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**WK 3790/2023 INIT**

**LIMITE**

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**NOTE**

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From: General Secretariat of the Council  
To: Delegations

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Subject: Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence  
- Comments submitted by Member States following the COPEN meeting on 7 March 2023

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Delegations will find attached the above mentioned comments on the provisions of Chapters 5, 6 and 7.

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## **BELGIUM**

### **PROPOSAL FOR A DIRECTIVE ON COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE**

#### **Written comments of Belgium**

#### **Presidency for a redraft of Articles 36-52 (WK2576) following the COPEN meeting on 7 March 2023**

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Belgium thanks the Presidency for the tremendous and remarkable work behind the proposed amendments which Belgium generally supports.

#### **Chapter 5 – Prevention**

##### **Article 36 – Preventive measures**

Belgium welcomes the revised paragraphs, especially paragraph 2. Indeed, Belgium has the educational programmes mentioned but they cannot be rendered compulsory by the authorities because of the freedom of education and teaching enshrined in our constitution.

Belgium is not formally opposed to the transfer of the list of groups at risk from paragraph 4 to a recital (56). It was proposed to replace the list with the expression “action should be focused on groups at increased risk” and it is acceptable for Belgium. We agree with the suggestion to include all LGBTQIA+ in the list (whether it is in the article or in the recitals).

Regarding the two options proposed in paragraph 7, we can be flexible but are in favour of the second option which suits our national system but keeps a certain level of ambition. We can be flexible with the original text as long as it gives us enough flexibility to respect our Constitution. In paragraph 8, we suggest the following addition:

“Member States shall take adequate and appropriate measures to address sexual harassment at work, when it constitutes a criminal offense under national law, in relevant national policies, **including safety and health at the workplace to ensure that preventive measures are taken at the workplace.** Those national policies may identify and establish targeted actions referred to in paragraph 2 for sectors where workers are most exposed.”

##### **Article 37 – Training and information for professionals**

Belgium can accept the revised paragraphs.

Regarding the multiple alternatives given by both the Presidency and the Commission for paragraph 1, we can be flexible as all propositions offer a certain degree of latitude. Our issue was the mandatory training for professionals that need a certain degree of independence such as judges, prosecutors and lawyers. The proposition of the Commission is our preference since it keeps the degree of ambition but is flexible according to the type of professionals. The first option from the Presidency would be our next choice since insertion of “when appropriate” tempers the paragraph without stretching the ambition of the text too far.

##### **Article 38 – Intervention programmes**

The revised paragraphs of Article 38 are more than welcome. Indeed the insertion of Article 38, paragraph 3, solved our issue with Article 12, paragraph 3. However, we would still like to insist on the content of the obligation: Member states must create the intervention programmes, these programmes must be available for the judges as an accessory sanction and it must also be available for some concerned citizen to participate in the programmes. However, it is not mandatory for the judge to condemn an offender without examining the individual situation case-by-case.

We reiterate our comment on paragraph 3 that the word “personally” has no added value and could be deleted, however we are flexible on this.

## **Chapter 6 – Coordination and cooperation**

### **Article 39 – Coordinated policies and coordinating body**

Belgium can accept the modifications without any further comment. Concerning paragraph 4, we can be flexible but we are in favour of the second option clarifying the paragraph as long as the wording allows and respects our federal system. For this reason, we are also flexible and in favour of the wording proposition of replacing the word “and” by “or”.

### **Article 40 – Multi-agency coordination and cooperation**

Belgium welcomes the revised paragraphs.

### **Article 41 – Cooperation with non-governmental organisations**

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### **Article 42 – Cooperation between intermediary service providers**

Belgium can be flexible regarding the amended text. However, we agree with the concerns in terms of the content of an obligation formulated as follows: “Member States shall encourage”.

### **Article 43 – Union level cooperation**

Belgium can be flexible regarding the deletion of this Article.

