

Joint EuroCentralAsian Lesbian* Community (EL*C) and Women Against Violence Europe (WAVE) Network's position on key aspects of the European Parliament and Council of the EU position on the Proposal for a Directive on combating violence against women and domestic violence 2022/0066 (COD)

The EuroCentralAsian Lesbian* Community (EL*C) representing more than 90 organisations lead and focusing on LGBTIQ women and non-binary persons, and the Women Against Violence Europe (WAVE) Network, representing more than 1,600 women's organisations and Women Specialist Services (WSS) through 170 members based in 46 European countries¹ welcome the European Commission's proposal for a Directive on combating violence against women and domestic violence (COM (2022) 105 final, 8 March 2022) (hereinafter "the Directive"). This Directive is an essential step toward a harmonised approach to gender-based violence against women and girls in the EU – a key demand of women's organisations and women's specialist services. It is key that such a Directive incorporates prevention, protection, and prosecution for a range of criminal offences constituting violence against women and domestic violence, and that it recognizes the important role women's NGOs, as well as feminist and LGBTIQ civil society play in the monitoring and implementation of these measures.

We believe this Directive can make a significant difference in the ongoing fight against gender-based violence in the EU. It is critical that the negotiating institutions ensure that the Directive in no way undermines the rights of women and girls² or regresses on hard-won women's rights and gains in ensuring gender equality. Therefore, the Directive should reaffirm and build on the international standards already set out in the Council of Europe Convention on preventing and combating violence against women and domestic violence ('the Istanbul Convention'), as well as other binding international human rights law. The EU recently ratified the Istanbul Convention, although with a very limited scope, and it will become binding for the EU as of 1 October 2023.

In this crucial phase of the interinstitutional negotiations, we call on the European Commission, the European Parliament, and the Council of the EU to find meaningful compromises ensuring that the Directive truly serves the needs of all survivors/victims³ of violence against women and girls and domestic violence, advances the achievement of gender equality and the effective protection of victims' rights in the European Union, and recognizes the essential role of civil society organisations in ensuring prevention, protection, and direct services for victims.

WAVE centres and affirms the expertise of women-led organisations and of Women Specialist Services who work with and for women from the communities most impacted by the specific forms of violence addressed in the Directive. We encourage the European Commission, the European Parliament, and the Council of the EU to do the same and to ensure that the Directive's provisions

¹ Women's Specialist Services (WSS) is a collective term used to define feminist services that support women and their children who are at risk of or experiencing violence against women and domestic violence. These services include but are not limited to women's support centres, shelters, helplines, rape crisis or sexual violence referral centres, and prevention services.

² Throughout this statement, the term 'women' should be understood as including 'women and girls', as in the definition of 'violence against women' proposed by the European Commission in the Directive, which encompasses 'violence directed against a woman or a girl'.

³ The term "victim" is customarily used to describe people whose human rights have been violated, for example, it is the term adopted in the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the Rome Statute of the International Criminal Court. It is also the term used in the draft Directive and existing EU law and policy, including the Victims' Rights Directive. It also recognizes that, unfortunately, not all who are subject to gender-based violence survive. Therefore we will use this term throughout this submission. However, we would like to recall that the term "survivor" better reflects the strength and resilience of women and girls who have experienced sexual and domestic violence and is the preferred term for many women and girls, and many human rights defenders.

meet these important goals in the following key areas to keep in line with the EU's international commitments under the Istanbul Convention:

Chapter 1 - General Provisions - Intersectional Discrimination

1. Recognises sex and gender as grounds for violence against women and domestic violence, to ensure the Directive is effective in protecting all victims of such violence.
2. Responds to the specific needs of women, taking account of the intersecting forms of discrimination that affect their ability to access prevention, protection, support, justice and remedy. This includes specific attention paid to certain groups, including LGBTIQ+ women and women who are undocumented migrants or have an insecure or dependent residence status.

Chapter 2 - Criminal Offences

3. Includes the criminal offence of rape with a consent-based definition.
4. Includes the criminal offences proposed by the European Commission and the criminal offences of intersex genital mutilation, forced sterilisation, forced marriage, and sexual harassment in the world of work proposed by the European Parliament.

Chapter 3 - Protection of Victims and Access to Justice

5. Strengthens access to justice and protection of victims, including safe reporting mechanisms through the establishment of strict firewalls between immigration and other authorities to ensure women and girls are not deterred from reporting violence due to their residency status.
6. Strengthens compensation for victims.

