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TEXTS ADOPTED

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**P9\_TA(2021)0388**

**Identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU**

**European Parliament resolution of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU (2021/2035(INL))**

*The European Parliament,*

- having regard to Articles 2 and Article 3(3) of the Treaty on European Union,
- having regard to Articles 8, 10 and 19, Article 83(1) and Article 225 of the Treaty on the Functioning of the European Union,
- having regard to the Charter of Fundamental Rights of the European Union, and in particular Articles 1 to 4, 6 to 8, 10 to 12, 21, 23 to 26, 47 and 49 thereof,
- having regard to the country-monitoring reports by the Group of Experts on Action against Violence against Women and Domestic Violence,
- having regard to the Commission communication of 5 March 2020 entitled ‘A Union of Equality: Gender Equality Strategy 2020-2025’,
- having regard to the Commission communication of 24 June 2020 entitled ‘EU Strategy on victims' rights (2020-2025)’,
- having regard to the Commission communication of 12 November 2020 entitled ‘Union of Equality: LGBTIQ Equality Strategy 2020-2025’,
- having regard to the joint communication of the Commission and the High Representative of the Union for Foreign Affairs and Security Policy of 25 November 2020 entitled ‘EU Gender Action Plan (GAP) III – An Ambitious Agenda for Gender Equality and Women’s Empowerment in EU External Action’,
- having regard to the Commission communication of 24 March 2021 entitled ‘EU strategy on the rights of the child’,
- having regard to the Commission communication of 14 April 2021 on the EU Strategy on Combatting Trafficking in Human Beings 2021-2025,

- having regard to 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, and replacing Council Framework Decision 2002/629/JHA<sup>1</sup>,
- having regard to Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European Protection Order<sup>2</sup>,
- having regard to 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<sup>3</sup>,
- having regard to the United Nations Sustainable Development Goal number 5 ‘Gender Equality’,
- having regard to General recommendation No. 33 on women’s access to justice of 3 August 2015 of the Committee on the Elimination of Discrimination against Women,
- having regard to General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, of 14 July 2017 of the Committee on the Elimination of Discrimination against Women,
- having regard to the survey by the European Union Agency for Fundamental Rights entitled ‘Violence against women: an EU-wide survey’, published in 2014,
- having regard to the report by European Union Agency for Fundamental Rights entitled ‘Crime, safety and victims’ rights’, published in 2021,
- having regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms,
- having regard to the Council of Europe Convention on preventing and combating violence against women and domestic violence,
- having regard to the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women on 15 September 1995 and to the subsequent outcome documents adopted at the United Nations Beijing +5 (2000), +10 (2005), Beijing +15 (2010) and Beijing +20 (2015) special sessions,
- having regard to the glossary of the European Institute for Gender Equality,
- having regard to the agreed conclusions of the sixty-fifth session of the United Nations Commission on the Status of Women that took place from 15 to 26 March 2021,
- having regard to the provisions of the United Nations legal instruments in the area of human rights, in particular those concerning women’s rights, and to other United

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<sup>1</sup> OJ L 101, 15.4.2011, p. 1.

<sup>2</sup> OJ L 338, 21.12.2011, p. 2.

<sup>3</sup> OJ L 315, 14.11.2012, p. 57.

Nations instruments on violence against women, including the United Nations Declaration on the Elimination of Violence against Women of 20 December 1993,

- having regard to its resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women<sup>1</sup>,
- having regard to its resolution of 25 February 2014 with recommendations to the Commission on combating Violence Against Women<sup>2</sup>,
- having regard to its resolution of 12 September 2017 on the proposal for a Council decision on the conclusion, by the European Union, of the Council of Europe Convention on preventing and combating violence against women and domestic violence<sup>3</sup>,
- having regard to its resolution of 13 February 2019 on experiencing a backlash in women’s rights and gender equality in the EU<sup>4</sup>,
- having regard to its resolution of 28 November 2019 on the EU’s accession to the Istanbul Convention and other measures to combat gender-based violence<sup>5</sup>,
- having regard to its resolution of 26 November 2020 on the de facto ban on the right to abortion in Poland<sup>6</sup>,
- having regard to its resolution of 21 January 2021 on the gender perspective in the COVID-19 crisis and post-crisis period<sup>7</sup>,
- having regard to its resolution of 21 January 2021 on the EU Strategy for Gender Equality<sup>8</sup>,
- having regard to its resolution of 10 February 2021 on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims<sup>9</sup>,
- having regard to its resolution of 11 February 2021 on challenges ahead for women’s rights in Europe: more than 25 years after the Beijing Declaration and Platform for Action<sup>10</sup>,

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1 OJ C 296E, 2.10.2012, p. 26.

