



Women Against Violence Europe (WAVE) *public statement on the proposal for a* Directive on Combating Violence Against Women and Domestic Violence

November 2022

On 8 March 2022, the European Commission published a [proposal for an EU Directive](#) on combating violence against women (VAW) and domestic violence (DV), aiming to support and protect victims/survivors, guarantee their access to justice, and hold offenders to account. The proposal seeks to create a dedicated EU legal instrument to mobilise all Member States in developing a coordinated approach to safeguarding women and children from gender-based and domestic violence and to harmonise EU law with established international standards.

The Directive, which was a central demand of women's organisations and women's specialist services, is a critical step toward achieving gender equality in Europe and is especially necessary to move this area forward in the Member States that have not yet ratified the Istanbul Convention. By proposing minimum standards for prevention, prosecution, protection, and integrated policies to fight gender-based violence (GVB) against women and girls, this Directive can help improve national legal systems' response to VAW across the EU.

Despite this, as feminist civil society practitioners and direct and indirect respondents to GBV against women and girls, the **Women Against Violence Europe (WAVE) Network – representing more than 1,600 Women Specialist Services in 46 European countries**¹- considers that the proposed draft Directive falls short of expectations on various regards such as the absence of a rights-based approach, including the lack of recognition of GVB against women and girls as a human rights violation; the reactive quality of the proposed prevention measures, entirely (dis)missing primary prevention; an insufficient understanding of the differences between general victim support services and specialist support services and the role of gender-specific and gender-informed support; the omission of the interconnection between violence against children and violence against women in the context of domestic violence, and the effects of intimate partner violence on children; and last but not least, the lack of recognition of the crucial role feminist civil society organisations play in preventing and addressing VAW and the need for Member States to effectively collaborate with them when implementing the proposed Directive.

The aforementioned points are subsequently presented, as the main demands, the WAVE Network has put forward to the European Parliament to strengthen the legal text of the Directive. Additionally, WAVE submitted a text with detailed suggested amendments -article by article- to the proposal, exemplifying our commitment to ending all forms of VAW and DV, while ensuring that the voice of feminist civil society is heard and actively included in the proposed EU Directive.

¹ WAVE members are mainly women's specialist services such as shelters, centres, helplines, and prevention services, as well as national networks of such services, that directly support women and girls experiencing gender-based violence.



1. Gender-based Violence against Women and Girls is a Human Rights Violation. Make the Directive a rights-based legal instrument.

The current text of the Directive proposal falls behind international standards² and those of the Istanbul Convention concerning its understanding of violence and harm, by **not recognizing gender-based violence against women and girls as a human rights violation** and presenting victimization as a harm that is consequential to a crime. This approach deviates from the recognition that a human rights violation, such as gender-based violence against women is, by its very nature, a violent offence, and a form of victimization. Instead, the proposed Directive introduces harm as something that can, but not necessarily does, follow a crime. This effectively means the proposal detaches the victimization from the crime which has consequences concerning the criminal proceedings the Directive itself is trying to regulate in the Member States.

The articles in the proposed Directive concerning criminal proceedings currently do not grant women and girls, victims of VAW, a single right in criminal proceedings. This contrasts with the Victims' Rights Directive which recognizes that victims are entitled to effective remedies such as fair trial rights, victims' support, and victims' protection measures. Although the proposed Directive does mention that it will be harmonized with the Victim's Rights Directive and that all gaps in the current proposal will be filled by the former, WAVE considers that the current Directive must actively recognize the rights of gender-based violence victims.

Concerning the potential of the draft Directive to change social norms, the criminal law focus of the instrument also results insufficient, as it disregards the fact that GBV against women and girls does not take place in a social void, but is rooted in long-standing culturally accepted norms, behaviours, and negative stereotypes, which must be structurally addressed for effective prevention and tackling of violence to take place.

From our perspective, **a criminal approach to ending GBV against women and girls is blind to diversity**, and the complex situations leading to GBV against women and girls. In this regard, it is important to acknowledge that many of the institutions and professionals, who should prevent, respond and tackle this type of violence, are failing to fulfil their mandates, among other reasons due to racist, classist, ableist and heteronormative biases among e.g. the police and the judiciary. Within a legal framework focused on criminalization, these biases can cause significant harm as they disproportionately target underprivileged communities, while privileged perpetrators continue to walk free. Migrant and undocumented women, poor women, women of colour, women with disabilities and women from marginalised communities (who, together, make up a significant part of the population) have less access to the police and justice systems, and therefore cannot rely on criminalisation to protect them against GBV.

