

Preventing and Combatting Domestic Violence: Incrementalism and Interest Groups in Ukrainian Public Policy

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Résumé de l'article

Statistical data indicates that domestic violence in present-day Ukraine is a particularly acute phenomenon. Urgent policy responses are therefore required on the part of state authorities in order to prevent and combat the problem. Moreover, Ukraine must improve its legislation in this regard in order to meet international obligations and achieve legislative approximation with the European Union (EU) in connection with EU membership. But for eleven years until June 2022, Ukraine underwent significant struggles in this sphere and was unable to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention). This article turns to incrementalism and interest-group analysis for an exploration of both the challenges in ratifying the Istanbul Convention in Ukraine and the policy-making process that was adopted on account of those challenges. Using the case of domestic-violence legislation in Ukraine and the issue of the ratification of the Istanbul Convention, the authors contend that incrementalism remains a viable policy-making practice, as it considers a variety of stakeholders (including interest groups) and promotes progress by fostering common-ground approaches and gradual improvements. Ukraine's trajectory ultimately shifted when the Istanbul Convention was ratified in 2022. Diverging from incrementalism in such a way, though, risks reversing crucial changes because the local opposition of interest groups in relation to a major decision remains unresolved. This article, first, reviews Ukraine's policy path and show that it was incremental prior to 2022. Then, it looks at interest groups and examines their arguments for and against ratification of the Istanbul Convention. Afterward, the authors address the Europeanization of Ukraine and its impact on the adoption of legislation related to domestic violence. Finally, the article discusses how ratification became possible in 2022 and how EU conditionality both contributed to realizing that goal and created potential risks for the future.



Preventing and Combatting Domestic Violence: Incrementalism and Interest Groups in Ukrainian Public Policy

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Abstract: Statistical data indicates that domestic violence in present-day Ukraine is a particularly acute phenomenon. Urgent policy responses are therefore required on the part of state authorities in order to prevent and combat the problem. Moreover, Ukraine must improve its legislation in this regard in order to meet international obligations and achieve legislative approximation with the European Union (EU) in connection with EU membership. But for eleven years until June 2022, Ukraine underwent significant struggles in this sphere and was unable to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention). This article turns to incrementalism and interest-group analysis for an exploration of both the challenges in ratifying the Istanbul Convention in Ukraine and the policy-making process that was adopted on account of those challenges. Using the case of domestic-violence legislation in Ukraine and the issue of the ratification of the Istanbul Convention, the authors contend that incrementalism remains a viable policy-making practice, as it considers a variety of stakeholders (including interest groups) and promotes progress by fostering common-ground approaches and gradual improvements. Ukraine's trajectory ultimately shifted when the Istanbul Convention was ratified in 2022. Diverging from incrementalism in such a way, though, risks reversing crucial changes because the local opposition of interest groups in relation to a major decision remains unresolved. This article, first, reviews Ukraine's policy path and show that it was incremental prior to 2022. Then, it looks at interest groups and examines their arguments for and against ratification of the Istanbul Convention. Afterward, the authors address the Europeanization of Ukraine and its impact on the adoption of legislation related to domestic violence. Finally, the article discusses how ratification became possible in 2022 and how EU conditionality both contributed to realizing that goal and created potential risks for the future.

Keywords: domestic violence, incrementalism, interest groups, Europeanization, Ukraine.

I. INTRODUCTION

Domestic violence is one of the most pressing social issues in present-day Ukraine. At this juncture, the problem has been exacerbated by the ongoing Russo-Ukrainian war, economic instability, and the general reluctance of society to recognize domestic violence as institutional violence (as opposed to isolated incidents between individuals) and as gender-based violence. Domestic violence against women is gender-based when adhering to a definition of gender-based violence as “violence which is directed against a woman because she is a woman or that affects women disproportionately” (*Not a Private Matter* 5). Not all domestic violence is levelled against women, and not all gender-based violence can be characterized as domestic violence. In this article, domestic violence against women is the primary analytical focus.

Ukraine has been implementing legislation aimed at tackling domestic violence gradually. Within this policy climate, however, the ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (known as the Istanbul Convention) long remained out of reach. On 20 June 2022, though, amid the full-scale war between Russia and Ukraine, the Ukrainian parliament (Verkhovna Rada) ratified the Convention.¹ This article intends to contribute to the overall discussion of Ukraine’s past struggles with ratifying the Convention by analyzing the steps that it took toward improved legislation for combatting domestic violence. We argue that previous measures (that is, prior to the ratification of the Istanbul Convention) exemplified an incremental approach, whereas the final decision reflected non-incremental policy-making. Subsequently, we consider key interest groups that exhibited sizable agency in ratification debates. Finally, we examine the impact of the process of legislative approximation with the European Union (EU) and of EU conditionality on the ratification of the Istanbul Convention in Ukraine, and we outline how ratification was ultimately accomplished.

While domestic violence is recognized as a major problem in contemporary Ukrainian society, estimates vary as to the scope of women affected by it. According to an Amnesty International report, over one million Ukrainian women endure domestic violence annually (*Not a Private Matter* 10). Also, data put forth by the Ministry of Social Policy indicates that every fifth woman in Ukraine has experienced domestic violence (Ukraine, Ministerstvo). But the existence of such information does not signal

¹ See Ukraine, Verkhovna Rada, Proekt Zakonu No. 0157 and Zakon No. 2319–IX.

widespread consensus within Ukrainian society and law enforcement on the unacceptability of such violence.

