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# Violence against women and domestic violence

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The new Commission  
proposal in light of  
European Parliament  
requests

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STUDY

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Ex-Post Evaluation Unit  
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## The new European Commission proposal in light of European Parliament requests

Gender-based violence, including violence against women and domestic violence, breaches human rights and is an extreme form of gender-based discrimination. However, violence against women and domestic violence are pervasive throughout the European Union (EU). While the full scale of the problem is not known due to a lack of data, the results of the most comprehensive survey on violence against women at EU level to date, published by the EU Agency for Fundamental Rights (FRA) in 2014, provide an indication of its dimension. The coronavirus pandemic and related lockdowns have further worsened the situation.

On 8 March 2022, the European Commission presented a long-awaited proposal for a directive combating violence against women and domestic violence. Ahead of its deliberations, the Committee on Women's Rights and Gender Equality (FEMM) asked the Ex-Post Evaluation Unit (EVAL) within DG EPRS to prepare an analysis of the Commission proposal in light of the European Parliament's requests for a legislative framework on preventing and combating gender-based violence, submitted over time. Accordingly, this study examines the Parliament's main requests in this regard adopted since 2009 – when Parliament first called for a directive on preventing and combating all forms of violence against women – compared against the provisions of the Commission proposal.

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## Executive summary

Gender-based violence, including violence against women and domestic violence, breaches human rights and is an extreme form of gender-based discrimination. However, violence against women and domestic violence are pervasive throughout the European Union (EU). While the full scale of the problem is not known due to a lack of data, the results of the most comprehensive survey on violence against women at EU level to date, published by the EU Agency for Fundamental Rights (FRA) in 2014, convey a clear message: One in three women has experienced some form of physical and/or sexual violence since the age of 15. One in 10 women has experienced some form of sexual violence since the age of 15, and one in 20 women has been raped. Just over one in five women has experienced physical and/or sexual violence from either a current or a previous partner, whilst 43 % of women have experienced some form of psychologically abusive and/or controlling behaviour when in a relationship.

In an impressive number of resolutions, the European Parliament has, over almost 40 years, voiced serious concern about gender-based violence, calling for decisive action to prevent and combat it throughout the EU. Sadly, the issue remains as topical today as ever, with the coronavirus pandemic and related lockdowns having worsened the situation even further. The long-awaited proposal for an EU directive on preventing and combating violence against women and domestic violence, presented by the European Commission on 8 March 2022, therefore comes at a critical point in time.

Ahead of its deliberations, the European Parliament's Committee on Women's Rights and Gender Equality (FEMM) requested the Ex-Post Evaluation Unit (EVAL) within DG EPRS to prepare an analysis of the Commission proposal in light of Parliament's requests for a legislative framework on preventing and combating gender-based violence. In line with FEMM's request, the present study aims to provide an indication of the extent to which the Commission addressed the Parliament's requests in its proposal. Given the significant number of Parliament resolutions on gender-based violence adopted between 1986, when Parliament first sounded the alarm in relation to violence against women, and today, its focus lies on Parliament's resolutions adopted since 2009 (when Parliament first called for a legal framework on gender-based violence). Particular attention has been paid to Parliament's legislative resolutions of September and December 2021, as they probably include the most comprehensive list of Parliament's expectations in relation to a legal framework on gender-based violence including gender-based cyber violence.

Based on the comparison of Parliament's main requests related to a legal framework on gender-based violence with the Commission proposal for a directive, the following main conclusions can be drawn:

- The proposal for a directive fills significant gaps in relation to combating violence against women and domestic violence in the EU, recognising these types of violence as a systemic problem and contributing to a harmonised approach to address them in the EU. Moreover, the proposal is timely in light of, in particular, the adverse impacts of the coronavirus pandemic on gender equality and the EU's accession to the Istanbul Convention being on hold;
- The proposal criminalises some key forms of violence against women, including in the area of gender-based cyber-violence. However, other than requested by Parliament, the Commission did not propose to extend the legal basis of the proposal (Article 83(1) of the Treaty on the Functioning of the European Union, TFEU) to gender-based violence, thus not allowing criminalisation of all (or other) forms of gender-based violence under the proposal. Moreover, certain forms of gender-based violence, such as forced abortion, forced marriage or forced sterilisation, are not criminalised under the proposal while possibly covered under 'sexual exploitation' in Article 83(1). As requested by

- Parliament, however, the proposal appears to cover violence targeting LGBTIQ+ people (as 'victims' are considered as 'any person, regardless of sex or gender');
- Other than called for by Parliament, the proposal does not provide a common definition of 'gender-based violence'. Also, specific definitions are only provided for certain forms of gender-based violence and cyber-violence. However, a strong set of minimum rules for preventing and combating any form of violence against women and domestic violence will likely contribute to an 'upward convergence' in terms of prevention, protection and prosecution of such crimes across Member States, resulting in an increased level of protection across the EU;
  - In this context, many of Parliament's requests have been taken on board. This goes, for instance, for tackling the root causes of gender-based violence through awareness-raising, education and research, or for mandatory training of professionals coming into contact with the victims in order to ensure specialised support, matching the specific needs of victims. Moreover, Member States are to adopt guidelines, both for enforcement and judicial authorities and for healthcare and social services, to make sure that victims are identified and treated in a gender-, trauma- and child-sensitive way. Also, Parliament's request to take into account the specific protection and support needs of victims experiencing multiple discrimination based on a combination of sex and other grounds as well as of vulnerable groups are addressed in several provisions of the proposal;
  - Several Parliament requests have nevertheless not been included in the proposal. While Parliament called, for instance, for free legal aid and psychological support for victims of gender-based violence, the proposal only grants this to victims of rape or female genital mutilation. Also, no minimum number of shelters per 10 000 inhabitants is laid down in the proposal. Similarly, the proposal does not require the Member States to set up specialised courts for women and child victims of gender-based violence. Moreover, while Member States must ensure investigation and prosecution of rape even in case of withdrawal of a complaint (*ex officio*), they are not required to do so for other forms of violence against women;
  - On gender-based cyber-violence, while only certain forms are criminalised by the proposal, many of Parliament's detailed recommendations (on prevention, protection, support and compensation of victims as well as prosecution of offenders), included, in particular, in its 2021 legislative resolution, have been addressed in the proposal. Only a few specific requests (such as increased EU funding for victim support organisations and EU-wide awareness-raising campaigns; gender diversity in the science, technology, engineering and mathematics (STEM) sectors and an EU legal framework for e-evidence collection) have not been addressed in the proposal. Importantly, however, the Commission has not responded to Parliament's call for the development of indicators to measure progress in combating gender-based cyber-violence (which is also true for indicators on other forms of gender-based violence, the development of which is not mentioned in the proposal at all);
  - In line with Parliament's request for more and better data, Member States are to set up comprehensive and permanent data collection systems, to be followed up by research on, *inter alia*, the root causes, effects, incidences and conviction rates of gender-based violence. However, several of Parliament's more specific requests (such as to establish an EU observatory on violence against women, ensure data exchanges between Eurostat and national judicial authorities and police, or collect data and produce studies on cyber-bullying or psychological harassment at work) have not been taken up.

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## Introduction

On 8 March 2022, on the occasion of International Women's Day 2022, the European Commission presented a long-awaited proposal for a directive on combating violence against women and domestic violence. In view of its deliberations on the proposal, Parliament's Committee on Women's Rights and Gender Equality (FEMM) asked EPRS to prepare an analysis of the Commission proposal in light of Parliament's requests, submitted over time, for a legislative framework on preventing and combating gender-based violence. Accordingly, this study examines the Parliament's main requests adopted since 2009 – when Parliament first called for a directive on preventing and combating all forms of violence against women – compared against the provisions of the Commission proposal. Particular focus has been placed on the resolutions adopted under the current term, including the legislative resolutions adopted in September and December 2021 respectively.<sup>1</sup>

The study is divided into four sections: first, it provides an overview of the problem and current regulation at international, EU and Member State level. The second section explains the context and main elements of the Parliament's request for a directive, while the third section outlines the main features of the Commission proposal. The fourth section includes a table comparing the main elements of the Parliament's requests with the provisions included in the Commission proposal.

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<sup>1</sup> [Resolution](#) of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU, [Resolution](#) of 14 December 2021 with recommendations to the Commission on combating gender-based violence: cyber-violence, European Parliament. In this context, see also [European added value assessment on Gender-based violence as a new area of crime listed in Article 83\(1\) TFEU](#), EPRS, June 2021, and [European added value assessment on Combating gender-based violence: Cyber violence](#), EPRS, March 2021.

# 1. Overview of the problem and current regulation at international, EU and Member State level

## 1.1. The problem

Gender-based violence, including violence against women<sup>2</sup> and domestic violence<sup>3</sup>, breaches human rights and is an extreme form of gender-based discrimination. However, violence against women and domestic violence are pervasive throughout the European Union. While the full scale of the problem is not known due to a lack of data, the results of the most comprehensive survey<sup>4</sup> on violence against women at EU level to date, published by the EU Agency for Fundamental Rights (FRA) in 2014, convey a clear message: One in three women has experienced some form of physical and/or sexual violence since the age of 15. One in 10 women has experienced some form of sexual violence since the age of 15, and one in 20 women has been raped. Just over one in five women has experienced physical and/or sexual violence from either a current or a previous partner, whilst 43 % of women have experienced some form of psychologically abusive and/or controlling behaviour when in a relationship.

Violence against women is rooted in social inequalities and unequal power relations between men and women. It can take many forms, including psychological violence, harassment, physical and sexual violence, female genital mutilation (FGM), forced marriage, forced abortion and sterilisation, sexual harassment and 'honour' crimes. Some specific groups, such as migrant women, women with disabilities, LGBTI women, women in prostitution or women living in institutions (such as retirement homes), are more likely to experience violence and intersecting forms of violence. Recent years have seen the emergence of gender-based cyber violence, which is likely to continue growing, especially among adolescents. Women 'in the public eye', such as politicians and journalists but also LGBTIQ people, are particularly affected by this phenomenon. Violence against women has serious consequences for the physical and mental health of the victims, and can also have consequences for children who witness it. Moreover, it places a significant economic burden on society as a whole, in the form of healthcare, social, policing and legal costs and lost productivity, estimated at €289 billion per year in total.<sup>5</sup>

During the coronavirus pandemic and related lockdowns, there has been a sharp increase in women reporting incidents of gender-based violence (including, in particular, intimate partner violence)<sup>6</sup> putting support structures for victims under considerable pressure. Also, while 1 in 10 women in the

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<sup>2</sup> Under the Istanbul Convention, 'violence against women' is defined as 'all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life'. It is a sub-set of gender-based violence (which is defined as an act of violence 'directed against a person because of his or her gender and expectations of his or her role in a society or culture' by the UN). While men and boys, as well as women and girls may be victims of gender-based violence (e.g. sexual violence, intimate partner violence or stalking), this expression of violence affects women and girls disproportionately. Therefore, the terms 'gender-based violence' and 'violence against women' are often used interchangeably. See [European added value assessment on Gender-based violence as a new area of crime listed in Article 83\(1\) TFEU](#), June 2021, EPRS.

<sup>3</sup> The Istanbul Convention defines 'domestic violence' as 'all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim'. See also [Briefing: 'Violence against women in the EU - State of play'](#), November 2021, EPRS.

<sup>4</sup> [Violence against women: an EU-wide survey](#), 2014, European Union Agency for Fundamental Rights.

<sup>5</sup> ['Gender-based violence costs the EU €366 billion a year'](#), 7 July 2021, European Institute for Gender Equality.

<sup>6</sup> [Coronavirus and the shadow pandemic of violence against women](#), 24 November 2020, EPRS.

EU had reported experiencing cyber-harassment since the age of 15 prior to the pandemic, cyber violence has increased exponentially since its start.<sup>7</sup>

## 1.2. Current regulation at international, EU and Member State level

At international level, violence against women is addressed in various instruments adopted under the auspices of the United Nations, the International Labour Organization and the Council of Europe. These include notably the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>8</sup> and the 1993 UN Declaration on the Elimination of Violence against Women (DEVAW).<sup>9</sup> Although not binding, the declaration was the first international text to deal exclusively with violence against women. The Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention),<sup>10</sup> adopted by the Council of Europe in 2011, established the first comprehensive and binding framework in Europe for combating violence against women and domestic violence, protecting victims and punishing perpetrators. Although it also applies to children and men, its preamble sets out that women and girls are disproportionately affected by gender-based violence. It provides, amongst others, definitions of gender, gender-based violence and domestic violence, and criminalises various forms of violence against women such as stalking or forced marriage. However, the convention does not cover cyber violence. As of June 2022, all EU Member States had signed the convention and 21 had ratified it.<sup>11</sup> The EU's accession to the convention has not yet been completed (although, as stated in a 2021 opinion of the European Court of Justice,<sup>12</sup> the EU is not required to wait until all Member States have ratified the convention before acceding). Moreover, the Violence and Harassment Convention,<sup>13</sup> adopted in 2019 by the International Labour Organization, applies to violence and harassment in the world of work.

Despite the extent of gender-based violence (including violence against women and domestic violence), and the harm it causes, the EU does not currently have a comprehensive legal instrument to address it. Specific EU legislation in the areas of equality between women and men, judicial cooperation in criminal matters and asylum policy, however, have covered the matter partially.<sup>14</sup>

Accordingly, Member States have adopted divergent approaches to tackle gender-based violence. In particular, they differ substantially in their definitions of gender-based violence and how the offence is treated. Although there are fewer disparities among those Member States that have ratified the Istanbul Convention in comparison with those that have not ratified it, further actions

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<sup>7</sup> [Statement on Online Violence against Women and Girls](#), 4 November 2020, Women's UN report network.