### **Article 44 – Data collection and research**

Belgium welcomes these amendments as Member States that have ratified the Istanbul Convention already have extensive reporting obligations. However, Belgium agrees with the concerns expressed about the comparability of data since “violence against women” and “domestic violence” are not autonomous crimes in national law and cover different offences. Regarding paragraph 2, Belgium is in favour of the Presidency’s proposition. Finally, , Belgium can be flexible and can accept the either the original wording or the revised text of paragraph 3.

## **Chapter 7 – Final provisions**

### **Article 45 – Amendment to Directive 2011/93/EU**

Belgium is in absolute favour of keeping both Articles 5 and 45 in the text.

### **Article 46 – Level of protection**

Belgium can be flexible regarding the deletion of this Article.

### **Article 47 Reporting**

Belgium can be flexible about this modification. However, the replacement of “relevant information” with “available information” greatly weakens, if not voids, the obligation. Implementation and harmonisation would be complicated with a threshold of obligation so low.

### **Article 48 – Relationship with other Union acts**

Belgium can accept this modification.

### **[Article 48 bis – Freedom of the press and the freedom of expression in other media]**

Given the seriousness of the content concerned, Belgium is not convinced of the usefulness of this Article. We fear freedom of press and freedom of expression while being fundamental rights, should not justify the commission of any offences covered by the scope of this directive. However, we are flexible and are waiting for the Presidency’s proposition.

### **Article 49 – Non-regression clause**

Belgium can accept this amendment and is in favour of keeping the Article altogether.

**Article 50 – Transposition**

Belgium welcomes this modification.

**Article 51 – Entry into force**

**Article 52 – Addressees**



# CROATIA



## Article 28 - Specialist support for victims of sexual violence

1 Member States shall provide for appropriately equipped, easily accessible rape crisis, sexual violence referral centres or specialized services for working with all victims of sexual violence to ensure effective support to victims of sexual violence, including assisting in the preservation safekeeping and documentation of evidence. These centres shall provide for medical and forensic examinations, trauma support and psychological counselling, after the offence has been perpetrated and for as long as necessary thereafter. Where the victim is a child, such services shall be provided in a child-friendly manner.

Commented [A1]: The same addition we propose for recital 50

### Comments related to Article 28

u čl. 28. „krizni centri ili referalni centri za seksualno nasilje“ predlažemo dodati i pojam „ili specijalizirani servisi za rad sa svim žrtvama seksualnog nasilja“. Isti prijedlog odnosi se i na uvodnu izjavu (recital) 50.

## Recital 59

(58) Member States should take measures to prevent the cultivation of harmful gender stereotypes to eradicate the idea of the inferiority of women or stereotyped roles of women and men. This could also include measures aimed at ensuring that culture, custom, religion, tradition or honour is not perceived as a justification for, or a more lenient treatment of, offences of violence against women or domestic violence. Considering that from a very young age onwards, children are exposed to gender roles that shape their self-perception and influence their academic and professional choices as well as expectations of their roles as women and men throughout their life, it is crucial to address gender stereotypes as of early-childhood education and care, continuing through school curriculum/school system of education.

Commented [A2]: it is crucial to address the problem of gender stereotypes in early and preschool education, and extend it to other educational levels as well.

## Article 38 (Intervention programmes)

### Recital

(62 bis) (15) With regard to offences of violence against women or domestic violence, especially those resulting in serious physical, psychological, emotional, and social consequences, offenders who have been previously convicted of offences of the same nature should be encouraged obliged able to participate in intervention programmes to mitigate the risk of recidivism and of serious harm. Offender's participation in intervention programmes and the results achieved shall be taken in consideration when deciding on offender's early release schemes and supervision in the community.

Commented [A3]: Offenders can't be obliged to participate in the intervention programmes but should be aware that their refusal to participate may have consequences in terms of longer term in prison and/or stronger supervision in community – to mitigate the risk they may pose to victims and to community. See also the additional comment under par 3.

## Article 38

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2. The intervention programmes shall be made available for participation including to persons who committed the offence of violence against women or domestic violence, and may be made available to other persons who are assessed to be at risk of committing such offence. This may include persons who feel the need to participate for example because they fear they might commit any offence of violence against women or domestic violence.
- 2.
3. Member States shall ensure that an offender of the offence of rape-violence against women or domestic violence, especially if resulting in serious physical, psychological, emotional, and social consequences rape is [personally] encouraged to participate in an intervention programme.