A representative 2010 sociological poll on domestic violence in Ukraine—the results of which can be found in a report edited by Svitlana Pavlysh—shows that only 52% of respondents who were aware of domestic violence against their relatives had tried to help the victims; 48% did not confront the aggressor because they were on the aggressor's side (46%) or they felt helpless (41%). As researchers suggest, such results signify that many people do not consider domestic violence to be a crime, or even a matter that requires external intervention (Pavlysh 31). When asked about the greatest threat to Ukrainian families, only 12% pointed to psychological violence and 10% to physical violence as matters of concern (31–32), even though 40% of respondents admitted to having endured psychological violence; 25%, physical violence; and 21%, economic violence (18). Moreover, almost a third of the respondents registered a belief that physical and sexual violence are provoked by the victims (25). There is also reluctance to call the police when facing domestic violence. When respondents were asked about hypothetically finding themselves in a physically violent context, only 47% said they would call the police; in the case of sexual violence—only 33% would (37–39). Up-to-date research on domestic violence in Ukraine was conducted in February 2021 by the United Nations Population Fund (UNFPA). It reveals that 28% of Ukrainians believe that physical violence perpetrated by men against women is occasionally justifiable, and 50% accept that a man can be forgiven for a single incident of physical violence against his female partner (*Stavlennia*).

Widespread victim-blaming and a decline of assistance on the part of nearly half of those aware of violence against a relative are problematic. Another challenge is the attitude toward domestic violence within the Ukrainian criminal-justice system (represented by police officers, prosecutors, and judges). Contrary to existing legislation that criminalizes domestic violence, 39% of criminal-justice workers contend that domestic violence is a private matter outside the competence of the criminal-justice system; 58% of police officers and 62% of judges even feel that sometimes the victims of sexual violence are responsible for their own plight (Wills and Kalashnyk 9).

The Russian Federation has been waging war in Ukraine since 2014. Research shows that individuals living near the front line in the Donbas are more likely to endure gender-based violence (including domestic violence). The wide availability of weapons, strong military presence, and deteriorating economic conditions have exacerbated the problem (*Not a Private Matter* 10–11).

Given that gender inequality creates the grounds for gender-based violence, Ukraine's worsening economic situation after 2014, which has taken a toll on the lives of more women than men, should also be considered. An important factor in this is that the austerity measures applied by the state after 2014 disproportionately affected women (Dutchak 23–40). Feminist sociologist Oksana Dutchak mentions how women have been pressed by a decline in financial support (on account of currency devaluation) for the birth of children and in social allowances for the care of disabled children, as well as by a reduction after 2014 in the number of public servants, social workers, and educational facilities (25–33).

For years, Ukrainian organizations and international actors have been “campaigning for stronger implementation of Ukraine's obligations to combat domestic violence” (*Not a Private Matter* 10). Slowly but surely, new legislation has addressed this. A first step was taken on 8 September 2005 with the enactment of the law *Pro zabezpechennia rivnykh prav ta mozhlyvostei zhinok i cholovikiv* (On Ensuring Equal Rights and Opportunities for Women and Men).² This law in the 2005 version did not contain any information about domestic violence, but rather focused on forbidding discrimination based on sex and on promoting gender equality. A big leap forward was made six years later when, on behalf of president of Ukraine Viktor Ianukovych, the permanent representative of Ukraine to the Council of Europe signed the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence on 11 November 2011, thus confirming the agreement of the state with the ideas that the Convention was championing.

In November 2016, the draft bill *Pro ratyfikatsiiu Konventsii Rady Ievropy pro zapobihannia nasyt'stvu stosovno zhinok i domashn'omu nasyt'stvu ta borot'bu iz tsymy iavyshchamy* (Draft Law on the Ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence and on Battling These Problems) was presented in Ukrainian parliament.³ President Petro Poroshenko initiated the draft bill and urged parliament to support it (“Poroshenko”). However, the bill did not pass the first reading (the matter was paused). In March 2017, the All-Ukrainian Council of Churches and Religious Organizations (or AUCCRO; *Vseukraïns'ka Rada Tserkov i Relihiinykh Orhanizatsii*) officially spoke against the ratification (“Vseukraïns'ka Rada”). The key role of this organization in preventing the ratification of the Istanbul Convention is acknowledged by Dutchak, who states that ratification “has been basically

² See Ukraine, Verkhovna Rada, Zakon No. 2866–IV.

³ See Ukraine, Verkhovna Rada, Proekt Zakonu No. 0119.

blocked by the Council of Churches” (45). Regina Elsner’s report for the Centre for East European and International Studies (or ZoiS) also mentions religious intervention as a causal factor in the postponement of ratification (4). The question of ratification was not put to vote until 2022, as significant resistance thwarted the decision-making process. In light of this failure, the Ukrainian government instead began executing an incremental policy, gradually introducing changes to the national legislation on domestic violence.

II. THE THEORY OF INCREMENTAL POLICY-MAKING

Incrementalism is a path to public policy-making that was outlined and developed in a 1959 article by Charles Lindblom. This piece is described as “one of the most cited works in social science” and one that “has had a substantial influence on several generations of scholars” (Pal 29; Bendor 194). The main thrust of this methodology, however, can be observed in earlier literature by philosopher Karl Popper that describes his principle of “piecemeal engineering.” According to Popper, there are two approaches to politics: utopian and piecemeal engineering. The utopian way involves defining the ultimate objective, determining the means to achieve it, and then planning practical actions (138). The piecemeal approach, on the other hand, concentrates on “searching for, and fighting against, the greatest and most urgent evils of society, rather than searching for, and fighting for, its greatest ultimate good” (139). Popper states that the piecemeal method introduces changes that can be agreed upon based on compromises, “without revolutionizing the whole of society” (143).

Lindblom, like Popper, contrasts two trends of policy-making. However, unlike Popper, he focuses on the ways of reaching goals rather than on the definition of specific objectives. To explain the difference, Lindblom offers the idea of roots versus branches. The root method is comprehensive and requires policy-makers to centre on objectives and the best means of achieving them (81). The branch strategy presupposes approximate goals, with policy-makers moving gradually toward them and being flexible about the particulars: goals are redefined based on the compromises attained between various stakeholders (81). The branch strategy is known as incrementalism because the degrees between the steps are very small.

