



Feedback to the proposal for a directive on combating violence against women and domestic violence

Prepared by OII Europe (May 2022)

OII Europe (Organisation Intersex International Europe) is the European intersex umbrella organisation with intersex-led member organisations in 20 European countries. OII Europe advocates for the protection of intersex people's human rights, raises awareness of intersex issues in society, e.g., through campaigns during Intersex Awareness Weeks, and supports the growth of the European intersex community together with its growing number of member organisations and allies through measures like the annual OII Europe Community Event & Conference.

OII Europe is a framework partner to the European Commission and holds expert status with the SOGI Unit of the Council of Europe. Since 2012 OII Europe has been regularly consulted on intersex issues by the Office of the United Nations High Commissioner for Human Rights, the Parliamentary Assembly of the Council of Europe, the Bioethics Committee of the Council of Europe, the European Parliament, the European Commission, the European Union Agency for Fundamental Rights, the European Network of Equality Bodies, the European Commission against Racism and Intolerance and national governments.

The NGO OII Europe was created in 2015, as an extension of a network of the same name set up in 2012, and is based in Berlin.

Contact: Dan Christian Ghattas (he/him), Executive Director, dan@oiieurope.org



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Introduction

We highly welcome the Commission’s proposal, as it addresses the widespread inequity still prevalent in our societies of which gender-based and domestic violence and the specific vulnerability of women and sex and gender minorities are one of the most horrifying aspects. This proposal has the strong potential to set a new standard of protection against some forms of gender-based violence and we applaud the Commission for this initiative.

We are, however, concerned about the fact the proposal seems to be not fully inclusive of all forms of gender-based violence, including violence against all LGBTIQ persons, who are among the most vulnerable parts of the population in regard to being victims of gender-based and domestic violence, as the 2019 FRA LGBTI survey showed.

Given the limited scope of the proposal on violence against women and domestic violence, we would encourage to expand the list of intersectional experiences under consideration, to include women and girls in all their diversity, including LGBTIQ women more comprehensively.

In its LGBTIQ Equality Strategy, the Commission underlines that “LBTIQ women can experience discrimination both as women and as a LBTIQ person”¹. In its EU Gender Action Plan III, it notes that “[w]omen and girls with disabilities, of minority groups, migrant women and girls, LGBTIQ are among the groups particularly at risk”². LBTIQ women victims’ experiences have some specificities compared to other women, such as fear of LBTIQ-phobic reaction and lack of trust in law enforcement authorities preventing them from reporting crimes to the police, risks of discrimination and re-traumatisation when facing non-sensitive and uneducated support services, including healthcare, etc. Intersex women and girls in particular face a still prevalent lack of

¹ European Commission, LGBTIQ Equality Strategy 2020-2025, p. 22 <https://ec.europa.eu/info/sites/default/files/lgbtiq_strategy_2020-2025_en.pdf>.

² European Commission, EU Gender Action Plan III – An Ambitious Agenda For Gender Equality And Women’s Empowerment In Eu External Action, p. 10 <https://ec.europa.eu/international-partnerships/system/files/join-2020-17-final_en.pdf>.

knowledge about the existence of persons with variations of sex characteristics and about their specific violence they face. As a result, professionals working with victims of gender-based violence and domestic violence most often cannot accommodate their needs.

The following recommendations contain proposals of amendments, along with explanations, aimed at building on that potential to foster an approach that is more inclusive of the experiences and needs of LGBTIQ women and girls and to ensure that these are considered and addressed effectively through the directive. Suggestions for amendments to recitals and articles were added to the respective text *[brackets and bold italic]*.

We would like to encourage the European Commission and EU member states to work, in the future, towards legislative and policy measures that ensure a truly inclusive approach to all forms of gender-based violence in order to leave no one behind. This approach would be in line with the European Parliament resolution on identifying gender-based violence as a new area of crime³ which highlights that gender-based violence targets women and girls in all their diversity and LGBTIQ+ persons alike.

³ European Parliament 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 (2021/2035(INL)), Recitals H and L <https://www.europarl.europa.eu/doceo/document/TA-9-2021-0388_EN.pdf>.