2 OJ C 285, 29.8.2017, p. 2.

3 OJ C 337, 20.9.2018, p. 167.

4 OJ C 449, 23.12.2020, p. 102.

5 OJ C 232, 16.6.2021, p. 48.

6 Texts adopted, P9\_TA(2020)0336.

7 Texts adopted, P9\_TA(2021)0024.

8 Texts adopted, P9\_TA(2021)0025.

9 Texts adopted, P9\_TA(2021)0041.

10 Texts adopted, P9\_TA(2021)0058.

- having regard to the Council conclusions on Women, Peace and Security, published on 10 December 2018,
  - having regard to the United Nations brief ‘COVID-19 and Ending Violence Against Women and Girls’, published in 2020<sup>1</sup>,
  - having regard to the legal opinion of the Advocate-General at the Court of Justice of the European Union on the Council of Europe Convention on preventing and combating violence against women and domestic violence, aimed at clarifying the legal uncertainty if and how the Union can conclude and ratify the Convention, delivered on 11 March 2021<sup>2</sup>,
  - having regard to Rules 47 and 54 of its Rules of Procedure,
  - having regard to the joint deliberations of the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women’s Rights and Gender Equality under Rule 58 of the Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women's Rights and Gender Equality (A9-0249/2021),
- A. whereas equality between women and men is a core value of the Union enshrined in Article 2 of the Treaty on European Union (TEU) and recognised in Article 23 of the Charter of Fundamental Rights of the European Union (the ‘Charter’); whereas the right to equal treatment and non-discrimination is a fundamental right enshrined in the Treaties and in the Charter; whereas ending male violence against women and girls is a prerequisite to achieving real equality between women and men;
- B. whereas Article 8 of the Treaty on the Functioning of the European Union (TFEU) requires the Union, in all its activities, to aim to eliminate inequalities, and to promote equality, between women and men;
- C. whereas gender-based violence, both online and offline, and the lack of access to adequate protection is the most severe manifestation of gender-based discrimination and constitutes a violation of fundamental rights as enshrined in the Charter, such as the right to human dignity, the right to life, the right to physical and mental integrity, the prohibition of torture and inhuman or degrading treatment or punishment, the prohibition of slavery and forced labour, the right to liberty and security and the right to respect for private and family life;
- D. whereas, pursuant to Article 83(1), third subparagraph, TFEU, on the basis of developments in crime, the Council may adopt a decision identifying other 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;

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<sup>1</sup> <https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/issue-brief-covid-19-and-ending-violence-against-women-and-girls-en.pdf?la=en&vs=5006>

<sup>2</sup> <https://curia.europa.eu/juris/document/document.jsf?docid=238745&doclang=en>

- E. whereas, when adopting such a decision under Article 83(1), third subparagraph, TFEU, the Council is to act unanimously after obtaining the consent of the European Parliament;
- F. whereas the European Institute for Gender Equality (EIGE) and the Council of Europe Convention on preventing and combating violence against women and domestic violence (the ‘Istanbul Convention’) define gender-based violence against women as violence directed against a woman because she is a woman or violence that affects women disproportionately; whereas ‘violence against women’ means any act of gender-based violence that results in, or is likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;
- G. whereas LGBTIQ+ persons are also victims of gender-based violence because of their gender, gender identity, gender expression and sex characteristics;
- H. whereas gender-based violence against LGBTIQ+ persons includes physical violence, psychological violence, forced marriages, sexual violence, including ‘corrective’ rape and sexual harassment, female and intersex genital mutilations, forced sterilisation of trans and intersex people, so-called ‘honour’ crimes, conversion therapy, hate speech, both online and offline, bullying and harassment, socio-economic deprivation and violence that occurs within the family and/or domestic unit;
- I. whereas, under the Istanbul Convention, gender is defined as ‘the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men’, which recalls that many forms of violence against women are rooted in power inequalities between women and men;
- J. whereas the expression ‘in all their diversity’ in this resolution recalls the position that women, men and non-binary people fall into heterogeneous categories, including, but not limited to, in relation to race, colour, ethnic or social origin, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, sexual orientation, gender identity, gender expression or sex characteristics, state of health, marital status or migrant or refugee status; whereas that expression affirms the commitment to leave no one behind and to achieve a gender-equal Europe for everyone; whereas no real progress can be made on gender equality without an intersectional approach;
- K. whereas gender-based violence is rooted in gender stereotypes, heteropatriarchal structures, power asymmetries and structural and institutional inequalities; whereas gender-based violence affects all areas of society;
- L. whereas gender-based violence targets women and girls in all their diversity and LGBTIQ+ persons, driven by a desire to punish those seen as transgressing societal norms of gender hierarchies, gender expression and binary gender systems; whereas gender-based violence aims at establishing, enforcing or perpetuating gender inequalities and reinforcing gender norms and stereotypes;
- M. whereas the EIGE defines ‘femicide’ as the killing of women and girls because of their gender; whereas femicide can take different forms such as the murder of women as a result of intimate partner violence, the killing of women and girls because of their

gender, sexual orientation, gender identity, gender expression or sex characteristics, female and intersex genital mutilations and so called ‘honour killings’; whereas femicides are the extreme manifestation of existing forms of violence against women and represent the ultimate act of violence, which is experienced in a continuum of violence; whereas many types of femicide are not counted in official figures and remain invisible;

- N. whereas exposure to intimate partner violence, whether physical, sexual or psychological, has a severe impact on children and perpetuates abuse in future generations as children who witness intimate partner violence against their mother or one of their parents are more likely to experience such violence in later life, both as victims and as perpetrators; whereas laws protecting the dignity of the child and recognising the child as a victim in such cases play a crucial role in protecting both woman and child victims; whereas custody laws must be designed in a way that does not give custody rights to perpetrators of intimate partner violence;
- O. whereas gender-based violence includes many types of violence, including intimate partner violence and domestic violence; whereas the EIGE, similarly to the Istanbul Convention, defines domestic violence as all acts of physical, sexual, psychological or economic violence 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 perpetrator shares or has shared the same residence as the victim;
- P. whereas online gender-based violence and online sexual harassment are cross-border in nature; whereas violence in the form of cyber violence, including online harassment, cyber-bullying, cyberstalking, sexist hate speech, non-consensual disclosure of sexual images, doxing, identity theft or hacking, disproportionately affects women and girls;
- Q. whereas violence against women and girls is one of the most widespread violations of women’s rights in Europe; whereas surveys conducted by the Union show that one in three women in the Union, which represents 62 million women, has experienced physical and/or sexual violence since the age of 15 and one in two women (55 %) has experienced sexual harassment; whereas the World Health Organization (WHO) reports that worldwide almost one third (27 %) of women aged between 15 and 49 who have been in a relationship have reported that they have been subjected to some form of physical and/or sexual violence by their intimate partner; whereas the WHO reports that globally as many as 38 % of all murders of women are committed by intimate partners;
- R. whereas there is a lack of updated comprehensive and comparable disaggregated data on all forms of gender-based violence across the Union; whereas the lack of comparable data is also the result of a lack of harmonisation in definitions linked to gender-based violence; whereas comprehensive and comparable disaggregated data is essential to document gender-based violence and its root causes; whereas the European Union Agency for Fundamental Rights published its latest survey on violence against women in 2014, and whereas most recent figures are not available;
- S. whereas gender-based violence comes with important costs for our European societies, be it in terms of lost economic output or the provision of services, including health, legal, social and specialised services; whereas, however, the highest costs are borne by the victims of gender-based violence, who have to permanently live with the emotional

scars of those traumatic experiences; whereas the well-being of victims of gender-based violence should guide Union action;

