



# WAVE Policy Paper

## On The European Commission's Initiative: A EU-wide Directive on Male Violence against Women and Girls

Vienna, November 2021

### Introduction

Male violence against women and girls (MVAWG), including domestic violence, is one of the most serious forms of gender-based violations of human rights. Such violence as emphasized by international instruments, such as CEDAW Convention<sup>1</sup> and Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention),<sup>2</sup> is a manifestation of historically unequal power relations between women and men, preventing the full advancement of women's human rights. Therefore, MVAWG is a grievous symptom of gender inequality, deeply rooted in patriarchal norms.

Male violence against women and girls is a particularly destructive **form of discrimination against women**, as highlighted in international legislation (such as the Istanbul Convention, CEDAW Convention among others) and by the European Court of Human Rights (in landmark decisions such as *Opuz vs Turkey*)<sup>3</sup>. The jurisprudence of the European Court emphasizes that gender-based violence constitutes a **form of discrimination against women**, and states have a **positive obligation to protect the right to life of women**. Upholding such a positive obligation of protecting women from violence entails furthermore states' political **commitment to adhere to international and European instruments that protect women and their children from violence, such as the 'Istanbul Convention'**. States and their justice systems equally have an ethical obligation to hold perpetrators accountable for their behaviour, in order to work towards tackling current and prevent future violence.

According to UN Women research carried out in 2020<sup>4</sup>, even before the COVID-19 pandemic, domestic violence was already one of the greatest global human rights violations. In 2019, **243 million women and girls (aged 15-49) across the world have been subjected to sexual or physical violence by an intimate partner**. The above-mentioned report also noted that: "As the COVID-19 pandemic continues, **the number of women experiencing domestic violence has grown with multiple impacts on women's wellbeing, their sexual and reproductive health, their mental health, and their ability to participate and lead in the recovery of our societies and economy**. Wide under-reporting of domestic and other forms of violence has previously made response and data gathering a challenge, **with less than 40 per cent of women who experience violence seeking help of any sort or reporting the crime. Less than 10 percent of those women seeking help go to the police.**" It is important to recognise that some group of women such as black and minoritized women, migrant women, disabled women and other

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<sup>1</sup><https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>

<sup>2</sup><https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=210>

<sup>3</sup>*Opuz v. Turkey*, No. 33401/02, ECHR 2009.

<sup>4</sup><https://www.unwomen.org/en/digital-library/publications/2020/04/series-evaw-covid-19-briefs>



groups of women face multiple barriers when accessing rights, support and protections which create further disadvantages for them.

It is undeniable that male violence against women has been greatly exacerbated by the global pandemic. However, pandemics of this nature do not cause male violence against women per se, they only exacerbate and highlight pre-existing inequalities and human rights violations. The current crisis has drawn public attention as never before to the ongoing pandemic of male violence against women and girls, representing a critical turning point and also opportunity in our society, where the joint efforts of civil society organisations, national stakeholders and EU institutions are needed.

### **The need for harmonised legislation on violence against women and girls in the European Union**

**The European Union currently has no specific legally binding instruments to adequately prevent and end male violence against women and girls (MVAWG)**. Though male violence against women is high on the EU agenda, the issue still persists across all EU Member States, as highlighted in the 2014 FRA EU-wide survey: 33% of women indicated having suffered physical and/or sexual violence, 22% intimate partner violence, 18% stalking and 55% have experienced sexual harassment.<sup>5</sup> Such numbers have only been on the rise since the start of the COVID-19 pandemic.

Despite the harm male violence against women causes to society as a whole, **the EU's anti-discrimination legislation does not recognise MVAWG as an extreme form of discrimination**, therefore the legislation is not in alignment with the jurisprudence of the European Court of Human Rights.

**Member States vary widely in their understanding, response to and treatment of MVAWG**. While 21 Member States have ratified the Istanbul Convention and are legally bound to its provision, including criminalising different forms of MVAWG, gaps in implementation have still been identified in **all** ratifying countries. In non-ratifying countries the situation is much more difficult, since these countries are not even accountable to comply with the Convention's provisions.

