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Residence as Leverage: Economic Violence against Third-Country National Women and the Paths to SDG 5 in EU Law

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Abstract

Economic violence is recognised as a form of domestic violence by Article 3 of the Istanbul Convention and by Directive (EU) 2024/1385. For third-country national women whose right of residence derives from a spouse or partner, it acquires a specific legal dimension: the perpetrator controls not only household resources but also the victim's legal presence in the host State. This paper assesses whether European Union (EU) law and its national implementation address or reproduce this dependency, through a doctrinal analysis of EU law and case law and an illustrative analysis of Italian law. Under Directive 2004/38, as interpreted in *NA* and *X*, a victim retains her right of residence after the breakdown of the relationship only if she is economically active or self-sufficient: the very autonomy that economic abuse is designed to destroy. This economic conditionality is difficult to reconcile with Article 59 of the Istanbul Convention, which binds the Member States that have ratified it, although its reach for the EU in the field of free movement is doubtful. Member States can rely on Article 37 of Directive 2004/38 to grant more favourable protection. The Italian case shows that economic conditionality operates at more than one level: it reappears in the national rules on family permits, and the victim can escape it only through a national permit that turns a right into an authorisation subject to administrative appraisal. Women whose abuse was primarily economic are also the least likely to prove the danger that this permit requires, and its holders are excluded from the national income-support measure designed for

victims. The paper concludes that an autonomous residence right free from economic conditions is a prerequisite for achieving SDG targets 5.2 and 5.a.

Keywords: Economic violence; Istanbul Convention; derived residence rights; third-country national women; EU free movement law; SDG 5

1. Introduction

Target 5.2 of the 2030 Agenda commits States to eliminate all forms of violence against women and girls in the public and private spheres (United Nations General Assembly, 2015). Among those forms, economic violence has long remained the least visible. The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) includes it in the definition of domestic violence, alongside physical, sexual and psychological violence (Article 3(b)). Directive (EU) 2024/1385, the first EU legislative act specifically addressing violence against women and domestic violence, now adopts a similar definition (Article 2(b)).

Available data indicate that the phenomenon is far from marginal. According to the European Institute for Gender Equality (EIGE), the conservative EU-wide estimate of economic violence by an intimate partner reaches 8.2%, a level close to that of physical intimate partner violence (9.3%); moreover, 90% of women who experienced economic violence also experienced psychological violence (EIGE, 2026). In Italy, the 2025 survey on women's safety, whose results on economic violence are so far available only for Italian women, shows that 6.6% of them have experienced economic violence by a current or former partner during their lifetime; among women who have had a former partner the share is 10.2%, rising to 18.4% among the unemployed (Commissione parlamentare di inchiesta sul femminicidio, 2026). Yet, in 2021, only nine Member States explicitly criminalised forms of economic violence in their domestic violence legislation (EIGE, 2026).

Economic violence takes on a specific legal dimension when the victim is a third-country national whose right of residence derives from her spouse or partner. In such cases, the perpetrator controls not only access to income, bank accounts and employment, but also the victim's legal presence in the host State. The Explanatory Report to the Istanbul Convention acknowledges that the fear of deportation or loss of residence status is "a very powerful tool" used by perpetrators to prevent victims from seeking help or leaving the relationship (Council of Europe, 2011, para. 301). Legal dependency and economic dependency thus reinforce each other (Briddick, 2020; Di Stasi et al., 2023; Pizzolante, 2024). In a case decided by the Tribunal of Bari in 2021, a husband whose wife had reported him for

domestic abuse offered to let her residence permit be renewed if she came back to live with him (Section 4.3).

EU law is directly implicated in this mechanism. Under Directive 2004/38/EC, a third-country national spouse of a mobile Union citizen enjoys a right of residence derived from the citizen's exercise of free movement. Article 13(2) of that Directive allows the right to be retained after divorce in "particularly difficult circumstances", including domestic violence. However, before acquiring permanent residence, the victim must show that she is a worker, self-employed, or has sufficient resources and comprehensive sickness insurance. In *X v État belge* (C-930/19), the Court of Justice upheld the validity of this requirement. The result is a paradox that this paper terms *economic conditionality*: protection from the consequences of abuse is made dependent on the very economic autonomy that economic abuse is designed to destroy.

Economic conditionality is not, however, a feature of EU law alone. It operates at two levels. In EU free movement law the abuser's leverage is mostly indirect: separation does not end the victim's right before divorce, but the abuser's departure from the host State and the economic conditions that apply after divorce can produce the same result. In national law the leverage is often direct, because the renewal or conversion of a family permit depends on the sponsor or on the victim's own income. The paper therefore treats economic conditionality as a multilevel phenomenon, and uses the Italian case to show how the two levels interact.

The EU's accession to the Istanbul Convention, which has bound the Union since 1 October 2023, has changed the normative context. Article 59 of the Convention requires parties to grant victims whose residence status depends on that of the spouse or partner an autonomous residence permit, irrespective of the duration of the marriage or relationship. In parallel, the Court of Justice has begun to read EU secondary law in the light of the Istanbul Convention and of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) as "relevant treaties" (*WS*, C-621/21; Bartiromo, 2025).

Against this background, the paper addresses three research questions. First, to what extent does EU law on derived residence create or mitigate the dependency through which economic violence operates? Second, can the Istanbul Convention, through the interpretive technique of "relevant treaties", correct the economic conditionality embedded in Directive 2004/38? Third, how does national law treat victims who lose their derived status, and how do national support measures interact with residence status, as illustrated by the Italian case?