- T. whereas the impact of the COVID-19 crisis resulted in a dramatic increase in gender-based violence, in particular intimate partner violence, including physical and psychological violence, coercive control, and online violence; whereas World Health Organization Europe Member States have reported a 60 % increase in emergency calls from women subjected to violence by their intimate partner; whereas lockdown measures have made it more difficult for victims of intimate partner violence to seek help because they are often confined with their abusers and have limited access to support services, and because insufficient support structures and resources have exacerbated an already existing ‘shadow’ pandemic;
- U. whereas education has a central part to play in order to prevent gender-based violence, in particular by challenging the negative social norms that drive this phenomenon and by empowering youth to recognise, address and prevent those acts;
- V. whereas gender-based violence continues to be underreported in the Union; whereas two thirds of victims do not report gender-based violence to the authorities<sup>1</sup>;
- W. whereas, according to the EIGE, secondary victimisation, also known as re-victimisation, ‘occurs when the victim suffers further harm not as a direct result of the criminal act but due to the manner in which institutions and other individuals deal with the victim’; whereas, according to the EIGE, ‘secondary victimisation may be caused, for instance, by repeated exposure of the victim to the perpetrator, repeated interrogation about the same facts, the use of inappropriate language or insensitive comments made by all those who come into contact with victims’;
- X. whereas gender-based violence may be perpetuated by persons in positions of authority, while placed in custodial settings such as prisons, mental health facilities, detention centres, welfare facilities and refugee camps; whereas situations of overcrowding, high levels of stress and lack of privacy may also lead to gender-based violence; whereas, by ensuring that police officers are specially trained to have the soft skills to carefully listen, understand and respect all women who have experienced gender-based violence, they can help address underreporting, re-victimisation and create a safer environment for survivors of gender-based violence;
- Y. whereas ensuring affordable and safe access to an independent justice system is indispensable to the promotion of a safer environment for all survivors of gender-based violence; whereas effectively tackling gender-based violence implies setting-up training programmes for the professionals involved, such as social workers, healthcare providers, law enforcement officials, people working in the justice system, so that they are able to identify, address and respond to gender-based violence;
- Z. whereas the conviction rates for perpetrators of violence against women, and in particular sexual violence including rape and sexual assault, are unacceptably low in all

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<sup>1</sup> <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>

Member States, showing that there are systematic deficiencies in the way law enforcement authorities address gender-based violence, and whereas this in turn results in a widespread culture of impunity and a serious impairment to gender equality and the fight against gender-based violence;

- AA. whereas sexual violence is part of a continuum of gender-based discrimination and violence closely intertwined with persistent inequalities and broader attacks on gender equality and women's and girls' human rights;
- AB. whereas the Istanbul Convention is the most comprehensive instrument in Europe to combat specific forms of male violence against women and girls, as well as domestic violence; whereas the Istanbul Convention establishes a comprehensive framework of legal and policy measures for preventing such violence, supporting victims and punishing perpetrators;
- AC. whereas disinformation campaigns to undermine gender equality also block progress on the issue of eliminating violence against women, as has been seen in relation to the Istanbul Convention, leading to public opposition and regrettable political decisions in some Member States;
- AD. whereas the Istanbul Convention has been signed by all Member States and ratified by 21; whereas Bulgaria, Czechia, Hungary, Latvia, Lithuania and Slovakia have not yet ratified the Istanbul Convention; whereas Poland announced its intention to withdraw from the Istanbul Convention; whereas Turkey's withdrawal from the Istanbul Convention sets a bad precedent; whereas the Istanbul Convention has not yet been ratified by the Union;
- AE. whereas violations of women's rights are international, Europe-wide and cross-border in nature; whereas women and girls in Europe and other victims of gender-based violence do not benefit from the same level of protection against violence across the Union due to different national legislative frameworks and protection and prevention mechanisms;
- AF. whereas Union action aiming to eradicate violence against women and girls and other forms of gender-based violence demands that the Commission pursue several parallel avenues, both legislative and non-legislative, including proposing the identification of gender-based violence as an area of crime that meets the criteria specified in Article 83(1) TFEU and, at the same time, proposing a directive on gender-based violence using that Article as a legal basis;
- AG. whereas combating gender-based violence is a key priority of the Union's Gender Equality Strategy and of the Union's external action; whereas in its work programme for 2021, the Commission announced a new legislative proposal to prevent and combat gender-based violence based on Articles 82, 83 and 84 TFEU, as well as a specific proposal to extend the list of the areas of particularly serious crime with a cross-border dimension set out in Article 83(1), second subparagraph, TFEU to include all forms of



hate crime and hate speech; whereas combatting gender-based violence is among the priorities of the President of the Commission<sup>1</sup>.

