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#### **OUTCOME OF PROCEEDINGS**

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From: General Secretariat of the Council  
To: Delegations  
Subject: Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence  
– General approach

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At its meeting on 9 June 2023, the Council (Justice and Home Affairs) approved a general approach in respect of the above proposal for a Directive.

The text as approved by the Council is set out in the Annex. Changes with respect to the text of the Commission's proposal are marked in bold (for additions) and by strike-through (for deletions).

The general approach will constitute the mandate for the negotiations with the European Parliament in the context of the ordinary legislative procedure.

Proposal for a  
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
on combating violence against women and domestic violence

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82(2) and Article 83(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The purpose of this Directive is to provide a comprehensive framework to effectively combat violence against women and domestic violence throughout the Union. It does so by strengthening and introducing measures in the following areas: the definition of relevant criminal offences and penalties, the protection of victims and access to justice, victim support, prevention, coordination and cooperation.

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<sup>1</sup> OJ C , , p. .

- (2) Equality between women and men and non-discrimination are core values of the Union and fundamental rights enshrined, respectively, in Article 2 of the Treaty on European Union and in Articles 21 and 23 of the Charter of Fundamental Rights of the European Union (the ‘Charter’). Violence against women and domestic violence endanger these very principles, undermining women and girls’ rights to equality in all areas of life.
- (3) Violence against women and domestic violence violate fundamental rights such as the right to human dignity, the right to life and integrity of the person, the prohibition of inhuman or degrading treatment or punishment, the right to respect for private and family life, personal data protection, and the rights of the child, as enshrined in the Charter of Fundamental Rights of the European Union.

- (4) ~~This~~ **The provisions of this Directive which relate to the rights of victims** should apply to **all victims of** criminal conduct which amounts to violence against women or domestic violence, as criminalised under Union or national law. This includes the criminal offences defined in this Directive, namely ~~rape~~, female genital mutilation, the non-consensual sharing of intimate or manipulated material, cyber stalking, cyber harassment, cyber incitement to violence or hatred, and criminal conduct covered by other Union **acts instruments**, in particular Directives 2011/36/EU<sup>2</sup> and 2011/93/EU<sup>3</sup> of the European Parliament and of the Council, which define criminal offences concerning the sexual exploitation of children and trafficking of human beings for the purpose of sexual exploitation. Lastly, certain criminal offences under national law fall under the definition of violence against women. This includes crimes such as femicide, **rape**, sexual harassment, sexual abuse, stalking, early and forced marriage, forced abortion, forced sterilisation and different forms of cyber violence, such as online sexual harassment, cyber bullying or the unsolicited receipt of sexually explicit material. Domestic violence is a form of violence which may be specifically criminalised under national law or covered by criminal offences which are committed within the family or domestic unit or between former or current spouses.

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<sup>2</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, OJ L 101, 15.4.2011, p. 1–11.

<sup>3</sup> Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, OJ L 335, 17.12.2011, p. 1–14.

- (5) The measures under this Directive have been designed to address the specific needs of women and girls, given that they are disproportionately affected by the forms of violence covered under this Directive, namely violence against women and domestic violence. ~~This Directive, however, acknowledges that other persons may also fall victim to these forms of violence and should~~ **therefore also** benefit from the **same** measures provided for **in the Directive for victims** ~~therein~~. Therefore, the term ‘victim’ should refer to all persons, regardless of their ~~sex or~~ gender **and, unless specified otherwise in a given provision, all victims should benefit from the rights related to the protection of victims and access to justice, victims support and prevention.**
- (6) Due to their vulnerability, children who witness ~~violence against women or domestic violence~~ **may** suffer a direct emotional harm, which impacts their development. **If this is the case, the** ~~Therefore, such children should be considered victims and~~ benefit from targeted protection measures.
- (7) 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’.

- (8) Domestic violence is a serious social problem which often remains hidden. It can lead to serious psychological and physical trauma with severe consequences because the offender typically is a person known to the victims, whom they would expect to be able to trust. Such violence can take on various forms, including physical, sexual, psychological and economic. Domestic violence may occur whether or not the offender shares or has shared a household with the victim.
- (9) In light of the specificities related to these types of crime it is necessary to lay down a comprehensive set of rules, which addresses the persisting problem of violence against women and domestic violence in a targeted manner and caters to the specific needs of victims of such violence. The existing provisions at Union and national levels have proven to be insufficient to effectively combat and prevent violence against women and domestic violence. In particular, Directives 2011/36/EU and 2011/93/EU concentrate on specific forms of such violence, while Directive 2012/29/EU of the European Parliament and of the Council<sup>4</sup> lays down the general framework for victims of crime. While providing some safeguards for victims of violence against women and domestic violence, it is not set out to address their specific needs.

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<sup>4</sup> Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (OJ L 315, 14.11.2012, p. 57).

(10) This Directive supports the international commitments the Member States have undertaken to combat and prevent violence against women and domestic violence, in particular the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)<sup>5</sup> and, where relevant, the Council of Europe Convention on preventing and combating violence against women and domestic violence ('Istanbul Convention')<sup>6</sup> and the International Labour Organization's Convention concerning the elimination of violence and harassment in the world of work, signed on 21 June 2019 in Geneva.

**(10 bis) The rights of victims should be available before, throughout criminal proceedings and for an appropriate time after such proceedings in accordance with the needs of the victim and under the conditions set out in the Directive.**

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<sup>5</sup> [Convention on the Elimination of All Forms of Discrimination against Women](#) (CEDAW), UNGA, 1979.

<sup>6</sup> [Convention on preventing and combating violence against women and domestic violence](#) (Istanbul Convention), Council of Europe, 2011.

- (11) 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, **by taking through providing** specific measures ~~where intersecting forms of discrimination are present~~. In particular, **members of one or several groups of persons protected against discrimination on the basis of sexual orientation, disability, racial or ethnic origin, 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. **Member States should take that heightened level of risk into consideration when implementing the measures provided for by this Directive, especially regarding the individual assessment to identify victims' protection needs, specialist support to victims and training and information for professionals likely to come into contact with victims.****
- (12) Victims of violence against women and domestic violence are at an increased risk of intimidation, retaliation, secondary and repeat victimisation. **Member States should ensure that p**Particular attention ~~should thus be~~ **is** paid to these risks and to the need to protect the dignity and physical integrity of such victims.



**(12 bis) For the purposes of this Directive, competent authorities should be understood as the authority or authorities designated under national law as competent to carry out the duties provided for in the relevant provisions of this Directive. Each Member State should determine which authorities should be competent for the purpose of each provision that refers to this concept.**

~~(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 the crime of rape of women.~~

~~(14) Rape should explicitly include all types of sexual penetration, with any bodily part or object. The lack of consent should be a central and constitutive element of the definition of rape, given that frequently no physical violence or use of force is involved in its perpetration. Initial consent should be withdrawable at any given time during the act, in line with the sexual autonomy of the victim, and should not automatically imply consent for future acts. Non-consensual sexual penetration should constitute rape even where committed against a spouse or intimate partner.~~

- (15) ~~With regard to offences amounting to rape, offenders who have been previously convicted of offences of the same nature should be obliged to participate in intervention programmes to mitigate the risk of recidivism.~~
- (16) ~~In order to address the irreparable and lifelong damage female genital mutilation has on victims, this offence should be specifically and adequately addressed in the criminal laws.~~ Female genital mutilation is an **abusive and** exploitative practice that pertains to the sexual organs of a girl or a woman and that is performed for the purpose of preserving and asserting domination over women and girls and exerting social control over girls and women's sexuality. It is sometimes performed in the context of child forced marriage or domestic violence. Female genital mutilation may occur as a traditional practice which some communities perform on their female members. It should cover **mutulative** practices undertaken for non-medical reasons, **which cause irreparable and lifelong damage on victims. It leads to psychological and social damages, which severely affect the victim's quality of life.** The term "excising" should refer to the partial or total removal of the clitoris and the *labia majora*. "Infibulating" should cover the closure of the *labia majora* by partially sewing together the outer lips of the vulva in order to narrow the vaginal opening. The term "performing any other mutilation" should refer to all other physical alterations of the female genitals.

- (17) It is necessary to provide for harmonised definitions of offences and penalties regarding certain forms of cyber violence **where violence is intrinsically linked to the use of information and communication technologies, and those technologies are used to significantly amplify the severity of harmful impact of the offences, thereby changing the characteristics of the offence.** 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.

- (18) The use of information and communication technologies bears the risk of easy, fast and wide-spread amplification of certain forms of cyber violence with the ~~risk-effect~~ of creating or enhancing profound and long-lasting harm for the victim. The potential for such amplification, which is a pre-requisite for the perpetration of several offences of cyber violence defined under this Directive, should be reflected by the element of making certain material accessible, through information and communication technologies, to a **‘the public’** ~~‘multitude’ of end-users~~. The terms **‘accessible to the public’** ~~‘multitude’~~ and **‘publicly accessible’** should be understood as referring to **potentially** reaching a ~~significant~~ number of **persons**. ~~end-users of the technologies in question, thus allowing for significant access to, and potential further distribution of that material.~~ These terms should be interpreted and applied having regard to the relevant circumstances, including the technologies used to make that material accessible ~~and the means these technologies offer for amplification.~~ **Moreover, in order to only set minimum rules for the most serious forms of cyber violence, the relevant incriminations should be limited to conduct which is likely to cause serious harm or serious psychological harm to the victim, or to conduct which is likely to cause the victim to seriously fear for their own safety or that of their dependants.**

(19) Especially due to its tendency for easy, swift and broad distribution and perpetration, as well as its intimate nature, the non-consensual making accessible of ~~intimate~~ images, or videos **or similar and material that depicting sexually explicit activities, or the intimate parts of a person without the consent of the persons involved, to the public a multitude of end-users**, by means of information and communication technologies, can be very harmful for the victims. The offence provided for in this Directive should cover all types of such material, such as images, photographs and videos, including sexualized images, audio clips and video clips. It should relate to situations where the making accessible of the material to **the public a multitude of end-users**, through information and communication technologies, occurs without the victim's consent, irrespective of whether the victim consented to the generation of such material or may have transmitted it to a particular person. The offence should also include the non-consensual production, ~~or manipulation,~~ **or altering** for instance by image editing, of material that makes it appear as though another person is engaged in sexual activities, insofar as the material is subsequently made accessible to **the public a multitude of end-users**, through information and communication technologies, without the consent of that person. Such production, ~~or manipulation~~ **or altering** should include the fabrication of 'deepfakes', where the material appreciably resembles an existing person, objects, places or other entities or events, depicting sexual activities of another person, and would falsely appear to others to be authentic or truthful. In the interest of effectively protecting victims of such conduct, threatening to engage in such conduct should be covered as well.

