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NEWS REPORT

Country:	Germany
Title:	Statute on the Ratification of the Istanbul Convention
Date:	7 August 2017
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<u>Context</u>	
Issue at stake:	The Federal Parliament passed a statute necessary for the ratification of the Istanbul Convention.
Ground of discrimination:	Sex/gender
Source:	Legislation
Field:	Other
Applicable law:	Statute on the 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence

Content

Legislative development: On 1 June 2017, the German federal parliament adopted a statute on the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

Key points of analysis: Germany signed the Istanbul Convention immediately in 2011. But the ratification was delayed because under the German Constitution, the full conformity of German law with the Convention is required *before* the ratification. For some considerable time, it was an extremely controversial topic whether the implementation of Article 36 of the Istanbul Convention requires substantial amendments to the definitions of rape and sexual assault within the Criminal Code. The thorough amendments to the Penal Code regarding rape and sexual assault in 2016, were a necessary precondition for restarting the ratification process. The federal statute is the last necessary step before the actual ratification of international treaties concerning matters of federal legislation. Thus, the ratification of the Istanbul Convention is to be expected very soon.

Under Article 78 of the Istanbul Convention, the German government declared reservations concerning Articles 59(2) and 59(3) as well as Article 44(1)(e) of the Istanbul Convention, thus diminishing the protection for female refugees and migrants being victims of domestic violence. The statute on the ratification incorporates these reservations and thus, weakens the protection for one of the most vulnerable groups. Reservations to Article 59(2)+(3) are permitted under the Convention.

The draft for the ratification statute was accompanied by a ministerial memorandum claiming that no further legislative amendments were necessary to reach the full conformity of German law with the Istanbul Convention. This assertion is questionable and may lead to further controversies in the implementation process.

Internet link source: Draft of the Statute on the 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence (as adopted by parliament and including the ministerial memorandum):
<http://dip21.bundestag.de/dip21/btd/18/120/1812037.pdf>

Parliamentary information on the adoption:
<https://www.bundestag.de/dokumente/textarchiv/2017/kw22-de-haeusliche-gewalt/507528>

Press release by the Federal Ministry for Family, Senior Citizens, Women and Youth of 2 June 2017:
<https://www.bmfsfj.de/bmfsfj/aktuelles/alle-meldungen/gemeinsam-in-europa-den-schutz-von-frauen-vor-gewalt-staerken/115120>