers to the parties' general obligations to take all necessary measures to promote changes in the social and cultural patterns of behavior of women and men with a view to eradi-

³⁴ On the term of "*violence*" in Cypriot legislation, see article 3 of the Cypriot laws on violence in the family of 2000 and 2004 and on the term of "*domestic violence*" in Greek legislation, see article 1 § 1 of Law 3500/2006 and articles 299 and 311 of the Greek Penal Code.

cating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men. These measures aim at the elimination of violence against women that may be inflicted (also) in the name of some cultural tradition, or citing religious or ideological background, where the purpose of the Convention is achieved even harder. It is known that even "today", millions of girls and women all around the world, including the "Western" world, are subject to appalling violent practices, such as "breast ironing", early marriages and child bearing, virginity testings and female genital mutilation, which are based on ancient and even unwritten traditions, stemming from religion and/or customs. Moreover, the increase of migration flows from countries in Africa or Asia to the West, has contributed to the extension of the aforementioned practices beyond their national borders.³⁵

The aforementioned measures may include raising awareness programs for the public or educational measures provided for in article 14, such as teaching material on issues such as equality between women and men. Additionally, article 15 provides for the training of professionals that deal with victims or offenders of all acts of violence the scope of this Convention covers. Equally important are all preventive measures provided for in article 16, through programs aimed at teaching perpetrators of domestic violence to adopt non-violent behavior in interpersonal relationships with a view to preventing further violence and changing violent behavioral patterns or through treatment programs aimed at preventing sex offenders, from re-offending.

It is also noted that the parties should ensure that culture, customs, religion, tradition or so-called "honor" shall not be regarded as justification or attenuating circumstances for any acts of violence.³⁶

Article 18 provides for general obligations. Within the framework of these obligations, parties should provide for effective co-operation be-

³⁵ <http://www.koutipandoras.gr/article/paradoseis-poy-skotonoy-n> (26/11/2015) (in Greek).

³⁶ See also article 42 of the Convention.

tween all relevant state agencies, including judiciary, public prosecutors, law enforcement agencies, non-governmental organizations, etc., in protecting and supporting victims and witnesses, including referring to general and specialist support services as detailed in Articles 20 and 22 of the Convention. The provision that states that the provision of services shall not depend on the victim's willingness to press charges or testify against any perpetrator is particularly important.

Article 19 provides for the adequate information of the victims on available support services and legal measures in a language they understand, as well as for interpreting and document translation services for them. Additionally, article 20 provides for the victims' access to services facilitating their recovery from violence, such legal and psychological counseling, financial assistance, housing, education, training and assistance in finding employment. In the same context, articles 21 and 22 provide for the information of victims on and access for themselves and their children to applicable individual and collective complaints mechanisms, as well as to specialized support services.

Furthermore, articles 23 to 26 provide for measures for the creation of appropriate, easily accessible and in sufficient numbers shelters, the setting up of state-wide round-the-clock (24/7) telephone helplines free of charge to provide advice to callers³⁷ and appropriate sexual violence referral centers for victims, as well as the provision of protection, support and counseling for children witnesses.

Articles 27 and 28 provide for the obligation of reporting acts of violence to the competent authorities (encouraged by the state) by a witness or any other person who has reasonable grounds to believe that such an act may be committed, or that further acts of violence are to be expected, etc. Regarding the obligation of reporting such acts by professionals, the parties should take measures to ensure that the confidentiality rules imposed by internal law on certain professionals, such as professional secrecy, medical confidentiality or legal professional privilege do not constitute an obstacle to the possibility of their report-

³⁷ With due regard to the anonymity of the callers.

ing to the competent organizations or authorities if they have reasonable grounds to believe that a serious act of violence covered by the scope of the Convention, has been committed and further serious acts of violence are to be expected.

The fifth chapter of the Convention, containing articles 29-48, includes important provisions on substantive law. In more detail, articles 29 and 30 include innovative arrangements on civil lawsuits and remedies for compensation, claimed by the victim from the perpetrator, for offenses covered by the scope of the Convention and from public authorities that have failed in their duty to take the necessary preventive or protective measures within the scope of their powers.³⁸ However, it is recalled that Law 3500/2006 on domestic violence in Greek national law, provides for compensation of the victim by the perpetrator as part of the victim's restoration within the framework of mediation in criminal cases, whereas the respective Cypriot law does not provide for it. Articles 33-41 include various offenses, which should be penalized to the national legislations of the parties, if, of course they are not already criminalized, according to the Convention. More specifically: a) article 33, that is about psychological violence, meaning the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats,³⁹ b) article 34, that is about "*stalking*", meaning the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety, c) article 35, that refers to physical violence,⁴⁰ d) article 36 that is about sexual violence, including rape and marital rape.⁴¹

³⁸ However, the Republic of Cyprus, upon the signing of the Convention, addressed concerns about state compensation to the victims, issues of jurisdiction and residency status of the victims.