**(19bis) The dissemination of images, videos or other material depicting sexually explicit activities or the intimate parts of a person without the consent of the person involved to the public by means of information and communication technologies should not be criminalised, where required to safeguard the fundamental rights protected under the Charter, and in particular the freedom of expression, including the freedom to receive and impart information and ideas in an open and democratic society, as well as freedom of the arts and sciences, including academic freedom. Moreover, this offense should not cover the handling of material by public authorities, in particular to conduct criminal proceedings or to prevent, detect or investigate crime, and Member States may relieve a person of responsibility under specific circumstances, for example where telephone or internet hotlines handle material in order to report an offense to authorities.**

(20) Cyber stalking is a modern form of violence which is often perpetrated against family members or persons living in the same household, but also perpetrated by ex-partners or acquaintances. Typically, technology is misused by the offender to proceed to intensify coercive and controlling behaviour, manipulation and surveillance, thereby increasing the victim's fear, anxiety and gradual isolation from friends and family. Therefore, minimum rules on cyber stalking should be established. The offence of cyber stalking should cover **repeated or the** continuous surveillance of the victim without their consent or a legal authorisation by means of information and communication technologies. This might be enabled by processing the victim's personal data, such as through identity theft ~~or the spying out of such data on their various social media or messaging platforms, their emails and phone~~, stealing passwords or hacking their devices to access their private spaces, via the installation of geo-localisation apps, including stalkerware, or via stealing their devices. Furthermore, stalking should cover the monitoring of victims, without that person's consent or authorisation, via technology devices connected through the Internet of Things, such as smart home appliances. **However, there can be situations where surveillance is carried out for legitimate reasons, for example in the context of parents monitoring their minor childrens' whereabouts and their online acitivity, of relatives monitoring the health of ill, elderly or vulnerable persons or persons with disabilities, or of media monitoring-and open source intelligence. Criminal liability should be limited to situations where monitoring is likely to cause serious harm to the person. When assessing whether the act is likely to cause such harm the focus should be on whether the act typically would cause harm to a victim.**

- (20bis) In the definition of the offence of cyber stalking, the concept of ‘tracking’ should refer to tracing the location of a person and following their movements, while the concept of ‘monitoring’ should refer to the watching over a person more generally, including observing their activities. In the context of stalking, both actions ultimately aim at controlling a person.**
- (21) Minimum rules concerning the offence of cyber harassment should be laid down **in order to counter-cover the most serious forms of such cyber harassment. This includes** initiating an attack with third parties or participating in such an attack directed at another person, by making threatening or insulting material accessible to **the public** ~~a multitude of end-users~~. Such broad attacks, including coordinated online mob attacks, may morph into offline assault or cause significant psychological injury and in extreme cases lead to suicide of the victim. They often target prominent (female) politicians, journalists or otherwise well-known persons, but they can also occur in different contexts, for instance on campuses or in schools. Such online violence should be addressed especially where the attacks occur on a wide-scale, for example in the form of pile-on harassment by a significant amount of people. **The minimum rules concerning the offense of cyber harassment should also include rules on doxing, where the personal information of the victim is made available to the public by means of information and communication technologies, without the victim’s consent, for the purpose of inciting others to cause physical or serious psychological harm to the victim.**



(22) The increase in internet and social media usage has led to a sharp rise in public incitement to violence and hatred, including based on ~~sex or~~ gender, over the past years. The easy, fast and broad sharing of hate speech through the digital world is reinforced by the online disinhibition effect, as the presumed anonymity on the internet and sense of impunity reduce people's inhibition to engage in such speech. Women are often the target of sexist and misogynous hate online, which can escalate into hate crime offline. This needs to be intercepted at an early stage. The language used in this type of incitement does not always directly refer to the ~~sex or~~ gender of the targeted person(s), but the biased motivation can be inferred from the overall content or context of the incitement.

(23) The offence of cyber incitement to violence or hatred presupposes that the incitement is not expressed in a purely private context, but publicly through the use of information and communication technologies. Therefore, it should require dissemination to the public, which should be understood as entailing the making accessible, through information and communications technologies, of a given item of material inciting to violence or hatred to a potentially unlimited number of persons, namely making the material easily accessible to users in general, without requiring further action by the person who provided the material, irrespective of whether those persons actually access the information in question. Accordingly, where access to the material requires registration or admittance to a group of users, that information should be considered to be disseminated to the public only where users seeking to access the material are automatically registered or admitted without a human decision or selection of whom to grant access. In assessing whether material qualifies as amounting to incitement to hatred or violence, the competent authorities should take into account the fundamental rights to freedom of expression as enshrined in Article 11 of the Charter.

- (24) Victims should be able to report ~~crimes~~ **acts** of violence against women or domestic violence easily without being subject to secondary or repeat victimisation. To this end, Member States should provide the possibility to submit complaints online or through other information and communication technologies for the reporting of such **acts** ~~crimes~~. Victims of cyber violence should be able to upload materials relating to their report, such as screenshots of the alleged violent behaviour. **When the victim is not the one making the report, Member States should ensure that the competent authorities, when necessary, take adequate measures for the victims' safety, such as providing information about the possibility to apply for emergency barring, restraining or protection orders.**

(25) In the case of domestic violence and violence against women, especially when committed by close family members or intimate partners, victims may be under such duress by the offender that they fear to reach out to the competent authorities, even if their lives are in danger. Therefore, Member States should ensure **that** their confidentiality rules do not constitute an obstacle for ~~relevant professionals, such as~~ healthcare professionals, to report to the competent authorities, where they have reasonable grounds to believe that ~~there the life of the victim~~ is at an imminent risk of serious physical harm. Similarly, instances of domestic violence or violence against women affecting children are often only intercepted by third parties noticing irregular behaviour or physical harm to the child. Children need to be effectively protected from such forms of violence and adequate measures promptly taken. Therefore, ~~relevant~~ professionals coming in contact with child victims ~~or potential child victims~~, including healthcare, **social services** or education professionals, should equally not be constrained by confidentiality where they have reasonable grounds to believe that serious **physical harm** ~~acts of violence under this Directive have~~ **has** been **inflicted on** ~~committed against the child or further serious acts are to be expected~~. Where professionals report such instances of violence, Member States should ensure that they are not held liable for breach of confidentiality. **However, lawyers' legal professional privilege should be protected, in accordance with Article 7 of the Charter of fundamental rights, as justified by the fundamental role assigned to lawyers in a democratic society. Where provided for under national law, the clergy-penitent privilege, or equivalent principles applicable in order to safeguard the freedom of religion, should also be excluded from this possibility. In addition, this possibility is without prejudice to national rules on confidentiality or sources applicable in the context of media.**

- (26) In order to tackle underreporting in the cases when the victim is a child, safe and child-friendly reporting procedures should be established. This can include questioning by competent authorities in simple and accessible language.
- (27) Delays in processing complaints of violence against women and domestic violence can bear particular risks to victims thereof, given that they might still be in immediate danger **and given** that offenders might often be close family members or spouses. Therefore, the competent authorities should have the **adequate sufficient** expertise and effective investigative tools to investigate and prosecute such crimes.
- (28) Victims of **sexual violence and domestic violence and violence against women** are **the victims most typically** in need of immediate protection or specific support, for example in the case of intimate partner violence, where the rate of recidivism tends to be high. Therefore, an individual assessment to identify the victim's protection needs should be **initiated at** ~~conducted upon~~ **the earliest possible stage after the very** first contact of ~~competent authorities with~~ the victim or as soon as suspicion arises that the person is a victim of violence against women or domestic violence. This can be done before a victim has formally reported an offence or proactively if a third party reports the offence.

- (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.
- (30) In order to ensure comprehensive support and protection to victims, ~~all~~ competent authorities and relevant bodies, not limited to ~~law enforcement and~~ judicial authorities, should be involved in assessing the risks for victims and appropriate support measures ~~on the basis of clear guidelines issued by the Member States~~. Such **assessment, when assessing the risk emanating from the offender or suspect,** ~~guidelines~~ should include ~~factors to be taken into consideration when assessing the risk emanating from the offender or suspect,~~ ~~including~~ the consideration that suspects charged with minor offences are as likely to be dangerous as those charged with more severe offences, especially in cases of domestic violence and stalking.

- (31) Due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation, and the fact that they suffer emotional harm that prejudices their development, the victim's ~~children~~ **dependants under the age of 18, and other dependants where provided by national law**, should receive the same protection measures as those **afforded** ~~accorded~~ to the victim, **unless there are indications that these dependants do not have specific needs**. ~~Other persons dependant on the victim, such as adults with disabilities or older dependant adults for whom the victim provides care, may experience similar emotional harm and should thus be accorded the same protection measures.~~

- (32) Victims of violence against women and domestic violence are often in need of specific support. To ensure they effectively receive offers of support, the competent authorities should refer victims to appropriate support services. This should in particular be the case where an individual assessment has found particular support needs of the victim. ~~In that case, support services should be able to reach out to the victim even without the victim's consent.~~ **When determining whether to refer child victims to support services, their best interests shall be a primary consideration, as laid down in Article 24 of the Charter.** For the processing of related personal data by competent authorities, Member States should ensure that it is based on law, in accordance with Article 6(1)(c) read in conjunction with Article (6)(2) and (3) of Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>7</sup>. Such laws should include appropriate personal data safeguards that respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the individuals. Where competent authorities transfer victims' personal data to support services for victims' referral, they should ensure that the data transferred is limited to what is necessary to inform the services of the circumstances of the case, so that victims receive appropriate support and protection. **The support services should only store personal data for as long as necessary, and in any event for no longer than 5 years, or a shorter period of time if established in national law, after the last contact between the support service and the victim.**
- (33) Member States should take the necessary measures to ensure the availability of emergency barring, restraining and protection orders to ensure effective protection of victims and their dependants **under the age of 18, and other dependants where provided by national law.**

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<sup>7</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance), ([OJ L 119, 4.5.2016, p. 1–88](#)).



- (34) Member States should ensure that emergency barring orders may be issued in situations of immediate danger, such as where harm is imminent or has already materialised and is likely to be inflicted again.
- (35) Protection orders may include prohibiting the offender or suspect to access certain localities; to approach the victim or dependant **under the age of 18, and other dependants where provided by national law**, closer than a prescribed distance or to contact them, including through the use of online interfaces. **Such orders may also include prohibiting the possession of and to possess firearms or deadly weapons, where necessary. Emergency barring, restraining or protection orders should be issued either for a specified period, or until modified or discharged.**
- (36) In order to safeguard the effectiveness of emergency barring, restraining and protection orders, breaches of such orders should be subject to penalties. Those penalties can be of a criminal law or other legal nature and may include prison sentences, fines or any other legal penalty that is effective, proportionate and dissuasive.

(37) Presenting evidence of past sexual behaviour to challenge the credibility and lack of consent of victims in sexual violence cases, especially rape cases, may reinforce the perpetuation of damaging stereotypes of victims and lead to repeat or secondary victimisation. Therefore, ~~without prejudice to the rights of defence, Member States should ensure that questions, enquiries and~~ evidence concerning ~~the~~ past sexual conduct of the victim should ~~not~~ be permitted **only when it is relevant and necessary** ~~in criminal investigations and court proceedings.~~

(38) Given the complexities and gravity of offences of violence against women and domestic violence and specific support needs of victims, Member States should ensure additional support and prevention of such offences is provided by designated bodies. Given their expertise in matters of discrimination on grounds of sex, national equality bodies, set up in accordance with Directives 2004/113/EC<sup>8</sup>, 2006/54/EC<sup>9</sup> and 2010/41/EU<sup>10</sup> of the European Parliament and of the Council, are well placed to fulfil these tasks. ~~Such bodies should in addition have legal standing to act on behalf or in support of victims of all forms of violence against women or domestic violence in judicial proceedings, including for the application for compensation and removal of online illegal content, with the victims' approval. This should include the possibility of acting on behalf or in support of several victims together.~~ To enable these bodies to effectively carry out their tasks, Member States should ensure that they are provided with sufficient human and financial resources.

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<sup>8</sup> Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, ([OJ L 373, 21.12.2004, p. 37](#)).

<sup>9</sup> Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), ([OJ L204, 26.7.2006, p. 23](#)).

<sup>10</sup> Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC, ([OJ L 180, 15.7.2010, p. 1](#)).