List of recommendations

OII Europe recommends

1. **Recital 7:** to promote equality and prevention measures for all women and girls by adding “in all their diversity”
2. **Recitals 46 and Recital 50** - to make support services available to all women and girls by adding “victims of other harmful practices”
3. **Recital 58** - to ensure that girls and women in all their diversity are represented and addressed in sexuality education by expanding the current wording to “inclusive sexual education”
4. **Article 2** - to add a reference to “victims at an increased risk of violence as set out in article 35” to ensure that the scope of Article 2 is comprehensive, in particular in regard to future implementation
5. **Article 35(1)** - to include LGBTIQ women explicitly as a group of victims with specific needs
6. **Article 36(5)** - to promote equality and prevention measures for all women and girls by adding “in all their diversity”
7. **Article 37(2)** - to make support services available to all women and girls, including intersex women and girls who have been subjected to the harmful medical practice of intersex genital mutilation, by adding “victims of other harmful practices”
8. **Article 41** - to add “organisations working with victims at a heightened risk of violence” to the scope of the article, to ensure that specialized organisations with the necessary expertise on the needs of specific target groups, e.g., transgender women and girls or intersex women and girls, are explicitly included in these cooperations
9. **Article 44(2)** - to add, where available, the “bias motive related to the attack as part” of the to be collected data, to ensure that, among others, data on homophobic, transphobic and intersexphobic attacks is being collected and targeted preventive measures can be established

Recommendations by topic

1. Including LGBTIQ women among victims at a heightened risk of violence and victims with specific needs

OII Europe welcomes the Commission's intersectional approach and identification of LGBTIQ women as facing a heightened risk of experiencing violence (recital 11) among other groups of marginalised women. We equally welcome the explicit mention of the fact that the term 'victim' should refer to all persons, *regardless of their sex or gender* (recital 5 and article 4(c)): while gender-based violence affects women disproportionately - which makes it important to address women and the specificities of violence against women explicitly - other parts of the population, namely people with diverse sexual orientation, gender identity, gender expression or sex characteristics, are also particularly vulnerable to some forms of gender-based violence, which similarly to violence against women are driven by a desire to punish those seen as transgressing societal norms and stereotypes about gender and sex⁴.

However - within the limits of this initiative which scope focuses on violence against women and domestic violence - we strongly encourage to explicitly mention LGBTIQ women not only in the recitals but also **in the articles** of the directive, thereby **clearly binding** Member States to take into account the specific needs of LGBTIQ women and to tackle the drivers of violence against them in the implementation phase.

⁴ European Parliament 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 (2021/2035(INL)), Recital L
<https://www.europarl.europa.eu/doceo/document/TA-9-2021-0388_EN.pdf>

Article 2(1) - Victims at an increased risk of violence and specific risks

OII Europe recommends to add a reference to “victims at an increased risk of violence as set out in article 35” to ensure that the scope of Article 2 is comprehensive, in particular in regard to future implementation

- **Article 2(1):** When implementing the measures under this Directive, Member States shall take into consideration the increased risk of violence faced by victims experiencing discrimination based on a combination of sex and other grounds, *[and by victims at an increased risk of violence as set out in article 35]*, so as to cater to their enhanced protection and support needs, as set out in Article 18(4), Article 27(5) and Article 37(7).

This amendment aims to ensure that Member States will consider the victims at a heightened risk of violence in the implementation of all the measures, which go beyond protection and include prevention. Should this not be possible, we recommend at least to include Article 35(1) in the list of referred articles:

- **Article 2(1):** When implementing the measures under this Directive, Member States shall take into consideration the increased risk of violence faced by victims experiencing discrimination based on a combination of sex and other grounds, so as to cater to their enhanced protection and support needs, as set out in Article 18(4), Article 27(5), *[Article 35(1) and]* Article 37(7).

Article 35(1) - Targeted support for victims with specific needs and groups at risk

OII Europe recommends to include LGBTIQ women explicitly as a group of victims with specific needs

- **Article 35(1):** Member States shall ensure the provision of specific support to victims at an increased risk of violence against women or domestic violence, such as women with

disabilities, women living in rural areas, women with dependant residence status or permit, undocumented migrant women, women applying for international protection, women fleeing from armed conflict, women affected by homelessness, women with a minority racial or ethnic background, women sex workers, *[LBTIQ women]*, women detainees, or older women.

