



**EWL recommendations on the Directive and a comprehensive legal framework
 for addressing the continuum of violence against women and girls**

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EWL recommendations on the Directive and a comprehensive legal framework for addressing the continuum of violence against women and girls

Introduction

The European Women's Lobby (EWL) welcomes the proposal for a [Directive on Violence against Women and Domestic Violence](#) and believes that the proposed Directive fills significant gaps in relation to violence against women and girls (VAWG) within the European Union. Violence against women and girls threatens the security of more than half of the population in the EU, affecting over 250 million women and girls. One in every three women in Europe is affected by physical and/or sexual violence and one in every two women in the EU has experienced sexual harassment at some point since the age of 15, with intersecting forms of discrimination severely increasing the risk of VAWG¹.

After decades of advocacy from EWL and other women's rights organisations and activists on the ground; in the third year of the COVID-19 pandemic, which has had devastating effects on gender equality and a historic spike in VAWG and especially domestic violence,² this proposal historically recognises VAWG as a systemic problem at the EU level and does not relegate it to the private sphere. Furthermore, with the [EU accession to the Council of Europe Convention on preventing and combatting violence against women and domestic violence \(the Istanbul Convention\) on unjustified hold](#), and the current backlash against women's rights in certain member states, it is more than timely for the Commission to deliver on one of its [political priorities](#).

Male violence against women and girls is a long-term systemic problem in Europe that knows no geographical boundaries³ and is a fundamental **human rights violation** that contravenes EU values as specified in 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 men⁴ which is counter to Article 19 of the TFEU on non-discrimination and one of 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 violence⁵ 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 sexist and gender stereotypes

¹ 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.

² European Institute for Gender Equality, 2021: [The Covid-19 pandemic and intimate partner violence against women in the EU | European Institute for Gender Equality \(europa.eu\)](#).

³ See EWL's position paper "[Towards a Europe Free from all forms of violence against women](#)", (2010).

⁴ See CEDAW General Recommendation No. 19 (1992) paragraph 1; CEDAW General Recommendation No. 35 (2017), paragraph 10.

⁵ Professor Liz Kelly established the concept of a 'continuum of violence' in her book "Surviving Sexual Violence", (1998).

that are assigned to women and men in society.⁶ 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 persistent and unequal power relations and inequalities between women and men.

In the following analysis of the proposal, EWL pinpoints the highlights of the proposal, as well as identifies the key concerns and areas for improvement through proposed amendments.

I. The Directive creates a stronger EU legislative framework to tackle VAWG and support its victims – Elements for keeping and reinforcing in the current EC proposal

For the first time, an EU Directive recognises violence against women and girls as a subject for EU legislation. This Directive has the potential to make significant progress in many areas associated with preventing and combating violence against women and girls in the EU, as explained below.

1. Istanbul Convention as the minimum standard for the Directive and source of agreed language

The EWL welcomes that the proposed Directive uses the **Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention)**, signed by the EU in 2017, as key reference and starting point. The proposal includes the adoption and enhancement of the gold standards of the Convention, to date the most comprehensive international treaty on the topic. The current proposal uses the Istanbul Convention's **agreed language and its structural understanding of the phenomenon of VAWG**. This agreed language should be present throughout the text of the Directive and EWL has key proposals to ensure that this is the case (see Chapter II of this paper).

Furthermore, EWL welcomes the dual purpose of the Directive of: i) achieving the same objectives as those of the Convention, and ii) enhancing its standards based on the recommendations related to current trends and new developments from the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) in the context of its monitoring of the Convention. Concretely, the text in the proposal improves consent-based definitions of specific forms of sexual violence and addresses recent phenomena not specifically addressed in the Convention, such as online violence against women.

2. Solid legal basis: Article 83.1 on sexual exploitation and computer crimes and Article 82.2 on rights of victims

The European Commission issued its proposal on Directive before pursuing the addition and recognition of violence against women as a Eurocrime in Article 83.1. In this scenario, and as suggested by the EWL [in their recent advocacy papers](#),⁷ the current Directive proposes to fill in a crucial gap in criminal EU legislation by proposing definitions of specific forms of sexual exploitation of women and of online violence, using as a legal

⁶ 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'.

⁷ EWL call for an EU Horizontal Directive to prevent and combat all forms of VAWG (2021). [Europe needs an EU horizontal Directive to prevent and \(...\) \(womenlobby.org\)](https://www.womenlobby.org/en/advocacy/eu-horizontal-directive-to-prevent-and-combat-all-forms-of-vawg-2021)

basis references to “trafficking and sexual exploitation of women and children” and “computer crimes” in the list of Eurocrimes in Article 83.1 TFEU. This legal basis was used to adopt in 2011 the Directive on combating the sexual abuse and sexual exploitation of children and child pornography (11/93/EU).

Article 83.1 TFEU related to the list of Eurocrimes refers to: “trafficking and sexual exploitation in women and children.” In line with EWL analysis, the European Commission acknowledges that – while there is legislation covering trafficking (EU anti-trafficking Directive 11/36/EU) and sexual exploitation of children (Directive 2011/93/EU) – there has been a crucial gap when it comes to the sexual exploitation of adult women.

Furthermore, the EC proposal is based on Article 82.2 TFEU which provides the legal basis for laying down minimum rules on the rights of victims of crime in proposing a set of measures that will help respond specifically to the needs of victims of violence against women and domestic violence.

We call on the European Parliament and the European Council to endorse the proposed legal basis and to adopt a comprehensive definition of sexual exploitation of women and online violence against women that allows for the addressing the structural dimension of these human rights violations (see our proposals to strengthen these aspects in Chapter II.2 of this paper).

3. Relevant definitions of just six criminal offences in relation to sexual exploitation of women and online violence against women

The current proposal brings forward the legal definition of two forms of sexual exploitation: rape as criminal offence based on the lack of consent and female genital mutilation; and the definition of four key forms of online violence: the criminalisation of non-consensual sharing of intimate material; cyber stalking; cyber harassment; and cyber incitement to violence or hatred. The Directive also seeks to harmonise penalties and limitation periods for the prosecution and decisions about on the forms of violence covered therein.

Based on EWL expertise, the EWL proposes a set of amendments to these definitions to ensure the best framings that will ensure access to justice and reparation; and calls for the adoption of other key definitions of crimes to ensure that all forms of sexual exploitation of women and online violence against women are covered. (See Chapter II of this paper.)

The EWL notes with concern that, due to lack of a legal basis – i.e., the lack of inclusion of VAWG as a Eurocrime – the current proposal does not define all forms of violence against women and domestic as legal offences. Therefore, the current proposal will not be enough to ensure that the full continuum of violence against women is addressed, thus further action is needed in this respect (See EWL proposals to overcome this situation in Chapters II.5 and 6 of this paper).

4. Harmonised standards on prevention, protection, prosecution and integrated policies (the 4 P’s approach) for all victims of violence against women and domestic violence everywhere in the EU

Following EWLs recommendations, the Directive establishes minimum standards on prevention, protection, prosecution, and integrated policies to address violence against women and domestic violence in all EU

Member States. This Directive is, in this regard, a groundbreaking instrument which will help to greatly improve national systems across Member States of the EU.⁸ The provisions of the Directive apply to all victims of violence against women and domestic violence (as per the definitions existing in each Member State), not only the victims of the crimes defined in the Directive. This Directive is a key step in the direction of a harmonised 4 P's approach⁹ to violence against women and girls in the EU, and is especially necessary for Member States that have not ratified nor adequately implemented the Istanbul Convention. The analysis of the EWL Observatory on violence against women on the implementation of the Istanbul Convention, published in 2021, highlights important gaps in the implementation of the Convention that are strongly linked to the lack of a gender-sensitive approach and an intersectional approach.¹⁰ Based on this analysis, the EWL offers a set of recommendations to ensure that the most comprehensive gender-sensitive approach is strengthened in all the provisions of the Directive, following the mandate in Article 6 of the Istanbul Convention on gender-sensitive policies (See Chapter II.3).

II. Ensure a fully comprehensive EU legal framework aimed at the disruption of all forms of VAWG - Areas to be strengthened and EWL amendments

The EWL calls on the European Parliament and the Council of the EU to:

1. Improve definitions contained in Article 4 by:
 - ensuring that **violence against women is defined as a human rights violation**; and that the structural dimension of the causes and consequences of this violence is recognised
 - recognising that women are overwhelmingly victims of the violence covered in the Directive, and adding an intersectional dimension
 - adding a comprehensive definition of sexual exploitation
 - amending the definition of cyber violence to add a gender-sensitive perspective
 - amending the definition of sexual harassment to ensure that other areas of life are covered and not only the work sphere. Add a gender-sensitive perspective to the definition to recognise that women are disproportionately impacted.
2. Tackle comprehensively the full spectrum of forms of **sexual exploitation** of women:
 - include a comprehensive definition of sexual exploitation in the Article on definitions,
 - ensure that Chapter 2 contains the following offences related to sexual exploitation:
 - all forms of **sexual violence, including rape and stealthing**, integrating the most advanced consent based definitions;
 - all forms **commercialisation of women's bodies and sex-based exploitation**¹¹, adopting

⁸ See EWL's [Recommendations on the 4 P's of the IC](#), (2022).

⁹ The four pillars of the Istanbul Convention: Prevention, Prosecution, Protection and Coordinated policies. <https://rm.coe.int/coe-istanbulconvention-brochure-en-r03-v01/1680a06d4f>

¹⁰ European Women's Lobby (2021): "Towards a Europe free from male violence against women and girls: Recommendations from the European Women's Lobby to end violence against women and girls in Europe once and for all". Chapter II on Persisting obstacles in eliminating violence against women and girls. Available here: <https://www.womenlobby.org/IMG/pdf/ic-2.pdf>.

¹¹ In order to try to get around the legal discussion on reproductive exploitation/violence being part or not of the definition of "sexual exploitation", EWL proposes to use an alternative term and link "sexual exploitation of women" to "**sex-based exploitation and sex-based violence**" which will cover all the forms of violence and exploitation over women's sexuality and to the reproductive capacities of women.



- dispositions from the Equality Model to end demand and address **prostitution and pornography and surrogacy**;
- **Female genital mutilation** and coercion to other **elective surgeries**; and all other forms of sex-based violence and abuse of women's sexuality and reproductive rights included in the Istanbul Convention: **forced abortion and forced sterilisation and forced marriage**
 - Recognise the denial of sexual and reproductive health and rights, including forced pregnancy, and obstetric violence as forms of institutional violence.
3. Complete definitions of offences to ensure maximum protection against prevalent forms of **cyber violence against** women and remove reference to multitude of end-users. Reinforce mechanisms to remove material: improve the accountability of States and providers of intermediary services.
 4. Adopt a stronger gender-sensitive approach and intersectional approach to prevention, access to justice, and protection of victims that recognises the key role of women's organisations and specialist services.
 5. Ensure the use of the internationally agreed language and policies of the European Parliament throughout the text, concretely refer to "women in prostitution" and eliminate any reference to "sex workers."
 6. Seek the inclusion of **VAWG in the list of Eurocrimes**; finalise EU accession to the Istanbul convention and ILO Convention 190 on violence and harassment; all with a view to strengthening the legal basis for EU action and ensuring that **all forms of violence** are associated with legislation within a comprehensive EU legislative framework.
 7. Appoint an EU Coordinator for ending all forms of violence against women and girls, with a strong political mandate to ensure coherence in the implementation of all the different legislative instruments in place and future legislative and policy developments with the goal of ending the full continuum of violence against women and girls.

1. Improve definitions in Article 4: violence against women is a human rights violation with a structural dimension;

The proposed definition of violence against women in Article 4 is not aligned with the Istanbul Convention that states that "**violence against women**" is understood as **a violation of human rights and a form of discrimination against women**. This recognition – together with a gendered understanding of VAWG – is fundamental for obliging States to ensure the effective investigation and prosecution of offences and to take necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence (Articles 5 and 49 of the Istanbul Convention).

A gendered dimension should be included in the definition of victims to acknowledge that **women are the overwhelmingly majority of victims** of the forms of violence covered under this Directive. Gender should be defined as per the standards of the Istanbul Convention.

EWL notes with concern that Article 4 on definitions does not actually contain a definition of "**sexual exploitation of women**," while this form of violence is precisely the one listed in the Eurocrime and the legal basis of this proposal. A comprehensive definition is proposed below based on the definition of sexual exploitation used in the European Commission in the Explanatory Memorandum of the Directive, which follows the precedent of Directive 11/93/EU on the sexual exploitation of children and child abuse.