As highlighted in the 2017 Eurobarometer survey,<sup>6</sup> **gender equality ranks high as a priority for EU citizens**: the vast majority of respondents stated that promoting gender equality is highly relevant to them, to society and to the economy. EU citizens wish the EU to act more on gender equality and preventing and fighting MVAWG is a crucial part of this struggle.

The **European Commission Gender Equality Strategy 2020 - 2025<sup>7</sup> recognises gender equality as a core value of the EU**. However, no Member State has achieved full gender equality and progress has been acknowledged as being slow in the EU: "Member States scored on average 67.5 out of 100 in the EU Gender Equality Index 2019,<sup>8</sup> a score which has improved by just 5.4% since 2005."

Alarming, WAVE furthermore highlights that in Europe the **fight against male violence against women and girls**, in particular when it comes to the standards enshrined in the Istanbul Convention, **is actively being hindered by conservative political forces**. Although a majority of countries in the European Union have made significant changes in their legislation, WAVE notes that the EU and its member states currently lack a harmonised approach that aligns with the standards from the Istanbul Convention, that holistically addresses all forms of male violence against women and girls as well as its structural root causes.

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<sup>5</sup><https://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report>

<sup>6</sup><https://europa.eu/eurobarometer/surveys/detail/2154>

<sup>7</sup><https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0152>

<sup>8</sup><https://eige.europa.eu/gender-equality-index/2019>



As furthermore noted by the European Institute for Gender Equality (EIGE) in the 2020 Gender Equality Index,<sup>9</sup> **progress on equality between women and men has recently stalled, and it will take at least another 60 years before Europe achieves gender equality.**

Commendable efforts have been made by the EU to achieve gender equality and protect the rights of victims of violence, such as the Victims' Rights Directive<sup>10</sup> and the European Protection Order Directive.<sup>11</sup> In the meantime, a related room for improvements has already been detected, both in the latter and crucially in the implementation of existing EU norms. As for the Victim's Rights Directive, a gender-specific analysis of its provisions showed that "by and large, they do not regulate the issues of support and protection for victims of gender-based violence in an optimum manner. Furthermore, some provisions do not account for the specific nature of gender-based violence at all."<sup>12</sup> In addition, the analysis also showed that "these provisions **are too general** or do not provide any reference to instruments such as codes of conduct, in the absence of which the application of legal solutions can prove very limited."<sup>13</sup> In light of such remarks, WAVE would like to emphasize that **gender neutral policies endanger and denies access to safe women-only spaces for women experiencing violence.**<sup>14</sup> Gender neutral policies and practices hide or diminish the root causes of gender inequality and gender-based violence by placing women only services under threat and by failing to recognise the prevalence of male violence against women. Gender neutrality is a way of thinking that specifically targets women only organisations to provide access to services to both men and women without considering historically unequal power relations between men and women and produce inequality.

WAVE members' experiences show that the otherwise important EU legislation - especially with the above mentioned shortcomings and gaps - lacks a proper, effective implementation by Member States. There have already been continuous systemic problems with ensuring effective protection and support of women experiencing male violence in "normal" times. However, throughout the COVID-19 pandemic WAVE members have been stressing a particularly unreliable or non-existent response of state agencies to this crisis situation, such as the police not responding to emergency calls by women, a lack of clear guidance from governments on if and how service provision should continue, creating significant challenges for women's specialist support service in responding to the enormously increased demand for their services. Similarly, the EIGE report on the 2021 Gender Equality Index concluded: "The COVID-19 crisis has exposed and exacerbated serious pre-existing gaps in the prevention of violence against women and in adequate available victim support services."<sup>15</sup>

Protecting women's human rights and upholding related international commitments should not be left at the political discretion of a country, but rather be seen as a joint international and European obligation. Duly responding to the lack of adequate support and protection, as well as **ensuring that the rights of all women and girls do not regress any further than they already have**, should be one of the highest agenda points of the EU and its Member States.