## Article 40 - Multi-agency coordination and cooperation

Member States shall put in place appropriate mechanisms, in accordance with national law or practice, to ensure effective coordination and cooperation, at the national level, of relevant authorities, agencies and bodies, including ombudsman institutions local and regional authorities, law enforcement agencies, the judiciary, with due respect for judicial independence public prosecutors, support services providers as well as nongovernmental organisations, social services, including child protection or welfare authorities, education and healthcare providers, social partners, without prejudice to their autonomy, and other relevant organisations and entities, in protecting and supporting victims and witnesses from violence against women and domestic violence.

## Article 43 - Union level cooperation

We welcome this provision, but we believe that better efficiency would be achieved if an EU-level body would be defined which will be the coordinating body responsible for coordination, implementation, monitoring and evaluation of policies and measures for the prevention and suppression of all forms of violence covered by the Directive. Smatramo da je nužno da pravobraniteljske institucije budu kao sastavni dio uključene u

višeagencijske koordinacije i suradnju budući da je takva suradnja neminovna za praćenje pojavnosti nasilja nad ženama i nasilja u obitelji te upućivanje preporuka usmjerenih na unaprjeđenje sustava. U skladu s tima Ministarstvo rada, mirovinskoga sustava, obitelji i socijalne politike je na nacionalnoj razini usvejilo i Protokol o postupanju u slučaju nasilja u obitelji koji definira postupanje svih nadležnih tijela.

U članku 43. pozdravljamo ovu odredbu, no smatramo kako bi se bolja učinkovitost postigla

### Commented [A4]:

Given that paragraph 1 only defines the establishment of intervention programmes to prevent the risk of committing the offence but it doesn't directly imply that intervention programmes will be applied to persons who committed offences of violence against women or domestic violence, the offenders must be covered by paragraph 2. Other persons – who have not (yet) committed such offences, should not be limited to those who „feel the need to participate“, but to those who are at risk of committing such offence. According to the contemporary knowledge and best practices in the criminal justice systems of EU MS, persons should not be included in intervention programmes unless a risk is assessed by a proper RNA process. According to the Risk, needs and responsibility principles, the level of support provided by a programme must match a person's risk of reoffending. Sole expression of “a fear they might commit an offence” may represent an actual criminogenic need, but may also be just a form of manipulation to gain certain secondary benefit. Therefore, the expression of such fear/need is not enough to establish actual risk of committing such offence, thus including the person in the intervention programme.

### Commented [A5]:

Equally strong formulation is necessary for all forms of offences of violence against women or domestic violence, as not only rape has serious psychological, emotional and social consequences to the victim, victim's family and the society as a whole - e.g., other types of sex offences, family violence, femicide... This also refers to recital (62 bis), which should not be limited only to offences amounting to rape.

Commented [A6]: We believe that it is necessary for the ombudsman institutions to be included as an integral part in multi-agency coordination and cooperation since such cooperation is inevitable for monitoring incidence of violence against women and violence in the family and referral of recommendations aimed at system improvement. And we are not completely sure whether it could be understood that these terms cover ombudsman institutions. Therefore, we suggest small addition in that regard

kada bi se definiralo tijelo na razini EU koje će biti koordinativno tijelo odgovorno za koordinaciju, provedbu, praćenje i evaluaciju politika i mjera za sprječavanje i suzbijanje svih oblika nasilja koji su obuhvaćeni Direktivom.

#### **Article 44 - Data collection and research**

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2. The statistics shall include the following data disaggregated by sex, age and type of disability of the victim and of

the offender, relationship between the victim and the offender and type of offence,

- (a) the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime,
- (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.