Lindblom believes that it is impossible to use the root method to solve difficult problems because the number of alternatives is too great for consensus to be reached in any one of them. In addition, the more radical a decision is, the less reliable a forecast of its outputs and outcomes becomes. The branch strategy, on the other hand, allows for the possibility of finding a

policy that can be agreed upon and facilitates comparisons of present versus future outputs/outcomes (84).⁴

While Lindblom's work has been very influential, it has also faced criticism. Leslie Pal, for instance, notes that incrementalism is based on the political system of the United States (US) and "that Lindblom made possibly exaggerated claims about the scope of incrementalism by unconsciously using the American model as his benchmark." This is a model with "checks and balances and multitude of interest groups and other actors" (36). While we agree with Pal that incrementalism is not universally workable among various political systems, we also show that it is usable in the political system of Ukraine, meaning that Lindblom's methodology is not overly narrow for that context. Pal also questions Lindblom's assumption that making small steps allows for the quick fixing of errors through the reversal of changes: "the actual logic in real life would suggest that as one moves along the curve of accumulated decisions, it becomes harder and harder to go back, even in single steps" (36). Pal's point seems valid, but in some instances, difficulty in reversing changes made through many small steps can be perceived as a strength of incrementalism. This is the case, for example, with domestic-violence legislation, where reversion in the wake of progress is undesirable.

Jonathan Bendor assesses Lindblom's work differently, first dividing it into two applied theories that he maintains "are designed to help solve complex policy problems." The negative applied theory offers a critique of the conventional method, which Bendor asserts "has stood the test of time well." The positive applied theory concerns the usefulness of incrementalism. Bendor claims that it "has almost disappeared" as a strategy (194). In his view, this fact reveals Lindblom's mistake in arguing that aspects of incrementalism form a unified system where elements of both methods (that is, root and branch) can in fact be successfully combined in various ways to create new problem-solving techniques (195–202). We will not dispute the possibility of combining these approaches, as recent literature indicates that such combinations do exist.⁵ Nevertheless, in this paper we will demonstrate that the positive applied theory of incrementalism is still a viable model and that it is relevant to domestic violence legislation in Ukraine between 2017 and 2021.

Incrementalism has also been criticized for being ineffective in cases that require a comprehensive plan. According to Cary Coglianese and Jocelyn

⁴ The issue of the rationality of these approaches is beyond the scope of this article and is thus consciously avoided here. This article considers the efficacy of the policy, not its rationality.

⁵ See, e.g., Feitsma (on Dutch governmental experts); and Robson (on Canadian COVID regulations).

D'Ambrosio, US climate-change policy represents such a context. They claim that incrementalism “is not well-suited for reducing global emissions of carbon dioxide and other greenhouse gases” and give the following reasons for this conclusion:

- (a) Local climate-change policies do not improve the situation globally.
- (b) Strict local policies can lead to additional emissions from other jurisdictions.
- (c) Incremental policies can have negative side effects, as was the case with biofuel, some types of which turned out to be bad for the environment.
- (d) Incremental policies can make it seem that an issue is being dealt with, thus preventing the development of costly but necessary comprehensive approaches.

(1414, 1418–25)

While an incremental policy path is not effective for certain complex problems (like climate change) that necessitate globally consolidated efforts and a clear, panoramic vision of measures needed to avert a catastrophe, it can be effective in many areas where a comprehensive approach is impossible. In addition, minor changes are better than no changes at all. In certain specific cases, an all-embracing plan may not be possible for a variety of reasons—such a path may be very costly, controversial, or disruptive. In our view, the policy on preventing and combatting domestic violence in Ukraine represents such a case. Battling the problem of domestic violence at the legislative level through the ratification of the Istanbul Convention has proven to be impossible owing to the vehement opposition of influential religious groups. Implementing circumscribed legislative changes on questions of domestic violence is more desirable than failing to make any improvements at all. The situation transformed radically in 2022 when the Istanbul Convention was ratified, but the full-scale war and the prospect of obtaining EU candidate status spawned conditions that turned out to be very different than those that had existed earlier.

In this article, we look at domestic-violence legislation in Ukraine and the matter of the ratification of the Istanbul Convention, arguing that incrementalism remains a viable policy-making approach because it accounts for various stakeholders (including interest groups) and permits slow but steady progress through common-ground measures. This type of trajectory discourages the reversal of entire policies because the perspectives of opposing sides are routinely taken into consideration. Although Ukraine’s policy route eventually shifted in 2022, and the Istanbul Convention was ratified, this divergence from incrementalism risks reverting

crucial changes. In this scenario, local resistance to a major decision remains unresolved; as the case of Türkiye (Turkey) demonstrates, sizable decisions that cater to external pressures can later be viewed negatively as having bowed to foreign sway without local support. In advancing this argument, we first show that the methodology used by Ukrainian authorities in combatting domestic violence was incremental until June 2022. Next, we attempt to contextualize the political climate that prompted an incremental trajectory. We determine the interest groups that impacted on the process of ratifying the Istanbul Convention prior to 2022 and identify some of the challenges to ratification levelled by these groups. Finally, we discuss the influence of other factors—such as Ukraine’s international obligations and its desire to join the EU—on policy-making in Ukraine, in particular regarding the ultimate ratification of the Istanbul Convention.

III. PIECEMEAL PROGRESS

On 17 November 2016, an attempt by Ukraine to ratify the Istanbul Convention failed.⁶ In the same plenary meeting, the Ukrainian parliament passed in the first reading the draft bill *Pro zapobihannia ta protydyiu domashn'omu nasyt'stvu* (On Preventing and Combatting Domestic Violence [Zorgdrager 304; Ukraine, Verkhovna Rada, Proekt Zakonu No. 5294]). On 7 December 2017, the final vote took place, and the law was adopted.⁷ In it, the notion of domestic violence includes physical, economic, sexual, and psychological violence, and the definition of sexual violence is based on a lack of consent for sexual actions rather than on penetration (article 1). It also contains a provision permitting emergency-protection-order requests from local police (article 25), which means that victims can seek a form of protection without the involvement of the court. Apart from this, the law presupposes that cases of domestic violence might qualify for criminal investigation, although the details are to be determined by the Criminal Code of Ukraine and Criminal Procedural Code of Ukraine (article 26).⁸ Domestic violence was criminalized in January 2019, with the insertion of article 126-1 into the Criminal Code (*Not a Private Matter* 24). While this law was progressive because it criminalized domestic violence and accounted for economic and psychological violence, ratifying the Istanbul Convention,

⁶ See Ukraine, Verkhovna Rada, Proekt Zakonu No. 0119.