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<sup>9</sup>[Gender Equality Index 2020: Digitalisation and the future of work | European Institute for Gender Equality \(europa.eu\)](https://eige.europa.eu/sites/default/files/documents/mh0115698enn_0.pdf)

<sup>10</sup><https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012L0029>

<sup>11</sup><https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0099>

<sup>12</sup>An analysis of the Victims' Rights Directive from a gender perspective. European Institute for Gender Equality, 2016. p. 53. Available at [https://eige.europa.eu/sites/default/files/documents/mh0115698enn\\_0.pdf](https://eige.europa.eu/sites/default/files/documents/mh0115698enn_0.pdf)

<sup>13</sup>*Ibid.*

<sup>14</sup> As highlighted in the WAVE Handbook 2020: How gender neutral policy and practice is dismantling women's specialist support services and ways to counteract it, [https://www.wave-network.org/wp-content/uploads/WAVE\\_HANDBOOK\\_200826\\_3\\_web.pdf](https://www.wave-network.org/wp-content/uploads/WAVE_HANDBOOK_200826_3_web.pdf)

<sup>15</sup>The report also warned that "For many women and their children, the lack of immediate, specialised and long-term response to gender-based and domestic violence will have longer-lasting consequences than the COVID-19 pandemic.". Gender Equality Index 2021: Health. European Institute for Gender Equality, 2021. p. 74. Available at: [https://eige.europa.eu/sites/default/files/documents/mhaf21001enn\\_002.pdf](https://eige.europa.eu/sites/default/files/documents/mhaf21001enn_002.pdf)



As **European Commission President Ursula von der Leyen** highlighted in her speech political guidelines<sup>16</sup> the EU “should do all it can to prevent domestic violence, protect victims and punish offenders”. She furthermore emphasized that if the conclusion by the EU of the Istanbul Convention will still remain blocked she would propose violence against women to be added to the list of crimes as defined in article 83(1) of the Treaty on the Functioning of the European Union, consider tabling proposals on common standards regarding the definition of certain types of violence against women, and strengthening the Victims’ Rights Directive.

In September 2021, in her speech to the European Parliament, President von der Leyen reiterated her commitments, stating that the European Commission would propose a law to combat violence against women that will include prevention, protection and effective prosecution, both offline and online, by the end of 2021. In its response, the European Parliament highlighted that such legislation should cover all forms of violence and discrimination based on gender, against women and girls as well as persons who identify as LGBTQ+. The European Parliament clarified that the provision of sufficient and adequate support services, protection and reparation measures for victims, minimum standards for law enforcements, as well as provisions to ensure that incidents of violence against women are taken into account when determining child custody and visitation rights, are moreover important aspects to be tackled by this future directive.

The European Parliament furthermore voted through **EP Resolution 2021/2035**<sup>17</sup> in favour of **listing gender-based violence as a new area of crime**, alongside other crimes that need to be combatted on a common basis, by a 427 to 119 majority. The Parliament’s resolution was adopted on the 16 September 2021<sup>18</sup>, being strongly connected to the research recently published by the European Parliament Think Tank, ‘Gender-based violence as a new area of crime listed in Article 83(1) TFEU – European added value assessment’.<sup>19</sup>

**In response to the recent proposed initiative of the European Commission and the resolution voted by the European Parliament, the WAVE Network strongly encourages the European Commission:**

- 1) **To list male violence against women and girls as a new area of crime in Article 83(1) TFEU, as this article authorises the EU to establish minimum rules in the ‘areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.’**

Listing male violence against women and girls as a new area of a crime in the TFEU, responds to the urgent needs of tackling the male violence against women pandemic. As shown in the research published by the European Added Value Assessment on EU level criminalisation of gender-based violence, quoted above, and different studies carried out in recent years: **‘the cost of violence against women exceeds those of other crimes listed in Article 83(1), such as corruption (€250 billion), organised crime (€110 billion) and illicit drug trafficking (€30 billion)’**.

