Fighting Domestic Violence - Ireland

2. Introduction: framework guiding domestic violence law

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**Background**

This section provides an introduction to the framework guiding domestic violence law. Several acts such as The Domestic Violence Act 2018 and the Criminal Justice (Victims of Crime) Act 2017 serve to consolidate the law on domestic violence around the ratification of the Istanbul Convention and provide civil and criminal redress to victims.

# 2.1 Are there civil and criminal legal remedies for domestic violence victims?

The Domestic Violence Act provides four legal remedies for people experiencing domestic violence:

**Barring order:** Forbids the respondent from being violent or threatening to you and/or your children. The respondent must leave the place where you live for a certain length of time for up to three years and may also be forbidden from following you or communicating with you.[21]

**Safety order:** Similar to the above; however, the respondent cannot come to the place where you live if you do not live together.[22]

**Interim barring order**: Where the applicant is in immediate risk of significant harm, the court can put an interim barring order in place for up to eight working days to cover the period until the full hearing for a barring order or safety order can be heard.

**Protection order:** Unlike the orders mentioned above, a protection order forbids the violent person from using violent or threatening behavior but does not prohibit the person from being in the family home. This order is available to anyone who has commenced proceedings for a safety or barring order and only lasts until the hearing of the substantive action.

A respondent who breaches the above safety orders commits an offense and will be liable to a fine and/or imprisonment for up to 12 months.[23]

For the offenses of coercive control and forced marriage introduced by the 2018 act, the following sanctions apply:

A person who commits the offense of forced marriage can be liable to a fine and/or a term of imprisonment for up to seven years.[24]

A person who commits the offense of coercive control can be liable to a fine and/or a term of imprisonment for up to five years.[25]

# 2.2 Is domestic violence identified in national law as a human right (noting that at a European level protection from domestic violence has not been explicitly identified as a human right but is indirectly captured by the other provisions)?

N/A

# 2.3 Has your country signed and ratified the Council of Europe's Istanbul Convention (2011) preventing and combating violence against women and domestic violence (CETS No. 210)?

The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence ("**Istanbul Convention**") provides an extensive legal framework for combating sexual and domestic violence, providing policies and measures for the protection of victims of such violence.

Ireland signed the Istanbul Convention in November 2015. Ireland later ratified the convention on 8 March 2019, [26] becoming the 34th Council of Europe Member State to do so. It entered into force on 1 July 2019.[27]

Prior to Ireland's signing of the Istanbul Convention, existing Irish legislation covered many provisions of the convention. However, in working towards ratification, several instruments of national law were introduced including the Domestic Violence Act 2018, the Criminal Justice (Sexual Offences) Act 2017and the Criminal Justice (Victims of Crime) Act 2017.

The Domestic Violence Act 2018 was widely considered a landmark case in progressing the ratification of the convention and demonstrating Ireland's commitment to protecting victims of domestic violence. As mentioned previously, it extends the range of protective orders available and eligibility criteria, introduces the offenses of coercive control and forced marriage and sets out aggravating measures when offenses such as threats and false imprisonment are committed against a partner.

The Criminal Justice (Victims of Crime) Act 2017 incorporates the EU Victims of Crime Directive into Irish law, ensuring statutory rights for all victims of crime and providing supporting measures for victims at all stages of proceedings (when reporting, during investigation and during court proceedings). Examples of these measures include the provision of 24-hour helplines for domestic violence victims, developing a risk assessment matrix for the police and ensuring victim safety through video links to give evidence in court.

The Criminal Law (Extraterritorial Jurisdiction) Act 2019 also includes legislative action required by the convention, providing for the prosecution of violent crimes committed abroad by Irish citizens and residents in other Istanbul Convention states.

The Irish Human Rights and Equality Commission call for greater measures to 'address ongoing gaps and ensure the full incorporation of the Istanbul Convention at a domestic level.'[58] Suggestions for strengthening the legal framework in this area include the criminalization of psychological and emotional harm and developing gender guidelines and gender-sensitive procedures to ensure that protection concerns specific to women are accounted for.

# 2.4 If it has ratified the Istanbul Convention, how has this convention been implemented into national law?

Please refer to section 2.3.

# 2.5 If it has not ratified or signed the Istanbul Convention, is it envisaged that your country will do so?

Please refer to section 2.3.

# 2.6 If it has ratified the 1979 Convention, how has the recommendations part of General Comment No. 35 been implemented into national law?

The Convention on the Elimination of All Forms of Discrimination against Women ("**1979 Convention**") was adopted by the United Nations General Assembly in 1979 and entered into force as an international treaty after the 20th country had ratified in 1981.[29]

Ireland ratified the 1979 Convention in 1985 and as such, is legally obliged to eliminate all forms of discrimination against women and ensure women's full development and advancement so that they can exercise and enjoy their human rights and fundamental freedoms in the same way as men.

In July 2017, CEDAW adopted General Recommendation No. 35 on gender-based violence against women. The Criminal Law (Sexual Offences) Bill 2015 and aforementioned legislation introduced in line with the Istanbul Convention goes some way in addressing Ireland's commitment to the recommendation; however, the Irish Human Rights and Equality Commission have expressed concerns about the extent to which the 1979 Convention has been incorporated into domestic law,[30] including gaps around the protection of migrant women who are victims of domestic violence and the emergence of online abuse.[31]

# 2.7 If the 1979 Convention has not been ratified or signed, is it envisaged that your country will do so?

Please refer to section 2.6.

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