⁷ See Ukraine, Verkhovna Rada, Zakon No. 2229–VIII.

⁸ For these codes, see Ukraine, Verkhovna Rada, Zakon No. 2341–III and Zakon No. 4651–VI.

according to feminist theologian Heleen Zorgdrager, “would have obliged Ukraine to adopt a far more comprehensive strategy to address violence against women in all its dimensions” (Zorgdrager 305).

The next leap occurred on 21 September 2020, when the president of Ukraine issued the decree *Pro nevidkladni zakhody iz zapobihannia ta protydiï domashn'omu nasyt'stvu, nasyt'stvu za oznakoiu stati, zakhystu prav osib, iaki postrazhdaly vid takoho nasyt'stva* (On Immediate Measures on Preventing and Combatting Domestic Violence and Violence on the Basis of Sex and on Protecting the Rights of People Who Have Suffered as a Result of Such Violence). This decree tasked the cabinet of ministers with developing and implementing a relevant social program and immediate measures. It also instructed oblast administrations to create local service networks for victim support and to launch a public-awareness campaign on combatting domestic violence (Ukraine, Ofis). In April 2021, the Cabinet of Ministers issued Resolution 398,⁹ which offers 274.2 million hryvnias in financial assistance to local authorities for shelters, resource centres, and mobile brigades for victims of domestic violence (Bardina).

Earlier, we noted Bendor's fundamental argument against incrementalism, and against Lindblom's article in general—in particular, Bendor's claim that Lindblom was mistaken in his formulation of incrementalism as a unified strategy where all elements work together. But we can look at Lindblom's characterization of incrementalism in order to show that Ukraine's policy-making was incremental and, in the process, to prove that incrementalism has the capacity to function as a unified approach. Lindblom outlines five properties of the branch method, and we submit that they are all attributes of Ukraine's policy-making:

- (a) Values are intertwined with policy implementation.
- (b) Policy analysis using goals and means is inefficient because both change throughout the realization of the policy.
- (c) Good policy is defined as a policy agreed upon by the main policy-makers (even if the values are different).
- (d) Policy analysis is limited on account of differences between the status quo and the new policy.
- (e) The branch method does not rely on theory because the implemented policy is not final; it is expected to gradually approach approximate goals, which are also reconsidered during this process.

⁹ See Ukraine, Kabinet Ministriv Ukraïny, Resolution No. 398.

Regarding the first property, it should be noted that a given set of cultural and social values influences and penetrates the system of policy realization. It was precisely the matter of values that prevented the ratification of the Istanbul Convention in Ukraine. The main stumbling point was the employment of the notion of gender rather than the idea of binary biological sex, which prompted religious organizations to lobby against ratification (Zorgdrager 305). But in keeping with common values relating to human life and prosperity as shared by societies and in an attempt to exhibit progress in the Europeanization of the state, Ukraine enacted the law *Pro zapobihannia ta protydiu domashn'omu nasyt'stvu* in 2017.¹⁰

The second property can also be observed in Ukrainian policy-making. The means and goals underlying legislative change are indeed transforming and evolving in Ukraine and cannot be stably positioned within the political machine. The primary aim of parliamentary factions during the time in question was apparently to demonstrate to European observers that Ukraine was progressing toward Europeanization. Thus, the draft bill of what would become the 2017 law garnered enough votes to pass.¹¹ Ukraine could then be expected to put the ratification of the Istanbul Convention to vote. However, Ukraine failed to do that, and while it remained committed to demonstrating Europeanization, the means of achieving it have changed significantly.

Lindblom's third property is highly visible in Ukraine when one observes the broad support among authority structures for specific legislative decisions. For example, the 2017 law succeeded because the draft bill received sufficient votes in parliament. In addition, Lindblom points out that an advantage of the branch method of policy-making is that it is possible to come to an agreement on policy without agreeing on values (83). This was precisely the case with the 2017 law, as an agreement was reached among individuals and groups professing different values. The majority of MPs from the pro-European Blok Petra Poroshenka "Solidarnist" (Petro Poroshenko Solidarity Bloc) voted for the final draft bill; so, too, did the majority of MPs from the pro-Russian Opozytsiinyi Blok (Opposition Bloc).¹²

Regarding Lindblom's fourth property, the 2017 law was in large part a reformulation of the 2005 law and was only a small step toward a better

¹⁰ See Ukraine, Verkhovna Rada, Zakon No. 2229-VIII. Both values and Europeanization will be discussed later in greater detail; here, they are mentioned only briefly.

¹¹ See Ukraine, Verkhovna Rada, "Poimenne holosuvannia pro proekt Zakonu pro zapobihannia" and Proekt Zakonu No. 5294.

¹² See Ukraine, Verkhovna Rada, "Poimenne holosuvannia pro proekt Zakonu pro zapobihannia."

policy—it did not constitute an overhaul of Ukraine’s existing policy. In relation to the fifth property, the policies in Ukraine were by no means final.

Did these gradual steps help improve the situation around domestic violence in Ukraine? The vice-president of the human-rights organization La Strada Ukraine, which specializes in domestic violence, thinks so: “Now, domestic violence has been criminalized in Ukraine as well. Restraining orders and emergency protection orders have been introduced, and so, little by little, positive changes are occurring” (our trans.; Cherepakha). Thus, given the difficulties in ratifying the Istanbul Convention, a gradually executed change was better than nothing. As late as 2020, though, the prognosis regarding ratification remained pessimistic (“U Zelens’koho”).

The next part of this article explores in more detail the challenges to ratification, investigating the positions of interest groups from various parts of the spectrum.

IV. INTEREST GROUPS AND THE RATIFICATION OF THE ISTANBUL CONVENTION

This section analyzes the issues that hindered the ratification of the Istanbul Convention by surveying the key interest groups who opposed or supported ratification. Here, we endeavour to show that powerful domestic forces impacted on the ratification debate into its final stages.