(39) Certain offences covered by this Directive involve the increased risk of repeated, prolonged or even continuous victimisation. That risk occurs especially in relation to offences involving the making **material** accessible ~~to a multitude of end-users~~, through information and communication technologies, of material, resulting from certain offences of cyber violence, considering the ease and speed with which such material can be distributed on a large scale and the difficulties that often exist when it comes to removing such material. That risk typically remains even after a conviction. Therefore, in order to effectively safeguard the rights of the victims of those offences, Member States should be required to take suitable measures aimed at the removal of the material in question. Considering that removal at the source may not always be feasible, for instance because of legal or practical difficulties relating to the execution or enforcement of an order to remove, Member States should also be allowed to provide for measures to disable access to such material.

- (40) Those measures should include, in particular, empowering national ~~judicial~~ authorities to issue orders to **hosting service** providers of ~~intermediary services~~ to remove, or also to disable access to, one or more specific items of the material in question. **The national authorities may also address the orders to disable access to other relevant intermediary service providers.** ~~Those orders should be issued upon a sufficiently reasoned and substantiated request of the victim. Considering the speed with which such material can spread online and the time it can take to complete criminal proceedings against the persons suspected of having committed the relevant offences, it is necessary for the effective protection of the victims' rights to provide for the possibility of issuing, subject to certain conditions, such orders by means of interim measures, even prior to the termination of such criminal proceedings.~~

(41) Any such measures to remove or disable access, including in particular such orders, are liable to affect the right and interests of other parties than the victims, such as the persons providing the material, the **hosting services intermediary service providers** whose services may be used and the end-users of those services, as well the general interest. Therefore, it should be ensured that those orders and other measures can only be taken in a transparent manner and that adequate safeguards are provided for, so as to ensure that they remain limited to what is necessary and proportionate, legal certainty is ensured, ~~all affected parties~~ **hosting services providers, other relevant intermediary service providers, and content providers** can exercise their right to effective judicial redress in accordance with national law, and a fair balance is struck between all rights and interests involved, including the fundamental rights of all parties concerned in compliance with the Charter. A careful weighting of all rights and interests at stake on a case-by-case basis is ~~particularly~~ important. ~~in proceedings for interim measures. Those orders should, as a general rule, be addressed to the specific provider of intermediary services that is best placed to act, in particular so as to limit any possible negative effects for freedom of expression and information.~~

- (42) The provisions of this Directive on orders and other measures for the removal and disabling access to relevant material should leave the relevant rules, contained in Regulation ~~XX/YYYY~~ *[proposed DSA Regulation]* (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act), unaffected. In particular, those orders should comply with the prohibition of imposing general obligations of monitoring or active fact-finding and with the specific requirements of that Regulation regarding orders to remove illegal content online.
- (43) Considering the potential importance of material that may be the object of the orders or other measures taken under this Directive to remove or disable access thereto for investigating or prosecuting the relevant offences under criminal law, the necessary measures should be taken to allow the competent authorities to obtain or secure such material, where necessary. Those measures could consist, for example, of requiring relevant **hosting services providers or other relevant** intermediary service providers to transmit the material to those authorities or to preserve the material for a limited period that does not go beyond what is necessary. Any such measures should ensure the security of the material, remain limited to what is reasonable and comply with the applicable rules on the protection of personal data.

- (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 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.~~
- (45) Assistance and support to victims of violence against women and domestic violence should be provided before, during and for an appropriate period after the criminal proceedings have ended, for example where medical treatment is still needed to address the severe physical or psychological consequences of the violence, or if the victim's safety is at risk in particular due to the statements made by the victim in those proceedings.



- (46) Specialised support services should provide support to victims of all forms of violence against women and domestic violence, including sexual violence, female genital mutilation, forced marriage, forced abortion and sterilisation, sexual harassment and of various forms of cyber violence. **Victims should be offered specialist support services irrespective of whether they have filed a formal complaint.**
- (47) Specialist support services should offer victims support tailored to their specific needs, **by a person of the same sex when requested or appropriate and such a person is available.** **Building on the requirements set out in Directive 2012/29/EU, the legal framework needs to be supplemented in order to ensure that specialist support services are provided with all the necessary tools to provide a targeted and integrated support for victims of violence against woman and domestic violence, in view of their specific needs and irrespective of any official complaint.** Such services could be provided in addition to, or as an integrated part of, general victim support services, which may call on existing entities providing specialist support. Specialist support may be provided by **public national** authorities, victims' support organisations, or other non-governmental organisations, **taking into account the Member States' geography and demographic composition.** They should be granted sufficient human and financial resources and, where the services are provided by non-governmental organisations, Member States should ensure that they receive appropriate funds.

- (48) Victims of domestic violence and violence against women typically have multiple protection and support needs. In order to address these effectively, Member States should provide such services at the same premises, or have such services coordinated through a ~~central~~ contact point **or through online access to such services. The latter would** ~~To~~ ensure **that** also victims in remote areas or unable to physically reach such centres are reached, ~~Member States should could provide for online access to such services.~~ This should **at least** entail setting up a single and updated website where all relevant information on and **direction to** access to available support and protection services is provided (one-stop online access). **Such a** ~~The~~ website should follow accessibility requirements for persons with disabilities.
- (49) Specialist support services, including shelters and rape crisis centres, should be considered essential during crises and states of emergency, including during health crises. **The aim** ~~These services should be to~~ continue to ~~be offered in~~ these **services in** situations, where instances of domestic violence and violence against women tend to surge.

- (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 **for the safe keeping of** ~~to collect the~~ evidence needed for **future** 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, **taking into account the Member States geography and demographic composition. Such centres can form part of the existing healthcare system in the Member State.** Similarly, victims of female genital mutilation, who are often girls, typically are in need of targeted support. Therefore, Member States should ensure they provide dedicated support tailored to these victims.
- (51) **Sexual H**harassment at work is considered as **a form of** discrimination on grounds of sex by Directives 2004/113/EC, 2006/54/EC and 2010/41/EU. ~~Given that S~~sexual harassment at work has significant negative consequences both for the victims and the employers, **Internal or external counselling services should be provided to both victims and employers, where such conduct is specifically criminalised under national law. These should include information** ~~advice~~ **on ways to** adequately addressing such instances ~~at the workplace, and on legal remedies available to the employer to remove the offender from the workplace and providing the on possibilities of early conciliation, if the victim so wishes,~~ **should be provided by external counselling services to both victims and employers.**

- (52) Member States **are encouraged to** ~~should~~ ensure that national helplines are **reachable** ~~operated~~ under the EU-harmonised number [116016] **in addition to any existing national numbers** ~~and this number is widely advertised as a public number~~, free of charge and available round-the-clock. **The public should be adequately informed of the existence of and use of such number.** The support provided should include crisis counselling and should be able to refer to face-to-face services, such as shelters, counselling centres or the police.
- (53) Shelters play a vital role in protecting victims from acts of violence. Beyond providing a safe place to stay, shelters should provide the necessary support concerning interlocking problems related to victims' health, financial situation and the well-being of their children, ultimately preparing victims for an autonomous life.
- (54) To effectively address negative consequences for ~~children victims~~, support measures to children should include ~~age-appropriate~~ **specialised** psychological counselling **adapted to the age, the developmental needs and the individual situation of the child**, together with paediatric care where necessary, and be provided as soon as competent authorities have reasonable grounds to believe that children might have been victims, including child witnesses ~~of violence~~. In the provision of support to ~~children victims~~, the rights of the child, as laid down in Article 24 of the Charter, should be a primary consideration.

- (55) In order to ensure the safety of children during possible visits with an offender or suspect who is a holder of parental responsibility with rights of access, **as determined under the applicable national civil law rules**. Member States should ensure that supervised neutral places, including child protection or welfare offices, are made available so that such visits can take place there in the best interests of the child. If needed, the visits should take place in the presence of child protection or welfare officials. Where it is necessary to provide for interim accommodation, children should as a priority be accommodated together with the holder of parental responsibility who is not the offender or suspect, ~~such as the child's mother~~. The best interest of the child should be always taken into account.
- (56) Victims **experiencing discrimination based on a combination of sex and other grounds are at a heightened** ~~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 **in prostitution** ~~sex workers~~, detainees, **lesbian, gay, bisexual, trans or intersex persons**, older women, **or women with use of alcohol and drugs or drugs use disorders**. They should **consequently** receive specific protection and support.

- (57) Women with disability disproportionately experience violence against women and domestic violence and due to their disability often have difficulties in accessing protection and support measures. Therefore, Member States should ensure they can benefit fully from the rights set out in this Directive, on an equal basis with others, while paying due attention to the particular vulnerability of such victims and their likely difficulties to reach out for help.
- (58) Member States should ~~take ensure that~~ **appropriate** preventive measures. ~~Ssuch~~ **measures may include** as awareness-raising campaigns, ~~are taken~~ to counter violence against women and domestic violence. Prevention ~~may should~~ also take place in formal education, in particular, through strengthening sexuality education and socio-emotional competencies, empathy and developing healthy and respectful relationships. **Taking into account language barriers and different levels of literacy and abilities, Member States should address targeted actions to groups at heightened risk, which include children, taking into account their age and maturity, persons with disabilities, persons with alcohol and drug use disorders, and lesbian, gay, bisexual, trans or intersex persons.**

(59) Member States should take measures to prevent the cultivation of harmful gender stereotypes to eradicate the idea of the inferiority of women or stereotyped roles of women and men. This could also include measures aimed at ensuring that culture, custom, religion, tradition or honour is not perceived as a justification for, or a more lenient treatment of, offences of violence against women or domestic violence. **Preventive measures should encourage men and boys to act as positive role models to support equality between men and women, but should also aim to overcome stereotypes whereby men are inhibited to reach out for help in situations of violence directed against them.** Considering that from a very young age onwards, children are exposed to gender roles that shape their self-perception and influence their academic and professional choices as well as expectations of their roles as women and men throughout their life, it is crucial to address gender stereotypes as of early-childhood education and care.

- (60) In order to ensure victims of violence against women and domestic violence are identified and receive appropriate support **and protection**, Member States should ensure that **officials professionals** likely to come into contact with victims receive training and targeted information. **Regarding court staff, such training should be required only for those likely to come into contact with victims, and to a level appropriate to their contact with victims.** Trainings should cover the risk and prevention of intimidation, repeat and secondary victimisation and the availability of protection and support measures for victims. To prevent and appropriately address instances of sexual harassment at work, persons with supervisory functions should also receive training, **where such conduct is specifically criminalised under national law.** ~~These trainings should also cover assessments regarding sexual harassment at work and associated psychosocial safety and health risks as referred to under Directive 89/391/EEC of the European Parliament and of the Council<sup>11</sup>. Training activities~~ **They** should also **receive information on** ~~cover~~ the risk of third party violence. Third party violence refers to violence which staff may suffer at the workplace, not at the hands of a co-worker, and includes cases, such as nurses sexually harassed by a patient.
- (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.

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<sup>11</sup> Council Directive 89/391/EEC of the European Parliament and of the Council of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1).



(62) Intervention programmes should be set up to prevent and minimise the risk of (repeated) offences of violence against women or domestic violence. The programmes should specifically aim at teaching offenders or those at risk of offending how to adopt non-violent behaviour in interpersonal relationships and how to counter violent behavioural patterns. Programmes should encourage offenders to take responsibility for their actions and examine their attitudes and beliefs towards women.

