



OPINION

European Economic and Social Committee

Combating violence against women

Proposal for a Directive of the European Parliament and of the Council on combating
violence against women and domestic violence
[COM(2022) 105 final]

SOC/726

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Referral	European Commission, 02/05/2022
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Section for Employment, Social Affairs and Citizenship
Adopted in section	22/06/2022
Adopted at plenary	13/07/2022
Plenary session No	571
Outcome of vote (for/against/abstentions)	200/7/7

1. **Conclusions and recommendations**

- 1.1 The EESC applauds the regulatory innovation of a Directive on combating violence against women from an intersectional perspective. Such a Directive is much sought-after by society.
- 1.2 In addition, given the range and extent of the different forms of violence suffered by women, the policies that aim to counter them must not be neutral but must be drawn up based on a clear and unequivocal gender perspective, presented in such a way as to make it easier to understand their importance and effectiveness.
- 1.3 The EESC wishes to add that it considers it essential and urgent for the ILO's Violence and Harassment Convention (No 190) and the Istanbul Convention to be ratified by all Member States that have not yet done so, and by the EU itself.
- 1.4 The EESC believes the Directive must cover all forms of violence against women, including amongst others: institutional violence, sexual and reproductive exploitation, harassment at work, gender-based violence occurring in the family, chemical submission, street harassment, gender and/or sex-based sexual harassment and forced sterilisation of women with disabilities.
- 1.5 The EESC considers that violence against women should be included in the list of EU crimes in Article 83(1) of the TFEU.
- 1.6 The EESC is of the view that specific measures should be included within the framework of social dialogue and collective negotiation to ensure that victims of violence against women can retain their jobs and to ensure the integration of unemployed victims into the labour market.
- 1.7 Based on the line taken by the EP and the CEDAW, the EESC believes that the term "women in prostitution" should replace "sex workers".
- 1.8 The Committee considers that aspects such as previous threats made to the victim or their loved ones or family, and profit, should be considered aggravating circumstances.
- 1.9 Special attention should also be given to women and girls from ethnic and/or cultural minorities – such as the Roma –, to migrant women, especially if their administrative situation is irregular, and to refugee women and girls fleeing war.
- 1.10 The EESC calls for specific attention to also be given to women with disabilities, as they are more exposed to gender-based violence because of their disability.
- 1.11 The EESC believes that lack of consent and public exposure should, in and of themselves, constitute cyber harassment.
- 1.12 The EESC believes that victims must be referred to support services not just in a timely and coordinated manner but also as a matter of priority and urgency.

- 1.13 The EESC calls on the European Commission to include healthcare services, including sexual and reproductive health services, in the list of essential support services for victims and to press for all EU Member States to urgently remove any barriers that make it difficult to access emergency contraception and induced abortion services following a rape.
- 1.14 The Committee firmly believes that emergency restraining and protection orders aimed at safeguarding the physical and mental well-being of victims must incorporate measures that prevent the aggressor from harassing or physically approaching the victim.
- 1.15 The EESC believes that all mechanisms and measures for supporting victims of sexual violence should be expressly easy to access and free of charge.
- 1.16 The Committee draws attention to the limitation of exclusively external counselling and care services offered in cases of sexual harassment at work, and the fact that there is no reference to the importance of social dialogue and collective negotiation as well as the necessary participation and negotiation with social partners.
- 1.17 Given the part that education plays in shaping gender roles and stereotypes, its preventive role should extend across all education stages – especially in the form of comprehensive sexuality education – and the education community, civil society organisations (especially feminist associations), social partners and impacted communities should be an explicit part of institutional cooperation.
- 1.18 The Committee believes that the welfare of the child should take precedence over rights of access, where there is reasonable doubt concerning safe contact from both a physical and emotional point of view.
- 1.19 The Committee is pleased that the Directive specifies female genital mutilation as an offence.
- 1.20 The EESC believes that broader violations of health and sexual and reproductive rights such as gynaecological and obstetric violence, forced pregnancy and denial of abortion care, should also be combated as forms of violence against women. Furthermore, the EESC notes with concern that the definition of violence against women does not include existing restrictions on induced abortion undergone freely and safely or the harassment suffered – mainly in the vicinity of the clinics where abortions take place – by women who freely choose this option.
- 1.21 The Committee also notes with concern that the enjoyment of a free, equal and full life for children who have lost their mother because she was a victim of violence against women, is not provided for.
- 1.22 The EESC is deeply concerned that the extreme right has made it its goal to oppose proposals of gender equality. It is especially concerned about the systematic denial of structural violence against women, i.e. violence suffered simply for being a woman. Not only does this denial undermine equal coexistence between men and women, it also constitutes an attack on the values and principles enshrined in Article 2 of the TEU.