Only adopting **a rights-based approach** will effectively protect the rights of women and girls victims of GBV, as well as the rights of those whose lived experiences reside in the above-mentioned intersections. This will facilitate their full access to the support they need. Consequently, this approach will compel the necessary action from the Member States to tackle the harmful socially constructed gender roles and stereotypes that make this type of violence possible.

² A criminal approach to addressing GBV is incoherent with international conventions such as the UN Convention on the Rights of the Child, and the UN Convention on the Rights of People with Disabilities. It is also at odds with key European Strategies such as the Gender Equality Strategy, the European Youth, and the European Disability Strategy.



2. Put the prevention of violence against women and girls at the centre and forefront of the EU Directive

Violence against women and girls is a structural problem and a major obstacle to gender equality and women's rights. Throughout their life cycle, from pre-birth, infancy to childhood, in their teen years, adulthood and during their elderly years, women and girls face different forms of violence that impact their ability to fully develop their potential. The cumulative effect of direct and indirect forms of physical and psychological violence, next to the violence they face due to intersecting oppressions linked to gender, race, ethnicity, sexual orientation, disability, administrative status, and socio-economic class has a long-lasting impact on women's and girls' lives, by exacerbating inequalities and leaving them even more vulnerable to the consequences of GBV. This system of oppression must be deconstructed at its roots. To do so, **a comprehensive model of violence prevention must be adopted**, and by violence prevention we mean, acting before the violence occurs.

The current draft Directive treats prevention as an add-on, an afterthought to criminalisation, and it does not consider it as a core element of this legal framework, as it should be. From a human rights perspective, letting violence occur to later address it, effectively means that as a society, we have already failed.

WAVE urges the members of the European Parliament and of national governments to put prevention at the centre and forefront of the EU Directive and to adopt a three-pronged approach including:

- **Primary prevention**, i.e. reducing vulnerability before violence occurs so that it will not occur;
- **Secondary prevention**, i.e. identifying violence and intervening to disrupt it as early as possible;
- **Tertiary prevention**, i.e. long-term intervention to reduce the negative impact of violence and prevent reoffending and re-victimisation

In this regard, the World Health Organisation (WHO) has established guiding principles for effective violence prevention: it should be evidence-based, apply an ecological human rights approach over the life course, and be grounded in gender equality. The model includes, as part of primary prevention, tackling the root causes by dismantling hierarchical constructions of masculinity and femininity predicated on the control of women, and eliminating the structural factors that support inequalities (economic and gender-based), as well as taking hate speech against women seriously. For secondary prevention, it proposes programs to prevent the first perpetration of VAW to occur, including educational programs tailored to the local context to challenge belief systems, including the transformation of harmful gender norms and attitudes towards GBV.

Prison, as it is today, does not make violent perpetrators less violent and is also not working as a deterrent. A 2016 Belgian review of country-wide domestic violence cases showed that criminalisation had no significant impact on reoffending rates (Vannesse 2016). Furthermore, although national laws on gender-based violence against women and girls have been in place for several decades, they have not had any impact on victimisation rates. Hence, a European Directive reducing preventing gender-based violence against women and girls mostly to repressive measures, will fall seriously short of the goal to end violence and will undo existing higher standards of rights and services in some EU Member States.

WAVE calls on the EU Parliament to consider evidence-based research showing how repression has a poor cost-benefit ratio. A 2010 French study (Nectoux et al 2010) estimates that every 1 Euro invested in preventing gender-based violence against women and girls will lead to 87 Euros in savings, of which



9.5% apply to police and justice interventions, 19.5% to health care and 5% to support services and social benefits for survivors. Especially in times of economic crisis due to the pandemic, soaring inflation, and the multifold consequences of the war in Ukraine, it is important to allocate scarce resources where they can have the best results and that is in prevention.

3. Build on the decades-long feminist and gender-responsive expertise of Women Specialist Services

Women's Specialist Services (WSS) is a collective term used to define feminist services that support women and their children experiencing gender-based violence. These services include but are not limited to women's support centres, shelters, helplines, rape crisis or sexual violence referral centres, and primary prevention services. WSS empower and support women and girls throughout the cycle of violence by putting their needs at the centre of all interventions, applying an intersectional approach, and working together with them, recognizing their agency. They provide holistic services in the short and long term, such as safe shelter, psychosocial support, legal advice and assistance, and economic empowerment, and dismantle the barriers women and girls experience when seeking access to support, create a safe environment, and overall instil hope by ensuring the healing process is empowering for survivors.