▲

**Predlažemo dopuniti čl.44. stavak 2 na način da je u statistiku potrebo uključiti i podatke razvrstane po vrsti invaliditeta žrtve i počinitelja (tjelesnog, intelektualnog, osjetilnog ili mentalnog oštećenja) kako bi se dobili što precizniji podaci u smislu koje su žene i s kojom vrstom invaliditeta najizloženije nasilju i koji su počinitelji s pojedinom vrstom invaliditeta**

**najčešći počinitelji, te kako bi se, slijedom toga, mogle dalje razvijati politike i programi**

**Finally, we propose to consider the possible inclusion, maybe into recitals of the Proposal, obstetric and gynaecological violence in accordance with Council of Europe Resolution 2306(2019) on obstetric and gynaecological violence.**

U odnosu na područje obrazovanja, Pravobraniteljica ponovo predlaže da se u okviru toč. 59. preambule stajalište o tome da je ključno posvetiti se problemu rodnih stereotipa u ranom i predškolskom odgoju i obrazovanju, proliri i na druge obrazovne razine. Konačno, Pravobraniteljica još jednom predlaže da se razmotri eventualno obuhvaćanje porodičarskog i ginekološkog nasilja u skladu s Rezolucijom Vijeća Europe 2306(2019) o porodičarskom i ginekološkom nasilju.

**Commented [A7]: We propose to amend Article 44. par. 2 in such a way that it is necessary to include statistical data classified by the type of disability of the victim and the perpetrator (physical, intellectual, sensory or mental impairment) in order to obtain as precise data as possible in terms of which women, by type of disability, are the most exposed to violence and who are the most common perpetrators with a particular type of disability. Such data could be very important for further developing of adequate policies and programs.**

## FINLAND

### **Proposal for a Directive on combating violence against women and domestic violence (COM(2022) 105 final)**

- Comments by Finland

The Finnish delegation thanks the Presidency for the opportunity to provide written comments on the draft Directive (chapters 5-7). At this point, we would like to present the following views.

#### **Article 37 – Training and information for professionals**

- In article 37(1), Finland supports the latter option. The wording there would be more in line with the Victims' Rights Directive and would leave the article to a more general form.
- In article 37(2) and 37(3), Finland is still considering its position. Possible written comments will be sent as soon as possible.

#### **Article 44 – Data collection and research**

- In article 44(1), the term violence against women or domestic violence may cause challenges in relation to collecting the statistics, because the term may cover many different types of offences. The characteristics which defines the offence as violence against women or domestic violence may be difficult to incorporate to the statistical system so that the system would determine the offence as violence against women or domestic violence. Therefore, it should be clear from the article what offences should be covered. Alternatively, the article should leave more flexibility for Member States to define themselves the conditions for collecting statistics.
- In article 44(2b), referring to the added words "such offences", Finland has questions on what should be the source of this information. Based on the wording, it may be assumed that the number of victims is based on reported offences. If this has been the purpose, the wording should be made clearer. The wording could then be "the annual number of victims of reported offences".

#### **Article 45 – Amendment to Directive 2011/93/EU**

- Finland can support removing the article from the Directive. Even if the article were to remain in the Directive, the Directive would not lead to poorer protection of children because article 5 does not exclude children from its scope of application and Member states may also extend the provisions to children.
- If the article were to remain in the Directive, with reference to Finland's previous comments, the obligations concerning the penal scales are too far-reaching. If such obligations remain in this Directive or are included in the forthcoming proposed Directive on children, it is important that such high maximum penalties are expressly limited to the most serious forms of crime.

## FRANCE

### NOTE DES AUTORITÉS FRANÇAISES

**Objet :** Commentaires des autorités françaises sur les articles 36 à 52 et les considérants y afférents (chapitres 5 à 7) de la proposition de directive sur la lutte contre la violence à l'égard des femmes et la violence domestique – Note des autorités françaises.

**Réf. :** WK 2576/23

Les autorités françaises prient la présidence de bien vouloir trouver ci-joint les commentaires écrits des autorités françaises s'agissant des articles 36 à 52 et des considérants y afférents (chapitres 5 à 7) de la proposition de directive sur la lutte contre la violence à l'égard des femmes et la violence domestique, dans la continuité de la réunion du groupe COPEN violences de genre du 7 mars 2023 :

#### **Sur l'article 36 sur les mesures préventives :**

Les autorités françaises sont favorables à l'alignement du paragraphe 2 sur l'article 13 de la Convention d'Istanbul, en ce qui concerne les campagnes et programmes de sensibilisation.