1.23 The Committee recommends that the Directive provide for a financial memorandum to ensure sufficient public funding for the measures adopted to be effectively implemented.

2. General comments

2.1 Violence against women is the ultimate expression of discrimination against women. It represents a control mechanism that stems from inequality between women and men while at the same time reinforcing and perpetuating this inequality.

2.2 The EESC is deeply concerned that the extreme right has made it its goal to oppose proposals of gender equality. It is especially concerned about the systematic denial of structural violence against women, i.e. violence suffered simply for being a woman. Not only does this denial undermine equal coexistence between men and women, it also constitutes an attack on the values and principles enshrined in Article 2 of the TEU.

2.3 One of the key objectives of the EU Gender Equality Strategy 2020-2025 is to put an end to gender-based violence. Its other objectives include combating gender stereotypes, eliminating the gender pay gap in employment and care, achieving equal participation across different sectors of the economy and ensuring gender balance in decision-making and politics.

2.4 Violence against women and girls is one of the most relentless forms of gender discrimination and constitutes a human rights violation. Half of women in the EU (53%) avoid certain areas or situations for fear of falling victim to physical or sexual aggression¹ while a third say they have been victims of physical or sexual violence (33%).

2.5 Given the range and extent of the different forms of violence suffered by women, the policies that aim to counter them must not be neutral but must have a clear and unequivocal gender perspective, presented in such a way as to make it easier to understand their importance and effectiveness.

2.6 Every day women risk experiencing violence at work, especially those working in the transport sector (63% of them say they have been subjected to at least one act of violence recently)² and in services and sales³.

2.7 There has also been a rise in domestic violence due to the lockdown measures introduced to ease the health crisis caused by the COVID-19 pandemic⁴.

2.8 The EESC welcomes the fact that the proposal for a Directive aims to prevent and combat violence against women and domestic violence to ensure a high level of security and the full enjoyment of fundamental rights, including the right to equal treatment and non-discrimination.

¹ FRA (2014), [Violence against women: an EU-wide survey](#).

² EFT (2019), [Time's Up for Violence Against Women](#).

³ Eurofound (2017), [6th European Working Condition Survey](#).

⁴ European Union (2021), [2021 report on gender equality in the EU](#).

While we believe that combating violence against women must be a matter of criminal law, it must also be accompanied by a holistic and comprehensive approach to prevent, combat and eradicate male violence against women.

3. **Specific comments**

- 3.1 The EESC applauds the regulatory innovation of a Directive on combating violence against women from an intersectional perspective. However, it points to the need to establish protocols and awareness and qualification campaigns for professionals, to prevent institutional violence such as victim-blaming based on external factors that are not linked to the act of violence. These factors include the victim's appearance, attitude, status, origin or any other attribute or situation.
- 3.2 In this respect, while the EESC welcomes the clarification the Directive provides in terms of concepts and criminal proceedings by including definitions of some forms of violence against women, it is essential that the proposal covers all forms of gender-based violence against women and includes a general definition of gender-based violence such as the one provided in Articles 1 and 2 of the 1993 UN Declaration on the Elimination of Violence against Women and in Article 3 of the Istanbul Convention.
- 3.3 The EESC considers that violence against women should have been included in the list of EU crimes in Article 83(1) of the TFEU.
- 3.4 The EESC welcomes the criminalisation of rape based on lack of consent alone, without the prerequisite of force or threats for charges to be brought against an offender. This legal definition incorporates the specific crime in line with the Istanbul Convention: rape as a concept should also apply to new forms of rape such as chemical submission.
- 3.5 The Committee recognises the importance of incorporating specific measures for the protection of victims of gender-based violence occurring in the family and their access to justice. However, it calls for this form of violence to be included among the offences set out in the Directive, establishing a common framework for penalties, aggravating circumstances, jurisdiction and limitation periods.
- 3.6 More than half of European women claim to have fallen victim to sexual harassment at some point (55%)⁵. Therefore, the EESC believes that the Directive cannot ignore this form of violence against women, neither in its proposed definitions nor in its provisions on penalties, aggravating circumstances, jurisdiction and limitation periods⁶.