Following EWL recommendations, definitions in Article 4 include a reference to **cyber violence** that works as **a framework concept** that helps recognise how the use of internet and communication tools has become characteristic in the perpetration of violence.¹² However, the proposed definition is not gender-sensitive and lacks recognition of how this violence affects women because they are women, and how women are disproportionately affected, with women and girls affected by intersecting forms of discrimination: e.g. women of colour, women and girls with disabilities, migrant women, Roma women and girls, women with underlying health conditions, and women impacted by prostitution and pornography being even more severely impacted.

EWL also proposes to amend the definition of sexual harassment to ensure that the work sphere and other spheres of life are addressed.

Article 4 – Definitions	Article 4 – Definitions
<p>For the purposes of this Directive, the following definitions shall apply:</p> <p>(a) “violence against women” means gender-based violence, that is directed against a woman or a girl because she is a woman or a girl or that affects women or girls disproportionately, including all acts of such violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;</p> <p>(b) “domestic violence” means all acts of violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering, that occur within the family or domestic unit, irrespective of biological or legal family ties, or between former or current spouses or partners, whether or not the offender shares or has shared a residence with the victim;</p> <p>(c) “victim” means any person, regardless of sex or gender, unless specified otherwise, who has suffered harm, which was directly caused by acts of violence covered under this Directive, including child witnesses of such violence;</p> <p>(d) “cyber violence” means any act of violence covered by this Directive that is committed, assisted or aggravated in part or fully by the use of information and communication technologies;</p> <p>(e) “information and communication technologies” means all technological tools and resources used to digitally store, create, share or exchange information, including smart phones, computers, social networking and other media applications and services;</p>	<p>Proposed amendment</p> <p>(a) “violence against women” is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that are directed against a woman or a girl because she is a woman or a girl or that affects women or girls disproportionately, including all acts of such violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life; violence against women has deeply rooted structures in the patriarchal system; it is one of the crucial social mechanisms by which women are forced into a subordinate position compared to men.</p> <p>(b) “domestic violence” means all acts of gender-based violence against women and girls, sexual, psychological or economic harm or suffering that occur within the family or domestic unit, irrespective of biological or legal family ties, or between former or current spouses or partners, whether or not the offender shares or has shared a residence with the victim; women are disproportionately affected by this violence.</p> <p>(c) “victim” means any person, regardless of sex or gender, unless specified otherwise, who has suffered harm, which was directly caused by acts of violence covered under this Directive, including child witnesses of such violence; women and their children are overwhelmingly victims of the violence covered under this Directive; Women experiencing discrimination based on a combination of sex and other intersectional grounds – e.g. age, race, ethnicity, sexual orientation, disability, migration status, and socioeconomic class – are particularly affected.</p>

¹² 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 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. Russia¹² and Buturuga v. Romania¹² cases.

<p>(f) “providers of intermediary services” means providers of the services as defined in Article 2 point (f) of Regulation (EU) YYYY/XXX of the European Parliament and of the Council¹⁷ [Regulation on a Single Market for Digital Services];</p> <p>(g) “sexual harassment at work” means any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, where it occurs in the course of, linked with, or arising in matters of employment, occupation and self-employment, with the purpose or effect of violating the dignity of the victim, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment;</p> <p>(h) “child” means any person below the age of 18 years;</p> <p>(i) “age of sexual consent” means the age below which, in accordance with national law, it is prohibited to engage in sexual activities with a child;</p> <p>(j) “dependant” means a child of the victim or any person, other than the offender or suspect, living in the same household as the victim, for whom the victim is providing care and support.</p>	<p>d) “gender” shall mean the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men;</p> <p>e) Sexual exploitation of women and girls is understood as any actual or attempted abuse of a position of vulnerability, differential power or trust, including, but not limited to, profiting monetarily, socially or politically from sexual acts with another person and from the commercialisation of a woman’s body. The exploitative element refers to the achievement of power or domination over another person for the purpose of: sexual gratification, financial gain or advancement, and preserving and asserting domination to exert social or financial control over girls’ and women’s sexuality and their reproductive health.</p> <p>(f) “cyber violence” means any act of violence against women, domestic violence, and/or any act of violence covered by this Directive that is committed, assisted or aggravated in part or fully by the use of information and communication technologies; online violence against women is understood as any act of gender-based cyber violence against a woman because she is a woman or affects women disproportionately.</p> <p>(h) “sexual harassment at work” means any form of unwanted verbal, non-verbal or physical conduct of a sexual nature that occurs in the course of, linked with, or arising in matters of employment, occupation and self-employment, but also in any other area of life, with the purpose or effect of violating the dignity of the victim, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment; women who are disproportionately affected by sexual harassment.</p>
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2. Sexual violence: comprehensively tackle the phenomenon and the full spectrum of offences.

The EWL welcomes the **comprehensive approach to sexual exploitation** used in the European Commission in the Explanatory Memorandum of the Directive. This approach, detailed below, motivates the need to legislate at the EU level on **sexual violence, violence related to woman’s sexuality, and the abuse and commercialization of women’s bodies (which can be understood as exploitation based on sex).**

Following the legal motivations that are already present in the Directive 11/93/EU on the sexual exploitation of children and child abuse, the Commission in this new proposal considers that sexual exploitation “can be understood as **any actual or attempted abuse of a position of vulnerability, differential power or trust, including but not limited to, profiting monetarily, socially or politically from a sexual act with another person. The exploitative element can refer to the achievement of power or domination over another person for the purpose of sexual gratification, financial gain and/or advancement.**”

On this basis, EWL welcomes the inclusion of a consent-based definition of rape and female genital mutilation, as it presupposes the incorporation of these elements. Concretely, the Explanatory memorandum of the European Commission asserts that “female genital mutilation is an exploitative practice performed for the

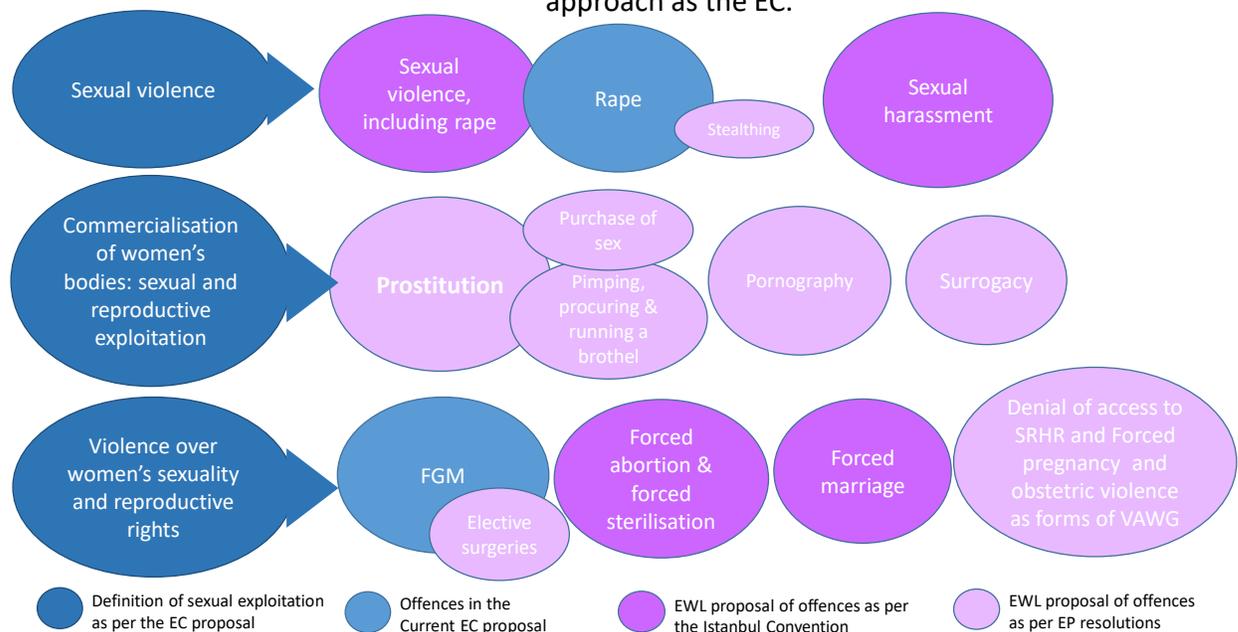
purpose of preserving and asserting domination over women and girls to exert social control over girls and women's sexuality. It reflects the typical power imbalance between women and men, which is also prevalent in the case of rape."

However, the EWL notes with concern that Chapter 2 on offences concerning the sexual exploitation of women and children are limited to only two offences: rape, and female genital mutilation. The full phenomenon of sexual exploitation is thus far from being covered, as shown in the graphic below. The EWL sees it as a lost opportunity to create a strong legislative framework that protects women from all forms of sexual violence and exploitation in the EU.

Based on the comprehensive approach used by the Commission in the memorandum and other pre-existing EU legislation, as well as European Parliament resolutions and international binding standards such as the Istanbul Convention, EWL demands that all of the following forms of sexual exploitation against women are defined as criminal offenses:

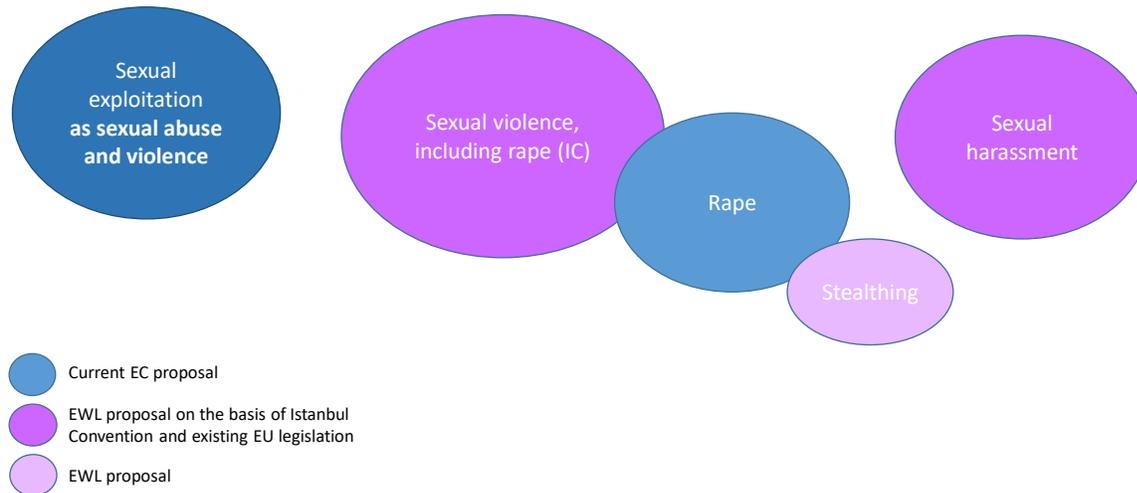
- all forms of sexual violence and abuse, including rape and sexual harassment;
- all forms of exploitation based on sex: abuse and commercialisation of women's bodies and their reproductive health;
- all forms of abuse, violence and control over women's sexuality.

Legal basis Article 81.3 : Sexual exploitation of women, comprehensive proposal using same approach as the EC.



EWL calls on the European Parliament and the Council to adopt a comprehensive approach to the definition of sexual exploitation, to ensure that this definition is included in the Directive, and to ensure that all forms of sexual violence and sexual exploitation are criminalised and recognised, as suggested below.

Sexual violence, including rape and sexual harassment



The EWL welcomes the definition of *rape* in a way that is similar to the standards of the Istanbul Convention. It is an important step to ensure that all pieces of legislation in the EU include the notion of “consent” within their definitions of rape and that they avoid the force-based definitions still prevalent in many EU Member states.¹³ This is a great improvement toward a “yes-means-yes’ approach’. The proposed **definition goes even further and includes a dis/ability-sensitive approach**.¹⁴ The EWL proposes taking a step further to recognise that elements such as fear, intimidation, chemical submission, and precarity also impede women from acting according to free will. Furthermore, it is fundamental to ensure that rape and other forms of sexual violence between intimate partners can also be prosecuted.

However, the crime of rape is limited to the act of penetration and therefore does not cover the full extent of the problem of **sexual violence** that must be defined as non-consensual acts of a sexual nature, as per the standards of the Istanbul Convention.

The EWL considers of fundamental importance **to address the phenomenon of sexual violence comprehensively and concretely call on the European Parliament and the European Council to:**

- **add a broader definition of sexual violence, including rape** (as per the approach in the Istanbul Convention) and also **stealthing**, which refers to intentionally removing prophylaxis or birth control method during sexual act without the consent of the victim;

¹³ EWL has been sounding the alert about this for 10 years. See EWL Barometer on Rape in Europe 2013, available [here](#).

