



EUROPEAN WOMEN'S
LOBBY
EUROPEEN DES FEMMES



**A call for an EU horizontal Directive
to prevent and combat all forms of
violence against women and girls**

Executive Summary

Male violence against women and girls (VAWG) has been recognised as an international long-term pandemic, and its impacts know no borders. It happens across Europe, and yet due to a lack of European harmonisation of legislation, the remedies and prevention methods taken by governments are haphazard and a lottery for the women and girls experiencing violence. It is a fundamental human rights violation in contravention of EU values under Article 2 of the Treaty on the European Union (TEU) and Article 23 of the EU Charter of Fundamental Rights. It is a form of discrimination against women and girls and a huge obstacle to achieving equality between women and men¹ which goes against the core objectives of the EU as recalled in the European Commission's Gender Equality Strategy.

In the current context of the increase of male violence against women and girls in the Covid-19 crisis but also looking towards the future, we need concerted action and harmonisation at the EU level. Legal action is needed to ensure equal rights between women and men in all EU member states during times of crisis, as much as in times of stability.

The development of new types or new ways of perpetrating violence, especially in the digital sphere, has also significantly increased. The need for a common legal basis to prevent and combat all forms of violence against women and girls is acknowledged by the European Commission and the European Parliament² and cannot be ignored.

The European Women's Lobby (EWL) is therefore calling on the European Commission to urgently move ahead with its commitments by adopting a comprehensive legislative framework, grounded in a horizontal Directive, that holistically prevents, combats and eliminates all forms of male violence against women and girls, including sexual exploitation and online VAWG.

This can be done through **adopting a comprehensive framework to prevent and combat all forms of violence against women and girls from a feminist, gender-sensitive and intersectional perspective. The cornerstone of this framework will be a Directive on all forms of violence against women and girls** introducing common provisions to strengthen the prevention of these crimes and the protection of the victims thereof as well as the prosecution of perpetrators and taking into due consideration CEDAW and other international conventions and instruments on women's and girls' rights.

The Directive should:

- a. Adopt and enhance the **standards in the Council of Europe's Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention)** regarding prevention, protection, prosecution, integrated policies to ensure early identification of victims, access to justice, compensation and reparation; including its definition on VAWG in Article 3 (a);

¹ See CEDAW General Recommendation No. 19 (1992) paragraph 1; CEDAW General Recommendation No. 35 (2017), paragraph 10.

² See President Ursula von der Leyen's State of the Union 2021 speech: *"That's why we will introduce a law to combat violence against women by the end of the year. It's about effective law enforcement, prevention and protection, online and offline. It's about the dignity of every individual, and it's about justice. And that, too, is the soul of Europe. And that's what we're going to fight for."* See European Parliament's [Report](#) recommending to the Commission to include gender-based violence among EU crimes in Article 83(1) TFEU (2021/2035(INL)), adopted on 16 September 2021 with an absolute majority and 427 Votes in favour.

- b. Address **all forms of violence against women and girls**, including work-related, public sphere online or offline, and explicitly address sexual exploitation, and violence against women subject to intersecting forms of discrimination;
- c. **Ensure harmonisation of existing EU legislative instruments relative to forms of violence against women and girls;**
- d. Call on EU Member States to work closely with **women’s civil society organisations**, in particular on awareness-raising campaigns, research and education programmes, training, and the monitoring and evaluation of prevention and protection measures, as well as of related legislation, policies and institutional practices being in place;
- e. Guarantee an **EU Coordinator on VAWG** with national coordinating bodies per Member State and structured engagement with civil society organisations.

The best legal option to achieve this would be expanding the **list of crimes under Article 83(1)** of the Treaty on the Functioning of the European Union (TFEU) to include ‘violence against women and girls’ (thereby activating the *passerelle clause*), recognising that this crime has a cross-border dimension through the urgent need for EU member states to combat this crime on a ‘common basis’, as backed up with an absolute majority by the European Parliament³.

The second best option would be a multilayered approach, building on existing EU crimes in article 83(1), to adopt strong disposition on sexual exploitation and online violence and legislate on other forms of violence on the basis of **Article 83(2) of the TFEU** to ensure harmonisation of criminal measures and sanctions of VAWG based on **Article 19(1) of the TFEU** to combat discrimination in which VAWG is recognised as a form of discrimination against women and girls as per international standard.

Ensuring a gender-sensitive, intersectional and holistic approach to address the continuum of VAWG, as described in this brief, will ensure the elimination of structural and deeply entrenched forms of prejudice and discrimination, which will ensure a Feminist Europe in which all women and girls in all their diversity can live free from the fear of male violence. The measures proposed by EWL fully take this gender-sensitive, intersectional and holistic approach into account. In this policy brief, the EWL will first outline the current situation on VAWG in the EU and its crucial need for harmonisation. The intersectional approach needed will be further deepened as well.

Secondly, EWL will establish preferred specific (legal) measures to be implemented through EU law to cover all forms of VAWG including sexual exploitation and online VAWG. Lastly, EWL will outline a multi-layered legal option and go into the details about specific forms of VAWG - sexual exploitation and online VAWG and how those could be addressed in existing legal bases. A list of all proposed measures can be found in the recommendations section (page 19) at the end of this paper.

³ See Make gender-based violence a crime under EU law, MEPs say | News | European Parliament (europa.eu)

Policy brief

Introduction

The European Women's Lobby (EWL), the largest umbrella organisation representing over 2,000 women's associations across Europe, is committed to advancing the rights of all women and girls to achieve a **Feminist Europe**, that is grounded in equality between women and men, human rights, democracy and social justice.

For over 30 years, the EWL has mobilised women's civil society organisations at EU and national level to accelerate the eradication of male violence against women and girls (VAWG) in all its forms. In 1997, two years after the historic adoption of the Beijing Declaration and Platform for Action, the EWL convened the [Observatory on Violence against Women](#), a formation of women's rights defenders, front-line service providers and professionals, from across Europe, to inform and collectively strategise on how to eradicate this continuous violation of women's human rights. Since 2012, EWL has coordinated the [Brussels' Call: Together for a Europe Free from Prostitution](#), a coalition of more than 200 civil society organisations working together to end trafficking and sexual exploitation in Europe. The EWL further convenes the [European Coalition to End violence against women and girls](#), an extensive strategic alliance of more than 25 European-wide social justice and human rights civil society organisations and trade unions. Concretely, we call for the EU's accession to the Istanbul Convention and a comprehensive EU strategy to address all forms of violence.

