



Joint policy recommendations

On the proposal for a Directive on combating violence against women and domestic violence

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Introduction

The above signed organisations, regional networks fighting for the rights of LGBTI people, including LGBTI women across Europe and Central Asia, welcome the Commission's proposal for a directive on combating violence against women and domestic violence. However, we consider certain elements need to be strengthened, added, or amended, to ensure that the directive will achieve its objective of being fully inclusive, also for LGBTI people and particularly LGBTI women.

We welcome the commitments made by the previous initiatives such as the EU Gender Equality Strategy 2020-2025, the EU LGBTIQ Equality Strategy, the Action Plan on Gender Equality and Women's Empowerment in External Action 2021–2025 (GAP III) and Victims' Rights Strategy to assess the intersection of gender with other inequalities, and the recognition that gender stereotypes put all people at risk, without negating the unequal power relation that women and girls and LGBTI people are forced into.

The undersigned organisations have contributed to the consultations of the Commission in preparation of the proposal for a Directive on combating violence against women (VAW) and domestic violence (DV). After publication of the proposed Directive, the undersigned organisations closely analysed the proposed text of the Directive. The following policy recommendations are key to ensure full inclusion of specific needs of LGBTI people, especially LGBTI women and ensure full protection of their rights against violence and domestic violence based on their gender where it intersects with violence as a result of their sexual orientation, gender identity, gender expression and sex characteristics.

The proposed amendments are key to ensure that the proposed legislation will be more comprehensive, concrete, coherent and intersectional. Four main points are introduced through the amendments:

- Explicit inclusion of LGBTI women as victims with increased risk of violence against women or domestic violence and of LGBTI people as victims of domestic violence;
- Need for specialised protection and victim support services and improving access to justice and prevention;

- Ensuring prevention, protection and availability of specialist support services for victims of harmful practices such as intersex genital mutilation (IGM);
Need for inclusive and specific data collection, including sexual orientation, gender identity, gender expression and sex characteristics.

The inclusion of undocumented migrant women and women sex workers among victims with specific needs and groups at risk in Article 35 (1) is important and very welcome. Further marginalised groups, including those with migration experience, racialised women, and sex workers, suffer greatly in the EU from violence. Listing those groups at greater risk explicitly in the proposed Directive can have a significant positive effect on their access to justice and holding authorities accountable for facilitating access to justice as well as ultimately reducing the level of violence they experience.

Lastly, we consider that EU institutions should work towards inclusion of gender-based violence in the list of EU crimes in Article 83(1) of the TFEU to offer full protection to women in all their diversity as well as people with diverse sexual orientations, gender identities and expressions and sex characteristics including trans and non-binary people as recommended by the Parliament. Due to its limited legal basis, the proposed directive does not offer full protection to all those marginalised groups who experience gender-based violence. . Extending the list of EU crimes to include gender-based violence would broaden protection to women and other victims of gender-based violence from all forms of gender-based violence.

1. Joint recommended amendments to the text of the proposed Directive

Article / Recital	Proposed text - Commission	Amendments proposals	Justification
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) and Article 37(7).	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 or gender and other grounds, and by other victims at an increased risk of domestic violence , so as to cater to their enhanced protection	"Gender" in addition to "sex" is necessary here because "sex" alone does not adequately address the lived realities associated with systemic sexism, misogyny and the discrimination and gender-based violence that these systems cause, in accordance with gender as defined by the Istanbul Convention and the motivation for gender-based violence as it was identified by the European

		and support needs, as set out in Article 18(4), Article 27(5), Article 35(1) and Article 37(7).	<p>Parliament resolution of 16 September 2021.</p> <p>The second amendment in this article is necessary to ensure recognition and inclusion of the increased risk of violence and multiple discriminations faced by vulnerable groups of victims listed in article 35(1). There is clear evidence suggesting that LGBTI women and LGBTI people are at a heightened risk of experiencing violence, including domestic violence. Broadening the scope and cross referencing this group of victims will ensure that their specific needs to be considered while implementing the Directive.</p>
Article 20(1)	If the assessments referred to in Articles 18 and 19 have identified specific support or protection needs or if the victim requests support, Member States shall ensure that support services contact victims to offer support.	If the assessments referred to in Articles 18 and 19 have identified specific support or protection needs or if the victim requests support, Member States shall ensure that specialised support services contact victims to offer support.	Article 8(3) of the Directive 2012/29/EU requires specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organisations to call on existing specialised entities providing such specialist support. Therefore, if the assessments referred to in Articles 18 and 19 have identified specific support or protection needs, victims should have access to specialised support