**(62 bis) With regard to offences amounting to rape, offenders should be encouraged to participate in intervention programmes to mitigate the risk of recidivism.**

**(62 ter) Member States should have discretion to decide which authorities are designated or established as official bodies responsible for coordinating, implementing, monitoring and evaluating policies and measures to prevent and combat all forms of violence covered under this Directive, in accordance with the principle of procedural autonomy of the Member States, provided that such authorities have the necessary competences to carry out the tasks provided for in this Directive. Policy coordination should be carried out at the level of the Member State and/or at the regional and local level in Member States, in accordance with national law or practice.**

- (63) In order to ensure that victims of the offences of cyber violence contained in this Directive can effectively realise their rights to have illegal material relating to such offences removed, Member States should encourage the **self-regulatory** cooperation between **hosting service** providers ~~of intermediary services~~. To ensure that such material is detected early on and tackled effectively and that victims of those offences are adequately assisted and supported, Member States should also facilitate the establishment **of** or **raise awareness** ~~use~~ of existing self-regulatory measures of a voluntary nature, such as codes of conduct, **This facilitation should include self-regulatory measures including for** ~~on~~ the detection of systematic risks, in **particular** ~~relation~~ to **reinforce mechanisms designed to tackle** ~~such~~ cyber violence and **to improve** the training of the providers' employees ~~concerned~~ **engaged in** ~~by~~ **preventing** ~~such~~ the **prevention of** violence and ~~assisting~~ **the assistance and support to** victims. **Such self-regulatory measures could complement action at Union level, in particular under the Digital Services Act.**
- (64) Policies to adequately tackle violence against women and domestic violence can only be formulated on the basis of comprehensive and comparable disaggregated data. ~~In order to effectively monitor developments in the Member States and fill the gaps of comparable data, Member States should regularly conduct surveys using the harmonised methodology of the Commission (Eurostat) to gather data and transmit these data to the Commission (Eurostat).~~

- (65) Member States should ensure that the data collected are limited to what is strictly necessary in relation to supporting the monitoring of the prevalence and trends of violence against women and domestic violence and design new policy strategies in this field. When sharing the data collected, no personal data should be included.

(66) Any processing of personal data carried out pursuant to this Directive, including the exchange or transmission of personal data by the competent authorities, ~~is to~~ **should** be carried out in accordance with Regulation (EU) 2016/679, Directives 2016/680/EU<sup>12</sup> and 2002/58/EC<sup>13</sup> of the European Parliament and of the Council. Any processing of personal data by Union institutions, bodies, offices or agencies ~~is to~~ **should** be carried out in accordance with Regulations (EU) 2018/1725<sup>14</sup>, 2018/1727<sup>15</sup> and 2016/794<sup>16</sup> of the European Parliament and of the Council, or any other applicable Union rules on data protection.

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<sup>12</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, ([OJ L 119, 4.5.2016, p. 89](#)).

<sup>13</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) OJ L 201, 31.7.2002, p. 37.

<sup>14</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, ([OJ L 295, 21.11.2018, p. 39](#)).

<sup>15</sup> Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA, ([OJ L 295, 21.11.2018, p. 138](#)).

<sup>16</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, ([OJ L 135, 24.5.2016, p. 53](#)).

~~(67) Directive 2011/93/EU provides for criminal offences concerning the sexual abuse of children. In order to ensure coherence with this Directive as regards the criminal offence of rape, the same degree of protection for children who have reached the age of sexual consent should be ensured and a specific offence should be defined as regards children below the age of sexual consent. Therefore, Directive 2011/93/EU should be amended accordingly.~~

**(67 bis) This Directive establishes minimum rules. Member States are therefore free to adopt or maintain more stringent criminal law rules concerning the definition of criminal offences and sanctions in the area of violence against women. As regards the provisions of this Directive on the rights of victims, Member States may introduce or maintain provisions with higher standards, including such which provide a higher level of protection and support for victims.**

(68) Since the objective of this Directive, namely to prevent and combat violence against women and domestic violence across the Union on the basis of common minimum rules, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the envisaged measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.

~~(69) [In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application.]~~

OR

{In accordance with Article 3 of Protocol No 21 on the position of United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Ireland has notified[, by letter of ~~...~~**22 June 2022**] its wish to take part in the adoption and application of this Directive.}

- (70) In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.
- (71) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on [~~XX-XX~~**5 April 2022**],

HAVE ADOPTED THIS DIRECTIVE:

## CHAPTER 1

### GENERAL PROVISIONS

#### *Article 1*

##### **Subject matter and scope**

1. This Directive lays down rules to prevent and combat violence against women and domestic violence. It establishes minimum rules concerning:
  - (a) the definition of criminal offences and penalties in the areas of sexual exploitation of women and children and computer crime;

- (b) the rights of victims of all forms of violence against women or domestic violence before, during ~~or~~ **and for an appropriate time** after criminal proceedings;
  - (c) victims' protection and victims' support.
2. **The provisions of Chapters 3 to 7 shall apply to all victims of offences of violence against women and domestic violence, as defined under this Directive, regardless of their gender. These victims are all the victims of acts criminalised under Chapter 2, as well as victims of any other acts of violence against women or domestic violence, as criminalised under other Union acts or under national law.**

*Article 2*

**~~Victims at an increased risk of violence and specific risks~~**

- 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).~~
- 2. ~~Member States shall ensure that, in the application of this Directive, particular attention is paid to the risk of intimidation, retaliation, secondary and repeat victimisation and to the need to protect the dignity and physical integrity of victims.~~

*Article 3*

**Scope**

~~This Directive shall apply to the following criminal offences:~~

- (a) ~~criminal offences referred to in Chapter 2;~~

- (b) ~~acts of violence against women or domestic violence as criminalised under other instruments of Union law;~~
- (c) ~~any other acts of violence against women or domestic violence as criminalised under national law.~~

#### *Article 4*

### **Definitions**

For the purposes of this Directive, the following definitions shall apply:

- (a) “violence against women” means **all acts of** gender-based violence, ~~that is~~ directed against a woman or a girl because she is a woman or a girl or that affects women or girls disproportionately, ~~including all acts of such violence~~ that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;
- (b) “domestic violence” means all acts of ~~violence, that result in, or are likely to result in,~~ physical, sexual, psychological or economic **violence harm or suffering,** that occur within the family or domestic unit, irrespective of biological or legal family ties, or between former or current spouses or partners, whether or not the offender shares or has shared a residence with the victim;
- (c) “victim” means any person, regardless of ~~their sex or gender, unless specified otherwise,~~ who has suffered harm, ~~which was~~ directly caused by acts of violence **against women or domestic violence** covered under this Directive, including children **who have suffered harm because they have witnessed** ~~witnesses of such domestic~~ violence;



- (d) “cyber violence” means any act of violence covered in **Articles 7 to 10** by this Directive that is committed, assisted or aggravated in part or fully by the use of information and communication technologies;
- ~~(e) “information and communication technologies” means all technological tools and resources used to digitally store, create, share or exchange information, including smart phones, computers, social networking and other media applications and services;~~
- (f) “**hosting service providers of intermediary services**” means providers of the services as defined in Article ~~32~~ point (gf) (iii) of Regulation (EU) **2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)**~~YYYY/XXX of the European Parliament and of the Council~~<sup>17</sup> [*Regulation on a Single Market for Digital Services*];
- (fa) “providers of intermediary services” means providers of the services as defined in Article 3, point (g) of Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act);**
- ~~(g) “sexual harassment at work” means any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, where it occurs in the course of, linked with, or arising in matters of employment, occupation and self-employment, with the purpose or effect of violating the dignity of the victim, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment;~~
- (h) “child” means any person below the age of 18 years;

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<sup>17</sup> Regulation (EU) YYYY/XXX of the European Parliament and of the Council on a Single Market for Digital Services (OJ L ...).

- (i) ~~“age of sexual consent” means the age below which, in accordance with national law, it is prohibited to engage in sexual activities with a child;~~
- (j) “dependant” means a child of the victim or any person, other than the offender or suspect, living in the same household as the victim, for whom the victim is providing care and support;
- (k) **“competent authorities” means any public authorities designated under national law as competent to carry out the duties provided for in the relevant provisions of this Directive.**

## CHAPTER 2

# OFFENCES CONCERNING SEXUAL EXPLOITATION OF WOMEN AND CHILDREN AND COMPUTER CRIME

### *Article 5*

#### **Rape**

1. ~~Member States shall ensure that the following intentional conduct is punishable as a criminal offence:~~
- (a) ~~engaging with a woman in any non-consensual act of vaginal, anal or oral penetration of a sexual nature, with any bodily part or object;~~

~~(b) causing a woman to engage with another person in any non-consensual act of vaginal, anal or oral penetration of a sexual nature, with any bodily part or object.~~

~~2. Member States shall ensure that a non-consensual act is understood as an act which is performed without the woman's consent given voluntarily or where the woman is unable to form a free will due to her physical or mental condition, thereby exploiting her incapacity to form a free will, such as in a state of unconsciousness, intoxication, sleep, illness, bodily injury or disability.~~

~~3. Consent can be withdrawn at any moment during the act. The absence of consent cannot be refuted exclusively by the woman's silence, verbal or physical non-resistance or past sexual conduct.~~

#### *Article 6*

#### **Female genital mutilation**

Member States shall ensure that the following intentional conduct is punishable as a criminal offence:

- (a) excising, infibulating or performing any other mutilation to the whole or any part of the *labia majora*, *labia minora* or clitoris;
- (b) coercing or procuring a woman or a girl to undergo any of the acts referred to in point (a).

## Article 7

### Non-consensual sharing of intimate or manipulated material

1. Member States shall ensure that the following intentional conduct is punishable as a criminal offence:
  - (a) making **accessible to the public, by means of information and communication technologies** ~~intimate~~ images, or videos or ~~other~~ **similar** material depicting sexually **explicit** activities; **or the intimate parts of a** ~~of another~~ person without ~~the that person's~~ consent **of the persons involved** ~~accessible to a multitude of end-users by means of information and communication technologies~~ **where such conduct is likely to cause serious harm to those persons;**
  - (b) producing, ~~or~~ manipulating **or altering** and subsequently making accessible to **the public** ~~a multitude of end-users~~, by means of information and communication technologies, images, videos or **similar** ~~other~~ material, making it appear as though another person is engaged in sexually **explicit** activities, without ~~their that person's~~ consent, **where such conduct is likely to cause serious harm to the person;**
  - (c) threatening to engage in the conduct referred to in points (a) and (b) in order to coerce another person to do, acquiesce or refrain from a certain act.
2. **Paragraph 1 (a) and (b) shall apply without prejudice to the application of exceptions provided for under national or Union law, which guarantee the freedom of expression and information and the freedom of the arts and sciences.**

## Article 8

### Cyber stalking

Member States shall ensure that the following intentional conduct ~~of is punishable as a criminal offence:~~

- ~~(a) persistently engaging in threatening or intimidating conduct directed at another person, by means of information and communication technologies, which causes that the person fears for own safety or that the person fears for safety of dependants;~~
- (b) repeatedly or continuously placing another person under continuous surveillance, without that person's consent or a legal authorisation to do so, by means of information and communication technologies, to track or monitor that person's movements and activities, where such conduct is likely to cause serious harm to the person, is punishable as a criminal offence;**
- ~~(c) making material containing the personal data of another person, without that person's consent, accessible to a multitude of end-users, by means of information and communication technologies, for the purpose of inciting those end-users to cause physical or significant psychological harm to the person.~~

## Article 9

### Cyber harassment

Member States shall ensure that the following intentional conduct is punishable as a criminal offence:

- (a) ~~initiating an attack with third parties directed at another person, by making threatening or insulting material accessible to a multitude of end-users, by means of information and communication technologies, with the effect of causing significant psychological harm to the attacked person;~~
- (a) ~~persistently~~ **repeatedly or continuously** engaging in threatening or ~~intimidating~~ conduct directed at another person, **at least when this conduct involves threats to commit criminal offences**, by means of information and communication technologies, **where such conduct which is likely to** causes that the person **to seriously** fears for **their** own safety or that the person fears for safety of dependants;
- (b) **engaging, together with other persons, by means of information and communication technologies, in publicly accessible threatening or insulting conduct**, ~~initiating an attack with third parties directed at another person, by making threatening or insulting material accessible to a multitude of end-users, by means of information and communication technologies,~~ **where such conduct is likely to cause** with the effect of causing **serious significant** psychological harm to the attacked person;
- c) making **accessible to the public by means of information and communication technologies** material containing the personal data of another person, without that person's consent, ~~accessible to a multitude of end-users, by means of information and communication technologies,~~ for the purpose of inciting **others** ~~those end-users~~ to cause physical or **serious significant** psychological harm to the person.