<sup>8</sup> [Convention on the Elimination of All Forms of Discrimination against Women](#) (CEDAW), 18 December 1979, United Nations.

<sup>9</sup> [Declaration on the Elimination of Violence against Women](#) (DEVAW), 20 December 1993, United Nations.

<sup>10</sup> [Convention on preventing and combating violence against women and domestic violence](#) (the Istanbul Convention), 11 May 2011, Council of Europe.

<sup>11</sup> [Chart](#) of signatures and ratifications, Istanbul Convention.

<sup>12</sup> [Opinion](#) 1/19 of the Court, 6 October 2021, European Court of Justice.

<sup>13</sup> [Violence and Harassment Convention](#), 21 June 2019, International Labour Organization.

<sup>14</sup> Specific EU legislation to address violence against women includes: [Directive 2006/54/EC](#) concerning equal treatment as regards access to employment and working conditions, [Directive 2010/41/EU](#) on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, [Directive 2004/113/EC](#) on equal treatment in the access to and supply of goods and services, [Directive 2011/36/EU](#) on combating trafficking in human beings, [Directive 2004/81/EC](#) on the residence permit issued to third-country nationals who are victims of trafficking, [Directive 2012/29/EU](#) on the rights and protection of victims of crime, [Directive 2011/99/EU](#) on the European protection order in criminal matters, and [Regulation \(EU\) No 606/2013](#) on mutual recognition of protection measures in civil matters.

remain necessary even in the former.<sup>15</sup> Significant differences also remain in the Member States' non-legislative policies (national action plans and strategies) to address gender-based violence. This fragmented situation across Member States and under-reporting result in a limited amount of comparable, disaggregated and standardised data at EU level, making it difficult to grasp the full scale of the problem and take effective action to combat it.<sup>16</sup>

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<sup>15</sup> Cyprus and Romania, for instance, have ratified the Istanbul Convention, but still do not prosecute some of the crimes mentioned therein (such as stalking and forced sterilisation). Similarly, stalking is not recognised in Lithuanian criminal law, while forced sterilisation is not recognised in Latvia and Bulgaria. (See EPRS European added value assessment on gender-based violence as a new area of crime, pp. 24-29).

<sup>16</sup> Ibid, pp. 29-32.

## 2. European Parliament requests for an EU legal framework

Since the mid-80s, Parliament has been vocal about the problem of violence against women. In a significant number of resolutions adopted ever since, the Parliament has shaped its position, clearly condemning all forms of gender-based violence (GBV) and calling for decisive action to combat and prevent them. Since 2009,<sup>17</sup> Parliament has been urging the Commission to draw up a comprehensive approach on preventing and combating violence against women in order to ensure that all women in the EU have the same level of protection from male violence. In line with the gradual evolution of the notion of 'gender-based violence' over time, Parliament extended this to other forms of GBV – such as domestic, intimate partner and cyber violence, human trafficking and sexual exploitation, reproductive coercion and the denial of abortion care – as well as to LGBTIQ+<sup>18</sup> persons as possible victims of such violence.

While Parliament has, since 2014,<sup>19</sup> been calling for swift EU accession to the Istanbul Convention, it also continued, especially in view of some Member States blocking the convention's ratification, to push for a legal framework at EU level to prevent and combat gender-based violence. In a legislative resolution adopted in September 2021, Parliament thus recommended adding gender-based violence to the existing areas of serious crime under Article 83(1) TFEU in order to provide for a stronger legal basis for the Parliament and the Council to adopt a directive setting minimum standards for prosecuting this type of violence as crime and protecting victims. In December 2021, Parliament called for such a legal framework to also cover cyber violence.

### 2.1. Key points requested by the European Parliament in relation to a directive

#### 2.1.1. Ensure a strong legal basis under Article 83(1) TFEU and provide a common definition of gender-based violence (including of its different forms)

Early on, in a resolution<sup>20</sup> adopted in 1986, Parliament stressed the inconsistencies among Member States' legislation in combating violence against women. In this resolution, it called on the Member States to redefine sexual assault and rape from 'offences against chastity' to 'offences against the person'. It called for rape to be legally acknowledged as such both within and outside marriage. It called for a legal definition of sexual harassment and for data collection to ascertain the extent of the problem. It also recognised prostitution as a 'form of exploitation' of women and children and encouraged the Member States to take preventive measures. Finally, it called for introducing measures to combat human trafficking and placing a ban on sex tourism, and deplored the practice of female genital mutilation.

Over the years, Parliament has insisted on developing a coherent approach to tackling violence against women. In a resolution<sup>21</sup> adopted in 2006, Parliament recommended that the Commission and the Member States adopt an 'all-encompassing policy approach' to combat violence against women. It urged them to recognise this type of violence as a violation of human rights. In 2009,

<sup>17</sup> [Resolution](#) of 26 November 2009 on the elimination of violence against women, European Parliament.

<sup>18</sup> LGBTIQ+ is commonly understood to stand for lesbian, gay, bisexual, transgender, intersexual, queer/questioning and other persons.

<sup>19</sup> [Resolution](#) of 25 February 2014 with recommendations to the Commission on combating violence against women, European Parliament.

<sup>20</sup> [Resolution](#) of 11 June 1986 on violence against women, European Parliament.

<sup>21</sup> [Resolution](#) of 2 February 2006 on the current situation in combating violence against women and any future action, European Parliament.

Parliament asked the Commission to propose a directive to cover 'action to prevent and combat all forms of violence against women'. In 2011, it followed up with concrete recommendations<sup>22</sup> wherein it set six goals underlying an effective framework for combating violence against women (policy, prevention, protection, prosecution, provision, and partnership).

Currently, no EU legal instrument comprehensively addresses violence against women and domestic violence. Parliament has long been advocating for the adoption of an EU strategy on combating violence against women and gender-based violence and in particular for an instrument underpinned by a clear and solid legal basis. In its mid-term review of the 2000-2003 Daphne Programme,<sup>23</sup> for instance, Parliament called for the introduction in the Treaties of 'a special legal basis to combat sex-specific violence'. In a 2014 legislative resolution,<sup>24</sup> it called for a unanimous decision by the Council on adding violence against women (and other forms of gender-based violence) as an area of crime under Article 83(1) TFEU.

### Article 83(1) TFEU

This article lays down an exhaustive list of areas of crime where the Parliament and the Council may establish minimum rules on the definition of criminal offences and sanctions applicable in all EU Member States. It also provides that, based on developments in crime, the **Council** may adopt a **(unanimous) decision identifying other areas of particularly serious crime with a cross-border dimension** resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

Such an **extension of the legal basis** enables the Commission to **propose**, as a second step, **directives** establishing minimum rules on the definitions and sanctions **in new areas of crime**, to be adopted through the ordinary legislative procedure. In **December 2021**, the Commission proposed **extending Article 83(1) to hate speech and hate crime**. With respect to Parliament's 2021 legislative resolution on extending Article 83(1) to gender-based violence, the Commission argued in its respective [communication](#) that: '[...] This initiative, together with the upcoming legislative proposal to combat violence against women and domestic violence, aim to address the European Parliament's request.'

Most recently, in a legislative resolution<sup>25</sup> of September 2021 supported by a European added value assessment<sup>26</sup> prepared by EPRS, the Parliament requested the adoption of minimum rules on the definition of criminal offences and sanctions, including a common definition of gender-based violence. It reiterated its call for the introduction of gender-based violence within the remit of Article 83(1) TFEU and urged the Commission to use this provision as the legal basis for its proposal for a directive on combating 'all forms of gender-based violence both online and offline'.

With respect to rape and sexual violence,<sup>27</sup> Parliament has, over the years, repeatedly reiterated its appeal on the Member States to recognise these offences as crimes, in particular within marriage and informal relationships and in the absence of consent. Moreover, Parliament has asked the Commission to include a definition of gender-based cyber-violence in its upcoming directive.<sup>28</sup> It

<sup>22</sup> [Resolution](#) of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women, European Parliament.

<sup>23</sup> [Resolution](#) on the mid-term review of the 2000-2003 Daphne Programme, European Parliament.

<sup>24</sup> [Resolution](#) of 25 February 2014 with recommendations to the Commission on combating violence against women, European Parliament.

<sup>25</sup> [Resolution](#) of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU, European Parliament.

<sup>26</sup> [Gender-based violence as a new area of crime listed in Article 83\(1\) TFEU - European added value assessment](#), EPRS, 2021.

<sup>27</sup> [Resolution](#) of 26 November 2009 on the elimination of violence against women, European Parliament.

<sup>28</sup> [Resolution](#) of 14 December 2021 with recommendations to the Commission on combating gender-based violence: cyber-violence, European Parliament.

has urged the adoption of measures supporting Member States in the prevention and protection of victims and ensuring their access to compensation. Parliament has also stressed the need for the inclusion of LGBTIQ people in the definition of gender-based cyber-violence. Finally, it has urged<sup>29</sup> the Commission to include within the remit of a directive on violence against women and gender-based violence an updated and comprehensive definition of harassment (sexual or otherwise) and mobbing. Similarly, in 2021 the Parliament called<sup>30</sup> on the Commission and the Member States to introduce binding measures to define and prohibit violence and harassment in the world of work.

Regarding FGM, Parliament has called for an EU strategy to end FGM<sup>31</sup> and urged the Member States to adopt specific legislation allowing for the prosecution of FGM. It has also urged the Commission to take action on combating FGM as part of an overall policy on combating violence against women.

On sexual and reproductive health rights (SRHR),<sup>32</sup> in 2021 Parliament called on the Commission to recognise the intrinsic links between SRHR, gender equality and gender-based violence, stressing that reproductive coercion, a total ban on or denial of abortion care as well as gynaecological and obstetric violence are also forms of gender-based violence. With a view to the forthcoming directive on gender-based violence, violations of SRHR should be covered. Moreover, Parliament encouraged<sup>33</sup> the Commission to promote regular exchanges of good practice between Member States and stakeholders on SRHR.

### 2.1.2. Reinforce prevention through awareness-raising, education, training and research

In several resolutions adopted since 2009,<sup>34</sup> Parliament has repeatedly pointed to the need to prevent violence against women by combating its root causes (such as the unequal distribution of power between women and men, established patriarchal structures and gender norms, sexism and stereotypes). In particular, Parliament has called for awareness-raising and information campaigns, as well as strategies to change the social stereotyping of women through education and the media. It has also urged for more research to better understand the causes and impacts of violence against women.

In 2014, Parliament asked<sup>35</sup> the Commission to submit, on the basis of Article 84 TFEU, a proposal for a regulation establishing measures to promote and support the actions of Member States in the field of prevention of violence against women and girls. Detailed recommendations as to the content of such a proposal – including public education programmes and training; research, data collection and analysis; awareness-raising campaigns; designation of national rapporteurs or equivalent mechanisms; and the creation of a civil society forum to ensure a close dialogue between the EU institutions and relevant stakeholders – were included in the resolution's annex.

In September 2021, Parliament stressed<sup>36</sup> the importance of preventive measures in combating violence against women and girls, noting that such measures require a clearer focus in the entire

<sup>29</sup> [Resolution](#) of 11 September 2018 on measures to prevent and combat mobbing and sexual harassment at workplace, in public spaces, and political life in the EU, European Parliament.

<sup>30</sup> [Resolution](#) of 21 January 2021 on the EU strategy for gender equality, European Parliament.

<sup>31</sup> [Resolution](#) of 24 March 2009 on combating female genital mutilation in the EU, European Parliament.

<sup>32</sup> [Resolution](#) of 24 June 2021 on the situation of sexual and reproductive health and rights in the EU, in the frame of women's health, European Parliament.

<sup>33</sup> [Resolution](#) of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU, European Parliament.

<sup>34</sup> See, inter alia, Parliament resolutions adopted in [2009](#), [2011](#), [2014](#), [2015](#) and [2017](#).

<sup>35</sup> [Resolution](#) of 25 February 2014 with recommendations to the Commission on combating violence against women, European Parliament.

<sup>36</sup> [Resolution](#) of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU, European Parliament.

judiciary, as well as in schools and healthcare. Considering that men's violence against women starts with boys' violence against girls (and that preventive measures must therefore start at an early age), the Parliament called for educational measures directed towards, and implemented with, young people (including age-appropriate information, comprehensive sexuality education, development of skills in creating non-violent relationships, self-defence training and other actions to combat segregation, gender inequality and discrimination). Parliament also underlined the need for EU-wide awareness-raising campaigns (including information targeted at educating younger EU citizens about gender equality and the impact of online and offline gender-based violence). In this context, it welcomed the Commission's proposal for an EU-wide campaign on gender stereotypes included in the 2020-2025 EU gender equality strategy.

In October 2021, Parliament also extensively addressed<sup>37</sup> prevention of intimate partner violence, making a number of recommendations in terms of training of professionals and combating its root causes through education and awareness-raising.

In December 2021, Parliament reiterated the urgency to tackle the root causes of gender-based violence and called<sup>38</sup> on the Commission to consider this in its future proposal. It also spoke out in favour of a common definition of cyber violence in order to overcome the significant differences in the way Member States currently work to prevent and tackle this phenomenon, and to ensure an equal level of protection, access to justice and specialised support services for victims throughout the EU. To effectively prevent gender-based cyber violence and protect women against it, Member States should allocate appropriate human and financial resources to competent authorities at all levels of government. This should also include resources and support for institutions providing legal aid, healthcare, and social protection, including women's organisations. In order to avoid secondary victimisation and re-traumatisation, Member States should also provide mandatory, continuous and gender-responsive capacity-building, education and training for all relevant professionals (in particular for justice and law enforcement authorities as well as social services and educational staff, in cooperation with civil society organisations).