Concernant le paragraphe 4, les autorités françaises suggèrent un renvoi au considérant 56, plutôt que de désigner certains publics nécessitant des actions ciblées au détriment d'autres groupes également susceptibles de faire l'objet de discriminations.

Sur le paragraphe 6, les autorités françaises sont défavorables à l'ajout (« *in a manner proportionate to its prevalence in the Member States concerned* ») suggéré par la Présidence, qui ne lui semble pas clarifier le paragraphe, et souhaitent le maintien de la rédaction proposée par la Commission.

Concernant le paragraphe 7, les autorités françaises privilégient la proposition de rédaction de la Commission et soutiennent la référence aux mesures éducatives visant au développement de l'habileté numérique.

#### Courtesy translation :

*The French authorities are in favor of aligning paragraph 2 with Article 13 of the Istanbul Convention, as regards awareness-raising campaigns and programs.*

*With regard to paragraph 4, the French authorities suggest referring to recital 56, rather than designating certain groups requiring targeted action to the detriment of other groups also likely to be discriminated against.*

*With regard to paragraph 6, the French authorities are opposed to the addition ("in a manner proportionate to its prevalence in the Member States concerned") suggested by the Presidency, which does not seem to clarify the paragraph, and would like the wording proposed by the Commission to be discriminated against.*

*With regard to paragraph 6, the French authorities are opposed to the addition ("in a manner proportionate to its prevalence in the Member States concerned") suggested by the Presidency, which does not seem to clarify the paragraph, and would like the wording proposed by the Commission to be retained.*

*Concerning paragraph 7, the French authorities favor the Commission's drafting proposal and support the reference to educational measures aimed at developing digital literacy skills.*

### **Sur l'article 37 sur la formation et l'information des professionnels :**

Sur le paragraphe 1, les autorités françaises sont favorables au fait de proposer des formations aux professionnels directement en contact avec les victimes de violences à l'égard des femmes et de violences domestiques. Elles soutiennent ainsi la première option proposée par la Présidence en ce qu'elle conserve le terme « law enforcement authorities », plus adapté et englobant que « police officers ». Les autorités françaises proposent toutefois l'insertion d'une référence aux organisations syndicales, sur la base de la proposition rédactionnelle suivante :

" Les États membres veillent, lorsque cela s'avère pertinent, à ce que les professionnels susceptibles d'entrer en contact avec les victimes, y compris [...] les services sociaux, **les partenaires sociaux**, le personnel éducatif et les autres personnels concernés, etc »

Sur le paragraphe 5, les autorités françaises considèrent que les formations à destination des médias devraient être dispensées par des entités compétentes dont peuvent faire partie, notamment, les organisations de la société civile concernées, les associations d'aide aux victimes, les organisations syndicales, et d'autres parties prenantes (comme énoncé à l'article 36.2 relatif aux mesures préventives).

Ce paragraphe 5 de l'article pourrait ainsi être complété comme suit :

« (...) Ces activités de formation devraient être dispensées par des entités compétentes dont peuvent faire partie, notamment, les organisations de la société civile concernées, les associations d'aide aux victimes, les organisations syndicales et d'autres parties prenantes ».

De plus, les autorités françaises considèrent que le terme « média » devrait être défini, par exemple par un renvoi à la définition donnée par la proposition de directive Media Freedom Act.

Sur le paragraphe 7 et sur le considérant 60, les autorités françaises sont favorables à la rédaction proposée par la Présidence.

### *Courtesy translation :*

*With regard to paragraph 1, the French authorities are in favor of ensuring training to professionals likely to come into contact with victims of violence against women and domestic violence. They therefore support the first option proposed by the Presidency. However, the French authorities propose the insertion of a reference to trade union organisations, based on the following drafting proposal:*

"Member States shall ensure, when appropriate, that professionals likely to come into contact with victims, including such as [...] social services, **trade unions staff**, educational and other relevant staff etc."