The paper seeks to contribute to the debate on SDG 5 from a perspective that is often overlooked. Research on women's economic

empowerment usually focuses on labour markets, pay gaps, access to finance and corporate governance. This paper argues that, for migrant women, a secure and autonomous legal status is a precondition for any form of economic agency. In this sense, the analysis connects target 5.2 (violence) with target 5.a (equal rights to economic resources), target 8.8 (labour rights of migrant workers, in particular women migrants) and target 10.7 (safe and orderly migration).

The paper builds on an earlier analysis of the residence rights of victims of domestic violence under EU free movement law (Pizzolante, 2024). It adds the perspective of economic violence, the evidence of the 2026 report of the Italian Parliamentary Inquiry Commission, the analysis of national permits and support measures, and the recent practice of Member States on reservations to Article 59.

The paper is structured as follows. Section 2 describes the research design and sources. Section 3 outlines the international and EU legal framework. Section 4 presents the results: the case law on Directive 2004/38 (4.1), the "relevant treaties" technique and its limits (4.2), and Italian law (4.3). Section 5 discusses residence status as an economic resource (5.1), the role of Member States under Article 59 (5.2), comparative approaches (5.3), the pending case C-404/26 (5.4) and the implications for SDG 5 (5.5). Section 6 concludes with proposals.

2. Methods: Research Design and Sources

The paper adopts a doctrinal legal method, combined with an illustrative national case study. The doctrinal analysis examines three sets of primary sources. The first comprises international instruments: the Istanbul Convention and its Explanatory Report, CEDAW and the 2030 Agenda. The second comprises EU secondary law on derived residence and on violence against women: Directives 2004/38/EC, 2003/86/EC and (EU) 2024/1385, as well as the instruments of the Pact on Migration and Asylum, in particular Regulation (EU) 2024/1347. The third comprises the case law of the Court of Justice of the European Union on the retention of residence rights and on gender-based persecution, from Diatta (267/83, 1985) to the General Court's order in *HD and Others v Parliament and EEAS* (T-5/25, 2026), discussed in a note, together with the request for a preliminary ruling in *Duloff* (C-404/26), pending at the time of writing.

These sources are interpreted with the canons used by the Court of Justice: literal, systematic and teleological interpretation, and interpretation consistent with international agreements binding on the Union. Particular attention is paid to the technique by which the Court reads secondary law in the light of the "relevant treaties" referred to in Article 78(1) of the Treaty on the Functioning of the European Union (TFEU).

The case study concerns Italy. Italy was selected for three reasons: it has a specific residence permit for victims of domestic violence (Article 18-bis of the Consolidated Act on Immigration); it has adopted a national income-support measure for victims, the *reddito di libertà*; and in April 2026 a Parliamentary Inquiry Commission published a report entirely devoted to economic gender-based violence (Commissione parlamentare di inchiesta sul femminicidio, 2026). The case study relies on that report, on survey data from the Italian National Institute of Statistics (Istat), on the circulars of the National Social Security Institute (INPS), on one of the few reported decisions on Article 18-bis and on EU-level data from EIGE (2026).

The study has three main limitations. First, the 2025 Istat data on economic violence by a partner have so far been published only for Italian women: interviews with foreign women were completed in January 2026, but the results released to date concern other forms of violence. Data on economic violence against foreign women therefore come from the 2014 survey and from hearings before the Commission. Second, the Italian case study is illustrative rather than empirical: it relies on legislation, administrative sources and one reported decision, and the number of Article 18-bis permits issued each year is not available in the sources consulted. Third, the analysis of the most recent developments is necessarily provisional: Directive (EU) 2024/1385 must be transposed by 14 June 2027, and case C-404/26 is pending.

3. The Legal Framework

3.1 Economic violence as a form of domestic violence

Article 3(b) of the Istanbul Convention defines domestic violence as all acts of physical, sexual, psychological or economic violence occurring 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. Article 2(b) of Directive (EU) 2024/1385 adopts a similar definition. Neither instrument, however, defines economic violence as such.

The empirical literature fills this gap. EIGE describes economic violence as any act or behaviour that causes economic harm to a person, and distinguishes three components: economic control, economic exploitation and economic sabotage (EIGE, 2026). The Scale of Economic Abuse developed by Adams et al. (2008) operationalises these behaviours, which include preventing the partner from working, controlling access to money and generating debt in the partner's name. The Italian survey on women's safety measures five indicators: being prevented from knowing the household income, from having a credit or debit card, from using one's own

money and from working, together with the intentional damage of personal belongings (Commissione parlamentare di inchiesta sul femminicidio, 2026). For the purposes of this paper, a further element must be added. When the victim's right to reside, and often her right to work, depends on the abuser, the legal status itself becomes a resource under the abuser's control. Dependent residence status is not a form of economic violence in itself, but it multiplies the effects of each of the behaviours listed above (Briddick, 2020; Stoyanova, 2023).

3.2 Autonomous residence permits under Article 59 of the Istanbul Convention

Article 59 of the Istanbul Convention is the only treaty provision that specifically addresses the residence status of victims of domestic violence whose status derives from a spouse or partner. Other treaties provide for residence permits in different situations, such as Article 14 of the Council of Europe Convention on Action against Trafficking in Human Beings for victims of trafficking. It has nonetheless received less attention in the literature than the asylum provisions of Articles 60 and 61, on which, for example, De Vido (2026) focuses. It contains four obligations:

1. to grant victims whose residence status depends on that of the spouse or partner, upon application and in particularly difficult circumstances, an autonomous residence permit in the event of dissolution of the marriage or relationship, irrespective of its duration (paragraph 1);
2. to ensure that victims may obtain the suspension of expulsion proceedings initiated in relation to the residence status of the spouse or partner, in order to apply for an autonomous permit (paragraph 2);
3. to issue a renewable residence permit where the victim's stay is necessary owing to her personal situation or for the purpose of cooperation in criminal proceedings (paragraph 3);
4. to enable victims of forced marriage brought to another country to regain the residence status they lost in their country of habitual residence (paragraph 4).

