

QUESTIONNAIRE

“Violence and its impact on the right to health”

I have the honour to address you in my capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pursuant to Human Rights Council resolution 42/16.

I would like to invite you to respond to the questionnaire below. Submissions received will inform my next thematic report on “Violence and its impact on the right to health”, which will be presented to the Human Rights Council in June 2022.

The questionnaire on the report is available at OHCHR website in English (original language) as well as in French, and Spanish:
(<https://www.ohchr.org/EN/Issues/health/pages/srrighthealthindex.aspx>).

All submissions received will be published in the aforementioned website, unless it is indicated that the submission should be kept confidential.

There is a word limit of 750 words per question. Please submit the completed questionnaire to ohchr-srhealth@un.org. The deadline for submissions is: **18 January 2022**.

Tlaleng Mofokeng

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Contact Details

Please provide your contact details in case we need to contact you in connection with this survey. Note that this is optional.

Type of Stakeholder (please select one)	<input type="checkbox"/> Member State <input type="checkbox"/> Observer State <input checked="" type="checkbox"/> Other (please specify) NGO
Name of State Name of Survey Respondent	Region: Europe Organisation Intersex International Europe (OIIEurope)
Email	dan@oiieurope.org
Can we attribute responses to this questionnaire to your Institution publicly*? *On OHCHR website, under the section of SR health	Yes X No Comments (if any):

Background

Within the framework of Human Rights Council resolution 42/16, the Special Rapporteur on the highest attainable standard of physical and mental health has identified sexuality, gender based violence and femicide as one of her priorities during her tenure (See [A/HRC/47/28](#) paras 50-64). In compliance with her mandate and in line with this priority she has decided to devote her next thematic report to the 50th session of the Human Rights Council in June 2022 to the theme of “Violence and its impact on the right to health.”

Objectives of the report

The Special Rapporteur intends to shed light on who is seen as victims of violence, and who is affected by what type of violence, with emphasis on the violence experienced by women, children, LGBTI persons and conflict related gender based violence. She will also explore the role of men as perpetrators and their experience as victims of violence. Her analysis will look into the responses that survivors of violence receive with a focus on good practices, as well as the obligations, responsibilities, and protections that arise under the right to health framework and other relevant human rights in this connection. She will also report on emerging trends related to the impact of COVID-19 on all forms of violence and related responses.

In her report, the Special Rapporteur will address, inter alia, issues related to gender based violence, (including inter-personal and intimate violence), as well as structural violence. She will also assess the impact of the criminalization of sex work, same sex relations, transgender persons, abortion, drug use etc. on the enjoyment of the right to health. The Special Rapporteur would like to identify good practices and examples of comprehensive health responses to survivors of violence, and to identify lessons learned at the community, national, regional and international levels.

Key questions

You can choose to answer all or some of the questions below. (750 words limit per question).

When responding to the questions below, please use the glossary with definitions at the end of the questionnaire, and refer to all or some of the forms of violence in focus for this study as applicable in your country, countries or region in focus:

1. Please describe, share data and information on the characteristics, number of cases, and the profile of victims and perpetrators in your country/ies or region(s) regarding:
 - 1.1. gender based violence against women
 - 1.2. gender based violence and other forms of violence against children:
 - 1.3. gender based violence against LGBTI or other persons based on real or imputed sexual orientation, sex characteristics, and gender identity:
 - 1.4. violence against persons with disabilities, including GBV.
 - 1.5. gender based violence against men
 - 1.6. conflict gender based violence, including sexual violence

1.7. Please share analysis and available evidence on the impact of COVID on the above

Intersex people are born with sex characteristics (sexual anatomy, reproductive organs, hormonal structure and/or levels and/or chromosomal patterns) that do not fit the typical definition of male or female¹.

Intersex people are victims of violence motivated by bias towards their variations of sex characteristics and physical appearance - which the perpetrators perceive as non-conforming to gender and societal norms - that qualify as gender-based violence (GBV) and hate crime / hate speech.

According to the 2019 FRA LGBTI survey², in the five years before the survey 22% of intersex respondents experienced a physical and/or sexual attack for being LGBTI. 38% at least once experienced violent in-person threats due to being LGBTI in the 12 months before, and 27% even six or more times³.

GBV and hate crime dramatically affect the youth. Among intersex young respondents (aged 15-17)

- 14% stated they suffered from bias-motivated physical or sexual attacks in the 12 months before the survey,
- 79% reported physical attack
- 20% sexual attack or a combination of physical and sexual attack
- 50% experienced bullying at school/university and
- 39% identified school as the location of the last incident of hate-motivated harassment⁴.

The negative impact of these incidents on the individual is severe⁵: when asked about how the last hate-motivated violent incident affected their health and well-being, 59% intersex young respondents stated they were afraid to go out or visit places, 56% said they had psychological problems (e.g., depression or anxiety), 9% said they needed medical assistance or hospitalisation⁶.

¹ Dan Christian Ghattas, *Protecting Intersex people in Europe. A toolkit for law and policy makers. With digital Appendix and Checklist* (ILGA-Europe and OII Europe, 2019), 9, available at <<https://oiieurope.org/library-en/toolkit-cat/legal-toolkit/>>. Up to 1,7 % of the global population is intersex: see the United Nations Office of the High Commissioner for Human Rights, *Fact Sheet. Intersex* (2015), available at <https://unfe.org/system/unfe-65-Intersex_Factsheet_ENGLISH.pdf>. This equals about 134 million intersex people globally, based on the world population estimates of about 7.916.333.000 people in January 2022 as per <<https://worldpopulationprospects.info/>> accessed 12.01.2022.