This amendment proposed complements our recommendations to Article 2 as it identifies LBTIQ women and girls explicitly as a group of victims with specific needs. However, should Article 2 not be amended, an amendment of Article 35(1) would still have the positive effect to ensure explicit inclusion of a group of women who, like the other groups mentioned in Article 35(1), are especially vulnerable and need tailored support.

Why do we recommend amendments to Article 2(1) and Article 35(1)?

LGBTIQ persons, including LBTIQ women and intersex women, are particularly vulnerable to **gender-based violence**. The European Parliament, in its Resolution on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU, has highlighted that “LGBTIQ+ persons are also **victims of gender-based** violence because of their gender, gender identity, gender expression and sex characteristics”; it has recognised that “gender-based violence targets women and girls **in all their diversity** and LGBTIQ+ persons, driven by a desire to punish those seen as transgressing societal norms of gender hierarchies, gender expression and binary gender systems”⁵.

The 2019 FRA LGBTI survey⁶ showed the **high exposure of intersex people** to gender-based violence:

⁵ European Parliament, 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 (2021/2035(INL), Recitals H and L.

⁶ European Union Agency for Fundamental Rights (2020). A long way to go for LGBTI equality, 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.

- in the five years before the survey 22% of intersex respondents experienced a physical and/or sexual attack for being LGBTI, being the most affected group among LGBTI people.
- 38% of intersex people at least once experienced violent in-person threats due to being LGBTI in the 12 months before the survey, and 27% even six or more times⁷
- 14% of the young respondents (aged 15-17) stated they suffered from physical or sexual attacks due to being LGBTI in the 12 months before the survey
- 79% of them reported physical attack, while 20% sexual attack or a combination of physical and sexual attack⁸.

The same survey shed light on the high number of intersex people which experience **homelessness**, which stems to a significant percentage from **domestic violence**. It revealed that:

- 29% of the intersex respondents faced housing difficulties
- close to half of them, 41%, stated family or relationship problems, as a reason for the housing difficulties⁹.

The FRA findings are supported by recent 2021 research on LGBTI youth homelessness in Europe and Central Asia: of the 71 organisations participating in the survey, representing 32 countries across Europe, over half (52%) reported working specifically with intersex youth. According to survey results, the most common reason for homelessness is reported to be identity related family conflict (72%), including young people's choice to flee from violence in the family home¹⁰.

⁷ See OII Europe infographic based on LGBTI Survey Data Explorer available at <<https://oiieurope.org/physical-violence-and-harassment/>>

⁸ See OII Europe infographic based on LGBTI Survey Data Explorer available at <<https://oiieurope.org/intersex-youth/>>

⁹ 20% had to stay with friend or relatives temporarily, 6% had to stay in emergency or temporary accommodation, 8% had to stay in a place not intended as a permanent home, 5% had to 'sleep rough' or sleep in a public space, see OII Europe infographic based on LGBTI Survey Data Explorer available at <<https://oiieurope.org/housing-and-economic-difficulties/>>

¹⁰ Shelton, J., Ritosa, A., Van Roozendaal, B., Hugendubel, K. & Dodd, S.J. (2021). Perceptions: Addressing LGBTI Youth Homelessness in Europe and Central Asia - Findings from a Survey of LGBTI Organisations. ILGA-Europe, True Colors United, and the Silberman Center for Sexuality and Gender at Hunter College, p. 3, 14, 15, available at <https://www.feantsa.org/public/user/Activities/events/2021/Perceptions_-_ILGA_Europe_Compressed.pdf>.

In its *Impact Assessment Report*, the Commission has identified the failure to recognise the specificities of crimes and offences relating to violence against women and domestic violence among the drivers of these forms of violence and has highlighted the need for gender-sensitive measures¹¹. These findings are equally applicable to the specific realities of women in marginalised and vulnerable situations, including LGBTIQ women. A failure to recognise their needs and the specific risks they are exposed to will result in a very poor response and insufficient prevention and protection of LGBTIQ women, including intersex women.

It is, therefore, of high importance to **mention LGBTIQ women in the binding part of the directive**, so as to ensure that the **implementation** address the risks they are exposed to and their specific needs. Experience shows that marginalised groups of the population are often not addressed and included in practice unless they are explicitly mentioned.