Chapter 4 - Victim Support

7. Guarantees comprehensive support to victims and access to both general and specialist services, with specific attention to Women Specialist Services (WSS).
8. Guarantees adequate and tailored support for child victims.
9. Guarantees access to comprehensive medical care including sexual and reproductive health services as part of specialist support services available to victims of sexual violence, including the clinical management of rape and access to safe and legal abortion.

Chapter 5 - Prevention

10. Includes a comprehensive model of violence prevention, and effective measures, including primary prevention, and a clear obligation to ensure comprehensive sexuality education.

Chapter 6 - Coordination and Cooperation

11. Recognize the role of Women Specialist Services, feminist civil society and LGBTI-lead and focused organisations as key partners in the implementation of this Directive and establishment of a Union Coordinator.

These calls are explained in further detail in the following sections.

Chapter 1 - General Provisions - Intersectional Discrimination

1. Recognition of sex and gender as grounds to combat violence against women and gender-based violence.

As proposed by the European Commission and the European Parliament, the text of the directive should clearly refer to sex and gender to ensure effectiveness, legal clarity and inclusiveness of the directive.

We are deeply concerned about the Council's proposal to remove the definition of the term 'gender' in Recital 7. Furthermore, we are worried about further changes proposed by the Council to delete references to sex that blur the difference between sex and gender. The inclusion of gender and sex is in line with the Istanbul Convention. **These proposals risk undermining the effectiveness of measures to prevent and combat violence against women and domestic violence.**

Understanding the nature of these forms of violence, namely that such violence is directed at someone because of their sex and/or gender, is crucial for effectively combating and preventing it. This must include addressing the root causes such as the power differentials and structural inequalities behind gender inequities, as well as the harmful social norms around femininity and masculinity, harmful gender stereotyping and gender discrimination. The blurring of the legal base of sex and gender is congruent with recent attacks on the concept of gender, alongside the term 'gender-based violence', by anti-gender / anti-rights interest groups. We are also concerned that if the terminology used in the directive is not inclusive it will lead to exclusion and will perpetuate the existing exclusion of transgender and non-binary persons from protection at the implementation phase.

2. Responding to specific needs of women, taking account of the intersecting forms of discrimination that affect their ability to access protection, support, justice and remedy. This includes specific attention paid to certain groups, including LBTIQ+ women, and women who are undocumented migrants or have an insecure or dependent residence status.

Women and girls frequently experience intersecting forms of discrimination based on various aspects of their identity and for reasons arising from their circumstances. The European Parliament's position outlines a range of circumstances which may place women at particular risk⁴. Consequently, they may be at increased risk of gender-based violence or face particular challenges in seeking support and health services, or access to justice and remedy.⁵

To be effective and human rights-compliant, **prevention, protection, access to justice and reparation should address the impact of intersectional discrimination effectively and consistently.** On this basis, **we welcome the Parliament's amendment to Article 2.1, which strengthens the non-discrimination principle for all women, and ensures consistency with Article 35(1) provides targeted support to women at increased risk.** The Council - by proposing to delete Article 2 and the specific groups of victims listed in Article 35(1) - fails to recognise how intersectional forms of discrimination place some women at higher risk of violence. **We urge the institutions to retain both Article 2 and the specific groups of victims listed in Article 35(1), in order for the Directive to provide robust protection and support to all victims of gender-based violence.**

⁴ The full list supported by the European Parliament is the following: in Article 35.1, "women with disabilities, women living in rural areas, women with dependant residence status or a 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, LBTIQ+ women, women in prostitution, victims of so-called "honour crimes", women detainees, women suffering from addiction, women who are pregnant or older women"; with the addition of the list in Recital 56: "women living in institutional care facilities, women in low-wage jobs, unemployed women; women living in less prosperous regions; sexual or gender-identity minorities".