² European Union Agency for Fundamental Rights, *A long way to go for LGBTI equality* (14 May 2020), available at <<https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>>. All figures quoted from here on are the result of our own research through the Data Explorer, unless otherwise specified.

³ See OII Europe infographic based on LGBTI Survey Data Explorer available at <<https://oiieurope.org/physical-violence-and-harassment/>>.

⁴ See OII Europe infographic based on LGBTI Survey Data Explorer available at <<https://oiieurope.org/intersex-youth/>>.

⁵ On the negative impact of hate crime on the victims and the community, also see Equality and Diversity Forum / Aziz Foundation, *Hate Crime: Cause and Effect. A research synthesis* (October 2018), 6, available at <<https://www.equallyyours.org.uk/wp-content/uploads/2018/10/Hate-crime-cause-and-effect.pdf>>. See also research referenced there.

⁶ See OII Europe infographic based on LGBTI Survey Data Explorer available at <<https://oiieurope.org/intersex-youth/>>.

While these figures refer to the European Union⁷, they reflect a trend that is spread in all the European region – on which we focus in this submission - as repeatedly reported to us by our members.

Intersex people are increasingly targeted by online hate-speech, which takes the form of hateful comments on social media⁸, hateful posts on forums⁹ and offensive pathologizing articles¹⁰. Even groups connected to the so called “anti-gender movement” embedded intersexphobic rhetoric in their public discourse¹¹.

The Covid-19 crisis increased the stress level among the community. Among the intersex respondents to our 2020 Covid survey, 11% stated that they were staying at home in self-isolation with someone whom they have a strained relationship or other difficulties with, including some respondents who reported experiencing violence, abuse, harassment by that person. Another 11% expressed feeling unsafe for different reasons¹².

2. Please describe whether the legal framework prohibits and sanctions these forms of violence and the definitions and forms of violence included in the legal system. Please explain redress options for survivors of violence, (the pathway they go through if they decide to file a complaint), levels of impunity and if access to comprehensive physical and mental care for GBV-survivors is recognized as a form of reparation.

The right to security of the person is protected by the Universal Declaration of Human Rights, article 3, as well as the International Covenant on Civil and Political Rights, article 9. These provisions are echoed at the regional level by the European Convention on Human Rights, article 5, and the EU Charter of Fundamental Rights, article 6.

Principle 30 of the Yogyakarta Principles +10 interprets this framework in relation to SOGIESC and finds upon the States the obligation to “[e]xercise due diligence to prevent, investigate, prosecute, punish and provide remedies for discrimination, violence and other harm, whether committed by State or non-State actors”¹³.

The CoE Committee of Ministers has stated that “Member states should ensure that when determining sanctions, a bias motive related to sexual orientation or gender

⁷ With the addition of UK, North Macedonia and Serbia.

⁸ See OII Europe submission to the European Commission public consultation for its initiative on hate crime and hate speech: OII Europe, *Towards an extension of the list of EU crimes to hate speech and hate crime* (20.04.2021), 11-14, 41-42 and Annexes I and II, available at <https://oiieurope.org/wp-content/uploads/2021/05/OII-Europe-Submission_Extension-Hate-Speech-and-Crime_FINAL.pdf>.

⁹ *Ibidem*, 14-15, 30-31.

¹⁰ *Ibidem*, 38-40.

¹¹ *Ibidem*, 25-27.

¹² OII Europe, *COVID-19. A report on the situation of intersex people in Europe and Central Asia*. Authored by Dan Christian Ghattas, with Irene Kuzemko. Questionnaire developed by Irene Kuzemko (Berlin, 2020), 34, available at <<https://www.oiieurope.org/covid-19-survey-report/>>.

¹³ The Yogyakarta Principles + 10 (Geneva, 10 November 2017), available at <http://yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf>.

identity may be taken into account as an aggravating circumstance”¹⁴. ECRI further recommended to criminalise hate speech when amounting to public incitement to violence, intimidation, hostility or discrimination¹⁵.

The European Commission has presented an initiative to extend the list of so-called “Eurocrimes”¹⁶, following-up on the commitment it made in its LGBTIQ Equality Strategy to adopt common EU rules on hate crime and speech, also when targeting LGBTI persons¹⁷.

However, up to this date only three European countries¹⁸ offer State level protection against hate crime on the ground of sex characteristics and only two¹⁹ against hate speech.

Without criminal provisions in place redress options are non-existent in the majority of European countries, while even when it is possible to rely on general provisions in the lack of specific ones (e.g., the crimes of violence or threat, with no relevance given to the bias motivation), redress is hardly accessible in practice.

Of all the intersex respondents to the 2020 FRA LGBTI survey who experienced an incident of harassment or physical or sexual attack within the 12 months before, only 25% reported the incident to any authority or organisation, of which only 16%, reported it to the police²⁰.

The most common reasons include former experience or fear that:

- the police would not or could not do anything

¹⁴ Recommendation CM/Rec(2010)5 of the Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity (31 March 2010), available at <https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805cf40a>. Unfortunately, it fails to include sex characteristics.