Knowledge gaps, misconceptions and false beliefs about intersex, all leading to stigma and exclusion, are widespread. In 2020, an academic study investigated the level of knowledge about intersex in the population of the Netherlands and Flanders: it concluded that “More than half (52%) of the respondents did not know what the term intersex meant, only 15% did”¹². **Targeted training for professionals working with or likely to be getting in touch with intersex victims**, is therefore key to help them to accommodate the specific needs of intersex women and girls, hence ensuring protection of victimized women in all their diversity.

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, including in some cases

¹¹ See Impact assessment report - SWD(2022)62, p. 29, available at <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12682-Combating-gender-based-violence-protecting-victims-and-punishing-offenders_en>. See also findings of the GREVIO Evaluation Report on Finland, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), Baseline Evaluation Report. Finland (2019), p. 6, available at <<https://rm.coe.int/grevio-report-on-finland/168097129d>>.

¹² van Ditzhuijzen, J., & Motmans, J. (2020). Kennis En Opvattingen over Intersekse : Een Nulmeting in Nederland En Vlaanderen. Rutgers & UZ Gent, p. 10.

rape¹³, and are exposed to degrading examinations, verbal violence and derogatory comments¹⁴. In addition, a severe lack of knowledge about intersex people, the fundamental rights violations they face and the specific needs that follow from these experiences still exists among medical practitioners¹⁵. It is often 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.

When developing **guidelines and protocols for healthcare and social service professionals** (see article 27(5)), for example, Member States should be explicitly encouraged to include specific measures to reduce the severe obstacles, including discrimination and re-traumatising experiences, that intersex victims face when trying to access healthcare services.

The same approach is necessary with the development of **guidelines for law enforcement and judicial authorities** (see article 23(e)). Intersex and LGBTIQ victims often do not report incidents to the police. According to the 2019 FRA LGBTI Survey, the most common reasons for underreporting to the police included fear of an LGBTI-phobic reaction if they reported to the police¹⁶.

Article 41 - Cooperation with non-governmental organisations

OII Europe recommends to add “organisations working with victims at a heightened risk of violence” to the scope of the article, to ensure that specialized organisations with the necessary

¹³ See OII Europe (2019). #MyIntersex Stories. Personal accounts by intersex people living in Europe, p. 44-46 and 69-70, available at <https://oiiurope.org/wp-content/uploads/2019/11/testimonial_broch_21-21cm_for_web.pdf>.

¹⁴ See the Shadow Report submitted to the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) by Intersex Greece on 6 May 2022, p. 3-4 and 7, available at <https://rm.coe.int/greece-2022-shadow-report-grevio-cbr/1680a675f7?fbclid=IwAR1OiUovdT-NvgMG7R63_VX8Q5N9gYAPSIft0a6nQTdV8J6YAHKvEJ-g8iU>.

¹⁵ 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>.

¹⁶ See European Union Agency for Fundamental Rights (2020). A long way to go for LGBTI equality. Report, p. 47 https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-lgbti-equality-1_en.pdf

expertise on the needs of specific target groups, e.g. transgender women and girls or intersex women and girls, are explicitly included in these cooperations

- **Article 41:** Member States shall cooperate with and consult civil society organisations, including non-governmental organisations working with victims of violence against women or domestic violence, *[and organisations working with women at a heightened risk of violence as set out in Article 35(1)]*, in particular in providing support to victims, concerning policymaking initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures to support and protect victims.

Why do we recommend amending Article 41?

Cooperation with and consultation of civil society organisations who work with a specific target group makes use of the **unique expertise** of those organisations who work with and focus on the parts of the population at an increased risk of violence, including intersex people and other marginalised groups such as the ones set out in article 35. Such cooperations ensure that specific needs are taken into account and have proven to allow for targeted measures with a maximum impact.^{17 18}

¹⁷ This also concerns research. Studies and survey which fail to adequately involve intersex people, result in significant methodological flaws, including biased sampling, failure to adequately account for or address researcher-participant power dynamics, poor instrument design, and misinterpretation of results. All of these issues can be addressed when intersex-led organisations are involved throughout the process, and this good practice is increasingly taken up by EU member states. For example, see the sections about Awareness Raising (Germany) and Research (Finland) in the OII Europe 2019 Good Practice Map <<https://oiieurope.org/good-practice-map-2019/>>, the section Policy Action in the 2020 Good Practice Map <<https://oiieurope.org/good-practice-map-2020/>>, and the section Action Plans in the 2021 Good Practice Map <<https://oiieurope.org/good-practice-map-2021/>>.

