



## Proposal for amendments to the Directive on combating violence against women and domestic violence

**September 2022**

### **The European Disability Forum**

The European Disability Forum ([EDF](#)) is an umbrella organisation of persons with disabilities that defends the interests of over 100 million persons with disabilities in the European Union. We are a unique platform which brings together representative organisation of persons with disabilities from across Europe. We are run by persons with disabilities and their families, and as such represent a strong, united voice of persons with disabilities in Europe.

Specific expertise on gender and women's rights issue is provided by EDF Women's Committee. EDF is committed to the women's movement and a member of the European Women's Lobby.

### **Introduction**

In view of the recent European Commission proposal for a [Directive on Combating violence against women and domestic violence](#) establishing minimum rules of protection against offline and online violence.

EDF would like to stress 3 key points:

1. The Directive must introduce a **criminalisation of forced sterilisation** in the European Union. Forced sterilisation is prohibited under the United Nations Convention on the Rights of Persons with Disabilities (see [General Comment No. 3](#)), ratified by the EU and all its Member States, and the Council of Europe Convention on preventing and combating violence against women and domestic violence ('Istanbul Convention'). Yet only 9 EU Member States specifically criminalise forced sterilisation as a distinct criminal offence, while at least 14 EU Member States still allows some forms of forced sterilisation in their legislation. EDF proposes the inclusion of a specific article prohibiting forced sterilisation – *see article 6 bis as well as 12, 15, 36 paragraph 6, and recital 4 and 16 bis.*

2. **Accessibility, adequate support and training of professionals** are key to ensure access to justice and to support services for women and girls victims of violence against women and domestic violence. The Directive must strengthen the existing framework established by the Victims’ Rights Directive and require accessibility of shelters and other interim accommodations, as well as require States to provide trainings related to disability related needs and rights to professionals – *see article 16, 27, 32 paragraph 1 bis, 36 paragraph 3, 37 and recital 60.*
  
3. **Data and research** are needed to identify the root causes of violence and monitoring progress in preventing and combating violence against women and domestic violence. There is a lack of comparable data on violence against women and girls with disabilities in the EU. The Directive should require Member States to disaggregate data by disability to inform on the specific situation of marginalised groups, including women and girls with disabilities, in various settings such as in institutions, schools and workplace – *see article 44.*

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## Proposed amendments

### New Article 6 bis – Forced sterilisation

	<p><b>1. Member States shall ensure that the intentional conduct of performing surgery which has the purpose or effect of terminating a woman’s capacity to naturally reproduce without her prior and informed consent or understanding of the procedure is punishable as a criminal offence.</b></p> <p><b>2. Member States shall ensure that the prior and informed consent of the woman to undergo through the surgery referred to in paragraph 1 cannot be replaced by the consent of a parent, legal guardian or court’s decision.</b></p>
<p>Justification:</p> <p>Sterilisation of women with disabilities without their knowledge or consent is a widespread form of violence, in particular affecting members of ethnic minorities such as Roma women, women with disabilities in particular women under guardianships and/or living in institutions, as well as intersex people.</p> <p>It is a human rights violation and exploitation of one’s body with permanent and irreversible effects that is <b>still allowed under the legislation of at least 14 EU Member States</b>: Austria, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, Hungary, Latvia, Lithuania, Malta, Portugal and Slovakia. These countries authorise either</p>	

a guardian, a legal representative, an administrator or a doctor to consent to the sterilisation of a person with disabilities.

Currently, only 9 EU Member States specifically criminalise forced sterilisation as a distinct criminal offence.

Forced sterilisation is prohibited by the UN Convention on the Rights of Persons with Disabilities ratified by the EU and all its Member States ([General Comment No. 3](#)), and by the Istanbul Convention (article 39).

### Article 12. Penalties – Paragraph 4

4. Member States shall ensure that the criminal offence referred to in Article 6 is punishable by a maximum penalty of at least 5 years of imprisonment and at least 7 years of imprisonment if the offence was committed under aggravating circumstances referred to in Article 13.

4. Member States shall ensure that the criminal offences referred to in Article 6 **and Article 6 bis** are punishable by a maximum penalty of at least 5 years of imprisonment and at least 7 years of imprisonment if the offence was committed under aggravating circumstances referred to in Article 13.

Justification:

Due to its irreversible and permanent nature, penalties for the criminal offence of forced sterilisation should be at least similar to those applicable to female genital mutilation.