			<p>services as general support services are not always equipped to meet specific needs of vulnerable groups. Please, also see Article 22 of the Directive 2012/29/EU</p>
<p>Article 28</p>	<p>1. Member States shall 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 evidence. These centres shall provide for medical and forensic examinations, trauma support and psychological counselling, after the offence has been perpetrated and for as long as necessary thereafter. Where the victim is a child, such services shall be provided in a child-friendly manner.</p>	<p>1. Member States shall 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 evidence and in recording instances of sexual violence whose motives are related to the sex or gender and other personal characteristics of the victim. These centres shall provide for medical and forensic examinations, trauma support and psychological counselling, after the offence has been perpetrated and for as long as necessary thereafter. Where the victim is a child, such services shall be provided in a child-friendly manner.</p>	<p>In order to ensure a fully intersectional approach, it is fundamental that data on sexual violence and rape are collected taking into account the possible multiple motives. Such recording will contribute to a full access to justice for victims and appropriate actions by law enforcement and judicial authorities while increasing awareness on the intersectional dimension of sexual violence.</p> <p>It is fundamental that such recording happens at the level of rape crisis or sexual violence referral centres that are the best equipped to offer direct services to the victim or refer them to more specialised services.</p>

<p>Article 35 (1)</p>	<p>Member States shall ensure the provision of specific support to victims at an increased risk of violence against women or domestic violence, such as women with disabilities, women living in rural areas, women with dependant residence status or permit, undocumented migrant women, women applying for international protection, women fleeing from armed conflict, women affected by homelessness, women with a minority racial or ethnic background, women sex workers, women detainees, or older women.</p>	<p>Member States shall ensure the provision of specific support to victims at an increased risk of violence against women or domestic violence, such as women with disabilities, women living in rural areas, women with dependant residence status or permit, undocumented migrant women, women applying for international protection, women fleeing from armed conflict, women affected by homelessness, women with a minority racial or ethnic background, women sex workers, women detainees, older women or LGBTIQ women and other LGBTIQ people subject to gender-based violence.</p>	<p>LGBTI people experience heightened and unique marginalisation on the basis of their sexual orientation, gender identity and expression, and/or sex characteristics, especially LBTI women who face oppression as a result of the intersection of their gender and the above grounds. As a result they are at an increased risk of experiencing violence against women or domestic violence. Therefore, LGBTI people need specific support and protection. Please, see section 1 of this policy recommendation for evidence.</p>
<p>Article 36(5)</p>	<p>Preventive measures shall in particular aim at challenging harmful gender stereotypes, promoting equality between women and men, encouraging all, including men and boys, to act as positive role models to support corresponding behaviour changes across society as a whole in line with the</p>	<p>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 act as positive role models to support corresponding behaviour changes across society as a whole in line</p>	<p>The recent EU Gender Equality Strategy (2020-2025) clearly sets out to address inequality for “women and men, girls and boys, in all their diversity”. Going further, the Strategy explains that “the expression ‘in all their diversity’ is used in this strategy to express that, where women or men are mentioned, these are [...] heterogeneous categories</p>

	objectives of this directive.	with the objectives of this directive.	including in relation to their sex, gender identity, gender expression or sex characteristics. It affirms the commitment to leave no one behind and achieve a gender equal Europe for everyone, regardless of their sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation”. In keeping with this understanding, coherent and comprehensive efforts to address gender stereotypes and gender-based violence must include a focus on the diversity and heterogeneity of women and men as well as non-binary people and the intersectionality of their identities to be able to address all implications and impacts of harmful norms and stereotypes and to draw out their root causes.
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.	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 and intersex genital mutilation and other harmful practices.	We recommend this amendment to ensure that health professionals receive adequate training about other harmful practices including intersex genital mutilation and forced sterilisation. This will help to improve access of LGBTI women to support services. See also the arguments provided below for the proposed Am for recital 46.

<p>Article 41</p>	<p>Member States shall cooperate with and consult civil society organisations, including non-governmental organisations working with victims of violence against women or domestic violence, in particular in providing support to victims, concerning policymaking initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures to support and protect victims.</p>	<p>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 specialised non-governmental organisations working with vulnerable women and victims at a heightened risk of domestic violence, in particular in providing support to victims, concerning policymaking initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures to support and protect victims.</p>	<p>In order to ensure involvement of NGOs representing women and victims at heightened risk of violence against women and domestic violence, it is important to include specialised NGOs working with vulnerable groups, such as women and girls, and LGBTI people.</p>
<p>Article 44(2)</p>	<p>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: (a) the number of victims who experienced violence against women or domestic violence during the last 12</p>	<p>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 (a) the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and</p>	<p>VAW and DV against LGBTI women remain invisible in official statistics as Member States fail to record crime against LGBTI people, including LGBTI women, properly and systematically.</p> <p>Disaggregated data collection is important as policy makers and other actors need data to enable</p>