¹⁵ European Commission against Racism and Intolerance (ECRI), *ECRI General Policy Recommendations for Combatting Hate Speech* (8 December 2015), recommendation n. 10, available at <<https://rm.coe.int/ecri-general-policy-recommendation-no-15-on-combating-hate-speech/16808b5b01>>

¹⁶ See <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12872-Hate-speech-&-hate-crime-inclusion-on-list-of-EU-crimes_en>.

¹⁷ European Commission, *Union of Equality: LGBTIQ Equality Strategy 2020-2025* (Brussels, 12.11.2020), available at <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0698>>.

¹⁸ Malta: Gender Identity, Gender Expression and Sex Characteristics Act, 2015, Article 11(1-2) <<https://legislation.mt/eli/cap/540/eng/pdf>>; Greece, Criminal Code, Articles 81A and 361B <<https://www.kodiko.gr/nomothesia/document/140974/nomos-4356-2015>>; Belgium: 10 MAI 2007. - Loi tendant à lutter contre la discrimination entre les femmes et les hommes, amended by 4 FEVRIER 2020. - Loi modifiant la loi du 10 mai 2007 modifiant, en ce qui concerne l'interdiction de discrimination relative à la paternité ou à la comaternité, la loi du 10 mai 2007 tendant à lutter contre la discrimination entre les femmes et les hommes, Articles 4,28,28/1,28/2,29 <http://www.ejustice.just.fgov.be/cgi_loi/change_lg_2.pl?language=fr&nm=2007002098&la=F>.

¹⁹ Greece: Law 927/1979, as amended by article 7 of Law 4491/2017. Article 1 <<https://www.kodiko.gr/nomothesia/document/307515/nomos-927-1979>>; Belgium: 10 MAI 2007. - Loi tendant à lutter contre la discrimination entre les femmes et les hommes, amended by 4 FEVRIER 2020. - Loi modifiant la loi du 10 mai 2007 modifiant, en ce qui concerne l'interdiction de discrimination relative à la paternité ou à la comaternité, la loi du 10 mai 2007 tendant à lutter contre la discrimination entre les femmes et les hommes, Articles 4,27 <http://www.ejustice.just.fgov.be/cgi_loi/change_lg_2.pl?language=fr&nm=2007002098&la=F>.

²⁰ European Union Agency for Fundamental Rights, *A long way to go for LGBTI equality* (Luxembourg: Publications Office of the European Union, 2020), 47, available at <https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-lgbti-equality-1_en.pdf>.

- not trusting the police
 - fear of a homo-phobic and/or transphobic reaction if they reported to the police²¹.
3. Please share examples of the types of structural and institutional violence with origins within the State, (perpetrated or condoned by the State) or perpetrated by those not representing or affiliated to the state in your country/ies of region, and who is affected. In particular, describe structural/institutional violence in medical settings against women and girls, LGBTI persons and persons with disabilities or any other individuals or groups relevant in your country/ies or regions.

The most severe form of structural and institutional violence that affects intersex people is Intersex Genital Mutilation (IGM), an intervention on a healthy intersex body. IGM is performed when, according to societal and medical notions, a person's external genitals do not look "normal" enough to pass as "male" or "female" genitals²². It breaches multiple human rights protected by the UN framework including, among others, freedom from torture, human dignity, right to bodily integrity, non-discrimination, best interest of the child, health protection²³.

Among many other UN mechanisms repeatedly condemning IGM²⁴, the former Special Rapporteur on Health, Dainius Puras, stated that these practices "can have detrimental, long-lasting effects on their [=intersex children's] health and well-being; violate their basic rights to physical integrity, privacy and autonomy; and may amount to ill-treatment or even torture"²⁵. He added that "States should prohibit unnecessary medical or surgical treatment during infancy or early childhood in order to guarantee the bodily integrity, autonomy and self-determination of the children concerned"²⁶.

²¹ *Ibidem*.

²² Dan Christian Ghattas, *Protecting Intersex people in Europe. A toolkit for law and policy makers. With digital Appendix and Checklist* (ILGA-Europe and OII Europe, 2019), 11, available at <https://oiieurope.org/library-en/toolkit-cat/legal-toolkit/>.

²³ See: Universal Declaration of Human Rights, articles 1, 2, 5, 6, 7, 12; International Covenant on Civil and Political Rights, articles 2, 7, 16, 24, 26; Convention on the Rights of the Child, articles 3, 6, 8, 12, 16, 19, 24, 37; International Covenant on Economic, Social and Cultural Rights, article 12; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, articles 1, 2, 4, 10, 14, 16; Convention on the Elimination of All Forms of Discrimination against Women, article 5

²⁴ The Office of the High Commissioner for Human Rights, *Background Note on Human Rights Violations against Intersex People*, 8, available at <https://www.ohchr.org/EN/Issues/Discrimination/Pages/BackgroundViolationsIntersexPeople.aspx>.

See also OII Europe's Resource List – which includes all the intersex specific recommendations – at <https://oiieurope.org/international-intersex-human-rights-movement-resource-list/>. For selected citations of recommendations of the UN CRC pertaining IGM and other intersex human rights issues, see OII Europe, *Intersex children and the violation of their right to privacy. OII Europe submission to the UN Special Rapporteur on the Right to Privacy* (30.9.2020), available at https://oiieurope.org/wp-content/uploads/2020/12/2020_UN-SR-Right-to-Privacy-Submission_OII-Europe_FINAL-public.pdf.

²⁵ United Nations General Assembly, Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/70/213), para. 85, available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/70/213.

²⁶ *Ibidem*, para. 86. See also para. 112.