³⁹ In Greek law, the offense of threat is standardized in article 333 of the Greek Penal Code and equally the offenses of domestic violence and threat in article 7 of Law 3500/2006.

⁴⁰ In Greek law, the offense of illegal violence is standardized in article 330 of the Greek Penal Code.

⁴¹ In Greek law, the offense of rape (including marital rape) is standardized in

Furthermore, the following should be criminalized in the national legislations of the parties, as intentional offenses, if they have not been penalized yet: a) according to article 37, forced marriage of an adult or child etc., b) according to article 38, female genital mutilation,⁴² c) according to article 39, forced abortion and forced sterilization, d) according to article 40 sexual harassment,⁴³ that is, any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person and e) according to article 41, aiding or abetting the commission of the offenses mentioned in articles 35, 36, 37, 38 § 1 and 39 of the Convention.

Regarding local jurisdiction for any offense that is established in accordance with the Convention, article 44 includes an extensive support of jurisdiction with different relevant combinations.

Aggravating circumstances regarding offenses that are established in accordance with the Convention, insofar as they do not already form part of the constituent elements of the offense, are provided for in article 46 of the Convention. For example, when the offense was committed by a family member against the former or current spouse or part-

article 336 of the Greek Penal Code and equally the offense of the insult of sexual dignity.

⁴² This particular cruel practice is relatively specific in Somalia, Eritrea, Yemen, Gambia, the southern areas of Egypt and other areas, see: <http://www.koutipan-doras.gr/article/paradoseis-poy-skotonoy-n> (26 November 2015) (in Greek). According to media reports, even today, every 11 minutes a girl is subjected to female genital mutilation in 29 countries all around the world, while more than 130 million women and girls, especially in Africa and the Middle East, live with the serious and inhumane consequences of violent and forced mutilation of their genitalia, see: <https://www.theguardian.com/society/2015/nov/24/how-the-gambia-banned-female-genital-mutilation> (28 November 2015) (in English). It should be noted that only in November 2015 did the President of Gambia, Yahya Jammeh, expressed his disapproval (upon pressure from organizations, etc.) for the aforementioned practice in his country, where approximately 80% of women have already been subjected to and announced its legislative prohibition, see: <https://www.theguardian.com/society/2015/nov/24/the-gambia-bans-female-genital-mutilation> (in English).

⁴³ See Greek law 3769/2009, especially article 2 case d.

ner, as included in the national legislation, or in cases where the offense was committed against a person that was vulnerable due to special circumstances.

Article 47 introduces an innovative arrangement, which provides for the possibility of taking into account final sentences passed by another party (of the Convention) in relation to the offenses established in accordance with the Convention when determining the sentence. This of course presupposes the creation of a European or International Criminal Record.

Finally, according to the definitions of article 48, mandatory alternative dispute resolution processes, including mediation and conciliation, should be prohibited.

The sixth chapter of the Convention, that is articles 49-58, has a procedural "*spirit*". These provisions regulate matters of investigation, prosecution, procedural law and protective measures. It is beyond the scope of this study to analytically present these provisions, thus only some of them are mentioned.

Article 49 includes the parties' general obligations⁴⁴ to secure that interrogations and judicial procedures should be carried out without improper delay and effectively, taking into consideration the victim's rights.

Furthermore, article 52 specifically regulates that the competent authorities are granted the power to order, in situations of immediate danger, a perpetrator of domestic violence to vacate the residence of the victim or person at risk for a sufficient period of time and to prohibit the perpetrator from entering the residence of or contacting the victim or person at risk. Additionally, article 53 regulates appropriate restraining or protection orders that are available to victims, while article 54 is particularly about safeguarding the victim's personal data, that is evidence relating to the sexual history and conduct of the victim, in any civil or criminal proceedings. Article 55 includes, among others,

⁴⁴ Articles 5 and 18 of the Convention also have to do with obligations of the parties.

that investigations into or prosecution of offenses established in accordance with some articles of the Convention, shall not be wholly dependent upon a report or complaint filed by a victim if the offense was committed in whole or in part on its territory, and that the proceedings may continue even if the victim withdraws her or his statement or complaint.