	<p>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</p>	<p>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; (c) the number of victims who experienced violence, disaggregated by the ground or multiple grounds which motivated the offence.</p>	<p>informed decisions on where and how to target legislative protection, funding and other support. Therefore, it is important to include data collection on the number of LGBTI victims of VAW and DV.</p>
<p>Recital 7</p>	<p>Violence against women is a persisting manifestation of structural discrimination against women resulting from historically unequal 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’</p>	<p>Violence against women is a persisting manifestation of structural discrimination against women in all their diversity, resulting from historically unequal 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’</p>	<p>Violence against women does not only affect endosex, cisgender women, but women in all their diversity, including LGBTI women. LGBTI women find themselves at an intersection of oppressions based on their gender, sexual orientation, gender identity and expression, and/or sex characteristics. As a result they are at an increased risk of experiencing violence or domestic violence. This amendment will also synergise the wording with the EU Gender Equality Strategy 2020-2025 that affirms “the commitment to leave no one behind and achieve a gender equal Europe for everyone”.</p>

<p>Recital 11</p>	<p>Violence against women and domestic violence can be exacerbated where it intersects with discrimination based on sex and other grounds of discrimination prohibited by Union law, namely nationality, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. Member States should therefore pay due regard to victims affected by such intersectional discrimination, through providing specific measures where intersecting forms of discrimination are present. In particular, lesbian, bisexual, trans, non-binary, intersex and queer (LBTIQ) women, women with disabilities and women with a minority racial or ethnic background are at a heightened risk of experiencing gender-based violence</p>	<p>Violence against women and domestic violence can be exacerbated where it intersects with discrimination based on sex, and other grounds of discrimination prohibited by Union law, such as nationality, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation, and gender identity, gender expression and sex characteristics. Member States should therefore pay due regard to victims affected by such intersectional and violence, through providing specific measures where intersecting forms of discrimination are present. In particular, lesbian, bisexual, trans, non-binary, intersex and queer (LBTIQ) women, women with disabilities and women with a minority racial or ethnic background are at a heightened risk of experiencing gender-</p>	<p>The protective grounds sexual orientation, gender identity, gender expression, and sex characteristics find their legal basis in art. 21 of the Charter, which contains an open-ended list of grounds, and in article 19 TFEU, whose ground “sex” has been interpreted broadly by the CJEU. The recent position adopted by the EP on the Pay Transparency Directive seeks to protect persons from discrimination based on all the above grounds and “interprets its legal basis, discrimination on the grounds of sex, in the broadest and most inclusive way”.</p> <p>The explicit inclusion of SOGIESC as grounds under which a victim may be at greater risk of violence and need special protection, is needed to ensure legal certainty for all LGBTI people, including LBTI and gender non-conforming women, as well as to women affected by other multiple biases. This will better enable an intersectional approach. Using these grounds also better reflects the legal terms already used by Member States, which eases national-level</p>
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		based violence and domestic violence.	transposition, and ensures coherence with the Victims' Rights Directive.
Recital 13	Rape is one of the most serious offences breaching a person's sexual integrity and is a crime that disproportionately affects women. It entails a power imbalance between the offender and the victim, which allows the offender to sexually exploit the victim for purposes such as personal gratification, asserting domination, gaining social recognition, advancement or possibly financial gain. Many Member States still require the use of force, threats or coercion for the crime of rape. Other Member States solely rely on the condition that the victim has not consented to the sexual act. Only the latter approach achieves the full protection of the sexual integrity of victims. Therefore, it is necessary to ensure equal protection throughout the Union by providing the constitutive elements of	Rape is one of the most serious offences breaching a person's sexual integrity and is a crime that disproportionately affects women. It entails a power imbalance between the offender and the victim, which allows the offender to sexually exploit the victim for purposes such as personal gratification, asserting domination, gaining social recognition, advancement, possibly financial gain or punishing the victim for her sexual orientation, gender expression and/or gender identity (so-called "corrective rapes") . Many Member States still require the use of force, threats or coercion for the crime of rape. Other Member States solely rely on the condition that the victim has not consented to the sexual act. Only the latter approach achieves the full protection of the sexual integrity of victims. Therefore, it is necessary to ensure equal protection throughout the Union by	LBT women are subject to sexual violence in the form of so-called "corrective" rape aimed at punishing the victim for their sexual orientation, gender expression and/or gender identity. This form of violence is directly linked with the social stigma attached to women having non-conforming sexual orientations, gender expressions and gender identities and in the conviction that such non-conformity should be "corrected" via sexual relationships with men. Explicitly including this purpose will reinforce an intersectional approach of the recital (as corrective rapes are phenomena at the intersection between gender-based violence and hate crime). A specific mention will also contribute in increasing awareness of law enforcement and judicial authorities and it will allow for improved assistance of victims of sexual violence and the recording and preservation of evidence in such cases.