In the same resolution, a call for adequate funding for advocacy and victim support organisations, and increased funds for awareness-raising campaigns and combating gender stereotypes was also addressed to the Commission. An EU-wide awareness-raising campaign on gender-based cyber violence should contain, inter alia, information targeted at educating younger EU-citizens on how to recognise and report forms of cyber violence and on digital rights. As young women are particularly targeted, specific prevention and awareness-raising initiatives should be developed for them. Considering the overlap between gender-based cyber violence and human trafficking based on sexual exploitation of women and girls, the Parliament also underlined the importance of awareness-raising in relation to online human trafficking on social media in order to prevent new victims from being ushered into trafficking networks. More generally, Parliament recognised the important role of the media and the social media in raising awareness about preventing and combating the phenomenon, stressing the negative impact of the portrayal of gender stereotypes in the media and through advertising on gender equality.

Moreover, Parliament pointed to the importance of more research into gender-based cyber violence and of education to combat gender stereotypes and to develop digital skills, such as cyber hygiene and netiquette, at an early age. Parliament welcomed the Commission's announcement to launch an EU-wide network on the prevention of gender-based violence and domestic violence, and to take action to protect the safety of victims of gender-based cybercrime.

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<sup>37</sup> [Resolution](#) of 6 October 2021 on the impact of intimate partner violence and custody rights on women and children, European Parliament.

<sup>38</sup> [Resolution](#) of 14 December 2021 with recommendations to the Commission on combating gender-based violence: cyberviolence, European Parliament.

With a view to the sharp increase of cyber violence during the coronavirus pandemic, Parliament encouraged the Commission to develop an EU protocol on gender-based violence in times of crisis and emergency in order to include protection services for victims as 'essential services' in the Member States.

### 2.1.3. Improve victims' protection, access to justice and support

In a resolution adopted in 2009,<sup>39</sup> Parliament called for a right of assistance and support for all victims of violence regardless of their nationality. It urged the protection of domestic violence victims, including when their legal status depends on their partners, and for the creation of mechanisms to allow victims of gender-based violence and trafficking to access free legal aid. It stressed the importance of training of those assisting victims of violence, such as law enforcement and judicial authorities (including the courts, social, medical and legal services, labour market agencies, employers and trade unions). Regarding sentences and injunctions, it highlighted the need to eliminate obstacles to the recognition of legal acts in other Member States. It welcomed the creation of specialised courts on violence against women in some Member States and urged others to follow the example.

In 2011,<sup>40</sup> Parliament proposed the creation of a European charter setting out a minimum level of assistance services to victims of violence including: right to legal aid, creation of shelters (minimum number per 10 000 inhabitants), as well as free psychological and financial aid. It underlined the need for Member States to investigate all forms of gender-based violence and prosecute perpetrators in line with the gravity of their crimes. It also highlighted setting up specific investigative routines for police and healthcare professionals to secure evidence more efficiently.

On many occasions, Parliament has stressed that access to justice and support need to be ensured for certain groups of women and girls at risk of multiple discrimination and violence, such as migrant women, women refugees and asylum seekers, women and girls with disabilities, LGBTI women and Roma women.

Regarding sexual harassment, Parliament has called on the Member States to ensure that the national equality bodies are adequately equipped to provide independent assistance to victims, conduct surveys and reports and make recommendations in matters of employment and vocational training.<sup>41</sup> It has also stressed that certain groups of workers are more exposed, such as pregnant women and parents, women with disabilities, migrant women, indigenous women, LGBTI people, and women on temporary or part-time contracts. As a consequence, it has asked the Commission and the Member States to recognise the phenomenon of harassment on grounds of pregnancy and motherhood in employment.<sup>42</sup>

In a resolution adopted in 2021,<sup>43</sup> Parliament addressed issues arising in the context of custody proceedings where intimate partner violence is present. It stressed that criminal proceedings often occur independently of complaints about domestic violence and recalled that the Istanbul Convention called for these incidents be considered when determining custody and visitation rights. It called on the Member States to ensure adequate financial support and compensation for victims, guarantee access to legal protection (free of charge if needed), effective hearings and

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<sup>39</sup> [Resolution](#) of 26 November 2009 on the elimination of violence against women, European Parliament.

<sup>40</sup> [Resolution](#) of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women, European Parliament.

<sup>41</sup> [Resolution](#) of 26 October 2017 on combating sexual harassment and abuse in the EU, European Parliament.

<sup>42</sup> [Resolution](#) of 11 September 2018 on measures to prevent and combat mobbing and sexual harassment at workplace, in public spaces, and political life in the EU, European Parliament.

<sup>43</sup> [Resolution](#) of 6 October 2021 on the impact of intimate partner violence and custody rights on women and children, European Parliament.

restraining orders, shelters and counselling. It furthermore called on the Commission to assess the establishment of minimum standards for protection orders across the EU. It highlighted in particular that even if the legal conditions for the arrest of the offender are not met, Member States should ensure that the alleged offender would be removed from the victim's accommodation and kept away from their workplace.

It also called for the recognition of children who are victims of violence or witnesses of such violence to be recognised as victims of gender-based violence and thus allowed access to legal protection and assistance. It urged the Member States to ensure that trained professionals conduct hearings of children in a child-friendly environment with particular attention to children with disabilities or from vulnerable groups. In this context, it called for minimum EU standards on these hearings. It recommended the creation of specialised courts or sections as well as the development of guidelines for all professionals involved, to ensure coherence in judicial decisions (criminal, civil) and to avoid secondary and repeat victimisation of women and children. It also called for the Commission and the Member States to tackle the issue of anonymous and retracted complaints and encouraged the creation of databases by law enforcement recording all the incidents.

With respect to FGM, in 2014 Parliament<sup>44</sup> called on the Member States to use mechanisms under the Victims' Rights Directive<sup>45</sup> to prosecute offenders even if the crime had been committed outside their borders. It therefore called for the principle of extraterritoriality to be included in the criminal law provisions across all Member States. While this is now the case in many Member States, Parliament noted that only a few cases had reached EU courts despite the large numbers of victims (estimated at 600 000 in 2020).<sup>46</sup> It therefore invited the Commission to facilitate training for professionals to detect, investigate and prosecute FGM.<sup>47</sup> Most recently, given the increase in cases, Parliament called for a review<sup>48</sup> of the 2013 communication on elimination of FGM<sup>49</sup> and for more efforts to reduce disparities in laws, policies and practices among the Member States.

Regarding cyber-violence, Parliament made concrete recommendations in a legislative resolution adopted in 2021,<sup>50</sup> including: mandatory and continuous gender-responsive training for professionals, notification systems to denounce content disseminated online (and its suspension within 48 hours), availability of specialised staff in social services/law enforcement agencies, and access to support services in an accessible language. It asked the Commission to consider provisions on guidelines for investigation and prosecution, including on evidence collection. As to the latter, it called for effective cooperation between law enforcement, tech companies and service providers. In an earlier resolution adopted in 2017,<sup>51</sup> Parliament underlined the need to develop a common EU approach to the issue of jurisdiction in cyberspace and asked for shared procedural standards and investigative measures to be made available across geographical borders. Lastly, it urged the Commission to put forward an EU legal framework for e-evidence including harmonised rules to determine the status of providers, both domestic and foreign.

On many occasions, Parliament has called on the Member States to ensure adequate human and financial resources for services dedicated to victims of gender-based violence. In its 2019 resolution

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<sup>44</sup> [Resolution](#) of 6 February 2014 on the Commission communication entitled 'Towards the elimination of female genital mutilation', European Parliament.

<sup>45</sup> [Directive 2012/29/EU](#) on the rights and protection of victims of crime.

<sup>46</sup> [Resolution](#) of 12 February 2020 on an EU strategy to put an end to female genital mutilation around the world, European Parliament.

<sup>47</sup> [Resolution](#) of 7 February 2018 on zero tolerance for Female Genital Mutilation, European Parliament.

<sup>48</sup> [Resolution](#) of 12 February 2020 on an EU strategy to put an end to female genital mutilation around the world, European Parliament.

<sup>49</sup> [Communication](#) 'Towards the elimination of female genital mutilation', 25 November 2013, COM(2013)833, European Commission.

<sup>50</sup> [Resolution](#) of 14 December 2021 with recommendations to the Commission on combating gender-based violence: cyber-violence, European Parliament.

<sup>51</sup> [Resolution](#) of 3 October 2017 on the fight against cybercrime, European Parliament.

on the EU's accession to the Istanbul Convention,<sup>52</sup> for instance, it favoured the earmarking of €193.6 million to prevent and combat all forms of gender-based violence. In a post-COVID-19 context, it welcomed additional funding under the 2021-2027 MFF for the Citizens, Equality, Rights and Values programme.<sup>53</sup> It also urged for the implementation of gender-targeted measures – through earmarking – addressing the specific needs of women following the health crisis, in the field of employment, gender-based violence and sexual and reproductive health. It called on the Commission and the Member States to ensure that LGBTIQ people who are victims of violence benefit from the same support services.

Moreover, Parliament has repeatedly underlined the lack of sufficient shelter places for women victims, with, as pointed out in 2021, the available number of beds in shelters being only half of what is required under the Istanbul Convention. In 2011,<sup>54</sup> it urged Member States to provide shelters offering specialised services such as medical treatment, legal aid and support during court proceedings, psychosocial and therapeutic counselling and support for children. In 2014,<sup>55</sup> it called on Member States to ensure sufficient shelter places for at least one woman per 10 000 inhabitants and to provide for national help lines free of charge. In the context of the coronavirus pandemic, it asked the Member States to establish safe and flexible emergency warning systems, new assistance services for direct police outreach and online services such as digital platforms, concealed apps, and pharmacy networks. It called on the Commission to develop an EU protocol on violence against women in times of crisis/emergency and to qualify protection services for victims as 'essential services' in the Member States.

In its 2021 resolution on custody proceedings,<sup>56</sup> Parliament called on the Commission and the Member States to increase funding dedicated to fighting domestic violence and to ensure stable long-term financing. It further called on them to allocate adequate funding for the establishment and expansion of shelters. It asked for structural support, including financial, to be provided at EU, national and local level for civil society organisations as a way to ensure that everybody has adequate access to their services. It also noted that only 13 Member States had implemented the EU 116006 helpline for victims of crime and only a few had specialist helplines for victims of intimate partner violence. It stressed the need to ensure access to specialist support services for victims in rural and remote areas and called on the Commission to examine the possibility of dedicating regional development funding for this purpose.

Regarding sexual and psychological harassment, Parliament, in a resolution adopted in 2018,<sup>57</sup> urged the Commission and the Member States to ensure adequate funding for programmes and actions combating harassment, with a focus on new technologies. It asked the Member States to ensure specialised services for victims, including in rural and remote areas. It recommended that companies set out confidential procedures to deal with complaints, and provide for dissuasive sanctions and mandatory training courses. In addition, it recommended that specialised labour inspectors and psychologists provide support for victims at their workplace.

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<sup>52</sup> [Resolution](#) of 28 November 2019 on the EU's accession to the Istanbul Convention and other measures to combat gender-based violence, European Parliament.

<sup>53</sup> [Resolution](#) of 21 January 2021 on the gender perspective in the COVID-19 crisis and post-crisis period, European Parliament.

<sup>54</sup> [Resolution](#) of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women, European Parliament.

<sup>55</sup> [Resolution](#) of 25 February 2014 with recommendations to the Commission on combating violence against women, European Parliament.

<sup>56</sup> [Resolution](#) of 6 October 2021 on the impact of intimate partner violence and custody rights on women and children, European Parliament.

<sup>57</sup> [Resolution](#) of 11 September 2018 on measures to prevent and combat mobbing and sexual harassment at workplace, in public spaces, and political life in the EU, European Parliament.

Regarding funding to combat FGM, in 2020 Parliament<sup>58</sup> called for a greater synergy between internal and external funding programmes that reflect the complexity of the issue, as well as comprehensive transnational and cross-border interventions to eradicate this type of violence.

#### 2.1.4. Tackle gender-based cyber violence

While Parliament had already addressed the emerging phenomenon of cyber violence in a number of previous resolutions,<sup>59</sup> its legislative resolution of December 2021 on combating cyber violence<sup>60</sup> included the most comprehensive recommendations on the content of a future proposal for a directive to tackle gender-based violence, including cyber violence.

In its December 2021 resolution, Parliament reiterated its call for a comprehensive directive covering all forms of gender-based violence including, inter alia, cyber violence, urging the Commission to use the directive to criminalise gender-based cyber violence as a cornerstone for the harmonisation of existing and future legal acts. While considering that 'serious forms of online gender-based violence with a cross-border dimension may fall within the scope of 'computer crime' within the meaning of Article 83(1) TFEU', Parliament – in an attempt to ensure the broadest possible scope of the future directive – once again called for gender-based violence to be added to the list of EU crimes under Article 83(1) TFEU.

As regards the content of the proposal for a directive – which was to be based on an (extended) Article 83(1) TFEU – Parliament made specific recommendations on cyber violence concerning 1) objective; 2) scope and definitions; 3) preventive measures; 4) protection, support to and compensation of victims; 5) prosecution and criminalisation of gender-based cyber violence; and 6) data collection and reporting. The following paragraphs describe these recommendations in detail.

According to recommendation 1 (objective), the directive should include minimum rules on the definition of the criminal offence of gender-based cyber violence and related sanctions, establish measures to promote and support Member States in preventing this crime, and protect, support and ensure compensation of victims. In line with the LGBTIQ equality strategy 2020-2025, Parliament also asked that the proposal include a definition of online hate crime and hate speech when targeted at LGBTIQ people.