~~(b) participating with third parties in attacks referred to in point (a).~~

*Article 10*

**Cyber incitement to violence or hatred**

1. Member States shall ensure that the intentional conduct of inciting to violence or hatred directed against a group of persons or a member of such a group defined by reference to ~~sex or gender~~, by **public dissemination to the public of** material containing such incitement by means of information and communication technologies is punishable as a criminal offence.
2. **For the purpose of paragraph 1, Member States may choose to punish only conduct which is either carried out in a manner likely to disturb public order or which is threatening, abusive or insulting.**

*Article 11*

**Incitement, aiding and abetting, and attempt**

1. Member States shall ensure that inciting ~~and aiding and abetting~~ the commission of any of the criminal offences referred to in Articles ~~5~~ **6** to **9(b)** are punishable as criminal offences.
- 1bis. Member States shall ensure that aiding and abetting the commission of any of the criminal offences referred to in Articles 6(a) and 7 to 9 are punishable as criminal offences.**

2. Member States shall ensure that an attempt to commit any of the criminal offences referred to in Articles ~~5 and~~ 6 is punishable as a criminal offence.

## *Article 12*

### **Penalties**

1. Member States shall ensure that the criminal offences referred to in Articles ~~5~~ 6 to 11 are punishable by effective, proportionate and dissuasive criminal penalties.
- ~~2. Member States shall ensure that the criminal offence referred to in Article 5 is punishable by a maximum penalty of at least 8 years of imprisonment and at least 10 years of imprisonment if the offence was committed under aggravating circumstances referred to in Article 13.~~
- ~~3. Member States shall ensure that an offender of the criminal offence referred to in Article 5, who has previously been convicted of offences of the same nature, mandatorily participates in an intervention programme referred to in Article 38.~~
4. Member States shall ensure that the criminal offence referred to in Article 6 is punishable by a maximum penalty of at least 5 years of imprisonment **in the most serious cases of Article 6 as defined in their national law** and ~~at least 7 years of imprisonment if the offence was committed under aggravating circumstances referred to in Article 13.~~
5. Member States shall ensure that the criminal offences referred to in Articles ~~7 8 and~~ to 10 are punishable by a maximum penalty of at least ~~1 2~~ years of imprisonment.



~~6. Member States shall ensure that the criminal offences referred to in Articles 7 and 9 are punishable by a maximum penalty of at least 1 year of imprisonment.~~

### *Article 13*

#### **Aggravating circumstances**

In so far as the following circumstances do not already form part of the constituent elements of the criminal offences referred to in Articles 5 to 10, Member States shall **take the necessary measures to ensure that, in relation to the relevant offences referred to in Articles 6 to 10, one or several of the following circumstances they may, in accordance with the relevant provisions of national law,** be regarded as aggravating circumstances ~~in relation to those offences:~~

- (a) the offence, or another criminal offence of violence against women or domestic violence, was committed repeatedly;
- (b) the offence was committed against a person made vulnerable by particular circumstances, such as a situation of dependence or a state of physical, mental, intellectual or sensory disability, ~~or living in institutions;~~
- (c) the offence was committed against a child;
- (d) the offence was committed in the presence of a child;
- (e) the offence was committed by two or more persons acting together;
- (f) the offence was preceded or accompanied by extreme levels of violence;
- (g) the offence was committed with the use or threat of using a weapon;
- (h) the offence was committed with the use of force or threats to use force, or coercion;
- (i) the ~~conduct offence caused~~ **conduct offence caused** ~~resulted in~~ the death or suicide of the victim or severe physical or psychological harm for the victim;

- (j) the offender has previously been convicted of offences of the same nature;
- (k) the offence was committed against a former or current spouse or partner;
- (l) the offence was committed by a member of the family or person cohabiting with the victim;
- (m) the offence was committed by abusing a recognised position of trust, authority or influence;
- ~~(n) the offence was filmed, photographed or recorded in another form and made accessible by the offender;~~
- ~~(o) the offence was committed by causing the victim to take, use or be affected by drugs, alcohol or other intoxicating substances.~~

*Article 14*

**Jurisdiction**

1. Member States shall take the necessary measures to establish their jurisdiction over the criminal offences referred to in Articles 5 6 to 11 where:
  - (a) the offence is committed in whole or in part within their territory;
  - (b) the offence is committed by one of their nationals.
2. A Member State shall inform the Commission where it decides to extend its jurisdiction to criminal offences referred to in Articles 5 6 to 11 which have been committed outside its territory in any of the following situations:
  - (a) the offence is committed against one of its nationals or habitual residents in its territory;

- (b) the offender is a habitual resident in its territory.
3. Member States shall ensure that their jurisdiction established over the criminal offences referred to in Articles 7 to ~~10~~ **11** includes situations where the offence is committed by means of information and communication technology accessed from their territory, whether or not the provider of intermediary services is based on their territory.
  4. In cases referred to in paragraph 1, point (b), each Member State shall ensure that its jurisdiction **established over the criminal offences referred to in Article 6** is not subject to the condition that the acts are punishable as criminal offences in the country where they were performed.
  5. In cases referred to in paragraph 1, point (b), Member States shall ensure that the exercise of their jurisdiction is not subject to the condition that a prosecution can be initiated only following a report made by the victim in the place where the criminal offence was committed, or a denunciation from the State of the place where the criminal offence was committed.

#### *Article 15*

#### **Limitation periods**

1. Member States shall take the necessary measures to provide for a limitation period that enables the investigation, prosecution, trial and judicial decision ~~of concerning~~ criminal offences referred to in Articles ~~5~~ **6** to 11 for a sufficient period of time after the commission of those criminal offences, **in order for those criminal offences to be tackled effectively. The limitation period shall be commensurate with the gravity of the offence concerned.**

- ~~2. Member States shall take the necessary measures to provide for a limitation period for criminal offences referred to in Article 5 of at least 20 years from the time when the offence was committed.~~
- ~~3. Member States shall take the necessary measures to provide for a limitation period for criminal offences referred to in Article 6 of at least 10 years from the time when the offence was committed.~~
- ~~4. Member States shall take the necessary measures to provide for a limitation period for criminal offences referred to in Articles 7 and 9 of at least 5 years after the criminal offence has ceased or the victim has become aware of it.~~
- ~~5. Member States shall take the necessary measures to provide for a limitation period for the criminal offences referred to in Articles 8 and 10, of at least 7 years after the criminal offence has ceased or the victim has become aware of it.~~
6. If the victim is a child, the limitation period **for offences referred to in Article 6** shall commence at the earliest once the victim has reached 18 years of age.

## CHAPTER 3

### PROTECTION OF VICTIMS AND ACCESS TO JUSTICE

#### *Article 16*

##### **Reporting of violence against women or domestic violence**

1. In addition to the rights of victims when making a complaint under Article 5 of Directive 2012/29/EU, Member States shall ensure that victims can report ~~criminal offences~~ **acts** of violence against women or domestic violence to the competent authorities **through accessible, easy-to-use and readily available channels** ~~in an easy and accessible manner~~. This ~~shall~~ **may** include the possibility of reporting ~~criminal offences~~ **such acts** online or through other information and communication technologies, including the possibility to submit evidence, in particular concerning reporting of ~~criminal offences~~ **acts** of cyber violence.
2. Member States shall take the necessary measures to encourage any person who knows about or suspects, in good faith, that ~~offences~~ **acts** of violence against women or domestic violence have occurred, or that ~~further~~ acts of violence are to be expected, to report this to the competent authorities. **Where a person other than the victim is making the report, Member States shall ensure that the competent authorities take adequate measures for the victim's safety when necessary.**

3. Member States shall ensure that **healthcare professionals subject to the confidentiality obligations** ~~rules imposed by national law on relevant professionals, such as healthcare professionals, do not constitute an obstacle~~ **are able to their reporting** to the competent authorities if they have reasonable grounds to believe that there is an imminent risk that serious physical harm will be inflicted on a person due to ~~their being subject to violence against women or domestic violence any of the offences covered under this Directive.~~

**3bis** **Member States shall ensure that, where** ~~If the victim is a child, the relevant~~ **without prejudice to rules on legal professional privilege or, where provided for under national law, clergy-penitent privilege or equivalent principles,** professionals **subject to confidentiality obligations under national law are** ~~shall be able to report to the competent authorities if they have reasonable grounds to believe that a serious physical harm act of violence covered under this Directive has been~~ **inflicted on the child as a result of violence against women or domestic violence** ~~committed or further serious acts of violence are to be expected.~~

4. Where children report ~~criminal offences~~ **acts** of violence against women or domestic violence **to the competent authorities**, Member States shall ensure that the reporting procedures are safe, confidential, designed and accessible in a child-friendly manner and language, in accordance with their age and maturity. If the ~~offence~~ **act** involves the holder of parental responsibility, Member States ~~should~~ **shall** ensure reporting is not conditional upon this person's consent.

~~5. Member States shall ensure that the competent authorities coming in contact with a victim reporting offences of violence against women or domestic violence are prohibited from transferring personal data pertaining to the residence status of the victim to competent migration authorities, at least until completion of the first individual assessment referred to in Article 18.~~

### *Article 17*

#### **Investigation and prosecution**

1. Member States shall ensure that persons, units or services investigating and prosecuting violence against women or domestic violence have ~~sufficient~~ **adequate** expertise and effective investigative tools to effectively investigate and prosecute such ~~acts~~ **crimes**, especially to gather, analyse and secure electronic evidence in cases of cyber violence.
2. Member States shall ensure that reported ~~offences~~ **acts** of violence against women or domestic violence are processed and transferred without delay to the competent authorities for **investigation and prosecution** ~~and investigation~~.
3. **Where there is reasonable grounds to suspect that a criminal offence may have been committed,** ~~t~~The competent authorities shall, **without undue delay,** ~~promptly and~~ effectively ~~record and~~ investigate, **upon a complaint or ex officio,** ~~allegations of acts of~~ violence against women or domestic violence. **They shall** ~~and~~ ensure that an official ~~complaint record~~ **record** is filed in all cases.

4. **In order to assist in the voluntary securing of evidence, in particular in cases of sexual violence,** ~~The competent authorities shall, without undue delay, promptly refer~~ **direct** victims to relevant health care professionals or **to the** support services referred to in Articles 27, 28 and 29, **specialised in** ~~to assisting in securing of evidence, in particular in cases of sexual violence, where the victim wishes to bring charges and make use of such services.~~
5. **Member States shall ensure that** ~~Investigations into or prosecution of offences acts referred to in Article 5 acts of rape~~ shall not be dependent on reporting or accusation by a victim or by their representative, and **that** criminal proceedings ~~shall~~ **may** continue even if the report or accusation has been withdrawn.