*With regard to paragraph 5, the French authorities consider that training for the media should be provided by competent bodies, which may include, in particular, relevant civil society organisations, victims' aid associations, trade union organisations and other stakeholders (as set out in Article 36.2 on preventive measures). This paragraph 5 of the article could thus be completed as follows:*

*"(...) These training activities should be provided by competent entities, which may include, inter alia, relevant civil society organisations, victims' aid associations, trade unions and other stakeholders".*

*Furthermore, the French authorities consider that the term "media" should be defined, for example by referring to the definition given in the proposed Media Freedom Act Directive.*

*With regard to paragraph 7 and recital 60, the French authorities are in favor of the wording proposed by the Presidency.*

### **Sur l'article 38 sur les programmes d'intervention :**

Les autorités françaises soutiennent la souplesse accordée par la présidence concernant le paragraphe 2.

Concernant le paragraphe 3, les autorités françaises demandent que la mention « shall » soit remplacée par « may ». En effet, il leur semble préférable de laisser à l'autorité judiciaire le soin d'apprécier l'opportunité de la mise en œuvre d'un programme d'intervention et du moment où il doit intervenir, en fonction de la nature des faits et de la personnalité de l'auteur. Les autorités françaises indiqueront être réticentes quant à l'ajout du paragraphe 3 car il semble préférable de laisser à l'autorité judiciaire le soin de la mise en œuvre des programmes d'intervention.

Les autorités françaises n'ont pas d'opposition au considérant 62 bis proposé par la présidence.

#### Courtesy translation :

*The French authorities support the flexibility granted by the wording proposed by the Presidency concerning paragraph 2.*

*Concerning paragraph 3, the French authorities request that the word "shall" be replaced by "may". It seems preferable, to the French authorities, to leave to the judicial authority to consider whether and when to implement an intervention program, depending on the nature of the offence and the personality of the perpetrator.*

*The French authorities have no objection to recital 62a proposed by the Presidency.*

### **Sur l'article 39 sur les politiques coordonnées et l'organe de coordination :**

Concernant le paragraphe 2, les autorités françaises proposent d'ajouter en fin de paragraphe la mention « dans le respect de l'autonomie procédurale des Etats membres ». Cette mention permet de prendre en compte le fait qu'en France, la mise en œuvre de la politique pénale est dévolue, au niveau local, au procureur de la République au sein des tribunaux judiciaires et au procureur général près les cours d'appel, et au niveau national, au ministre de la Justice.

Sur le paragraphe 4, les autorités françaises n'ont pas d'opposition à la deuxième rédaction proposée par la présidence.

Courtesy translation :

*With regard to paragraph 2, the French authorities propose adding at the end of the paragraph the words "with due regard for the procedural autonomy of the Member States". This reference allows to take account of the fact that in France, the implementation of criminal policy is devolved, at local level, to the public prosecutor in first instance courts and to the general prosecutor in courts of appeal and at national level, to the Minister of Justice.*

*As regards paragraph 4, the French authorities have no objection to the second wording proposed by the Presidency.*

**Sur l'article 40 sur la coordination et la coopération interservices :**

Concernant le paragraphe 1, les autorités françaises sont favorables à la rédaction plus souple proposée par la présidence. Elles proposent toutefois, pour éviter que cet article présente une densité normative et prescriptive trop importante, de s'inspirer de la formulation proposée à l'article 19 de l'orientation générale adoptée dans le cadre de la directive 2021/422 (criminalité environnementale). Les autorités françaises suggèrent ainsi la rédaction suivante :

« Les États membres prennent les mesures nécessaires pour mettre en place des mécanismes appropriés de coordination et de coopération aux niveaux stratégique et opérationnel entre toutes leurs autorités compétentes impliquées dans la prévention des violences faites aux femmes et des violences domestiques et la lutte contre ces dernières. Ces mécanismes impliquent la protection et le soutien apportés aux victimes et témoins de ces violences et s'inscrivent dans le respect de l'indépendance de l'autorité judiciaire ».