Interest groups are defined in various ways. Political scientist Heike Klüver states that they “are intermediary organizations that represent the interests of their members or supporters before government” (983). Transparency International expert Maira Martini categorizes them as “associations of individuals or organisations that on the basis of one or more shared concerns, [attempt] to influence public policy in its favour usually by lobbying members of the government” (1). Marie Hojnacki and colleagues point out that interest-group research is popular and constantly getting better but that a unified theoretical framework is still absent (380). There are common questions that researchers address when discussing interest groups, such as determining the degree to which such groups represent, and should represent, the interests of society (381). Also typically assessed is the influence of interest groups, as well as their tactics (383). Interest groups exist, possess certain sway in political decisions, and are studied by political scientists, but “there remains a lot we do not know about the contingencies of groups’ policy-making activities and the impact of their efforts” (393). Apart from the lack of a general theoretical framework for research on interest groups, it is not simple to measure their weight in policy processes. Andreas Dür and Dirk De Bièvre have written an authoritative article on the

difficulties of measuring the influence of such groups. Defining influence as control over political outcomes, the authors explain that when an interest group has public opinion on their side, it may be easy to overestimate the group's clout; by the same token, in the absence of public endorsement, one might underestimate the group's pull (8). They also note that "[t]he more attention the public pays to a specific decision, the more difficult it should be for special interest groups to influence outcomes" (7).

In the case of Ukraine, there is another difficulty with interest groups: no official reports are given on meetings with MPs, the topics discussed therein, and the individual organizations engaged in promoting their interests and attempting to affect policy-making. It is evident, however, that some groups do promote their own interests and have agency in policy-making in Ukraine. Thus, reviewing their arguments and activities can help clarify the Ukrainian side of the ratification debates. One such group is the AUCCRO, mentioned earlier. This is the most influential assembly, but there are others that support its rhetoric, such as Vsi Razom! (All Together!), the civic collective Al'ians "Ukraïna za Sim"iu" ("Ukraine for the Family" Alliance), the charitable foundation Sim'ia (Family), Emmanuil (Emmanuil), and the newly established civic association Vseukraïns'kyi Sobor (All-Ukrainian Council), as well as "conservative groups that [call] themselves 'parents' committees'" (Zorgdrager 305; Ketelaars 737).

The AUCCRO stands against the ratification of the Istanbul Convention, arguing primarily that such ratification accepts the idea of *gender* as a socially conditioned human behaviour and steps away from the concept of *biological sex*. This, in the council's opinion, poses "inadmissible threats to the institution of family and marriage in Ukraine" (our trans.; "Vseukraïns'ka Rada"). According to Zorgdrager, "the stumbling block" for the AUCCRO is article 14 of the Istanbul Convention, which requires teaching about non-stereotypic gender roles on all education levels in an attempt to treat the structural causes of domestic violence (303). This is considered very problematic, as certain conservative elements believe "that recognising and addressing the negative implications of traditional gender roles would threaten social stability by undermining the natural order between men and women and the sacrosanctity of heterosexual marriage" (Ketelaars 737). While it seems like a matter of major concern to Christians in Ukraine, Zorgdrager points out that these issues are not questions of internal religious debate (that is, they are not discussed at religious summits as theological challenges), but rather, they are used "to construct a collective identity as Christians" (301). Indeed, this matter unites not only churches of differing Christian denominations. Opposition to ratification and to its legislative conceptualization of *gender* also unites the two Orthodox churches of

Ukraine, which rival each other in other matters, including politics—the Orthodox Church of Ukraine supports European integration, while the Ukrainian Orthodox Church, which has ties to Russia, tries to make itself look non-political and does not engage with the notion of European integration (Elsner 15–16).

Of course, the arguments against the so-called gender ideology are not specific to Ukraine. Even within the EU, some countries have not ratified the Istanbul Convention. Others have done so, but with significant impediment. Here, we will briefly review a few cases in point, based on the work of Andrea Krizsán and Conny Roggeband. In Poland, the Istanbul Convention was protested by the Roman Catholic clergy and conservative groups (including women's groups) on the grounds that it contradicted family values; imposed “gender ideology”; introduced *gender* as a socially constructed role (thus disregarding the biological differences between men and women); and was unnecessary, as Poland had already passed legislation to safeguard against domestic violence and violence against women (Krizsán and Roggeband 56–59). Pushback against the Istanbul Convention was very strong, but “despite enormous popular pressure, on February 5, 2015, the Sejm voted in favor of the act on ratification” (60). Shortly thereafter, however, the ruling party lost the parliamentary elections to the anti-gender, right-wing Prawo i Sprawiedliwość (Law and Justice) party, which was expected to ensure Poland's withdrawal from the Convention; in practice, it repeatedly avoided doing so (60–62).

In Croatia, the Catholic Church and religious civil-society organizations also played a key role in defying the Istanbul Convention (Krizsán and Roggeband 64). Their arguments were similar to the ones in Poland, stating that legislative confirmation of the Convention in Croatia would impose “gender ideology” on society through education, culture, and media, “[going] against Croatian family, tradition, and culture” (65). Furthermore, both in Poland and in Croatia, part of the rationale for non-compliance was the idea that ratification would curtail the sovereignty of the country (57–65). In 2018, the Istanbul Convention was ratified along with the declaration that Croatia did not consider itself obliged to introduce “gender ideology” into either legal or educational systems or to alter the constitutional definition of *marriage* (66).

While in Poland and Croatia the Istanbul Convention was ratified despite substantial pushback, the next two countries under discussion here experienced a different outcome. In Hungary, the main forces opposing the Convention appeared to be related to the government and the ruling party. Initially, in 2017, the central argument repelled “gender ideology,” as outlined by the government-aligned Emberi Méltóság Központ (Center for Human

Dignity). The second justification was formulated by the government by 2019; the idea was advanced that having the Convention in place would catalyze new flows of migration because gender-based violence would become a valid reason for seeking asylum (Krizsán and Roggeband 67–70). In 2020, the parliament made a political statement opposing the Istanbul Convention on the grounds that it would introduce *gender* into Hungarian legislation, thus endangering Hungarian national values. The parliament also resisted “recognizing gender-based violence as a form of persecution in asylum procedures” (70). In contrast to Poland and Croatia, where the Church played a crucial role in mobilizing various groups against the Istanbul Convention, challenges to the Convention in Hungary were largely driven by the conservative ruling party.