⁵ [United Nations: Committee on the Elimination of Discrimination against Women, General recommendation on women's access to justice.](#)

It is essential that the Directive be strengthened to **make the benefits of the Directive fully accessible to all women victims of gender-based violence**, and truly transformative. To this end, we urge the Council to include particular mention of the following groups of victims:

Lesbian, bisexual, trans, intersex and queer (LBTIQ+) women

LBTIQ+ women face heightened risks due to intersecting factors such as gender, sexual orientation, gender identity and expression, and sex characteristics⁶. They are exposed to higher risks of hate speech, hate crimes, and sexual violence⁷. Younger LBTIQ+ people, including women and girls, experience higher rates of domestic violence⁸. Existing systems often fail to adequately protect LBTIQ+ women due to institutional discrimination and bias. Specialised support and protection services are crucial for LBTIQ+ victims of gender-based violence, including domestic violence⁹. Comprehensive and systematic data collection is vital for effective measures against violence targeting LBTIQ+ women and LBTIQ+ victims of domestic violence¹⁰.

We call your attention to the following:

- We are concerned about the Council’s deletion of the single reference to LBTIQ+ women proposed by the Commission in Recital 11. The Council’s addition of LGBTI persons to recitals 56 and 58 fails to recognize that LBTIQ+ women are among marginalised groups at heightened risk of violence and need targeted preventive and protection measures. We therefore call for **reinstating the explicit reference to LBTIQ+ women in Recital 11**. We also call for the inclusion of **specific references to LBTIQ+ women, and not to “LGBTI persons”, wherever reference is made to marginalised groups of women (including in recitals 56 and 58)**.
- We further support Recital 11 as proposed by the Parliament, which crucially states that acts of **gender-based violence which seek to punish victims for their sexual orientation, gender expression or gender identity, such as so-called “corrective rape”, should be given particular attention**.
- Furthermore, **we support the Parliament’s proposed amendments, especially the explicit recognition of LBTIQ+ women at heightened risk of VAW in Article 35** which ensures alignment

⁶ For example, in the 2019 FRA LGBTI Survey, 29% lesbian women and 46% bisexual women who declared to have been victims of harassment, indicated also that they were harassed because of their sex/gender, in addition to or as part of the harassment linked to their sexual orientation. In the case of gay men, only 2% of the respondents indicate their sex/gender as an additional motive for the harassment. Fundamental Rights Agency of the European Union (2020), A long way to go for LGBTI equality, page 45, https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-lgbti-equality-1_en.pdf According to the Violence Against Women Survey by FRA, non-heterosexual women report higher rates of violence than heterosexual women in any of the forms of violence investigated. Fundamental Rights Agency of the European Union (2015), Violence against women: an EU-wide survey. Main results report, page 185 <https://fra.europa.eu/en/publication/2014/violence-againstwomen-eu-wide-survey-main-results-report>

⁷ In the FRA LGBTI Survey 2019 around 40% of the cases of violence against lesbian and bisexual women were a sexual attack or included a sexual element, while this rate is around 23% for gay and bisexual men. In the Survey on Violence Against Women, 78% of non-heterosexual women reported cases of sexual harassment compared to 55% of heterosexual women. This data appears to be even worse for trans and intersex women. See in particular EL*C and ILGA Europe (2022), Intersections, Diving into the FRA LGBTI II Survey Data on Lesbians page. 6 <https://europeanlesbianconference.org/lesbian-analysis-2019-fra-lgbti-survey-ii/>, OII Europe and ILGA Europe (2023), Intersections, Diving into the FRA LGBTI II Survey Intersex Analysis, page 17-19 and TGEU and ILGA Europe (2023) Intersections Diving into the FRA LGBTI II Survey, trans and non-binary briefing <https://tgeu.org/new-report-reveals-impact-of-intersecting-oppressions-on-trans-experiences-in-europe/>. FGM Survivors and FGM affected community members can be LBTIQ+ individuals whose stories are often invisible; See: https://www.endfgm.eu/editor/0/Infographic_FGM_LGBTI_in_collab_with_ILGA_EU_1.pdf.

⁸ IGLYO and Ilga Europe (2023), Diving into the FRA LGBTI II Survey Data on Youth <https://www.ilga-europe.org/report/intersections-youth-diving-into-the-fra-lgbti-ii-survey-data/>

⁹ The gaps in both protection mechanisms and support system have been analysed in EL*C (2021), Lesbophobia: an intersectional form of violence, page 24 - 29 <https://europeanlesbianconference.org/wp-content/uploads/2021/10/Lesbophobia-3.pdf>

¹⁰ For an analysis of the limited research available on LBQ experiences of violence see: Human rights Watch (2023) “This Is Why We Became Activists”: Violence Against Lesbian, Bisexual, and Queer Women and Non-Binary People, pg. 43 <https://www.hrw.org/report/2023/02/14/why-we-became-activists/violence-against-lesbian-bisexual-and-queer-women-and-non>

of the directive with the Istanbul Convention and other international human rights treaties. We also welcome the Parliament's inclusion of intersex genital mutilation as a criminal offence.