Three elements of Article 59(1) should be distinguished. First, it obliges States to ensure that an autonomous residence permit can be obtained. Second, it leaves the conditions for its grant and duration to national law. Third, unlike EU law, it does not itself make the permit conditional on the victim's resources. The absence of an express economic requirement does not amount to a prohibition of every national condition; but national conditions must be consistent with the object of the provision, which is to free the victim from a status that makes her dependent on the abuser (Stoyanova, 2023; Pizzolante, 2024).

The EU concluded the Convention through Council Decisions (EU) 2023/1075 and 2023/1076, and has been bound by it since 1 October 2023. The first Decision concerns the institutions and public administration of the Union, the second judicial cooperation in criminal matters, asylum and non-refoulement. Article 78(2) of the Convention allows parties to reserve the right not to apply Article 59, or to apply it only in specific cases or conditions. The EU made no such reservation, but this is of limited significance. Article 59 concerns residence permits, a matter of migration policy that lies outside the matters covered by the two Decisions, except as regards the Union's own institutions and public administration under Decision 2023/1075.[1] For the rest, Article 59 binds the Member States that have ratified the Convention (Pizzolante, 2024).

3.3 Economic conditions for the retention of residence pursuant to Directive 2004/38/EC

Under Directive 2004/38/EC, third-country national family members of a Union citizen who exercises free movement derive their right of residence from that citizen. Article 13(2) allows them to retain the right after divorce, annulment or termination of a registered partnership in four situations, including where retention is warranted by particularly difficult circumstances, such as having been a victim of domestic violence while the marriage or partnership was subsisting (point (c)).

The second subparagraph of Article 13(2) adds a condition. Before acquiring the right of permanent residence, the person concerned must show that she is a worker or self-employed, or that she has sufficient resources not to become a burden on the social assistance system of the host Member State and comprehensive sickness insurance, or that she is a member of the family of a person satisfying these requirements. This is the core of the economic conditionality examined in Section 4.

3.4 Family reunification and autonomous residence: Directive 2003/86/EC

Where the sponsor is a third-country national, the applicable instrument is Directive 2003/86/EC. Its Article 15(3) requires Member States to lay down

[1] A similar dependency can arise within the EU institutions. In *HD and Others v Parliament and EEAS* (T-5/25, EU:T:2026:192), the spouse of an official seconded to an EU Delegation in a third country, whose visa depended on his posting, reported domestic violence that could not be prosecuted because of his diplomatic immunity, and was told that her visa would be withdrawn once the divorce was pronounced. The General Court dismissed the action as manifestly inadmissible without examining the merits, because the dispute originated in the employment relationship and required the prior administrative complaint provided for by the Staff Regulations (Article 270 TFEU). The order therefore establishes no duty of the Union, as an employer, to protect the family members of its staff under Decision 2023/1075; it only illustrates a question that an action brought through the correct procedure could raise.

provisions ensuring the grant of an autonomous residence permit in the event of particularly difficult circumstances. The Commission's guidelines on the application of the Directive cite domestic violence as an example of such circumstances (European Commission, 2014). Article 15(3) contains no requirement of sufficient resources. As a result, at the level of EU law, a victim whose abuser is a third-country national may be better protected than a victim whose abuser is a Union citizen.

3.5 EU measures on violence against women and the Pact on Migration and Asylum

Directive (EU) 2024/1385 harmonises certain offences and lays down minimum standards for the protection and support of victims. Its Article 33 provides for targeted support for victims with intersectional needs and groups at risk, and its recital 4 refers to the Istanbul Convention. However, the Directive contains no provision on residence permits for migrant victims (Pizzolante, 2024). Directive 2012/29/EU on victims' rights requires those rights to apply without discrimination, including with respect to residence status (Article 1(1)), but it does not regulate residence either. Member States must transpose Directive (EU) 2024/1385 by 14 June 2027. In Italy, the delegation to the Government is contained in the European Delegation Law 2024 (Law No. 91 of 13 June 2025).

In the field of asylum, Regulation (EU) 2024/1347, which replaces Directive 2011/95/EU as part of the Pact on Migration and Asylum, has applied since 1 July 2026. Its Articles 7 and 8, on actors of protection and internal protection, are at the centre of the pending case *Duloff* (C-404/26), examined in Section 5.4.

4. Results: Economic Conditionality in EU and National Law

This section traces economic conditionality across three settings, each of which tests a different aspect of the paper's thesis: the case law on Directive 2004/38, where the condition originates (4.1); the "relevant treaties" approach and its limits, which determine whether the Istanbul Convention can correct it (4.2); and Italian law, where the condition reappears at national level and its consequences for victims can be observed (4.3). The pending case *Duloff*, which may define a standard of effective protection, is discussed in Section 5.4.

4.1 The case law on Directive 2004/38: from *NA* to *X*

The case law of the Court of Justice has evolved on the timing of protection, but not on its economic conditions.

The starting point is the derived nature of the right. Since *Diatta* (267/83), the third-country national spouse's right depends on the Union

citizen's residence in the host State. The same judgment also protects the victim: the marriage is not dissolved by separation, so a spouse who lives apart from the Union citizen keeps her right until divorce. In *Singh and Others* (C-218/14), the Court held that, where the Union citizen leaves the host State before divorce proceedings are initiated, the spouse's derived right has already ended and cannot be "retained" under Article 13(2). In *NA* (C-115/15), the Court applied the same reasoning to a victim of domestic violence whose abusive husband had left the United Kingdom before she filed for divorce. Advocate General Wathelet had proposed the opposite solution, observing that the recognition of an individual right based on domestic violence cannot depend on the abuser's sole decision to remain in the host State (Opinion of 14 April 2016, EU:C:2016:259, para. 76). The Court did not follow him.