Under recommendation 2 (scope and definitions), Parliament requested the definition of gender-based cyber violence – which should set out the scope, extent, gendered and intersectional nature of cyber violence – to be based on the definitions in existing instruments, such as the Council of Europe Convention on Cybercrime or the Istanbul Convention. Accordingly, Parliament suggested the following possible definition: 'Gender-based cyber violence is a form of gender-based violence committed, assisted or aggravated in part or in full by the use of ICT, such as mobile phones and smartphones, the internet, social media platforms or email, against a woman because she is a woman, or that affects women disproportionately, or against LGBTIQ people because of their gender identity, gender expression or sex characteristics, and results in, or is likely to result in, physical, sexual, psychological or economic harm, including threats to carry out such acts, coercion or arbitrary deprivation of liberty, in public or private life'.

To address the above aspects in full, Parliament called for the scope of the proposal to cover any form of gender-based cyber violence. While acknowledging that it is not possible to provide an exhaustive list of the different forms of gender-based cyber violence due to its constantly evolving

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<sup>58</sup> [Resolution](#) of 12 February 2020 on an EU strategy to put an end to female genital mutilation around the world, European Parliament.

<sup>59</sup> See, inter alia, Parliament resolutions from 2018 (mobbing), 2018 (empowering women and girls through the digital sector), 2017 (combating sexual harassment and abuse in the EU), 2017 (fight against cybercrime), 2017 (conclusion of the Istanbul Convention).

<sup>60</sup> [Resolution](#) of 14 December 2021 with recommendations to the Commission on combating gender-based violence: cyber-violence, European Parliament.

nature, Parliament nevertheless enumerated certain types (such as cyber-harassment, cyber-stalking, ICT-related violations of privacy and recording or sharing images of raping or other forms of sexual assault, etc.) to be defined by the directive. Parliament also called for a broad personal scope of the directive, covering 'all victims of gender-based cyber-violence, with a specific recognition of intersectional forms of discrimination and victims participating in public life, which include:

- women and girls in all their diversity; and
- LGBTIQ people on the grounds of gender identity, gender expression or sex characteristics'.

In recommendations 3 and 4, Parliament listed a series of measures to be taken by the Member States to prevent gender-based cyber violence (such as awareness-raising and educational programmes, including for perpetrators; research; promotion of digital education, literacy and skills; facilitation of women's access to digital technology sectors; exchange of best practices among Member States, etc.) and to protect, support and compensate victims of such violence (as mentioned under the previous heading). Importantly, Parliament also requested the Commission to develop gender-responsive guiding principles for law enforcement officials when dealing with victims who report gender-based cyber violence in order to equip them with the necessary soft skills to carefully listen, understand and respect all victims of such violence. Moreover, the Commission was requested to support Member States in the development of protection and support services accessible free of charge to all victims, including emergency and long-term support, taking into account the specific needs of the victims and paying particular attention to victims belonging to groups particularly exposed or in need.

Under recommendation 5, Parliament spelled out a number of aspects to be addressed by the directive in the context of prosecution and criminalisation of gender-based cyber violence (such as the forms of gender-based cyber violence to be criminalised by the Member States including incitement, aiding, abetting and attempt of cybercrime; cross-border investigation and prosecution; specific provisions indicating the guidelines for investigation and prosecution; cooperation between law enforcement authorities, tech companies and service providers; aggravating circumstances such as making use of certain characteristics or vulnerabilities of the victim, etc.). All measures under 3, 4 and 5 should be victim-centred and follow an intersectional approach.

Last but not least, in its recommendation 6 the Parliament invited the Commission and the Member States to regularly collect and publish comprehensive disaggregated and comparable data on the different forms of gender-based cyber violence. Member States' data should be collected and made available through the statistics databases of the European Institute for Gender Equality (EIGE), FRA and Eurostat. FRA should conduct new extensive EU-wide research on all forms of gender-based cyber violence. The Commission should improve gender-disaggregated data on the prevalence and harms of gender-based cyber-violence at EU level and submit regular reports to the Parliament and the Council assessing to what extent Member States have taken measures in line with Parliament's recommendation.

### 2.1.5. Improve availability of data on GBV in the EU

As early as 1986,<sup>61</sup> Parliament had pointed to the lack of data on violence against women, calling on the Member States to compile statistics and data allowing to grasp the magnitude of this social problem and to gauge the effectiveness of action taken to combat it. In addition, Parliament called on the Member States and the Commission to finance data collection and research. In subsequent resolutions, Parliament highlighted the lack of a coherent system for the collection of data on

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<sup>61</sup> [Resolution](#) of 11 June 1986 on violence against women, European Parliament.

gender-based violence across the Member States, attributing this, inter alia, to the lack of a harmonised definition and divergent treatment of gender-based violence in the Member States. Parliament also identified the reluctance of victims to report on instances of gender-based violence (resulting in under-reporting) as an important factor contributing to the lack of data.<sup>62</sup>

To address the above issues, in 2009 the Parliament proposed a new comprehensive policy approach against gender-based violence including, inter alia, 'plans to develop methodological guidelines and undertake new data collection efforts to obtain comparable statistical data on gender-based violence, including female genital mutilation'. The Commission was also called upon to develop and provide annual statistics on gender-based violence, including figures on how many women are killed annually by their partners or ex-partners.<sup>63</sup> Since 2011, Parliament has also asked the Commission to establish an observatory on violence against women.<sup>64</sup> In 2014,<sup>65</sup> Parliament called for 'a revised proposal for a Regulation on European statistics that would target violent crimes and include a coherent system for collecting statistics on gender-based violence in the Member States.'<sup>66</sup> In 2016,<sup>67</sup> Parliament stated that EU accession to the Istanbul Convention would, inter alia, ensure more adequate and better collection of comparable, disaggregated data on violence against women and gender-based violence at EU level. It also considered victimisation surveys to be an essential source of information alongside the statistical information gathered for administrative purposes. In 2017, the Parliament welcomed<sup>68</sup> data exchanges between Eurostat and the Member States' national judicial authorities and police, inviting them to make this a continuous practice 'by monitoring, in cooperation with EIGE, the occurrence of crime committed against women on an annual basis'.

In various resolutions adopted between 2018 and 2021, Parliament also pointed to the lack of data regarding specific areas of gender-based violence, such as sexual harassment at work, trafficking in human beings (THB) and intimate partner violence, as set out in the following.

In 2018, to tackle under-reporting of violence in the workplace,<sup>69</sup> the Parliament stressed the urgent need to understand the barriers women face in reporting cases of sexual harassment, gender-based discrimination and violence, and to offer them full support in this context (by, inter alia, ensuring the presence of trained confidential counsellors in every organisation). Moreover, it called for better and scientifically more robust studies, including on new challenges, such as cyber bullying, as well as systematic collection of data on sexual and gender-based discrimination and psychological harassment in the workplace.

On THB, the Parliament highlighted<sup>70</sup> in 2021 that sexual exploitation remained the most prevalent and reported form of THB in the EU since 2008, as 60 % of victims were trafficked for sexual exploitation, with 92 % of these victims being women and girls. In this context, it pointed to the lack of data that hampered the assessment of the scale of and trends in THB. Parliament therefore called

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<sup>62</sup> See, inter alia, Parliament resolutions from [2009](#) (paragraph 23), [2011](#) (consideration L) and [2021](#) (considerations R and V).

<sup>63</sup> See the [2011](#) Parliament resolution (paragraphs 2 and 9).

<sup>64</sup> See, inter alia, the [2011](#) Parliament resolution (paragraph 11).

<sup>65</sup> [Resolution](#) of 25 February 2014 with recommendations to the Commission on combating violence against women, European Parliament.

<sup>66</sup> See the [2014](#) Parliament resolution (paragraph 2).

<sup>67</sup> [Resolution](#) of 24 November 2016 on the EU accession to the Istanbul Convention on preventing and combating violence against women, European Parliament.

<sup>68</sup> [Resolution](#) of 14 March 2017 on equality between women and men in the European Union in 2014-2015, European Parliament.

<sup>69</sup> [Resolution](#) of 11 September 2018 on measures to prevent and combat mobbing and sexual harassment at workplace, in public spaces, and political life in the EU, European Parliament.

<sup>70</sup> [Resolution](#) of 10 February 2021 on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, European Parliament.

on the Member States to increase their efforts in and funding of research, analysis and collection of data on all forms of THB.

In 2021, the Parliament pointed out<sup>71</sup> that even though intimate partner violence is prevalent in the EU and the coronavirus pandemic has only made it worse, it is underreported and there is a significant lack of data regarding its scale. What is more, currently available data collected by national law enforcement and justice authorities have failed to reflect the full extent of the phenomenon, as most Member States neither collect gender-disaggregated, comparable data nor recognise intimate partner violence as a specific offence. The future proposal for a directive should therefore contain uniform standards and a due diligence obligation to, inter alia, collect data.

In 2019<sup>72</sup> and 2021,<sup>73</sup> Parliament reiterated its call for improved availability and comparability of quality, disaggregated data on all forms of gender-based violence at EU and national level. It also called for the harmonisation of data collection systems among Member States through cooperation with Eurostat, EIGE and FRA. According to the Parliament, data collection should include some minimum information (such as on the gender of the victim and the perpetrator, their relationship, the existence of a sexual violence dimension, whether the violence has a gendered motivation and other socio-demographic characteristics of relevance to an intersectional analysis). Parliament also welcomed the announcement of a new EU-wide survey on the prevalence and dynamics of all forms of violence against women by FRA.

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<sup>71</sup> [Resolution](#) of 6 October 2021 on the impact of intimate partner violence and custody rights on women and children, European Parliament.

<sup>72</sup> [Resolution](#) of 28 November 2019 on the EU's accession to the Istanbul Convention and other measures to combat gender-based violence, European Parliament.

<sup>73</sup> [Resolution](#) of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU, European Parliament.

### 3. The Commission proposal of March 2022

The proposal for a directive on combating violence against women and domestic violence (the proposal), presented by the Commission on 8 March 2022,<sup>74</sup> lays down rules to prevent and combat violence against women and domestic violence throughout the EU. It seeks to render current EU legislation addressing violence against women and domestic violence more effective, to fill gaps in protection, access to justice, support, prevention, coordination and cooperation, and to align EU law with established international standards. In view of the fact that EU-level legislation is fragmented and Member States apply diverging approaches, the proposal aims to complement the existing EU acquis and Member States' national legislation in the areas covered by the Istanbul Convention. It is based on Articles 82(2) and 83(1) TFEU.

To achieve these objectives, the Commission proposes measures in the following areas: criminalisation of and sanctions for certain offences (chapter 2); protection of victims and access to justice (chapter 3); victim support (chapter 4); prevention (chapter 5); and coordination and cooperation (chapter 6).

Before describing the specific measures to be taken by the Member States under chapters 2 to 6, the authors of this study make observations on the general and final provisions included in chapters 1 and 7, as outlined below.

#### 3.1. General and final provisions (chapters 1 and 7)

In particular, chapter 1 sets out, inter alia, the scope of the proposal (Article 3). In this context, it states that the proposed directive applies, besides the criminal offences referred to in chapter 2, to all acts of violence against women and domestic violence as criminalised under EU or national law. According to Recital 4 of the proposed directive, this concerns, in particular, sexual exploitation of children (as covered by Directive 2011/93/EU) and trafficking of human beings for the purpose of sexual exploitation (as covered by Directive 2011/36/EU). In addition, the proposed directive applies to criminal offences under national law that fall under the definition of violence against women (as provided in Article 4 of the proposed directive), including femicide, sexual harassment, sexual abuse, stalking, early and forced marriage, forced abortion and sterilisation, and different forms of cyber violence. While the proposal – based on the existing Article 83(1) TFEU – criminalises certain offences, but not all (see description below focusing on chapter 2), its provisions nevertheless also apply to other forms of gender-based violence.

As for the personal scope of the proposed directive, it is customised to the specific needs of women and girls, as they are the ones who are disproportionately affected by the forms of violence covered by the proposed directive. However, Recital 5 acknowledges that, 'other persons may also fall victim to these forms of violence and should benefit from the measures provided therein'. This is reflected in Article 4, which defines victims as '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'.

Article 4 includes definitions of 'violence against women' and 'domestic violence'. In addition, it provides a definition of 'sexual harassment at work'. Although not criminalising this form of gender-based violence at EU level, the proposal seeks to complement Directives 2004/113/EC, 2006/54/EC and 2010/41/EU by setting minimum standards on support and access to justice for victims of such harassment. Article 2 for its part requires Member States to consider the increased risk of violence

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<sup>74</sup> [Proposal](#) for a directive of the European Parliament and the Council on combating violence against women and domestic violence, 8 March 2022, COM(2022)105 final, European Commission. See also [Ending gender-based violence](#), DG Justice website, and [Initial appraisal](#) of a European Commission impact assessment 'Combating violence against women and domestic violence', June 2022, EPRS.

faced by victims experiencing intersectional discrimination and other specific risks such as repeat and secondary victimisation when implementing the proposed directive.

Another important horizontal provision is included in chapter 7: pursuant to Article 46, the directive establishes minimum rules. As a consequence, Member States may provide a higher level of protection or support for victims if they so wish.

## 3.2. Criminalisation of certain offences (chapter 2)

In chapter 2, the proposal criminalises (i.e. makes punishable under criminal law, thereby conveying a message of particular social disapproval) certain forms of violence that disproportionately affect women, are not sufficiently addressed at national level and fall within the EU's remit.