In Bulgaria, efforts against the Istanbul Convention were undertaken by the Orthodox Church and then by other Christian churches and Muslim religious leaders. Their defiance was based on considerations that the Convention “contains provisions that harm the rights of women, parents and children, marriage and the family, freedom of religion and national policies on these issues, and has consequences for the internal security” (Krizsán and Roggeband 71). The ruling party initially supported the Convention, but a smaller party within the coalition strongly opposed it. As objections developed within the government and externally (on the part of religious and civil organizations), the ruling party started opposing the Convention as well. Finally, in 2018, the Constitutional Court declared that the Istanbul Convention was not in compliance with the Constitution (71–73).

Some of the rhetoric used in other countries has additionally been adopted in Ukrainian context. The Ukrainian Greek Catholic and Roman Catholic Churches take lines from the Catholic anti-gender movement, and they play a major role in determining the position of AUCCRO (Elsner 13–14). Also, as Elise Ketelaars points out, “the Ukrainian Council of Churches’ rhetoric on the Istanbul Convention is reminiscent of Russia’s traditionalist vision on gender” (737). That being said, the Russian anti-gender discourse is part of a larger narrative about inherently Russian traditional values, which are in direct conflict with what it considers to be the morally degrading “liberal gender norms promoted by ‘the West’, specifically the EU” (Ketelaars 733). In Ukraine, the term *traditional values* is widely applied, but without making reference to Russia’s moral superiority or its opposition to European integration. An organization that would be directly pro-Russian would lose a great deal of public support, given the hearty pro-European stance of Ukrainian society. Another substantive difference is that the Ukrainian Orthodox Church did not adopt a stand against legal protection in cases of domestic violence, whereas the Russian Orthodox Church did (Elsner 9). The

AUCCRO also does not dispute legislation to combat domestic violence per se and recognizes physical, sexual, and economic violence as problems in Ukrainian society (“Zvernennia”). The Orthodox Church of Ukraine assumed a committed position against domestic violence and opened a shelter for victims in April 2021 (“PTsU”).¹³

The AUCCRO does not minimize domestic violence by viewing it as a private matter, nor does it normalize it. So, one might wonder how religious views on domestic violence are defined as compared with the Istanbul Convention’s specification. As Elsner explains in her report, religious documents interpret violence “within the category of sin, which refers to personal, individual acts against God’s will”; this interpretation ignores broader secular notions of “systemic or structural violence” (9).

Since 2017, the AUCCRO’s perspective has drawn numerous supporters in the Verkhovna Rada. Most notably, in January 2020, a group of MPs in the Verkhovna Rada established the largest-ever inter-fractional grouping (*mizhfraktsiine ob"iednannia*), named Tsinnist'. Hidnist'. Rodyna (Values, Dignity, Family). Co-chair Sviatoslav Iurash (of the Sluha Narodu [Servant of the People] party) expressed views critical of the Istanbul Convention. He called it “brute postmodernism.” Recognizing domestic violence as a serious problem, he stated that the rationale for combatting such violence would be the protection of the “eternal values of the Ukrainian people.” He also added that the position of the AUCCRO was something “that the absolute majority of MPs hear, respect, and defend in parliament” (our trans.; Iurash). It should be noted, however, that in the space of a year, the grouping has shrunk from 307 to 262 members (“Mizhfraktsiini deputats'ki ob"iednannia”). Nevertheless, it keeps in touch with the AUCCRO and influences parliamentary attitudes.

Another interest group comprises human-rights organizations. One can identify some of these institutional actors by examining a petition to the president of Ukraine published in February 2020 calling for the ratification of the Istanbul Convention (see Zinchuk). Apart from the twenty-six thousand individuals who signed the petition, many organizations also signalled their support, which one can observe by scrutinizing the signatures. Among the undersigned are the aforementioned La Strada Ukraine, which

¹³ Particularly interesting here is the fact that the shelter was opened with financial assistance from the International Renaissance Foundation, established by George Soros. While the Church itself opposes “gender ideology” and the ratification of the Istanbul Convention, the foundation’s executive director Oleksandr Sushko was present at the opening of the shelter, having earlier signed a 2016 letter urging parliament to ratify the Istanbul Convention (Kobelians'ka et al.).

combats domestic violence; various women's movements (such as the advocacy project *Nevydymyi Batal'ion* [Invisible Battalion], *Ukraïns'kyi Zhinochyi Fond* [Ukrainian Women's Fund], and the civic alliance *Politychna Diia Zhinok* [Political Action of Women]); and organizations that fight for gender equality (such as the *Biuro Hendernykh Stratehii i Biudzhetuvannia* [Bureau of Gender Strategies and Financing], *Instytut Hendernykh Prohram* [Institute for Gender Programs], and *Tsentr Sotsial'nykh i Hendernykh Doslidzhen'* "Nove Zhyttia" [New Life Centre for Social and Gender Research]). These are openly pro-Western progressive organizations that generally uphold feminism and the LGBT+ community.

The petition argues in favour of ratification, specifying that domestic violence (and violence against women) makes up a significant share of crimes against the lives and health of people in Ukraine. The petition also notes that human-rights organizations emphasize the importance of educating people on practical ways to confront domestic violence (and violence against women) and that Ukraine could receive professional assistance in this area following ratification of the Convention. The petition recommends adopting the Istanbul Convention, as it has been touted as "the highest international standard in the prevention of, and for combatting, violence against women and domestic violence" because it employs a comprehensive system-based approach and helps participating states implement effective tools for the protection of their citizens (our trans.; Zinchuk). A new petition appealing for the ratification of the Istanbul Convention was initiated in November 2021 by Ukrainian women's- and LGBT-rights activist Olena Shevchenko. It opens with a reference to the 2020 petition and amplifies its argument, explaining that the COVID-19 pandemic exacerbated the problem of domestic violence on account of the fact that many women were cooped up with perpetrators or abusers day in and day out. Also mentioned is Moldova's earlier ratification of the Convention in contrast to Ukraine's failure to do so.