In *X v État belge* (C-930/19), the Grand Chamber partly reversed *NA*: divorce proceedings may be initiated after the abuser's departure, provided they are initiated within a reasonable period. On the second question, however, the Court upheld the validity of the requirement of sufficient resources in the second subparagraph of Article 13(2). It held that victims whose spouse is a Union citizen and victims whose spouse is a third-country national are not in comparable situations, because the protection and integration of third-country nationals are secondary objectives of Directive 2004/38, whose primary purpose is free movement of Union citizens (Strumia, 2022; Pizzolante, 2024).

National practice reflects this two-tier structure. A comparative review by the Organisation for Economic Co-operation and Development (OECD) notes that, in Belgium, victims of domestic violence who are family members of Union citizens must show sufficient means or health insurance, a requirement that does not apply to family members of third-country nationals; in Switzerland and Germany, the applicant's financial stability is also taken into account (OECD, 2024).

The result is that, under EU free movement law, a victim of domestic violence retains her right of residence, until she acquires permanent residence after five years (Article 18), only if she is economically active or self-sufficient. Recourse to social assistance does not automatically lead to expulsion (Article 14(3)), which softens the rule in practice; but it does not remove the condition, nor the uncertainty it places on the victim. In economic terms, the provision protects the victims who need it least. A woman who was prevented from working, deprived of access to her own money or burdened with debt by her partner is the least likely to meet the requirement. As has been observed (Pizzolante, 2024), the provision attempts to remedy a situation that lies outside the market by offering a market-based solution.

The personal scope of the provision is also narrower than that of the Istanbul Convention. Article 13(2) protects only spouses and registered partners. A partner in a durable but unregistered relationship is not a "family member" under Directive 2004/38: the host State is merely required to facilitate her entry and residence (Article 3(2)(b) of the Directive; Article 3(2)(b) of Legislative Decree No. 30/2007 in Italy). If the relationship ends because of violence, she has no right to retain residence at all, not even subject to economic conditions. Article 59 of the Istanbul Convention, by contrast, refers to the "spouse or partner as recognised by internal law". It does not itself exclude unregistered partners, and its personal scope is wider than that of Article 13(2) wherever national law recognises de facto unions. Table 1 compares the three regimes applicable to victims whose residence depends on a partner.

Table 1: Autonomous residence for victims of domestic violence: EU law and the Istanbul Convention

Instrument	Persons covered	Trigger	Economic condition	Suspension of expulsion
Directive 2004/38, Art. 13(2)(c)	Third-country national spouses and registered partners of mobile Union citizens; unregistered partners excluded	Divorce or end of partnership, with domestic violence during the marriage; proceedings within a reasonable period after the abuser's departure (*X*)	Yes, until permanent residence: work, self-employment, or sufficient resources and sickness insurance	No specific provision
Directive 2003/86, Art. 15(3)	Family members of third-country national sponsors	Particularly difficult circumstances, including domestic violence (European Commission, 2014)	None in the Directive; conditions set by national law (Art. 15(4))	No specific provision
Istanbul Convention, Art. 59(1)-(2)	Victims whose residence depends on a spouse or partner as recognised by internal law (unregistered partners included where national law recognises them)	Dissolution of the marriage or relationship in particularly difficult circumstances, irrespective of its duration	No express economic requirement in the Convention; conditions for grant and duration determined by national law	Yes (Art. 59(2))

Source: author's elaboration on the instruments and case law cited.

4.2 The "relevant treaties" technique: *WS* and subsequent case law

In the field of asylum, the Court has gone further. In *WS* (C-621/21, 16 January 2024), the Grand Chamber held that Directive 2011/95 must be interpreted in accordance with the "relevant treaties" referred to in Article 78(1) TFEU, which include CEDAW, ratified by all Member States, and the Istanbul Convention, binding on the Union. On that basis, women as a whole

may be regarded as belonging to a "particular social group", and women exposed to domestic violence may qualify for refugee status. The Court also held that, where persecution comes from non-State actors, it is sufficient that the reason for persecution is linked to the lack of protection by the State (Bartiromo, 2025).

The Court confirmed this approach in *K and L* (C-646/21, 11 June 2024), where women's identification with the value of gender equality was treated as a common characteristic, and in *AH and FN* (joined cases C-608/22 and C-609/22, 4 October 2024), concerning Afghan women under the Taliban (Bartiromo, 2025).

The limit of the technique must also be acknowledged. Article 78(1) TFEU refers to asylum policy only. Directive 2004/38 is based on the free movement provisions of the Treaties, and the EU acceded to the Istanbul Convention through two Decisions limited to its institutions and public administration and to judicial cooperation in criminal matters, asylum and non-refoulement. Whether Article 59 of the Convention can serve as a parameter for interpreting Article 13(2) of Directive 2004/38 is therefore an open question, which the Court has not yet addressed.

4.3 The Italian case: residence permits and economic support

The 2026 report of the Parliamentary Inquiry Commission highlights the specific exposure of migrant women. They are often employed in domestic and care work, with low wages and few chances of mobility, and they must obtain or keep a residence permit in order to stay. The report describes this as a double bind: working in precarious conditions in order to remain in the country (Commissione parlamentare di inchiesta sul femminicidio, 2026). The most recent Istat survey that disaggregates data by citizenship, carried out in 2014 on women aged 16 to 70, confirms the higher exposure of foreign women to violence within the couple. Foreign women had experienced physical or sexual violence by a current or former partner in 20.4% of cases, against 12.9% of Italian women. Psychological violence by the current partner, which in the Istat survey includes economic violence, affected 34.5% of foreign women and 25.7% of Italian women, reaching 50.9% among Moroccan women (Istat, 2015). According to data presented at a hearing before the Commission, economic violence in the strict sense followed the same pattern, affecting 12.3% of Moroccan women against 5% of Italian women (Commissione parlamentare di inchiesta sul femminicidio, 2026). As noted in Section 2, the 2025 data on economic violence against foreign women are not yet available.