This concerns Article 5: the criminalisation of rape based on lack of consent in all Member States (considering that 18 Member States currently require the use of force or threats for it to be punishable); Article 6: female genital mutilation (with at present only 15 Member States explicitly addressing this offence in criminal law); and certain forms of cyber violence including cyber stalking (Article 8), cyber harassment (Article 9), cyber incitement to violence or hatred (Article 10), and non-consensual sharing of intimate images (Article 7). Member States thus have to ensure that a certain intentional conduct, as defined in the above-mentioned provisions, is punishable as a criminal offence. This also covers incitement, aiding and abetting the commission of any of these criminal offences, as well as the attempt to commit them (Article 11).

With regard to penalties, the proposal sets 'minimum maximum prison sentences' for the respective offences (Article 12). This means that Member States can still impose higher maximum sentences if they so wish. Certain circumstances (such as that the offence was committed repeatedly, against a vulnerable person, against a child or in the presence of a child, etc.) should be regarded as aggravating (Article 13).

As regards the legal basis, it is worth noting that the Commission considers the offences criminalised under the proposal to be covered by the terms 'sexual exploitation' and 'computer crime' mentioned in Article 83(1) TFEU respectively. According to the explanatory memorandum, the term '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'. In the Commission's view, the criminal offences of rape and FGM pre-suppose such exploitative elements. Similarly, the Commission considers 'computer crime' as covering offences against or intrinsically linked to the use of information and communication technologies, including certain forms of cyber violence. Accordingly, as mentioned above, the proposal criminalises incitement to violence or hatred online. As for hate crime and hate speech committed offline (on grounds of sex, gender or other grounds), however, in December 2021 the Commission proposed extending the list of EU crimes in Article 83(1) TFEU.

## 3.3. Protection of victims and access to justice (chapter 3)

As regards strengthening victims' access to justice and rights to appropriate protection (chapter 3), the proposal includes provisions on facilitating the reporting of violence against women or domestic violence, both by the victims (including child victims and witnesses) and third parties such as relevant professionals (Article 16). In order to make reporting easy and avoid secondary or repeat victimisation, Member States should provide the possibility for submitting complaints online or through other information and communication technologies, and for uploading evidence related to their report in cases of cyber violence (such as screenshots of the alleged violent behaviour) (Article 16(1)).

Member States should also ensure that confidentiality rules do not constitute an obstacle for relevant professionals, such as doctors, to report to the competent authorities where they have reasonable grounds to believe that the victim faces an imminent risk of serious physical harm. This is of particular importance in cases of domestic violence, where victims may fear to reach out to the competent authorities even if their lives are in danger (Article 16(3)). In order to facilitate reporting of refugee or migrant victims, competent authorities are – at least until completion of the first individual assessment – prohibited from transferring personal data pertaining to the residence status of the victim to the competent migration authorities (Article 16(5)).

In light of the complexities and gravity of violence against women and domestic violence, the proposal also requires the competent authorities to have sufficient expertise and tools to investigate and prosecute such crimes (Article 17). To avoid delays in processing a complaint (which can bear particular risks to victims), Member States have to ensure that reported offences are processed and transferred without delay to the competent authorities for prosecution and investigation.

The competent authorities should then promptly and effectively record and investigate allegations of offences, and refer victims to relevant health care professionals or support services to assist in securing evidence, in particular in cases of sexual violence. They should ensure that a complaint is filed in all cases (Article 17(2), (3) and (4)). Importantly, investigations into or prosecution of rape should not depend on reporting or accusation by a victim or their representative, with criminal proceedings continuing even if the report or accusation has been withdrawn (Article 17(5)).

To ensure immediate protection and specific support, Articles 18 and 19 provide for an individual assessment of the risk emanating from the offender or suspect (including the risk of repeated violence, the risk of bodily harm etc.) and the victim's individual circumstances (such as the victim's pregnancy, dependence on or relationship to the offender as well as instances of multiple discrimination based on a combination of sex and other grounds). Special attention should be paid to the need to avoid secondary or repeated victimisation. It should be noted in this context that the proposal complements Directive 2012/29/EU insofar as the individual assessment to be made under that legislation should, as regards victims covered by this proposal, also consider these additional elements (Article 18(1)).

The assessment should be initiated upon the very first contact of competent authorities with the victim or as soon as suspicion arises that the person is a victim. This can be done even before a victim has formally reported an offence or proactively if a third party reports the offence (Article 18(2), (3) and (4)). Based on the assessment, appropriate protection measures (including emergency barring, restraining and protection orders) should be taken (Article 18(5)). In case of particular support needs found during the assessment, or if the victim requests support, support services should contact victims to offer such support (even without the victim's consent (Article 20)).

To ensure comprehensive protection and support, competent authorities and relevant bodies (such as victim protection centres, women's shelters, social services and healthcare professionals) should be involved in assessing the risks for victims and appropriate support measures (Article 18(6)). It is worth noting that the work of law enforcement and judicial authorities will be governed by guidelines to be adopted by the Member States in order to ensure, inter alia, proper risk assessment, trauma-, gender- and child-sensitive treatment of the victims and special consideration of victims experiencing multiple discrimination (Article 23). Another important provision is laid down in Article 22, according to which, without prejudice to the rights of defence, evidence concerning past sexual conduct of the victim or other aspects of the victim's private life related thereto should not be permitted in criminal investigations and court proceedings. Also, additional support – in terms of independent advice and assistance to victims, but also to Member States in preventing violence against women and domestic violence by publishing reports, making recommendations and exchanging information with other European bodies – is to be provided by designated bodies

(which may form part of the equality bodies set up under Directives 2004/113/EC, 2006/54/EC and 2010/41/EU) (Article 24).

As certain offences of cyber violence covered by the proposed directive involve the increased risk of repeated, prolonged or even continuous victimisation (which typically remains even after a conviction), Article 25 requires Member States to take measures aimed at the removal of certain online material. In particular, national judicial authorities are empowered to issue orders to providers of intermediary services to remove, or disable access to, one or more specific items of the material in question. With a view to the speed with which such material can be spread online and the time it can take to complete criminal proceedings, Article 25(2) allows, on certain conditions, for interim legal orders to be issued prior to the termination of such criminal proceedings. In any event, those orders need to be limited to what is necessary and proportionate, and to be based on a careful weighting of the rights and interests of all parties involved (especially in case of interim measures). In order to avoid evidence getting lost following the removal of or disabling access to the relevant material, competent authorities should be allowed to obtain or secure such material, where necessary. In this context, the explanatory memorandum of the proposal states that the provisions included in Article 25 should leave the relevant rules contained in the future Digital Services Act Regulation unaffected.

To avoid secondary victimisation, victims should be able to obtain compensation in the course of criminal proceedings (Article 26). It should be full, not restricted by a fixed upper limit and cover all harm and trauma experienced by victims, and costs incurred to manage the damages (including for healthcare services, support services, rehabilitation, loss of income and other reasonable costs).

### 3.4. Victim support (chapter 4)

In chapter 4 (victim support), the proposal sets the requirement for Member States to ensure specialist support services for victims of violence against women or domestic violence. These services should be provided in addition to, or as an integral part of, general victim support services under Directive 2012/29/EU. While Article 27 lays down general requirements to be complied with by all specialist support services for all forms of violence against women and domestic violence (see following paragraph), specific requirements for support services provided to victims of rape, FGM, sexual harassment at work and child victims are – due to the sensitive character of these offences and the specific support needs of victims – set out in Articles 28 to 30, 33 and 34. Pursuant to Article 35, Member States also have to ensure the provision of specific support to victims at an increased risk or with special needs (such as women with disabilities, women living in rural areas, migrant or refugee women, homeless women or women sex workers).

Under the general requirements, support services should be provided at the same premises, or be coordinated through a central contact point. They should include at least first hand medical care, social services, psychosocial support, legal and police services. To ensure that victims in remote areas or unable to physically reach such centres also benefit from such services, they should also be accessible online (one-stop online access; Article 27(4)). Furthermore, specialist support services should receive sufficient human and financial resources (including where they are provided by non-governmental organisations) (Article 27(3)). In light of the coronavirus pandemic and the partial disruption in the provision of support services to victims of gender-based violence, Article 27(6) requires these services to continue to be offered during crises and states of emergency. As stated in the explanatory memorandum, these services, including shelters and rape crisis centres, are thus to be considered as 'essential services'.

Moreover, Member States have to set up state-wide round-the-clock (24/7) telephone helplines, free of charge, to provide advice for victims (with such services also provided through other information and communication technologies, including online applications). The national helplines should be

operated under the EU-harmonised number 116016 (Article 31). Acknowledging the vital role of shelters in protecting victims from acts of violence, Article 32 stipulates that shelters and other appropriate interim accommodations should, beyond providing a safe place to stay, also provide the necessary support related to the victim's recovery (in terms of health, financial situation and well-being of their children), ultimately preparing victims for an autonomous life.

### 3.5. Prevention, coordination and cooperation (chapters 5 and 6)

Chapter 5 focuses on preventing violence against women and domestic violence. In particular, Member States are requested to take preventive measures, including awareness-raising campaigns, research and education programmes, and to broadly distribute information related thereto (Article 36(2) and (3)). The fact that the provisions on prevention of violence are not included in the first chapters of the proposal, but rather at the end, might be an indicator that the proposal is more focused on protecting and supporting victims and penalising perpetrators rather than on prevention.

Preventive measures under the proposal are aimed, in particular, at combating harmful gender stereotypes, promoting equality, and encouraging all, including men and boys, to act as positive role models to support behavioural change across society as a whole. According to Recital 59, this 'could also include measures aimed at ensuring that culture, custom, religion, tradition or honour is not perceived as a justification for, or a more lenient treatment of, offences of violence against women or domestic violence'. While this Recital also considers it crucial to address gender stereotypes as of early-childhood education and care, this aspect is not spelt out as explicitly in the (binding) provisions of Article 36. Similarly, no further details regarding education are provided in the main text of the proposal, while Recital 58 explains that 'prevention should also take place in formal education, in particular, through strengthening sexuality education and socio-emotional competencies, empathy and developing healthy and respectful relationships'.

Preventive measures should also promote sensitivity about FGM (Article 36(5) and (6)) and specifically address cyberviolence (Article 36(7)). As regards the latter, Member States should 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 cyber violence, seek support and prevent it. Member States should, inter alia, promote cooperation between intermediary service providers and competent authorities to develop and implement measures to tackle cyber-violence.

To ensure that victims are identified and receive appropriate support (including a trauma-, gender- and child-sensitive treatment), professionals that are most likely to come into contact with victims (such as law enforcement authorities, court staff, judges and prosecutors, lawyers, social services, educational and other relevant staff) must receive training and targeted information (Article 37(1)). Health professionals dealing with victims of FGM (including paediatricians and midwives) should receive targeted training to identify and address, in a culturally-sensitive manner, the physical, psychological and sexual consequences of this type of violence (Article 37(2)).

It is worth noting that training – for persons with supervisory functions in the workplace – on how to recognise, prevent and address sexual harassment at work (including third party violence such as a nurse being harassed by a patient) is regulated under Article 37(3). Moreover, Member States should encourage and support media training activities to combat stereotypical portrayals of women and men, sexist images of women, and victim-blaming in the media to reduce the risk of violence against women or domestic violence (Article 37(5)). While training regulated under Article 37(1) and (2) should be regular and mandatory, this requirement does not apply to training to prevent sexual harassment at work or to combat stereotypes in the media. Training regulated under

Article 37(1) and (2) should also include training to identify and address the specific needs of victims facing a heightened risk of violence due to intersectional discrimination (under Article 37(7)).

With regard to groups at risk, such as children and persons with disabilities, Article 36(4) requires targeted preventive action, taking into account language barriers, different levels of literacy and abilities, as well as, in case of children, their age and maturity. Information for children should be formulated in a child-friendly way.

To prevent and minimise the risk of (repeated) offences, Member States have to set up 'intervention programmes' (Article 38). According to Recital 62, these programmes 'should specifically aim at teaching offenders or those at risk of offending how to adopt non-violent behaviour in interpersonal relationships and how to counter violent behavioural patterns'. However, it should be noted that participation in such programmes by offenders is not mandatory (except under certain conditions in case of rape, as set out under Article 12(3)).

Chapter 6 includes provisions on the internal coordination of Member States' national policies on violence against women and domestic violence, the establishment of national coordinating bodies and the creation of mechanisms for coordination and cooperation, at national level, of relevant authorities, agencies and bodies (Articles 39 and 40). Cooperation between Member States at EU level is regulated in Article 42.

Importantly, Article 41 requires Member States to cooperate and consult with civil society organisations in policy-making, preventive action, and in monitoring and evaluating the impact of measures to support and protect victims. In relation to cyber violence, Article 42 aims at facilitating self-regulatory measures (such as codes of conduct) by providers of intermediary services to, in particular, ensure removal of illegal online material and improve training of the providers' employees responsible for preventing, assisting and supporting the victims of cyber violence.

To ensure evidence-based policy-making, the proposal provides for the establishment of statistical data collection systems in the Member States (Article 44). The statistics must include the following data (disaggregated by sex, age of the victim and of the offender, relationship between the victim and the offender, and type of offence): a) the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime; and b) the annual number of such victims, of reported offences, and of persons prosecuted and convicted of such forms of violence. While the latter data should be obtained from national administrative sources, the former should be based on the results of surveys to be carried out by the Member States every 5 years. In order to ensure comparability across the EU, such surveys should be based on a harmonised methodology developed by the Commission (Eurostat). By contrast, Member States should collect – and transmit to the EIGE every year – administrative data on the basis of a methodology developed by the EIGE. Moreover, Member States are required to support research on root causes, effect, incidences and conviction rates of all forms of violence covered by the directive.