⁵ Survey based on interviews with 42 000 women. Source: [Violence against women: an EU-wide survey](#), European Union Agency for Fundamental Rights, 2014.

⁶ Following through on the commitments made at the Me Too event held by the European Parliament in February 2019, where candidates in the May elections were called upon to make a firm commitment to combating sexual harassment specifically.

- 3.7 A third of women who have suffered sexual harassment have experienced it at work⁷. The EESC, therefore, considers it necessary for the Directive to include provisions on this form of violence as well as on the implementation and updating of specific measures by employers to combat sexual and sex-based harassment at work, including cyber violence and cyber harassment⁸. The EESC, therefore, calls for the Directive to include harassment at work.
- 3.8 Vicarious violence – i.e. the kind suffered by women as a result of violence committed against their loved ones or family with the intention of emotionally abusing the women in question – is committed mainly against women's children. The EESC believes that the welfare of the child should take precedence over rights of access, where there is reasonable doubt concerning safe contact with the child from both a physical and emotional point of view.
- 3.9 Bearing in mind that financial independence is crucial to the sense of empowerment and to the recovery of victims of violence occurring within the family, the EESC notes with concern the lack of specific measures, within the framework of social dialogue and collective negotiations, to ensure that victims can retain their jobs and to ensure the integration of unemployed victims into the labour market.
- 3.10 Having seen the results of the European Parliament Report on sexual exploitation and prostitution and its impact on gender equality⁹, the EESC believes that it would be proper for these women to be referred to as "women in prostitution" not "sex workers", based on Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and on General Recommendation No 38 of the Committee on the Elimination of Discrimination against Women on trafficking in women and girls in the context of global migration, of 6 November 2020.
- 3.11 Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims¹⁰ considers the consent of the victim to be invalid when it is obtained by means of a threat, the use of force, coercion, abuse of power or of a position of vulnerability, or the giving or receiving of payments or benefits. The EESC considers that procuring or profit derived from the sexual exploitation of another person should be included among the penalties under Chapter 2 of the Directive, on offences concerning sexual exploitation.

⁷ Survey based on interviews with 42 000 women. Source: [Violence against women: an EU-wide survey](#), European Union Agency for Fundamental Rights, 2014.

⁸ In this regard, the EESC points to [Article 48 of Organic Law 3/2007](#) of 22 March as constituting best practice in Spain in terms of substantive gender equality.

⁹ European Parliament Report on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)). Committee on Women's Rights and Gender Equality. Rapporteur: Mary Honeyball. A7-0071/2014. 3.2.2014. See also European Parliament 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 (2020/2029(INI)).

¹⁰ 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.

- 3.12 The EESC shares the concern of the Special Rapporteur of the UN Human Rights Council¹¹ regarding the increase in surrogate pregnancy. Like the European Parliament¹², the EESC views surrogate pregnancy as a form of reproductive exploitation that undermines women's dignity. It thus believes that this practice – when it is a legal transaction involving profit or benefits for any of the parties, including publicity – should be considered a form of violence against women and be treated as sexual exploitation (including it in Chapter 2 and Article 1).
- 3.13 Violence against women is the most widespread form of human rights violation in the EU but it is most prevalent among women and girls in vulnerable situations, with women and girls from ethnic and/or cultural minorities, such as the Roma, requiring special attention.
- 3.14 The EESC supports all appropriate legislative measures aimed at protecting women with disabilities from all forms of exploitation, violence and abuse, including sex-based aspects. It also supports suitable preventive measures, in particular appropriate forms of assistance and support that take into account gender issues for women with disabilities. To this end, the EESC supports the proper supervision by independent authorities of all facilities and programmes designed to help women with disabilities.
- 3.15 The EESC also supports all appropriate measures aimed at promoting the physical, mental and psychological recovery, rehabilitation and social reintegration of women with disabilities who have suffered any form of violence or abuse, including by offering them protection. The Committee calls for special attention to be given to women with disabilities, as they are more exposed to gender-based violence because of their disability (forced sterilisation, legal incapacitation declared by members of the family).
- 3.16 Migrant women, especially if their administrative status is irregular, must be protected by being immediately issued with an autonomous and provisional residence permit when they file a complaint¹³. Likewise, if during proceedings this legal documentation is found to be missing, the competent migration authorities should not be informed.
- 3.17 The EESC very much appreciates the inclusion of cyber harassment and the non-consensual sharing of intimate or manipulated material as forms of violence against women and girls. However, it is concerned about the requirement for material to have been made accessible to a "multitude of end-users" in order for the act to be considered an offence. This requirement is ambiguous, vague and highly open to interpretation, and does not deal with the real reputational harm which is sometimes greater if the material is shared only with people from the victim's close social, family or work circles. The Committee believes that lack of consent and public

¹¹ United Nations. Human Rights Council. Report of the Special Rapporteur on the Sale and Sexual Exploitation of Children, including Child Prostitution, Child Pornography and Other Child Sexual Abuse Material. [A/HRC/37/60](#). Human Rights Council. 37th session. 26 February to 23 March 2018.