#### *Article 18*

#### **Individual assessment to identify victims' protection needs**

1. **In addition to the framework requirements** of the individual assessment ~~which is to be carried out under Article 22 of Directive 2012/29/EU, Member States shall ensure that, at least in respect of as regards victims of sexual violence and domestic violence covered by this Directive, the additional elements requirements as set out in paragraphs 2 to 7 of this Article are fulfilled~~ assessed.
2. This individual assessment shall be initiated ~~upon~~ **at the earliest possible stage after** the first contact of the victim with the competent authorities. ~~The competent judicial authorities shall verify at the latest at the initiation of criminal proceedings whether an assessment has been conducted. If this has not been the case, they shall remedy the situation by undertaking an assessment as soon as possible.~~



3. The individual assessment shall focus on the risk emanating from the offender or suspect, **which may include** ~~ing~~ the risk of repeated violence, the risk of bodily harm, the use of weapons, the offender or suspect living with the victim, an offender or suspect's drug or alcohol misuse, child abuse, mental health issues or behaviour of stalking.
4. The **individual** assessment shall take into account the victim's individual circumstances, **which may include** ~~ing~~ whether they experience discrimination based on a combination of sex and other grounds and therefore face a heightened risk of violence, as well as the victim's own account and assessment of the situation. It shall be conducted in the best interest of the victim, paying special attention to the need to avoid secondary or repeated victimisation.
5. Member States shall ensure that **the competent authorities take** adequate protection measures, ~~are taken~~ **taking into account** ~~on the basis of~~ the individual assessment, ~~such as~~: **Those measures may include:**
  - (a) measures **under** ~~referred to in~~ Articles 23 and 24 of Directive 2012/29/EU;
  - (b) the granting of emergency barring and restraining or protection orders pursuant to Article 21 of this Directive;
  - (c) further measures to manage the offender or suspect's behaviour, in particular under Article 38 of this Directive.
6. **When appropriate,** ~~the~~ individual assessment shall be undertaken in collaboration with ~~all~~ relevant competent authorities depending on the stage of the proceedings, and relevant support services, such as victim protection centres and women's shelters, social services and healthcare professionals.

7. Competent authorities shall ~~update~~ **review** the individual assessment at regular intervals to ensure **that it addresses** to the victim's current situation **and, where relevant, take new or update ongoing** ~~This shall include an assessment of whether protection measures in accordance with paragraph 5, in particular under Article 21, need to be adapted or taken.~~
8. Victims' dependants **under the age of 18, and other dependants where provided by national law**, shall be presumed to have specific protection needs without undergoing the assessment referred to in paragraphs 1 to 6, **unless there are indications that these dependants do not have specific protection needs.**

#### *Article 19*

##### **Individual assessment of victims' support needs**

1. Member States shall ensure that, taking into account the individual assessment referred to in Article 18, the competent authorities, **when necessary**, assess the victim's and their dependant's, **under the age of 18, and other dependants where provided by national law**, individual needs for support ~~as provided for~~ under Chapter 4.
2. Article 18(4) and (7) ~~shall apply~~ to the individual assessment of support needs under paragraph 1 of this Article.

#### *Article 20*

##### **Referral to support services**

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, **in cooperation with the competent authorities**, contact victims to offer support. **Member States may make the contact subject to the victim's consent.**

2. The competent authorities shall respond to **the victim's** requests for protection and support in a timely and coordinated manner.
3. Where needed, ~~they~~ **competent authorities** shall be able to refer child victims, ~~including witnesses,~~ to support services, **when necessary** without the prior consent of the holder of parental responsibility.
4. Member States shall ensure **that the competent authorities** ~~transmission of~~ relevant personal data concerning the victim and their situation **of the victim** to the relevant support services, where this is necessary to ensure that the victim receives appropriate support and protection. Such transmission shall be confidential. **Member States may make the transmission subject to the victim's consent.**
5. Support services shall store personal data for as long as necessary for the provision of support services, and in any event for no longer than ~~12 months~~ **5 years** after the last contact between the support service and the victim.

*Article 21*

**Emergency barring, restraining and protection orders**

1. Member States shall ensure that, in situations of immediate danger for the **health or safety of the victim,<sup>2</sup> or their dependant<sup>2</sup> under the age of 18, and other dependants where provided by national law,** ~~health or safety,~~ the competent authorities **can** issue orders addressed at an offender or suspect of violence covered by this Directive to vacate the residence of the victim or their dependants for a sufficient period of time and to prohibit the offender or suspect from entering the residence or to enter the victim's workplace or contacting the victim or their dependants in any way. Such orders shall have immediate effect and not be dependent on a victim reporting the criminal offence.
2. Member States shall ensure that the competent authorities can issue restraining or protection orders to provide ~~long-term~~ protection **for as long as necessary** for victims ~~or their dependants~~ against any acts of violence covered by this Directive, ~~including by prohibiting or restraining certain dangerous behaviour of the offender or suspect.~~
- 2bis. Where the victim is an adult, Member States may require that emergency barring, restraining and protection orders, provided for in paragraphs 1 and 2, shall be issued at the request of the victim.**
3. Member States shall ensure that the competent authorities, **where relevant,** inform victims of the possibility to apply for emergency barring and restraining or protection orders, as well as the possibility to seek cross-border recognition of protection orders pursuant to Directive 2011/99/EU or Regulation (EU) No 606/2013.

4. Any breaches of emergency barring or restraining and protection orders shall be subject to effective, proportionate and dissuasive criminal or other legal penalties.
5. This Article does not oblige the Member States to modify their national systems as regards the qualification of emergency barring orders and protection orders as falling under criminal, civil or administrative law.

#### *Article 22*

#### **Protection of victim's private life**

~~Without prejudice to the rights of defence, Member States shall ensure that, in criminal investigations and court proceedings, questions, enquiries and evidence concerning the past sexual conduct of the victim or other aspects of the victim's private life related thereto are not~~ **shall be permitted only when it is relevant and necessary.**

#### *Article 23*

#### **Guidelines for law enforcement ~~and judicial authorities~~**

Member States ~~may shall~~ issue **non-binding** guidelines for the competent authorities acting in criminal proceedings, including prosecutorial ~~and judicial~~ guidelines, concerning cases of violence against women or domestic violence. Those guidelines ~~shall may~~ include guidance on:

- (a) how to ensure the proper identification of all forms of such violence;
- (b) how to conduct the individual assessment under Articles 18 and 19;
- (c) how to treat victims in a trauma-, gender-, **disability** and child-sensitive manner;
- (d) how to ensure the proceedings are conducted in a manner as to prevent secondary or repeat victimisation;

- (e) how to cater to the enhanced protection and support needs of victims experiencing discrimination based on a combination of sex and other grounds;
- (f) how to avoid gender stereotypes **and raise awareness on all victim groups in the context of domestic violence**;
- (g) how to refer victims to support services, to ensure the appropriate treatment of victims and handling of cases of violence against women or domestic violence;
- (h) **how to ensure the protection of the victim's privacy and confidential information.**

*Article 24*

**Role of national bodies ~~and equality bodies~~**

1. Member States shall designate and make the necessary arrangement for a body or bodies to carry out the following tasks:
  - ~~(a) provide independent assistance and advice to victims of violence against women and domestic violence;~~
  - (b) publish ~~independent~~ reports and make recommendations on any issue relating to **violence against women and domestic violence** ~~such forms of violence;~~
  - (c) exchange available information with corresponding European bodies such as the European Institute for Gender Equality.

Those bodies may form part of equality bodies set up pursuant to Directives 2004/113/EC, 2006/54/EC and 2010/41/EU.

- ~~2. Member States shall ensure that the bodies referred to in paragraph 1 can act on behalf or in support of one or several victims of violence against women or domestic violence in judicial proceedings, including for the application for compensation referred to in Article 26 and removal of online content referred to in Article 25, with the victims' approval.~~

### *Article 25*

#### **Measures to remove certain online material**

- Without prejudice to Regulations (EU) 2022/2065**, Member States shall take the necessary measures to ensure the prompt removal of **or disabling access to online publicly accessible** material referred to in Article 7, points 1 (a) and (b); ~~Article 8, point (e)~~; and Articles 9 and 10. Those measures shall include the possibility for their competent judicial authorities to issue, ~~upon application by the victim~~, binding legal orders to remove or disable access to such material ~~addressed to relevant providers of intermediary services~~. **Member States shall ensure that the orders meet, at least, the conditions set out in Article 9 (2) of Regulation (EU) 2022/2065.**
- The orders to remove or disable access to the material concerned shall be addressed to hosting service providers. To cover situations where removal would not be feasible, the competent authorities may also address the orders to disable access to other relevant intermediary service providers that have the technical and operational ability to act against the material concerned.**

Member States shall ensure that orders referred to in paragraph 1 can be issued in interim proceedings, even prior to the termination of any criminal proceedings regarding the offences referred to in Article 7, points (a) and (b), Article 8, point (c), Article 9 or Article 10 where the judicial authority seized considers that:

- (a) — it has been presented with sufficient evidence to justify the conclusion that the conduct referred to in Article 7, points (a) and (b), Article 8, point (c), Article 9 or Article 10 likely took place in respect of the applicant and that the material that is the object of the application constitutes material as referred to in those articles;
- (b) — the removal of that material is necessary to prevent or limit significant harm to the victim;
- (c) — the rights and interests of other parties involved associated with the potential removal are not such as to outweigh those of the victim associated with removal.



3. ~~Member States shall ensure that orders referred to in paragraph 1 and 2 are valid for an appropriate time period not exceeding one year, subject to renewal for an additional appropriate time period, upon application by the victim, where the judicial authority seized considers that the conditions of paragraph 2 continue to be met. However, Member States shall ensure that, where criminal proceedings regarding the offences referred to in Article 7, point 1 (a) and (b), Article 8, point (e), and Article 9 or Article 10 are terminated without leading to the finding of such an offence having been committed, the orders are invalidated and the hosting services providers or other relevant intermediary service providers provider of intermediary services concerned by the orders are is informed thereof.~~
4. Member States shall ensure that the orders and other measures referred to in paragraphs 1 ~~and 2~~ are taken following transparent procedures and are subject to adequate safeguards, in particular to ensure that those orders and other measures are limited to what is necessary and proportionate and that due account is taken of the rights and interests of ~~relevant~~ **all** parties involved. **Member States shall ensure that hosting service providers, other relevant intermediary service providers, and content providers affected by an order referred to in paragraph 1 have a right to an effective judicial remedy. That right shall include the right to challenge such an order before the courts of the Member State of the competent authority that issued the order.**

5. Member States shall ensure that the ~~relevant end-users content providers of the relevant services~~ are informed, where appropriate by the ~~intermediary service~~ **hosting services** providers, **or, where relevant, by any other relevant intermediary service providers** concerned, of the reasons for the removal of or disabling access to the material pursuant to the orders or other measures referred to in paragraphs 1 ~~and 2~~ **and of the possibility to that those end-users have access to judicial redress.**
6. Member States shall ensure that the removal of or disabling access to the material pursuant to the orders or other measures referred to in paragraphs 1 ~~and 2~~ does not prevent the competent authorities from obtaining or securing the evidence necessary for the investigation and prosecution of the offences referred to in Article 7, points **1** (a) and (b), ~~Article 8, point (c)~~, Article 9 or Article 10.