Male violence against women and girls is a long-term systemic problem in Europe that knows no geographical boundaries⁴ **and is a fundamental human rights violation in contravention of EU values under Article 2 of the TEU and Article 23 of the EU Charter of Fundamental Rights. It is a form of discrimination against women and girls and a huge obstacle to achieving equality between women and men⁵ which goes against the core objectives of the EU as recalled in the European Commission's Gender Equality Strategy.**

All forms of male violence are linked to a **continuum of violence**⁶ that aims to silence women and force them into a subordinate position: from the most obvious human rights violations such as femicide, to other subtle forms of abuse and control over women's lives, bodies and sexuality. Male VAWG is the cause and consequence of historical and structural patriarchal societies, and is grounded in gender stereotypes that are assigned to women and men in society.⁷ It originates from the patriarchal culture of sexism in our societies that includes gendered myths and stereotypes, and the objectification and sexualisation of women and girls. Simply put, it is the manifestation of the persistent and unequal power relations and inequalities between women and men.

⁴ See EWL's position paper "[Towards a Europe Free from all forms of violence against women](#)", (2010).

⁵ See CEDAW General Recommendation No. 19 (1992) paragraph 1; CEDAW General Recommendation No. 35 (2017), paragraph 10.

⁶ Professor Liz Kelly established the concept of a 'continuum of violence' in her book "Surviving Sexual Violence", (1998).

⁷ Article 3(c) of the Istanbul Convention defines 'gender' as 'the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men'.

Progress on equality between women and men has recently stalled, with the European Institute for Gender Equality's (EIGE) [2020 Gender Equality Index](#) finding that **it will take at least another 60 years before Europe achieves gender equality**. In 2021, we have seen inequalities between women and men deepen across Europe, particularly as a result of the alarming surge in cases of male VAWG⁸ accompanying the COVID-19 pandemic. Lockdown and isolation measures have created an enabling environment for abusers' coercive control of victims and have led to incidents of physical, psychological and sexual violence against women and girls, with limited access to support services for women and girls. In a new study released by the European Institute for Gender Equality's (EIGE), the economic cost for violence against women and girls is estimated to €289 Billion a year⁹.

Violence against women and girls threatens the security of half of the population in the EU, affecting over 250 million women and girls. 1 in 3 of women in Europe are affected by physical and/or sexual violence and 1 in 2 women in the EU have experienced sexual harassment since the age of 15¹⁰. Alarming, we see the fight against VAWG is targeted as part of an active and growing political backlash against women's rights across Europe. This is evident in the current political opposition blocking the EU's accession to the *Council of Europe Convention on preventing and combating violence against women and domestic violence* ('Istanbul Convention'), the most comprehensive European legislative instrument to date to address VAWG, and threats of withdrawal from the Convention in the EU and beyond.

The EU and its Member States currently lack a harmonised approach that aligns with the standards from the Istanbul Convention and that holistically addresses all forms of VAWG and its structural root causes. **The EU and its Member States now have the opportunity to reverse this to ensure that the rights of all women and girls do not regress any further during and after this pandemic.**

This is a timely opportunity that aligns with the welcome commitments by President of the European Commission, Ursula von der Leyen, who stated in her [political guidelines](#) that the EU 'should do all it can to prevent domestic violence, protect victims and punish offenders' and that if the Istanbul Convention remains blocked, she would propose violence against women to be added to the list of crimes as defined in article 83(1) of the Treaty and consider tabling proposals on common standards regarding the definition of certain types of violence, and strengthening the Victims' Rights Directive. In its Gender Equality Strategy, the European Commission renewed its plan to 'do all it can to prevent and combat gender-based violence, support and protect victims of such crimes, and hold perpetrators accountable for their abusive behaviour.'¹¹ It further reiterates that the EU accession to the Istanbul Convention remains the key priority, but should it remain blocked, in 2021 the Commission intends to propose measures to achieve the same objectives as the Istanbul Convention. In September 2021, President von der Leyen reiterated her intention to issue a proposed "law to combat violence against women by the end of the year (...) about effective law enforcement, prevention and protection, online and offline."

The EWL is therefore calling on the European Commission to meet its ambition by proposing a legislative framework, grounded in a horizontal Directive, that holistically prevents and combats all forms of male

⁸ see EWL's April 2020 policy brief "[Women must not pay the price for COVID-19!](#)"

⁹ see EIGE, (2021): [Gender-based violence costs the EU €366 billion a year | European Institute for Gender Equality \(europa.eu\)](#)

¹⁰ Fundamental Rights Agency, Violence against women: an EU-wide survey, 2014 https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf

¹¹European Commission, (2020) : [A Union of Equality: Gender Equality Strategy 2020-2025](#)

violence against women and girls, including sexual exploitation and online VAWG. These efforts must be backed by visible political leadership of EU Member States and the European Parliament, to ensure that all women and girls can truly live in a Europe free from all forms of male violence.

This policy brief therefore sets out the legal arguments and pathways to which EU legal action and an EU Directive to eliminate all forms of VAWG are necessary, through:

1. Denouncing the **lack of harmonisation** currently within EU law to address VAWG and why concerted EU action is necessary;
2. Calling for an **EU framework tackling the continuum of violence in all its forms**, including sexual exploitation and online violence, which would be established through a horizontal **Directive on all forms of violence against women and girls**;
3. Calling on the inclusion of violence against women and girls among EU crimes in art. 83(1) of the Treaties as the **best route for a holistic EU Directive** to eliminate all forms of VAWG;
4. Additionally, setting out alternative routes for a **multi-layered approach as a second best option**;
5. Putting forward the EWL's recommendations on how to achieve this.

This policy brief is the result of research carried out by international legal experts, coordinated by the European Women's Lobby, on the current European legal framework on VAWG, its gaps, and potential remedies in the EU.

1. Lack of harmonised protection of women and girls in the EU

We note that the Istanbul Convention is the most comprehensive legislative instrument to date to combat specific forms of VAWG to achieve this goal. It requires State Parties to ensure a multidisciplinary, coordinated response to VAWG in the domains of prevention, protection, prosecution and integrated policies.

As a result of the provisions laid out in the Istanbul Convention, the EWL Observatory has found **positive measures have been taken in the first 10 years of the Convention** coming into force. EWL's report "[Towards a Europe Free from Male Violence Against Women and Girls](#)" shows that countries such as Belgium, Croatia, Cyprus, Finland and Ireland have significantly increased their financial allocations and resources for shelters and other support services for victims of VAWG. In Denmark, centres for victims of sexual violence have been set up at regional hospitals, with free access to medical, psychological and legal counselling. In Romania, the new 2019 legislation on domestic violence allowed for emergency protection orders to be issued. This led to the issuing of 7,986 emergency protection orders in the first year the law came into force.