***Causes and impact of gender-based violence and ensuring a holistic approach in preventing it***

1. Condemns all forms of violence against women and girls in all their diversity and other forms of gender-based violence, such as violence against LGBTIQ+ persons on the grounds of gender, gender identity, gender expression or sex characteristics, which is considered to refer to different acts of online and offline violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering;
2. Highlights that, due to lockdown and social distancing measures during the COVID-19 pandemic, there has been a worrying increase in gender-based violence experienced by women and girls across the Union, including intimate partner violence, physical, sexual, economic and psychological violence, coercive control and cyber-violence, resulting in an overwhelming need for support services for those victims;
3. Insists that when addressing violence against women, the definition of ‘women’ must include girls under the age of 18;
4. Denounces femicide as the most extreme form of gender-based violence against women and girls; stresses that femicide is a very severe violation of human rights and that the Union should draw up a plan to prevent and combat violence, detect situations of risk, and support and protect victims;
5. Stresses that violence against women and other forms of gender-based violence are still shrouded in silence and are the result of the continuous manifestation of historically unequal access to and distribution of power and resources, which have led to domination over and discrimination against women by men, as well as violence directed towards LGBTIQ+ persons, with a huge impact on victims, their families and communities;
6. Welcomes the #MeToo movement, which symbolises the voice of women breaking the wall of silence that surrounds sexual harassment and sexual violence against women in all their diversity across all ages, sectors and places; denounces the fact that in some countries victims of sexual harassment and sexual violence are increasingly being charged and even convicted of defamation, thus creating a chilling effect, re-victimising and silencing the women who dare to speak out;
7. Recognises that progress towards equality has occurred thanks to the hard fought feminist struggle against the global oppression of women and girls;
8. Underlines that this situation is aggravated by social and economic inequalities and significant reductions in available funding, especially during times of crisis, with the consequent effect of pay and pension gaps, the feminisation of precarious work and more precarious living conditions for women; highlights that those inequalities and

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<sup>1</sup> [https://ec.europa.eu/info/sites/default/files/political-guidelines-next-commission\\_en\\_0.pdf](https://ec.europa.eu/info/sites/default/files/political-guidelines-next-commission_en_0.pdf)

power unbalances have a transversal and global nature, common to the whole territory of the Union, and not limited to specific Member States;

9. Underlines that rigid gender norms based on patriarchal stereotypes contribute to the discrimination and subjugation of women, including lesbians, bisexual, trans and intersex women, lead to increased exposure to gender-based violence for anyone who does not conform to them and contribute to the invisibility of violence suffered by gay, bisexual and intersex men;
10. Stresses the importance of addressing and promoting through education the equal status and power relation between men and women and between boys and girls, and eliminating biases and gender stereotypes that lead to harmful social gender norms; deplores the high number of instances of violence targeting women in all their diversity, including lesbians, bisexual and trans women, as well as trans, intersex and non-binary people;
11. Underlines the wide range of psychological impact that gender-based violence has on victims, including stress, the feeling of being unsafe or vulnerable, concentration problems, anxiety, panic attacks, social isolation, low self-esteem, depression, post-traumatic stress disorder, lack of trust and of sense of control, as well as fear or even suicidal thoughts; underlines the importance of the provision of mental health services for victims of those crimes, which are also often provided by NGOs and civil society actors;
12. Recalls that gender-based violence also has a social, economic and democratic impact, such as lack of access to employment, isolation, the withdrawal from public life or the deprivation of material or financial resources, which reinforces the disadvantaged position of women; stresses that gender-based violence is exercised as a form of coercive control over women which prevents gender equality, social mobility, economic empowerment and the exercise of their rights as Union citizens, including their full civic participation and the free development of their lives without violence;
13. Highlights the detrimental economic impact that gender-based violence, and the subsequent mental health issues it causes, can have on victims, including their ability to seek employment and the financial burden imposed on them by taking legal action and points out that the estimated annual societal costs of gender-based violence (EUR 290 billion) (between EUR 49 billion and EUR 89,3 billion for cyber-harassment and cyberstalking) exceed the estimated annual costs of particularly serious crimes as listed in Article 83(1), second subparagraph, TFEU<sup>1</sup>;
14. Stresses that the Istanbul Convention remains the international standard and a key tool for the eradication of gender-based violence by following a holistic and coordinated approach that places the rights of the victim at the centre and addresses the issues from a wide range of perspectives; reiterates its call to conclude the Union's ratification of the Istanbul Convention on the basis of a broad accession, and highlights the importance of its ratification by Bulgaria, Czechia, Hungary, Latvia, Lithuania and Slovakia; notes

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<sup>1</sup> EPRS interim European Added Values Assessment (EAVA) on gender-based violence, p.35.

with concern the attempts in some Member States to spread disinformation about the Istanbul Convention, such as the denial of the existence of gender-based violence; condemns the fact that such disinformation is gaining a foothold in Europe and is thus contributing to the difficulty of protecting women's rights;

15. Points out that the Istanbul Convention should be understood as the minimum standard to eradicate gender-based violence and that the Union should pursue even more decisive and effective legislative measures in that regard; recalls that such new legislative measures should, in any event, be consistent with the rights and obligations set by the Istanbul Convention and should be complementary to its ratification; calls on the Member States to take into account the recommendations by Group of Experts on Action against Violence against Women and Domestic Violence and to improve their national law to bring it more in line with the provisions of the Istanbul Convention in order to ensure proper implementation and enforcement;
16. Denounces the fact that the combat against gender-based violence is negatively affected by attacks on women's and girl's rights and gender equality; condemns the actions of anti-gender and anti-feminist movements in Europe and worldwide that systematically attack women's and LGBTIQ+ rights, including sexual and reproductive rights, and aim to overturn existing laws that protect them, thus endangering the respect of human rights and of the rule of law; condemns all disinformation that is deliberately spread about the Istanbul Convention and other tools and initiatives to combat violence against women in the Union, which hinders the protection of women from violence; urges the Commission to ensure that civil society organisations supported and funded by the Union do not promote gender discrimination;
17. Calls on the Commission to increase and secure long-term funding dedicated to preventing and combating violence against women and girls and other forms of gender-based violence through the Citizens, Equality, Rights and Values Programme, including support for shelter organisations and other civil society organisations working in that area; reiterates the importance of using benchmarks and indicators to measure progress;
18. Stresses that there are substantial differences in the legal definition and treatment of gender-based violence across the Member States; points out that this greatly hampers the Union's legislative actions against gender-based violence, including Directives 2012/29/EU, 2011/36/EU and 2011/99/EU;
19. Emphasises the importance of preventive measures in combating violence against women and girls; notes that such measures require a clearer focus in the entire judiciary, as well as in schools and in healthcare, to prevent and minimise the risk of violence;
20. Insists on actions addressing the underlying causes of gender inequality, including counteracting sexism, patriarchal gender norms, stereotypes and values; regrets the lack of research and knowledge that forms the foundation for effective policy and law-making in preventing gender-based violence; calls, therefore, on the EIGE and Eurostat to act as a knowledge hub on violence against girls in the Union; underlines the fact that men's violence against women starts with boys' violence against girls; considers, therefore, that preventive measures must start at an early age; underlines the need for gender equality to have a central place in education and calls for educational measures directed towards, and implemented with, young people, including age-appropriate information, comprehensive sexuality education, the development of non-violent