	the crime of rape of women.	providing the constitutive elements of the crime of rape of women.	
Recital 17	<p>It is necessary to provide for harmonised definitions of offences and penalties regarding certain forms of cyber violence. Cyber violence particularly targets and impacts women politicians, journalists and human rights defenders. It can have the effect of silencing women and hindering their societal participation on an equal footing with men. Cyber violence also disproportionately affects women and girls in educational settings, such as schools and universities, with detrimental consequences to their further education and to their mental health, which may, in extreme cases, lead to suicide.</p>	<p>It is necessary to provide for harmonised definitions of offences and penalties regarding certain forms of cyber violence. Cyber violence particularly targets and impacts women politicians, journalists and human rights defenders. It can have the effect of silencing women and hindering their societal participation on an equal footing with men. Cyber violence also disproportionately affects women and girls in educational settings, such as schools and universities, with detrimental consequences to their further education and to their mental health, which may, in extreme cases, lead to suicide.</p> <p>Women exposed to discrimination and violence on the basis of combination of their sex or gender and other grounds are disproportionately affected by cyber violence, including online harassment</p>	<p>As the monitoring cycle of The EU Code of conduct on countering illegal hate speech online shows, the number one target of hate speech online is LGBTI people. Although data provided by the platforms are not disaggregated by gender, we do believe that LGBTI women are disproportionately affected by cyber incitement and violence due to the combination of their gender and SOGIESC.</p>

		motivated by multiple biases.	
Recital 29	When assessing the victim's protection and support needs, the primary concern should lie in safeguarding the victim's safety and providing tailored support, taking into account, among other matters, the individual circumstances of the victim. Such circumstances requiring special attention could include the victim's pregnancy or the victim's dependence on or relationship to the offender.	When assessing the victim's protection and support needs, the primary concern should lie in safeguarding the victim's safety and providing tailored support, taking into account, among other matters, the individual circumstances of the victim, specific needs, and vulnerability. Such circumstances requiring special attention could include the victim's pregnancy or the victim's dependence on or relationship to the offender.	Certain victims may have specific needs or issues relating to their vulnerability factor such as age, sexual orientation, gender identity, gender expression, sex characteristics, disability, cultural background, immigration status, or profession that should be considered during assessment for identification of protection and support needs.
Recital 44	In order to avoid secondary victimisation, victims should be able to obtain compensation in the course of criminal proceedings. Compensation from the offender should be full and should not be restricted by a fixed upper limit. It should cover all harm and trauma experienced by victims and costs incurred to manage the	In order to avoid secondary victimisation, victims should be able to obtain compensation in the course of criminal proceedings. Compensation from the offender should be full and should not be restricted by a fixed upper limit. It should cover all harm and trauma experienced by victims and costs incurred to manage the damages,	Some victims of bias motivated cyber incitement to violence or hatred have to uproot their lives completely due to their perpetrator leaking their place of residence and other personal details. Therefore, financial harm affected as a result of cyber incitement should be compensated.

	<p>damages, including among other things therapy costs, impact on the victim's employment situation, loss of earnings, psychological damages, and moral prejudice due to the violation of dignity. The amount of compensation should reflect that victims of domestic violence may have to uproot their lives in order to seek safety, entailing a possible change of employment or finding new schools for children or even creating a new identity.</p>	<p>including among other things therapy costs, impact on the victim's employment situation, loss of earnings, psychological damages, and moral prejudice due to the violation of dignity. The amount of compensation should reflect that victims of domestic violence and bias motivated cyber incitement to violence or hatred may have to uproot their lives in order to seek safety, entailing a possible change of employment or finding new schools for children or even creating a new identity.</p>	
<p>Recital 46</p>	<p>Specialised support services should provide support to victims of all forms of violence against women and domestic violence, including sexual violence, female genital mutilation, forced abortion and sterilisation, sexual harassment and of various forms of cyber violence</p>	<p>Specialised support services should provide support to victims of all forms of violence against women and domestic violence, including sexual violence, female and intersex genital mutilation and other harmful practices, forced marriage, forced abortion and sterilisation, sexual harassment and of various forms of cyber violence</p>	<p>Intersex genital mutilations performed on children assigned female present some specificities and evident connections with other forms of violence against women and girls such as FGM. Similar to FGM, IGM against women and girls is aimed at exerting social control over women's physical appearance and over their sexuality. Specialised support should be extended to victims of IGM, who experience violence and multiple discriminations on the grounds of their</p>

			sex/gender and their sex characteristics. The EP has recently acknowledged that “intersecting types of discrimination can have a serious impact on the life of victims of gender-based violence such as female or intersex genital mutilation” (EP resolution of 6 July 2022 on intersectional discrimination).
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, who are often girls, typically are in need of targeted support. Therefore, Member States should	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 and intersex genital mutilation and other harmful practices , who are often girls, typically are in need of targeted support. Therefore, Member States should ensure they	Same argument provided above for proposed Am. for Recital 46