EIGE estimates that the costs of **gender-based violence across the EU is €366 billion a year, ‘violence against women making up to 79% of this cost, amounting to €289 billion.’**<sup>20</sup> Therefore the nature of

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<sup>16</sup>[political-guidelines-next-commission\\_en\\_0.pdf \(europa.eu\)](#)

<sup>17</sup> [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0388\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0388_EN.html)

<sup>18</sup><https://www.europarl.europa.eu/legislative-train/theme-a-new-push-for-european-democracy/file-legislative-proposal-on-gender-based-violence>

<sup>19</sup>[Gender-based violence as a new area of crime listed in Article 83\(1\) TFEU - European added value assessment | Think Tank | European Parliament \(europa.eu\)](#)

<sup>20</sup><https://eige.europa.eu/news/gender-based-violence-costs-eu-eu366-billion-year>



this crime has a cross-border dimension, continuing to affect women's right to live free from violence on a regular basis.

Violence against women and girls is a structural issue with common drivers and impacts across all Member States. Moreover, as shown in this paper, violence against women and girls has spiked throughout the COVID-19 pandemic, leaving many women and girls alone and sometimes at risk of femicide. The current pandemic furthermore has a disproportionate impact on women who are particularly vulnerable to the negative social and economic consequences of the crisis, including black, minoritised, migrant and refugee women, women with disabilities as well as women with no or low incomes.

In the European Parliament's resolution<sup>21</sup> in 2014, the Parliament asked for gender-based violence to be included in the list of areas of serious crime for the first time. The proposed way to include VAWG as an area of crime in Article 83(1) Treaty on the Functioning of the European Union was by the Council to activate the 'passerelle clause', by adopting an unanimous decision identifying VAWG and other forms of GBV as an area of crime listed in Article 83(1) TFEU. The 'passerelle clause' allows derogation from the legislative procedures initially provided by the European treaties. **WAVE supports and adheres to the European Parliament's proposal.**

A harmonisation of legislation in the area of crime in EU states, paves the way to a better cross-border response, to improved protection of victims, strengthening other EU legislation already in place, such as the Victims' Rights Directive and the European Directive on Protection Orders.

**2) To adopt a holistic and intersectional Directive on male violence against women and girls focusing on prevention, protection and prosecution of violence, in accordance with the standards enshrined in the Istanbul Convention**

The WAVE Network understands by a 'holistic directive' on male violence against women and girls, a legislation that holistically safeguards the right of all women and girls to live a life free from violence, by establishing a comprehensive and binding framework in the area of prevention, protection and prosecution of MVAWG. An 'intersectional' directive assures that the specific needs of women and girls who remain marginalised in the struggle against gender-based violence, such as migrant and refugee women, black, minoritised, migrant and refugee women, women with disabilities as well as women with no or low incomes. WAVE recommends that these future standards should be furthermore in line with the standards enshrined in the Istanbul Convention.

Harmonised legislation in the area of prevention, protection and prosecution of violence against women is imperative for several reasons. First of all, all women and girls have the right to live free from violence and additionally victims of male violence have specific needs. Furthermore, not all forms of male violence against women are criminalised in Member States, and the response to such crimes varies from one State to another, and prevention initiatives are unfortunately limited or non-existent. As male violence against women is not equally treated in the different Member States, a victim may not be recognised as such if the act of violence experienced is not punishable in that State. Such inconsistencies lead to different levels of protection for victims across Member States, and ultimately sustain inequalities between women and men, contravening the scope of the EC Gender Equality Strategy 2020-2025.