On the other hand, we have observed that **persisting gender stereotypes and gender neutral approaches to laws and policies continue to delay the elimination of all forms of VAWG**. For example, victim blaming attitudes are still persistent in most EU countries, particularly in cases of sexual violence, in which women victims of violence are often disproportionately expected to provide their own solutions for their safety and for the safety of their children. This presents huge barriers to disclosing or reporting cases of violence to relevant authorities and consequently impacts the low convictions rates across Europe, particularly for cases of sexual violence. Furthermore, approaches to collecting disaggregated data that captures the circumstances in which situations of male violence against women and girls occur also remains

inconsistent across the region,¹² thus preventing the reveal of the full scope of violence and efficient allocation of critical resourcing to women's essential services.

Additionally, despite the Istanbul Convention's potential to facilitate in bringing about a Europe free from violence against women and domestic violence via its full ratification and implementation, we have seen a serious and growing **political backlash in several countries**, notably from countries that have yet to ratify the Convention, since 2017. As highlighted in the EWL's report developed by members from the [Central Eastern Europe, the Balkans and the Baltic States \(the CEEBBS region\)](#), the pushback preventing the ratification of the Convention is part of a wider and active regression on gender equality and other social justice issues in which civil society organisations are also working within an increasingly shrinking space.

Recent examples include the [Turkish Presidential decision to withdraw from the Istanbul Convention on 20 March 2021](#), and the alternative family bill to replace the Istanbul Convention proposed in the Polish Parliament just a week later. This follows a concerning announcement by the government of Poland of its intentions to withdraw from the Convention¹³ in July 2020 in the midst of the pandemic, while the Bulgarian Constitutional Court reached a split vote and declared the Istanbul Convention unconstitutional in July 2018. In Hungary, in 2020 - during the pandemic lockdown period -, the Parliament adopted a political declaration that called on the government not to take steps for ratification of the Istanbul Convention and to oppose the EU's Accession to the Convention.

At the EU level, we welcomed the EU signing onto the Convention in 2017. However, since then, opponents to the ratification of the Convention have put forward that countries that have yet to ratify the Istanbul Convention are simply waiting for the EU to first accede to the Convention, despite being fully aware that progress at EU level is blocked in the Council of the EU and the decision of the Court of Justice has been pending since April 2019. This has thus created a stalemate in the process. Given the **current block on EU accession to the Convention in the EU Council**, this political delay takes place at the detriment of women and girls who are facing an insurmountable increase in male VAWG since the COVID-19 pandemic. It is **urgent that the EU and its Member States take action now** to move beyond this political block to ensure that proactive steps are taken to introduce an EU Directive that eliminates all forms of VAWG in-line with the Istanbul Convention, to ensure its immediate transposition into national law.

An intersectional approach to VAWG

In introducing an EU legislative Directive tackling all forms of VAWG and its root causes, it is imperative that the Directive apply a gender-sensitive lens and depart from the gender-neutral approach currently adopted for other crimes under article 83(1) of the TFEU. The Directive must also adopt **an intersectional perspective** to ensure that women and girls subjected to multiple and overlapping forms of discrimination are fully protected. In response to this pandemic, legislative action must work for women and girls who are too often left on the margins of society: women and girls with disabilities, older women, asylum seeker women and girls, migrant women, women of colour, Roma women and girls, women with underlying health conditions, and women impacted by prostitution. Intersecting forms of discrimination severely increase the risk of VAWG. For example, migrant women and girls face additional hurdles when it comes

¹² EIGE, (2020), "Gender Equality Index". <https://eige.europa.eu/gender-equality-index/2020/domain/violence>

¹³ <https://www.womenlobby.org/EWL-rejects-attempt-to-withdraw-Poland-from-Istanbul-Convention>

to the protection of their rights. Gender-based asylum claims should be considered and the principle of *non-refoulement* should be applied to victims of violence against women and girls.

As stated in the European Disability Forum's (EDF) position paper on [Violence against women and girls with disabilities](#): '[Violence against women and girls with disabilities](#) can take different forms including harassment, sexual violence, incest, and forced abortion, sterilisation and contraception. They also include disability specific violence such as restraint, sexual abuse during daily hygiene routines, removal or control of communication aids, violence in the course of treatment, overmedication or withholding medication. Perpetrators often take advantage of the barriers and discrimination faced by women and girls with intellectual or psychosocial disabilities, deafblind women and girls, and women and girls with high support needs.'

[Lesbian women and girls](#) also face additional challenges, levels and frequency of VAWG and require special consideration. Lesbophobic violence is a phenomenon linked not only to social stigma related to non-heterosexual sexual orientations, but also to the roles and societal expectations assigned to women. Forms of particularly lesbophobic violence include street harassment of women based on their perceived sexuality, cyberharassment and bullying, "corrective" rape, femicide, lesbophobia and violence in pornography and violence during Pride marches. Such crimes should be recognised as lesbophobic hate crime, investigated, prosecuted and tried as such, as they are not merely forms of gender-based violence, nor of homophobia. It is also important to ensure that the hate bias of sexual orientation in cases of violence against lesbians is recorded as an aggravating circumstance, whether they are perpetrated in the public or private sphere, in particular in cases of domestic violence concerning young lesbians whose vulnerability is heightened as they may face rejection and homelessness, sequestration, and other ill treatment affecting their physical and/or mental health.

[Women and girls fleeing conflicts and travelling to or settling in Europe](#) are at higher risk of suffering from male violence. On the way and in the temporary tented communities and reception centres, they face rape, sexual assault, sexual harassment, from different perpetrators; they are forced to resort to prostitution in order to get access to food, housing or transport; they face domestic violence; girls are being sold for marriage or trafficked for sexual exploitation. Based on field trip assessments, strategic meetings at national and European levels, and data collected on the ground by EWL members in different countries, [the EWL #womensvoices report](#) calls for: comprehensive policies to end all forms of violence against women and girls in the EU and its member states, and specific measures to ensure that refugee and asylum seeker women and girls are protected and get access to justice; a humanitarian response which succeeds in protecting women and girls from male violence and exploitation; gender-sensitive asylum policies and procedures to help women and girls to escape or denounce male violence and access to their full human rights. In addition, [the EWL #GirlsVoices infosheet](#) calls for an intersectional approach to supporting migrant girls' needs based on a cross-sectional framework of women's rights, children's rights and migrants' rights.

[Age](#) is another important factor to consider in relation to an intersectional approach to VAWG: young girls are one of the highest impacted groups in relation to online VAWG (see [EWL's #HerNetHerRights report](#) for more information) including grooming, cyberbullying and sexualised harassment. Girls need specific support and consideration in challenging the system of VAWG and comprehensive sexuality education is a crucial preventative measure (see [EWL's Feminist Principles in Sexuality Education](#) for further

information). Older women are particularly vulnerable to VAWG, especially in care homes and medicalised settings, and this needs to be addressed in any relevant policy, resourcing and legislative provisions.