## 4. Comparison of main Parliament requests and Commission proposal

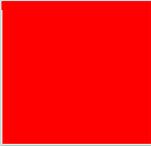
The following table provides an overview of the main requests made by Parliament since 2009 in relation to an EU directive to prevent and combat gender-based violence, comparing these with the Commission proposal presented on 8 March 2022:

Table 1 – The European Parliament's main requests related to the adoption of an EU directive on GBV and the Commission proposal

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
Ensure a strong legal basis under Article 83(1) TFEU and provide a common definition of gender-based violence (including of its different forms)		
Extend Art. 83(1) TFEU to all forms of GBV, to serve as a basis for a comprehensive directive	While the Commission proposed extending Art. 83(1) TFEU to hate speech and hate crime in December 2021, it did not propose extending Art. 83(1) to all forms of GBV (or other forms of gender-based violence than those covered by the areas of 'sexual exploitation' or 'computer crime'). The current wording of Art. 83(1) TFEU, however, does not allow for criminalisation of other forms of GBV such as femicide, stalking or sexual harassment under the proposal.	entirely
Propose a comprehensive directive on gender-based violence that implements the standards of the Istanbul Convention and other international standards (such as CEDAW's recommendations), including, inter alia, measures to combat all forms of gender-based violence, including violence against LGBTIQ+ persons, online gender-based violence and sexual exploitation and abuse; provide a common definition of gender-based violence (including of its different forms)	The proposal lays down rules to prevent and combat violence against women and domestic violence (not gender-based violence). Definitions are provided for 'violence against women', 'domestic violence' and 'cyber violence' in Article 4 (although there is no definition of 'gender-based violence'). Note that the definition of 'violence against women' slightly differs from that provided in the Istanbul Convention (which includes an additional element of 'violation of human rights and a form of discrimination against women'). While not explicitly addressed, LGBTIQ+ people appear to be covered by the proposed directive, as Art. 4(c) defines 'victims' as 'any person, regardless of sex or gender'.  Besides criminalising certain forms of violence against women, the proposed directive establishes minimum rules on 1) the rights of victims of all forms of violence against women or domestic violence before, during or after criminal proceedings; and 2) victims' protection and support (Art. 1). The proposed directive applies, besides the criminal offences	

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
	<p>referred to in chapter 2, to all acts of violence against women and domestic violence as criminalised under Union or national law. The minimum rules on victims' rights, protection and support thus also apply to other forms of violence against women.</p> <p>Note that the proposal does not criminalise other forms of gender-based violence than those mentioned under Articles 5 (rape) and 6 (FGM), such as forced abortions, forced marriages or forced sterilisation, although possibly covered under 'sexual exploitation' in Art. 83(1) TFEU as forms of oppression and subordination (and although they are to be criminalised under the Istanbul Convention).</p>	Yellow
Recognise sexual violence and rape, including within marriage and intimate informal relationships and/or where committed by male relatives, as a crime in cases where the victim did not give consent	<p>MS to ensure that any non-consensual act of vaginal, anal or oral penetration of a sexual nature with any bodily part or object is punishable as a criminal offence; including causing the victim to engage in this act with another person (Art. 5(1)).</p> <p>Rape is understood as an offence in the absence of consent including incapacity to form a free will, such as in a state of unconsciousness, intoxication, sleep, illness, bodily injury or disability (Art. 5(2)).</p> <p>Consent can be withdrawn at any moment (Art.5(3)). Non-consensual sexual penetration should constitute rape even where committed against a spouse or intimate partner (but only in Recital 14, not in the articles).</p>	Yellow
Take action on combating female genital mutilation (FGM) as part of an overall policy on combating violence against women	<p>MS to ensure the following are punishable as criminal offences: 1) excising, infibulating, any other mutilation to the whole/part of the labia majora, labia minora or clitoris; 2) coercing or pressuring women/girls to undergo any of these acts (Art. 6).</p> <p>Definitions of excising, infibulating and other mutilations only in Recital 16.</p>	Green
Ensure that the future directive on preventing and combating gender-based violence covers violations of sexual and reproductive rights (SRHR); promote regular exchanges of good practice among MS and stakeholders on sexual and reproductive rights within its proposals to prevent and combat forms of gender-based violence	No specific mention of SRHR other than in the context of specialist support being made available in cases of forced abortion and sterilisation (Recital 46).	Red

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
<b>Reinforce prevention through awareness-raising, education, training and research</b>		
Tackle root causes of GBV through awareness-raising and information campaigns at national and EU level	MS to tackle root causes through awareness-raising campaigns, research, education and distribution of information (Art. 36(2) and (3)).	Green
Adopt educational measures (including age-appropriate information, comprehensive sexuality education, development of non-violent relationships, self-defence training and other actions to combat segregation, gender inequality and discrimination), starting at an early age	MS to adopt educational programmes, where appropriate, in cooperation with civil society organisations, social partners etc. (Art. 36(2)); details (early age, sexuality education, measures to ensure that e.g. honour or tradition cannot justify gender-based violence) are, however, mentioned in Recitals 58 and 59 only.	Yellow
Combat sexist portrayal of women in the media	MS to encourage and support media training to combat stereotypical portrayals of women and men, sexist images of women, and victim-blaming in the media (Art. 37(5)). Participation in trainings is not mandatory, though.	Yellow
Ensure continuation of protection/support services in times of crisis (by considering them as 'essential services')	MS to ensure that specialist support services remain fully operational in times of crisis, such as health crises or other states of emergency (Art.36(7)).	Green
Promote research to better understand causes and impacts of GBV and cyber violence	Preventive measures by MS to include research (Art. 36(2)); MS to support research on root causes, effect, incidences and conviction rates of all forms of violence covered by the proposed directive (Art 44(7)).	Green
<b>Improve victims' protection, access to justice and support</b>		
Guarantee a right to assistance and support for all victims of violence, irrespective of nationality	<p>MS to ensure that specialist support services referred to in Article 9(3) of Directive 2012/29/EU are available for all victims of acts of violence covered by this proposed directive (Art. 27).</p> <p>MS to ensure shelters and other interim accommodation are available to all victims regardless of nationality, citizenship, place of residence or residence status. The shelters and interim accommodation should accommodate the needs of children (Art.32).</p> <p>MS should provide for appropriately equipped, easily accessible rape crisis or sexual violence referral centres to ensure effective support to victims of sexual violence, including assisting in the preservation and documentation of</p>	Green

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
	<p>evidence. The services provided there should be available free of charge and accessible every day of the week (Art. 28).</p> <p>MS should provide protection and specialist support services to 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. This should include at least first hand medical care and social services, psychosocial support, legal, and police services. (Art.27(4).</p> <p>Specialist support in Art. 27 (1) should be offered in person and shall be 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>Create mechanisms to facilitate access for women who are victims of gender violence or trafficking networks to free legal aid enabling them to assert their rights throughout the Union; ensure urgent psychological aid services to be provided free of charge</p>	<p>Art. 27(1)(a) stipulates that MS are to ensure that specialist support services, including advice and information on any relevant legal or practical matters as a result of the crime, are provided to victims. Pursuant to Art. 27(1)(c), victims of cyber violence are to be supported including by provision of advice on judicial remedies and remedies to remove online content related to the crime. Legal and psychological services are also mentioned in Art. 27(4).</p> <p>No mention that such legal advice will be provided free of charge. Also, no mention of free legal or psycho-social aid during legal proceedings in chapter 3 (protection of victims and access to justice). For victims of sexual violence and FGM, however, medical and forensic examinations and care, trauma support and psychological counselling should be provided free of charge (Articles 28 and 29).</p>	
<p>Create a European charter setting out a minimum level of assistance for victims of violence: legal, psychological and financial aid, shelters</p>	<p>There is no specific mention of this request in the proposal.</p>	
<p>Ensure access to justice and support for certain groups of women and girls at risk of multiple discrimination and violence</p>	<p>MS to consider the increased risk of violence for these persons when implementing the proposed directive and cater for their specific protection and support needs as set out in</p>	

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
	<p>Art. 18(4), Art. 27(5) and Art. 37(7) (Art. 2). Also, MS are to issue guidelines for law enforcement and judicial authorities to consider the specific situation of these victims (Art. 23(e)).</p> <p>Targeted support for victims with specific needs and groups at risk is outlined in Art. 35. MS to pay due regard to victims through specific measures where intersecting forms of discrimination are present (Recital 11).</p>	Green
Set up investigative routines for police and healthcare professionals to secure evidence	<p>MS to issue guidelines for law enforcement and judicial authorities as outlined in Art. 23. MS to ensure that units/services investigating and prosecuting have sufficient expertise and tools, and that official complaints are filed in all cases and forwarded without delay to investigation/prosecution (Art.17).</p> <p>Authorities should refer victims to health care professionals or support services referred to in Articles 27-29 to assist in securing evidence, in particular in cases of sexual violence. Investigation/prosecution into offences under Art. 5 should continue even if report of accusation is retracted (Art.17).</p> <p>MS to ensure that confidentiality rules do not hinder relevant professionals, including healthcare professionals, to report an imminent risk of serious physical harm or instances of child victims to competent authorities (Art. 16, Recital 25).</p> <p>Individual assessments to identify protection needs of victims to be undertaken with all relevant authorities and support services as per Art. 22 of Directive 2012/29/EU (Art. 18).</p>	Green
Ensure adequate training of professionals assisting victims	<p>MS to issue guidelines and protocols for healthcare and social services professionals to provide adequate support (Art. 27(4)).</p> <p>MS to ensure training and information for all professionals likely to come into contact with victims (Art. 37(1)) and for relevant health professionals, including paediatricians and midwives, to identify and address consequences of FGM (Art. 37(2)). Moreover, persons with supervisory functions in the workplace, both in public and private sectors, to receive training on how to recognise, prevent and address sexual harassment at</p>	Yellow

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
	work (Art. 37(3)). While trainings under Art. 37(1) and (2) are mandatory, this is not the case for trainings of supervisors under Art. 37(3).	
Recognise legal acts in other Member States (sentences and injunctions)	Art. 21 allows for cross-border recognition of protection orders pursuant to Directive 2011/99/EU or Regulation (EU) No 606/2013.	
Ensure adequate human and financial resources for services dedicated to victims of gender-based violence including LGBTIQ persons	<p>MS have to ensure sufficient human and financial resources for the provision of specialist support services as outlined in Art. 27(1)(a to c), and in particular when non-governmental organisations (NGOs) are the providers of these services.</p> <p>Recital 47 indicates that national authorities, victim support organisations, or other NGOs may provide support services to victims. MS should ensure that NGOs receive the appropriate funds.</p> <p>Recital 38 indicates that MS should ensure that the national equality bodies have adequate human and financial resources to assist victims, for instance on acting on behalf of victims in legal proceedings.</p>	
Ensure a minimum number of shelters per 10 000 inhabitants	<p>Member States should 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 (Art. 27). MS should ensure sufficient human and financial resources to provide the services referred to in Art. 27(1).</p> <p>MS to ensure shelters and other interim accommodation are available to all victims regardless of nationality, citizenship, place of residence or residence status. The shelters and interim accommodation should accommodate the needs of children (Art. 32).</p>	
<b>Sexual violence and rape</b>		
Amend definitions of 'sexual violence' and 'rape' in national law so that they are based on the absence of consent, as laid down in the Istanbul Convention	Art. 5 of the proposed directive establishes which offences are to be considered rape and be punishable by MS under criminal law. The proposed directive will also amend the Child Sexual Abuse Directive with respect to the criminal offence of rape (Art. 45).	
Ensure that these offences result in automatic prosecution	MS should ensure that reported offences of violence against women or domestic violence are processed and transferred	

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
	without delay to the competent authorities for prosecution and investigation. The competent authorities should ensure that an official complaint is filed in all cases. In case of rape, investigations or prosecution shall not depend on reporting or accusation by a victim or their representative and criminal proceedings shall continue even if the report or accusation has been withdrawn (Art. 17(2), (3) and (5)).	
Reject any reference to cultural, traditional or religious practices or traditions as a mitigating factor in cases of violence against women, including so-called 'crimes of honour' and FGM	MS should take measures to prevent the cultivation of harmful gender stereotypes to eradicate the idea of the inferiority of women or stereotyped roles of women and men. This could also include measures aimed at ensuring that culture, custom, religion, tradition or honour is not perceived as a justification for, or a more lenient treatment of, offences of violence against women or domestic violence (Recital 59).	
<b>Domestic violence</b>		
Ensure protection of victims of domestic violence including those whose legal status is dependent on their partners	Competent authorities are prohibited from transferring personal data pertaining to the residence status of potential victims to the migration authorities until individual assessment is completed (Art. 16). Women with dependant residence status or permit should receive specific protection and support (Art. 35, Recital 56). The shelters and other appropriate interim accommodations are available to victims regardless of their nationality, citizenship, place of residence or residence status (Art. 32).	
Establish minimum standards for protection orders across the EU	MS to ensure authorities inform victims of their right to obtain restraining /protection orders and emergency barring orders as well as their cross-border recognition pursuant to the European Protection Order Directive and the Mutual Recognition Regulation (Art. 21). However, additional criteria on orders for MS to comply with are only outlined in the Recitals (Recitals 33 to 36).	
Recognise children as victims of gender-based violence	The proposed definition of 'victim' includes child victims and witnesses of violence (Art. 4).	