#### *Article 26*

#### **Compensation from offenders**

1. Member States shall ensure that victims have the right to claim full compensation from offenders for damages resulting from ~~all forms~~ **offences** of violence against women or domestic violence, **in accordance with national law.**
2. Member States shall ensure, **where appropriate**, that victims are able to obtain a decision on compensation in the course of criminal proceedings.
3. ~~The compensation shall place victims in the position they would have been in had the offence not taken place, taking into account the seriousness of the consequences for the victim. Compensation shall not be restricted by the fixing of an upper limit.~~
4. ~~The damage shall include costs for healthcare services, support services, rehabilitation, loss of income and other reasonable costs that have arisen as a result of the offence or to manage its consequences. The amount of the damages awarded shall also compensate for physical and psychological harm and moral prejudice.~~

~~5. The limitation period for bringing a claim for compensation shall be no less than 5 years from the time the offence has taken place.~~

~~In cases of sexual violence, the limitation period shall be no less than 10 years.~~

~~The limitation period for bringing a claim for compensation of criminal offences referred to in Article 7 shall commence with the victim's knowledge of the offence.~~

~~The limitation period shall not commence as long as the offender and the victim share the same domestic unit. In addition, if the victim is a child, the limitation period shall not commence before the victim has reached 18 years of age.~~

~~The limitation period shall be interrupted or suspended for the duration of pending legal proceedings concerning the offence.~~

## CHAPTER 4

### VICTIM SUPPORT

#### *Article 27*

#### **Specialist support to victims**

1. Member States shall ensure that specialist support services referred to in Articles **8(3) and 9(3)** of Directive 2012/29/EU are available for victims of acts of violence covered by this Directive, **irrespective of whether they have filed a formal complaint.**

The specialist support services shall provide:

- (a) ~~advice and~~ information **and support** on ~~any~~ relevant legal or practical matters arising as a result of the crime, including on access to housing, education, training, **financial support** and assistance to remain in or find employment;
  - (ba) **information about access to legal counselling, including possibilities of legal aid, where available;**
  - (b) ~~referrals~~ **information on services providing** to medical **and** forensic examinations **and on psychosocial counselling;**
  - (c) support to victims of cyber violence, including ~~advice~~ **information** on judicial remedies and remedies to remove online content related to the crime.
2. Specialist support referred to in paragraph 1 shall be offered in-person, **tailored to the needs of the victims of violence against women and domestic violence**, and shall be ~~easily~~ accessible **and readily available**, including online or through other adequate means, such as information and communication technologies, ~~tailored to the needs of victims of violence against women and domestic violence.~~
3. Member States shall ensure sufficient human and financial resources to provide the services referred to in paragraph 1, ~~especially those referred to in point (c) of that paragraph, including~~ ~~w~~Where such services are provided by non-governmental organisations, **Member States shall provide the latter with adequate funding, taking into account the proportion of services already provided by public authorities.**

4. Member States shall provide the protection and specialist support services necessary to comprehensively address the multiple needs of victims **either by providing these services** at the same premises, or **by coordinating** ~~have such services coordinated~~ through a ~~central~~ contact point, or **by facilitating access to such services** through one-stop online access ~~to such services~~. The ~~Such combined offering of services~~ **included** shall ~~include~~ at least **cover first hand medical care** and social services, psychosocial support, legal, and police services, **or information on and direction to such services**.
5. Member States shall **ensure that** ~~issue~~ guidelines and protocols for healthcare and social service professionals on identifying and providing appropriate support to victims of all forms of violence against women and domestic violence **are issued**, including on referring victims to the relevant support services. Such guidelines and protocols shall also indicate how to address the specific needs of victims who are at an increased risk of such violence as a result of their experiencing discrimination based on a combination of sex and other grounds of discrimination.
- 5.bis Member States shall ensure that guidelines and protocols for health-care services performing first hand medical care are issued on identifying and providing appropriate support to victims of violence against women and domestic violence. Such guidelines and protocols shall cover preservation and documentation of evidence, and its further transmission to competent forensic centres in accordance with national law.**
6. Member States shall **aim to** ensure that specialist support services remain fully operational for victims of violence against women and domestic violence in times of crisis, such as health crises or other states of emergency.

7. Member States shall ensure that specialist support services are available to victims before, during and for an appropriate time after criminal proceedings.

*Article 28*

**Specialist support for victims of sexual violence**

1. Member States shall provide for appropriately equipped, easily accessible rape crisis or sexual violence referral centres, **which may form part of the healthcare system**, to ensure effective support to victims of sexual violence, including assisting in the ~~preservation~~ **safekeeping** and documentation of evidence. ~~These centres shall provide for medical and forensic examinations,~~ **trauma-sensitive support and, where necessary, referral to specialised** trauma support and ~~psychological~~ counselling, after the offence has been perpetrated ~~and for as long as necessary thereafter~~. **In addition, Member States shall ensure that victims of sexual violence have access to medical and forensic examinations. These examinations may be provided in the centres referred to in this paragraph or through referral to specialised centres or units; in such case Member States shall ensure coordination between the referral centres and competent medical and forensic centres.** Where the victim is a child, such services shall be provided in a child-friendly manner.
2. The services referred to in paragraph 1 shall be available free of charge, **without prejudice to those services that are provided for under the national health care system**, and accessible every day of the week. They may be part of the services referred to in Article 27.
3. Member States shall ensure a sufficient geographical distribution and capacity of these services across the Member State.

4. Article 27(3) and (6) shall apply to the provision of support for victims of sexual violence.

*Article 29*

**Specialist support for victims of female genital mutilation**

1. Member States shall ensure effective, **and** age-appropriate support to victims of female genital mutilation, including by providing, gynaecological, sexological, psychological and trauma care and counselling tailored to the specific needs of such victims, after the offence has been perpetrated and for as long as necessary thereafter. This shall also include the provision of information on units in public hospitals that perform clitoral reconstructive surgery. Such support may be provided by the referral centres referred to in Article 28 or any dedicated health centre.
2. Article 27(3) and (6) and Article 28(2) shall be applicable to the provision of support for victims of female genital mutilation.

*Article 30*

**Specialist support for victims of sexual harassment at work**

**In cases of sexual harassment at work that constitute a criminal offence under national law,** Member States shall ensure ~~that external~~ counselling services are available for victims and employers. These services shall include ~~advice~~ **information** on **ways to** adequately addressing such instances ~~at the workplace,~~ **including** on **available** legal remedies ~~available to the employer to~~ remove the offender from the workplace ~~and providing the on possibilities of early conciliation, if~~ ~~the victim so wishes.~~

*Article 31*

**Helplines for victims**

1. Member States shall **ensure that** ~~set up~~ state-wide round-the-clock (24/7) telephone helplines **are available**, free of charge, to provide advice for victims of violence against women and domestic violence. Advice shall be provided confidentially or with due regard for their anonymity. Member States **are encouraged to provide** ~~shall ensure the provision~~ ~~of~~ such service also through other information and communication technologies, including online applications.
2. Member States shall take appropriate measures to ensure the accessibility of ~~the~~ services referred to in paragraph 1 for end-users with disabilities, including providing support in easy to understand language. Those services shall be accessible in line with the accessibility requirements for electronic communications services set in Annex I to Directive 2019/882/EU of the European Parliament and of the Council<sup>18</sup>.

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<sup>18</sup> Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services, [OJ L 151, 7.6.2019, p. 70–115](#).



3. Article 27(3) and (6) shall apply to the provision of helplines and support through information and communication technologies under this Article.
4. ~~{~~Member States **are encouraged to shall** ensure that the service under paragraph 1 for victims of violence against women is **reachable** ~~operated~~ under the harmonised number at EU level “116 016” **in addition to any existing national number(s).** ~~and that the eEnd-~~users **shall be** ~~are~~ adequately informed of the existence and use of such number.~~}~~

### *Article 32*

#### **Shelters and other interim accommodations**

1. The shelters and other appropriate interim accommodations as provided for in Article 9(3), point (a), of Directive 2012/29/EU shall address the specific needs of ~~women~~ victims of domestic violence and sexual violence. They shall assist them in their recovery, providing adequate and appropriate living conditions with a view on a return to independent living.
2. The shelters and other appropriate interim accommodations shall be **provided in sufficient numbers and easily accessible and** equipped to accommodate the specific needs of **women and of** children, including child victims.
3. The shelters and other appropriate interim accommodations shall be available to victims regardless of their nationality, citizenship, place of residence or residence status.
4. Article 27(3) and (6) shall apply to shelters and other appropriate interim accommodations.

*Article 33*

**Support for child victims**

1. Member States shall ensure that children are provided specific adequate support as soon as the competent authorities have reasonable grounds to believe that ~~a the children~~ might have been subject to, **or might have**, ~~including having~~ witnessed, violence against women or domestic violence. Support to children shall be specialised and **appropriate to age-appropriate, developmental needs and the individual situation of the child**, respecting the best interests of the child.
2. Child victims shall be provided with age-appropriate medical care, emotional, psychosocial, psychological and educational support, **tailored to developmental needs and individual situation of the child**, as well as any other appropriate support tailored in particular to situations of domestic violence.
3. Where it is necessary to provide for interim accommodation, children shall as a priority be placed together with other family members, in particular with a non-violent parent in permanent or temporary housing, equipped with support services. **The principle of the best interests of the child shall be decisive when assessing matters regarding interim accommodation** ~~Placement in shelters shall be a last resort.~~

*Article 34*

**Safety of children**

Member States shall establish and maintain safe places which allow a safe contact between a child and a holder of parental responsibilities who is an offender or suspect of violence against women or domestic violence, to the extent that the latter has rights of access. Member States shall ensure supervision by trained professionals, as appropriate, and in the best interests of the child.

*Article 35*

**Targeted support for victims with specific needs and groups at risk**

1. Member States shall ensure the provision of specific support to victims at an increased risk of violence against women or domestic violence **because they are subject to discrimination based on a combination of sex and any other ground or grounds**, ~~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.~~
2. The support services under Articles 27 to 32 shall have sufficient capacities to accommodate victims with disabilities, taking into consideration their specific needs, including personal assistance.
3. The support services shall be available for third-country nationals who are victims of violence against women and domestic violence, ~~including for applicants for international protection, for undocumented persons and for persons subject of return procedures in detention.~~ Member States shall ensure that victims who request so may be kept separately from persons of the other sex in detention facilities for third-country nationals subject of return procedures, or accommodated separately in reception centres for applicants for international protection.
4. Member States shall ensure that persons can report occurrences of violence against women or domestic violence in reception and detention centres to the relevant staff and that **procedures protocols** ~~are~~ **are in place to ensure they or the competent authorities** adequately and swiftly address such reports in accordance with the requirements ~~under~~ **under** in Articles 18, 19 and 20.

## CHAPTER 5

### PREVENTION

#### *Article 36*

##### **Preventive measures**

1. Member States shall take appropriate actions to prevent violence against women and domestic violence.
2. Preventive measures shall include **conducting or supporting** awareness-raising campaigns **or programmes, which may include** research and education programmes, where appropriate developed in cooperation with relevant civil society organisations, social partners, impacted communities and other stakeholders, **to increase awareness and understanding among the general public of the different manifestations and root causes of all forms of violence against women and domestic violence, their consequences in particular on children and the need for their prevention.**
3. Member States shall make information on preventive measures, the rights of victims, access to justice and to a lawyer, and the available protection and support measures available to the general public.

4. Targeted action shall be **focused on** ~~addressed to~~ groups at **heightened** risk, ~~including children, according to their age and maturity, and persons with disabilities, taking into consideration language barriers and different levels of literacy and abilities.~~ Information for children shall be formulated **or adapted** in a child-friendly way. **Information shall be presented in formats accessible to people with disabilities.**
5. 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 **and to seek help where needed** ~~as a whole in line with the objectives of this directive.~~
6. Preventive measures shall develop and/or increase sensitivity about the harmful practice of female genital mutilation, **taking into account the incidence of such offences in the Member State concerned.**
7. Preventive measures shall also specifically address cyber violence. In particular, Member States shall ensure that ~~education~~ **such** measures include the development of digital literacy skills, including critical engagement with the digital world, to enable users to identify and address cases of cyber violence, seek support and prevent its perpetration. Member States shall foster multidisciplinary and stakeholder cooperation, including **hosting service** providers ~~intermediary services~~ and competent authorities, to develop and implement measures to tackle cyber violence.

8. **Without prejudice to Article 26 of Directive 2006/54/EC, Member States shall take adequate and appropriate measures to address** ~~ensure that~~ **sexual harassment at work, when it constitutes a criminal offense under national law, is addressed** in relevant national policies. Those national policies ~~may shall~~ identify and establish **the** targeted actions referred to in paragraph 2 for sectors where workers are most exposed.