¹² As stated in the European Parliament resolution of 17 December 2015 on the Annual Report on Human Rights and Democracy in the World and the European Union's policy on the matter (2015/2229(INI)), which condemns gestational surrogacy because it "undermines the human dignity of the woman since her body and its reproductive functions are used as a commodity", the EESC demands an urgent assessment of the legality of this practice, in light of the various human rights instruments available, and calls for the prohibition of a practice "which involves reproductive exploitation and use of the human body for financial or other gain, in particular in the case of vulnerable women in developing countries".

¹³ In this context, Spain's immigration law constitutes best practice (Article 31a of Organic Law 4/2000).

exposure should constitute cyber harassment in and of themselves without the need to assess whether material has been shared with a multitude of users or whether it was actually just shared with many or a fair number of users (Article 7(a) and (b), Article 8(c) and Article 9(a)).

- 3.18 Widespread use of the web and social media is fostering an increasingly frequent non-consensual exchange of material with sexual content, which is having a stronger impact and causing victims more harm. The Committee is concerned about this widespread practice and believes that the penalties and the limitation period for it (Article 7) should be equivalent to those for cyber stalking under Articles 12 and 15 (Article 8).
- 3.19 The EESC welcomes the requirement for specific training to be given to the authorities competent for receiving and handling complaints relating to the offences provided for in the Directive. However, it believes that there should also be specific measures for monitoring and evaluating the effectiveness of the system as well as a provision on specific penalties in the event that the competent authorities fail to comply with the due diligence principle. (Article 37(6)).
- 3.20 The Committee welcomes the need for people, units and services that investigate and prosecute acts of violence against women and girls – in particular legal actors, authorities and court staff, judges, prosecutors, lawyers, victim support workers and restorative justice services, care professionals, social and educational services and other relevant staff that might come into contact with vulnerable groups or with the victims – to possess "sufficient" experience. However, the EESC warns about the potentially subjective interpretation of the sufficiency or insufficiency of the experience. Bearing in mind that one of the main mistakes in related interventions is precisely the lack of training and awareness among the actors involved, the EESC recommends that specific training be required not just for professionals handling complaints or who are in contact with victims but also for those involved in the investigation or prosecution process provided for under Chapter 3 (Article 17(1)).
- 3.21 The speed at which victims are assisted is key to their proper recompense, rehabilitation and recuperation. Therefore, the EESC believes that victims must be referred to support services not just in a timely and coordinated manner but also as a priority and a matter of urgency (Article 20(2)).
- 3.22 The EESC is pleased that measures have been proposed to ensure victims have access to holistic, tailored, general and specialised support services that meet their specific needs. However, it regrets that the list of specialist support services which Member States are required to provide victims with (Article 27(1)) only refers to the support provided during the legal proceedings or during the investigation and the court case but does not mention access to healthcare services, including sexual and reproductive health services, as something essential for victims. The EESC also notes with great concern that there is no specific reference to sexual and reproductive health services, including emergency contraception and abortion, as support services that are not only essential but urgently needed and to which victims of sexual violence must have access (Article 28). According to the UN and the European Court of Human Rights, the obligation to see a pregnancy through when it results from rape can constitute a cruel, inhuman and degrading form of violence, which is a serious matter. The EESC calls on the

European Commission to include healthcare services, including sexual and reproductive health services, in the list of essential support services for victims and to press for all EU Member States to urgently remove any barriers that make it difficult to access emergency contraception and induced abortion services following a rape.