2. Urgent need for an EU framework tackling the continuum of violence in all its forms

All forms of violence are rooted in sexism and discrimination against women and girls. Therefore, they must be tackled jointly as part of the same phenomenon. A piecemeal approach to violence would greatly affect the effectiveness of EU and national actions and leave behind some women and girls because of the type of violence they face.

The EU legal framework must adopt a definition of violence which reflects the variety of the acts which can constitute violence, while recognising their common features. That is why the **EWL recommends** the EU ensures harmonisation with existing EU legal instruments and international conventions and **that a legal definition of VAWG for an EU legislative Directive to eliminate all forms of VAWG be drawn from the Istanbul Convention under Article 3(a)**. Under the Convention, ‘violence against women’ is defined as a *‘violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.’*

Furthermore, to ensure this Directive comprehensively addresses evolving and emerging forms of VAWG, it is vital that it recognises sexual exploitation and online violence within its parameters and outlines clear legal provisions to combat this as part of the continuum of VAWG.

A. Eliminating sexual exploitation as part of the continuum of violence

Sexual exploitation affects, harms and kills thousands of women and girls across Europe every day. The EWL supports the introduction of a European version of the Equality Model through actions and positions set out below. The Equality Model demonstrates that hope and change is possible for the women and girls of Europe and beyond. The Equality Model is an integrated approach that prevents violence and ensures accountability, justice and support.

Prostitution in itself constitutes a form of sexual violence against women and girls. Violence is endemic in the sex trade - from pimps, brothel owners, partners, traffickers and sex buyers. One study revealed that 70-95% of women reported physical assault, 60-70% reported rape and 68% met the criteria for post-traumatic stress disorder (PTSD).¹⁴ Mortality rates for individuals in prostitution are also exceptionally high.¹⁵ Such high levels of violence are unconscionable – and irreconcilable within a “business” that deals in exploitation and coercion.

¹⁴ Prostitution and Trafficking in Nine Countries: an Update on Violence and Post-Traumatic Stress Disorder, M. Farley et al. 2003, p. 56: https://www.researchgate.net/publication/281348842_Prostitution_and_trafficking_in_nine_countries_An_update_on_violence_and_posttraumatic_stress_disorder

¹⁵ Global Study on Homicide: Gender-related killing of women and girls, United Nations Office on Drugs and Crime 2018, P. 35: https://www.unodc.org/documents/data-and-analysis/gsh/Booklet_5.pdf

Sexual exploitation is already recognised as a crime under Article 83(1) of the TFEU, yet is not fully legislated against. Indeed, it is clear that Article 83(1) of the TFEU includes ‘trafficking and sexual exploitation of women and children’, with legislative action specifically taken to combat trafficking via the Directive 2011/36/EU *on preventing and combating trafficking in human beings and protecting its victims*, and the sexual exploitation of children via Directive 2011/93/EU *on combating the sexual abuse and sexual exploitation of children and child pornography*.

But there is an enduring gap on sexual exploitation of women that leaves women and girls unidentified as victims of a crime, without recourse or support, and vulnerable to trauma and extreme violence at the hands of criminal gangs and perpetrators.

Legal definition of sexual exploitation

To put an end to prostitution and sexual exploitation, the Equality Model must be adopted into EU law. As part of an EU Directive to tackle the full continuum of VAWG, this must include a legal definition of sexual exploitation which is framed in-light of the most recent jurisprudence of the European Court of Human Rights *S.M. v. Croatia*,¹⁶ relating to the application of Article 4 of the European Convention on Human Rights to a case of sexual exploitation and forced prostitution within borders. As such, **the EWL recommends that ‘sexual exploitation’ be defined as: “a form of gender-based violence against women and girls which consists in the commercialisation of a woman’s body for obtaining of financial or other benefits through the involvement of another person in prostitution, sexual servitude or other kinds of sexual or reproductive services, including pornographic acts or the production of pornographic materials. It results in physical and psychological harm.” Within this definition, the absence of consent is clearly recognised.** This legal definition is based upon the legal definition of child sexual exploitation already in EU law.

Provisions of EU legislation on sexual exploitation

To ensure harmonisation with existing EU legislative instruments already mentioned above, the EWL recommends that an EU Directive that addresses all forms of VAWG including sexual exploitation must **include an end-demand approach** at its core as per Directive 2011/36/EU *on preventing and combating trafficking in human beings and protecting its victims* and comprehensively tackle all forms of sexual exploitation and abuse as per Directive 2011/93/EU *on combating the sexual abuse and sexual exploitation of children and child pornography*.

The legislation on sexual exploitation should act as **‘sister’ legislation to the Anti-Trafficking Directive and Directive on Child Exploitation**, mirroring their provisions and approaches but applying them to all women and girls affected by sexual exploitation to fully tackle this phenomenon. This includes crucially the end-demand approach of the Anti-Trafficking Directive, internationally recognised as key to ending the motivating factor for those who exploit women and girls in sexual exploitation systems. There should be an EU Coordinator on Ending Sexual Exploitation, who may also hold the remit as Anti-Trafficking Coordinator.

To fully tackle sexual exploitation, the key factors of the Equality Model should be followed: support, exit programmes and health services to be provided for those affected by sexual exploitation, and criminal

¹⁶ *S.M. v. Croatia*, judgment of 25 June 2020 (ECtHR, Grand Chamber).

penalties for those who perpetuate the system, i.e., pimps and so-called 'buyers'. This is the only means to fully respond to the violence and power inequalities at the heart of sexual exploitation systems.

Recognition of prostitution as a form of sexual exploitation

Women and girls affected by prostitution is one of the groups of women considered by the Istanbul Convention to have a greater risk of violence due to intersecting forms of discrimination. The system of the sex trade is based on a business model that depends on violence, harassment and human trafficking for its very existence. The reality is that 9 out of 10 women would leave the sex trade if they could, and that more than 2/3 women in prostitution reported trauma on par with that suffered by soldiers. 96% of victims of sex trafficking are women and girls, and 75% of prostituted women and girls are aged between 13 and 25 years old, half of them having been exploited for the first time before they were 18 years old.

Prostitution is often the result of multiple forms of discrimination and vulnerabilities, such as migration status or a history of trauma or violence. Class and poverty are significant push factors into the sex trade, exploited by men as 'buyers', pimps and traffickers. Women in prostitution are at higher risk of many forms of violence including physical, verbal, sexual and psychological violence.

