

EU contribution to the report on prostitution and violence against women and girls

Introduction

The European Union would like to thank OHCHR for the call for input to the report of the Special Rapporteur on violence against women and girls to the Human Rights Council on prostitution and violence against women and girls. The contribution from the European Union is comprised of both EU internal and EU external actions and policies.

For more details on specific activities we refer to EU Member States, given the area and division of competence between the European Union and its Member States.

EU's contribution

In its internal and external sphere, the EU is committed to ambitious gender equality policies, and emphasises gender mainstreaming and targeted action. On 5 March 2020, the European Commission published "A Union of Equality: Gender Equality Strategy 2020-2025". The Gender Equality Strategy aims at "achieving a gender equal Europe where gender-based violence, discrimination and structural inequality between women and men are a thing of the past". The Strategy pursues a dual approach of gender mainstreaming combined with targeted actions, and intersectionality is a horizontal principle for its implementation. The Commission therefore commits to integrating a gender perspective in all major Commission initiatives during the current mandate.

In the external sphere, notably through the EU Action Plan on Human Rights and Democracy (2020-2024) the EU Gender Action Plan III (2021-2025, implementation period extended until 2027¹), and the EU Action Plan on Women, Peace and Security 2019-2024 the EU also commits to tackling sexual and gender-based violence, again with intersectionality being at the core of these policy frameworks. The EU has taken ambitious view of mainstreaming gender and addressing SGBV, and been vocal about this position in multilateral fora such as the UN Commission on the Status of Women.

The EU-UN Spotlight initiative is a key commitment to prevent and end sexual and gender-based violence, targeting those in most vulnerable situations. The Spotlight initiative has provided valuable information about heightened vulnerabilities and risks across the globe and continues to target women and girls in most vulnerable and marginalised situations.

Anti-Trafficking Directive

The Commission's progress reports have highlighted the sector of prostitution as a high-risk sector for trafficking for sexual exploitation. The Anti-trafficking Directive criminalises the exploitation of the prostitution of others and other forms of sexual exploitation as a purpose of the offences of trafficking in human beings. In its proposal for a modification of the Anti-trafficking Directive, the Commission makes it mandatory for Member States to criminalise the use of services which are the objects of exploitation as referred to in Article 2 of the directive, including the exploitation of the prostitution of others and other forms of sexual exploitation, with the knowledge that the person is a victim of trafficking in human beings. The proposed modifications also make references to offences committed or facilitated through information and communication technologies, including internet and social media. The modification of the Anti-trafficking Directive is currently under negotiations.

¹ https://ec.europa.eu/commission/presscorner/detail/en/IP_23_5858

In December 2022, the Commission adopted the [evaluation](#) of the EU Anti-trafficking Directive and [proposal](#) for a revision of the Directive, which was one of the key actions under the [EU strategy on Combatting Trafficking in Human Beings 2021-2025](#), together with the [fourth report on the fight against trafficking in human beings](#), which presents the main statistical trends for 2019-2020 and challenges. On 9 February 2023, Eurostat published the [2021 statistics on trafficking in human beings](#). The data on trafficking in human beings highlights the gender dimension of trafficking in human beings. In 2021, women and girls represented 64% of all registered victims of trafficking in human beings, all forms of exploitation included. Moreover, trafficking for the purpose of sexual exploitation represented 55.7% of the cases registered within the EU. 90% of the registered victims of trafficking for sexual exploitation were women and girls.

The gender specificity of trafficking in human beings is recognised both in the Anti-trafficking Directive and in the EU Strategy. The EU Strategy notably acknowledges trafficking for sexual exploitation as a form of gender-based violence.

Violence against women and domestic violence legislative proposal

Moreover, the specific prevention, protection and support measures envisaged in the Commission's proposal for a Directive on combating violence against women and domestic violence complement the measures laid down in the Anti-trafficking Directive as described above.

On 8 March 2022, international women's day, the European Commission adopted a **proposal for a directive on combating violence against women and domestic violence**. With this proposal, the Commission followed up on one of its key policy priorities and on the Commission President's promise, in her political guidelines, to ensure the EU does everything it can to combat violence against women and domestic violence, protect victims and punish offenders.

The overall objectives of the proposal are i) to ensure that the rights of victims of violence against women and domestic violence are properly safeguarded and to ii) reduce the prevalence of this type of violence across the Union. This is the first Union instrument to introduce a comprehensive set of measures to ensure these goals. This proposal, once adopted, will implement the standards of the Istanbul Convention in EU law, in areas of EU competence.

The proposal includes EU-level criminalisation in the area of sexual exploitation of women and children and computer crime.

It also establishes targeted measures in the areas of prevention of violence, protection and support of victims, access to justice and coordination and cooperation between relevant authorities. These measures will benefit not only victims of the crimes defined at EU level in the Directive, but victims of any form of violence against women or domestic violence as soon as the conduct is criminalised under Union law (e.g. victims of trafficking in human beings or of child sexual abuse) or national law (e.g. victims of sexual harassment offline).

Key elements of the proposal include:

1. *Criminalisation of rape, female genital mutilation, and cyber violence*

The Commission is proposing EU definition of the following offences across the EU: (i) rape based on the lack of consent; (ii) Female Genital Mutilation (FGM); (iii) cyber stalking; (iv) non-consensual sharing of intimate images; (v) cyber harassment; and (vi) cyber incitement to

hatred or violence ('misogynous hate speech).

The proposal complements the Digital Services Act (DSA) by including minimum rules for offences of cyber violence, thereby defining illegal online content, and allowing victims to apply for judicial orders to be taken in interim proceedings to have relevant online content removed quickly.

2. *Safe reporting and risk assessment procedures*

The proposal tackles the underreporting of violence against women that still exists today. It introduces new ways to report acts of violence, which are gender-sensitive, safer, easier, more accessible - including online - and child-friendly. Confidentiality regimes will not hinder certain professionals, such as healthcare professionals, to report reasonable suspicions of an imminent risk of physical harm to the victim. Authorities would be required to conduct an individual assessment of the victim's protection needs, in light of the risk posed by the offender. Such assessment would need to be initiated upon the first contact of the victim with the authorities, so that immediate (or longer term) protection measures are provided (e.g. emergency barring or protection orders).

3. *Respect for victims' privacy in judicial proceedings and right to compensation*

The Commission is proposing that evidence or questions relating to the victims' private life, especially their sexual history, can only be used when strictly necessary. Victims would have the right to claim full compensation from offenders for damages, including the costs of healthcare, support services, lost income, physical and psychological harm. They should also be able to obtain compensation in the course of criminal proceedings.

4. *Support for victims*

To address the very specific needs of victims of sexual violence, the Commission is proposing that Member States provide dedicated services including rape crisis centres. Victims at an increased risk of violence, including women fleeing armed conflict, should receive targeted support from Member States. National helpline to support victims of violence against women and domestic violence should be made available 24/7[365], and be free of charge. When a victim is a child authorities would provide age-appropriate support in the best interests of the child. Victims of cyber violence would also be entitled to adequate support, including advice on how to seek legal help and how to remove online content. In case of sexual harassment at work, external counselling services would be made available for victims and employers.

5. *Better coordination and cooperation*

Member States would exchange best practices and consult each other in criminal cases, including via Eurojust and the European Judicial Network. To track progress and monitor the situation in all Member States, the Commission is also proposing an obligation on Member States to collect data on violence against women and domestic violence to feed into an EU-wide survey every five years.

The proposed Directive is currently being negotiated by the Parliament and the Council with a view to adopting it in the course of February 2024.