	ensure they provide dedicated support tailored to these victims.	provide dedicated support tailored to these victims.	
Recital 56	Victims with specific needs and groups at risk of violence against women or domestic violence, such as women with disabilities, women with dependant residence status or permit, undocumented migrant women, women applicants for international protection, women fleeing armed conflict, women affected by homelessness, with a minority racial or ethnic background, living in rural areas, women sex workers, detainees, or older women, should receive specific protection and support.	Victims with specific needs and groups at risk of violence against women or domestic violence, such as women with disabilities, women with dependant residence status or permit, undocumented migrant women, women applicants for international protection, women fleeing armed conflict, women affected by homelessness, with a minority racial or ethnic background, living in rural areas, women sex workers, detainees, older women, or LBTIQ women and other LGBTIQ people subject to gender-based violence should receive specific protection and support.	Same argument provided above for proposed Am. for Article 35(1)
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 sexuality	Member States should ensure that preventive measures, such as awareness-raising campaigns, are taken to counter violence against women and domestic violence. Special attention in awareness-raising campaigns should be paid to women experiencing	To eliminate violence against all women and girls and domestic violence, preventive measures have to address how violence differs between groups of women and victims of domestic violence, because the violence women and girls experience is not just based on their gender. Without acknowledgement

	education and socio-emotional competencies, empathy and developing healthy and respectful relationships.	discrimination and violence motivated on the basis of combination of their sex or gender and other grounds, and by victims at an increased risk of 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.	that everyone has their own unique experiences of discrimination and oppression, preventive measures risk to leave women with intersecting identities and marginalised victims of domestic violence behind.
Recital 61	In order to counteract underreporting, Member States should also liaise with law enforcement authorities in the development of trainings in particular regarding harmful gender stereotypes, but also in the prevention of offences, given their typical close contact with groups at risk of violence and victims.	In order to counteract underreporting, Member States should also liaise with law enforcement authorities in the development of trainings in particular regarding harmful gender stereotypes and prejudices, including multiple discrimination grounds , but also in the prevention of offences, given their typical close contact with groups at risk of violence and victims.	See proposed Am. for recital 58 above.

2. Explanatory statement

Increased risk of violence and domestic violence for LGBTI people, and specifically LGBTI women.

LBTI women - women at the intersection of and sometimes overlapping oppression on the bases of gender and of sexual orientation, gender identity and expression, and/or sex characteristics

(SOGIESC) – experience heightened and unique marginalisation as a result. When it comes to gender-based violence this includes, but is not limited to over-exposure to homophobic, lesbophobic, transphobic,¹ and interphobic hate speech, hate crime, and violence, and in particular sexualised hate and violence.² For example, research has shown that patterns of experienced violence for lesbian women vary from heterosexual women in that, amongst others, there are a higher share of perpetrators that are known (or even a household member) and that LGBTI women experience higher levels of domestic and/or intimate partner violence than cisgender, endosex,³ heterosexual women⁴. For example, in the FRA Survey on Violence against women, non-heterosexual women showed higher violence rates than heterosexual women in all types of violence considered⁵. Younger LB women and girls also report higher rates of all kind domestic violence and violence perpetrated by family members than heterosexual girls⁶. These forms of violence, like violence against women, are rooted in the same misogynistic beliefs that aim to enforce certain social expectations and whose goal it is to punish those that ‘transgress’ them⁷.

FRA’s EU LGBTI Survey II found that trans and intersex people are exposed to high rates of violence and harassment. Trans people were more likely to experience physical or sexual violence (17%) or harassment (48%) in the past five years than LGBTI people in general (11% and 38%). These numbers reach 28% and 61% respectively in the case of trans women (excluding transfeminine non-binary individuals). In the five years before the survey 22% of intersex respondents reported having experienced gender-based violence in the form of a physical and/or sexual attack⁸.

LGBTI people are subject to domestic violence. In the case of trans and intersex children (aged 15-17), the FRA survey also shows that many of them experienced physical or sexual violence at home (16% and 7% respectively), or by a family member (18% in both cases). The increased exposure to domestic violence experienced by trans and intersex persons also leads to higher rates

¹ In 2019, in the United States, the majority of the trans people reported murdered are trans women of colour and/or Native American trans women (90%), and in France, Italy, Portugal, and Spain, which are the countries to which most trans and gender-diverse people from Africa and Central and South America migrate, 65% of the reported murder victims were migrant trans women.

2019 TGEU “TMM Update Trans Day of Remembrance 2019”. Available from:
<https://transrespect.org/en/tmm-update-trans-day-of-remembrance-2019/>

² See for example: TOSH, Jemma. The (In)Visibility of Childhood Sexual Abuse: Psychiatric Theorizing of Transgenderism and Intersexuality. *Intersectionalities: A Global Journal of Social Work Analysis, Research, Polity, and Practice*, [S.l.], v. 2, p. 71-87, sep. 2013. ISSN 1925-1270. Available at:
<https://journals.library.mun.ca/ojs/index.php/IJ/article/view/739>

³ “Endosex” is a term for people who are not intersex.