Courtesy translation :

*As regards paragraph 1, the French authorities are in favor of the more flexible wording proposed by the Presidency. However, they propose, in order to prevent this article from being too prescriptive and normative, to draw inspiration from the wording proposed in Article 19 of the general approach adopted in the context of Directive 2021/422 (environmental crime). The French authorities thus suggest the following wording:*

*"Member States shall take the necessary measures to establish appropriate mechanisms for coordination and cooperation at strategic and operational levels among all their competent authorities involved in the prevention of and the fight against violence against women and domestic violence. These mechanisms shall involve the protection and support of victims and witnesses of such violence and shall respect the independence of the judiciary".*

**Sur l'article 42 sur la coopération entre les fournisseurs de services intermédiaires :**

Les autorités françaises sont favorables à la rédaction de l'article 42 proposée par la présidence, qui introduit plus de souplesse et une référence au Digital Services Act. Le considérant 63 relatif à l'article 42 pourrait être modifié ainsi afin de supprimer la référence à la détection des contenus illicites en amont : Elles considèrent que le considérant 63 devrait également être modifié pour tenir compte des changements opérés dans l'article 42. Les autorités françaises préciseront que la référence au Digital Services Act semble opportune et qu'elles sont favorables notamment à la mention prévoyant la possibilité pour les États membres de participer à un code de conduite. Ce dispositif est en effet prévu par les articles 45 et 75 du DSA.

Les autorités françaises proposent ainsi les modifications suivantes :

“(63) In order to ensure that victims of the offences of cyber violence contained in this Directive can effectively realise their rights to have illegal material relating to such offences removed, Member States should encourage ~~the self-regulatory~~ cooperation between providers of intermediary services. To ensure that such material is ~~detected early on and~~ tackled effectively and that victims of those offences are adequately assisted and supported, Member States should also ~~facilitate the establishment or raise awareness use of existing on~~ self-regulatory measures of a voluntary nature, such as codes of conduct, ~~including on the detection of systematic risks in particular relation~~ to ~~reinforce mechanisms that they implement in order to tackle~~ such cyber violence and to improve the training of the providers’ employees concerned by preventing such violence and assisting and supporting victims. **Such self-regulatory measures could complement EU-level action, in particular under the Digital Services Act.** »

*Courtesy translation :*

The French authorities are in favor of the wording of Article 42 suggested by the Presidency, which introduces more flexibility and a reference to the Digital Services Act. Recital (63) related to article 42 could be modified as follows in order to erase the reference to the detection of illicit contents upstream. *The French authorities will specify that the reference to the Digital Services Act seems appropriate and that they are in favor of the mention of the possibility for Member States to participate in a code of conduct. This mechanism is provided for in articles 45 and 75 of the DSA.*

The French authorities therefore propose the following amendments:

“(63) In order to ensure that victims of the offences of cyber violence contained in this Directive can effectively realise their rights to have illegal material relating to such offences removed, Member States should encourage the self-regulatory cooperation between providers of intermediary services. To ensure that such material is detected early on and tackled effectively and that victims of those offences are adequately assisted and supported, Member States should also facilitate the establishment or raise awareness use of existing on self-regulatory measures of a voluntary nature, such as codes of conduct, including on the detection of systematic risks in particular relation to reinforce mechanisms that they implement in order to tackle such cyber violence and to improve the training of the providers’ employees concerned by preventing such violence and assisting and supporting victims. Such self-regulatory measures could complement EU-level action, in particular under the Digital Services Act. »

### **Sur l’article 43 sur la coopération au niveau de l’Union :**

Les autorités françaises n’ont pas d’opposition au maintien de cet article.