Italy transposed Article 59 of the Istanbul Convention through Article 18-bis of the Consolidated Act on Immigration (Legislative Decree No. 286/1998). The provision allows the Questore (the provincial head of the

State Police, competent for residence permits) to issue a residence permit to a foreign victim of domestic violence, with the favourable opinion or upon proposal of the judicial authority. However, it requires acts of violence that are serious or not episodic and a concrete and current danger to the victim's safety. Under the Istanbul Convention, a single act may be sufficient (Pizzolante, 2024).

The gap with the Convention is also structural. Article 59(1) is triggered by the dissolution of the marriage or relationship in particularly difficult circumstances and protects victims whose status depends on the spouse or partner; it requires neither a danger to the victim's safety nor her participation in criminal proceedings. Article 18-bis, by contrast, is built around the existence of a concrete and current danger and, in its main procedural route, around criminal proceedings for specified offences. It therefore implements Article 59 only in part, and its requirements have been criticised as going beyond what the Convention allows (Genovese, 2018; SCUDI, 2025).

The permit is valid for one year and gives access to support services, education, employment services and work, including self-employment; it can be converted into a permit for work or study (SCUDI, 2025; OECD, 2024). It can therefore become a route to economic autonomy, although immigration procedures may take up to a year, during which the victim may remain without a secure status (OECD, 2024).

The key to the Italian system lies in the relationship between the two legal regimes. Legislative Decree No. 30/2007, which transposes Directive 2004/38, applies to the family members who accompany or join the Union citizen (Article 3(1)). When the victim loses her derived status, because the abuser has left the country or because she cannot meet the economic conditions for retaining residence after divorce, she falls outside the scope of the Decree. From that moment, she is simply a national of a non-EU State, to whom the Consolidated Act on Immigration applies in full (Article 1(1)), including Article 18-bis. The permit for victims of domestic violence is not subject to any resource requirement. The economic conditionality of EU law can therefore be overcome, but only by stepping outside EU law.

The reach of this conditionality in Italy is limited by national law. Following the amendments introduced by Article 18-ter of Decree-Law No. 69/2023, Article 23 of Legislative Decree No. 30/2007 extends the Decree to family members of Italian citizens only where those citizens have exercised free movement, and only where it is more favourable; family members of Italians who have not moved receive a five-year national family permit, issued under the Consolidated Act and convertible into a work permit (Article 23(1-bis)). The economic conditions of Article 13(2) therefore reach, in Italy, the spouses of mobile Union citizens and of Italians returning

from another Member State. The women outside that group are not spared economic conditions, however: as shown below, they meet them again in the national rules on the conversion of family permits.

The passage from the Decree to the Consolidated Act has a price. Under the Decree, the victim held a right of residence derived from EU law, which the residence card merely certifies. Under Article 18-bis, she depends on a one-year permit issued by the Questore, either with the favourable opinion of the judicial authority in criminal proceedings for specified offences or on the basis of reports from anti-violence centres and specialised social services. The permit is granted only where a concrete and current danger to her safety arises from her decision to escape the violence or from her statements in the proceedings. The law sets no criteria for assessing that danger, leaving the decision largely to the Questore, and in practice it ties the permit to the victim's active participation in criminal proceedings, which many migrant women avoid for fear of expulsion (Porchia, 2021; SCUDI, 2025). A right thus becomes an authorisation subject to administrative appraisal. The power is not unfettered: the Questore acts within statutory conditions and under judicial review, as the Bari case below shows. But the assessment of a concrete and current danger leaves margins of appreciation that can determine whether protection is effective, and the burden of proof shifts onto the victim at the moment of her greatest vulnerability.

The danger requirement has a further consequence that is decisive for this paper. Although the national definition of domestic violence includes economic violence, economic and psychological violence are rarely regarded as capable of causing a concrete and current danger to the victim's safety (Genovese, 2018; SCUDI, 2025). The woman whose abuse was primarily economic in nature, and who for that reason cannot meet the resource requirement of EU law, is also the least likely to qualify for the national permit.

One of the few reported decisions on Article 18-bis shows both the problem and a possible solution. The applicant, an Albanian woman, held a residence permit for family reasons derived from her husband, who had sponsored her family reunification. After she reported him for domestic abuse and left the family home with their two daughters, her permit expired and could not be converted into another title. The Questore refused the Article 18-bis permit because the public prosecutor had given a negative opinion, first on the ground that the prosecution was to be discontinued and then for lack of a final judicial finding of the violence. Meanwhile, the husband let her know, through one of their daughters, that he would allow her permit to be renewed if she came back to live with him. In an interim decree, the Tribunal of Bari held that the prosecutor's opinion, although binding, is subject to judicial review and must rest on concrete elements

available at that stage of the proceedings, not on a final conviction. Relying on the Istanbul Convention and on Articles 10 and 117 of the Italian Constitution, it read the danger to the victim's safety as including psychological pressure on her freedom of self-determination. It found such pressure precisely in the choice the applicant faced: returning to her abuser or risking expulsion. It therefore suspended the refusal and ordered the Questore to issue the permit (Tribunale di Bari, 2021; Porchia, 2021).

The case is a textbook illustration of residence used as leverage, and of how the legal design of the permit can turn the abuser's control over the victim's status into a condition of her protection. The direct leverage seen here is typical of national family reunification, where renewal depends on the sponsor. Under Directive 2004/38 the leverage is more indirect, as noted in Section 4.1, but the abuser's departure and the economic conditions after divorce can produce a similar result. The Tribunal's reading of the danger requirement, if followed, would bring Article 18-bis closer to Article 59 of the Istanbul Convention and would open it to victims of economic and psychological abuse. It remains, however, an interim decision of a single court, and the interpretation of the danger requirement is not yet settled.