In EU Member States that do criminalise forced sterilisation we see important differences in penalties. For example, it can be sanctioned to up to 10 years to imprisonment in Malta, while in Sweden the offence is sanctioned by a fine and up to 6 months imprisonment.

### Article 15. Limitation periods – Paragraph 3

3. Member States shall take the necessary measures to provide for a limitation period for criminal offences referred to in Article 6 of at least 10 years from the time when the offence was committed.

3. Member States shall take the necessary measures to provide for a limitation period for criminal offences referred to in Article 6 **and Article 6 bis** of at least 10 years from the time when the offence was committed.

Justification:

Due to its irreversible and permanent nature, period of limitation for the criminal offence of forced sterilisation should be at least similar to the one applicable to female genital mutilation

### Article 16. Reporting of violence against women or domestic violence – Paragraph 1

1. In addition to the rights of victims when making a complaint under Article 5 of Directive 2012/29/EU, Member States shall ensure that victims can report criminal offences of violence against women or domestic violence to the competent authorities in an easy and accessible manner. This shall include the possibility of reporting criminal offences online or through other information and communication technologies, including the possibility to submit evidence, in particular concerning reporting of criminal offences of cyber violence.

1. In addition to the rights of victims when making a complaint under Article 5 of Directive 2012/29/EU, Member States shall ensure that victims, **including those with disabilities and living in institutions**, can report criminal offences of violence against women or domestic violence to the competent authorities in an easy and accessible manner, **including through the use of Braille and sign language**. This shall include the possibility of reporting criminal offences online or through other **accessible** information and communication technologies, including the possibility to submit evidence, in particular concerning reporting of criminal offences of cyber violence.

#### Justification:

Women and girls with disabilities face more difficulties to report violence and claim their rights because of several factors, including inaccessibility and the unavailability of reporting mechanisms in institutions. The Directive should guarantee that all victims can report violence against women or domestic violence.

This includes Blind, deaf and deafblind women and girls, which due to specific communication needs and barriers, need provision of Braille and/or sign language interpreter (including Deafblind interpreter).

### Article 27. Specialist support to victims – Paragraphs 1, 2 and 4

1. Member States shall ensure that specialist support services referred to in Article 9(3) of Directive

2. Member States shall ensure that specialist support services referred to in Article 9(3) of Directive

2012/29/EU are available for victims of acts of violence covered by this Directive. The specialist support services shall provide:

- (a) advice and information on any relevant legal or practical matters arising as a result of the crime, including on access to housing, education, training and assistance to remain in or find employment;
- (b) referrals to medical forensic examinations;
- (c) support to victims of cyber violence, including advice on judicial remedies and remedies to remove online content related to the crime.

2. Specialist support referred to in paragraph 1 shall be offered in-person and shall be easily accessible, including online or through other adequate means, such as information and communication technologies, tailored to the needs of victims of violence against women and domestic violence.

4. Member States shall provide the protection and specialist support services necessary to comprehensively address the multiple needs of victims at the same premises, or have such services coordinated through a central contact point, or through one-stop online access to such services. Such combined offering of services shall include at least first hand medical care and social services, psychosocial support, legal, and police services.

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- (a) advice and information on any relevant legal or practical matters arising as a result of the crime, including on access to **appropriate and accessible** housing, education, training and assistance to remain in or find employment;
- (b) referrals to medical forensic examinations;
- (c) support to victims of cyber violence, including advice on judicial remedies and remedies to remove online content related to the crime.

2. Specialist support referred to in paragraph 1 shall be offered in-person and shall be easily accessible, including online or through other adequate means, such as information and communication technologies, tailored to the needs of victims of violence against women and domestic violence, **including those with disabilities and living in institutions.**

4. Member States shall provide the protection and specialist support services necessary to comprehensively address the multiple needs of victims at the same premises, or have such services coordinated through a central contact point, or through one-stop online access to such services. Such combined offering of services shall include at least first

	hand medical care and social services, psychosocial support, legal, and police services, <b>and be available and accessible to victims with disabilities.</b>
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**Justification:**

The Directive must ensure that women with disabilities, including those living in institutions have access to specialist support to victims when they are victims of violence against women and domestic violence. It is also important to provide sign language interpreters so Deaf and deafblind women and girls have equal access to information.