¹⁴ See Chapter 2 Article 5 (2): “where the woman is unable to form a free will due to her physical or mental condition, thereby exploiting her incapacity to form a free will, such as in a state of unconsciousness, intoxication, sleep, illness, bodily injury or disability.”

- include a definition of sexual harassment as a criminal offence that extends beyond the world of work, as per the provisions of the Istanbul Convention, and which enhances existing EU legislation. From 83 million to 102 million women (45% to 55% of all women) in the EU-28 have experienced sexual harassment since the age of 15 according to a FRA survey released in 2014. Sexual harassment is included in Article 40 of the Istanbul Convention and there is already EU anti-discrimination legislation that recognises harassment and sexual harassment as a form of discrimination. This legislation is limited to the field of work and vocational training, along with the provision of and access to goods and services. However, current EU legislation does not consider sexual harassment as an offence or a human rights violation. The current EU legislation has not proven sufficiently effective at combatting these phenomena in practice. There is a need to expand the concept beyond the working environment, in line with the Istanbul Convention. In most countries, the scope of the prohibition on sex-based harassment and sexual harassment is already wider than in EU law, and in some of those countries harassment and sexual harassment are prohibited in all spheres of life. This seems to indicate that states consider the current EU legal framework as insufficient to fully address sexual harassment and harassment based on sex (De Vido & Sosa, 2021, p.10).¹⁵ The EWL calls on the European Council to ratify the ILO Convention 190 on violence and harassment in the interest of the European Union.

Article 5 – Rape	Article 5 – Sexual violence, including rape and stealthing Proposed amendment
<p>1. Member States shall ensure that the following intentional conduct is punishable as a criminal offence:</p> <p>(a) engaging with a woman in any non-consensual act of vaginal, anal or oral penetration of a sexual nature, with any bodily part or object;</p> <p>(b) causing a woman to engage with another person in any non-consensual act of vaginal, anal or oral penetration of a sexual nature, with any bodily part or object.</p> <p>2. Member States shall ensure that a non-consensual act is understood as an act which is performed without the woman's consent given voluntarily or where the woman is unable to form a free will due to her physical or mental condition, thereby exploiting her incapacity to form a free will, such as in a state of unconsciousness, intoxication, sleep, illness, bodily injury or disability.</p> <p>3. Consent can be withdrawn at any moment during the act. The absence of consent cannot be refuted exclusively by the woman's silence, verbal or physical non-resistance or past sexual conduct.</p>	<p>1. Member States shall ensure that the following intentional conduct is punishable as the criminal offence of sexual violence:</p> <p>a) engaging in other non-consensual acts of a sexual nature with a person;</p> <p>b) causing another person to engage in non-consensual acts of a sexual nature with a third person.</p> <p>2. Member States shall ensure that the following intentional conduct is punishable as the criminal offence of rape:</p> <p>c) engaging with a woman in any non-consensual act of vaginal, anal, or oral penetration of a sexual nature, with any bodily part or object; or</p> <p>(d) causing a woman to engage with another person in any non-consensual act of vaginal, anal, or oral penetration of a sexual nature, with any bodily part or object.</p> <p>3. Member States shall ensure that the following intentional conducts are punishable as the criminal offence of stealthing:</p> <p>a) intentionally and secretly ceasing to use any method of prophylaxis or reproductive control during a sexual act without the consent of the victim.</p> <p>42. Member States shall ensure that a non-consensual act is understood as an act performed without the woman's consent given voluntarily or where the woman is unable to form or express free will due to her physical, mental or/and socioeconomic condition or due</p>

¹⁵ De Vido and Sosa (2021): "Criminalisation of gender-based violence against women in European States, including ICT-facilitated violence" <https://www.equalitylaw.eu/downloads/5535-criminalisation-of-gender-based-violence-against-women-in-european-states-including-ict-facilitated-violence-1-97-mb>

	<p>to an unequal balance of power; thereby exploiting her incapacity to form or express a free will, such as in a state of fear, unconsciousness, intoxication, chemical submission, sleep, illness, bodily injury, disability, precarity or intimidation.</p> <p>5. Consent can be withdrawn at any moment during the act. The absence of consent cannot be refuted exclusively by the woman's silence, verbal or physical non-resistance or past sexual conduct or relationship with the perpetrator. Consent is needed for each separate sexual act.</p> <p>6. The provisions of paragraphs 1, 2 and 3 apply to acts committed against former or current spouses or partners as recognised by internal law.</p>
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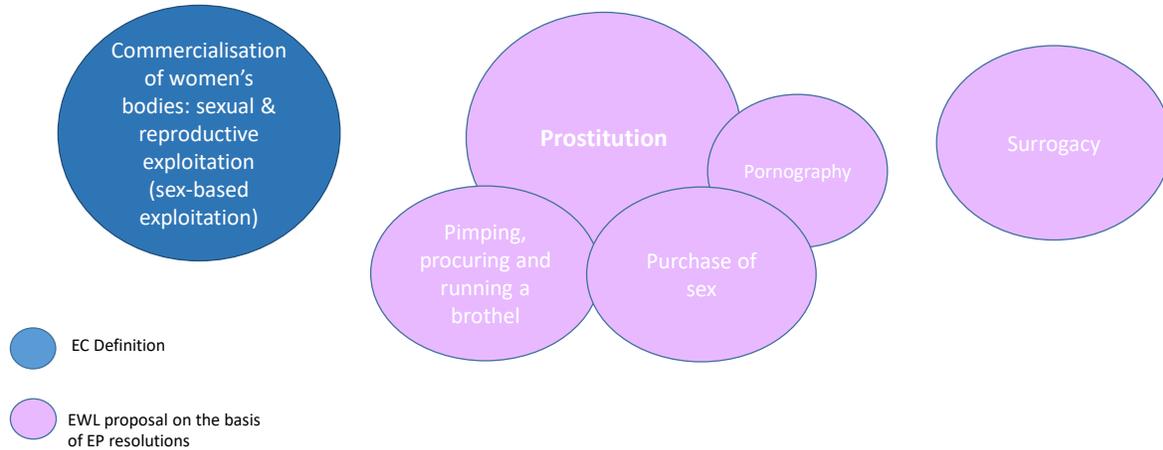
<p>Ad hoc Article 6 - Sexual Harassment</p> <p>NEW</p> <p>Member States shall ensure that the following intentional forms of conduct are punishable as criminal offences:</p> <p>(a) any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment.</p>

When it comes to obstacles to access to justice and reporting it is important to note that victim blaming attitudes are still persistent in most EU countries, particularly in cases of sexual violence. In judicial proceedings evidence relating to the sexual history and sexual conduct of a victim is sometimes exploited in order to discredit the evidence presented by the victim. This leads to trauma and secondary victimisation of the victims¹⁶. The defence sometimes uses previous sexual behaviour evidence in order to challenge the respectability, the credibility and the lack of consent of victims. At court proceedings victims are still asked about their sexual preferences, sexual history, possible abortions, drug and alcohol use. Questions, enquiries and evidence concerning the conduct or attire of the victims in the moment when the sexual abuse happened are also frequent and should also be prohibited and the article on the protection of victim's private life should therefore be reinforced as follows.

<p>Article 22 Protection of victim's private life</p> <p>Without prejudice to the rights of defence, Member States shall ensure that, in criminal investigations and court proceedings, questions, enquiries and evidence concerning past sexual conduct of the victim or other aspects of the victim's private life related thereto are not permitted.</p>	<p>Article 22 29 Protection of victim's private life</p> <p style="text-align: center;">Proposed amendment</p> <p>Without prejudice to the rights of defence, Member States shall ensure that, in criminal investigations and court proceedings, questions, enquiries and evidence concerning past sexual history and/or victim-blaming attitudes towards the conduct or attire of the victim or outfit or other aspects of the victim's private life related thereto are not permitted.</p>
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¹⁶ European Women's Lobby (2021): "Towards a Europe free from male violence against women and girls: Recommendations from the European Women's Lobby to end violence against women and girls in Europe once and for all". Chapter II on Persisting obstacles in eliminating violence against women and girls. Available here: <https://www.womenlobby.org/IMG/pdf/ic-2.pdf>. <https://www.womenlobby.org/IMG/pdf/ic-2.pdf>

Sexual abuse and commercialisation of women's bodies: prostitution, pornography and surrogacy



Another key aspect of sexual violence and sexual exploitation regrettably left unaddressed in the current European Commission proposal is the commercialisation of a woman's body for the obtaining of financial or other benefits through the involvement of another person in prostitution, procuring, sexual servitude or other kinds of sexual or re-productive services. **Prostitution, pornographic acts, and the production of pornographic materials and surrogacy** should be recognised as forms of sexual exploitation and sexual violence and covered in the proposal as suggested below.

Ad hoc article 11 - Sexual violence, commercialisation of women's bodies and reproductive exploitation of women

NEW

Member States shall ensure that the commercialisation of a woman's body for the obtaining of financial or other benefits through the involvement of another person in prostitution, sexual servitude, or other kinds of sexual or reproductive services such as surrogacy, including pornographic acts or the production of pornographic materials, is punishable as criminal under this offence.

Member States should ensure that such conduct should be considered a criminal offence when the perpetrator is an EU citizen even if the offence is committed outside the EU against a non-EU resident victim.

Prostitution – Adoption of the Equality Model

Prostitution is a form of male violence against women and girls and sexual violence made possible through a system of neo-liberal and patriarchal exploitation of women's and girls' bodies and sexualities. Violence is endemic in the sex trade – from pimps to brothel owners, partners, traffickers and sex buyers. One study revealed that 70-95% of women in the sex trade reported physical assault, 60-70% reported rape, and 68% met the criteria for post-traumatic stress disorder (PTSD). Mortality rates for individuals in prostitution are also exceptionally high. Such high levels of violence are unconscionable – and inherent to a “business” that deals

in exploitation and coercion. Prostitution is not a matter of choice but of patriarchy and the violation of women's SRHR and human rights.¹⁷

In both EU ([Anti-trafficking directive](#)) and international law ([Palermo Protocol](#)), the “*exploitation of prostitution of others*” is considered to be a “*form of sexual exploitation.*” Under international human rights law, the scope of States' obligations to suppress all forms of “*exploitation of the prostitution of others*” is defined in the [UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others](#). The latter prohibits the exploitation of prostitution in all its forms and enshrines the criminalisation of any person who makes a profit from, or facilitates, the prostitution of another person, even with the consent of that person. In addition, Article 6 of the CEDAW Convention (ratified by all 27 members of the EU) expressly calls on States to eliminate “*all forms of traffic in women and exploitation of prostitution of women.*”

The EWL calls for the adoption at the European level of the Equality Model which entails the support and protection of women and girls in prostitution, the provision of exit services, including re-socialisation and job alternatives, and the criminalisation of all forms of coercion and procuring including the purchase of sex. With this model, women and girls in prostitution are not criminalised or sued contrary to the third parties who exploit them and make profits out of this violence. Pimps, traffickers, and so-called 'buyers' should always be held accountable and condemned for actively taking part in this human rights violation. The Equality model requires establishing criminal penalties for those that perpetuate the system – i.e., both pimps and so-called 'buyers' who are integral elements of the system. The duration of (minimum/maximum) penalties should mirrored those for the crime of rape and follow the Swedish, French and Irish system of penalties. This is the only way to fully respond to the violence and power inequalities at the heart of the sexual exploitation system.

A) Criminalise pimping, procuring and running a brothel

In EU law, the Directive 2011/93/EU on “combating the sexual abuse and sexual exploitation of children and child pornography”, recognises that “*sexual exploitation*” includes “*recruiting*”, “*profiting from*” or “*otherwise exploiting*” the prostitution or pornography of another person (in this context, a child). The European Parliament further recognises in [its resolution of 26th of February 2014 A7-0071/2014 “on sexual exploitation and prostitution and its impact on gender equality”](#) that the term “*sexual exploitation*” includes above all prostitution and its exploitation. The European Economic and Social Committee (EESC) in its opinion on combating violence against women and the proposed Directive also considers that procuring or profit derived from the sexual exploitation of another person should be included among the penalties under Chapter 2 of the Directive, on offences concerning sexual exploitation.¹⁸

¹⁸ European Economic and social Committee Opinion on combating violence against women (SOC/726-EESC-2022) available here: <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/combating-violence-against-women>



Ad hoc Article 12 - Offences concerning sexual exploitation: pimping, procuring and running a brothel

NEW

Member States shall ensure that the following intentional conduct are punishable as a criminal offences:

1. Procuring, hiring, or enticing another person for the purpose of prostitution;
2. Obtaining any profit from the prostitution of another person;
3. Helping, assisting, or protecting the prostitution of another;
4. Maintaining, monitoring, running, financing, or managing a brothel or any place suspected of accommodating prostitution;
5. Knowingly letting or renting a building or other place or any part thereof for the purpose of the prostitution of others.