Undocumented women and women with an insecure residence status

The lack of an independent residence status, a secure status, or any status, creates challenges for women and increases their chances of experiencing violence or exploitation by intimate partners, employers or others in various areas of their lives. This perpetuates cycles of violence, limiting women's ability to exit situations of abuse and empowering abusers, whose crimes have no consequences. Undocumented migrant women who experience violence are unlikely to report crime because of the risk that they, rather than the perpetrator, will be prosecuted or face other negative consequences. Going to the authorities for help in many cases does not yield greater protection or result in a proper investigation and could lead to the loss of their housing, immigration status, to deportation, loss of custody, or the loss of financial support and therefore destitution. Undocumented women also face practical obstacles that limit their access to safe accommodation and protection through the justice system.

We call your attention to the following:

- The European Parliament has proposed under Article 13(1)(b) to expand the list of situations which make a person vulnerable, namely lacking/independent residence status, living in reception centres, detention facilities or accommodation centres for asylum seekers, situations which should therefore be considered an aggravating circumstance for an offence. Given how a woman's immigration status affects her risk of experiencing violence, these are extremely important additions that should be retained in the negotiations.
- Furthermore, **we oppose the Council's proposed deletion of "applicants for international protection, undocumented persons and persons [who are the] subject of return procedures in detention" in Article 35(3) as third-country nationals to whom support services shall be available.**

Chapter 2 - Criminal Offences

3. Includes the criminal offence of rape with a consent-based definition.

Any definition of rape that is based on force or the threat of force ignores the realities that many women, girls and other rape survivors face, and overlooks the fact that a person can rape someone without the use of physical force or violence. It enables significant impunity for perpetrators by failing to recognise all non-consensual sexual acts as rape. We welcome the inclusion in the Commission's proposal of the criminal offence of rape, which is based on the lack of consent to sex given voluntarily and freely, in line with the standards set out in the Istanbul Convention. This Directive represents an **important opportunity for harmonisation of legislation across the EU** on this crucial matter.

The Parliament's position provides a consent-based definition of rape which is crucial for victims to access justice; additionally, it recognizes all coercive circumstances under which genuine consent is impossible or consent is invalidated are covered, including through intimidation or if the victim is in a state of fear, unconsciousness, intoxication, sleep, illness, bodily injury or disability, and regardless of any (past) relationship with the offender. **We also welcome the fact that the Parliament further introduces the separate offence of sexual assault (Article 5a)** to criminalise all non-consensual non-penetrative sexual acts.

We are highly concerned by the Council's removal of Article 5 based on a restrictive interpretation of the legal basis, and **we call on Member States to find the political will to align the legal definition of rape with international law and standards in order to take effective action against rape.**

In addition, although rape is undoubtedly a gendered phenomenon, with women and girls being the majority of victims, transgender, non-binary, queer and intersex people, and men and boys, may also be subjected to rape. Therefore, the EU and its Member States have an obligation to ensure all victims are equally included in the legal definition of rape. Therefore, we recommend that "a woman" in Article 5(1) and (3) be changed to "a person", which is in line with the Istanbul Convention's definition.

4. Includes the criminal offences of intersex genital mutilation, forced sterilisation, forced marriage, and sexual harassment in the world of work.

Intersex genital mutilation (IGM) includes non-vital surgical, hormonal and other medical interventions and practices that aim at altering an intersex person's sex characteristics without their personal, prior, free and fully informed consent. IGM is a form of gender-based violence¹¹ because it violently reinforces harmful gender stereotypes about how a typical female or male body should appear or function, in the absence of actual health needs and in violation of the person's right to self-determination and bodily integrity. Similar to female genital mutilation (FGM)¹², IGM performed on children, in particular, but not limited to intersex children assigned female, and women aims to exert social control over the child's and (future) adult's physical appearance and over their sexuality, including aiming to "improve the cosmetic appearance of the genitals" and to "allow for vaginal-penile intercourse"¹³. It is important to underline that IGM is performed mostly on infants and young children¹⁴ - and to an extent on older minors and young adults - that is, on persons with increased vulnerability who, due to their young age, are more likely to fall victim to social stigma, pressure, misinformation and discrimination because of being intersex¹⁵.