Article 56 is about protective measures for the victims and their families, including their special needs as witnesses, at all stages of investigations and judicial proceedings, so that they are protected from intimidation, retaliation and repeat victimization, etc., that they are informed when the perpetrator escapes or is released temporarily or definitively and that measures for the protection of their privacy and image are taken, and other. Additionally, article 57 provides for the right to legal assistance and to free legal aid for victims.

Articles 59-61 of the seventh chapter of the Convention include important regulations about immigration and asylum. Regulations of article 60 are considered to be particularly important, as they state that parties shall take the necessary measures to ensure that gender-based violence against women may be recognized as a form of persecution within the meaning of Article 1, A (2), of the 1951 Convention relating to the status of refugees and as a form of serious harm giving rise to complementary/subsidiary protection. Within the same framework, article 61 provides for non-refoulement of victims of violence. The importance of the aforementioned regulations for immigrants and refugees is directly understood under the lights of the findings and conclusions of a recent report by the United Nations High Commissioner for Refugees (UNHCR), which bears the title 'Initial Assessment Report: Protection Risks for Women and Girls in the European Refugee and Migrant Crisis',⁴⁵ where, among others, it is specifically reported:

Throughout the journey from their country of origin to

⁴⁵ Greece and the former Yugoslav Republic of Macedonia, United Nations Refugee Agency, United Nations Populations Fund and Women's Refugee Commission, 2015, part: 3.3 Protection Risks during Travel to Greece, page. See: <http://data.unhcr.org/mediterranean/regional.php> (in English).

Greece, refugees and migrants face high risks of violence, extortion and exploitation, including rape, transactional sex, human and organ trafficking. Women and girls, especially those traveling alone, face particularly high risks of certain forms of violence, including sexual violence by smugglers, criminal groups and individuals in countries along the route.

The eighth chapter of the Convention (articles 62-65) deals with international co-operation among parties, on civil and criminal matters, so that they can achieve the establishment of uniform and reciprocal (internal), to the widest extent possible on preventing and combating violence against women and the ninth chapter (articles 66-70) is about the monitoring mechanism introduced by the Convention that shall monitor the implementation of the Convention. The monitoring mechanism (article 66), consists of a group of experts referred to as "GREVIO", which shall monitor the implementation of the Convention by the parties and shall submit reports to the national parliaments of the parties.

It is observed that, according to article 73, the provisions of the Convention shall not prejudice the provisions of internal law and binding international instruments, under which more favorable rights are or would be accorded to victims of violence. Finally, according to article 74, any dispute which may arise concerning the application or interpretation of the provisions of the Convention shall first seek to resolve it by means of negotiation, conciliation, arbitration or by any other methods of peaceful settlement accepted by mutual agreement between the parties.

Conclusions – Critical Remarks

Violence against women is a form of violence based on gender, that is gender-based violence, which is directed against women, just because they are women. It also constitutes a serious breach of human rights.

Furthermore, it is at least sad that, within EU borders, one in 10

women has suffered some form of violence at the age of 15 and one in 20 women has been a victim of rape and just 14% of these women have reported a serious violence incident by their partner to the police.⁴⁶

Violence against women reaches extensive abuse limits, which systematically goes unreported to the authorities and thus the current state of the problem cannot be reflected in the official data. The results of the relevant study of the Fundamental Rights Agency of the European Union offer convincing arguments for the ratification of the Istanbul Convention by the parties. Apart from the institutional framework for the tackling of violence against women, actions must be taken by parties thereof, such as employers, medical staff etc., so that women-victims can report their abuse to the authorities, so that incidents of violence against them are not silenced and that offenders get arrested.

Additionally, it is important and most necessary to have all those involved, social workers, police officers, etc., properly trained. In general, various methods need to be investigated in order to point out and combat violence against women and coordinated actions should be implemented, as provided for in the Istanbul Convention, whose integration in the national legislations of the parties is deemed absolutely necessary and useful.

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⁴⁶ See Violence against women: European survey – The results at a glance, (FRA), fra.europa.eu, (Fundamental Rights Agency of the European Union), Publications Office of the European Union, 2014, p. 3 (in English).

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