In addition, the following actions will be understood as pimping and procuring; and be met with the same punishment:

6. Attempts to commit the above-mentioned acts or offenses;
7. Acting as an intermediary or accomplice to the above-mentioned acts;
8. Disseminating advertisements that promote prostitution.

b) End-demand approach – criminalise the purchase of sex

In line with the European Parliament [resolution](#) on sexual exploitation and prostitution and its impact on gender equality adopted in February 2014 and in line with the “[Equality model](#)”, the European Women’s Lobby calls for including this [position](#) in the final text of the Directive so that efforts can be focused on criminalising the purchase of sexual “services” while helping women victims of sexual exploitation to escape from this through the implementation of exit programmes that provide them with legal, health, housing and employment support. Furthermore, to ensure harmonisation with pre-existing EU legislative instruments already mentioned above, the EWL recommends that the Directive includes 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.¹⁹ In particular, the Anti-Trafficking Directive states that “Member States shall take appropriate measures, such as education and training, **to discourage and reduce the demand that fosters all forms of exploitation** related to trafficking in human beings” (Article 18.1) and that “in such initiatives, **Member States should adopt a gender perspective and a child-rights approach**” (paragraph 25). These elements can also be found in the [Directive 2011/93/EU](#) on combating the sexual abuse and sexual exploitation of children and child pornography where it is

¹⁹ This Directive is currently being reviewed by the European Commission and an updated text should be prepared by the fourth quarter of 2022. The European Women’s Lobby took part in the consultation dedicated to this update and you can read part of this feedback at the following link: [Feedback from: European Women’s Lobby \(europa.eu\)](#). This feedback especially highlights the request to remove the condition for the “buyer” to know that the woman being sexually exploited is a victim of trafficking to increase levels of prosecution and social understanding of unseen exploitation and violence within the wider system of sexual exploitation. The EWL proposes to include in the Directive on violence against women and domestic violence already an amendment to the Directive 2011/36/EU (article 18.4) to remove that reference (See document with EWL list of proposed amendments, article).

also mentioned that “Member States shall take appropriate measures, such as education and training, **to discourage and reduce the demand that fosters all forms of sexual exploitation of children**” (Article 23).

The European Parliament and the Parliamentary Assembly of the Council of Europe have already recognised that the criminalisation of the purchase of sex, not the selling, is a “*way of combating the trafficking of women and under-age females for sexual exploitation and improving gender equality.*”

Similarly, the EWL warns of the increasing trend to so-called phenomenon like “escorting”, “sugar dating”, and “sex-for-rent” that especially affect underage girls and women in their early twenties who are struggling to earn a decent living during their studies. Men who use the precarious living conditions of these girls and women to benefit from sexual favours should be held accountable and condemned.

Ad hoc Article 13 on the purchase of sex

NEW

Member States shall take the necessary measures to ensure that the intentional conduct referred to below is punishable:
Soliciting, accepting or obtaining relations of a sexual nature from a person, including on an occasional basis, in exchange for remuneration, a promise of remuneration, the provision of benefits in kind or the promise of such benefits.

c) Support women affected by sexual exploitation

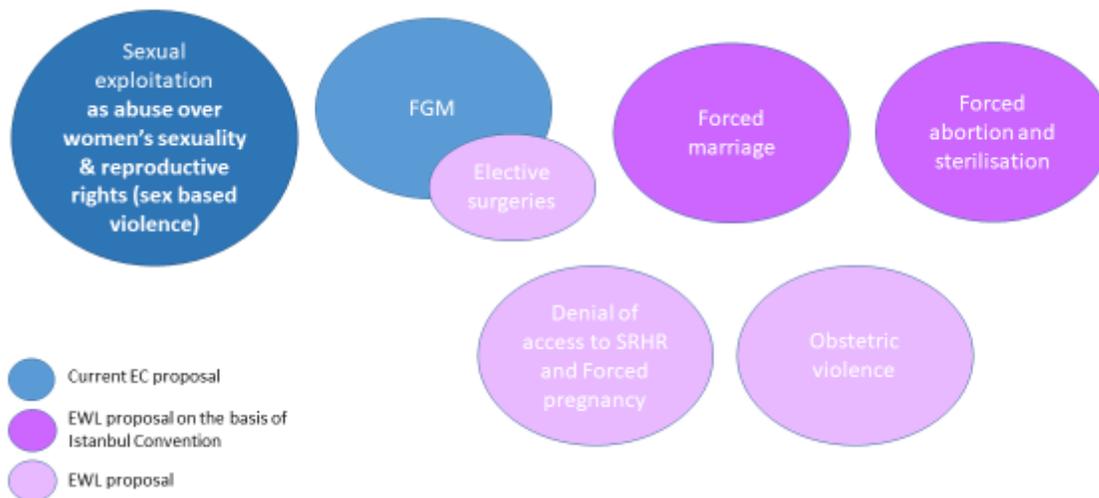
To fully tackle sexual exploitation, Chapter 4 on Victim Support should include **support, exit programmes and health services for those affected by sexual exploitation, as per the Equality Model**. Additional specific exit programmes for women and girls in sexual exploitation, prostitution and trafficking **should be referred to in the article on Specialist support to victims**, and specialist support and availabilities in women’s shelters need to be guaranteed (**Article 32**).

Surrogacy is a form of sex-based exploitation or reproductive exploitation that uses women’s bodies to reproduce children for a third party with or without financial agreement. It is a form of commodification of women’s bodies: no matter the regulation or the nature of the contract, it still remains a form of exploitation of the woman’s body and her reproductive organs. It is a form of industry embedded in the patriarchal system and profits from the exploitation of the poorest and most at-risk women and girls. Within the surrogacy system, those called “third-party mediators” (clinics, traffickers) often exploit poor women, migrant women or women from other at-risk groups. It is important to counteract the narrative that surrogacy is legitimate when it is non-commercial. The risks to the mother’s health are inherent to surrogacy. Therefore, surrogacy practice should be banned in EU Member States, including the international use of surrogacy. No woman who engages in surrogacy should face prosecution but they should instead be treated as victims of sexual and reproductive exploitation. Third parties found to be seeking to profit from engaging in the organisation of surrogacy should be criminalised and face serious sanctions.

- *A Legal definition of the offence of surrogacy will be proposed at a later stage -*

Pornography is recorded prostitution. It entails and encourages the objectification of women's and girls' bodies and sexualities and violence against women and girls, playing a key role in shaping boy's and men's conceptions of sexual relationships and experiences by promoting the commodification of women and girls, and the prioritisation of men's access to women's bodies and sexuality. Moreover, pornography cannot be tackled without denouncing the actual exploitation of women and girls to be found on pornographic websites. Indeed, pornography is publicly broadcasting sexual assault, rape, and acts of torture, as well as racist and sexist violence whether verbal, physical or sexual. It is often used as a means of grooming women for traditional prostitution and victims of sex trafficking are often filmed.

Violence over women's sexuality and reproductive rights



EWL welcomes the **criminalisation of Female Genital Mutilation (FGM)** in Article 6 of the proposal. The definition applies the same scope as the one in the Istanbul Convention. FGM is a human rights violation that specifically targets women and girls, affecting their wellbeing and their physical and their mental health. The organisation *End FGM* estimates that over 600,000 women are living with the consequences of FGM in Europe and that a further 190,000 girls and women are at risk of undergoing the harmful practice in 17 European countries alone.

When it comes to the specialist support for victims of female genital mutilation foreseen in Article 29, particular attention should be dedicated to refugee and migrant women and girls both in terms of information-sharing and resources for service provision since the latter are more likely to be exposed to this threat.

Moreover, the EWL warns of the danger of other harmful practices that promote the normalisation of dangerous **elective surgeries** and the hypersexualisation of women and girls such as aesthetic vaginoplasties ("designer vaginas") or labiaplasties, "virginity repair" surgery known as hymenoplasty, vaginal dilations, hormone

treatments, etc. Women and girls should never be physically or mentally coerced into undertaking such surgeries and must be informed of the risks deriving from these. This is why all forms of female genital mutilation and related coercive harmful practices should be included in the final version of the Directive.

Article 6 - Female genital mutilation	Article 76 - Female genital mutilation Proposed amendment
<p>Member States shall ensure that the following intentional conduct is punishable as a criminal offence:</p> <p>(a) excising, infibulating or performing any other mutilation to the whole or any part of the labia majora, labia minora or clitoris;</p> <p>(b) coercing or procuring a woman or a girl to undergo any of the acts referred to in point (a).</p>	<p>(b) coercing a woman or a girl to undergo any of the acts referred to in point (a) and any type of dangerous elective surgery such as aesthetic vaginoplasties (“designer vaginas”) or labiaplasties, “virginity repair” surgery known as hymenoplasty, vaginal dilations, hormone treatment, etc.</p> <p>(c) coercing or procuring a woman or a girl to undergo any of the acts referred to in point (a) and (b).</p>

Additionally, the EWL urges adding the definitions of **forced abortion, forced marriage and forced sterilisation** as criminal offenses involving forms of violence against women and girls based on oppression and subordination, as per the Istanbul Convention articles 37 and 39. Considering the comprehensive scope of the Directive and its recognition of the central importance of consent in its definition of rape, not including these forms of violence would constitute a gap and a missed opportunity. Indeed, including these forms of violence against women into the proposal would serve to align the text with the [Istanbul Convention](#) as well as with related human rights treaties. It is also crucial for consistency within the Directive that these additional dispositions reflect a willingness to identify consent as the cornerstone of these offences. The proposal should highlight the need to dedicate particular attention and support to women with disabilities and minority groups like Roma and Traveller women who are at greater risk of suffering from this kind of violence.

Forced marriage – including child marriage – is a marriage in which one or both parties have not given free and/or full consent and which disproportionally affects women and girls. It is a violation of the [Universal Declaration of Rights \(1948\)](#) in which it is stated that, “Marriage shall be entered into only with the free and full consent of the intending spouses” (Article 16)²⁰ and a form of domestic violence according to the [European Agency for Fundamental Rights](#)²¹. EWL calls for the inclusion of a definition that is in line with Article 37 of the Istanbul Convention on forced marriage.

²⁰ This, together with the phrase “of full age” in Paragraph 1, amounts to a ban on child and/or forced marriage because children may not be in a position to give free and full consent. <https://www.ohchr.org/en/press-releases/2018/11/universal-declaration-human-rights-70-30-articles-30-articles-article-16>

²¹ Fundamental rights Agency (2014): [Addressing forced marriage in the EU: legal provisions and promising practices \(europa.eu\)](#)

Ad hoc Article 8 - Forced marriage

NEW

Member States shall ensure that the following intentional forms of conduct are punishable as criminal offences:

- forcing an adult or a child to enter into marriage.
- intentional conduct of luring an adult or a child to the territory of a member State other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage.

Forced abortion refers to the action of triggering an intentional termination of pregnancy without having informed and without having asked for the consent of the pregnant woman before practicing this termination. Women with disabilities, women from minority groups, and adolescent girls are particularly exposed to this threat which constitutes a violation of their right to found a family as guaranteed in Article 9 of the [Charter of Fundamental Rights of the European Union](#). Pressuring or coercing women and girls into abortions against their will should be added to the Directive as a criminal offense as per the definition in Article 39 of the Istanbul Convention.

Ad hoc Article 9 - Forced abortion

NEW

Member States shall ensure that the following intentional conduct is punishable as a criminal offence:

- performing an abortion or coercing a woman to endure a forced abortion which refers to the action of triggering an abortion without her prior and informed consent.

Forced sterilisation refers to the action of performing an intervention in order to end a woman's capacity to reproduce without her consent and/or without having informed her before the intervention. [General Recommendation n°19](#) of CEDAW states that "compulsory sterilisation adversely affects women's physical and mental health, and infringes the right of women to decide on the number and spacing of their children."²² [General Recommendation n°24](#)²³ further states that it violates women's rights to informed consent and dignity. This women's human rights violation is **still allowed according to the legislation of at least 14 EU Member States**,²⁴ while forced sterilisation is prohibited by the UN Convention on the Rights of Persons with Disabilities ratified by the EU and all its Member States ([General Comment No. 3](#)), and by the Istanbul Convention (Article 39) signed by the EU and ratified by 21 EU member States.