IGM should therefore be included in the Directive as a criminal offence as proposed by the Parliament (Article 6a, Recital 16b), along with the Parliament's amendments that aim to establish the legal obligation for Member States to ensure specialist support for victims of IGM (Article 29), take appropriate action to prevent IGM (Article 36), and ensure training for professionals (Article 37).

Forced sterilisation is a deeply harmful practice that violates a myriad of fundamental rights and is recognized as a form of torture, ill-treatment and violence against women.¹⁶ Article 39 of the Istanbul

¹¹ The European Commission has identified IGM as a harmful practice ([LGBTIQ Equality Strategy 2020-2025](#), p. 15). So did the European Parliament, which has further qualified IGM as a form of gender-based violence and of femicide, like FGM. See 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\(INL\)](#)); 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\(INI\)](#)); resolution of 14 February 2019 on the rights of intersex people ([2018/2878\(RSP\)](#)).

¹² See Ghattas, D. C. (2019). [Protecting Intersex people in Europe. A toolkit for law and policymakers. With a digital Appendix and Checklist.](#) ILGA-Europe and OII Europe, p. 12.

¹³ Creighton, S., Chernaуска, S. D., Romaode, R., Ransley, P., & Pippi Salle, J. (2012). [Timing and nature of reconstructive surgery for disorders of sex development – Introduction.](#) *Journal of Pediatric Urology*, 8(6), p. 603. Trigger warning: photos of interventions.

¹⁴ See the Council of Europe Commissioner for Human Rights (2015), [Human rights and intersex people. Issue paper](#), page 33.

¹⁵ See the [Opinion of the Legal Service of the Council 31.10.2022 \(14277/22\)](#), stating that "genital mutilation is a practice that could be narrowly linked to forms of exploitation of minors" and that "it contains an exploitative element, in so far as it affects, to a large effect, the vulnerable situation of minors and could thus be interpreted as falling within the scope of "sexual exploitation of children" (para. 47).

¹⁶ United Nations: Committee on the Elimination of Discrimination against Women, [General recommendation N°35 on gender-based violence against women](#), (§18); Committee on Economic, Social and Cultural Rights, [General Comment No. 22 \(2016\) on the right to sexual and reproductive health](#) (§59); Committee on the Elimination of Discrimination against Women, [General Recommendation No. 19: Violence against women](#) (§22); Committee on the Rights of Persons with Disabilities, [General Comment No. 3 \(2016\) on women and girls with disabilities](#) (§32 and §63); OHCHR, [UN Women, UNAIDS, UNDP, UNFPA, UNICEF and WHO, Eliminating forced, coercive and otherwise involuntary sterilization An interagency statement](#), 2014 (p.13).

European Court of Human Rights: [N.B. v. Slovakia](#); [I.G. and Others v. Slovakia](#); [A.P. Garçon and Nicot v. France](#).

Convention requires forced sterilisation to be criminalised. Forced sterilisation is often deeply connected with discriminatory and stereotypical notions about who should or should not be pregnant and have children. It has been frequently imposed on women and girls with disabilities¹⁷ and women and girls from minority communities, especially Roma.¹⁸ Forced sterilisation is also imposed on trans people in certain EU Member States as a requirement for being able to change their documents to match their gender identity¹⁹. **Forced sterilisation should be included in the Directive as a criminal offence as proposed by the Parliament. We support the Parliament's proposed inclusion of these criminal offences, as well as forced marriage²⁰ and sexual harassment, as proposed in Articles 6 a - d.**

Chapter 3 - Protection of Victims and Access to Justice

5. Strengthen access to justice and protection of victims, including safe reporting mechanisms, to ensure women and girls are not deterred from reporting violence due to their residency status.

We welcome the range of measures proposed to strengthen the protection of victims and their access to justice. It is crucial to reduce obstacles in access to justice and prevent secondary and repeat victimisation.