While none of the assumptions behind these practices is evidence-based²⁷, robust evidence exists as to their harmful consequences, namely: psychological trauma²⁸, physical impairments including, but not limited to, painful scar-tissue²⁹ and lack of (general and/or erotic) sensation³⁰, osteoporosis and osteopenia already at a very young age after the removal of gonadal tissue, urinary impairments as a result of interventions on the urethral tract, including from so-called “hypospadias repair” and other genital surgeries, and infections^{31 32}.

As per the incidence of such practices, according to FRA findings from 2015, sex ‘normalising’ surgery is carried out on intersex children in at least 21 EU Member States³³. Recent reports of parents of intersex children received by OII Europe from across Europe, as well as two recent studies on the number of surgical interventions performed on intersex children aged 0 to 10 from 2005 to 2016 in Germany, show that the number of interventions on children have not decreased despite other claims, even in countries where guidelines exist that indicate to refrain from surgery³⁴.

²⁷ See Kavot Zillén, Jameson Garland and Santa Slokenberga, *The Rights of Children in Biomedicine: Challenges posed by scientific advances and uncertainties*, Commissioned by the Committee on Bioethics for the Council of Europe (January 2017), 43, available at <<https://rm.coe.int/16806d8e2f>>.

²⁸ See: Surya Monro, Daniela Crocetti, Tracey Yeadon-Lee, Fae Garland and Mitch Travis, *Intersex, Variations of Sex Characteristics, and DSD: The Need for Change*. Research Report. University of Huddersfield (2017), available at <<https://pure.hud.ac.uk/en/publications/intersex-variations-of-sex-characteristics-and-dsd-the-need-for-c>>; The Netherlands Institute for Social Research: Jantine van Lisdonk, *Living with intersex/DSD: An exploratory study of the social situation of persons with intersex/DSD* (The Hague, August 2014), 44 and 76, available at <https://www.researchgate.net/publication/290446986_Living_with_intersexDSD_An_exploratory_study_of_the_social_situation_of_persons_with_intersexDSD>;

²⁹ Amnesty International, *First, do no harm. Ensuring the rights of children with variations of sex characteristics in Denmark and Germany* (2017), 32, available at <<https://www.amnesty.org/en/documents/eur01/6086/2017/en/>>.

³⁰ Parliamentary Assembly, Promoting the human rights of and eliminating discrimination against intersex people. Report. Doc. 14404 (25 September 2017), part C, para. 25, available at <https://pace.coe.int/en/files/24027/html#_TOC_d19e146>.

³¹ N.S. Crouch, C.L. Minto, L.M. Laio, C.R. Woodhouse, S.M. Creighton (2004): Genital sensation after feminizing genitoplasty for congenital adrenal hyperplasia: a pilot study. *BJU Int.* 2004 Jan; 93(1):135-8.

³² For personal testimonies of intersex people, see: OII Europe, *#MyIntersex Stories. Personal accounts by intersex people living in Europe* (November 2019), available at <https://oiieurope.org/wp-content/uploads/2019/11/testimonial_broch_21-21cm_for_web.pdf>. We include all of these testimonies and the additional information (e.g., country, age) as consented to by the respective intersex individuals.

³³ European Union Agency for Fundamental Rights, *The Fundamental Rights Situation of Intersex People. FRA Focus*, 4/2015 (04/2015), 1 and 6, available at <<https://fra.europa.eu/en/publication/2015/fundamental-rights-situation-intersex-people>>.

³⁴ Josch Hoenes, Eugen Januschke, Ulrike Klöppel, *Häufigkeit normangleichender Operationen „uneindeutiger“ Genitalien im Kindesalter. Follow Up-Studie* (Bochum, 2019), available at <<https://omp.ub.rub.de/index.php/RUB/catalog/view/113/99/604-2>>; Ulrike Klöppel, *Zur Aktualität kosmetischer Operationen „un-eindeutiger“ Genitalien im Kindesalter*. Hg. von der Geschäftsstelle des Zentrums für transdisziplinäre Geschlechterstudien der Humboldt-Universität zu Berlin (Berlin, 2016), available at <<https://www.gender.hu-berlin.de/de/publikationen/gender-bulletins/bulletin-texte/texte-42/kloepfel-2016-zur-aktualitaet-kosmetischer-genitaloperationen>>.

Lack of protection from IGM also contravenes human rights standards at regional (CoE and EU) level^{35 36}. Nevertheless, only a few countries – to a varying and limited extent – explicitly ban IGM.³⁷

This is striking also compared to the unanimous recognition of Female Genital Mutilation (FGM) as a gross human rights violation. Social pressure to conform to gender roles and stereotypes about male and female bodies is common ground shared by FGM and IGM and makes both qualify as forms of GBV³⁸. The Committee on the Elimination of Discrimination against Women repeatedly showed concern about reports of IGM cases and recommended that State parties “[a]dopt clear legislative provisions explicitly prohibiting the performance of unnecessary surgical or other medical treatment on intersex children until they reach an age at which they can provide their free, prior and informed consent”³⁹.

4. Please also share information on the impact of criminalization of sex work, same sex relations, transgender persons, abortion, drug abuse, harmful practices in obstetric

³⁵ Among others, European Convention on Human Rights, articles 3 (Prohibition of torture), 8 (Right to respect for private and family life) 14 (prohibition of discrimination); European Social Charter, article 11 (The right to protection of health) 13 (The right to social and medical assistance); Convention on Human Rights and Biomedicine (Oviedo Convention), articles 5 (Consent - General rule), 6 (Protection of persons not able to consent), 8 (Emergency situation), 10 (Private life and right to information); Charter of Fundamental Rights of the European Union: articles 1 (Human dignity), 3 (Right to the integrity of the person), 4 (Prohibition of torture and inhuman or degrading treatment or punishment), 7 (Respect for private and family life), 21 (Non-discrimination), 24 (The rights of the child), 35 (Health care).