²² [CEDAW General Recommendation No. 19: Violence against women](#)

²³ [INT CEDAW_GEC_4738_E.pdf \(ohchr.org\)](#)

²⁴ EDF <https://www.edf-feph.org/the-directive-on-violence-against-women-must-prohibit-forced-sterilisation/>

Ad hoc Article 10 - Forced sterilisation

NEW

1. Member States shall ensure that the following intentional conduct is punishable as a criminal offence:
performing surgery which has the purpose or effect of terminating a woman's capacity to naturally reproduce without her prior and informed consent or understanding of the procedure.
2. Member States shall ensure that the prior and informed consent of the woman to undergo surgery as referred to in Paragraph 1 cannot be replaced by the consent of a parent, legal guardian or court decision.

It is also imperative for the Directive to recognise the **violence resulting from violations of women's sexual and reproductive rights** and the **denial of access to SRHR, including forced pregnancies, as a form of VAWG**. The denial of access to SRHR has been already recognised as a form of gender-based violence by the European Parliament through the adoption of the [resolution](#) on SRHR in the EU in the frame of women's health in June 2021.²⁵ In September 2021, in this [resolution](#)²⁶, the European Parliament recognised that "reproductive coercion and the **denial of safe and legal abortion care** is also a form of gender-based violence." This point was reiterated in November 2021 on the occasion of the adoption of the [resolution](#) on the first anniversary of the de facto abortion ban in Poland,²⁷ in which Members of the European Parliament reaffirmed that "denying access to abortion constitutes a form of gender-based violence" and that "the Commission should propose a comprehensive directive on preventing and combating gender-based violence in all its forms, including violations of SRHR."

Therefore, the denial of abortion care should be acknowledged as form of VAWG that has already jeopardised the life of at least two women in Poland in 2021.

Obstetric violence is another form of institutional violence that should be recognised as a form of violence. It entails the abuse of a woman psychologically or physically by exploiting her vulnerable position during childbirth through coercing her into medical procedures despite her will due to lack of information and consent; and causing unnecessary suffering by insufficient provision of pain relief or inappropriate medical conduct.

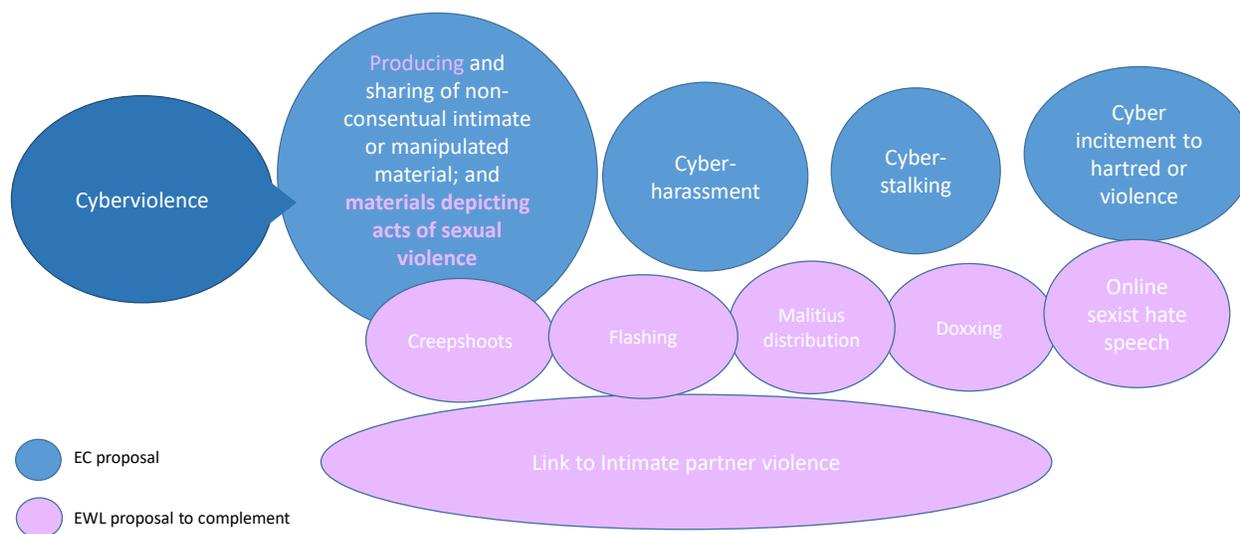
²⁵ Resolution on sexual and reproductive health and rights in the EU in the frame of women's health in June 2021 - https://www.europarl.europa.eu/doceo/document/TA-9-2021-0314_EN.html

²⁶ Resolution with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83 (1) https://www.europarl.europa.eu/doceo/document/A-9-2021-0249_EN.html

²⁷ Resolution on the first anniversary of the de facto abortion ban in Poland - https://www.europarl.europa.eu/doceo/document/TA-9-2021-0455_EN.html

3. Online violence against women: complete definitions and understanding the phenomenon as part of the continuum of violence

Complete the definitions of offences to ensure maximum protection against prevalent forms of cyber violence against women and remove reference to a multitude of end-users



As per EWL analysis and expertise on the topic of online violence against women,²⁸ we propose the following amendments:

- Remove reference to the multitude of end-users: EWL shares the European Economic and Social Committee's opinion regarding combating violence against women ([SOC/726-EESC-2022](#)) concerning the fact that the requirement for material to have been made accessible to a "multitude of end-users" is "ambiguous, vague and highly open to interpretation, and does not deal with the real reputational harm which is sometimes greater if the material is shared only with people from the victim's close social, family or work circles." Lack of consent and public exposure should constitute the offence in and of itself without the need to assess whether material has been shared with a multitude of users or whether it was actually just shared with many or a fair number of users.
- **Non-consensual sharing of intimate material** should be broadened to the **production and/ or sharing of intimate or manipulated material without the victim's consent, and materials depicting acts of sexual violence.**

It should not only refer to sexual acts but also images of nudity or intimate parts of the victim; EWL calls for the renaming of the article and on the inclusion of two additional criminal acts:

- o Creepshots; making and/or distributing photos or videos of women's nudity or private areas
- o Producing and/or sharing pornographic materials depicting acts of sexual exploitation or sexual violence.

²⁸ See #HerNetHerRights project, research, resources pack and training.

Actual **exploitation of women and girls to be found on pornographic websites** that involves the public broadcasting of sexual assault, rape, and acts of torture. This is often used as a means of grooming women for traditional prostitution and victims of sex trafficking are often filmed. Various testimonies from women previously exploited in this “industry” confirm that they were very often coerced to engage in activities at the last moment while the camera was already shooting and when the producers would not allow them to stop.²⁹

Indeed, children are exposed to pornography at a very early stage, since the average age of a child first's exposure to pornography is 12 years old. In addition to the trauma it causes, it shapes their notions of sexuality, as we can notice in the overwhelming rise in dangerous sexual practices among teenagers. It plays a pernicious role in shaping boys', men's, girls' and women's conceptions of relationships, bodies, and desire. It can have the same traumatic consequences as sexual violence.

- The criminalisation of **cyber stalking and cyber harassment** harmonises the definitions across the EU and therefore closes potential gaps between Member States' legislation. The definition should highlight the strong connection between the **non-consensual sharing of intimate material, cyber stalking, and harassment, and offline stalking and harassment**, as 45% of domestic violence survivors report experiencing some form of abuse online during their relationship.³⁰ A broader approach to stalking and harassment in both its online and offline forms in this proposal should therefore be taken in order to ensure a comprehensive legal framework. EWL advises adding the definitions of flashing, doxing, and malicious distribution.
- The criminalisation of **cyber incitement to violence or hatred** is a necessary step that creates a connection with measures that target sexist and misogynistic hate crime and hate speech and could work in unison once the initiative to extend the list of EU crimes to all forms of hate crime and hate speech³¹ has been successful. EWL advises adding an amendment to reference intersecting forms of discrimination.

²⁹ Women in pornography have also denounced the frequent use of drugs or alcohol that is encouraged to help overcome the trauma caused by the scenes they had to shoot, and the times they were blackmailed with not being paid if they refused to engage in specific acts. Extremely affected physically, these women and girls are also more prone to experience mental issues than the rest of the population. Lately, we have also been able to observe an increase in suicides among women exploited in the field of pornography. It is especially worrying that young people tend to use pornography as a form of sexual education, particularly when comprehensive sexual education is not provided in their country and/or when sexuality cannot be discussed at home, meaning that they are more likely to reproduce these kinds of abusive and discriminating behaviours during their own sexual encounters.

³⁰ Women's Aid survey (2017)

³¹ See European Commission: [Extending EU crimes to hate speech and hate crime | European Commission \(europa.eu\)](https://ec.europa.eu/justice/newsroom/anti-discrimination/2018/05/23/180523_en.htm)

<p>Article 7 - Non-consensual sharing of intimate or manipulated material</p> <p>Member States shall ensure that the following intentional conduct is punishable as a criminal offence:</p> <p>(a) making intimate images, or videos or other material depicting sexual activities, of another person without that person's consent accessible to a multitude of end-users by means of information and communication technologies;</p> <p>(b) producing or manipulating and subsequently making accessible to a multitude of end-users, by means of information and communication technologies, images, videos or other material, making it appear as though another person is engaged in sexual activities, without that person's consent;</p> <p>(c) threatening to engage in the conduct referred to in points (a) and (b) in order to coerce another person to do, acquiesce or refrain from a certain act.</p>	<p>Article 14-7 - Non-consensual Producing and/ or sharing of intimate or manipulated material without the victim's consent, and of materials depicting acts of sexual violence</p> <p>Proposed amendment</p> <p>(a) making intimate images or videos or other material depicting sexual activities, the nudity or intimate areas of another person without that person's consent for the purpose of sexual gratification, humiliation, financial benefit, and/or for making such accessible to other a multitude of end-users by means of information and communication technologies;</p> <p>(b) producing or manipulating and subsequently making accessible to other a multitude of end users, by means of information and communication technologies, images, videos or other material making it appear as though another person is engaged in sexual activities without that person's consent;</p> <p>c) producing and/ making and or distributing photos or videos of women's nudity or private areas for the purpose of sexual gratification, financial benefit, and/or distribution without the consent of the victim; making such accessible to other end-users by means of information and communication technologies;</p> <p>d) producing and making photos or videos or any other material depicting acts of sexual exploitation and sexual violence, especially as per Articles 5 and 13, [including new articles on sexual violence, rape, stealthing, and prostitution] for the purpose of sexual gratification and/or for making such accessible to other end-users by means of information and communication technologies;</p> <p>(e) threatening to engage in the conduct referred to in points (a), (b), (c), (d) in order to coerce another person to do, acquiesce, or refrain from a certain act.</p> <p>Member States shall consider the offence in: point a) in the framework of offenses of sexual violence and intimate partner violence; and point d) in the framework of sexual exploitation offences [Article 5 to 13] and not as isolated events.</p>
<p>Article 8 - Cyber stalking</p> <p>Member States shall ensure that the following intentional conduct is punishable as a criminal offence:</p> <p>(a) persistently engaging in threatening or intimidating conduct directed at another person, by means of information and communication technologies, which causes that the person fears for own safety or that the person fears for safety of dependents;</p> <p>(b) placing another person under continuous surveillance, without that person's consent or legal authorisation to do so, by means of information and communication technologies, to track or monitor that person's movements and activities;</p> <p>(c) making material containing the personal data of another person, without that person's consent, accessible to a multitude of end-users, by means of</p>	<p>Article 158 - Cyber stalking</p> <p>Proposed amendment</p> <p>(c) making material containing the personal data of another person, without that person's consent, accessible to other a multitude of end-users by means of information and communication technologies for the purpose of potentially inciting those end-users to cause physical or significant psychological harm to the person.</p>