The Commission's effort to address **safe reporting through Article 16(5) is an important step in putting in place the necessary conditions for undocumented women to access justice and support services**. The provision foresees that competent authorities may transfer information on residence status to migration authorities after the completion of the first individual assessment. However, at no point should a victim's residence status be shared without consent with any stakeholder – including migration authorities. This deters reporting of violence and hinders victims from accessing essential services and support; and violates their fundamental human rights to privacy and data protection, enshrined in Article 7 and Article 8 EU Charter of Fundamental Rights and General Data Protection Regulation (GDPR). Therefore, **we fully support the Parliament's proposal to delete the exception proposed by the Commission** and are seriously concerned by the Council's proposal to delete this provision entirely.

Further, we support the Parliament's proposed Article 19 paragraph 1a, ensuring that the individual assessment of support needs and the provision of support services are not dependent on the victim pressing charges, which is crucial for accessing victims' support general and specialised services without any barriers.

6. Strengthens compensation for victims.

We also agree with the Parliament that Article 26 on "Compensation from Offenders" should be strengthened, stating that **where an offender does not have money to pay compensation, the state should provide compensation**. This reflects Article 30(2) of the Istanbul Convention and would

Council of Europe: [Issue Paper on women's sexual and reproductive health and rights in Europe](#) (p. 12).

¹⁷ European Disability Forum, *Forced Sterilisation of Persons with Disabilities in the European Union*, September 2022, https://www.edf-feph.org/content/uploads/2022/09/Final-Forced-Sterilisation-Report-2022-European-Union-copia_compressed.pdf.

¹⁸ ECHR V.C. v. Slovakia: sterilisation without free and informed consent amounted to ill-treatment and the state failed to adequately protect the reproductive health of Roma women (<https://www.coe.int/en/web/impact-convention-human-rights/-/forced-sterilisation-of-roma-woman-leads-to-stricter-rules-on-consent-to-treatment>); European Roma Rights Centre, *Coercive and Cruel: Sterilisation and Its Consequences for Romani Women in the Czech Republic (1966-2016)*, November 2016, http://www.errc.org/uploads/upload_en/file/coercive-and-cruel-28-november-2016.pdf; Center for Reproductive Rights and Poradna pre občianske a ľudské práva, in consultation with Ina Zoon, *Body and Soul: Forced Sterilisation and Other Assaults on Roma Reproductive Freedom in Slovakia*, 2003, https://reproductiverights.org/sites/crr.civicactions.net/files/documents/bo_slov_part1.pdf.

¹⁹ Those countries are currently Cyprus, Czechia, Latvia, Romania and Slovakia. See TGEU's Trans Rights Map <https://transrightsmap.tgeu.org/index>

²⁰ Child and/or forced marriage: [United Nations](#): Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, [Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices](#) (§20-24 and 55(h)).

complement ongoing efforts to improve victims' access to compensation in the European Commission's proposed revision of the Victims' Rights Directive (2012/29/EU).

Chapter 4 - Victim Support

7. Guarantee comprehensive support to victims and access to both general and specialist services.

In the area of victim support, the Directive's **clear distinction between generic and specialised support services, and the recognition that specialised service provision is best ensured by feminist organisations, including Women Specialist Services (WSS), enacts a gender-sensitive approach** to defining which services, access and support victims have a right to, given the nature of the crimes dealt with in the Directive.

By making this differentiation, the Directive aligns with the Istanbul Convention and the proposed revised Victim's Rights Directive (2012/29/EU) which underlines the complementarity of the levels of protection envisaged in sectorial and horizontal legislation, guaranteeing the rights of victims of crimes that have specific needs, such as the victims of violence against women and domestic violence as well as victims of intersectional violence.

As *lex-specialis*, **Article 27** of the proposed Directive provides a clear distinction between the competencies of general victim support services and specialist services emphasising that specialised support services are fundamental as they cater to the specific needs of women victims of sexual violence, victims of gender-based violence, intimate partner violence, and LGBTIQ victims of violence and cannot be replaced by generic services; rather, they complement each other.

Therefore, the amendments to Article 27 proposed by the Parliament and Council strengthen the initial proposal in this regard and harmonise this Directive with the proposed revision of the Victims' Rights Directive.

Regarding **Article 28**, the Council failed to recognize that in many member states the overwhelming majority of specialised services for victims of sexual violence and other forms of violence against women are run by feminist NGOs and CSOs²¹, and the role they play as equal partners in the provision of services and implementation of the Directive due to their expertise in the area and because victims/survivors prefer them to generic/non-specialist services. Victims who would not access generic services due to anticipated discrimination will access WSS and community-based support, which improves their access to protection and justice. The Council's proposal that **such services may form part of the Member States' healthcare system** undermines the role played by CSO-run rape crisis centres, sexual violence referral centres, LGBTIQ-lead and focused organisations supporting victims of violence and other women specialist services.