The Bari case also reveals that economic conditionality is not confined to free movement law. The applicant's husband was not a Union citizen but a third-country national, so her status fell within the scope of Directive 2003/86, whose Article 15(3) imposes no resource requirement. In Italian law, however, the general rule applicable after legal separation or dissolution of the marriage allows the family permit to be converted only into a permit for employment, self-employment or study (Article 30(5) of the Consolidated Act on Immigration). Outside Article 18-bis, the victim can therefore keep her right to stay only by proving that she works or studies, which is an economic condition in all but name. This is why the Bari applicant, whose permit had expired and could not be converted, had no realistic route other than Article 18-bis. The difference between the two EU regimes summarised in Table 1 thus narrows considerably at the level of national implementation.

A second national route should be mentioned. The special protection permit (Article 19(1.1) of the Consolidated Act) protects against refoulement and, within the limits introduced in 2023, the foreigner's private and family life. It is not designed for victims of domestic violence, its scope has been narrowed, and it depends on an assessment of the risks that return would entail rather than on the violence suffered in Italy. It may help in individual cases, and, unlike the Article 18-bis permit, it gives access to the *reddito di libertà* (see below); but it does not provide a general solution.

The main economic support measure for victims is the *reddito di libertà*, made structural by the 2024 Budget Law (Law No. 213/2023) in

order to guarantee the economic independence of women victims of violence in conditions of poverty. Since 2026 it provides up to €530 per month for a maximum of twelve months, to cover housing, personal autonomy and children's education. Applications are granted only within the limits of the available resources, which for 2026 amount to €16.5 million (INPS, 2026a). At the maximum amount of €6,360 per beneficiary, this corresponds to roughly 2,600 full grants for the whole country.

Eligibility is also limited by residence status. Third-country national women qualify only if they reside in Italy and hold one of the following: a residence card or permanent residence card as family members of a Union citizen (Articles 10 and 17 of Legislative Decree No. 30/2007, which transposes Directive 2004/38); an EU long-term residence permit under the Consolidated Act on Immigration, or the receipt of its application; or a special protection permit. Refugees and beneficiaries of subsidiary protection are treated as Italian citizens (INPS, 2025). The list does not include the "special cases" permit issued to victims of domestic violence under Article 18-bis, the very permit through which Italy implements Article 59 of the Istanbul Convention. Nor does it cover a woman whose family-member card has lapsed after divorce because she could not meet the economic conditions of Article 13(2) of Directive 2004/38. Economic conditionality thus operates twice: it may deprive the victim of her right of residence, and the loss of that right then excludes her from the support designed to make her economically independent.

Holders of the Article 18-bis permit are not left without any support: they can apply for the *Assegno di inclusione*, the general means-tested income support (INPS, 2026b). That measure, however, is designed for households in poverty and is subject to its own conditions; it does not replace a measure built for the specific purpose of enabling victims to leave violence. Whether the exclusion from the reddito di libertà of holders of the very permit created for victims is consistent with the principle of reasonableness under Article 3 of the Italian Constitution is open to question.

5. Discussion: Residence as an Economic Resource and SDG 5

5.1 Residence status as a condition of economic autonomy

The results suggest that, for migrant women with a derived status, the right of residence functions as an economic resource in its own right. It conditions access to the labour market, to housing, to social benefits and to support measures for victims. When that resource is held by the abuser, every other form of economic control is amplified. EIGE (2026) notes that a lack of financial resources is one of the main reasons why women are unable to leave abusive relationships. For a woman whose permit depends on her

partner, leaving may mean losing not only income but also the legal right to remain and to work.

EU free movement law addresses this situation with a market logic. Article 13(2) of Directive 2004/38 protects the victim only if she can already participate in the market as a worker or as a self-sufficient person. The Court of Justice in *X* accepted this logic, because the protection of third-country nationals is a secondary objective of the Directive. The outcome is a hierarchy of victims: under EU law, the spouse of a third-country national may obtain an autonomous permit under Directive 2003/86 without proving resources, while the spouse of a Union citizen may not. National implementation can, however, reintroduce economic conditions for the former as well, as the Italian rule on the conversion of family permits shows (Section 4.3).

A further argument lies within EU law itself. In *X*, the Court examined the resource requirement in the light of the principle of equal treatment and found that the situations compared were not comparable. The requirement can also be assessed under Article 23 of the Charter of Fundamental Rights and the prohibition of indirect discrimination on grounds of sex. The Istanbul Convention recognises in its preamble that domestic violence affects women disproportionately. Under settled case law, a condition that is neutral on its face but disadvantages a considerably higher proportion of women than men must pursue a legitimate aim unrelated to sex and be appropriate and necessary to achieve it (*Bilka-Kaufhaus*, 170/84). The protection of the host State's social assistance system is a legitimate aim. It is less clear that excluding victims of domestic violence who lack resources is necessary to achieve it, since Article 14(3) of the Directive already shows that recourse to social assistance need not lead to expulsion. Proving the disparate impact would, however, require data on the gender of the persons concerned by Article 13(2)(c), which are not currently collected: a further reason for the data proposal in Section 6. In *X* the referring court relied on Articles 20 and 21 of the Charter and compared spouses of Union citizens with spouses of third-country nationals; the sex-discrimination argument was not raised, since the applicant was a man, and it remains available in future cases.

5.2 Article 59 of the Istanbul Convention and the role of Member States

As shown in Section 4.2, it is uncertain whether Article 59 of the Istanbul Convention binds the Union when it legislates on free movement, given the limited scope of the Council Decisions through which it acceded. This uncertainty, however, does not leave the victim without protection. Member States that have ratified the Convention without a reservation on

Article 59 are bound by it as parties, irrespective of the scope of the Union's accession.