<p>information and communication technologies, for the purpose of inciting those end-users to cause physical or significant psychological harm to the person.</p>	<p>2. Member States shall consider the offences in Articles a, b, and c, taking into account the connection between cyber and offline stalking, and not as isolated events. ICT tools are means for perpetrators to stalk their victims and exert coercive control over them in the framework of other forms of violence such as intimate partner violence and psychological violence, and not as isolated incidents.</p>
<p style="text-align: center;">Article 9 - Cyber harassment</p> <p>Member States shall ensure that the following intentional conducts are punishable as a criminal offence:</p> <p>(a) initiating an attack with third parties directed at another person, by making threatening or insulting material accessible to a multitude of end-users, by means of information and communication technologies, with the effect of causing significant psychological harm to the attacked person;</p> <p>(b) participating with third parties in attacks referred to in point (a).</p>	<p style="text-align: center;">Article 169 - Cyber harassment</p> <p style="text-align: center;">Proposed amendment</p> <p>(a) initiating an attack with third parties directed at another person by making defamatory, threatening or insulting material potentially accessible to other a multitude of end-users without the consent of the victim by means of information and communication technologies, with the effect of causing significant psychological harm to the attacked person;</p> <p>(b) cyber flashing: the sending of unsolicited sexual images via dating or messaging applications, texts, or using Airdrop or Bluetooth technologies;</p> <p>c) doxxing: or the non-consensual publishing of private information on the internet to publicly expose and shame the person targeted.</p> <p>d) malicious distribution, the use of technical tools to distribute defamatory material related to an individual victim and/ or an organisation; e.g. by using new technologies as a propaganda tool to promote violence against women, or calling for violence against women's organisations or women's specialised services, including family planning, SRHR and abortion providers.</p> <p>(b) participating with third parties in attacks referred to in points (a) (b) (c) and (d).</p> <p>2. Member States shall consider the offenses in points (a), (b), (c) and (d) taking into account the connection between cyber and offline harassment and not as isolated events online. ICT tools are a means for perpetrators to harass their victims and Cyber harassment is often a way to exert coercive control over their victims in the framework of other forms of violence such as intimate partner violence and psychological violence</p>
<p style="text-align: center;">Article 10 - Cyber incitement to violence or hatred</p> <p>Member States shall ensure that the intentional conduct of inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to sex or gender, by disseminating to the public material containing such incitement by means of information and communication technologies is punishable as a criminal offence.</p>	<p style="text-align: center;">Article 107 – Cyber-incitement to violence or hatred</p> <p style="text-align: center;">Proposed amendment</p> <p>Member States shall ensure that the intentional conduct of inciting violence or hatred directed against a group of persons or a member of such a group defined by reference to sex or gender or a combination of sex and other grounds of discrimination as defined in Article 2(1), and by disseminating to the public material containing such incitement by means of information and communication technologies is punishable as a criminal offence.</p>

Reinforce mechanisms to remove material: accountability of State and providers of intermediary services

The prosecution of offences and removal of materials should not be wholly dependent upon a report or complaint filed by a victim of the offence; the proceedings may continue even if the victim withdraws her complaint. Member States and law enforcement are responsible for initiating ex-officio proceedings when materials or evidence of the offences mentioned in the articles regarding cyber violence are identified.

<p>Article 25 - Measures to remove certain online material</p> <p>1. Member States shall take the necessary measures to ensure the prompt removal of material referred to in Article 7, points (a) and (b), Article 8, point (c), and Articles 9 and 10. Those measures shall include the possibility for their competent judicial authorities to issue, upon application by the victim, binding legal orders to remove or disable access to such material addressed to relevant providers of intermediary services.</p>	<p>Article 25 32- Measures for to removing specific forms of certain online material</p> <p>Member States shall take the necessary measures to ensure the prompt removal of material referred to in Article 14–7, points (a) (b) (c) and (d), Article 15 8, point (c), and Articles 16 (a) (b) (c) and (d) 9 and 1740. Those measures shall include the possibility for their competent judicial authorities to issue, upon application by the victim or via ex-officio proceeding, binding legal orders to remove or disable access to such material addressed to the relevant providers of intermediary services who shall be held accountable for not executing such legal orders.</p> <p>2 (new). Member States shall ensure that law enforcement authorities are responsible for initiating ex-officio proceedings when materials or evidence of the offences mentioned in articles on cyber violence in this Directive are found.</p>
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Ensure that the use of ICT technologies is considered part of the continuum of male violence that happens online and offline

EWL trusts that the article on **aggravating circumstances** will help to make the link between the forms of cyber violence included in the proposal with those defined in relation to any other form of violence against women and domestic violence. However, a mention in the definition of each of the offences is advisable as per the proposal above.

The integration of an aggravating circumstance such as the fact that “(i) *the offence resulted in the death or suicide of the victim or severe physical or psychological harm to the victim*” is also relevant in the case of online violence against women and girls and will improve legislation in many MS. Two new aggravating circumstances are further proposed, as below:

<p style="text-align: center;">Article 20 43 - Aggravating circumstances</p> <p style="text-align: center; color: purple;">Proposed new additions</p> <p>(p) the offence followed previous threats made to the victim, their loved ones or relatives,</p> <p>(q) the offence generated a profit or had the intention of creating a profit</p>
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4. Strengthened gender-sensitive approach and intersectional approach for improving prevention, the protection of victims, access to justice and victim support.

EWL advises carefully reviewing the provisions in the European Commission proposal for a Directive in order to ensure its thoroughly gender-sensitive implementation by the Member States. Article 6 of the Istanbul Convention on gender-sensitive policies requests the inclusion of a gender perspective in the implementation and evaluation of the impact of the provisions of the Convention and the promotion and effective implementation of policies of equality between women and men and the empowerment of women. The analysis undertaken by the EWL Observatory on the implementation of the Istanbul Convention in 2020³² showed that – despite the comprehensive provisions in the Convention and significant progress that has been made – further effort is still required to fully address the structural causes of violence against women and domestic violence; particularly in instances in which laws and policies are either shaped through a gender-neutral lens, or implemented in a gender-neutral way. As noted by GREVIO in its first General Report of activities, the implications of not implementing a gender-sensitive approach are that “the gender-neutral approach [...] fails to address the specific experiences of women that differ significantly from those of men thus hindering their effective protection.³³ For example, victim-blaming attitudes among judicial and law enforcement authorities 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 conviction rates across Europe, particularly as regards cases of sexual violence.

A gender-sensitive approach is vital for eradicating deeply entrenched and harmful societal attitudes and stereotypes against women and girls. Often, these attitudes shape the experiences of women victims of violence in terms of whether they disclose or report instances of violence, and are a huge contributing factor in their decision regarding whether to report the latter or ask for support.

A gender-sensitive approach to policies not only considers the type of violence, but also the specific context in which the violence takes place; the perpetrator-victim relationship, the role of (concealed) power, coercion and control throughout the process of violence, and the distinct consequences and impact of violence on women and men.

³² EWL's report “Towards a Europe Free from Male Violence Against Women and Girls” (2021).

³³ GREVIO (2020): First General Report on GREVIO's activities <https://rm.coe.int/1st-general-report-on-grevio-s-activities/16809cd382>

Feminist Women's civil society organisation experts on VAWG should be recognised as equal partners in policy development and implementation, and be adequately funded

Feminist women's civil society organisations are those best placed to ensure a gender-sensitive approach. Structured cooperation with women's organisations and specialised services is fundamental for the adequate implementation of the Directive and should be stressed in the proposal. Women's civil society organisations working on VAWG should be recognised as equal partners in policy development and implementation and include women's civil society experts in the work of government bodies/committees that deal with violence against women and girls, and the recovery from the COVID-19 pandemic.

Although the Directive proposal regulates the importance of cooperation with NGOs and the funding of services provided by NGOs, it is important to include a provision which regulates the obligation of EU Member States to encourage and support the work of NGOs dealing with VAWG in accordance with Article 9 of the Istanbul Convention. It is very important to bind Member States to support the NGO sector, especially during this time of a spreading backlash against women's rights in many EU countries, since the support of NGOs goes beyond cooperation and funding. EWL suggests adding the obligation to justify the decision of governments to disregard the opinions of specialised women's NGOs due to the frequent dismissal of the opinions of women's rights organisations in the consultation process in several EU countries.

<p>Article 41 - Cooperation with non-governmental organisations</p>	<p>Article 48 41-- Cooperation with non-governmental organisations</p> <p>Proposed amendment</p>
<p>Member States shall cooperate with and consult civil society organisations, including non-governmental organisations working with victims of violence against women or domestic violence, in particular in providing support to victims, concerning policymaking initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures to support and protect victims.</p>	<p>1. Member States shall be obligated to cooperate with, provide adequate funding for, and consult specialist civil society organisations, including non-governmental organisations working with victims of violence against women or domestic violence, especially women's organisations. In particular, in providing support to victims, concerning policymaking initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures aimed at supporting and protecting victims.</p> <p>2. Member States shall recognise women's civil society organisations working on VAWG as equal partners in policy development and implementation and include women's civil society experts in the work of government bodies/committees dealing with violence against women and girls.</p> <p>3. If a government of a Member State decides to disregard the opinions of the specified non-governmental organisations, the former shall be obligated to justify this dismissal.</p>

Prevention of violence - A core goal: a need for feminist sexuality education and gender-sensitive training to debunk sexism and harmful stereotypes

The EWL supports the initiative to increase awareness-raising campaigns as defined in the Istanbul Convention and highlights the need to combat sexist and gender stereotypes through education and training as early as possible. The EWL suggests further development and clearly indicates the need for **feminist sexuality education**, including education on love and equal relationships through education programmes to challenge harmful and sexist behaviour and sexist and gender stereotypes. Male violence against women starts with boy's violence against girls and should be targeted comprehensively in a trauma-, child- and gender-sensitive manner.³⁴ The focus on preventive training can be assessed positively, although a lack of gender-sensitivity in the proposed **preventive training and intervention programmes** can be observed.

Article 36 - Preventive measures	Article 43 36 - Preventive measures
<p>1. Member States shall take appropriate actions to prevent violence against women and domestic violence.</p> <p>2. Preventive measures shall include awareness-raising campaigns, research and education programmes, where appropriate developed in cooperation with relevant civil society organisations, social partners, impacted communities and other stakeholders.</p> <p>3. Member States shall make information on preventive measures, the rights of victims, access to justice and to a lawyer, and the available protection and support measures available to the general public.</p> <p>4. Targeted action shall be addressed to groups at risk, including children, according to their age and maturity, and persons with disabilities, taking into consideration language barriers and different levels of literacy and abilities. Information for children shall be formulated in a child-friendly way.</p> <p>5. Preventive measures shall in particular aim at challenging harmful gender stereotypes, promoting equality between women and men, encouraging all, including men and boys, to act as positive role models to support corresponding behaviour changes across society as a whole in line with the objectives of this directive.</p> <p>6. Preventive measures shall develop and/or increase sensitivity about the harmful practice of female genital mutilation.</p> <p>7. Preventive measures shall also specifically address cyber violence. In particular, Member States shall ensure that education measures include the development of digital literacy skills, including critical engagement with the digital world, to enable users to identify and address cases of cyber violence, seek support and prevent its perpetration. Member States shall foster multidisciplinary and stakeholder cooperation, including intermediary services and competent authorities to develop and implement measures to tackle cyber violence.</p>	<p style="text-align: center;">Proposed amendment</p> <p>2. Preventive measures shall include awareness-raising campaigns, research and education programmes, including comprehensive feminist sexuality education where appropriate developed in cooperation with feminist relevant civil society organisations, social partners, impacted communities and other stakeholders.</p> <p>5. Preventive measures shall in particular aim at challenging harmful gender stereotypes, promoting equality between women and men, encouraging all, including men and boys, to act as positive role models to support corresponding behaviour changes across society as a whole in line with the objectives of this directive. Among those preventive measures, sexuality education programmes shall challenge gender stereotypes and the hierarchical relation between women and men; stress the structural nature of this inequality and its presence in sexuality and relationships; and work as a means of ultimately reducing violence, inequality and discrimination. Such programmes shall be rolled out as early as possible and in a trauma-, child- and gender-sensitive manner.</p>

³⁴ EWL (2020): [Feminist sexuality education. Ensuring safe, uncoerced, egalitarian and mutually pleasurable sex and relationships for the next generation: a synthesis report.](#)

8. Member States shall ensure that sexual harassment at work is addressed in relevant national policies. Those national policies shall identify and establish targeted actions referred to in paragraph 2 for sectors where workers are most exposed.

The training of professionals (including in the fields of social support, education and health) and law enforcement authorities (border guards, police, judiciary, etc.) to impart the knowledge that male violence against women and girls affects women and girls disproportionately and is based on the historically unequal power relations between women and men; has a structural and endemic nature; and is based on intersectional forms of discrimination, and to ensure that such services continue operating in times of crisis. In order to successfully combat and challenge harmful gender stereotypes, professionals (including in the fields of social support, education and health) and law enforcement authorities (border guards, police, judiciary, etc.) must be trained on the topic of male violence against women and girls. Training must be developed in conjunction with feminist NGOs in order to address the structural and endemic nature of VAWG; and on the intersectional forms of discrimination.

Article 37 - Training and information for professionals

1. Member States shall ensure that professionals likely to come into contact with victims, including law enforcement authorities, court staff, judges and prosecutors, lawyers, providers of victim support and restorative justice services, healthcare professionals, social services, educational and other relevant staff, receive both general and specialist training and targeted information to a level appropriate to their contacts with victims, to enable them to identify, prevent and address instances of violence against women or domestic violence and to treat victims in a trauma-, gender- and child-sensitive manner.