**New Article 29 bis. Specialist support for victims of forced sterilisation**

	<p><b>Specialist support for victims of forced sterilisation</b></p> <p><b>1. Member States shall ensure effective, disability appropriate, support to victims of forced sterilisation, including by providing gynecological, psychological and trauma care tailored to the specific needs of the victims, after the offence has been perpetrated and for as long as necessary thereafter.</b></p> <p><b>2. Article 27(3) and (6) and Article 28(2) shall be applicable to the provision of support for victims of forced sterilisation.</b></p>
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**Justification:**

The Directive must provide for specialist support for victims of forced sterilisation, not only to access justice, but also to support them with the impact forced sterilisation can have on their lives. Forced sterilisation can create serious health and psychological consequences on women.

## Article 32. Shelters and other interim accommodations – Paragraph 1 bis

	<p><b>1. bis. The shelters and other appropriate interim accommodations shall be accessible and equipped to accommodate the specific needs of victims with disabilities.</b></p>
<p>Justification:</p> <p>In many cases, shelters and interim accommodations are not accessible to women and girls victims of violence against women and domestic violence, e.g. physical accessibility, offering personal assistance, information in sign language, easy to understand language, etc. The Directive must require accessibility and capacity to accommodate the specific needs of victims with disabilities, including access to information on braille, large print, text to speech and sign language interpretation (including for Deafblind victims).</p>	

## Article 36 Preventive measures – Paragraphs 3 and 6

<p>3. Member States shall make information on preventive measures, the rights of victims, access to justice and to a lawyer, and the available protection and support measures available to the general public.</p> <p>6. Preventive measures shall develop and/or increase sensitivity about the harmful practice of female genital mutilation.</p>	<p>3. Member States shall make information on preventive measures, the rights of victims, access to justice and to a lawyer, and the available protection and support measures available to the general public <b>and in formats accessible to persons with disabilities.</b></p> <p>6. Preventive measures shall develop and/or increase sensitivity about the harmful practice of female genital mutilation <b>and forced sterilisation.</b></p>
<p>Justification:</p> <p>Information on preventive measures, the rights of victims, access to justice and available protection and support measures must be available in formats accessible to persons with disabilities, such as Easy to read and understand, Braille, sign language, etc. Without such formats, women with disabilities will not benefit from those preventive measures.</p> <p>There should also be specific preventive measures on forced sterilisation.</p>	



## Article 37 Training and information for professionals – Paragraphs 1, 3 and 6

1. Member States shall ensure that professionals likely to come into contact with victims, including law enforcement authorities, court staff, judges and prosecutors, lawyers, providers of victim support and restorative justice services, healthcare professionals, social services, educational and other relevant staff, receive both general and specialist training and targeted information to a level appropriate to their contacts with victims, to enable them to identify, prevent and address instances of violence against women or domestic violence and to treat victims in a trauma-, gender- and child-sensitive manner.

3. Persons with supervisory functions in the workplace, in both the public and private sectors, shall receive training on how to recognise, prevent and address sexual harassment at work, including on risk assessments concerning occupational safety and health risks, to provide support to victims affected thereby and respond in an adequate manner. Those persons and employers shall receive information about the effects of violence against women and domestic violence on work and the risk of third party violence.

6. Member States shall ensure that the authorities competent for receiving reports of offences from victims are appropriately trained to facilitate and assist in the reporting of such crimes.

1. Member States shall ensure that professionals likely to come into contact with victims, including law enforcement authorities, court staff, judges and prosecutors, lawyers, providers of victim support and restorative justice services, healthcare professionals, social services, educational and other relevant staff, receive both general and specialist training and targeted information to a level appropriate to their contacts with victims, to enable them to identify, prevent and address instances of violence against women or domestic violence and to treat victims in a trauma-, gender-, **disability-** and child-sensitive manner.

3. Persons with supervisory functions in the workplace, in both the public and private sectors, shall receive training on how to recognise, prevent and address sexual harassment at work, including on risk assessments concerning occupational safety and health risks, to provide support to victims affected thereby and respond in an adequate manner. Those persons and employers shall receive information about the effects of violence against women and domestic violence on work and the risk of third party violence.