The repetition of sexual acts without physical desire, but instead experienced as a result of financial need, inequality and/or as exploitation of vulnerability, constitutes in itself a form of sexual violence. Engagement in prostitution drives lasting physical and psychological harm from violence, dehumanisation and objectification. In this regard, the EWL advocates for the adoption of the '**Equality model**' when addressing the system of prostitution as a form of male violence against women and girls, sexual violence and exploitation.

Recognition of pornography as sexual exploitation

Pornography should also be considered an element of the system of prostitution and thus as forming a part of the continuum of male VAWG. Pornography is similar to traditional forms of prostitution and is highly linked to them, with a significant proportion of pornography including some form of violence against women and girls, and victims of trafficking and those affected by prostitution also being groomed or further exploited through pornography. The role of the consumer or 'buyer' is also similar, but perceived as one step removed from the violence, given their observer status; however, their accountability for driving the perpetuation of this violence should be similarly accounted for. The additional role of third-party hosting sites makes internet regulation all the more crucial for tackling this online form of prostitution.

As previously stated, prostitution and pornography are forms of violence against women and girls. EWL notes that EU harmonisation, through an EU directive on all forms of violence against women and girls, will have a positive impact on tackling sexual exploitation and the trafficking of women and girls in the EU and should include the end-demand approach at its core as per **Directive 2011/36/EU**.

B. Eliminating online VAWG as part of the continuum of violence

The EWL advocates for the elimination of all forms of VAWG, whether online or offline. As the EU steers towards a Europe fit for the Digital Age, in which the use of digital technologies and platforms have risen exponentially, the EWL looks towards all decision-makers to ensure safe and equal access for women and girls online. As found in the EWL's [#HerNetHerRights](#) study, it is imperative that the online sphere is

acknowledged as a space that maintains sexist and misogynistic norms and that **facilitates in new and more complex ways the perpetration of VAWG, as an extension of the continuum of violence.**

While online VAWG is a more recent phenomenon of the 21st century, publicly available data already speaks of the concerning and disproportionate acts of online violence directed at women and girls. In Europe, **9 million girls have experienced some kind of cyber violence by the time they are 15 years old.**¹⁷ 45% of domestic violence survivors have reported experiencing some form of abuse online during their relationship.¹⁸ 70% of women victims of cyberstalking have experienced at least one form of physical or/and sexual violence from an intimate partner. Black women are 84% more likely to receive online abuse.¹⁹

In the context of the digital transition, the online space is also serving to **reinforce rape culture, the sexualisation and objectification of women and girls**, including the propagation of sexist content particularly in advertising and pornography, which are specific forms of violence against women and girls that should be addressed as part of the continuum of violence. This facilitates the dehumanisation of women who are continuously recreated as sexual objects, and conveys the message that women's bodies and sexuality are at the discretion of men's pleasure. All these factors contribute to and reinforce the subordination of women to men, severely harming women's rights and contributing to increased risks of male violence against women and girls.

We welcome the increasing recognition of how the **“digital dimension” has become a characteristic in the perpetration of violence against women and domestic violence.** In 2016, the Council of Europe encouraged the participation of the private sector and media companies in combating violence against women in relation to Article 17 of the Istanbul Convention, and several European Member States have taken steps to legislate against cases/occurrences of sexual violence and image-based sexual abuse (so-called 'revenge porn') and in cases of intimate partner violence, street harassment (including so-called 'upskirting') and/or sexist hate speech.²⁰ Cases in the European Court of Human Rights similarly recognise

¹⁷ UN Broadband Commission for Digital Development, [“Cyber Violence Against Women and Girls: A World- Wide Wake-Up Call”](#), 2015.

¹⁸ Women's Aid survey (2017).

¹⁹ Glitch, “A Little Means A Lot”, <https://fixtheglitch.org/almal/>

²⁰ In France, the 2016 law for a Digital Republic amended the French Penal Code to prohibit the unauthorised dissemination of sexually-explicit recordings (so-called “revenge porn”). Such acts are now punishable by up to two years in jail and/or a fine of up to €60,000. In Spain, the Penal Code was reformed in 2015, introducing new types of penalties related to online violence against women: Cyberbullying or sexting, consisting of disseminating, revealing or giving a third-party images or audio-visual recordings of a person without their authorisation and obtained in a private setting. In Finland, pieces of existing legislation can be used for combatting online violence such as the legislation on stalking, sexual harassment, and spreading information that violates privacy, or leads to defamation or identity theft.

how digital tools and platforms are used to enact psychological violence against women, often in the case of intimate partner violence, such as the *Volodina v. Russia*²¹ and *Buturuga v. Romania*²² cases.

In contrast to these positive measures being taken, the reality remains that the **EU currently lacks a comprehensive framework to address the issue of online violence against women and girls**. For example, the 2016 *EU Code of conduct on countering illegal hate speech online* only focuses on hate speech and fails to take on a gender perspective to capture the experiences of women and girls online, including their experiences of violence, harassment and abuse. The Istanbul Convention, on the other hand, does not contain any explicit reference to criminalising VAWG that occurs online. However, the Council of Europe is in the process of developing a General Recommendation for the Istanbul Convention on the digital dimension of VAWG; thereby reiterating how significant this issue has become. As such, **the EWL recommends that the European Commission utilises this opportunity for an EU Directive on preventing and combating all forms of VAWG to additionally include online violence, to create a harmonised framework that ensures equal protection for all.**

Legal definition of online VAWG

A comprehensive EU Directive to combat all forms of VAWG must include online violence, which has a clear cross-border dimension and an **existing legal basis under “computer crimes”** as per Article 83(1) of the TFEU, and is in contravention of EU values relating to equality between women and men under Article 2 of the TEU.

The EWL therefore recommends that the legal definition of ‘online violence against women and girls’ be based on definition proposed by the UN Special Rapporteur on violence against women: **“The definition of online violence against women therefore extends to any act of gender-based violence against women that is committed, assisted or aggravated in part or fully by the use of ICT, such as mobile phones and smartphones, the Internet, social media platforms or email, against a woman because she is a woman, or affects women disproportionately.”**²³

This is particularly relevant to the Digital Services Act (DSA), for which it is important to encourage the inclusion of an appropriate definition of illegal content. **Illegal content** can be what has been already harmonised at EU level, including sexual exploitation of women and children, plus the crimes that have been included in national legislation.