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
Ensure access of children to legal protection and assistance	<p>The Child Sexual Abuse Directive and the Anti-Trafficking Directive continue to apply to children who are victims of sexual abuse, exploitation, pornography and trafficking.</p> <p>The proposed directive will amend the Child Sexual Abuse Directive with respect to the criminal offence of rape (Art. 45). This modification introduces penetration as a further aggravating circumstance, as well as the notion of lack of consent for children above the age of sexual consent.</p> <p>The provisions under the current proposal relating to the rights, protection and support of victims and prevention of violence against women or domestic violence (Chapters 3-5), will also apply to child victims falling under the two directives (Child Sexual Abuse Directive and the Anti-Trafficking Directive). Also relevant: Articles 28, 33 and 34 on specialised support for children.</p>	Green
Create specialised courts for women and children victims of violence	No mention of these aspects in the proposal.	Red
Set out guidelines for professionals to ensure coherence of judicial decisions in custody cases where domestic violence is present (criminal/civil)	No specific mention of this aspect in the proposal.	Red
Ensure availability of trained professionals to conduct child-friendly hearings	<p>MS to ensure child-friendly reporting procedures are established. Where children report criminal offences of violence against women or domestic violence, MS should ensure that the reporting procedures are safe, confidential, designed and accessible in a child-friendly manner and language, in accordance with their age and maturity. (Art. 16, Recital 26).</p> <p>All professionals involved with children should be trained accordingly (Art. 37).</p> <p>Guidelines for law enforcement and judicial authorities (Art. 23) will take into account the specificities of children.</p>	Green
Establish minimum EU standards for hearings of children	No mention of this in the proposal.	Red
Ensure financial support and compensation for victims of intimate partner violence	The proposed directive reinforces the right to compensation from the offender, including by setting up minimum rules on providing such compensation.	Green

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
	MS should ensure that victims have the right to claim full compensation from offenders for damages resulting from all forms of violence against women or domestic violence (Art. 26). Damage will include costs for healthcare and support services, rehabilitation, loss of income and other reasonable costs that have arisen as a result of the offence or to manage its consequences (Art. 26).	Green
Tackle issue of anonymous and retracted complaints; Create a database to record all complaints	<p>Authorities are required to have complaints officially filed in all cases (Art. 17 (3)).</p> <p>MS to ensure that offences are effectively investigated and prosecuted, that there is sufficient expertise and resources, and that offences amounting to rape are prosecuted ex officio (Art. 17).</p> <p>No specific mention of a database.</p>	Yellow
Implement the EU 116006 helpline for all victims of crime and create specialist helplines for victims of intimate partner violence	<p>Member States must set up national helplines for victims of violence against women and domestic violence and ensure their operation under a harmonized EU level number (Art. 31 and Recital 52).</p> <p>No mention in proposal of specialist helplines only for victims of intimate partner violence.</p>	Yellow
Ensure access to specialist support services for victims in rural and remote areas	<p>MS should ensure the provision of specific support to victims of violence against women and domestic violence in rural areas (Art. 35).</p> <p>MS should provide support services to 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 (Art. 27).</p> <p>To ensure also victims in remote areas or unable to physically reach such centres are reached, MS should provide for online access to such services (Recital 48).</p>	Green
Develop an EU protocol on violence against women in times of crisis/emergency and qualify protection services for victims as 'essential services' in the Member States	MS to 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 (Art. 27, Recitals 49-50 on shelters and rape crisis centres). No mention of EU protocol.	Yellow

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
<b>Sexual harassment</b>		
Ensure adequate resources for national equality bodies to assist victims of sexual harassment	MS should designate and make the necessary arrangement for a body or bodies (which may form part of equality bodies) to carry out the following tasks: represent victims in legal proceedings, provide assistance and advice to victims, publish reports and recommendations, and exchange information with corresponding EU bodies (Art. 24).  MS should ensure that national equality bodies are provided with sufficient human and financial resources (only in Recital 38).	
Recognise the phenomenon of harassment on grounds of pregnancy/motherhood	No specific mention of this aspect in the proposal.	
Ensure specialised services for victims, including in rural and remote areas	MS should ensure the provision of specific support to victims at an increased risk of violence against women or domestic violence in rural areas (Art 35).  Specialist support in Art. 27 (1) should be offered in person and should be accessible, including online or through other adequate means, such as information and communication technologies, and tailored to the needs of victims of violence against women and domestic violence.	
Establish confidential procedures within companies to deal with complaints, provide for dissuasive sanctions, and mandatory training courses	Not specifically mentioned, but, in case of sexual harassment at work, advice (including on legal remedies) to be made available by external counselling services to the employer and victim in view of, inter alia, the removal of the offender (Art. 30).	
Ensure availability of specialised labour inspectors and psychologists within companies to provide support to victims at their workplace	Art. 30 (s. above) somehow addresses this for cases of sexual harassment at work. Moreover, person with supervisory functions in the workplace should receive training on sexual harassment (Art. 37(3)).  MS to ensure training and information for all professionals likely to come into contact with victims (Art. 37(1)).	
<b>Female genital mutilation (FGM)</b>		
Prosecute offenders of FGM across borders and include principle of extraterritoriality in criminal law provisions of Member States	MS should take the necessary measures to establish their jurisdiction over the criminal offences referred to in Articles 5 to 11 where: (a) the offence is committed in whole or in	

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
	part within their territory; (b) the offence is committed by one of their nationals (Art. 14).	Yellow
Facilitate training of professionals to detect, investigate, and prosecute FGM	MS should 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 [...]) receive training (Art. 37). MS should issue guidelines for law enforcement and judicial authorities (Art 23).	Green
Reduce disparities in laws, policies and practices among the Member States on FGM	FGM is criminalised in Art. 6.	Green
Ensure synergy between internal and external funding programmes that reflect the complexity of the issue, as well as comprehensive transnational and cross-border interventions to eradicate FGM	This aspect is not mentioned in the proposal.	Red
Ensure access to confidential specialist support services, including trauma support and counselling, as well as shelters	Specialised support should be made available to victims of FGM (Art. 29). Support should be free of charge. Support services should remain fully operational in times of crisis and MS to ensure sufficient human and financial resources (Art. 27(3) and (6), Art. 28(2)). Specialised support services to be made available to victims including within rape crisis centres (Recitals 46 and 50). Rape crisis centres or sexual violence referral centres should be available in sufficient numbers and adequately spread over the territory of each Member State. Victims of FGM are also specifically mentioned in Recital 50.	Green
<b>Tackle gender-based cyber violence</b>		
Provide minimum rules for definition of gender-based cyber violence and related penalties, including definition of online hate crime and hate speech targeting LGBTIQ people	The proposal criminalises certain forms of cyber violence only; MS to ensure the following are punishable as criminal offences: non-consensual sharing of intimate or manipulated material (Art. 7), cyber stalking (Art. 8), cyber harassment (Art. 9) and cyber incitement to violence or hatred (Art.10). No specific mention of online hate crime and hate speech targeting LGBTIQ people.	Yellow
Ensure that scope of directive covers any form of gender-based cyber violence (including against LGBTIQ people because of their gender identity, gender expression or sex characteristics)	'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	Green

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
	technologies (Art. 4(d)). While the directive is in principle conceived for women and girls, Art. 4(c) defines 'victims' as any person, regardless of sex or gender.	Green
To prevent gender-based cyber violence, allocate appropriate human and financial resources to competent authorities at all levels of government as well as to legal aid, healthcare, and social protection institutions, including women's organisations	MS to ensure sufficient human and financial resources to provide support services (especially for victims of cyber violence, sexual violence or FGM; Article 27(1)(c) and (3), as well as Articles 28 and 29); this also applies to national helplines and shelters (Articles 31 and 32).	Green
Increase EU funding for victim support organisations and EU-wide awareness-raising campaigns on gender-based cyber violence	No specific provision.	Red
Develop prevention and awareness-raising initiatives for young women targeted by gender-based cyber violence	Targeted preventive action for groups at risk (children, persons with disabilities), but no specific mention of young women (Art. 36(4)).	Yellow
Mainstream digital education, literacy and skills (such as cyber hygiene and netiquette) in school curricula	MS to ensure that education measures include development of digital literacy skills for users to be able to identify and address cyber violence, seek support and prevent its perpetration (Art. 36(7)).	Green
Ensure gender diversity in tech sectors such as ICT and STEM, particularly in the development of new technologies including AI	No specific provision.	Red
Promote educational and treatment programmes to prevent perpetrators from re-offending	MS to ensure intervention programmes to prevent and minimise the risk of committing offences, or re-offending (Art. 38). Note, however, that there is no obligation for perpetrators of cyber violence to participate in these programmes (see, in particular, Art 38(2): 'The intervention programmes should be made available for participation [...]'). Intervention programmes mandatory only in instances of rape (Art. 12(3)).	Yellow
Provide mandatory, continuous and gender-responsive capacity building, education and training for all relevant professionals to avoid repeat and secondary victimisation in cases of gender-based cyber violence	MS to ensure mandatory training for professionals likely to come into contact with victims and relevant health professionals, including on cyber violence (Art. 37(1), (2) and (7)).	Green
Ensure human-powered content moderation and notification procedures for pornographic material disseminated without consent on online platforms	No specific provision.	Red

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
Develop code of conduct for online platforms	MS to facilitate self-regulatory measures by providers of intermediary services, in particular to reinforce internal mechanisms to tackle illegal online material and to improve training of employees (Art. 42).	Green
Promote cooperation between MS, internet intermediaries and NGOs as well as multi-disciplinary and stakeholder cooperation (including with tech companies, hosting service providers and competent authorities) on best practices to tackle gender-based cyber violence	MS to ensure effective multi-agency coordination and cooperation at national level as well as cooperation (including exchange of best practices) between each other (Art. 40 to 43).	Green
Create notification systems for victims of cyber-violence to denounce online content and enable its suspension within 48hrs	<p>MS to ensure the reporting of criminal offences online, including the possibility to submit evidence, in particular concerning reporting of criminal offences of cyber violence (Art. 16).</p> <p>MS to take the necessary measures to ensure the prompt removal of material referred to in Art. 7 (a) and (b), Art. 8 (c), and Articles 9 and 10. This should include the possibility for 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 (Art.25).</p>	Yellow
Include provisions on guidelines for investigation and prosecution of cyber-violence	<p>MS to ensure that persons, units or services investigating and prosecuting have sufficient expertise and effective investigative tools, especially to gather, analyse and secure electronic evidence in cases of cyber violence (Art. 17).</p> <p>MS to issue guidelines for law enforcement and judicial authorities as outlined in Art. 23.</p>	Green
Promote shared procedural standards and investigative measures across geographic borders	<p>Articles 39 to 43 indicate how MS can coordinate including through Eurojust and European Judicial Network.</p> <p>MS to establish mechanisms to ensure effective coordination and cooperation, at the national level, of relevant authorities, agencies and bodies, including local and regional authorities, law enforcement agencies, the judiciary, public prosecutors (Art. 40 (1) and (2)).</p>	Green
Ensure effective cooperation between law enforcement, tech companies and service providers to allow for evidence collection	MS to facilitate the taking of self-regulatory measures (such as codes of conduct) by intermediary service providers to tackle	Yellow

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
	<p>online material referred to in Art. 25 (1) (Art. 42).</p> <p>MS to ensure that the removal of or disabling access to the material does not prevent the authorities from obtaining or securing the evidence necessary for the investigation and prosecution of the offences referred to in Art. 7 (a) and (b), Art. 8 (c), Art. 9 or Art. 10 (Art. 25).</p>	Yellow
Put forward a European legal framework for e-evidence collection including harmonised rules to determine the status of providers	No specific mention in the proposal.	Red
Develop a common EU approach to the issue of jurisdiction in cyberspace	<p>No specific mention of this in the proposal.</p> <p>MS to ensure that their jurisdiction established over the criminal offences referred to in Art. 7 to 10 includes situations where the offence is committed by means of information and communication technology accessed from their territory, whether or not the provider of intermediary services is based on their territory (Art. 14).</p>	Yellow
<p>Ensure availability of specialised staff to assist victims of cyber-violence in social services/law enforcement agencies</p> <p>Develop specific support services for victims (helpline, shelter, legal and psychological assistance)</p>	<p>MS to ensure that specialist support services referred to in Art. 9(3) of Directive 2012/29/EU are available for victims of acts of violence covered by this Directive. This includes support to victims of cyber violence, including advice on judicial remedies and remedies to remove online content related to the crime (Art. 27).</p> <p>MS should issue guidelines and protocols for healthcare and social service professionals on identifying and providing appropriate support to victims (Art. 27).</p> <p>MS should issue guidelines for law enforcement and judicial authorities acting in criminal proceedings (Art. 23).</p>	Green
Ensure availability of protection orders, compensation and reparation	<p>MS should ensure the competent judicial authorities can issue, upon application by the victim, binding legal orders to remove or disable access to material referred to in Art. 7 (a) and (b), Art. 8 (c), and Articles 9 and 10. These orders should be addressed to the relevant providers of intermediary services (Art. 25).</p> <p>MS should ensure that victims have the right to claim full compensation from offenders for damages resulting from all forms of violence against women or domestic violence (Art. 26).</p>	Green