### *Article 37*

#### **Training and information for professionals**

1. Member States shall ensure that ~~professionals~~ **officials** likely to come into contact with victims, ~~including such as police officers law enforcement authorities, and relevant court staff, judges and prosecutors, lawyers, providers of victim support and restorative justice services, healthcare professionals, social services, educational and other relevant staff,~~ receive both general and specialist training and targeted information to a level appropriate to their contacts with victims, to enable them to identify, prevent and address instances of violence against women or domestic violence and to treat victims in a trauma-, gender- and child-sensitive manner **and take accessibility into account when communicating with victims with disabilities. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union and with due respect for the independence of the legal profession, Member States shall encourage such training for judges and prosecutors and shall recommend that those responsible for the training of lawyers make available such training.**

2. Relevant health professionals, including paediatricians, **gynecologists** 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.
3. Persons with supervisory functions in the workplace, in both the public and private sectors, shall receive training on how to recognise, prevent and address sexual harassment at work, **when it constitutes a criminal offense under national law** ~~including on risk assessments concerning occupational safety and health risks, to provide support to victims affected thereby and respond in an adequate manner~~. Those persons and employers shall receive information about the effects of violence against women and domestic violence on work and the risk of third party violence.
4. The training activities referred to in paragraphs 1 and 2 shall include training on coordinated multi-agency co-operation to allow for a comprehensive and appropriate handling of referrals in cases of violence against women or domestic violence.
5. Without affecting media freedom and pluralism, Member States shall encourage and support the setting up of media training activities by media professionals' organisations, media self-regulatory bodies and industry representatives or other relevant independent organisations, to combat stereotypical portrayals of women and men, sexist images of women, and victim-blaming in the media, aimed at reducing the risk of violence against women or domestic violence. **These training activities may be provided by relevant civil society organisations, non-governmental organisations working with victims of violence against women or domestic violence, social partners and other stakeholders.**

6. Member States shall ensure that the authorities competent for receiving reports of offences from victims are appropriately trained to facilitate and assist in the reporting of such crimes.
7. Training activities referred to in paragraphs 1 and 2 ~~shall be regular and mandatory~~, including on cyber violence, ~~and~~ **shall be** built on the specificities of violence against women and domestic violence. Such training activities ~~shall~~ **may** include training on how to identify and address the specific protection and support needs of victims who face a heightened risk of violence due to their experiencing discrimination based on a combination of sex and other grounds.
8. The measures under paragraphs 1 to 6 shall be implemented without affecting judicial independence, the self-organisation of regulated professions and differences in the organisation of the judiciary across the Union.

### *Article 38*

#### **Intervention programmes**

1. Member States shall take the necessary measures to ensure that targeted ~~and effective~~ intervention programmes are established to prevent and minimise the risk of committing ~~offences~~ of violence against women or domestic violence, or reoffending.
2. The intervention programmes shall be made available for participation **to persons who committed an offence of violence against women or domestic violence and**, ~~including~~ **may be made available to other persons who are assessed as being at risk for committing such offences. This may include persons who feel the need to participate, for example because they** fear they might commit any offence of violence against women or domestic violence.
3. **Member States shall ensure that an offender of the offence of rape is encouraged to participate in an intervention programme.**



## CHAPTER 6

### COORDINATION AND COOPERATION

#### *Article 39*

##### **Coordinated policies and coordinating body**

1. Member States shall adopt and implement state-wide effective, comprehensive and coordinated policies encompassing all relevant measures to prevent and combat all forms of violence against women and domestic violence.
2. Member States shall designate or establish **one or more** an official body responsible for coordinating, implementing, monitoring and evaluating policies and measures to prevent and combat all forms of violence covered under this Directive.
3. That body, **or one of the bodies designated pursuant to paragraph 2**, shall coordinate the collection of data referred to in Article 44, and analyse and disseminate its results.
4. ~~It~~ **Member States** shall ~~be responsible for coordinating~~ **ensure that** policies are **coordinated** at the central, ~~and/or~~ regional and local levels.

*Article 40*

**Multi-agency coordination and cooperation**

1. Member States shall put in place appropriate mechanisms, **in accordance with national law or practice**, to ensure effective coordination and cooperation, ~~at the national level~~, of relevant authorities, agencies and bodies, including **ombudsmen**, local and regional authorities, law enforcement ~~agencies~~, the judiciary, **with due respect for judicial independence** ~~public prosecutors~~, support services ~~providers~~ as well as non-governmental organisations, social services, including child protection or welfare authorities, education and healthcare providers, social partners, without prejudice to their autonomy, and other relevant organisations and entities, **in protecting and supporting victims from violence against women and domestic violence**.
2. Such mechanisms shall in particular pertain, **where appropriate**, to the individual assessments under Articles 18 and 19, and the provision of protection and support measures under Article 21 and Chapter 4, the **non-binding** ~~guidelines for law enforcement and judicial authorities~~ under Article 23, and in the trainings for professionals as referred to in Article 37.

## *Article 41*

### **Cooperation with non-governmental organisations**

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.

## *Article 42*

### **Cooperation between hosting ~~intermediary~~ service providers**

Member States shall **encourage self-regulatory cooperation between hosting service providers, such as codes of conduct, and raise awareness** ~~facilitate the taking of~~ **on** self-regulatory measures **which may be adopted** by hosting service providers of intermediary services in connection ~~with~~ **to** this Directive, in particular to reinforce ~~internal~~ mechanisms **that they implement** to tackle the online material referred to in Article 25(1) and to improve the training of their employees concerned on preventing, assisting and supporting the victims of the offences referred to therein.

## *Article 43*

### **Union level cooperation**

Member States shall take appropriate action to facilitate cooperation between each other to improve the implementation of this Directive. Such cooperation shall aim at least at:

- (a) exchanging **information, such as best practices, with relevant Union agencies, within their corresponding mandates**, and consulting each other in individual cases, ~~including through Eurojust and the European Judicial Network in criminal matters;~~

- (b) ~~exchanging information and best practices with relevant Union agencies;~~
- (e) **and** providing assistance to Union networks working on matters directly relevant to violence against women and domestic violence.

*Article 44*

**Data collection and research**

1. Member States shall have a system in place for the collection, development, production and dissemination of statistics on violence against women or domestic violence; ~~including the forms of violence referred to in Articles 5 to 10.~~
2. The statistics shall, **as a minimum**, include the ~~following~~ **existing data, available at a central level**, disaggregated by ~~sex, age of the victim and of the offender, relationship between the victim and the offender and type of offence:~~
  - (a) ~~the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime;~~
  - (b) ~~the annual number of such victims of reported offences, of persons prosecuted for~~ **and convicted convictions** of such forms of violence, obtained from national administrative sources.

3. Member States shall **endeavour to** conduct a population-based surveys **at regular intervals to** ~~every 5 years using the harmonised methodology of the Commission (Eurostat) to gather the data referred to in paragraph 2, point (a), and on this basis assess the prevalence of and trends in all forms of violence covered by this Directive. Member States shall transmit those data to the Commission (Eurostat) [3 years after the entry into force of the directive] at the latest.~~
4. In order to ensure administrative data comparability across the Union, Member States shall **endeavour to** collect administrative data on the basis of common disaggregations developed in cooperation with and according to the **standards methodology** developed by the European Institute for Gender Equality in accordance with paragraph 5. They shall transmit this data to the European Institute for Gender Equality on a yearly basis. The transmitted data shall not contain personal data.
5. The European Institute for Gender Equality shall support Member States in the data gathering referred to in paragraph 2, ~~point (b),~~ including by establishing common standards **taking into account the requirements set out in paragraph 2** ~~on counting units, counting rules, common disaggregations, reporting formats, and on the classification of criminal offences.~~
6. The Member States shall make the collected statistics available to the public. The statistics shall not contain personal data.

~~7. The Member States shall support research on root causes, effects, incidences and conviction rates of the forms of violence covered by this Directive.~~

## CHAPTER 7

### FINAL PROVISIONS

#### *Article 45*

#### **Amendment to Directive 2011/93/EU**

In Article 3 of Directive 2011/93/EU, the following paragraphs are added:

~~“7. Member States shall ensure that the following intentional conduct shall be punishable by a maximum term of imprisonment of at least 12 years:~~

~~(a) engaging with a child below the age of sexual consent in any act of vaginal, anal or oral penetration of a sexual nature, with any bodily part or object;~~

~~(b) causing a child below the age of sexual consent to engage with another person in any act of vaginal, anal or oral penetration of a sexual nature, with any bodily part or object.~~

~~8. Where the child is above the age of sexual consent and does not consent to the act, Member States shall ensure that the conduct set out in paragraph 7 is punishable by a maximum term of imprisonment of at least 10 years.~~

~~9. For the purpose of paragraph 8, Member States shall ensure that a non-consensual act is understood as an act which is performed without the child's consent given voluntarily, or where the child is unable to form a free will due to the presence of circumstances referred to in paragraph 5, including the child's physical or mental condition such as a state of unconsciousness, intoxication, sleep, illness or bodily injury.~~

~~Consent can be withdrawn at any moment during the act. The absence of consent cannot be refuted exclusively by the child's silence, verbal or physical non-resistance or past sexual conduct.<sup>22</sup>~~

#### *Article 46*

##### **Level of protection**

~~This Directive establishes minimum rules. Member States may introduce or maintain provisions with higher standards, including such which provide a higher level of protection and support for victims.~~

#### *Article 47*

##### **Reporting and review**

1. By [*seven years after the entry into force of this Directive*] at the latest, Member States shall communicate to the Commission ~~all relevant~~ **available** information concerning the application of this Directive necessary for the Commission to draw up a report on the application of this Directive.
2. On the basis of the information provided by Member States pursuant to paragraph 1, the Commission shall submit to the European Parliament and the Council a report in which it reviews the application of this Directive.

*Article 48*

**Relationship with other Union acts**

1. This Directive shall not affect the application of the following legal acts:
  - (a) Directive 2011/36/EU,
  - (b) Directive 2011/93/EU,
  - (c) Directive 2011/99/EU,
  - (d) Directive 2012/29/EU,
  - (e) Regulation (EU) No 606/2013,
  - (f) [~~Regulation (EU) 2022/2065.../... on a Single Market for Digital Services~~].
2. The specific measures of prevention, protection of and support to victims under this Directive shall apply in addition to measures laid down in Directives 2011/36/EU, 2011/93/EU and 2012/29/EU.

**Article 48 bis**

**Freedom of the press and the freedom of expression in other media**

**This Directive shall not affect special liability regimes relating to fundamental principles on to the freedom of the press and the freedom of expression in protected media which exist in Member States at the time of adoption of this Directive, provided these provisions can be applied in full compliance with the Charter.**



## Article 49

### **Non-regression clause**

~~Nothing in this Directive shall be construed as lowering, limiting or derogating from any of the rights and procedural safeguards that are guaranteed under the law of any Member State which provides a higher level of protection. Member States shall not lower that higher level of protection guaranteed at the time of entry into force of this Directive.~~ **The implementation of this Directive shall not constitute grounds for justifying a reduction in the level of protection of victims. The prohibition of such a reduction in the level of protection shall be without prejudice to the right of Member States to lay down, in light of changing circumstances, legislative or regulatory arrangements other than those in force on the date of entry into force of this Directive, provided that the minimum requirements laid down in this Directive are complied with.**

## Article 50

### **Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [~~two~~ **three** years after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 51*

**Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

*Article 52*

**Addressees**

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Strasbourg,

*For the European Parliament*

*The President*

*For the Council*

*The President*

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