**They should also received specific information and targeted training sexual harassment of the most marginalised groups, who are often less likely to report the**

	<p><b>offence and be believed, such as women with disabilities.</b></p> <p>6. Member States shall ensure that the authorities competent for receiving reports of offences from victims are appropriately trained to facilitate and assist in the reporting of such crimes, <b>including by victims with disabilities.</b></p>
<p>Justification:</p> <p>Without adequate trainings on disability and the rights and needs of women and girls with disabilities, women and girls with disabilities who are victims of violence may face revictimization, discrimination or lack of adequate support. The Directive must require Member States to provide disability-sensitive assistance and support. It should also require specific trainings on sexual harassment of marginalised groups, including women with disabilities, as they are less likely to report harassment and be believed because of stereotypes based on their disability.</p>	

#### **Article 44. Data collection and research – Paragraph 2**

<p>2. The statistics shall include the following data disaggregated by sex, age of the victim and of the offender, relationship between the victim and the offender and type of offence:</p> <p>(a) the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime;</p> <p>(b) the annual number of such victims, of reported offences, of persons prosecuted for and convicted of such forms of violence, obtained from national administrative sources.</p>	<p>2. The statistics shall include the following data disaggregated by sex, <b>disability</b>, age of the victim and of the offender, relationship between the victim and the offender, <b>and the</b> type of offence <b>and place the offence took place:</b></p> <p>(a) the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime;</p> <p>(b) the annual number of such victims, of reported offences, of persons prosecuted for and convicted of such forms of violence, obtained from national administrative sources.</p>
<p>Justification:</p>	

Data and research are needed to identify the root causes of violence and monitoring progress in preventing and combating violence against women and domestic violence. There is a lack of data available on women and girls with disabilities. The Directive should require Member States to disaggregate all data on violence by disability and collect data on the place where the violence took place. Knowing the place where the violence took place is also very important to develop effective policies, for example related to violence in institutions and other closed settings such as psychiatric hospitals and refugee centres.

#### Recital 4

(4) This Directive should apply to criminal conduct which amounts to violence against women or domestic violence, as criminalised under Union or national law. This includes the criminal offences defined in this Directive, namely rape, female genital mutilation, the non-consensual sharing of intimate or manipulated material, cyber stalking, cyber harassment, cyber incitement to violence or hatred and criminal conduct covered by other Union instruments, in particular Directives 2011/36/EU and 2011/93/EU of the European Parliament and of the Council, which define criminal offences concerning the sexual exploitation of children and trafficking of human beings for the purpose of sexual exploitation. Lastly, certain criminal offences under national law fall under the definition of violence against women. This includes crimes such as femicide, sexual harassment, sexual abuse, stalking, early and forced marriage, forced abortion, forced sterilisation and different

(4) This Directive should apply to criminal conduct which amounts to violence against women or domestic violence, as criminalised under Union or national law. This includes the criminal offences defined in this Directive, namely rape, female genital mutilation, **forced sterilisation**, the non-consensual sharing of intimate or manipulated material, cyber stalking, cyber harassment, cyber incitement to violence or hatred and criminal conduct covered by other Union instruments, in particular Directives 2011/36/EU and 2011/93/EU of the European Parliament and of the Council, which define criminal offences concerning the sexual exploitation of children and trafficking of human beings for the purpose of sexual exploitation. Lastly, certain criminal offences under national law fall under the definition of violence against women. This includes crimes such as femicide, sexual harassment, sexual abuse, stalking, early and forced marriage, forced abortion, **forced sterilisation** and different forms of cyber violence, such as online sexual harassment, cyber

forms of cyber violence, such as online sexual harassment, cyber bullying or the unsolicited receipt of sexually explicit material. Domestic violence is a form of violence which may be specifically criminalised under national law or covered by criminal offences which are committed within the family or domestic unit or between former or current spouses.

bullying or the unsolicited receipt of sexually explicit material. Domestic violence is a form of violence which may be specifically criminalised under national law or covered by criminal offences which are committed within the family or domestic unit or between former or current spouses.

Justification:

To align with the criminalisation of forced sterilisation

### Recital 10

(10) This Directive supports the international commitments the Member States have undertaken to combat and prevent violence against women and domestic violence, in particular the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and, where relevant, the Council of Europe Convention on preventing and combating violence against women and domestic violence ('Istanbul Convention') 40 and the International Labour Organization's Convention concerning the elimination of violence and harassment in the world of work, signed on 21 June 2019 in Geneva.