Tackling male violence against women and girls across the EU through such legislation, is an important step towards combatting social norms perpetuating discrimination against women and widespread victim blaming attitudes among the general population. The 20-year review of the Beijing Declaration

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<sup>21</sup>[https://www.europarl.europa.eu/doceo/document/TA-7-2014-0126\\_EN.html?redirect](https://www.europarl.europa.eu/doceo/document/TA-7-2014-0126_EN.html?redirect)



and Platform for Action<sup>22</sup> prepared by UN Women in 2015, highlights that such social norms perpetuating or justifying discrimination and violence serve eventually as a major obstacle to end MVAWG. The report finds that victim blaming attitudes are widespread across all countries: data from 37 low-income countries shows that 21% of women believe that a husband is justified in beating his wife if she argues with him. Similarly, 27% of women believe that a husband is justified in beating his wife if she neglects the children.<sup>23</sup> These surveys collect data from women about their attitudes, but surveys of men also reveal high levels of acceptance of violence against women. A 2010 survey<sup>24</sup> conducted in 15 out of 27 countries of the European Union asked whether women's behaviour was a cause of domestic violence against women. The proportion of individuals who agreed with this statement averaged 52 per cent and ranged from 33 to 86% across countries.<sup>25</sup>

In 2016, a Eurobarometer survey found "a number of disparities between different Member States in the attitude towards and perception of gender-based violence".<sup>26</sup> All in all, the survey revealed that "Almost one in five respondents in the EU (17%) agrees violence against women is often provoked by the victim", while more than one in five (22%) agree that "women often make up or exaggerate claims of abuse or rape".<sup>27</sup> In case of the attitude towards sexual violence, the survey brought an alarming result, "with more than one quarter of respondents (27%) of the opinion that there are situations where sexual intercourse without consent is justified."<sup>28</sup>

3) **To establish through a future Directive on male violence against women and girls, adequate standards in the area of prevention, protection and prosecution, that are harmonised with standards enshrined in the Istanbul Convention.**

In terms of **prevention**, specific measures for the primary prevention of male violence against women and girls are necessary to not only combat violence once it has occurred and lessen its negative impact, but to stop it from happening in the first place. The WHO Global Campaign for Violence Prevention<sup>29</sup> calls for comprehensive and integrated violence prevention programming and recommends that primary prevention should be evidence-based and integrated into social and educational policies to contribute to gender equality. WAVE would like to draw the attention of the Commission to promising practices such as empowerment self-defence for women and girls and bystander intervention training that women's NGOs develop in many countries. These initiatives remain underfunded and marginalised in the wider struggle against gender-based violence and are therefore unable to develop their full preventative potential in the long-term.

When it comes to granting adequate **protection and support** for victims of violence, WAVE emphasizes the role of women's NGOs providing specialist support services for victims of violence. **Specialised women's services** have been at the forefront of combatting violence against women and girls in all its forms for decades, relentlessly offering services to affected women and girls such as: shelter provision, practical and psychological support, advocacy services when dealing with state agencies, court accompaniment, legal aid, specialist support for children, support with re-entering the work-force putting victim's needs at the core of all their work. Additionally, in most Member States, throughout

<sup>22</sup><https://www.unwomen.org/en/digital-library/publications/2015/02/beijing-synthesis-report>

<sup>23</sup>The Beijing Declaration and Platform for Action Turns 20, Summary Report, p. 21, the UN Women, (New York, 2015)

<sup>24</sup>Enrique Gracia, *Intimate Partner Violence against Women and Victim-Blaming Attitudes among Europeans*, Bulletin of the World Health Organization, vol. 92, No. 5, p. 380, the WHO, (Geneva, 2014)

<sup>25</sup>Konul Derya Gasimova, Guideline on gender-sensitive approach for adjudicating gender-based violence cases

<sup>26</sup>Special Eurobarometer 449 Report Gender-based violence. November 2016. Available at [http://publications.europa.eu/resource/cellar/f60437fd-e9db-11e6-ad7c-01aa75ed71a1.0001.01/DOC\\_1](http://publications.europa.eu/resource/cellar/f60437fd-e9db-11e6-ad7c-01aa75ed71a1.0001.01/DOC_1)

<sup>27</sup>Ibid., p. 59., and p. 58.