relationships, feminist self-defence training in the context of the implementation of Article 12(6) of the Istanbul Convention and paragraph 125(g) of strategic objective D.1. of the Beijing Platform for Action, and more general actions to combat segregation, gender inequality and discrimination;

21. Stresses that the attack against women's rights and gender equality is often one dimension of a broader deterioration in the situation of democracy, the rule of law and fundamental rights, and therefore calls on the Commission and on the Council to consider women's and LGBTIQ+ rights violations in the context of ongoing Article 7 TEU proceedings;
22. Stresses the need for Union-wide awareness-raising campaigns which include information targeted at educating younger citizens of the Union about gender equality and on the impact of online and offline gender-based violence, which would support efforts to ensure that women and girls can live their lives freely and safely in all spheres;
23. Calls on the Commission to work together with the Member States to make sure that gender-based violence is effectively tackled throughout national curricula; welcomes the Commission's proposal for a Union-wide campaign on gender stereotypes included in the Gender Equality Strategy and its commitment as regards 'educating boys and girls from an early age about gender equality and supporting the development of non-violent relationships', as key for effective prevention;
24. Stresses the importance of promoting cooperation between the Member States on the issue of gender-based violence, which also enables the Member States with successful policies to share their experiences through the exchange of best practice;
25. Calls on the Commission and the Member States to improve the regular availability and comparability of quality, disaggregated data on all forms of gender-based violence at Union and national level and for the harmonisation of data collection systems among Member States through cooperation with Eurostat, the European Union Agency for Fundamental Rights and the EIGE; believes that quality data will be essential for clear and measurable targets in the elimination of gender-based violence; welcomes the announcement of a new Union-wide survey by the European Union Agency for Fundamental Rights on the prevalence and dynamics of all forms of violence against women;
26. Stresses that, in order to increase the understanding of gender-based violence within the Union, it is necessary to ensure that at least the following categories are included in the data collection at the level of law enforcement intervention: (a) the gender of the victim; (b) the gender of the perpetrator; (c) the relationship between the victim and the perpetrator; (d) the existence of a sexual violence dimension; (e) whether the violence has a gendered motivation, and (f) other socio-demographic characteristics relevant for an intersectional analysis; stresses that, in addition to those data, it is necessary to have general data on the number of complaints, the number and types of protection orders issued, the rates of dismissal and withdrawal of complaints, prosecution and conviction rates, the time taken for the disposal of cases, information on the sentences imposed on perpetrators and on reparations, including compensation, provided to victims, incidents reported to helplines or health and social services dealing with cases of violence against women and sample surveys;

### *Addressing all forms of gender-based violence*

27. Highlights the need for targeted legislation and policies with an intersectional approach to address the situation of victims of gender-based violence who experience intersectional forms of discrimination based on gender identity, gender expression or sex characteristics and on other grounds such as 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, sexual orientation, state of health, marital status or migrant or refugee status; emphasises the need in policy and law-making to add specific and measurable undertakings, including in relation to groups protected from discrimination by Union law and the case law of the European Court of Human Rights and the Court of Justice of the European Union;
28. Calls on the Member States and the Commission within their work to combat gender-based violence to ensure that all legislative and non-legislative initiatives aim to eradicate all forms of gender-based violence, specifically including women in all their diversity and violence against LGBTIQ+ persons on the grounds of gender identity, gender expression and sex characteristics; recalls that Parliament has previously strongly encouraged Member States to adopt laws and policies banning conversion therapy, female and intersex genital mutilations and forced sterilisation practices;
29. Stresses that gender-based violence is a serious violation of human rights and dignity that can take the form of psychological, physical, sexual and economic violence, and includes, inter alia, femicide, intimate partner violence, sexual harassment, cyber violence, stalking, rape, early and forced marriage, female genital mutilation, crimes committed in the name of so-called 'honour', forced abortion, forced sterilisation, sexual exploitation and human trafficking, institutional violence, second order violence, vicarious violence and secondary victimisation;
30. Recalls that human trafficking and sexual exploitation is a form of gender-based violence against women and girls and stresses the importance of a gender-sensitive approach to human trafficking;
31. Condemns the phenomena of second order violence, which is physical or psychological violence, reprisals, humiliation and persecution exercised against people who support victims of gender-based violence; stresses that those acts hamper the prevention, detection, support and recovery of women in situations of gender-based violence;
32. Is deeply worried by the nature, extent and gravity of gender-based violence and harassment in the workplace; welcomes in that regard the recent adoption by the International Labour Organisation of Convention No. 190 on violence and harassment in the world of work and calls on the Member States to ratify and implement it without delay; calls also on the Commission and the Member States to adequately complete the existing framework for effective measures to prohibit violence and harassment in the workplace, as well as preventive measures, effective access to gender-responsive, safe and effective complaint and dispute resolution mechanisms, training and awareness-raising campaigns, psychological support services and remedies;
33. Insists that cyber violence, including online sexual and psychological harassment, cyber-bullying, cyberstalking, non-consensual disclosure of sexual images, sexist hate

speech online and new forms of online harassment such as zoom bombing or threats online, constitutes a form of gender-based violence;