³⁶ Commissioner for Human Rights, *Human rights and intersex people. Issue paper* (Council of Europe, April 2015), available at <<https://rm.coe.int/16806da5d4>>; Parliamentary Assembly Resolution 2191 (2017) Promoting the human rights of and eliminating discrimination against intersex people, available at <<https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=24232&lang=en>>; European Parliament Resolution of 14 February 2019 on the rights of intersex people (2018/2878(RSP)), available at <https://www.europarl.europa.eu/doceo/document/TA-8-2019-0128_EN.pdf>.

³⁷ Malta: Gender Identity, Gender Expression And Sex Characteristics Act, 14th April 2015, art. 14, available at <<https://legislation.mt/eli/cap/540/eng/pdf>>; Portugal: Lei n.º 38/2018 de 7 de agosto. Direito à autodeterminação da identidade de género e expressão de género e à proteção das características sexuais de cada pessoa, art. 5, available at <https://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=2926&tabela=leis&ficha=1>; Iceland: Lög nr. 154 29. desember 2020. Lög um breytingu á lögum um kynrænt sjálfræði, nr. 80/2019 (ódæmigerð kyneinkenni), available at <<https://www.althingi.is/lagas/nuna/2019080.html>> and <<https://www.althingi.is/altxt/stjt/2020.154.html>>; Germany: Gesetz zum Schutz von Kindern mit Varianten der Geschlechtsentwicklung. Vom 12. Mai 2021, available at <[https://www.bgbl.de/xaver/bgbl/start.xav?start=//\[*\]@attr_id=%27bgbl121s1082.pdf%27|#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl121s1082.pdf%27%5D_1642090566815](https://www.bgbl.de/xaver/bgbl/start.xav?start=//[*]@attr_id=%27bgbl121s1082.pdf%27|#_bgbl_%2F%2F%5B%40attr_id%3D%27bgbl121s1082.pdf%27%5D_1642090566815)>.

³⁸ For more details on the commonalities between IGM and FGM, see Dan Christian Ghattas, *Protecting Intersex people in Europe. A toolkit for law and policy makers. With digital Appendix and Checklist* (ILGA-Europe and OII Europe, 2019), 12, available at <<https://oiieurope.org/library-en/toolkit-cat/legal-toolkit/>>.

³⁹ CEDAW/C/DEU/CO/7-8. See also, among others, CEDAW/C/BGR/CO/8, CEDAW/C/AUT/CO/9, CEDAW/C/LUX/CO/6-7, CEDAW/C/ITA/CO/7, CEDAW/C/IRL/CO/6-7, CEDAW/C/NLD/CO/6, CEDAW/C/EST/CO/5-6, CEDAW/C/FRA/CO/7-8, CEDAW/C/SVK/CO/5-6. About the understanding of IGM as a form of GBV in the EU policy context, see OII Europe’s submissions to the European Commission: OII Europe, *Preventing and combatting gender-based violence and domestic violence against intersex individuals* (10.5.2021), available at <https://oiieurope.org/wp-content/uploads/2021/05/2020_Submission-OII-Europe_Gender-based-and-domestic-violence_FINAL.pdf> and OII Europe, *Towards an evaluation of the Victims’ Rights Directive* (22.10.2021), available at <https://oiieurope.org/wp-content/uploads/2021/10/OII-Europe-Submission-Victims-Rights-Directive_FINAL.pdf>.

care, female genital mutilation on the violence experienced by the affected individuals and their enjoyment of the right to health.

5. Please share information on the health and other type of responses provided by the State and/or other actors in your country/ies or regions in focus to survivors of each/some of the aforementioned forms of violence. Please assess what works well and not so well, and whether COVID-19 impacted the response and how.

State health responses to survivors of IGM or other forms of violence are extremely poor across the region. While survivors to IGM and intersex people in general sorely need access to expert-sensitive health services, they often face severe obstacles when trying to access health and care services, such as ongoing discrimination and retraumatizing experiences with healthcare professionals.

As the 2017 PACE report points out, a severe lack of knowledge about intersex people, the human rights violations they face and the specific needs that follow from these experiences, exists among medical practitioners⁴⁰. This lack is matched with personal bias that can result in disbelief and insults, the refusal to perform needed examinations, and examinations being carried out in violent ways or without the intersex person's consent. Intersex people regularly speak in self-help groups and report to national intersex NGOs or to OII Europe that they are at risk of sexual harassment in medical settings.

When seeking medical help for issues directly related to their sex characteristics, diagnosis or sexuality, intersex people often face highly insensitive and violent behaviour. For example, a 2014 Dutch study on the experience of intersex people in different areas of life emphasised that six out of seven spoke “with a great deal of emotion about poor information, insensitive communication and discourteous treatment”⁴¹.

Treatments and medications needed as a direct consequence of so-called “normalising” interventions are often not covered by health insurance. This can include, for example, life-long hormone substitution therapy after the removal of hormone-producing tissue in order to prevent osteopenia and osteoporosis⁴².