<sup>28</sup>Ibid., p. 68.

<sup>29</sup>WHO: Global Status Report on Violence Prevention 2014. (Geneva, 2014) and WHO: World Report on Violence and Health. (Geneva, 2002)



the COVID-19 pandemic, specialised women's services have continued to support women victims of violence, often using innovative solutions such as online counselling and referral services or SMS support. As a result, specialised services for women in some countries are at a breaking point, some WAVE members highlighting that the working day for staff members has increased by 4 hours/day, and that organisations, even in countries where the services are funded from public budgets, face a 30 % funding gap (or more in some cases) due to gender-neutral budgeting.

According to WAVE's 2019 Thematic Paper on the 'Importance of women's specialist support services in Europe'<sup>30</sup>, there is an increasing recognition of the need to create specialist support services which enable women to realise their right to live a life free from violence and have access to support, justice, redress and rehabilitation. The Council of Europe developed a set of minimum standards for support services<sup>31</sup> following the principles and recommendations contained in the UN Declaration on the Elimination of Violence against Women (DEVAW).<sup>32</sup> The IC is furthermore based on a set of recommendations issued by the Council of Europe in 2002,<sup>33</sup> urging States to introduce, develop and improve national policies to tackle MVAWG, including providing specialist services, empower victims by avoiding secondary victimisation (e.g. through interactions with the police or the justice system), ensure special training for professionals working in the field of eliminating MVAWG and undertake regular research and data collection on MVAWG. Already in 1993 when the DEVAW was adopted, States were called upon to ensure to 'the maximum extent feasible in the light of their available resources and, where needed, within the framework of international cooperation, that women subjected to violence and, where appropriate, their children, have specialised assistance.'<sup>34</sup> Since the endorsement of the DEVAW, there has been increasing global recognition for MVAWG as a form of discrimination violating women's human rights. In this context, support for victims has historically been provided by women's NGOs, often referred to as the specialist MVAWG sector.

Women's organisations have played a fundamental part in driving the policy-making process towards specialised service provision and effective criminalization of MVAWG, while struggling with significant financial and in some cases also political barriers to sustain their work. The minimum standards for service provision enshrined in the IC require state parties to ensure that women survivors of violence and their children have access to short- and long-term specialist support services. These support services include specialised women's support centres, shelters, helplines and services for women and girls who have experienced sexual violence such as rape crisis or sexual violence referral centres, all of which provide where appropriate, support and advocacy when women engage with state agencies, such as law enforcement. The approach taken by the IC to tackle MVAW is based on the concept of comprehensive and co-ordinated policies encompassing all relevant measures to prevent and combat violence against women and domestic violence, placing the rights of the victim at the centre of all measures.

The WAVE Network urges the European Commission to take such concerted actions by including women's specialised services in the response to tackle MVAWG. The efforts of women's specialised services in tackling male violence against women and girls should not be forgotten, but on the contrary they should be reinforced by acknowledging their importance in offering appropriate prevention and

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<sup>30</sup>[https://www.wave-network.org/wp-content/uploads/Thematic\\_Paper\\_WAVE\\_FINAL\\_FINAL.pdf](https://www.wave-network.org/wp-content/uploads/Thematic_Paper_WAVE_FINAL_FINAL.pdf)

<sup>31</sup>Council of Europe (2008), Combating violence against women: Minimum standards for support services, Council of Europe: Strasbourg.

<sup>32</sup>A/RES/48/104, Declaration on the elimination of violence against women (1993)

<sup>33</sup>Council of Europe (2002)5: Recommendation Rec(2002)5 of the Committee of Ministers to member States on the protection of women against violence

<sup>34</sup>GA Res. 48/104, 1993 (DEVAW), Article 4 (g)



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response programmes, effectively supporting women and girls victims of violence and supporting Member States in shaping human rights-based and cost-effective policy on MVAWG legislation.

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