2. Relevant health professionals, including paediatricians and midwives, shall receive targeted training to identify and address, in a cultural-sensitive manner, the physical, psychological and sexual consequences of female genital mutilation.

3. Persons with supervisory functions in the workplace, in both the public and private sectors, shall receive training on how to recognise, prevent and address sexual harassment at work, including on risk assessments concerning occupational safety and health risks, to provide support to victims affected thereby and respond in an adequate manner. Those persons and employers shall receive information about the effects of violence against women and domestic violence on work and the risk of third party violence.

4. The training activities referred to in paragraphs 1 and 2 shall include training on coordinated multi-agency co-operation to

Article 44 ~~37~~ - Training and information for professionals

Proposed amendment

1. Member States shall ensure that professionals likely to come into contact with victims, including law enforcement authorities, court staff, judges and prosecutors, lawyers, providers of victim support and restorative justice services, healthcare professionals, social services, educational and other relevant staff, receive both general and specialist **gender-sensitive** training and targeted information to a level appropriate to their contacts with victims to enable them to identify, prevent **further violence and revictimisation**, and address instances of violence against women and domestic violence and to treat victims in a trauma-, gender-, **disability-**, **language-**, **age-** and child-sensitive manner.

2. Relevant healthcare professionals, including midwives, **gynecologists** and pediatricians, shall receive targeted specialised training to identify and address, in a culturally sensitive manner, the physical, psychological and sexual consequences of **sexual violence, including rape, female genital mutilation, forced abortion and forced sterilisation. Training on patients' informed consent and on treating patients in a respectful, dignified, non-discriminatory, gender-sensitive manner, including those who experience discrimination based on a combination of sex and other grounds of discrimination, shall be put in place to prevent instances of violence in healthcare settings, particularly obstetric violence.**

5. Without affecting media freedom and pluralism, Member States shall encourage and support the setting up of media training activities that adopt **a feminist approach** in relation to media

<p>allow for a comprehensive and appropriate handling of referrals in cases of violence against women or domestic violence.</p> <p>5. Without affecting media freedom and pluralism, Member States shall encourage and support the setting up of media training activities by media professionals' organisations, media self-regulatory bodies and industry representatives or other relevant independent organisations, to combat stereotypical portrayals of women and men, sexist images of women, and victim-blaming in the media, aimed at reducing the risk of violence against women or domestic violence.</p> <p>6. Member States shall ensure that the authorities competent for receiving reports of offences from victims are appropriately trained to facilitate and assist in the reporting of such crimes.</p> <p>7. Training activities referred to in paragraphs 1 and 2 shall be regular and mandatory, including on cyber violence, and built on the specificities of violence against women and domestic violence. Such training activities shall include training on how to identify and address the specific protection and support needs of victims who face a heightened risk of violence due to their experiencing discrimination based on a combination of sex and other grounds.</p> <p>8. The measures under paragraphs 1 to 6 shall be implemented without affecting judicial independence, the self-organisation of regulated professions and differences in the organisation of the judiciary across the Union.</p>	<p>professional organisations, media self-regulatory bodies and industry representatives or other relevant independent organisations to combat stereotypical portrayals of women and men, sexist images of women, and victim-blaming in the media, aimed at reducing the risk of violence against women or domestic violence.</p> <p>6. Member States shall ensure that the authorities competent for receiving reports of offences from victims are appropriately trained to facilitate and assist in the reporting of such crimes, including by victims with disabilities.</p> <p>9. Member States shall ensure that the training referred to in this article is developed in conjunction with feminist NGOs in order to address the structural and endemic nature of VAWG; on how this phenomenon affects women and girls disproportionately; and on the intersecting forms of discrimination.</p>
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Protection: a victim-centered approach to stop further victimisation

The EWL generally supports the provisions on the protection of victims and access to justice in the proposal and agrees that the proposed guidelines for enforcement and judicial authorities will help improve public authorities' investigation of crimes. In addition, provisions concerning compensation from offenders is advanced and gives a good level of minimum standards for EU Member States.

As per the standards set out in the Istanbul Convention (Article 18.4), the provision of services and protection measures shall not depend on the victim's willingness to press charges or testify against any perpetrator. Similarly, **Article 55** on *ex parte* and *ex officio* proceedings, parties shall ensure that investigations into or the prosecution of offences established in accordance with the Convention shall not be wholly dependent upon a report or complaint filed by a victim if the offence was committed in whole or in part on its territory, and that proceedings may continue even if the victim withdraws their statement or complaint. Both emergency barring orders and restraining or protection orders can be issued *ex parte* and *ex officio* proceedings should be included in the proposal of Directive.

Gender-sensitive specialised individual assessments of protection need to be developed by trained and specialist professionals. Such gender-sensitive assessment shall take into account the victim's individual circumstances, including whether they experience discrimination based on a combination of sex and other

grounds and therefore face a heightened risk of violence, as well as the victim's own account and assessment of the situation. These shall be conducted in the best interests of the victim, paying most attention to preventing secondary or repeated victimisation, physical integrity and mental health risks, lethality risks, or suicide of the victim or their severe physical or psychological harm for the victim.

<p>Article 18 - Individual assessment to identify victims' protection needs</p>	<p>Article 25 18 - Individual assessment to identify victim protection needs</p>
<p>Proposed amendment</p> <p>1. In the framework of the individual assessment which is to be carried out under Article 22 of Directive 2012/29/EU, Member States shall ensure that, as regards victims covered by this Directive, the additional elements as set out in paragraphs 2 to 7 of this Article are assessed.</p> <p>2. This individual assessment shall be initiated upon the first contact of the victim with the competent authorities. The competent judicial authorities shall verify at the latest at the initiation of criminal proceedings whether an assessment has been conducted. If this has not been the case, they shall remedy the situation by undertaking an assessment as soon as possible.</p> <p>3. The individual assessment shall focus on the risk emanating from the offender or suspect, including the risk of repeated violence, the risk of bodily harm, the use of weapons, the offender or suspect living with the victim, an offender or suspect's drug or alcohol misuse, child abuse, mental health issues or behaviour of stalking.</p> <p>4. The assessment shall take into account the victim's individual circumstances, including whether they experience discrimination based on a combination of sex and other grounds and therefore face a heightened risk of violence, as well as the victim's own account and assessment of the situation. It shall be conducted in the best interest of the victim, paying special attention to the need to avoid secondary or repeated victimisation.</p> <p>5. Member States shall ensure that adequate protection measures are taken on the basis of the individual assessment such as: (a) measures referred to in Articles 23 and 24 of Directive 2012/29/EU; (b) the granting of emergency barring and restraining or protection orders pursuant to Article 21 of this Directive; (c) further measures to manage the offender or suspect's behaviour, in particular under Article 38 of this Directive.</p> <p>6. The individual assessment shall be undertaken in collaboration with all relevant competent authorities depending on the stage of the proceedings, and relevant support services, such as victim protection centres and women's shelters, social services and healthcare professionals.</p> <p>7. Competent authorities shall update the individual assessment at regular intervals to ensure the protection measures relate to the victim's current situation. This shall</p>	<p>Proposed amendment</p> <p>2. This specialised gender-sensitive individual assessment shall be initiated immediately by specialist protection services upon the first contact of the victim with the competent authorities. The competent judicial authorities shall verify at the latest at the initiation of criminal proceedings whether an assessment has been conducted. If this has not been the case, they shall remedy the situation by undertaking an assessment as soon as possible.</p> <p>4. A gender-sensitive assessment shall take into account the victim's individual circumstances, including whether they experience discrimination based on a combination of sex and other grounds and therefore face a heightened risk of violence, as well as the victim's own account and assessment of the situation. It shall be conducted in the best interest of the victim, paying outmost attention to preventing secondary or repeated victimisation, physical integrity and mental health risks, lethality risks and or suicide of the victim or severe physical or psychological harm to the victim.</p> <p>6. The individual assessment shall be undertaken by adequately trained professionals in collaboration with all relevant competent authorities depending on the stage of the proceedings, and relevant support services, including specialised victim protection centres and women's support services and shelters, social services and healthcare professionals.</p> <p>9. (new) Member states shall ensure that the safety and welfare of children take precedence over the rights of access of the</p>

<p>include an assessment of whether protection measures, in particular under Article 21, need to be adapted or taken.</p> <p>8. Victims' dependants shall be presumed to have specific protection needs without undergoing the assessment referred to in paragraphs 1 to 6.</p>	<p>offender when there is reasonable doubt concerning safe contact with the child from both a physical and emotional point of view. In the determination of the custody and visitation rights of children, incidents of violence should be taken into account. Member States shall take the necessary legislative or other measures to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children.</p>
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The risk of vicarious violence must be carefully addressed and the safety of children should prevail when deciding on custody and visiting rights

The analysis developed on the basis of the implementation of the Istanbul Convention in 2020 by the EWL Observatory on violence showed that in most countries that were analysed [22 out of 31 (71%)], shared custody is mandated, favoured and/or regularly enforced, even when separation proceedings involve cases of violence against women. Forced visitation, meaning visitation against the wishes of the child, is enforced in 22 out of 31 (71%) countries. If the mother refuses to permit contact by the violent father, or if the child refuses contact, mothers are blamed in an alarming 84% of surveyed countries (26 out of 31). In at least three countries cases have been identified when perpetrators who have killed their partner obtained custody over their children and/ or the widower's pension rights.

<p style="text-align: center;">Article 34 - Safety of children</p> <p>Member States shall establish and maintain safe places which allow a safe contact between a child and a holder of parental responsibilities who is an offender or suspect of violence against women or domestic violence, to the extent that the latter has rights of access. Member States shall ensure supervision by trained professionals, as appropriate, and in the best interests of the child.</p>	<p style="text-align: center;">Article 41 34- Safety of children</p> <p style="text-align: center;">Proposed amendment</p> <p>1. Members shall assess the risk of vicarious violence – the kind suffered by women as a result of violence committed against their loved ones, women’s children or family with the intention of emotionally abusing the women in question. Member States shall ensure that the safety and welfare of the child takes precedence over the rights of access of the offender when there is reasonable doubt concerning safe contact with the child from both a physical and emotional point of view.</p> <p>2. Member States shall establish and maintain safe places which allow a safe contact between a child and a holder of parental responsibilities who is an offender or suspect of violence against women or domestic violence, to the extent that the latter has rights of access. Member States shall ensure supervision by trained professionals, as appropriate, and in the best interests of the child.</p> <p>3. In the determination of custody and visitation rights of children, Member States shall take the necessary legislative or other measures to ensure that incidents of violence in the family are taken into account; and that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children. Member States shall aim at prohibiting mandatory shared custody and/or visiting rights in cases of violence or suspected violence; and prohibit the use of parental alienation or any related concept in cases of violence when determining custody and visitation.</p>
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Specialist support for victims – ensure this meets the standards of the Istanbul Convention for all victims of VAWG and domestic violence, and is free of charge and available