34. Regrets the fact that cyber violence disproportionately affects women and girls and is becoming increasingly common; recalls that gender-based cyber violence is a continuum of, and is inseparable from, offline violence as they are both interlinked; stresses that cyber violence threatens progress on gender equality and has a silencing effect, which is detrimental for the democratic principles of the Union; regrets the fact that women with a public profile, such as politicians, journalists, artists and activists, are often the target of gender-based cyber violence with the intention of discouraging their presence in public life and decision-making spheres;
35. Stresses the cross-border nature of cyber violence, with perpetrators using platforms or mobile phones connected to or hosted by Member States other than where the victim is located; highlights the need for a coordinated approach of the Union to improve timely and accessible reporting tools, effective content removal mechanisms, and effective cooperation between online platforms and Member States' law enforcement authorities for combating online gender-based violence in full compliance with fundamental rights;
36. Calls on the Member States and the Commission to adopt specific measures to eradicate all forms of online violence, including through appropriate training for law enforcement officers, which disproportionately affects women and girls, and to specifically address the increase in such violence during the COVID-19 pandemic;
37. Recalls that violations of sexual and reproductive rights, including sexual violence, gynaecologic and obstetrical violence and harmful practices, are a form of gender-based violence against women and girls and transgender and non-binary persons, as reflected in the LGBTIQ Equality Strategy, and are an impediment to gender equality;
38. Encourages the Commission to promote regular exchanges of good practice between Member States and stakeholders on sexual and reproductive rights within its proposals for additional measures to prevent and combat forms of gender-based violence;
39. Highlights the fact that reproductive coercion and the denial of safe and legal abortion care is also a form of gender-based violence; stresses that the European Court of Human Rights has ruled on several occasions that restrictive abortion laws and the lack of implementation violates the human rights of women; emphasises that girls' and women's autonomy and ability to make free and independent decisions about their bodies and lives are preconditions for their economic independence, for gender equality and for the elimination of gender-based violence; strongly condemns the attack against women's rights and gender equality in the Union, in particular the setback to women's sexual and reproductive health and rights and the *de facto* ban on safe and legal abortion in Poland;
40. Deplores the visible deficiencies in the law enforcement system, which result in low conviction rates in cases of gender-based violence against women and girls, and impunity for perpetrators; calls on all Member States to amend the definitions of 'sexual violence' and 'rape' in their national law so that they are based on the absence of consent, as laid down in the Istanbul Convention;
41. Is concerned about the sexualisation of children, especially the sexualisation of girls by men; considers it imperative to enhance the protection provided under criminal laws on

sexual offences against children, in particular where the perpetrator displays negligence with regard to the child's age;

42. Underlines that women and girls with disabilities are two to five times more likely to experience various forms of violence; highlights that the Union is obliged, as a party to the United Nations Convention on the Rights of Persons with Disabilities, to take measures to ensure the full respect of all human rights and fundamental freedoms of women and girls with disabilities; notes that the Union should advance its efforts in that direction, *inter alia* by ratifying the Istanbul Convention;
43. Stresses that women from minorities and, in particular, Roma and Muslim women, including those wearing religious clothing, are disproportionately impacted by gender-based violence, in particular in the public space, at the workplace and online; highlights that gender-based violence against Roma and Muslim women should be addressed with an intersectional approach which takes into account discrimination on the grounds of gender in combination with discrimination on the grounds of religion and ethnicity;
44. Notes that the Commission must address the particular situation of migrant women's protection against gender-based violence, in particular cases of intimate-partner violence where the victim's residence status depends on co-habitation or marital status, and recalls that under Directive 2012/29/EU access to appropriate protection, support services and effective remedies must be available to all victims of gender-based violence, including the right to receive information and to be able to participate in criminal proceedings, and that all rights must apply in a non-discriminatory manner, including with respect to their residence status;
45. Underlines that most of the current migration and refugee laws in Europe do not address the vulnerability of migrant and refugee women, the consequences of which include increased exposure to gender-based violence while on the move, unsafe reception conditions, insufficient protection measures and a lack of access to justice for migrants in the Union;
46. Considers that intimate partner violence is not only a crime against the victim of violence but should also be considered a crime against any child who witnesses it, including due to the long lasting negative effects on the child's wellbeing and development; denounces the fact that children of perpetrators of intimate partner violence are often the object of ill-treatment as a way to exercise power and violence against the mother, a phenomenon known as vicarious violence and a form of gender-based violence;

### ***Protection, Support and Reparation***

47. Calls on Member States to take all necessary measures to promote and ensure support and reparations for women and girls in all their diversity and all survivors of gender-based violence and to promote and ensure their protection against all forms of violence, recalls that such measures should be adequate, attributed in a timely manner, holistic and proportionate to the gravity of the harm suffered and with due attention to the needs of those who experience intersectional forms of discrimination and violence;
48. Calls on the Member States to comply with the Istanbul Convention by providing protective and supportive measures for women based on a gendered understanding of

violence against women and intimate partner violence and that focus on the human rights and safety of the victim, thus avoiding institutional violence being inflicted on victims as a result of laws or administrative or enforcement practices that are insensitive to gender considerations and/or lack sufficient knowledge and appropriate procedures, which can lead to impunity for perpetrators as well as re-victimisation;