This should be aligned with **a new EU Code of Conduct on Online VAWG** that addresses harmful content, which could be defined as meaning everything that is not illegal content and causes harm, where harm

²¹ European Court of Human Rights, (9 July 2019), *Volodina v. Russia* (Application no. 41261/17). The Court recognizes as domestic violence the fact that the perpetrator used a GPS tracking device to harass the victim and published private photographs on a social network without her consent, further undermined her dignity, conveying a message of humiliation and disrespect, against Article 3 of the European Convention on Human Rights. Sentence available at: https://hudoc.echr.coe.int/eng#_ftn2

²² European Court of Human Rights, (11 February 2020), *Buturugă v. Romania* (application no. 56867/15). The Court pointed out that cyberbullying was currently recognised as an aspect of violence against women and girls, and that it could take on a variety of forms, including cyber breaches of privacy, intrusion into the victim’s computer and the capture, sharing and manipulation of data and images, including private data. Sentence available at: <http://hudoc.echr.coe.int/eng?i=002-12715>

²³ <https://undocs.org/A/HRC/38/47>

can be defined as “a violation of legally protected interests.” This Code of Conduct must be developed in cooperation with women’s civil society organisations and align clearly with the development of industry best practices, due diligence responsibilities and transparency provisions proposed in the DSA.

To conclude, online violence must be included in this Directive as a framework concept with a strong legal definition and include provisions for the criminalisation of online violence including, but not limited to: Doxing; Image based Sexual Abuse; Sextortion; Trolling; Hate Speech; and Online stalking or Sexual Harassment.

EWL states firmly that all the online and offline spheres of violence against women and girls mentioned above need to be tackled under a horizontal EU Directive and through the expansion of the **list of Eurocrimes under Article 83(1)** of the TFEU. This is to ensure full equality between women and men in the EU as per **EU values under Article 2 of the TEU and Article 23 of the EU Charter of Fundamental Rights**.

The Directive would act as a **cornerstone for the harmonisation of existing and upcoming legislations** touching upon forms of violence against women and girls, including the Directive 2012/29/EU *establishing minimum standards on the rights, support and protection of victims of crime* and the EU Strategy on Victims Rights (2020-2024), the Directive No. 2011/36 *on preventing and combating trafficking in human beings and protecting its victims*, the Directive No. 2011/93 *on combating the sexual abuse and sexual exploitation of children and child pornography*, the Digital Services Act proposal, and any potential initiative on hate speech and crime. These pieces of legislation should be harmonised with the Directive to ensure consistency and applicability.

3. Building a strong legal basis for an EU legislative framework

A. The inclusion of violence against women and girls among EU crimes

Criminalising all forms of male VAWG and their root causes is not explicitly established in EU law, and while it is referenced in the Istanbul Convention, current political opposition against EU accession prevents the Convention’s full transposition across all EU Member States. As such, **the EWL urgently calls for an amendment of the list of crimes under Article 83(1) of the TFEU to include ‘violence against women and girls’, thereby activating the *passerelle clause*, and requiring an EU legislative framework to be adopted that addresses all forms of male VAWG.**

There is currently an urgent need for a comprehensive legislative instrument that addresses the full continuum of VAWG and protects EU fundamental values including equality between women and men as per the Treaties. Such concerted action would further align with existing international law, notably the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which all EU Member States are party to. We note that the practice of prohibiting VAWG has evolved into a principle of customary international law, which State Parties to CEDAW have enacted for over 25 years.²⁴ An EU Directive must align with the provisions of CEDAW Recommendation No. 35, in which ‘violence that is directed against a woman because she is a woman or that affects women disproportionately’ is

²⁴ CEDAW General Recommendation No. 35 (2017), paragraph 2.

considered ‘discrimination within the meaning of article 1 of the Convention’.²⁵ As such, State Parties are legally required to pursue all means to eliminate VAWG, including through the adoption of legislation prohibiting all forms of VAWG.²⁶ It is clear that **VAWG as a form of discrimination against women and girls, and as a breach of EU fundamental values under Article 2 of the TEU must seriously be addressed.**

The EWL strongly believes that this must be achieved through the recognition by the EU that **VAWG is a crime which it should combat on a common basis.** We find strongly that the requirements for this as per Article 83(1) of the TFEU, are met. In addressing these criteria, firstly, the seriousness of VAWG is clear, given the arguments provided already in international practices, and existing data provided at national, EU and international level. Secondly, with regard to the cross-border dimension of VAWG, we recognise that Article 83(1) of the TFEU speaks about the need for harmonising crimes that have a cross-border dimension “resulting from the need to combat them on a ‘common basis’”. This is further justified in looking at the transposition of *trafficking in human beings and sexual exploitation of women and children* as a crime under Article 83(1) into legislation. Indeed, the *Council of Europe Convention on Action against Trafficking in Human Beings* applies to ‘all forms of trafficking in human beings, whether national or transnational, whether or not connected with organised crime’. Similarly, in Directive No. 2011/36 *on preventing and combating trafficking in human beings and protecting its victims*, no reference is made to the cross-border dimension of the crime.

The inclusion of violence against women and girls among EU crimes is **the best option for the adoption of a comprehensive Directive on violence against women and girls as it would ensure the Directive covers all forms of violence against women and girls.** It is the only way for the EU to truly and fully recognise the continuum of violence against women and girls in which all forms of violence are resulting from the same discrimination and stereotypes affecting women. **The EU must send a strong political signal that all forms of VAWG are not tolerated in the EU.**

Though adding VAWG to the list of Eurocrimes by activating the passerelle clause under Article 83(1) is the best strategy for holistically combatting all forms of VAWG, there are additional legislative avenues that can be taken to address some but not all forms of VAWG.

B. Alternative legal basis through a multi-layered approach

This section of the brief will set out these additional approaches to addressing some forms of violence against women and girls in EU law. However, it is to be mentioned that these options are less preferable and lack the comprehensive approach EWL is aiming for.

In case the preferable and comprehensive option mentioned above will not be taken into account, the EWL suggest other legislative options that lack a comprehensive approach but can be considered to

²⁵ CEDAW General Recommendation No. 19 (1992), paragraphs 6-7. In the 2017 CEDAW General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, the CEDAW Committee recognises that based on a combination of international practices by states and the acceptance of combatting violence against women as a general practice accepted as law (*opinio juris*), the prohibition of VAWG has ‘evolved into a principle of customary international law’. As such, the implementation of such practices has obtained widespread acceptance as an international custom amongst the international community.

²⁶ CEDAW General Recommendation No. 35 (2017), paragraph 26(a), in which national laws must align with Articles 2(b), (c), (e), (f) and (g), and 5(a) of CEDAW.

address some forms of violence against women and girls in a multilayered way. Therefore, alternatively, EWL recommends the following action to be taken by the European Commission:

- 1) Building on **existing EU crimes in article 83(1)** to adopt strong dispositions on sexual exploitation, abuse and online violence; and
- 2) legislate on other forms of violence on the basis of **Article 83(2) of the TFEU** to adopt provisions that ensure harmonisation of criminal measures and sanctions of VAWG with additional basis of **Article 19(1) of the TFEU** to combat discrimination in which VAWG is recognised as a form of discrimination against women and girls as per international standard.