¹⁸ See World Bank (Civil Society Team), Consultations with Civil Society. A Sourcebook (February 2007), available at <https://www.worldbank.org/content/dam/Worldbank/Civil%20Society/cso_documents/ConsultationsSourcebook_Feb2007.pdf>; Ministry of Foreign Affairs of the Netherlands, Executive summary Strengthening Civil Society Theory of Change. Supporting civil society's political role. Annex 5 (December 2019), available at <<https://www.government.nl/documents/policy-notes/2019/11/28/policy-framework-strengthening-civil-society>>.

Article 44(2) - Data collection and research

OII Europe recommends to add, where available, the “bias motive related to the attack as part” of the to be collected data, to ensure that, among others, data on homophobic, transphobic and intersexphobic attacks is being collected and targeted preventive measures can be established.

- **Article 44(2):** The statistics shall 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 [*and, where available, the bias motive related to the attack*]:
 - a) the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime;
 - b) the annual number of such victims, of reported offences, of persons prosecuted for and convicted of such forms of violence, obtained from national administrative sources.

Why do we recommend amending Article 44(2)?

As highlighted in recital 11, violence against women can be exacerbated by the **compounding of the ground of sex with other grounds**, and lesbian, bisexual, trans, non-binary, intersex and queer (LBTIQ) women, among others, are at a heightened risk of experiencing gender-based violence”. In addition, as the explanatory memorandum highlights, domestic violence can affect LBTIQ persons¹⁹.

This heightened vulnerability should be reflected in the provision about data collection to ensure that data about the bias motive(s) of the episodes of violence, provided that this information is available, are collected and given visibility too²⁰.

¹⁹ See explanatory memorandum, page 1.

²⁰ To give an example: A physical attack on a woman of 70 years, accompanied by insults like “you old hag”, is driven by rejection and prejudice towards older women. However, registering the age of the victim without reporting age as a bias motive does not allow the necessary conclusion that elderly women are at risk of being discriminated against

Disaggregation of data, however, including by the specific bias motive of the attack, as well as publication, dissemination and easy access to this data, helps to reassure not only the actual victim of bias-motivated violence that their specific situation is recognized and taken into account by the authorities, but also the whole community that attacks on them are taken seriously. In addition, disaggregated data collection is essential in order to understand and document the actual dimension of the phenomenon, to give it visibility and send the clear message to potential perpetrators that violence against women and marginalised groups of the population is not tolerated. Last but not least, evidence-based policy measures strongly rely on access to such data.

2. Promoting equality between women and men in all their diversity

We encourage the Commission to explicitly take into account the diversity of lived realities through continuing to promote equality between women and men *in all their diversity*, as set out in the EU Gender Equality Strategy 2020-2025²¹. We therefore recommend the following amendments.

Recital 7

OII Europe recommends to promote equality and prevention measures for all women and girls by adding “in all their diversity”

- **Recital 7:** Violence against women is a persisting manifestation of structural discrimination against women [*in all their diversity*], resulting from historically unequal

or attacked as a result of ageism. Similarly, only registering the registered sex of an intersex woman who was the victim of an intersexphobic attack (identifiable as such, e.g. because the perpetrator insulted the woman about her facial hair while beating her up) is not sufficient to collect the data needed to initiate necessary preventive and supportive measures for this particular group of women.

²¹ EU Gender Equality Strategy 2020-2025 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0152>, p.2

power relations between women and men. It is a form of gender-based violence, which is inflicted primarily on women and girls, by men. It is rooted in the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men, generally referred to under the term ‘gender’

Recital 58

OII Europe recommends to ensure that girls and women in all their diversity are represented and addressed in sexuality education by expanding the current wording to “inclusive sexual education”

- **Recital 58:** Member States should ensure that preventive measures, such as awareness-raising campaigns, are taken to counter violence against women and domestic violence. Prevention should also take place in formal education, in particular, through strengthening *[inclusive]* sexuality education and socio-emotional competencies, empathy and developing healthy and respectful relationships.