EU law does not prevent them from complying. Article 37 of Directive 2004/38 provides that the Directive does not affect national provisions that are more favourable to the persons it covers. It thus confirms that a Member State may grant an autonomous residence permit to a victim of domestic violence who does not meet the resource requirement. Article 37 is not, however, the source of an obligation to do so: that obligation, where it exists, derives from Article 59 of the Istanbul Convention. As noted in Section 3.2, the Convention leaves the conditions for the permit to national law and does not prohibit every economic condition as such. A requirement of economic self-sufficiency, however, reproduces the very dependency that Article 59 seeks to remove, and is difficult to reconcile with its object and purpose. On this reading, which this paper advances as an interpretive proposal rather than as settled law, the economic conditionality of Article 13(2) should operate for States parties as a minimum level of protection that they should go beyond when applying Article 59, not as a ceiling.

Italy shows both the potential and the limits of this route. As seen in Section 4.3, a victim who loses her derived status falls under the Consolidated Act on Immigration and may obtain the Article 18-bis permit without any resource requirement. Italy thus partly does what Article 37 allows. But the victim moves from an EU-law right to a national authorisation subject to administrative appraisal and to stricter evidentiary conditions, and the permit she obtains does not give access to the *reddito di libertà*.

The problem remains for Member States that have not ratified the Convention or that maintain a reservation on Article 59. For the States that have not ratified it, the Union's accession does not fill the gap: the Union concluded the Convention only for the matters listed in the two Decisions and insofar as they fall within its exclusive competence, which in shared areas such as asylum and criminal justice derives from the existence of common rules that the Convention may affect (Article 3(2) TFEU; Opinion 1/19; De Vido, 2026). It may be objected that Directives 2004/38 and 2003/86 are also common rules that Article 59 may affect. The Decisions do not, however, extend to free movement, and whether Article 59 falls within the Union's commitments in that field remains, at most, an open question. In those States, the only source of protection is Article 13(2), with its economic conditions. This uneven landscape is in itself an argument for amending the Directive at Union level.

Recent practice suggests some movement, although it concerns only two States. On ratification, Germany entered a reservation on Article 59(2) and (3), justifying it with the level of protection already guaranteed by its

legal system (Friedery, 2023). The reservation, effective from 1 February 2018, was not renewed on its expiry in February 2023: according to the German Government's report to the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), the Convention has applied in Germany without restriction since February 2023 (Federal Republic of Germany, 2025). Cyprus, which had reserved the right not to apply Article 59 as a whole, withdrew that reservation with effect from 1 March 2023, while renewing others (Council of Europe Treaty Office, 2023). Two Member States have thus abandoned their reservations on Article 59 in the same year. The lapse of a reservation brings national conditions on autonomous residence, including economic ones, under the scrutiny of the Convention's standard, and narrows the group of Member States in which Article 13(2) of Directive 2004/38 remains the only safeguard.

5.3 Comparative approaches to effective protection

The comparative review by the OECD (2024) offers several indications on how protection can be made effective. In the United States, Japan, Luxembourg and the United Kingdom, an autonomous or extended permit may be granted even when the victim's previous permit has expired. Access to work is granted in almost all OECD countries that provide such permits. Many countries admit all types of evidence of domestic violence, including statements from shelters and counselling centres, rather than requiring a criminal conviction.

Switzerland, which is not an EU Member State but faces the same issue, offers a further reference point. Article 50 of the Federal Act on Foreign Nationals and Integration grants a right to the extension of the residence permit after separation where important personal reasons require continued stay. Domestic violence has been mentioned among those reasons since 2008, and forced marriage since 2013. A reform in force since 1 January 2025 extended the rule to family members of foreign nationals holding temporary permits and listed indicators of domestic violence (State Secretariat for Migration, 2024). According to the federal guidance, domestic violence alone may now justify the right to remain, without the need to prove also that reintegration in the country of origin would be compromised (Federal Office for Gender Equality, 2026). The same guidance acknowledges that rules making residence dependent on marriage may reinforce the dependency between victim and perpetrator and thus increase the risk of lasting violence. The OECD (2024) nevertheless reports that the applicant's financial stability is also considered in Swiss practice, which suggests that economic conditions may re-enter through administrative assessment even where the law does not state them.

These practices respond to the three weaknesses identified in this paper. First, protection should not depend on the timing of the abuser's departure or on the victim's previous status. Second, it should not depend on economic self-sufficiency. Third, economic support measures, such as the Italian *reddito di libertà*, should be accessible to victims during the procedure for an autonomous permit, and not only to women who already hold a secure status.

5.4 The pending case Duloff: from the availability to the effectiveness of protection

Although it concerns asylum rather than residence, a pending case offers a useful benchmark. The request for a preliminary ruling in *Duloff* (C-404/26), lodged on 28 April 2026 by the District Court of The Hague sitting in Zwolle, concerns a woman who seeks international protection for herself and her minor children. The Dutch authorities argued that, if returned, she could rely on the protection of the authorities and of non-governmental organisations in her country of origin. The referring court asks, in essence, whether the authorities must assess the effectiveness of that protection and not only its theoretical availability, and whether a woman who has already sought protection without success can be required to exhaust every other theoretical avenue. The questions concern both Directive 2011/95 and Regulation 2024/1347, so the answer will shape the regime applicable since 1 July 2026.