- 3.23 Women who are displaced and fleeing conflict are at greater risk of suffering gender-based violence. Sexual violence is often used as a weapon of war and women and girls are at greater risk of falling prey to human trafficking and sexual exploitation. The EESC stresses that support, protection and access to essential health services such as the treatment of psychological trauma and access to sexual and reproductive services, including emergency contraception and abortion care, are of utmost importance and should be provided in all European countries.
- 3.24 The Committee firmly believes that emergency restraining and protection orders aimed at safeguarding the physical and mental well-being of victims must incorporate measures that prevent the aggressor from harassing or physically approaching the victim. This should not only apply to restricting or prohibiting access to the victim's residence or workplace (Article 21(1)) but also to the public space in general, taking into consideration potential cases in which proximity between the victim and their aggressor could be considered as dangerous behaviour by the offender or suspect. (Article 21(2)).
- 3.25 The EESC is pleased that the victims helplines and the specialist support offered at the sexual violence crisis referral centres for victims are accessible every day of the week and free of charge. However, it considers that all mechanisms and measures for supporting victims of sexual violence should be expressly easy to access and free of charge, as should the information on preventive measures and the rights of victims and the redress and compensation procedures.
- 3.26 The Committee welcomes the inclusion of specialist support in cases of sexual harassment at work and the requirement for preventive national policies to be put in place. However, it draws attention to the limitation of exclusively external counselling and care services (Article 30) and the fact that there is no reference to the importance of social dialogue, collective negotiation and the necessary participation and negotiation with social partners, especially with the trade unions as legitimate representatives of workers' interests and rights. It is also concerned about and surprised at the suggestion of "mediation" in cases involving this type of violence against women.
- 3.27 In view of this, the EESC believes it is essential and urgent for the ILO's Violence and Harassment Convention (No 190) and the Istanbul Convention to be ratified by all Member States that have not yet done so, and by the EU itself.
- 3.28 The Committee is delighted to see that the proposal includes preventive measures against gender-based violence in educational settings, including the reinforcement of comprehensive sexuality education. However, given the role that education plays in shaping gender roles and stereotypes, this provision should apply to all education stages, and the education community, civil society organisations (especially feminist associations), social partners and impacted communities should be an explicit part of institutional cooperation (Article 36(2)).

- 3.29 The EESC strongly welcomes the cooperation and coordination between Member States to gather data and investigate the causes, prevalence and effects of violence against women. However, it questions how strong a commitment can be elicited with the phrase "shall support" (Article 44(7)) which simply invites Member States to take action. The Committee believes that it would be much more effective and ambitious to adopt a commitment making it compulsory to adopt specific and meaningful measures establishing a set time frame (Article 44(7)).
- 3.30 The migrant diasporas hosted by various EU countries make it necessary to take into consideration forms of violence against women and girls that constitute part of the cultural *norms* of their communities of origin. The Committee is therefore pleased that the Directive specifies female genital mutilation as an offence. However, it warns about the need to be especially careful in ensuring that awareness and prevention campaigns avoid stigmatising women belonging to these communities and that the requirement to show cultural sensitivity when identifying the consequences of female genital mutilation (Article 37(2)) also applies to prevention campaigns. In this respect, the Committee believes that it is key to work with and from within the communities in question so as to prevent and neutralise the cultural significance of the practice (Article 36(6))¹⁴.
- 3.31 The EESC is pleased that forced abortion and sterilisation have been recognised as specific forms of violence. However, broader violations of health and sexual and reproductive rights such as gynaecological and obstetric violence, forced pregnancy and denial of abortion care, should also be combated as forms of violence against women. The EESC notes with concern that the definition of violence against women does not include existing restrictions on induced abortion undergone freely and safely or the harassment suffered – mainly in the vicinity of the clinics where abortions take place – by women who freely choose this option.
- 3.32 The Committee also notes with concern that the enjoyment of a free, equal and full life for children who have lost their mother because she was a victim of violence against women, is not provided for. To be able to live such a life they must be able to overcome the particularly vulnerable situation they are in as a result of the violence they have suffered – made even worse if their mother has been murdered – and to receive some form of compensation. In the latter case, it is essential to make it easier for these children to access the civil damages they are entitled to for the offences committed against them. It is also essential to speed up the inheritance process following the offence, to make it possible for them to access their assets and inheritance rights without delay¹⁵.

¹⁴ [The Multisectorial Academic Program to prevent and combat female Genital Mutilation](#) (FGM/C). European Commission 2016-2018.

¹⁵ In this regard, the Committee considers Organic Law 2/2022 of 21 March on [improving protection for orphan victims of gender-based violence](#) to be good practice in Spain.

3.33 The Committee regrets that this Directive is not accompanied by a financial memorandum and that, therefore, public funding of the Directive and the services and measures it proposes is not guaranteed.

Brussels, 13 July 2022

Christa Schweng
The president of the European Economic and Social Committee