⁴ Badenes-Ribera et al., 2015, 2016; Cramer, McNiel, Holley, Shumway, & Boccillari, 2012; De Graaf, Bakker, & Wijzen, 2015; Fundamental Rights Agency, 2014a, 2014b, World Bank, 2017; LGBT in Britain, 2017

⁵ FRA VAW Survey (2014), https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf

⁶ C. Hamel (2021) *Violences intrafamiliales: les filles et les jeunes LGBT plus touchés [Intra-family violences: girls and young LGBTI people most affected]*, available at this link:
https://www.defenseurdesdroits.fr/sites/default/files/atoms/files/etude-resultats_violencesintrafamnum-24-04-20.pdf

⁷ Badenes-Ribera, L. et al., (2015). Intimate Partner Violence in Self-identified Lesbians: a Meta-analysis of its Prevalence. *Sexuality Research and Social Policy*

⁸ According to the FRA survey data, in the 12 months before the survey, 38% of intersex people reported having experienced gender-based violence in the form of violent in-person threats at least once.

of homelessness⁹. Another recent survey, focused on the issue of LGBTI youth homelessness, reports the most common reason for homelessness to be identity related family conflict (72%), including LGBTI youth's choice to flee from violence in the family home and family rejection leading to their expulsion¹⁰.

FRA's EU LGBTI Survey II also showed that younger LGBTI people experience higher rates of physical or sexual attacks and harassment. For instance, 31% of lesbian women aged 18-24 and 40% of trans youth aged 15-17 experienced a physical or sexual attack in the past 5 years for any reason, in comparison to a 21% average for all age groups. Similarly, over 51% of lesbian women aged 15-24 reported experiences of hate-motivated harassment, in comparison to a 41% average of all age groups. The experiences of hate-motivated physical or sexual violence and harassment are also unique for younger women, since in most of the situations (50%), the attacker is someone from school or university. For younger lesbian women (aged 15-17), most of the harassment also happens at school (42%), and a significant number of physical and sexual attacks happen both at school (21%) or at home (15%).

Women at the intersection of multiple oppressions experience under-protection from existing systems working on violence against women and girls (for example, with the presumption of a male assailant in the context of domestic violence, LGBTI women in relationships with women may be less likely to report or seek help when their assailant is a woman).¹¹ A further example is if a trans woman is attacked, harassed or coerced by a (former) partner or, in case of sex workers, a client, authorities might consider the violence as male-on-male violence, disregarding the gendered nature of the violence.

In the situation where bias and discrimination against one group is prevalent in general society, which is the case for LGBTI people, provision of general legal protection often leads to disadvantageous application of the law against this group due to:

- (In)visibility of the group because of historical oppression and structural discrimination; historical discrimination of lesbian, bisexual, trans and intersex women led to invisibility of these groups, for example in the EU legal framework until recently;
- Failure of criminal justice systems to recognise SOGIESC as protected grounds, due to historical invisibility of SOGIESC, lack of understanding of SOGIESC or sometimes LGBTI-phobia shared by criminal justice employees;
- Lack of trust toward state agencies, in particular to the police, due to their role in historical discrimination and oppression of LGBTI people which leads to very low reporting rates of crimes or incitement to discrimination against them.

⁹ According to FRA 2019 survey data, of the 29% of intersex respondents who face housing difficulties, close to 41% of them cite family or relationship problems, including domestic violence, as reason for these 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. 13-14,

https://www.feantsa.org/public/user/Activities/events/2021/Perceptions_-_ILGA_Europe_Compressed.pdf

¹¹ Miller, Diane Helene; Greene, Kathryn; Causby, Vickie; White, Barbara W.; Lockhart, Lettie L. (October 2001). "Domestic violence in lesbian relationships". *Women & Therapy*. 23 (3): 107–127. doi:10.1300/J015v23n03_08.

By including LGBTI women explicitly in the proposed directive, the Commission, the Parliament and the Council will draw attention to the prevalence of violence and incitement against LGBTI women due to historical and structural discrimination and oppression, and send a signal to the criminal justice system, potential perpetrators and victims/survivors, that violence against LGBTIQ women should be taken seriously. It will in turn give confidence to the victims of such crimes to come forward and report crimes and will oblige the criminal justice system to raise its own awareness about SOGIESC and violence against LGBTI women.

While we welcome explicit mention of LGBTI women in recital 11 of the proposal, we call on the Commission, the Parliament and the Council to introduce a number of amendments to the proposed Directive to strengthen protection for LGBTI women from violence and LGBTI people from domestic violence.