49. Calls on Member States to ensure that children are also considered victims of gender-based violence in cases of intimate partner violence, and that their dignity and safety is paramount; welcomes, in that respect, laws that criminalise exposing a child to violence in close relationships; calls furthermore on Member States to make sure that custody laws are in line with that principle, in the sense that custody rights not be accorded to the parent perpetrator of intimate partner violence;
50. Underlines the obligation on Member States to ensure that there is adequate support and services for survivors of gender-based violence adapted to their specific needs, including in times of crisis; recalls the importance, in that context, of providing support to independent civil society organisations and women's shelter organisations, which are the organisations with the know-how needed to ensure the protection of women;
51. Calls on Member States to guarantee access for victims to support services and essential services, including sexual and reproductive health services, and to guarantee such access in rural areas also; firmly supports the availability of public services throughout all stages of the reparation processes, in particular with regard to the provision of essential psychological, legal and employment seeking support;
52. Calls on the Member States and the Commission to raise awareness and ensure that information to victims and perpetrators of gender-based violence is available in all Union languages, with the aim of ensuring that the rights of victims are upheld when they exercise their fundamental right to freedom of movement within the Union;
53. Considering the structural context of discrimination and inequality, calls on the Member States to step up their work in order to ensure that victims have equal access to justice and to an independent judicial system which is physically, economically, socially and culturally available to all victims of gender-based violence and to guarantee that the rights of the victim are placed at the centre in order to avoid discrimination, traumatisation or re-victimisation during judicial, medical and police proceedings by mainstreaming the gender perspective throughout the process;
54. Underlines with concern that most Member States still have issues with the complete or correct transposition and/or practical application of Directive 2012/29/EU, as reflected in the Commission's Strategy on Victim's Rights, and calls on the Member States to duly and diligently transpose it completely and correctly;
55. Underlines that the failure to address the lack of trust and confidence in law enforcement authorities and in the judicial system by survivors of gender-based violence is an important contributor for underreporting; calls on the Member States to improve the resources and training of practitioners and law enforcement officers, including judges, public prosecutors, judicial staff, forensic experts and other professionals dealing with victims of gender-based violence; calls on the Member States to evaluate the possibility of establishing specialised courts for that purpose; is convinced that ensuring that police officers and judges have increased knowledge and



soft skills to carefully listen, understand and respect all survivors of gender-based violence will contribute to addressing underreporting and re-victimisation and will create a safer environment for survivors of gender-based violence;

56. Calls on all Member States to fully comply with the Istanbul Convention by adopting treatment programmes for perpetrators of gender-based violence and domestic violence with the aim of preventing further violence, providing insights regarding the destructive gender norms, asymmetric power relations and values underpinning gender-based violence and ensuring that the safety and the human rights of victims are the primary concern;
57. Stresses the importance of ensuring access to justice for all survivors of conflict-related gender-based violence, including access to quality legal assistance, and the full accountability for perpetrators of all gender-based conflict-related crimes against women and girls, as well as men and boys, by activating legal procedures at national, regional and international levels, in particular through the Rome Statute of the International Criminal Court;
58. Calls on the Member States to fully implement Directives 2011/99/EU, 2012/29/EU and 2011/36/EU;
59. Underlines that the absence of a Union legal act to combat gender-based violence and the disparities in Member States' national laws lead to different levels of protection for survivors;
60. Welcomes the Commission's commitment to extend the areas of crime listed under Article 83(1), second subparagraph, TFEU to encompass hate crime and hate speech; urges the Commission to include sexual orientation, gender identity, gender expression and sex characteristics as discrimination grounds specifically covered by that Article; considers such a measure to be essential to ensure the protection of LGBTIQ+ persons in the Union;
61. Points out the importance of making full use of the training possibilities available to Member States through the various programmes and bodies, offices and agencies of the Union and calls on the Member States to provide recurrent and effective training that includes the gender and human rights perspective and international standards; calls on Member States to ensure that victims have the right to public high quality legal aid before and during legal proceedings;
62. Welcomes the Commission's commitment to come up with a proposal in 2021 for a directive to prevent and combat gender-based violence in order to implement the standards of the Istanbul Convention; stresses that that new directive must be complementary to existing and upcoming legislative and non-legislative measures in order to achieve coherent Union action on gender equality, as well as an eventual ratification of the Istanbul Convention; reiterates, therefore, its call on the Union to ratify the Istanbul Convention; recalls in addition the commitment of the President of the Commission to extend the areas of crime to encompass specific forms of gender-based violence in accordance with Article 83(1) TFEU;

### *Next steps at Union level*

63. Stresses that gender-based violence, both online and offline, is a particularly serious crime and a widespread violation of fundamental rights and freedoms in the Union which needs to be addressed with greater efficiency and determination on a common basis; stresses that gender-based violence is the result of societal and systemic structural gender inequalities that have a cross-border dimension; points, in particular, to the growing anti-gender, anti-LGBTIQ+ and anti-feminist movements, which are well organised and have a cross-border nature; considers in addition that the cross-border dimension of gender-based cyber violence and the great individual, economic and societal impact of gender-based violence across all Member States reaffirm the need to combat gender-based violence in its multiple dimensions on a common Union basis;
64. Calls for the Union to urgently address the increase in gender-based violence during the COVID-19 pandemic; calls, in that regard, on the Commission to develop a Union protocol on gender-based violence in times of crisis and to include protection services for victims, such as helplines, safe accommodation and health services, as ‘essential services’ in the Member States in order to prevent gender-based violence and support victims of violence during crises such as the COVID-19 pandemic;
65. Stresses that the adoption of regional and international instruments, such as the Istanbul Convention, the United Nations Declaration on the Elimination of Violence against Women and other United Nations resolutions, also demonstrates the need to combat all forms of gender-based violence on a common basis;
66. Stresses that the special need to combat violence against women and girls and other forms of gender-based violence on a common basis also results from the need to establish minimum rules concerning the definition of criminal offences and sanctions, including a common definition of gender-based violence, as well as minimum rules concerning key issues of prevention, underreporting, victim protection, support and reparation, and the prosecution of perpetrators; underlines that the approaches and levels of commitment of Member States to prevent and combat gender-based violence vary significantly and, therefore, that a common basis approach would also contribute to law enforcement in cross-border operations;
67. Requests that the Commission submit, on the basis of Article 83(1), third subparagraph, TFEU, a proposal for a Council decision identifying gender-based violence as a new area of crime that meets the criteria specified in that Article, following the recommendations set out in the Annex hereto and requests the Commission to use that new area of crime as a legal basis for a holistic and victim-centred directive of the European Parliament and of the Council to prevent and combat all forms of gender-based violence, both online and offline;
68. Calls on the Commission to propose a comprehensive directive on gender-based violence that implements the standards of the Istanbul Convention and other international standards such as the Committee on the Elimination of Discrimination Against Women’s recommendations on gender-based violence and includes at least the following elements:
  - prevention measures, including through gender-sensitive and intersectional-responsive education programming directed at both girls and boys, and empowerment of women and girls;