Article 36(5) – Preventive measures

OII Europe recommends to promote equality and prevention measures for all women and girls by adding “in all their diversity”

- **Article 36(5):** Preventive measures shall in particular aim at challenging harmful gender stereotypes, promoting equality between women and men *[in all their diversity]*, encouraging all, including men and boys, to play a positive role to support corresponding behaviour changes across society as a whole in line with the objectives of this directive.

Why do we recommend amending Recital 7, Recital 58, Article 36(5)?

In its LGBTIQ Equality Strategy, the Commission highlights that “[g]ender biases and other stereotypes are among the main drivers of negative or hostile attitudes towards LGBTIQ people in many communities. In particular, they can lead to exclusion and stigmatisation of anyone who does not conform to fixed norms/images of women and men”.

The 2019 FRA LGBTI Survey II shows that 45% of 15-17 years old respondents experienced **discrimination in school**. The percentage is larger for trans (59%) and intersex (54%) children²². Bullying rates within the same age group are also very high: 43% LGBTI respondents said they had been bullied at school. Again, the share is even higher for trans (48%) and intersex (50%) respondents of the same age²³. During their time at school, 32% LGBTI learners of the same age group experienced negative comments and almost half never or rarely felt supported or protected. Although the survey has no questions to assess cyberbullying, 15% of respondents aged 15-17 said they had been cyberharassed in the past 12 months (19% for trans respondents of the same age, and 18% for intersex)²⁴.

Violence and harassment are not the only burdens to quality education that LGBTI learners experience. Despite the progress made by many EU Member States on inclusive education, most school **curricula and learning materials** still do not convey positive messages or avoid negative representations and stereotypes of LGBTI people, which risks misinforming and fuelling hate against the LGBTI community. Although the latest Eurobarometer²⁵ shows that the vast majority of European citizens would support curricula discussing sexual orientation, gender identity, gender expression or variations of sex characteristics (SOGIGESC), only 13 EU Member States ensure

²² See responses to question ‘In the past 12 months have you ever felt discriminated against due to being LGBTI by school or university personnel?’ on the data explorer of the survey.

²³ See responses to question ‘During your time at school have you ever been ridiculed, teased, insulted or threatened because of you being LGBTI?’ on the data explorer of the survey.

²⁴ For more details, see IGLYO, TGEU, OII Europe and ILGA-Europe, Pathways to School Success Consultation Inclusion of LGBTI learners in schools (October 2021), available at <<https://oiieurope.org/inclusion-of-lgbti-learners-in-schools/>>.

²⁵ Special Eurobarometer, 493. Report on Discrimination in the European Union, 2019.

that their national curricula convey positive representations of LGBTI people²⁶. The 2019 FRAU LGBTI Survey II also shows that only 13% of respondents who were going to school at the time of completing the questionnaire were always receiving positive information about LGBTI identities, while 47% of respondents were not receiving any information at all and 10% only received negative information²⁷.

Education which celebrates diversity, has proven to be a strong tool to dismantle harmful gender stereotypes and to reduce discriminatory and harmful practices²⁸. Inclusive sexual education would allow intersex girls and young women – whose realities are ignored and rejected, who don't find their bodies represented, except as a disorder²⁹, and who, LGBTI children and young LGBTI adults, are currently exposed to exclusion, bullying and harassment at school – to develop a positive self-image, strengthen them and allow them to develop safely and thrive to their utmost capacity.

3. Protection from Harmful Practices

OII Europe recommends to make support services available to all women and girls by adding “victims of other harmful practices”

Recitals 46 and Recital 50

- **Recital 46:** Specialised support services should provide support to victims of all forms of violence against women and domestic violence, including sexual violence, female genital mutilation [*and other harmful practices*], forced marriage, forced abortion and sterilisation, sexual harassment and of various forms of cyber violence

²⁶ IGLYO (2018). LGBTQI Inclusive Education Report.

²⁷ FRA (2020). A long way to go for LGBTI equality.