Need for specialised protection and victim support services and improving access to justice and prevention.

10% of LGBTI victims indicated that they needed medical assistance or hospitalisation, that they were unable to work, or that they faced financial problems due to the incident and many victims declared that the incident caused psychological problems (such as depression or anxiety) including in relation to their feelings of safety in public. Again, trans and intersex victims recorded the highest rate of negative effects (especially children aged 15-17): 58% of trans and 54% of intersex respondents reported suffering from psychological problems as a result of a physical or sexual attack (62% of trans children, and 56% of intersex children), and 48% of intersex and 39% of trans respondents reported experiencing fear in freely moving around, as a result of a physical attack¹² (59% of intersex children, and 44% of trans children).

Despite these harms suffered, LGBTI victims of gender-based violence in the EU do not receive adequate support, resulting in the violation of their rights. The Victims' Rights Directive (2012/29/EU) defines GBV as violence "directed at a person because of that person's gender, gender identity or gender expression" and this present proposal provides an opportunity to complement the Victims' Rights Directive. Gender, gender identity or expression, sex characteristics and sexual orientation are to be included among the personal characteristics that the directive requires to consider in individual assessments of victims' specific protection needs. Despite this binding obligation, Member States have not developed enough support services for victims of GBV, which consider the specific circumstances of LGBTI victims, including LGBTI women. Many trans women in the EU, for example, need specialised support to deal with the legacy of historic and ongoing forced sterilisation: the requirement to be sterilised in order to access legal gender recognition or trans-specific healthcare services.

Support services for victims of violence against women and domestic violence are mainly directed to cisgender heterosexual women. Sexual and gender diversity is not integrated in the working approaches of shelters and psychological, legal and career counselling services and, as a result, LGBTI women do not go to these services; or, when they do, they do not receive services adapted to their needs. This risks causing repeat victimisation and traumatisation: LGBTI women may even

¹² FRA, A long way to go for LGBTI equality (2020), p. 43

face lesbophobic, transphobic or intersexphobic abuse within shelters or other support services, or be outright excluded from accessing adequate gender facility, as is often the case for trans women. This can further impact the ability of this vulnerable group's ability to access law enforcement and justice.

All staff who come in contact with victims of crime need to be trained in the specific needs of LGBTI women, including those at high risk of experiencing discrimination on the basis of further intersectional grounds, such as LGBTI women with a disability, LGBTI migrants, LGBTI sex workers, and LGBTI youth.

Structural support for LGBTI-inclusive psychological and legal support services will in turn strengthen data collection, discussed below. Community-based support services provided by organisations focusing on and led by LGBTI women prove to be fundamental in ensuring that the specific needs of the victims are fully taken into account, while being affected by a structural underfunding. Furthermore, the ability of support organisations to collect testimonies and data from victims of gender-based violence is most successful when other services a (potential) victim might want to use are also available: e.g., LGBTI-sensitive post-traumatic counselling, accompanying the victim to the police, and providing legal advice and legal representation.

We call on the Commission, the Parliament and the Council to consider these barriers to accessing victim support services by LGBTI victims and address them in this proposal.

Ensuring prevention, protection and availability of specialist support services for victims of harmful practices such as IGM:

Intersex genital mutilation (IGM) is a non-vital intervention on a healthy intersex body, which has been identified as a harmful practice by the European Commission and the European Parliament¹³. Interventions performed on intersex children assigned female present some specificities and evident connections with other forms of violence against women and girls such as FGM. Similar to FGM, IGM against women and girls is aimed at exerting social control over women's physical appearance and over their sexuality. Its unconcealed goals are *"to improve the cosmetic appearance of the genitals, to allow for vaginal-penile intercourse"*¹⁴, presupposing that without

¹³ European Commission: LGBTIQ Equality Strategy 2020-2025, p. 15; EU Strategy on the Rights of the Child, pp. 10-12; European Parliament: Resolution of 14 March 2017 on equality between women and men in the European Union in 2014-2015 (2016/2249(INI)), article 39; Resolution of 14 February 2019 on the rights of intersex people (2018/2878(RSP)), article 2; 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 (2020/2215(INI)), recital I; 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 H and article 7; 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 H and article 7; Resolution of 6 July 2022 on intersectional discrimination in the European Union: the socio-economic situation of women of African, Middle-Eastern, Latin-American and Asian descent (2021/2243(INI)), para. Z. Also find the list and quotations in in OII Europe submission Towards an evaluation of the Victims' Rights Directive (22.10.2021), p. 9, https://www.oii-europe.org/wp-content/uploads/2021/10/OII-Europe-Submission-Victims-Rights-Directive_FINAL.pdf

¹⁴ Sarah Creighton, Steven D. Chernaуска, Rodrigo Romaode, Philip Ransley, Joao Pippi Salles, "Timing and nature of reconstructive surgery for disorders of sex development – Introduction", *Journal of Pediatric Urology*, 8 (2012), p. 603, available at <https://www.sciencedirect.com/science/article/pii/S1477513112002367> Trigger warning: photos of interventions.

such interventions, intersex women will be unable to fulfil their social roles as women or find suitable partners. What lies behind these assumptions is the same misogynist mindset that leads to intimate partner violence, sexual abuse, rape and other forms of violence against women and girls. Further arguments and references about IGM being a form of GBV can be found in OII Europe submission for the initiative on the “Prevention of harmful practices against women and girls”¹⁵.