The recognition of the role of women's organisations and women's specialist services in the text of the Directive is weak at best. The chapter on victims' support does not specifically distinguish generic victim support services, and women's specialist support services, leading to an **inaccurate interpretation of the comprehensive support options needed for victims of VAW and DV**. Based on over 40 years of feminist practice and expertise, developing methodologies of intervention that recognize the complex gendered dynamics of VAW and DV and the specific needs of women and their children seeking support, WAVE urges the European Parliament to define separate provisions for general support services and specialist support services to safeguard the specific mission, approach, and quality standards of each service. **WSS provide holistic, women-centred, gender-specific, and trauma-informed support** to women and girls experiencing gender-based violence, whether or not they choose to engage with state services. They dismantle the barriers women and girls experience when seeking access to support, create a safe environment, and overall instil hope by ensuring the healing process is empowering for survivors, thus, WSS are the best-equipped specialist support for victims of VAW and DV. Therefore, the provisions regarding WSS in the draft Directive must contemplate the need for cooperation, and coordination between services, including clear referral pathways between generic victim support services and women specialist support services, within a comprehensive framework of support.

Furthermore, the Directive must recognize the role of WSS and **feminist civil society as key partners in the implementation of this Directive**. In this regard, the current text of the Directive deviates from the standards defined by the Istanbul Convention, which expressively includes civil society as active implementers of its provisions, recognizing the crucial role of women's organisations and women's specialist services in responding to the specific experiences of women and girls. Independent expert bodies, such as GREVIO and CEDAW Committee, recognize the important role women's NGOs and feminist civil society play in developing policy documents and legislation, as well as tackling VAW and DV through a multi-agency and comprehensive approach. Moreover, countries where there is a continuous and meaningful exchange between state agencies and women's NGOs providing specialist support services, have an advantage in pioneering effective legislation on VAW and DV.



WAVE urges the development of a dedicated funding instrument and a **gender budgeting framework**, (i.e. regranting mechanisms) to ensure the implementation of the Directive. Member States shall actively cooperate with feminist civil society and provide sufficient funding for women's specialist support services, avoiding budget and competence competition between specialist support services and general victim support services.

WAVEs definition of Women's Specialist Services (WSS):

Women's specialist services is a collective term used to define feminist services that support women and their children experiencing gender-based violence. These services include but are not limited to women's support centres, shelters, helplines, rape crisis or sexual violence referral centres, and primary prevention services.

WSS empower and support women and girls throughout the cycle of violence by putting their needs at the centre of all interventions, applying an intersectional approach, and working together with them, recognizing their agency. WSS are typically run by non-governmental feminist organisations that aim to advance women's and girls' human rights to enjoy a life free from all forms of violence.

WSS have for decades been agents of social, cultural, and political change promoting women's equality in the wider society and challenging the patriarchal system which is the root cause of violence against women and girls. Not only do WSS provide vital services to women and their children, but they also serve as a laboratory for continuous innovation and development of practices and are the first to identify gaps in legislation and policy that affect women and areas for improvement. They are, therefore, vital partners to governments, policymakers, as well as to all other stakeholders working to end violence against women.

4. The continuum of violence: violence against women and inappropriate child custody proceedings

Chapter 4 on *Victim Support* of the proposed EU Directive mentions in *Article 33. Support for child victims*, and *Article 34. Safety of children*, the assistance Member States should provide for child victims to ensure their safety. From WAVE's perspective, it is of high importance to **emphasize the interrelation of violence against children and violence against women in the context of domestic violence**, and the effects of intimate partner violence on children. Hence, we call on the European Parliament and national decision-makers to acknowledge the relationship between victims, perpetrators, children, and their wider social environment and amend the articles relating to child custody proceedings.

In the context of custody proceedings and visitation rights in cases of domestic violence in the EU, significant shortcomings have been identified in legal proceedings where bias in defining the "*best interest of the child*" are very common. More precisely, state parties tend to prioritise maintaining contact with both parents at all costs, regardless of the violence children have witnessed. Disregarding the experiences and needs of children who suffer physical and psychological harm is a serious breach of children's fundamental rights. The right to live in a safe and peaceful environment should be directly linked with women's right to live free from violence.



In this regard, the Istanbul Convention -IC- in its *Article 31. Custody, Visitation Rights and Safety* aims to ensure that judicial authorities do not issue contact orders without considering incidents of violence covered by the scope of the Convention. The Explanatory Report to the Convention further emphasizes that it is indeed a complex issue to guarantee the rights and safety of victims and witnesses while considering the parental rights of the perpetrator, particularly in cases of domestic violence, where complying with contact orders can present a serious safety risk for the children but also the mother, as it often implies meeting the perpetrator face-to-face.