Inasmuch as these two interest-group spheres exhibit divergent opinions regarding the Istanbul Convention, some contemporaneous analysts offered proposals for ratifying the Convention by addressing the AUCCRO's hostility toward it. One strategy was suggested by Zorhadrager. She states (drawing on the idea of Catherine Wanner) that since the time of the Maidan, the value of dignity "has come to symbolize the aspiration of Ukrainians for change" (qtd. on 308) and is a virtue espoused by both Christians and human-rights organizations. Thus, it has the potential to be a source of common ground for the two groups (308). But such a development would necessitate the general mind of religion in Ukraine to reimagine marriage and to recognize the power dynamics "[a]t the heart of domestic violence" (315). While this might

happen at some point in the future, it is currently unrealistic to expect bodies like the AUCCRO to reconsider their position on marriage.

Another option was to appeal to the Council of Europe to allow for the ratification of the Istanbul Convention with substantial revisions—that is, retaining the protection of women from domestic violence but removing items related to gender. In 2018, Instytut Relihiinoï Svobody (Institute for Religious Freedom) joined a number of religious organizations of Ukraine and of other European countries in initiating amendments to the Convention (“333 hromads'ki orhanizatsii”). This would have required the Council of Europe to alter article 78 of the Convention, which includes a provision stipulating that a country can implement its own modifications during the course of ratification (see Council). But, again, it was not pragmatic to anticipate a policy turn on the part of the Council of Europe accommodating such radical changes to the Convention.

Thus, although interest groups exerted their influence, their positions were too far from one another for a compromise to be reached, and the matter of ratification remained divisive. Four days prior to the ultimate ratification of the Istanbul Convention, the AUCCRO tried again to halt it. The council called on Ukrainian MPs not to take up the matter owing to the threat of “gender ideology” and the risk of dividing society during the full-scale war, when consolidation and unity against the aggressor are so critical. Even after the ratification, interest groups continued their fight against the Convention and urged people to sign a petition to the president denouncing it (“Rada Tserkov zaklykaie”; “Rada Tserkov pidtrymuie”).

So how, in the face of past AUCCRO thwarting, did the Istanbul Convention finally come to be ratified in Ukraine on 20 June 2022? In order to answer that question, we treat the EU as a major factor in Ukraine’s legislative trajectory regarding domestic violence—more specifically, we look at Ukraine’s desire to join the EU as a full-fledged member.

V. THE EUROPEANIZATION OF UKRAINE AS A MAJOR FACTOR

In this part of the article, in accordance with the work of Marella Bodur Ün and Harun Arıkan, we use the term *Europeanization* to broadly refer to both formal and informal European integration; to legislative approximation with the EU; and to the impact of what are perceived as European norms and values on these processes (Bodur Ün and Arıkan 947).

Ukraine has various international obligations related to the elimination of discrimination and the promotion of gender equality. They start with adherence to the Convention on the Elimination of All Forms of

Discrimination against Women (CEDAW), which Soviet Ukraine ratified in 1981; the Optional Protocol was adopted in 2003.¹⁴ This ratification obliges Ukraine “to pursue by all appropriate means and without delay a policy of eliminating gender-based violence,” which includes enacting new laws, establishing institutions, and ensuring effective realization of the policy (*Not a Private Matter* 22–23). Furthermore, the European Union–Ukraine Association Agreement, signed in 2014, contains an article on “gender equality and equal opportunities for women and men in employment, education, training, the economy, society, and decision-making” (Dutchak 11). In keeping with such obligations, Ukraine approved a revised National Action Plan on UN Security Council Resolution 1325 (UNSCR 1325) on women, peace, and security in 2016 and a National Action Plan on CEDAW implementation in 2018.¹⁵ However, an Amnesty International report concludes that as of 2019, Ukraine managed to complete “very few tasks” associated with these measures (*Not a Private Matter* 25).

The approval of the law *Pro zapobihannia ta protydiu domashn'omu nasyt'stvu* and the successful vote for the ratification of the Istanbul Convention in 2022 were not merely attempts to abide by international commitments. There were additional motivations behind them. Three significant events took place on 17 November 2016: first, Ukraine failed to ratify the Istanbul Convention; second, the Ukrainian parliament voted in favour of the draft law *Pro zapobihannia ta protydiu domashn'omu nasyt'stvu* after the first reading; and third, “the Permanent Representatives Committee (Coreper) agreed, on behalf of the Council, a negotiating position on visa liberalisation for Ukraine” (Ukraine, Verkhovna Rada, Proekt Zakonu No. 0119 and Proekt Zakonu No. 5294; Zorgdrager 304; European Union, Council). Thus, while the ratification of the Convention failed, a relevant draft bill was passed in its place to demonstrate Ukraine’s commitment to fulfilling international obligations. And given the timing, there seems to be an element of quid pro quo here as well, whereby Ukraine enacted legislation to prevent domestic violence and repealed a visa-free arrangement in return.

In 2019, the EU and the European Council urged Ukraine to ratify the Istanbul Convention without delay (“IeEs”), but this end did not materialize. In 2020, even with the official backing of President Volodymyr Zelens'kyi (Zinchuk), the prospects of ratification were deemed to be very low by the head of the presidential party Sluha Narodu Oleksandr Korniienko. The

¹⁴ See United Nations, General Assembly, Convention and Optional Protocol; “Ratification Status.”

¹⁵ See Ukraine, Kabinet Ministriv Ukraïny, Rozporiadzhennia No. 113–r. and Rozporiadzhennia No. 634–r.

reason given—a high trust among MPs in the institution of the Church (“U Zelens'koho”).