Lack of adequate psycho-social counselling for intersex people is still commonplace in Europe: a 2015 German survey found that of 630 participants (intersex adults, parents of intersex children, counselling professionals and intersex experts), only 4%

⁴⁰ Parliamentary Assembly, Promoting the human rights of and eliminating discrimination against intersex people. Report. Doc. 14404 (25 September 2017), part C, paras. 49-50, available at <https://pace.coe.int/en/files/24027/html#_TOC_d19e146>.

⁴¹ The Netherlands Institute for Social Research: Jantine van Lisdonk, *Living with intersex/DSD: An exploratory study of the social situation of persons with intersex/DSD* (The Hague, August 2014), 54, available at <https://www.researchgate.net/publication/290446986_Living_with_intersexDSD_An_exploratory_study_of_the_social_situation_of_persons_with_intersexDSD>. For testimonies of rape in medical settings, see: OII Europe, #MyIntersex Stories, 44-46, 69-70.

⁴² Dan Christian Ghattas, *Human Rights Between the Sexes. A preliminary study on the life situation of inter* individual* (Berlin: Heinrich Boll Foundation, 2013), 22, available at <https://www.boell.de/sites/default/files/endf_human_rights_between_the_sexes.pdf>.

considered the existing counselling services to be sufficient. 90% of the participants found the existing counselling services insufficient for intersex adults and 95% pointed to the lack of offers for intersex children and adolescents. 95% found the counselling option for parents of intersex children to be insufficient. Almost all participants considered comprehensive counselling services important in order to “avoid premature decisions”.⁴³

The support must be accessible as well: 76% of the study’s participants wished for support offers in their immediate vicinities and 59% wished for a minimum of several contact points and advisory services per federal state⁴⁴.

The Covid crisis has exacerbated an already dire situation. Among the intersex respondents to our 2020 Covid survey, 40% reported that their doctor appointments were postponed and 22% that they had their appointments cancelled during the crisis. 21% reported that they don’t have access to a doctor who has the necessary expertise with their intersex body and 14% currently have no access to a doctor that they trust⁴⁵.

Among the respondents, 40% stated that they follow a medicine taking regime on regular basis, which may include, but is not limited to, hormone substitution as a result of surgically induced loss of hormone-producing tissue. Of those, in July 2020 64% took their medicine as regularly as they did before the pandemic, but 28% who follow a regime on regular basis reported that they had to stop or will eventually stop taking their medicine⁴⁶.

Finally, intersex people who want to seek justice for the harm inflicted on them by medical doctors face huge difficulties in accessing their (full) medical records, either because the retention period has expired or because of the stigma and secrecy surrounding their situation⁴⁷. Even when they manage to get them, their claim may be time-barred. Retention periods and statutes of limitations are not designed to consider that intersex people often find out as adults that they underwent harmful treatment, because of the silence and taboo surrounding them, and once they find it out, they need time to process and heal before even thinking about going before court⁴⁸.

6. Please specify the budget allocated in your country/ies in focus, to health related response to survivors of all/some forms of violence mentioned above. Please indicate the percentage of the national budget devoted to this; the percentage of the international aid provided or received for this. Please explain the impact of Covid 19 to the funding of responses to all/some forms of violence in your State/institution.

⁴³ Bundesministerium für Familie, Senioren, Frauen und Jugend, *Dokumentation Fachaustausch: „Beratung und Unterstützung für intersexuelle Menschen (i. S. v. Menschen mit angeborenen Variationen der Geschlechtsmerkmale) und ihre Familien“* 4. November 2015. Begleitmaterial zur Interministeriellen Arbeitsgruppe Inter- & Transsexualität – Band 3 (Berlin, June 2016), 13, available at <https://www.bmfsfj.de/blob/123144/40905d00b0bc5d9722523bb6f9e29824/imag-band-3-beratung-und-unterstuetzung-fuer-intersexuelle-menschen-data.pdf>.

⁴⁴ *Ibidem*, 14.

⁴⁵ OII Europe, *COVID-19*, 18.

⁴⁶ *Ibidem*, 19.

⁴⁷ Parliamentary Assembly, Report, para. 52.

⁴⁸ Dan Christian Ghattas, *Protecting Intersex people in Europe*, 38-39.

7. Please describe the needs of survivors of the abovementioned forms of violence as identified by your State/institution. Please share survivor-self identified needs and those of their families, with a focus on health emergency and long-term needs.

Self-identified needs of the survivors of structural/institutional violence and intersex people in general are effectively expressed and communicated in the so-called Vienna Statement, that is the Statement of the 1st European Intersex Community Event (Vienna, 30st – 31st of March 2017)⁴⁹.

“In the field of healthcare, we call on governments, doctors associations, health insurances and other decision and policy makers working in the area of healthcare, to

- Ensure intersex people’s full access to medical records.
- Educate all healthcare professionals and providers about respectful behaviour towards intersex people and ensuring their privacy.
- Cover all health-related needs of intersex people, including those that were created by previous medical and psychological interventions.

In regards to support for intersex people and their families, we call on governments to

- Ensure that peer counselling, which approaches intersex issues in a depathologizing and human rights affirming manner, led by intersex adults is easily available for parents, families, intersex children and intersex adults.
- Ensure that professional counselling services that approach intersex issues in a depathologizing and human rights affirming manner are easily available for parents, families, intersex children and intersex adults”.