WAVE urges the European Parliament to weigh up the implications of the proposed Article 34 in the Directive considering the findings of the GREVIO mid-term review³. Specifically, the fact that, according to the review, there are common gaps, and challenges in protecting children and their mothers from domestic violence, concretely:

- the lack of understanding of professionals about the harm children experiences as indirect and direct victims of violence.
- domestic violence is seen as a ‘mere dispute’, minimising the harmful effects violence has on the mother and her children.
- the non-recognition of violence which leads to secondary victimisation of victims/survivors in legal proceedings.
- the construction of a new non-scientifically proven classification of mental disorder so-called ‘Parental Alienation Syndrome’ (PAS), also known as ‘Parental Alienation’ –(PA), which generally refers to the presumption that a child’s fear or rejection of one parent (typically the non-custodial and violent parent) stems from the malevolent influence of the preferred (typically custodial and non-violent) parent. A term for which there is no scientific evidence, and which has actually been rejected by the scientific community⁴.

These challenges have led to the continued abuse of women victims and their children by the perpetrator, and to blaming of the mother by professionals (such as social workers and the police), putting into question her parental skills, dismissing her opinions, and disregarding the violence to which she and the children are subjected⁵. Such claims make her paradoxically responsible for “failing to protect” her children with an unacceptable reversal of responsibility for the abuse and negative judgement of her parental capacity.

WAVE, therefore, urges the European Parliament to include, as a preventive measure, an **explicit provision in the Directive establishing the link between VAW and child custody as well as visitation rights**. Likewise, we urge to include as part of the protection, support and prevention measures, a provision obliging the Member States to ensure that violence by an intimate partner is a decisive factor when determining custody and visitation rights. A request that has also been highlighted in the European Parliament Resolution of 6 October 2021 on the impact of intimate partner violence and custody rights on women and children (2019/2166(INI))⁶ by stressing the failure of states to address intimate partner violence in custody rights and visitation decisions, regarding it as a violation by ‘neglect of the human rights to life, to a life without violence, and healthy development of women and children’⁷.

³ February 2022, mid-term Horizontal Review of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) baseline evaluation report on the implementation of Article 31 of the IC, covering findings from 17 countries: <https://rm.coe.int/prems-010522-gbr-grevio-mid-term-horizontal-review-rev-february-2022/1680a58499>.

⁴ <http://dx.doi.org/10.1080/15379418.2016.1217758>

⁵ Scientific studies outline that the ‘Parental Alienation Syndrome’ lacks a universal clinical or scientific definition.

⁶ https://www.europarl.europa.eu/doceo/document/TA-9-2021-0406_EN.html

⁷ Ibid.



5. Include feminist civil society as implementing partners of the Directive

In closing, the WAVE Network reiterates its call to the European Parliament to strengthen the text of the Directive and enhance its implementation by adopting a whole-of-society approach to holistically address GBV against women and girls. Feminist organisations can contribute to this aim, through their long-standing expertise, by providing concrete examples of promising practices for the effective tackling and prevention of GBV against women and girls, and the provision of qualitative and quantitative data on the impact and dynamics of this type of violence, and its intersections with other structural inequalities.

In the context of the EU Directive, a whole-of-society approach will require a stronger collaboration between Member States, state institutions and civil society organisations including feminist organizations, than what is currently proposed under *Article 41 - Cooperation with non-governmental organizations*, as well as more specific measures under *Chapter 5 - Prevention*. WAVE calls on the European Parliament to **include feminist civil society as equal partners in the implementation** of this Directive and to develop a stronger **multi-agency implementation framework**. This gender-sensitive implementation framework shall name the concrete mechanisms through which the coordination among relevant national and local implementing stakeholders of the Directive will take place, including promising practices for improved cooperation between national authorities and feminist civil society organizations. We strongly urge the **creation of an Advisory Body** made up of women's NGOs, grassroots women's organisations, specialist support services, and women's funds to advise on the effective implementation of the Directive.

Achieving a sustainable, long-term strategy that builds a Europe free of GBV against women and girls requires the active involvement of women's CSOs in the discussion. Hence, feminist CSOs invite relevant stakeholders to engage in dialogue with us, to build on our gender-responsive expertise to strengthen the Directive, exchange perspectives on promising practices for the tackling and prevention of GBV and identify adequate structures for data collection, capacity-building, and funding of women's specialist services.

WOMEN AGAINST VIOLENCE EUROPE

WAVE Network and European Info Centre against Violence

Bacherplatz 10 / 6 | 1050 Vienna, Austria

Phone: +43 (0)1 548 2720 | Fax: +43 (0)1 548 2720 27

E-mail: office@wave-network.org | www.wave-network.org

ZVR: 601608559