Therefore, being both a girl/woman (and as such being exposed to surveillance and control) and intersex (being perceived as someone whose body does not conform with the typical female one) exposes one to increased vulnerability and produces multiple discriminations. The intersection of these identities further exposes one to other forms of violence, such as violence in medical settings, including but not limited to gynaecological violence, forced sterilisation, unconsented hormonal treatment and can lead to intersex women and girls being fearful of seeking health care or undergoing regular necessary check-ups¹⁶.

For this reason, the directive should include provisions for specific training to be provided to healthcare professionals in order to prevent harmful practices such as IGM and why specialised support is needed for intersex victims of violence. In addition, such preventive measures will help prevent other forms of VAW which are rooted in - or exacerbated by - harmful prejudices against intersex people, such as gynaecological violence, rape and sexual harassment (including in medical settings).

Need for inclusive and specific data collection.

As demonstrated above, anti-LGBTI harassment and violence are common occurrences in the EU but they remain invisible in official statistics as Member States fail to record crime against LGBTI women comprehensively and systematically.

Disaggregated data collection is essential to truly understanding the prevalence of violence and crime against LGBTI women, and of domestic violence against LGBTI people, which enables informed decisions on where and how to target legislative protection, funding and other support. For example, information on the nature of VAW and DV against LGBTI women and the availability of core services for them can be used to ensure sufficient funding and training of support services within the relevant sectors. Data measuring effectiveness of legal frameworks, policy and other measures informs the development of these. Perpetrator data and information on the times and locations of incidents of violence against LGBTI women can inform prevention efforts and enable more specific advocacy for policy change. Collection and publication of disaggregated data can also empower survivors as it sends a message to LGBTI women and girls that they are not alone. The use of data for advocacy or awareness-raising may encourage other survivors to report their

¹⁵ OII Europe, Submission to the call for evidence for the initiative on the “Prevention of harmful practices against women and girls” (June-July 2022), p. 11, available at <https://www.oiiurope.org/submission-to-the-call-for-evidence-for-the-initiative-on-the-prevention-of-harmful-practices-against-women-and-girls/>

¹⁶ Among others, see OII Germany: CEDAW Shadow Report. (20th of January 2017), Appendix, available at https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/DEU/INT_CEDAW_NGO_DEU_26315_E.pdf and OII Europe, #MyIntersexStory. Personal accounts by intersex people living in Europe (November 2019), p. 21, available at https://oiiurope.org/wp-content/uploads/2019/11/testimonial_broch_21-21cm_for_web.pdf

cases and access critical victims support services and discourage potential perpetrators. It further contributes to public debate and awareness of this violence in broader society.

In this regard, we recommend the above amendments to this proposal that ensures collection of disaggregated data that includes number of victims, who experienced violence motivated by the sex or gender of the victim in combination with other grounds among others.

3. Further information:

It is important to ensure that people and their experiences of VAW and DV are captured in all their diversity, including LGBTI people. We encourage the European Parliament, The Council and the Commission to conduct this work in close cooperation with organisations representing subgroups such as LGBTI people, especially those at the intersections of multiple identities and lived experiences. We are available to advise and further discuss best options in this regard. Please refer to the below contact details of our organisations for follow-up on this:

1. The International Lesbian, Gay, Bisexual, Trans, Queer and Intersex Youth & Student Organisation (IGLYO) <https://iglyo.com> | Contact: Rubén Ávila Rodríguez (they/them), Policy and Research Manager, ruben@iglyo.com
2. The Eurocentralasian Lesbian* Community (EL*C) <https://europeanlesbianconference.org> | Contact: Ilaria Todde, Advocacy and Research Dykector, ilaria.todde@lesbiangenius.org
3. The European Region of the International Lesbian, Gay, Bisexual, Trans, and Intersex Association (ILGA-Europe) www.ilga-europe.org | Contact: Akram Kubanychbekov (he/him), Senior Advocacy Officer, akram@ilga-europe.org
4. Organisation Intersex International Europe (OII Europe) <https://oiieurope.org> | Contact: Dan Christian Ghattas (he/they), Executive Director, dan@oiieurope.org
5. Transgender Europe (TGEU) <http://tgeu.org> | Contact: Francesca Sanders (she/they), Policy Officer, francesca@tgeu.org