We call for the inclusion of the amendments proposed by the Parliament, recognising the key role of women's specialist services in preventing and tackling gender-based and domestic violence, particularly in Articles 18, 20, 27, 31, 44 and 44a. Women's Specialist Services empower and support women victims of gender-based violence and domestic violence, through a feminist and victim-centred lens, at all stages of the process, and are vital partners to national governments, policymakers, and other stakeholders working to end violence against women.

²¹ To read more on the scope of Specialist Service Provision by feminist CSOs and NGOs in Europe see the 2021 WAVE Country report: https://wave-network.org/wp-content/uploads/WAVE_Country-Report.pdf

8. Guarantees adequate and tailored support for child victims.

An integrated approach to violence against women and girls in the context of intimate partner violence includes the recognition that it is a continuum of violence in which violence against women extends to violence against children. Considering the need to protect children's rights in the context of child custody proceedings, including in cases of secondary victimisation and children witnessing intimate partner violence, is a fundamental step forward. Therefore, **we support the Parliament's proposed amendments to Recitals 26, 27, 29, 31 and Article 33**, and the Parliament's recognition that **the best interest of the child should take precedence over the parental rights of an offender or suspected offender and that Member States shall ensure the safety of non-abusive holders of parental responsibility during criminal and child protection/family court proceedings**. Keeping these provisions in the text will ensure that children's and women's rights are protected and that adequate legislative measures are taken nationally so that justice is served and the tendency of inappropriate child custody proceedings in cases of intimate partner violence ends.

9. Guarantee access to comprehensive medical care including sexual and reproductive health services as part of specialist support services available to victims of sexual violence, including the clinical management of rape and access to safe and legal abortion.

Access to comprehensive healthcare services is essential for victims of sexual violence²², including sexual and reproductive healthcare services for the clinical management of rape. This should include emergency contraception, screening and post-exposure prophylaxis for sexually transmitted infections, safe and legal abortion and post-abortion care. International and European human rights bodies have affirmed States' obligation to ensure access to abortion and post-abortion care for survivors of sexual violence and have recognised that failures to guarantee access to these services for victims of sexual violence is itself a form of gender-based violence that can amount to torture or cruel, inhuman and degrading treatment²³.

Collecting and safekeeping of evidence is crucial for any future judicial remedy a victim may wish to seek and we welcome the Parliament's and Council's proposals in this regard. However, beyond medical interventions for the purposes of examination and evidence collection, it is crucial that the Directive's provisions on specialist support services remain in line with international human rights standards and public health guidelines to prevent compounded harm for victims of sexual violence and therefore guarantee access to necessary medical care for victims. In both Articles 27 and 28, the Council recognises the need for victims to access necessary counselling to help address the mental health impacts of sexual violence. The Directive should ensure that victims of sexual violence have access to both counselling and other care necessary to address both mental and physical health impacts resulting from sexual violence, including pregnancy or sexually transmitted infections.

We support the Parliament's proposed inclusion of referrals to comprehensive healthcare services in Recital 46, Article 27(1b), Article 28(1a), with explicit references to the necessity of access to sexual and reproductive health services in Recitals 44 and 50 and Articles 26(4) and 28(1a), and to safe and legal abortion (Recital 50 and Article 28(1a)), which must be free of charge (Article 28(2)). We support the

²² United Nations: Committee on Economic, Social and Cultural Rights, [General Comment No. 22 \(2016\) on the right to sexual and reproductive health](#)

Council of Europe: [Issue Paper on women's sexual and reproductive health and rights in Europe](#).

²³ United Nations: OHCHR [Factsheet](#); World Health Organization (WHO), [Updated Abortion Guideline](#) (p.26); WHO [Clinical and policy guidelines on Responding to intimate partner violence and sexual violence against women](#) (pp. 25-33); WHO [Clinical management of rape and intimate partner violence survivors](#) (pp. 15-28); Committee on the Elimination of Discrimination against Women (CEDAW), [General recommendation N°35 on gender-based violence against women](#) (§18); CEDAW, [L.C. v. Peru](#); Special Rapporteur on Torture [Report](#) (§45-50); Human Rights Committee (HRC), [General comment N°36 on the right to life](#) (§8); HRC, [L.M.R. v Argentina](#); European Court of Human Rights: [P. and S. v. Poland](#); European Parliament: 2017 [Resolution](#) on the Istanbul Convention (§4), 2021 [Report](#) on SRHR (§35), and 2021 legislative [Report](#) on GBV (§39); European Economic and Social Committee: [Opinion on combating violence against women](#) (§1.1 and 3.22).