²⁸ See the section Main findings of IGLYO (2022), LGBTQI Inclusive Education Report, available at <https://www.education-index.org/wp-content/uploads/2022/05/IGLYO-LGBTQI-Inclusive-Education-Report-2022-v3.pdf>.

²⁹ Ibidem, p. 14.

- **Recital 50:** The traumatic nature of sexual violence, including rape, requires a particularly sensitive response by trained and specialised staff. Victims of this type of violence need immediate medical care and trauma support combined with immediate forensic examinations to collect the evidence needed for prosecution. Rape crisis centres or sexual violence referral centres should be available in sufficient numbers and adequately spread over the territory of each Member State. Similarly, victims of female genital mutilation [*and other harmful practices*], who are often girls, typically are in need of targeted support. Therefore, Member States should ensure they provide dedicated support tailored to these victims.

Article 37(2) - Training and information for professionals

OII Europe recommends to make support services available to all women and girls, including intersex women and girls who have been subjected to the harmful medical practice of intersex genital mutilation, by adding “victims of other harmful practices”

- **Article 37(2):** Relevant health professionals, including paediatricians and midwives, shall receive targeted training to identify and address, in a cultural-sensitive manner, the physical, psychological and sexual consequences of female genital mutilation [*and other harmful practices*].

Why do we recommend to amend Recital 46, Recital 50 and Article 47(2)?

We strongly welcome the Commission’s proposal to **criminalise Female Genital Mutilation (FGM)** at EU level, as set out in Article 6 of the proposal for a directive. With this initiative the European Commission takes a firm stand for the right of women and all persons to their bodily autonomy and self-determination as enshrined in Article 3, Article 4 and Article 24 of the EU Charter of Fundamental Rights.

Intersex Genital Mutilation (IGM) - non-vital interventions performed on intersex persons, most often infants and children, but also adolescents and adults, without their informed consent - shares several commonalities with FGM, including but not limited to the desire to preserve and assert domination over women and girls and to exert social control over their sexuality³⁰.

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 claims³¹.

IGM is an intersex issue and a women's issue alike. Intersex girls and women are specifically targeted to make their appearance fit the stereotypes of and **social expectations about femininity within a heteronormative framework**. The ultimate goal of those performing IGM is often to allow for penetrative intercourse of the future adult and for an alleged ability to procreate. Neither the impossibility to foresee the future intersex adult's gender identity, sexual orientation or sexual preference, nor the fact that the capacity for penetrative intercourse may be less important for the intersex adult than unharmed genitalia are taken into account.

³⁰ To read more about 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), p. 12, available at <<https://oieurope.org/library-en/toolkit-cat/legal-toolkit/>>.

³¹ See 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> The 2019 follow-up study revealed that, between 2005 and 2016, the average number of “normalising” (i.e. non-vital interventions carried out without the intersex persons free, personal and fully informed consent) surgical procedures performed in German annually on children with intersex variations was 1871 (this corresponds to a relative frequency of 21%); the number climbed to 2079 procedures in 2016. There is thus no indication that a decline in non-vital operations on children not able to consent has taken place (p. 19). These findings match reports from OII Europe member organisations for other EU countries.

The European Commission, in its LGBTIQ Equality Strategy 2020-2025 has identified IGM as a **harmful medical practice**. At international level IGM is recognized by human rights monitoring bodies, including but not limited by UN treaty bodies, as a harmful practice and a form of torture³².

The **Committee on the Elimination of Discrimination against Women** has repeatedly shown 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”³³.

The European Parliament, in its 2021 resolution on identifying gender-based violence as a new area of crime, has identified **intersex genital mutilations as a form of gender-based violence and a form of femicide** and has called on Member States to ban female and intersex genital mutilation.³⁴

We therefore recommend that the above amendments be made **to ensure that specialised support is also available to survivors of female genital mutilation as well as other harmful practices such as IGM**.

³² Commissioner for Human rights of the Council of Europe (2015): Human rights and Intersex people, p. 30-31, available at <<https://rm.coe.int/16806da5d4>>

³³ 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.

³⁴ European Parliament 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, Recital H and M, Article 28 (2021/2035(INL)). https://www.europarl.europa.eu/doceo/document/TA-9-2021-0388_EN.html