

**Speech by Ms Elda Moreno**  
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Ladies and Gentlemen,

This very week, governments from about 200 countries are discussing in NY the issue of violence against women. This is indeed the priority theme of this year's session of the UN Commission on the Status of Women and the Council of Europe has sent a strong delegation to NY to make the case: not the CoE case, but the women's rights case. The Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) is indeed the most far reaching international legally binding instrument in this area. This is a treaty made in Europe but not meant for Europe only. It therefore has the potential to become a global standard.

I am very grateful to the London School of Economics for having organised this event around the Istanbul Convention. I feel privileged to be in this prestigious university, surrounded by outstanding experts and women's rights advocates, and facing a very well prepared, curious and sharp audience.

I am confident that my presentation will help to answer the question at the heart of our programme today: Does the Istanbul Convention bring an end to impunity for violence against women? Well: responding "of course" would amount to pretending that it has magic powers or that it contains a miraculous formula.

I would rather respond: "it depends".

The Istanbul Convention is an extremely **comprehensive treaty**, and it covers many forms of violence against women. It was not easy for our member states to agree on its exact scope. Well-established concepts and "agreed language" in other international documents were questioned by some. Questions raised during the negotiations included the following:

- ✓ Do we need a treaty to address violence targeted at women because they are women?
- ✓ Is there even such a thing?
- ✓ Is violence against women a "human rights issue" or a "human rights violation"?
- ✓ what is "gender"?
- ✓ And what about gender-based violence against men?
- ✓ violence affects all generations and all sexes: Why don't we better address violence in the family?

The answer that was found is both simple and complex.

*Simple*, because data shows that there are many forms of violence that women experience either exclusively or that affect women to a much larger extent than men.

*Complex*, because this is violence that is used to control and exert power: power over women's bodies, women's sexuality and women's choices – and that means there is no easy fix.

This type of violence is often perpetrated by men, and still more often by men who play some sort of role in women's lives. The perpetrators are usually male members of the family, teachers, friends and even co-workers, and that makes it much harder to address. The forms of violence range from domestic violence (psychological, sexual and physical violence) to sexual assault, sexual harassment and stalking, to forced marriage, female genital mutilation, forced sterilisation and forced abortion.

There is a clear gender dimension to all these forms of violence, and that is how the Istanbul Convention addresses them. The Istanbul Convention also acknowledges that men may be victims of some of these forms of violence, in particular domestic violence, and it encourages states parties to apply the relevant provisions also to men.

### **Coming back to the question: is this the end of impunity?**

When speaking of impunity, we immediately think of criminal codes and criminal justice and how comprehensive, dissuasive and efficient they are.

In most of our member states, the rates of prosecution and conviction for domestic violence, stalking, sexual assault, forced marriage or any other form of violence against women are very low.

There are many reasons for this, and they mainly have to do with **criminal justice systems that rely entirely on victim's statements** for evidence, or to open a case.

They also have to do with a general **lack of understanding of the nature of these offences** among the judiciary and prosecution services, and how trauma makes victims less willing and less able to immediately report a crime or to testify. Notions of "real rape" (excluding rape between married people) and "that only good women get raped" are still widespread and influence how evidence is collected or a court case is handled.

The Istanbul Convention addresses all of this and makes sure all **professionals** are trained on the different forms of violence against women. It requests that **investigations and judicial proceedings** be carried without delay and paying due attention to the victims' needs. It also allows proceedings to begin without an official complaint by the victim and to continue after it has been withdrawn.

Still, victims' trust in the process is key to securing convictions. That is why the Istanbul Convention contains a number of practical measures to **empower victims during judicial proceedings**. These include allowing them to be accompanied by victim support centres or advisors, avoiding contact with the perpetrator by using video links in court and offering separate waiting areas, or by allowing questions on their sexual history only if they are absolutely relevant and necessary. It also introduces a **whole new selection of criminal offences** such as psychological violence, stalking, sexual harassment, forced marriage and female genital mutilation. This is intended to make convictions easier.

For some women, the consequences of reporting domestic violence may imply not only leaving their home, but also the country they are living in. If **migrant women's** rights to

stay or work in a country depend on their status as spouses, the daily beating becomes the price to pay for their residence permit. This, again, allows their husbands to keep aggressing them in all impunity. The Istanbul Convention contains a whole chapter on migration and asylum. One of the provisions foresees the granting of an autonomous residence permit to the victim.

The Istanbul Convention also makes it clear that **culture, custom, religion, tradition** or the so-called "**honour**" cannot be used to justify the offences included in the Convention.

**Jurisdiction issues** are often another passport to impunity. For instance, some parents send their children abroad to undergo female genital mutilation or to get married by force. It is important that the court in the country where they reside can establish its jurisdiction for these kinds of criminal offences even when committed abroad and even if the act is not a criminal offence in the country where it was committed. The Istanbul Convention foresees this as well.

The **statute of limitation** can also lead to impunity, in particular when it comes to child victims. The Istanbul Convention therefore requests countries to make sure that its length is commensurate with the gravity of the offence and allows for the efficient initiation of proceedings after the victim has reached the age of majority.

The Istanbul Convention also prohibits **mandatory alternative dispute resolutions processes** such as mediation or reconciliation. This is a recognition of the vulnerability of the victim and her impossibility to participate in such a process as an equal.

