Questions and answers: the Commission's proposal for new EU-wide rules to stop violence against women and domestic violence

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Why is EU-wide legislation needed to address violence against women and domestic violence?

Combating violence against women and domestic violence is part of the European Commission's work to protect the EU's core values and uphold the rights enshrined in the [EU Charter on Fundamental Rights](https://www.europarl.europa.eu/charteroffundamentalrights/en). As was outlined in President von der Leyen's [political guidelines](https://www.consilium.europa.eu/en/commission/von-der-leyen/), the EU must do all it can to prevent and combat violence against women, protect victims and punish offenders.

Violence against women and domestic violence is pervasive throughout the EU. According to the most recent data from the [European Fundamental Rights Agency](https://fra.europa.eu/en), an average of one in three women in the EU has experienced physical or sexual violence since the age of 15, although this ranges from 10% to 50% depending on the Member State. The same survey shows that 1 in 20 women have been victims of rape. Rape and sexual assault is more common against women and girls. According to [Eurostat](https://ec.europa.eu/eurostat), women and girls make up over 90% of rape victims and over 80% of sexual assault victims.

Cyber violence is just as prevalent, and a rising issue. In 2020, a [World Wide Web Foundation survey](https://www.webfoundation.org/data/impact) found that 1 in 2 young women had experienced gender-based cyber violence. According to the [European Institute for Gender Equality](https://www.eige.europa.eu/en), 51% of young women are reluctant to participate in online debates because they have been harassed online. This is also a phenomenon that disproportionately affects women in the public eye. For example, in a 2018 [survey](https://www.europarl.europa.eu/committees/en/genderequality/reports), 46.5% of female parliamentarians reported death threats or threats of rape or beating against themselves or their family members, most of which were received online.

The data underlines an overwhelming need to do more to address violence against women and domestic violence in the EU, offline and online.

All Member States address violence against women and domestic violence in legislation but to different degrees. This creates legal uncertainty about rights of such victims across the EU. Also, there are existing pieces of EU legislation contributing already to this goal, but these are not effective enough. Only a comprehensive legal instrument targeting all components of the problem will trigger the change and effectively contribute to the elimination of violence against women.

What are the main objectives of the proposal?

The Commission is proposing to enshrine in EU law minimum standards to:

- criminalise certain forms of violence against women;
- protect victims and improve access to justice;
- support victims and ensure coordination between relevant services; and
- prevent these types of crime from happening in the first place.

Given the limited availability of EU-wide data on the scale of the problem, the Commission is also proposing to make EU-wide data collection an obligation.

What are the offences that the Commission is proposing to criminalise?

Offences falling under the concept of violence against women and girls are crimes in the vast majority of Member States. However, as the preparatory work for the Commission's proposal has shown, there are gaps in national legislation and therefore the Commission is proposing to have harmonised criminalisation across the EU of the following offences:

- In line with the view of international human rights bodies, including the Council of Europe, the Commission is proposing the [criminalisation of rape, as a (sexual) penetrative act without consent, in all Member States](https://fra.europa.eu/en/forensic). This addresses the fact that while rape is
criminalised in all Member States, 18 Member States require the use of force or threats for it to be punishable.

- Specific provisions are rarely present in the domestic legal system regarding cyber stalking. This is a modern form of violence, which is often perpetrated against family members or ex-partners, to intensify coercive control and surveillance. With the development of digital tools, these acts have the potential to control every aspect of the life of the person targeted with such activity.

- **Cyber harassment**, currently addressed only in four Member States, covers attacks, such as threats, insults or other offensive behaviour, against individuals, notably women and girls, which typically takes place through social media or other online services. Cyber violence particularly impacts women active in public life, such as politicians, journalists and human rights defenders. This can have the effect of silencing women, hindering their societal participation and undermining the principle of democracy as enshrined in the Treaty on European Union. The proposal criminalises cyber harassment where it may have the effect of causing significant psychological harm and where the attacks occur on a wide scale.

- **Non-consensual sharing of intimate images** is explicitly criminalised in 10 Member States. Online dissemination of such material can be very harmful for the person concerned due to its propensity for easy, swift and broad distribution and perpetration, as well as its intimate nature.

- **Female genital mutilation** is explicitly addressed in criminal law in 15* Member States, while other Member States cover it with general offences, such as bodily injury, mutilation and crimes against health. Female genital mutilation is an exploitative practice that causes irreparable harm to victims and is performed for the purpose of preserving and asserting domination over women and girls and exerting social control over their sexuality.

- **Cyber incitement to violence or hatred.** To address the stark increase of public incitement to violence and hatred online based on sex or gender, in particular misogynous incitement to hatred or violence, this Commission’s proposal sets minimum rules for the definition and the penalties of the offence of this type of cyber violence.

- The proposal also introduces the necessary changes to the Child Sexual Abuse Directive, which sets out a dedicated framework for all children. This modification introduces the crime of rape as a further aggravating circumstance, and the notion of lack of consent for children above the age of sexual consent.