(10) This Directive supports the international commitments the Member States have undertaken to combat and prevent violence against women and domestic violence, in particular the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), **the United Nations Convention on the Rights of Persons with Disabilities (CRPD)** and, where relevant, the Council of Europe Convention on preventing and combating violence against women and domestic violence ('Istanbul Convention') 40 and the International Labour Organization's Convention concerning the elimination of violence and harassment in the world of work, signed on 21 June 2019 in Geneva.

Justification:

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) is ratified by the EU and all its member states. It addresses the rights of women in article 6, exploitation, violence and abuse in article 16 and protecting the integrity of the person in article 17. [General](#)

[Comment No. 3](#) on women with disabilities give more information on violence faced by women and girls with disabilities, including forced sterilisation.

### **NEW Recital 16 bis**

	<p><b>Forced sterilisation is a harmful and exploitative practice that removes the capacity of sexual reproduction of the victims and that is performed for the purpose of exerting social control over the victims. It was initially based on eugenicist assumptions about the value of the lives of the persons at stake and stereotypes concerning their capacity to be parents, in particular mothers. Roma and women and girls with disabilities are particular at risk of such violation, in particular those with intellectual and psychosocial disabilities, and living in institutions. To combat this long-lasting practice, which perpetuates discrimination, stereotypes, violence and control over the woman's body, forced sterilisation should be specifically addressed by criminal law.</b></p>
<p>Justification:</p> <p>This new recital is needed to explain why the criminalisation of forced sterilisation is needed under the Directive.</p>	

### **Recital 60**

<p>In order to ensure victims of violence against women and domestic violence are identified and receive appropriate support, Member States should ensure that professionals likely to come into</p>	<p>In order to ensure victims of violence against women and domestic violence are identified and receive appropriate support, Member States should ensure that professionals likely to come into</p>
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contact with victims receive training and targeted information. Trainings should cover the risk and prevention of intimidation, repeat and secondary victimisation and the availability of protection and support measures for victims. To prevent and appropriately address instances of sexual harassment at work, persons with supervisory functions should also receive training. These trainings should also cover assessments regarding sexual harassment at work and associated psychosocial safety and health risks as referred to under Directive 89/391/EEC of the European Parliament and of the Council<sup>1</sup>. Training activities should also cover the risk of third party violence. Third party violence refers to violence which staff may suffer at the workplace, not at the hands of a co-worker, and includes cases, such as nurses sexually harassed by a patient.

contact with victims receive training and targeted information. Trainings should cover the risk and prevention of intimidation, repeat and secondary victimisation and the availability of protection and support measures for victims. **They should include prevention and identification of sexual harassment of the most marginalised groups who are often the less believed when reporting, such as women with disabilities.** To prevent and appropriately address instances of sexual harassment at work, persons with supervisory functions should also receive training. These trainings should also cover assessments regarding sexual harassment at work and associated psychosocial safety and health risks as referred to under Directive 89/391/EEC of the European Parliament and of the Council<sup>2</sup>. Training activities should also cover the risk of third party violence. Third party violence refers to violence which staff may suffer at the workplace, not at the hands of a co-worker, and includes cases, such as nurses sexually harassed by a patient.

**Justification:**

When women with disabilities faced sexual harassment, they are less likely to report the offence due to fear of retaliation, and less likely to be believed because of stereotypes about disability (e.g. that women with disabilities would not get harassed or are not 'sexually attractive' because of their disability). This is why it is very important that Member

<sup>1</sup> Council Directive 89/391/EEC of the European Parliament and of the Council of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1).

<sup>2</sup> Council Directive 89/391/EEC of the European Parliament and of the Council of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, p. 1).

States pay specific attention in marginalised groups when delivering trainings, especially regarding prevention and identification.

## Resources

- [UN Convention on the Rights of Persons with Disabilities](#)
- Joint statement by the Committee on the Rights of Persons with Disabilities (CRPD) and the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW): [Guaranteeing sexual and reproductive health and rights for all women, in particular women with disabilities](#)
- [European Parliament resolution of 29 November 2018 on the situation of women with disabilities \(2018/2685\(RSP\)\)](#)
- [EESC, The situation of women with disabilities \(exploratory opinion requested by the European Parliament\), 2018](#)
- [EDF position paper on Violence against women and girls with disabilities in the European Union](#)
- [EDF position paper on sexual and reproductive health and rights of women and girls with disabilities](#)
- [EDF-CERMI Report on Ending forced sterilisation for women and girls with disabilities](#)

## Document credits

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