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
Improve availability of data on GBV in the EU		
Improve availability and comparability of quality, disaggregated data on all forms of GBV (including domestic violence) at EU and national level;	MS to put in place system for collection, development, production and dissemination of statistics on violence against women or domestic violence (Art.44(1)).	
Ensure regular collection and publication of comprehensive disaggregated and comparable data on different forms of cyber violence by EC and MS, not only on the basis of law enforcement reports or civil society organisation, but also on the basis of victims' experiences; follow-up by comprehensive studies	Data collection under Art. 44 only refers to 'statistics on violence against women or domestic violence, including the forms of violence referred to in Articles 5 to 10'. Unclear whether this also covers other forms of cyber violence than those referred to in Art 7 to 10.  MS to assess prevalence of and trends in all forms of violence covered by the directive (Art. 44(3)); MS to make collected statistics available to the public (Art. 44(4)).	
Ensure harmonisation of data collection systems among MS through cooperation with Eurostat, FRA and the EIGE, with data collected including certain minimum information on: - gender of victim/perpetrator + relationship, - existence of sexual violence dimension, - whether violence has gendered motivation, - other socio-demographic characteristics relevant for an intersectional analysis, - number of complaints, - number and types of protection orders issued, - rates of dismissal and withdrawal of complaints, - prosecution and conviction rates, - time taken for disposal of cases, - information on sentences imposed and reparations, and - incidents reported to helplines or health and social services	Statistics collected by MS to include the following data (disaggregated by sex, age of the victim and of the offender, relationship between the victim and the offender, and type of offence): a) number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime; and b) the annual number of such victims, of reported offences, and of persons prosecuted and convicted of such forms of violence (Art. 44(2)).  Data under a) to be based on surveys carried out by MS every five years + to be submitted to Eurostat at the latest three years after entry into force of the directive (note that surveys should be based on harmonised methodology developed by Eurostat to ensure comparability (Art. 44(3)).  Data under b) to be obtained from national administrative sources, collected on the basis of harmonised methodology developed by EIGE and submitted annually to EIGE (Art. 44(4)).	
MS data on gender-based cyber violence to be collected and made available through the statistics databases of the EIGE, the FRA and Eurostat; FRA to conduct new extensive Union-wide research on all forms of cyber violence	Unclear whether all forms of gender-based cyber violence covered by Art. 44, as mentioned; no specific mention of Union-wide research.	
Provide annual statistics on GBV, including figures on how many women are killed annually by their partner or ex-partner	Annual statistics (disaggregated, inter alia, by type of offence) to be collected by MS; MS to	

Main Parliament requests for elements to be included in an EU directive on GBV	Commission proposal of 8 March 2022	Request followed up entirely, partly or not at all
	make collected statistics available to the public (Art. 44(4)).	Green
Establish EU observatory on violence against women	No specific provision (note, however, that MS to designate national body to coordinate data collection under Art. 44, and to analyse and disseminate results (Art. 39(3)).	Red
Urges the Commission and the Member States to establish a system for collecting Union-wide statistical disaggregated, comparable and relevant data on gender-based violence, including cyber-violence and its prevalence, dynamics and consequences, and to develop indicators to measure progress; Calls on Commission and Member States to develop indicators to measure the effectiveness of their interventions to address gender-based cyber violence.	No specific provisions on indicators to measure progress in preventing and combating all forms of gender-based violence in the proposal.	Red
Calls for a 'European health protocol' to be introduced for monitoring purposes and for an FGM data bank to be set up	No specific provision.	Red
Ensure data exchanges between Eurostat and national judicial authorities and police	No specific provision.	Red
Tackle under-reporting of violence in the workplace (by, inter alia, ensuring presence of trained confidential counsellors in every organisation)	MS to ensure availability of external counselling services for victims of sexual harassment at work and employers (Art. 30); supervisory persons (in public and private sector) to receive training on sexual harassment (to support victims and respond adequately (Art. 37(3)).	Green
Produce studies on new challenges such as cyber-bullying and ensure systematic data collection on sexual and gender-based discrimination and psychological harassment in the workplace	No specific provision.	Red
Increase MS's efforts in and funding of research, analysis and collection of data on all forms of trafficking in human beings	No specific provision.	Red
Ensure regular reporting by Commission to Parliament and Council on MS compliance with recommendation; Commission to improve gender-disaggregated data on prevalence and harms of gender-based cyber violence at Union level	Commission to draw up a report on application and review of directive (Art. 47); no mention of regular, continuous reporting.	Yellow

## 5. Conclusions

Based on the above comparison between the Parliament's main requests for a legal framework on gender-based violence and the Commission's proposal for a directive, the following main conclusions can be drawn:

- The proposal for a directive fills significant gaps in relation to combating violence against women and domestic violence in the EU, recognising this type of violence as a systemic problem and contributing to a harmonised approach to addressing it in the EU. Moreover, the proposal is timely in light of, in particular, the adverse impacts of the coronavirus pandemic on gender equality and the EU's accession to the Istanbul Convention being on hold;
- However, other than requested by Parliament, the Commission did not propose extending Article 83(1) TFEU to all forms of gender-based violence (or other forms of gender-based violence than those covered by the areas of 'sexual exploitation' or 'computer crime' in Article 83(1), such as femicide, stalking and sexual harassment), thus not allowing for their criminalisation under the proposal;
- Moreover, Parliament called for a comprehensive directive combating all forms of gender-based violence, including violence against LGBTIQ+ persons, online gender-based violence and sexual exploitation and abuse. However, the proposal only criminalises certain forms of violence against women (i.e. rape, female genital mutilation and certain forms of cyber-violence). In addition, other forms of gender-based violence, such as forced abortion, forced marriage or forced sterilisation, are not criminalised in the proposal although possibly covered under the area of 'sexual exploitation' in Article 83(1) as forms of oppression and subordination. In line with Parliament's call, however, LGBTIQ+ people appear to come under the scope of the proposed directive, as Article 4(c) defines 'victims' as 'any person, regardless of sex or gender';
- While Parliament requested a common definition of gender-based violence (and its different forms), the proposal only provides – besides the definitions of the offences to be criminalised – definitions of 'violence against women', 'domestic violence', 'cyber violence' and 'sexual harassment at work';
- The proposal lays down minimum rules for prevention, protection, access to justice, support, and coordination and cooperation. These apply, besides the offences criminalised under the directive, to criminal conduct under other EU legislation or national law that falls under the definition of violence against women or domestic violence. This might contribute to an 'upward convergence' in terms of prevention, protection and prosecution of such crimes, considering also that Member States can go beyond the level of protection laid down in the proposed directive;
- On prevention, the Commission proposal is broadly in line with Parliament's requests. Accordingly, Member States are to tackle the root causes of gender-based violence, such as social inequalities and unequal power relations between women and men, through awareness-raising, education, training and research. While Parliament repeatedly stressed the importance of education, including sexuality education, starting at an early age, the details of educational programmes to be set up by the Member States are only laid down in (non-binding) recitals. Interestingly, the provisions on prevention of violence are set out rather at the end of the proposal which might be an indicator that the proposal's focus is more on protecting and supporting victims as well as penalising perpetrators, rather than on prevention;
- As regards victims' protection, access to justice and support, the Parliament has called for adequate training of all professionals involved to ensure the identification of all victims and provide for adequate specialised support. The proposal requires

professionals likely to come into contact with victims to receive general and specialist training and information. Health professionals, including paediatricians and midwives are to receive targeted training to identify and address FGM. Moreover, the proposal strengthens provisions on individual assessments to respond to the specific protection needs of women and their dependants. This assessment now involves not only authorities but also relevant support services (healthcare and social professionals, victims' centres, and shelters). Moreover, the adoption of specific guidelines for law enforcement and judicial authorities will facilitate the identification of all victims and their treatment in a trauma-, gender-, and child-sensitive manner. However, with respect to the creation of specialised courts for women and children victims of gender-based violence, the proposal does not mandate any specific action from the Member States;

- Regarding access to support services, the proposal guarantees a right to assistance and specialised support services for all victims covered under the Directive, including certain groups of women at risk of multiple discrimination and child witnesses, as called for by Parliament. In particular, access to shelters should be available to all, regardless of nationality, citizenship, place of residence or residence status. However, no specific provisions mandate Member States to ensure a minimum numbers of shelters as called for in the Istanbul Convention and by the Parliament;
- Regarding sexual violence and rape crisis centres, Member States are expected to ensure a sufficient geographical distribution and capacity of their services across the Member State. Victims of sexual violence and FGM would benefit from free support services in these centres such as medical and forensic examinations and care, trauma support and psychological counselling. However, access to specialised support for victims of other types of violence would remain on a remunerated basis. The proposal also does not make any reference to free legal or psycho-social aid being available during legal proceedings which the Parliament has called for with respect to victims of gender-based violence and trafficking;
- As requested by Parliament, children's' recognition as victims (also when witnesses) of gender-based violence will grant them equal access to justice and specialised support. In addition, the proposal triggers an amendment of the Child Sexual Abuse Directive strengthening its provisions on rape. Given the issue of retracted complaints in cases of sexual violence, Member States are called on to ensure that offences amounting to rape are prosecuted *ex officio*. However, while Member States must ensure investigation and prosecution of rape, they are not required to do so for other forms of violence against women;
- With respect to victims of sexual harassment, Parliament has called for adequate support for national equality bodies in assisting the victims. The proposal strengthens the role of equality bodies for this purpose and invites Member States to ensure that national bodies may represent victims in legal proceedings, provide assistance and advice, and publish relevant reports and recommendations. However, the proposal does not require Member States to guarantee confidential procedures within companies to make complaints, provide for dissuasive sanctions or for mandatory training courses;
- As also recommended by the Istanbul Convention, Member States should aim to provide support services to address the multiple needs of victims at the same premises, or coordinated through a central contact point, including a one-stop online access to such services. As emphasised by the Parliament, this will also allow women from rural or remote areas – and other women at increased risk of violence – to access these services. However, the Parliament has underlined that only 13 Member States had implemented the EU 116006 helpline for victims of crime and only a few had specialist helplines for victims of intimate partner violence;

- Regarding penalties and compensation for the victims, the proposal sets out minimum rules on providing compensation and reinforces the right to compensation from the offender. Parliament has also highlighted that victims of intimate violence needed to be supported financially and receive compensation. Moreover, a harmonisation of penalties and limitation periods for each specific crime as envisaged under the proposal would greatly improve the victims' right to justice and reparation. In the case of child victims, the limitation period would commence only once they had reached 18 years of age;
- While Parliament had called for minimum rules for the definition of gender-based cyber-violence and related penalties, including definition of online hate crime and hate speech targeting LGBTIQ+ people, the proposal criminalises only certain forms of cyber-violence. Online hate crime and hate speech is not criminalised (but might be in the future, further to the Commission proposal to extend Article 83(1) to hate speech and hate crime, presented in December 2021);
- Although the definition of 'cyber-violence' does not specifically refer to LGBTIQ+ people as possible victims, they seem to fall under the scope of the directive (Article 4(c)). While Parliament requested the proposed directive to provide definitions of certain forms of gender-based cyber-violence, as listed in the annex to its 2021 legislative resolution on gender-based cyber-violence, the proposal only includes a general definition of 'cyber-violence' and a definition of certain, albeit important, forms of cyber-violence (i.e. for those offences that are criminalised);
- Many of Parliament's detailed recommendations on gender-based cyber-violence (regarding prevention, protection, support and compensation of victims, prosecution of offenders, and on data collection and reporting) have been taken on board by the Commission proposal. Only a few specific requests (such as increased EU funding for victim support organisations and EU-wide awareness-raising campaigns, gender diversity in the STEM sectors and a European legal framework for e-evidence collection) are not addressed in the proposal. Importantly, however, the Commission did not follow Parliament's call for the development of indicators – both at EU and national level – to measure the effectiveness of action taken in the Member States and progress in combating gender-based cyber-violence (which is also true for indicators on other forms of gender-based violence, the development of which is not mentioned in the proposal);
- To tackle the significant lack of data on gender-based violence, the Commission requires Member States to set up comprehensive and continuous data collection systems (to be based both on victims' experience-based surveys and data from administrative sources), as called for by Parliament. The statistics collected would include the number of victims who experienced violence against women or domestic violence in recent years or during their lifetime and the annual number of such victims, of reported offences, and of persons prosecuted and convicted of such forms of violence. These data will need to be disaggregated (by sex, age of the victim and of the offender, relationship between the victim and the offender, and type of offence, broadly corresponding to Parliament's requests). It is slightly unclear, however, whether this data collection obligation refers to all forms of cyber-violence (and not only to those criminalised);
- With a view to Parliament's calls for more research on gender-based violence, this is broadly addressed in the proposal. Accordingly, Member States should support research on root causes, effects, incidences and conviction rates of the forms of violence covered by the directive. Moreover, preventive measures taken by the Member States should include research. However, several of Parliament's more specific requests (such as to establish an EU observatory on violence against women, ensure data exchanges between Eurostat and national judicial authorities and police, or collect data and

produce studies on cyber-bullying or psychological harassment at work) have not been taken up;

- Finally, Parliament's request to take into account the specific protection and support needs of victims experiencing multiple discrimination based on a combination of sex and other grounds as well as of vulnerable groups are addressed in several provisions (such as those in Articles 2, 13, 16(5), 18(4), 23(e), 27(5), 32(3), 35, 36(4) and 37(7)).

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Gender-based violence, including violence against women and domestic violence, breaches human rights and is an extreme form of gender-based discrimination. However, violence against women and domestic violence are pervasive throughout the European Union (EU). While the full scale of the problem is not known due to a lack of data, the results of the most comprehensive survey on violence against women at EU level to date, published by the EU Agency for Fundamental Rights (FRA) in 2014, provide an indication of its dimension. The coronavirus pandemic and related lockdowns have further worsened the situation.

On 8 March 2022, the European Commission presented a long-awaited proposal for a directive combating violence against women and domestic violence. Ahead of its deliberations, the Committee on Women's Rights and Gender Equality (FEMM) asked the Ex-Post Evaluation Unit (EVAL) within DG EPRS to prepare an analysis of the Commission proposal in light of the European Parliament's requests for a legislative framework on preventing and combating gender-based violence, submitted over time. Accordingly, this study examines the Parliament's main requests in this regard adopted since 2009 – when Parliament first called for a directive on preventing and combating all forms of violence against women – compared against the provisions of the Commission proposal.

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