**What are the penalties for these offences?**

With regards to penalties, the Commission proposes to foresee at least the following maximum prison sentences for the respective offences ('minimum maximum sentences'):

- Rape: 8 years;
- Female genital mutilation: 5 years;
- Cyber stalking: 2 years;
- Non-consensual sharing of intimate images and cyber harassment: 1 year;
- Cyber incitement to hatred or violence on the basis of sex or gender: 2 years.

The proposal also introduces rape against children as an aggravated circumstance of a maximum prison sentence of at least 12 years.

Member States can still impose higher maximum sentences. It will be up to Member States to define the minimum prison sentences for these offences.

**How does the proposal fit in with the EU Victim’s Rights Directive?**

It is a lex specialis to the Victims’ Rights Directive. The Victims’ Rights Directive applies to all victims of crime. It lays down minimum standards on the rights, protection and support of victims of crime in the EU. It also makes reference to victims of gender-based violence, victims of sexual violence and victims of violence in a close relationship. However, the Directive does not prescribe specific rules tailored to victims of these types of crime. The current proposal complements the rules of the Victims’ Rights Directive to cater for the specific needs of victims of violence against women and domestic violence. In addition to the more specific measures, covered by the current proposal, victims will continue to benefit from the general provisions of the Victims’ Rights Directive.

**What are the victim’s rights to compensation?**

The Commission proposes that victims should have the right to claim full compensation from offenders for damages, including the costs of healthcare, support services, rehabilitation, lost
income, physical and psychological harm and reputational damage. Victims would be able to file a complaint up to 5 years since the offence has taken place, and up to 10 years, in cases of sexual violence. However, in cases of non-consensual sharing of intimate images, this period would start when the victim learns that the pictures have been illegally posted online. Furthermore, victims will be able to ask for compensation within criminal proceedings and will not have to go through another trial in civil courts to claim compensation.

The current initiative strengthens victims' rights to access to compensation, set out in the Compensation Directive. It reinforces the right to compensation from the offender, including by setting up minimum rules on providing such compensation.

Harassment and sexual harassment in the workplace is already prohibited in the EU. Why is the Commission now proposing to address it in this proposal?

It might be illegal but it still takes place. Although harassment and sexual harassment at the workplace is prohibited under criminal or civil legislation in the Member States, it is still largely unrecognised, and many victims do not know where to turn to when it happens. Support, protection and prevention is not sufficient. In a recent public consultation, 50.6% of respondents were not aware their workplace had a policy on sex-based harassment. 51% did not know which national authorities or other bodies they could contact in case of sex-based harassment at work.

While the Commission is not proposing the criminal offence definition per se, it is proposing that:

- Member States must provide dedicated support for victims of sexual harassment at work;
- Managers in the public and private sectors must receive training on how to detect sexual harassment at work, provide support to victims and respond in an adequate manner;
- That sexual harassment at work is addressed in relevant national policies.

This is not limited to sexual harassment of a physical nature, but covers all forms of unwanted verbal, non-verbal or physical conduct of a sexual nature.

There is already an existing international framework – the Istanbul Convention – to tackle violence against women and domestic violence. What will a new EU law add?

The Council of Europe Convention on preventing and combating violence against women and domestic violence, also known as the Istanbul Convention, is widely understood to be the most comprehensive international framework in this area. Not every EU Member State has ratified it, despite the fact that it has a proven record of success.

As the Court of Justice of the EU recently ruled in its opinion of 6 October 2021, the EU may decide to accede to the Convention even if not all Member States consent or have ratified the Convention. We expect that negotiations of the accession to quickly resume.

The Commission’s proposal is different to the Convention in that it sets minimum standards for EU Member States within the areas of EU competence, including the criminalisation of cyber violence offences that is not specifically covered by the Istanbul Convention.

The Commission’s proposal does not prevent Member States, especially those that are already parties to the Istanbul Convention, from maintaining higher standards.

What will the role of national bodies, such as equality bodies, be?

Equality bodies are national public institutions set up across Europe to tackle discrimination and to promote equality for all. They perform a fundamental role in the non-discrimination architecture of the EU.

Violence against women and domestic violence constitute severe forms of discrimination. Equality bodies are already competent to address sex-based harassment, but not yet all bodies are explicitly mandated to carry out their tasks for all forms of violence against women.

With this Directive, equality bodies and other national bodies will have an important role to play in raising awareness on matters of violence against women and domestic violence and in assisting victims. In particular, they will have the right to act in support or on behalf of victims, including in support of victim’s claims for compensation from the offender and for seeking redress in cases of cyber violence.

For more information

Proposal for a Directive on Combatting Violence against Women and Domestic Violence
Factsheet on Championing Gender Equality in the EU and beyond
Press release on the International Women's Day 2022: Commission proposes EU-wide rules to combat violence against women and domestic violence

2022 Report on Gender Equality in the EU

Webpage on ending gender-based violence

Webpage on Gender Equality Strategy

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