Last, but not least, the Convention requires states parties to **encourage individuals to stop turning a blind eye** to what is happening to their friends, neighbours, colleagues, and to find the courage to report it to someone. The aim here is to help us all break the silence and ensure victims receive the help they need.

Ladies and Gentlemen:

I have provided you with a few examples on how the Istanbul Convention fights impunity. But **criminal law and proceedings are not enough to end impunity**. And fighting impunity is not enough to bring justice to women. Women have the right not only to live safe from violence, they also have the right to live safe from fear and discrimination, the right to compensation for their suffering. To achieve this, prevention and protection measures are in order.

A main feature of the Istanbul Convention is that it recognises violence against women as a **human rights violation and a form of discrimination against women**. By so doing, it establishes direct or indirect **state responsibility** for failing to *prevent* violence against women, failing to *protect* its victims or for failing to effectively *prosecute* the perpetrators. In addition to these three "Ps", it asks states parties to frame all measures in a co-ordinated approach of comprehensive *policies* that involve all necessary agencies and institutions, governmental and non-governmental.

Part and parcel of a holistic approach is therefore investing in **prevention**. The Istanbul Convention has been praised for its emphasis on prevention, because it does not only mean running campaigns, but also addressing the root causes of violence against women. This can only be done by **challenging attitudes towards women and their role in society**, by tackling **gender stereotypes and prejudice**, and by **teaching children** from an early age about healthy gender relations and equality between women and men. An example?

France has just announced that, as of next year, sex education will contain modules on healthy sexual relationships and respecting women's sexual integrity. This clearly means getting men and boys involved – as partners, as role models, as people who speak out and lead by example. The Istanbul Convention contains a lot of practical measures such as this, but this doesn't mean it is just a technical toolkit. It also sets much wider aims such as stamping out persistent inequalities between women and men, which is the breeding ground for violence against women.

If prevention has failed, victims need to **receive support and protection**. This might be a safe place to stay, a hotline to call or psychological counselling. It might also be emergency medical help after a rape, and professional forensic examinations so that evidence can be secured. These are the types of practical services that the Istanbul Convention calls for, and they have to be available to all victims, wherever and whoever they are.

Protection also means that the physical safety of the victim is ensured. Protection orders can be helpful here, in the form of emergency orders issued by the police on the spot or longer-term restraining orders from the courts. This has worked well in many countries, and the Istanbul Convention makes it a must-have for all states parties.

Protection also means that the police have to respond to every call for help as fast as possible, even if the calls keep coming from the same woman for the same reason, for example because she is a victim of domestic violence and does not see a way out. The Convention makes it clear that it should be the needs and safety of the victim that are at the heart of all measures and interventions, not the beliefs and values of the professionals involved. Clearly, if the victim feels reassured about what is going to happen, she is more likely to report the aggression.

Ladies and Gentlemen:

The provisions of the convention are not magic incantations spelled from Strasbourg. They are the result of in-depth analysis of problems and solutions tested around the world. The UK has been extremely active in combating the various forms of violence against women and has introduced a range of innovative approaches. Such **approaches have not only been copied across Europe but have also served as inspiration for several provisions of the Istanbul Convention**.

Specifically, Article 25 on the support for victims of sexual violence was based on the example of rape crisis centres operating in the UK. Very few of our member states have such specialised support centres for victims of sexual assault, which the Istanbul Convention hopes to change. In addition, the UK's multi-agency risk assessment conferences or MARACs, which adopt a coordinated community response to domestic abuse by involving all relevant actors, served as canvas for the treaty's integrated and comprehensive approach to preventing and combating violence against women.

In conclusion:

Two years after the adoption of the Convention, out of the 47 member States of the Council of Europe, only Turkey, Portugal and Albania have ratified it and 25 additional States have signed it. A number of countries are actively working on the ratification: Austria, Bosnia and Herzegovina, Finland, France, Italy, Serbia, Slovakia and Spain are expected to ratify by the end of 2013, with Sweden and Germany to follow shortly thereafter. Many (including the UK) are undertaking important changes in their legislations bringing them more in line with the Convention. Let me in particular welcome the improvements made through the

**“Domestic Violence, Crime and Victims (Amendment) Act 2012” and the “Protection of Freedoms Act 2012”**

It took the Council of Europe Convention on action against trafficking 4 years to enter into force. We may beat that. It is very likely that next 8<sup>th</sup> of March we shall be celebrating the entry into force of the Istanbul Convention.

Its entry into force will be followed by the setting up of a monitoring mechanism including an independent group of experts entrusted with the task to assess countries' compliance with the Convention and to make suggestions to address the shortcomings.

So: can the Istanbul Convention bring an end to impunity? It depends. It depends on how governments, parliaments, experts and civil society are going to use it.

The Istanbul Convention has indeed the potential of putting a stop to impunity. Even better: the Istanbul Convention can actually prevent violence against women from occurring. And this is neither illusion, nor delusion.

All is there: the reasoning, the strategy, the tools, the connections, the directions, the warnings... But... shall we find the determination, the strength and the resources to make it work?

For the great inventor, Thomas Edison, *“The three things that are most essential to achievement are common sense, hard work and stick-to-it-iv-ness.....”*

The Istanbul Convention is the outstanding result of many years of hard work. It now makes sense that we stick to it, so that both women and society at large can benefit from its full potential.

Thank you

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