<p style="text-align: center;">Article 27 - Specialist support to victims</p> <p>1. Member States shall ensure that specialist support services referred to in Article 9(3) of Directive 2012/29/EU are available for victims of acts of violence covered by this Directive. The specialist support services shall provide:</p> <p>(a) advice and information on any relevant legal or practical matters arising as a result of the crime, including on access to housing, education, training and assistance to remain in or find employment;</p> <p>(b) referrals to medical forensic examinations;</p>	<p style="text-align: center;">Article 34 27 - Specialist support for te-victims</p> <p style="text-align: center;">Proposed amendment</p> <p>1. Member States shall ensure that specialist support services referred to in Article 9(3) of Directive 2012/29/EU are available for victims of violence against women and domestic violence, including the acts of violence covered by this Directive. Member States shall provide for geographically well-distributed specialist support services that shall provide include:</p> <p>(a) advice, and information and support on any all relevant legal and/or practical matters arising as a result of the crime, including general support services such as: legal and psychological counseling, consultation on safety, financial assistance and benefits, access to housing, education, training and assistance</p>
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<p>(c) support to victims of cyber violence, including advice on judicial remedies and remedies to remove online content related to the crime</p> <p>2. Specialist support referred to in paragraph 1 shall be offered in-person and shall be easily accessible, including online or through other adequate means, such as information and communication technologies, tailored to the needs of victims of violence against women and domestic violence.</p> <p>3. Member States shall ensure sufficient human and financial resources to provide the services referred to in paragraph 1, especially those referred to in point (c) of that paragraph, including where such services are provided by non-governmental organisations.</p> <p>4. Member States shall provide the protection and specialist support services necessary to comprehensively address the multiple needs of victims at the same premises, or have such services coordinated through a central contact point, or through one-stop online access to such services. Such combined offering of services shall include at least first hand medical care and social services, psychosocial support, legal, and police services.</p> <p>5. Member States shall issue guidelines and protocols for healthcare and social service professionals on identifying and providing appropriate support to victims of all forms of violence against women and domestic violence, including on referring victims to the relevant support services. Such guidelines and protocols shall also indicate how to address the specific needs of victims who are at an increased risk of such violence as a result of their experiencing discrimination based on a combination of sex and other grounds of discrimination.</p> <p>6. Member States shall ensure that specialist support services remain fully operational for victims of violence against women and domestic violence in times of crisis, such as health crises or other states of emergency.</p> <p>7. Member States shall ensure that specialist support services are available to victims before, during and for an appropriate time after criminal proceedings.</p>	<p>for victims to remain in or find employment; and options for childcare.</p> <p>b) Member States shall ensure that the provision of services does not depend on the victim's willingness to press charges or testify against any perpetrator; Member States shall ensure that support services focus on the human rights and safety of the victim; are based on an integrated approach that takes into account the relationship between victims, perpetrators, children and their wider social environment; aim at avoiding secondary victimisation; aim at the empowerment and economic independence of women victims of violence; and address the specific needs of vulnerable persons, including child victims, and made available to them.</p> <p>Further, Member States shall ensure:</p> <p>(b) c) referrals to medical forensic examinations for victims of violence, as well as to comprehensive medical and healthcare services and social services that are adequately resourced and professionals who are specifically trained to assist and refer them to the appropriate services.</p> <p>de) support for to victims of cyber violence, including advice on judicial remedies and appropriate remedies to means of removing online content related to the crime</p> <p>e) the provision of support for victims of sexual exploitation, including exit programmes that provide them with legal, health, housing and employment support.</p> <p>2. Member states shall provide or arrange for specialist women's support services for all women victims of violence and their children.</p> <p>3. The services referred to in paragraph 1 and 2 shall be available free of charge and accessible every day of the week.</p> <p>2. 4. Specialist support referred to in paragraph 1 shall be offered in-person and shall be easily accessible, including online or through other adequate means, such as information and communication technologies tailored to the needs of victims of violence against women and domestic violence, including those with disabilities and living in institutions.</p> <p>3-5. Member States shall ensure sufficient human and financial resources to ensure the provision of services referred to in Paragraph 1, especially those referred to in point (c) of that paragraph, including when such services are provided by specialist non-governmental organisations.</p> <p>4.6. Member States shall provide the protection and specialist support services necessary to comprehensively address the multiple needs of victims at the same premises, or have such services coordinated through a central contact point, or through one-stop online access to such services. Such combined offering of services shall include at least first-hand medical and SRHR care and social services, psychosocial support, legal, and police-related services, including forensic examination.</p> <p>5. 6. Member States shall issue gender-sensitive guidelines and protocols to healthcare and social service professionals concerning how to identify and provide appropriate support to</p>
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	<p>victims of all forms of violence against women and domestic violence, including avoiding gender stereotypes, preventing secondary or repeat victimization, and on referring victims to the relevant specialist support services. Such guidelines and protocols shall also indicate how to address the specific needs of victims who are at an increased risk of such violence as a result of their experiencing discrimination based on a combination of sex and other grounds of discrimination. Additionally, Member States should have cross-institutional cooperation and service collaboration and monitoring capacity to make sure they offer an adequate level of protection and sufficient preventative measures, especially for vulnerable groups of individuals such as young girls.</p> <p>6. Member States shall ensure that specialist support services, including women's support services, remain fully operational for victims of violence against women and domestic violence in times of crisis, such as health crises or other states of emergency.</p>
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5. Ensure use of internationally agreed language and policies of the European Parliament throughout the text: Refer to “women in prostitution” and eliminate reference to sex workers.

The European Women’s Lobby strongly opposes the use of the expression “women sex workers” in Article 35 of the proposal when mentioning victims with specific needs and groups at risk. The EWL calls for the use of the expression “Women in prostitution”, as per the **agreed language in the same article in the Istanbul Convention**, or the terminology of “sexually exploited women and girls” as used in General recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration (CEDAW/C/GC/38). The European Parliament should ensure its agreed language is maintained as per the EP resolution on sexual exploitation and prostitution and its impact on gender equality (2014) and on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (2021). This is also the advice in the opinion of the European Economic and Social Committee on the proposal for a Directive on combating violence against women and domestic violence. Indeed, the choice of the wording is meaningful, since prostitution and sexual exploitation should not be banalised through the use of the expression “sex work”, as 9/10 women in prostitution would leave the sex trade if they could. In addition, more than two-thirds of them report to trauma that is on a par with that experienced by soldiers returning from war, and 62% of them have reported to having been raped since entering prostitution³⁵.

<p>Article 35 - Targeted support for victims with specific needs and groups at risk</p>	<p>Article 42 35- Targeted support for victims with specific needs and groups at risk</p> <p>Proposed amendment</p>
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³⁵ Prostitution and trafficking in nine countries: An update on violence and posttraumatic stress disorder, Melissa Farley et al, 2003: https://www.researchgate.net/publication/281348842_Prostitution_and_trafficking_in_nine_countries_An_update_on_v

1. Member States shall ensure the provision of specific support to victims at an increased risk of violence against women or domestic violence, such as women with disabilities, women living in rural areas, women with dependant residence status or permit, undocumented migrant women, women applying for international protection, women fleeing from armed conflict, women affected by homelessness, women with a minority racial or ethnic background, women sex workers, women detainees, or older women.

1. Member States shall ensure the provision of specific support to victims at an increased risk of violence against women or domestic violence, such as women with disabilities, women living in rural areas, women with dependent residence status or permit, undocumented migrant women, women applying for international protection, women fleeing from armed conflict, women affected by homelessness, women with a minority racial or ethnic background, ~~women sex workers~~ **women victims of sexual exploitation, women in prostitution**, women detainees, and or older women.

6. Demand for a comprehensive legislative EU framework to end the continuum of violence against women and girls

As all forms of VAWG are deeply rooted in the same stereotypes about women and girls, the inclusion of all forms of VAWG in the Directive would greatly improve its comprehensiveness and the situation of women and girls in the EU in relation to e.g. femicide, physical violence, psychological violence, and stalking (as the Directive only covers cyber stalking), and many other concerns

As has been highlighted before, many key forms of VAWG remain unaddressed in the proposal for a Directive and the legal definitions of violence will therefore not be harmonised across the EU. In the [EWL Glossary on forms of VAWG](#)³⁶ and the [brochure on Disrupting the continuum of violence](#)³⁷, EWL has listed most of the forms of VAWG to date and regrettably notes that the vast majority of them are not defined as offences in the Directive as per the standards of the Istanbul Convention.

EWL calls on the European Parliament and the European Council to build on those historic dispositions and take a step further by ensuring the true and full harmonisation of EU legislation and international instruments to combat ALL forms of violence against women and girls. Through the inclusion of “VAWG” among the EU crimes in Article 83(1) of the Treaties, the EU will pave the way for strong legal action on VAWG as part of the same phenomenon and of the continuum of violence

EU accession to the Istanbul Convention on preventing and combating violence against women and domestic violence and the ILO 190 Convention on violence and harassment

In 2017, the EWL welcomed the EU’s signing of the Istanbul Convention, which was a promising step towards action at the EU level on ending violence against women and domestic violence. However, since then, opponents of the ratification³⁸ of the Convention have put forward that Member States that have yet to ratify

³⁶ See [EWL’s Glossary on Forms of Violence Against Women and Girls](#), (2022).

³⁷ See EWL Brochure on [Disrupting the continuum of violence against women and girls](#) (2017)

³⁸ Despite the Istanbul Convention’s potential to facilitate bringing about a Europe free from violence against women and domestic violence via its full ratification and implementation, since 2017 we have seen a serious and growing political backlash in several countries, notably from countries that have yet to ratify the Convention. As highlighted in the EWL’s

the Istanbul Convention are simply waiting for the EU to first accede to the Convention, despite being fully aware that progress at the EU level is blocked in the Council. The opinion of the Court of Justice in 2021 opened up the possibility to adopt a final decision on accession based on qualified majority, but it has been left to the discretion of the Presidencies to act in this direction or via common accord.³⁹

The EWL calls on the Parliament and the upcoming EU Presidency of Sweden to relaunch negotiations towards swift EU accession to the Istanbul Convention.

Furthermore, the proposal for a [Council Decision authorising Member States to ratify, in the interest of the European Union, the Violence and Harassment Convention, 2019 \(No. 190\) of the International Labour Organization](#) should be adopted as a matter of urgency as a means for the EU to work together to support the ratification of ILO Convention 190 throughout the EU; and the EU should also sign as per the existing Directives on harassment and sexual harassment.

Violence against women as a Eurocrime

The EWL believes that the proposed Directive can be strengthened by seeking the inclusion of VAWG **in the list of Eurocrimes** Art. 83(1) as also underlined in a 2021 report from the European Parliament. This would ensure a much stronger legal basis and allow for provisions on all forms of VAWG.

Criminalising all forms of male VAWG and their root causes is not explicitly established in EU law. While the implementation of the Istanbul Convention would allow a certain level of harmonisation in the definitions of crimes and a better response to the phenomenon, current political opposition prevents the Convention's full implementation across all EU Member States. A needed complementary action to the EU ratification of the Istanbul Convention is extending the list of Eurocrimes under Article 83(1) of the TFEU to add 'violence against women and girls' (thereby activating the passerelle clause), as requested by the European Parliament on many different occasions and as indicated in the European Commission Gender Equality Strategy 2022-2025.⁴⁰

We find strongly that the requirements for this as per Article 83(1) of the TFEU, are met. In addressing these criteria, first, the **seriousness of VAWG** is clear, given the arguments already collected through international practice and data provided at a national, EU, and international level. Second, with regard to the cross-border

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 phenomenon of actively regressing in terms of gender equality and other social justice issues, in regard to 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 intended 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 intention to withdraw from the Convention 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 the steps to ratify the Istanbul Convention and to oppose the EU's Accession to the Convention.

³⁹ [ECJ Decision on the Istanbul Convention: a missed \(...\) \(womenlobby.org\)](#)

⁴⁰ "The Commission intends in particular to present an initiative with a view to extending the areas of crime where harmonisation is possible to specific forms of gender-based violence in accordance with Article 83(1) TFEU, the so-called Eurocrimes".

dimension of VAWG we recognise that Article 83(1) of the TFEU speaks about the need for harmonising legislation pertaining to crimes that have a cross-border dimension “resulting from the need to combat them on a ‘common basis’”. This is further justified when 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. Therefore, we recognise that the cross-border requirement can be overcome through **EU Member States addressing this phenomenon on a ‘common basis’**. **Women and girls should benefit from the same rights and level of protection regardless of where they live in the EU.**

The inclusion of VAWG among EU crimes would allow the EU legislator to continue adopting legislative measures that create a comprehensive approach to VAWG that recognises that all forms of VAWG are part of the same continuum of violence, deeply rooted in discrimination and sexism. This recognition would be instrumental in relation to proposing a comprehensive and firm response to all forms of VAWG.

7. Appoint a EU Coordinator for ending the continuum of violence against women and girls

The EU Coordinator should have a strong political mandate, with adequate resources and responsibility to coordinate the coherent implementation of the Directive on combatting violence against women and domestic violence, together with all the different pieces of legislation referred to VAWG.⁴¹ Furthermore, the EU Coordinator should monitor the adequate implementation of the Istanbul Convention and the ILO Convention 190 everywhere in the EU. The Coordinator should pursue the adoption of necessary policy and legislative measures to help construct a comprehensive EU legislative framework within which all forms of violence are legislated.

The EU Coordinator should work in alignment with national coordinating bodies and engage in a structured way with civil society organisations and specialist women’s organisations.

⁴¹ Including for example: Directive 2012/29/EU on common 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; Directive 2011/99/EU on the European protection order; Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters



Ad hoc Article 52- EU Coordinator on ending violence against women

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Member States should facilitate the implementation of the tasks of an EU coordinator, which may include, for example, improving the coordination and coherence of the approach to the implementation of the different legislative tools on violence against women, avoiding duplication of effort between Union institutions and agencies, as well as between Member States and international actors, contributing to the development of pre-existing or new Union policies and strategies relevant to ending the continuum of violence against women and girls, or reporting to the Union or international institutions. The coordinator will engage in a structured way with civil society organisations and specialist women's organisations.



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