Adoption of harmonisation measures under Article 83(2) of the TFEU

One of the many legal bases to be used to ground an horizontal Directive on all forms of VAWG in EU law, would be to use article 83(2) of the TFEU. This article states: *If the approximation of criminal laws and regulations of the Member States proves essential to ensure the effective implementation of a Union policy in an area which has been subject to harmonisation measures, directives may establish minimum rules with regard to the definition of criminal offences and sanctions in the area concerned. Such directives shall be adopted by the same ordinary or special legislative procedure as was followed for the adoption of the harmonisation measures in question, without prejudice to Article 76.*

As such, the criteria to trigger this provision are as follows: a) the issue at hand must consider matters that are within the competence of the EU, different from article 83(1) TFEU, that have been subject to harmonisation whereby national legislation must meet any set minimum standards; b) the approximation of the criminal aspects, that is the alignment of national laws, rules and procedures that give effect to EU law, must be essential; c) the aim is to guarantee the effective implementation of the EU policy.

These criteria are met in the scope of violence against women and girls because:

1. The matter of violence against women and girls has been touched upon in **Directive 2011/99/EU on the European protection order** and **Directive 2012/29/EU on common minimum standards on the rights, support and protection of victims**. As per those directives, a harmonisation of certain measures is already in place. For example, the Victim's Rights Directive establishes minimum standards for the rights, support and protection of victims of gender-based violence as an instrument of harmonisation that sets basic standards to be applied across the EU. However, there is a lack of implementation of set measures in many member states. EWL strongly believes that harmonised rules for criminal offences and sanctions will lead to better implementation of measures in the existing directives and in the upcoming directive on VAWG.
2. The **harmonisation of violence against women and girls as criminal aspects in EU law is absolutely essential**. As mentioned before, concerted EU action is urgently needed to ensure all women and girls in the EU benefit from the same level of protection against this serious violation of their human rights. It is necessary that EU law goes beyond the basic standards for the rights of victims of VAWG: it must propose dispositions which will allow harmonisation of what is considered as a form of violence throughout the EU and allow for a better and more equal protection of women in the EU.

3. It would aim to guarantee an **effective implementation of relevant existing legislation** e.g. the Victim's Rights Directive, and coupling it with effective implementation of a future Directive on violence against women and girls.

Furthermore, Article 19(1) of the TFEU could be coupled with Article 83(2) ensuring a strong and multiple legal basis. It stipulates that with the consent of the European Parliament, the EU Council, and acting unanimously in accordance with a special legislative procedure, 'may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.' As such, through the pathway of non-discrimination, **the EWL recommends that the European Commission seek harmonisation based on Article 19(1) TFEU to combat VAWG as a form of discrimination against women and girls as per international standards, and adopt provisions on the harmonisation of criminal measures and sanctions of VAWG, which are essential to eliminating discrimination and achieving equality between women and men.**

Article 83(2) coupled with article 19(1) allow to develop provisions on many forms of VAWG to ensure elimination of discrimination against women and girls and the end of VAWG as a form of discrimination. It would also allow for the development of dispositions to better implement current dispositions of EU law through the adoption of definitions of criminal offences and their sanctions in this area. Those definitions must cover all forms of violence against women and girls.

Article 83(1) as legal basis for provisions on sexual exploitation including abuse

As per Article 83(1) of the TFEU, the list of Eurocrimes includes 'sexual exploitation of women and children' which can be disentangled from 'human trafficking'. **This would give legal basis to have provisions on sexual exploitation in the Directive.**

As mentioned above, the legal basis for provision on sexual exploitation (which should be considered as including abuse, i.e. rape as per the Directive on Child Sexual Exploitation and Abuse) is already existent, however it is not fully legislated against. There remains an enduring gap on sexual exploitation of women that leaves women and girls unidentified as victims of a crime, without recourse or support and vulnerable to trauma and extreme violence at the hands of criminal gangs and perpetrators. Despite this framing, Directive No. 2011/93 *on combating the sexual abuse and sexual exploitation of children and child pornography* has not only conceived this, but has also extended this to 'sexual abuse' and 'child pornography' among its provisions, thus going beyond the strict concept of sexual exploitation linked to human trafficking.

In assessing the types of criminal behaviours listed under what constitutes 'sexual abuse of women', the EWL notes that it is possible to propose the crimes of rape and sexual assault under this concept. We note that the European Commission, in identifying crimes that constitute abuse of children, referred to the [*Lanzarote Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*](#), which is not ratified by the EU. Following this same logic, **the European Commission therefore has the opportunity to introduce dispositions in the Directive under Article 83(1) TFEU by considering the concept of 'sexual exploitation and abuse' (emphasis added) of women, in which 'abuse' refers to a series of illicit behaviors included in the Istanbul Convention, such as rape and sexual violence.**

Article 83(1) as legal basis for provisions on online violence

Given that ‘computer crimes’ is listed as a Eurocrime under Article 83(1) of the TFEU and to date, remains undefined, **the EWL calls on the inclusion of online violence against women and girls within the EU directive, as a means to address ‘computer crimes’.**

Online VAWG can fall under the definition of computer crimes²⁷ because it can be defined as: *“criminal acts committed using electronic communications networks and information systems or against such networks and systems”²⁸*. Computer crime or cybercrime is applied to three categories of criminal activities: (i) traditional forms of crimes, such as fraud or forgery, through electronic networks; (ii) the publication of illegal content over electronic media“ (i.e. child sexual abuse material or incitement to racial hatred)”; and (iii) attacks against information systems, denial of service and hacking. According to this [EPRS](#) study, this definition makes it possible to argue that online VAWG falls under computer crimes. However, EPRS advises to equate “computer crime” to “cybercrime” because computer crimes would limit the scope to crimes committed only through computers, so some types of gender-based cyber violence committed using other ways would be excluded (e.g. the internet of things). Furthermore, the scope of online VAWG is linked to the general principle of non-discrimination in EU law²⁹.

In this context, online VAW should be defined as above to stress the continuum of violence and should act as a framework concept that includes several behaviours that can be subjected to criminal or other sanctions. **Including provisions to criminalise specific forms of VAWG, including, but not limited to: Doxing; Image based Sexual Abuse; Sextortion; Trolling; Hate Speech; and Online stalking or sexual harassment. The Directive would establish minimum rules concerning the definition of the crime of online violence against women, and establish related sanctions, as well as to establish measures to support the action of Member States in the field of prevention of this crime.**

These dispositions of the Directive must be expressly aligned with all relevant existing and proposed EU frameworks including the Directive 2012/29/EU *establishing minimum standards on the rights, support and protection of victims of crime* and the EU Strategy on Victims Rights (2020-2024), the Directive No. 2011/36 *on preventing and combating trafficking in human beings and protecting its victims*, the Directive No. 2011/93 *on combating the sexual abuse and sexual exploitation of children and child pornography*, the Digital Services Act proposal, and any potential initiative on hate speech and crime.