Parliament's addition of **medical support services** to the types of services which must be safeguarded in times of crises (health crises, states of emergency) in Article 27(6). These services are essential and time-sensitive and should be provided **"after the offence has been perpetrated and for as long as necessary thereafter"**. We therefore advise against wording watering down member States' obligations as is foreseen in the Council's proposal.

Chapter 5 - Prevention and Early Intervention

10. Include a comprehensive model of violence prevention and effective preventive measures, including primary prevention, and a clear obligation to ensure comprehensive sexuality education.

The Directive must contain strong preventive measures, including primary prevention to reduce vulnerability before violence occurs, through the promotion of pro-social behaviours, healthy and respectful relationships, consent or bystander intervention, the empowerment of women to prevent and protect themselves against violence, as well as awareness-raising campaigns, research and education programmes. Comprehensive sexuality education,²⁴ including education on personal and bodily autonomy, and consent is a key measure to prevent sexual and gender-based violence, particularly in the context of intimate relationships. Comprehensive sexuality education notably allows to challenge of harmful gender stereotypes, which are at the root of gender-based violence, to educate on the concept of consent, and strengthen the life skills that young people need to be able to develop safe, equal and consensual relationships.²⁵

The Parliament's proposed amendments to Recital 50 and Article 36 (new paragraph 4a) strengthen the Directive in this regard. We urge the Council to support these amendments.

The Parliament's proposed new para 5a under Article 36 on preventive measures to reduce demand for victims of sexual exploitation is unclear and ambiguous and we do not support its inclusion.

In addition, **the training of all professionals** likely to come in contact with victims, or perpetrators, including all law enforcement officials, healthcare professionals, social services, and educational staff, is crucial to ensure proper support to victims, avoid secondary victimisation and hold perpetrators accountable. Such training should include specific references to women in intersectional positions, including LGBTIQ women, with the objective of reducing the risk for the victim of encountering discrimination and bias. **We support Article 37 as amended by the European Parliament.**

Chapter 6 - Coordination and Cooperation

11. Recognize the role of Women Specialist Services, feminist civil society organisations and LGBTI-lead and focused organisations as key partners in the monitoring and implementation of this Directive and establishment of a Union Coordinator.

²⁴ Comprehensive Sexuality Education is notably recommended by UN Agencies (UNESCO [International technical guidance on sexuality education: an evidence-informed approach](#) and [Policy Paper](#); WHO; UNFPA); the Council of Europe Committee of Ministers (2019 [Recommendation to member States on preventing and combating sexism](#) (II.G.6)); the Council of Europe Commissioner for Human Rights (2020 [Human Rights Comment](#)); and EIGE (2019 [Factsheet](#) on The Girl Child); and the European Parliament (notably in the 2021 [Report](#) on SRHR - Q., §26-29).

²⁵ United Nations: Committee on the Elimination of Discrimination against Women and Committee on the Rights of the Child, [Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices](#) (§69); OHCHR, [Compendium on Comprehensive Sexuality Education](#) (2023).
European Parliament: [Comprehensive sexuality education: why is it important?](#) (2022), Study requested by the FEMM committee.

The Directive must recognize the role of feminist civil society as key partners in the monitoring and implementation, in line with the standards defined by the Istanbul Convention, which expressively includes civil society as active implementers of its provisions, recognizing the crucial role of women's organisations and women's specialist services in responding to the specific experiences of women and girls. Therefore, **we support Article 41 proposed by the European Parliament**, which proposes the creation of sustainable structures for consultation and partnership with women's civil society and other relevant organisations, that should include also women in intersectional positions, including LBTIQ-lead and focused organisations. Likewise, we welcome the creation of a Union coordination to ensure the structured implementation of this Directive and the provision of assistance to Union networks, umbrella organisations and Unionwide non-governmental organisations working on matters directly relevant to violence against women and domestic violence.

The EuroCentralAsian Lesbian* Community

The WAVE Network