The legal parameters are partly settled. Under Article 7 of Directive 2011/95, reproduced in the Regulation, protection can only be provided by the State or by parties controlling it or a substantial part of its territory, and must be effective, non-temporary and accessible to the applicant. In *Abdulla* (C-175/08), the Court required the authorities to verify both elements: that the actors of protection have taken reasonable steps and that the person concerned has access to protection. In *OA* (C-255/19), it held that social and financial support provided by private actors, such as the family or the clan, is inherently incapable of preventing persecution or of detecting, prosecuting and punishing it, and therefore does not amount to protection.

On this basis, the existing case law points towards a test of effective and accessible protection rather than theoretical availability, although the outcome cannot be anticipated. The reference to non-governmental organisations is particularly significant. Shelters and support services do not control the State or its territory; by the logic of *OA*, they can support a victim but cannot replace the State as an actor of protection. The second and third questions go further. A previous unsuccessful attempt to obtain protection is the most direct evidence that protection is not effective. Requiring the victim to exhaust every theoretical avenue would shift onto her the burden of

proving the State's failure, contrary to the approach in *WS*, where the Court accepted that the link with a ground of persecution may lie in the lack of protection itself (Bartiromo, 2025). It would also be difficult to reconcile with the case law of the European Court of Human Rights, which requires States to protect victims of domestic violence with due diligence (*Opuz v Turkey*, 2009; *Talpis v Italy*, 2017; *Kurt v Austria*, 2021), and with Article 60 of the Istanbul Convention, which requires a gender-sensitive interpretation of each ground of persecution.

The case also has an economic dimension that has received little attention. Article 7(2) makes access to protection a condition of its existence. Access, however, often depends on economic means: the cost of legal proceedings, the possibility of leaving the shared home, the availability of housing and income. The European Court of Human Rights recognised this as early as *Airey v Ireland* (1979), where a woman seeking separation from a violent husband could not afford the only available proceedings: rights must be practical and effective, not theoretical or illusory. If the Court of Justice holds in *Duloff* that protection must be accessible in practice, economic barriers that prevent a woman from reaching protection should count against its effectiveness.

The ruling, which is not expected before this paper is published, may also be relevant beyond asylum. This is an interpretive proposal, not a necessary consequence of the judgment: the effectiveness standard of Article 7 concerns protection in third countries and has no direct bearing on Directive 2004/38. Nonetheless, a standard defined by the Court for protection abroad would offer a benchmark against which to measure the protection offered within the Union. Measured against it, Article 13(2) of Directive 2004/38 shows a paradox: the Union would require third countries to make protection accessible in practice, while its own free movement law makes the victim's continued residence depend on the economic resources that the abuse may have taken away.

5.5 Economic violence and the interdependence of SDG targets

The analysis has two implications for the 2030 Agenda. The first concerns the connection between targets. Target 5.2 (violence) cannot be achieved for migrant women without progress on target 5.a (equal rights to economic resources), and both depend on migration policies consistent with target 10.7 and on the protection of migrant women workers under target 8.8. Secure and autonomous legal status is the link between them.

The second concerns measurement. Indicator 5.2.1 measures physical, sexual and psychological violence by an intimate partner, but not economic violence. EIGE (2026) reports that, in 2023–2024, only 13 Member States had data on female victims of economic violence, and the

OECD (2024) underlines the scarcity of data on domestic violence against migrants. Without data disaggregated by citizenship and residence status, the situation described in this paper remains statistically invisible.

Conclusions and Proposals

This paper has examined how EU law treats third-country national women whose right of residence derives from an abusive spouse or partner. On the first research question, it finds that Directive 2004/38 mitigates the dependency only partially: since *X*, the timing of divorce proceedings is less decisive, but retention of residence still depends on the victim's economic activity or self-sufficiency. This economic conditionality protects least the women most exposed to economic violence. On the second question, the "relevant treaties" technique developed in *WS* and the following judgments shows that the Court is willing to read EU law in the light of the Istanbul Convention and CEDAW, but its reach beyond asylum is uncertain. The decisive obligation therefore lies with Member States that are parties to the Convention, which, under Article 59, should go beyond the minimum set by Article 13(2), and which Article 37 of Directive 2004/38 leaves free to do so. On the third question, the Italian case shows that the economic conditionality of EU law can be overcome only by stepping outside EU law: once the victim loses her derived status, national immigration law applies and offers a permit without resource requirements, but at the cost of turning a right into an authorisation subject to administrative appraisal that does not give access to the national income-support measure.

Five proposals follow from the analysis:

1. **Amend Article 13(2) of Directive 2004/38** to remove the resource requirement for victims of domestic violence and to extend protection to durable partners whose relationship is duly attested, aligning it with Article 15(3) of Directive 2003/86 and Article 59 of the Istanbul Convention.
2. **Use Article 37 of Directive 2004/38 at national level**: Member States parties to the Convention should grant an autonomous permit to victims irrespective of resources, also where the previous permit has expired.
3. **Connect residence and economic support**: income-support measures for victims, such as the Italian *reddito di libertà*, should be accessible to holders of the permit for victims of domestic violence and to women who are applying for an autonomous permit, and not only to holders of a secure status.
4. **Use the transposition of Directive (EU) 2024/1385**, due by 14 June 2027, to include residence-status safeguards in the targeted support required by Article 33 for victims with intersectional needs.

5. **Improve data**: economic violence should be measured systematically, disaggregated by citizenship and residence status, in line with the principle that SDG indicators should be disaggregated, where relevant, by migratory status (United Nations General Assembly, 2017), and included in the monitoring of SDG target 5.2, whose global indicator 5.2.1 currently covers only physical, sexual and psychological violence.

Pending a legislative reform, much depends on the Member States: Article 37 of Directive 2004/38 leaves them free to protect victims without economic conditions, and national support measures can be opened to every victim, whatever her residence title. The ruling in *Duloff* (C-404/26) may add a further argument, if the Court requires protection against domestic violence to be effective and accessible in practice. For migrant women, effective protection includes the economic means to leave.

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