Recommendations

The EU and its Member States have a legal obligation to prevent and combat male violence against women and girls, as per international law and obligations in the EU treaties relative to equality between women and men. Furthermore, it is evident that there is a lack of harmonisation in the EU and that many legal gaps exist to address the full continuum of VAWG in all its forms, including sexual exploitation and online violence, which are not currently criminalised in the Istanbul Convention.

²⁷ In relation to the definition of “computer crime”, the European Commission in the 2007 Communication “Towards a general policy on the fight against cybercrime” noted that the terms “cybercrime”, “computer crime”, “computer-related crime” or “high-tech crime” are often used interchangeably.

²⁸ [EPRS_STU\(2021\)662621_EN.pdf \(europa.eu\)](#)

²⁹ [EUR-Lex - 32008F0913 - EN - EUR-Lex \(europa.eu\)](#)

To achieve a Feminist Europe free from all forms of violence against women and girls, the EWL therefore recommends the following to the European Commission, which must be backed through the political support and orientation of the European Parliament and EU Council:

1. **Adopt a comprehensive framework to prevent and combat all forms of violence against women and girls from a feminist, gender-sensitive and intersectional perspective. The cornerstone of this framework will be a Directive on all forms of violence against women and girls** introducing common provisions to strengthen the prevention of these crimes, the protection of the victims and the prosecution of perpetrators thereof, and taking into due consideration CEDAW and other international conventions and instruments in relation to women's and girl's rights. The Directive should:
 - i. Adopt and enhance the **standards in the Istanbul Convention** regarding protection, early identification of victims, access to justice, compensation and reparation;
 - ii. Address **all forms of violence against women and girls**, including in the work-related and public sphere online or offline.
 - iii. As per Article 3(a) of the Istanbul Convention, **define 'violence against women and girls'** as a 'violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.'
 - iv. Expand on the forms of violence laid out in the Istanbul Convention, and include, as per Article 83(1) of the TFEU, a **legal definition of 'sexual exploitation'** that clearly recognises an absence of consent as a 'form of gender-based violence against women and girls which consists in the commercialisation of a woman's body for obtaining of financial or other benefits through the involvement of another person in prostitution, sexual servitude or other kinds of sexual (or reproductive) services, including pornographic acts or the production of pornographic materials. It results in physical and psychological harm.'³⁰
 - v. Recognise the **online space as a facilitator of violence against women and girls**, and criminalise acts of violence explicitly perpetrated in the online space including, but not limited to image-based sexual abuse, sexist hate speech and doxing. A **definition of 'online violence against women and girls'** should go hand-in-hand with the definition provided by the UN Special Rapporteur on violence against women: 'any act of gender-based violence against women that is committed, assisted or aggravated in part or fully by the use of ICT, such as mobile phones and smartphones, the Internet, social media platforms or email, against a woman because she is a woman, or affects women disproportionately'³¹.'
 - vi. **Seek harmonisation of existing EU legislative instruments relative to forms of violence against women and girls**, including: Directive 2012/29/EU *on common*

³⁰ This definition is based on an adaption of the definition of child sexual exploitation in the Directive on child sexual exploitation and abuse and child pornography.

³¹ <https://undocs.org/A/HRC/38/47>

minimum standards on the rights, support and protection of victims; Directive 2006/54/EC on the principle of equal treatment for women and men, and the definition of harassment and sexual harassment as a form of violence against women; Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims; Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography; and relevant provisions of the Digital Services Act and any upcoming legislation on hate speech and crime.

- vii. Include measures and provisions to strengthen the rights, support and protection of the victims of violence against women and girls, based on the results of the evaluation of the Directive 2012/29/EU, the Victim's Rights Directive.
- viii. Include common standards for **data collection on violence against women and girls** to ensure a coherent system with consistently understood definitions, such as femicide, while ensuring public access to such data is also mentioned.
- ix. Ensure the rights of **migrant women and girls are protected**, specifically in granting autonomous residency status. Provisions should ensure that gender-based asylum claims are considered, that reception procedures are gender-sensitive, and that the principle of *non-refoulement* is applied to victims of violence against women and girls.
- x. Call on EU Member States to work closely with **women's civil society organisations**, including specialised organisations working with survivors of violence against women and girls with a gender-sensitive approach, in particular on awareness-raising campaigns, research and education programmes, training, and the monitoring and evaluation of prevention and protection measures, as well as of related legislation, policies and institutional practices being in place.
- xi. Guarantee an **EU Coordinator on VAWG** with national coordinating bodies per Member State and structured engagement with civil society organisations.
- xii. Consider victims' support services as essential services (as per in the European Pillar of Social Rights);
- xiii. Set up a mechanism or body, or mandate an existing mechanism or body (i.e. EIGE), to regularly monitor and assess the implementation and effectiveness of the legal initiative, at EU and Member State levels.

2. Ensure strong legal basis for such a Directive by:

- a. Expanding the **list of Eurocrimes under Article 83(1)** of the TFEU to 'violence against women and girls' (thereby activating the *passerelle clause*), recognising that the cross-border requirement can be overcome through the need for EU member states to address this phenomenon on a 'common basis'.
- b. Alternatively and only if the first option cannot be pursued, **the EWL recommends to:**
 - i. legislate on other forms of violence on the basis of **Article 83(2) of the TFEU** to adopt provisions that ensure harmonisation of criminal measures and sanctions of VAWG, with additional basis of **Article 19(1) of the TFEU** to combat

discrimination in which VAWG is recognised as a form of discrimination against women and girls as per international standard.

- ii. Based on the Eurocrime 'sexual exploitation of women' under Article 83(1) TFEU, **introduce provisions on sexual exploitation and abuse of women** (as the Commission did with regard to Directive 2011/93 *on combating the sexual abuse and sexual exploitation of children and child pornography*), tackling prostitution and pornography while with a focus on 'abuse of women' to extend provisions on rape and sexual violence.
- iii. proposing dispositions **on online violence against women and girls** as a means to address 'computer crimes' as a Eurocrime under Article 83(1) TFEU, which to date remains undefined, and contains provisions to criminalise specific forms of VAWG, including, but not limited to: Doxing; Image based Sexual Abuse; Sextortion; Trolling; Hate Speech; and Online stalking or sexual harassment.



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