Clearly, self-identified needs of the community are still not acknowledged widely by the State authorities of the region, and although knowledge about those needs has increased on European level and with CoE Member States and regional bodies as well as some national governments have started to respond to those needs (e.g. with the EU LGBTIQ Equality strategy, national action plans etc.), overall responses to these needs are still not sufficient (see above the answer to question 5).

8. Please share examples of good practices and examples of comprehensive health responses to survivors of violence and indicate efficient multi-sectorial efforts at the community, national, regional and international levels by State or non-State actors.

Examples of State or State-supported practices that effectively address the needs of intersex survivors of violence are still very limited.

In regard to good practice examples from non-State actors, we point out the project VARGES, in the field of peer-counselling.

VARGES is a project of the intersex-led organisation *VIMÖ/OII Austria*, providing services of education about sex and gender diversity and peer counselling in

⁴⁹ STATEMENT of the 1st European Intersex Community Event (Vienna, 30st – 31st of March 2017), available at <<https://oii-europe.org/statement-1st-european-intersex-community-event-vienna-30st-31st-march-2017/>>.

cooperation with the private funder *HIL Foundation*, with a part-time position to set up and coordinate the whole project. The team of VARGES, along with other intersex people who joined the team, acquire a peer-counselling certificate, which has been funded by ÖKUSS (Austrian Social Insurance Company)⁵⁰.

This good practice example highlights that:

- intersex-led human rights-based organisations provide high quality, professional services and deserve more financial support to make them sustainable,
- peer-counselling is an essential service that draws from intersex people's unique expertise and lived experience,
- intersex-led human rights-based organisations need direct funding (both from the private and the public sector) and paid staff⁵¹.

9. Please describe State and other actors' initiatives and measures to prevent these forms of violence, specific budget allocated to prevention, and good practices in this regard.

Among other actions, a decisive move towards ending structural and institutional violence would be introducing a law to prohibit non-vital surgical and medical interventions/treatments aimed at altering the person's sex characteristics, unless the mature intersex person has provided personal, prior, free and fully informed consent⁵².

However, a comprehensive response needs to address the multiple and interconnected needs of intersex people⁵³.

On EU level, the European Commission committed to "support the exchange of good practices on ending non-vital surgery and medical intervention on intersex infants and adolescents to make them fit the typical definition of male or female without their or their parents' fully informed consent (intersex genital mutilation)"⁵⁴.

Beyond a ban on IGM, States can do a lot to counter the ongoing violence, discrimination and stigma against intersex people:⁵⁵.

Campaigns

1. In 2020 in France, the interministerial delegation against racism, antisemitism and anti-LGBT+ hatred funded the campaign „Intersex: Justice, now!“ created by the national intersex-led organisation Collectif Intersexes et Allié.e.s-OII France. The campaign provides intersex people with information about their rights (especially regarding medical records), financially supports civil and penal complaints as well as psychological support. It has a dedicated website

⁵⁰ Find out more about the project at <<https://varges.at>>.

⁵¹ See OII Europe Good Practice Map 2020 at <<https://oiieurope.org/good-practice-map-2020/#fund>>.

⁵² See Dan Christian Ghattas, *Protecting Intersex people in Europe*, 15-20.

⁵³ For example, see our press release in regard to the German law: OII Europe, *A good first step: Germany adopts law banning IGM. But there is still room for improvement* (30 March 2021), available at <<https://oiieurope.org/a-good-first-step-germany-adopts-law-banning-igm/>>.

⁵⁴ European Commission, *EU strategy on the rights of the child* (Brussels, 24.3.2021), 12, available at <<https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A52021DC0142>>.

⁵⁵ For more good practice examples, please visit the section Map on OII Europe website, at <<https://oiieurope.org/library-en/map/>>.

- and new brochures and poster, and a training program for civil society organisations to help spreading awareness and support intersex people locally.
2. As a result of a long collaboration with the UN Free&Equal Campaign, in November-December 2020, the UN OHCHR office in Serbia financially supported the intersex awareness raising campaign by the intersex-led organisation XY Spectrum. The campaign was held on social media and also included two online events.

These good practice examples highlight that:

- enabling intersex-led human rights-based organisations to take the lead on an awareness raising campaign allows for tailored and impactful activities and a dissemination of accurate and meaningful information
- financial support is key to allow these organisations to use their expertise to the full extent
- public funding sends the message to society that intersex people and their rights are valued, increases social acceptance of intersex people and intersex organisations in society
- intersex-led human rights-based organisations provide a wide range of services, on a local and national level, which need and deserve to be financially supported⁵⁶.

Funding

1. Malta is the first government to fund a regional intersex organisation and one of the few governments that fund intersex-led organisations at all. The grant is tailored to the intersex organisation's needs by
 - a. being core/operational funding
 - b. being a multi-annual grant allowing for flexibility and rapid-response reallocation of funds
 - c. acknowledging and highlighting the importance of intersex human rights work in Europe.
2. The Dutch government provides a national, intersex-led organisation with sustainable funding with grants of 5 and 3-year duration⁵⁷.

Research

INIA – Intersex: New Interdisciplinary Approaches – is an EU funded international research network which trains a cohort of 10 early-stage researchers working collaboratively to develop knowledge that will inform policy making and practice across a range of key sectors. The project's objectives are to:

- Generate knowledge that supports the wellbeing and social/economic contributions of intersex people/people with variations of sex characteristics.
- Use innovative interdisciplinary academic resources to push forward understandings of intersex and inform academic fields.
- Produce excellent research and evidence to help address societal challenges associated with intersex.⁵⁸

This good practice example highlights that:

⁵⁶ See the French campaign at <<https://droits-intersexes.fr/>>. See the online events in Serbia at <<https://www.facebook.com/events/199471551834721/>> and <<https://www.facebook.com/events/1457464814461908/>>. See OII Europe Good Practice Map 2020 at <<https://oiieurope.org/good-practice-map-2020/>>.