Ketelaars attributes the failure of ratification to the EU’s inability “to promote its own values at both the diplomatic and programmatic level” (742). When interviewing EU officials, she asked about making EU financial assistance conditional on ratification of the Istanbul Convention. The reply was that Ukraine cannot do everything at once and that “[t]he EU does use conditionality, but in a smart way” (743). Perhaps an example of the “smart way” is the pairing of the visa-free arrangement with the ratification of the Convention.

On 18 June 2022, Zelens'kyi initiated a draft bill on the ratification of the Convention to be taken up by the Verkhovna Rada. On 20 June, the bill was put to vote, and it passed, with 259 votes in favour and 8 against and with 28 abstentions.¹⁶ Similarly to the Croatian case, the Convention was ratified alongside a declaration stating that Ukraine does not consider the Convention to contain an obligation to change the Constitution or legislation regarding marriage, family, child adoption, or the rights of parents to raise their children in keeping with their own beliefs. Three days later, Ukraine was granted EU candidate status (Ukraine, Verkhovna Rada, “Verkhovna Rada”; European Union, European Parliament).

When Ukraine was making its determination regarding the ratification of the Istanbul Convention in 2022, it had a genuine opportunity to obtain EU candidate status in return. However, other contributing factors may have played a role in overcoming the resistance of religious groups following an eleven-year struggle. These conditions specifically relate to Russia’s full-scale war against Ukraine. During the war, Ukrainian society became supremely united owing largely to the threat from an external enemy. Citizen support of EU membership hit an all-time high in the polls, with 86% reporting in favour; this marked a 20% increase from the time prior to the full-scale invasion. Furthermore, Zelens'kyi immediately garnered great respect by remaining in Kyiv despite the immediate, critical danger to his personal safety and the availability of evacuation options; his overall approval rating reached 93% (“National Poll”). This statement of support for the president provided powerful underpinnings for his suggestion to ratify the Istanbul Convention, and the stronger pro-EU orientation gave wings to the prospect of EU candidacy. One can also point to a less clear-cut but still plausible contributing factor. During the war, violence quickly and dramatically took on structural and organized, large-scale dimensions, shifting from being a more

¹⁶ See Ukraine, Verkhovna Rada, Proekt Zakonu No. 0157, Zakon No. 2319–IX, and “Poimenne holosuvannia pro proekt Zakonu pro ratyfikatsiiu.”

random occurrence (the Istanbul Convention addresses the latter type of violence). There were many reports of sexual violence perpetrated by Russian soldiers, and the public perception came to interpret such acts as a sweeping, government-sanctioned wartime practice of the Russian army on the occupied territories (Wamsley). Although this violence was not always gender-based and certainly was not domestic, it fuelled a sense of urgency around the topic of sexual and physical violence, making it a front-burner issue and contextualizing it as a punishable crime. This highly visible wartime violence could have been a factor in the ratification of the Istanbul Convention.

The implementation of decisive policies and enactment of fresh legislation all based on a desire to join the EU, become more “European,” or receive specific direct benefits (such as a visa-free regime and EU candidate status) carry significant danger. Thus far, only one country has withdrawn from the Istanbul Convention, but its example should not be disregarded. Bodur Ün and Arıkan broadly situate Türkiye’s withdrawal from the Convention within the context of its de-Europeanization. Key factors in this have been the government’s increasing authoritarianism, general anti-gender backlash in EU member states, and stalled relations with the EU (946). Türkiye became an EU candidate in 1999 and took “significant steps to comply with the Copenhagen criteria” (946). The country initially passed legislation in support of gender equality out of a desire to join the EU, but then the ruling Adalet ve Kalkınma Partisi (Justice and Development Party, or AK Party) gradually took on an anti-Western stance, presenting gender equality and feminism and associated legislation as Western imports and foreign to Türkiye (947–51). Eventually, “executive centralization and the exclusion of civil society actors from access to policy-making processes in Turkey, coupled with the weakened EU accession conditionality, led to policy reversals in many issue areas, including gender equality policy” (948). The president took the decision to withdraw from the Istanbul Convention, despite public polling showing that 84% opposed such a move as of 2020 (954). The case of Türkiye demonstrates the dangers of a situation where gender equality and connected legislation are enacted in reaction to foreign-policy concerns. A foreign-policy overhaul along with diminished appeal for the original objective can result and undo much of the progress toward gender equality, conceivably even triggering a withdrawal from the Istanbul Convention. While the Turkish scenario is currently unlikely to occur in Ukraine owing to a strong commitment to Europeanization on the part of both the president and Ukrainian society, it documents the danger and potential pitfalls of conditionality in questions of EU membership, assistance,

and status acquisition. Thus, the ratification of the Istanbul Convention in Ukraine can ultimately be viewed as a fragile victory.

VI. CONCLUSIONS

This article has shown that an incremental policy-making approach to preventing and combatting domestic violence in Ukraine has been successful and reasonable, especially given the difficulties inherent in ratifying the Istanbul Convention, in no small part owing to sizable opposition from interest groups and their influence on policy-making. Finding common ground and moving gradually toward improved national legislation became possible despite fundamental differences in values and political orientations both within the Verkhovna Rada and among given interest groups. In addition, the EU used incentives to encourage the Verkhovna Rada to adopt further policies for combatting domestic violence, and in the end to ratify the Istanbul Convention. Although the ratification of the Convention was a success, abandoning a more sustainable, incremental policy-making trajectory poses risks for the future. Stalled Ukraine-EU negotiations can lead to a retreat from the legislation that was enacted in return for the incentives.

Russia's full-scale war against Ukraine has spawned a less-divided Ukrainian society—one that endorses both Zelens'kyi and EU membership. And it has created an easier environment for non-incremental policy-making.

This article has endeavoured to shed light on the resistance to, and ultimate ratification of, the Istanbul Convention in Ukraine and to aid in comparative analyses with other countries where the Convention has experienced major pushback and with other areas of Ukrainian policy-making. Moreover, we believe that this article soundly argues that incrementalism is a viable policy-making strategy, as it can assist in achieving gradual results by taking into account the positions of various stakeholders. A radical, progress-reversing policy shift is therefore less likely than in a situation where a substantial decision is incentivized by external factors in the presence of objection from local power players.

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