- support services and protection and reparation measures for victims;
  - measures to combat all forms of gender-based violence, including violence against LGBTIQ+ persons on the grounds of gender, gender identity, gender expression and sex characteristics, and online gender-based violence and sexual exploitation and abuse;
  - minimum standards for law enforcement;
  - a victim-centred and intersectional approach;
  - obligations for Member States to ensure that custody and visitation rights as regards children are adequately considered where a case of gender-based violence is involved, by putting the rights of the victim at the centre of their laws;
  - measures ensuring that information is provided in all relevant languages; and
  - measures to ensure cooperation among Member States and the exchange of best practice, information and expertise;
69. Calls on the Commission to appoint a coordinator against violence against women and other forms of gender-based violence;
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70. Instructs its President to forward this resolution and the accompanying recommendations to the Commission and the Council.

## **ANNEX TO THE RESOLUTION:**

### **COUNCIL DECISION**

#### **on the identification of gender-based violence as an area of crime that meets the criteria specified in Article 83(1) of the Treaty on the Functioning of the European Union**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament,

Whereas:

- (1) Equality between women and men is at the core of the Union's values and is a fundamental principle of the Union enshrined in the Treaties and recognised in Article 23 of the Charter of Fundamental Rights of the European Union (the 'Charter'). The right to equal treatment and non-discrimination is a fundamental right enshrined in the Treaties and in the Charter. Ending male violence against women and girls is a prerequisite to achieving real equality between women and men.
- (2) Article 8 of the Treaty on the Functioning of the European Union (TFEU) requires the Union, in all its activities, to aim to eliminate inequalities, and to promote equality, between women and men.
- (3) Pursuant to the Article 83(1), third subparagraph, TFEU, the Council may, on the basis of developments in crime, adopt a decision identifying areas in addition to those specified in Article 83(1), second subparagraph, TFEU 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.
- (4) When adopting such a decision under Article 83(1), third subparagraph, TFEU, the Council is to act unanimously after obtaining the consent of the European Parliament.
- (5) The European Institute for Gender Equality (EIGE) and the Council of Europe Convention on preventing and combating violence against women and domestic violence ('Istanbul Convention') define gender-based violence against women as violence directed against a woman because she is a woman or that affects women disproportionately. Under the Istanbul Convention, 'violence against women' is defined as any act of gender-based violence that results in, or is likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.
- (6) LGBTIQ+ persons are also victims of gender-based violence because of their gender, gender identity, gender expression and sex characteristics.
- (7) Gender-based violence against LGBTIQ+ persons includes physical violence, psychological violence, forced marriages, sexual violence, including 'corrective' rape and sexual harassment, female and intersex genital mutilations, forced sterilisation of trans and intersex people, so-called 'honour' crimes, conversion therapy, hate speech both

online and offline, bullying and harassment, socio-economic deprivation and violence that occurs within the family and/or domestic unit because of the victim's gender identity, gender expression or sex characteristics.

- (8) Gender-based violence is rooted in gender stereotypes, heteropatriarchal structures, power asymmetries and structural and institutional inequalities. Gender-based violence affects all areas of society.
- (9) Under the Istanbul Convention, gender is defined as 'the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men', which recalls that many forms of violence against women are rooted in power inequalities between women and men.
- (10) Gender-based violence, both online and offline, and the lack of access to adequate protection is the most severe manifestation of gender-based discrimination and constitutes a violation of fundamental rights as enshrined in the Charter such as the right to human dignity, the right to life and to physical and mental integrity, the prohibition of torture and inhuman or degrading treatment or punishment, the prohibition of slavery and forced labour, the right to liberty and security and the right to respect for private and family life.
- (11) Gender-based violence, both online and offline, is a particularly serious crime and a widespread violation of fundamental rights and freedoms in the Union which needs to be addressed with greater efficiency and determined on a common basis.
- (12) The adoption of regional and international instruments, such as the Istanbul Convention, the United Nations Declaration on the Elimination of Violence against Women and other United Nations resolutions, demonstrates the need to combat all forms of gender-based violence on a common basis.
- (13) The special need to combat violence against women and girls and other forms of gender-based violence on a common basis also results from the need to establish minimum rules concerning the definition of criminal offences and sanctions, including a common definition of gender-based violence, as well as minimum rules concerning key issues of prevention, underreporting, victim protection, support and reparation, and the prosecution of perpetrators. The approaches and levels of commitment of Member States to prevent and combat gender-based violence vary significantly and, therefore, a common basis approach would also contribute to law enforcement in cross-border operations.
- (14) Gender-based violence meets the criteria to be identified as a new area of crime under Article 83(1) TFEU,

HAS ADOPTED THIS DECISION:

*Article 1*

Gender-based violence is hereby identified as an area of crime that meets the criteria specified in Article 83(1) of the Treaty on the Functioning of the European Union.

*Article 2*

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

Done at Brussels,

*For the Council  
The President*