⁵⁷ See OII Europe Good Practice Map 2019 at <<https://oiieurope.org/good-practice-map-2019/>>.

⁵⁸ See more information at <<https://www.intersexnew.co.uk/about/>>.

- High quality research is needed to inform evidence-based policy reforms and drive societal change.
- Involving intersex-led organisations in consultations and having representatives of them in the advisory board ensures inclusion and reliability.
- Adequate public funds are needed to sustain research of this kind.

The European Commission also commissioned the “Study on Intersex people in the EU” with results expected by the end of 2022.

On national level, the 2019 qualitative study “No information or options. Study on the rights and experiences of intersex persons”, commissioned by the Finnish Ministry of Justice and the Ministry for Foreign Affairs, brings to light life experiences of intersex people living in Finland. The study

- a. is a strongly participatory study
- b. was conducted with ongoing consultation of intersex-led groups and organisations
- c. bases its findings on an assessment of actual healthcare needs of intersex people and their families
- d. was conducted within a sociological instead of a medical framework
- e. has a human rights baseline and perspective
- f. includes and discusses good practices from other countries
- g. provides recommendations on how to implement intersex human rights in on national level⁵⁹.

More good practice examples can be found in the annual [OII Europe Good Practice Map](#).

⁵⁹ See OII Europe Good Practice Map 2019 at <<https://oiieurope.org/good-practice-map-2019/>>. See also a good example from Germany, where the Family Ministry funded the first-ever study on feminising and masculinising genital surgeries carried out on intersex children under the age of 10. The study is a best practice example of how to conduct a retrospective statistical data assessment of surgeries on people with variations of sex characteristics: see OII Europe Good Practice Map 2018 at <<https://oiieurope.org/good-practice-map-2018/>>

Glossary of definitions for the purpose of this questionnaire

- Gender based-violence, is violence directed toward, or disproportionately affecting someone because of their gender or sex. Such violence takes multiple forms, including acts or omissions intended or likely to cause or result in death or physical, sexual, psychological or economic harm or suffering, threats of such acts, harassment, coercion and arbitrary deprivation of liberty. Examples include, sexual violence, trafficking, domestic violence, battery, dowry related violence, coerced or forced use of contraceptives, violence against LGBTI people, femicide, female infanticide, harmful practices and certain forms of slavery and servitude. Gender-based violence may be perpetrated against women, girls, men, boys, and non-binary persons. Gender-based violence, including sexual violence, may be linked to a conflict.
- Gender based violence against women (including girls) refers to violence that is directed against a woman because she is a woman or that affects women disproportionately. (CEDAW, General recommendation 19, 1992). It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. Gender based violence affect women to different degrees depending on their experience of varying or intersecting forms of discrimination including on the basis of ethnicity/race, socioeconomic status, age, disability, being lesbian, bisexual, transgender or intersex, etc. (CEDAW, General recommendation 35, 2017).
- Violence against children refers to all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse against children. (CRC, [General Comment No. 13](#), 2011). Violence experienced by boys and girls may also be a form of gender-based violence.
- Gender based violence perpetrated against LGBTI or other persons based on real or imputed sexual orientation, gender identity, and /or sex characteristics includes killings, imposition of death penalty for homosexuality, death threats, beatings, corporal punishment imposed as a penalty for same-sex conduct, and/or transgender persons, arbitrary arrest and detention, abduction, incommunicado detention, rape and sexual assault, humiliation, verbal abuse, harassment, bullying, hate speech and forced medical examinations, including anal examinations, and instances of so-called “conversion therapy” and forced/coerced medically unnecessary procedures on intersex children and adults. (Report of the Independent Expert on protection against sexual orientation and gender identity, ([A/HRC/38/43](#), 2018, [OHCHR, Born Free and equal](#), OHCHR, [Background note on human rights violations against intersex people](#)).
- Conflict related gender-based violence: Conflict can result in higher levels of gender-based violence against **women and girls**, including arbitrary killings, torture, **sexual violence** and forced marriage. Women and girls are primarily and increasingly targeted by the use of sexual violence, including as a tactic of war. **Men and boys** have also been victims of sexual violence, especially in contexts of detention. *Conflict related sexual violence* refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict. That link may be evident in the profile of the perpetrator, (often affiliated with a State or non-State armed group, which includes terrorist entities); the profile of the victim, (frequently an actual or perceived member of a political, ethnic or religious minority group or targeted on the basis of actual or

perceived sexual orientation or gender identity); the climate of impunity, (generally associated with State collapse, cross-border consequences such as displacement or trafficking, and/or violations of a ceasefire agreement). The term also encompasses trafficking in persons for the purpose of sexual violence or exploitation, when committed in situations of conflict”. (Report of the Secretary General [S/2019/280](#), 2019.)

- Systemic or institutional violence refers to institutional practices, laws or procedures that adversely affect groups or individuals psychologically, mentally, culturally, economically, spiritually, or physically. This violence has its origins within or outside the state, and is a major obstacle for the realization of the right to health, a right which is interconnected with rights to the underlying determinants of health.