*Courtesy translation :*

*The French authorities have no objection to the retention of this article.*

### **Sur l’article 44 sur la collecte de données et la recherche :**

Les autorités françaises soutiennent la nouvelle rédaction proposée par la présidence. Elles sollicitent toutefois qu’il ne soit pas fait référence à un indicateur en termes de victime ou d’auteur mais plutôt en termes d’affaires poursuivables ou ayant donné lieu à une décision judiciaire. En effet, si au cours d’une même année, trois décisions judiciaires sont rendues à l’égard d’un même auteur (ou d’une même victime), trois affaires seront statistiquement comptabilisées.

Courtesy translation :

*The French authorities support the new wording proposed by the Presidency. However, they request that reference not be made to an indicator in terms of victims or perpetrators but rather in terms of cases that could be prosecuted or which resulted in a judicial decision. Indeed, if during the same year three judicial decisions are taken in respect of the same perpetrator (or victim), three cases will be statistically counted.*

**Sur l'article 45 sur les modifications de la directive 2011/93/UE :**

Les autorités françaises soutiennent la suppression de cet article, qui pourra plus utilement être discuté dans le cadre de la révision de la directive 2011/93/UE, relative à la lutte contre les abus sexuels et l'exploitation sexuelle des enfants, ainsi que la pédopornographie annoncée par la Commission au troisième trimestre 2023. Les autorités françaises feront part d'une réserve d'examen

Courtesy translation :

*The French authorities support the deletion of this article, which could appropriately be discussed in the context of the revision of Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography, announced by the Commission in the third quarter of 2023.*

*The French authorities will enter a scrutiny reservation.*

**Sur l'article 46 sur le niveau de protection :**

Les autorités françaises n'ont pas d'opposition à la suppression de cet article.

Courtesy translation :

*The French authorities have no objection to the deletion of this article.*

**Sur l'article 47 sur les rapports :**

**Compte-tenu des explications de la Commission lors du dernier COPEN, les autorités françaises privilégient le maintien de la rédaction de la Commission, qui apparaît plus claire concernant les obligations des Etats membres.**

Courtesy translation :

*Taking into account the Commission's explanations at the last COPEN, the French authorities prefer to maintain the Commission's wording, which appears to be clearer regarding the obligations of Member States.*

**Sur l'article 48 sur la relation avec d'autres textes de l'Union :**

Les autorités françaises précisent que cette réflexion fait écho aux réflexions nationales et qu'elles attendent la proposition de rédaction de la présidence avant de se prononcer, tout en soulignant être attentives à sa bonne articulation avec les négociations en cours sur le règlement relatif à la liberté des médias (MFA).

Courtesy translation :

*The French authorities specify that this reflection echoes the national reflections and that they await the drafting proposal from the Presidency before deciding, while supposedly being attentive to its proper articulation with the negotiations in progress on the regulation relating to the European Media Freedom Act.*

**Sur l'article 50 sur la transposition :**

Les autorités françaises sont favorables à l'extension à trois ans du délai de transposition de cet article.

Courtesy translation :

*The French authorities are in favor of extending the time limit for transposition of this article to three years.*

## GERMANY

### **Proposal for a Directive on Combating Violence against Women and Domestic Violence**

Position statement by Germany following the COPEN Council Working Group Meeting on 7 March 2023:

First of all, Germany is grateful for the opportunity to contribute a position statement on the provisions discussed in the COPEN Council Working Group Meeting on 7 March 2023 (Articles 36 to 52). In the meantime, it has been possible to coordinate the previous position statement regarding the Council Working Group Meeting on 13 and 14 February (Articles 16 to 35) with all federal ministries. The amendments to the position statement resulting from this process are included alongside our new comments in a single document so as to provide a better overview.

- Contrary to previous statements, Germany is of the opinion that the term “accessible” in **Article 16(1)** can be retained throughout the document, as long as it is defined in line with Article 9 UNCRPD and the wording used in section 4 of the Federal Act on Equal Opportunity for People with Disabilities (*Behindertengleichstellungsgesetz – BGG*). While “accessible”, in general usage, merely refers to the physical access to a place, the explanations in Article 9 of the UNCRPD make it clear that the term also refers to information conveyed through all forms of communication (sign language, audio description, plain language, etc.) and means of transportation. In German law, the accessibility requirements of the UNCRPD have been implemented by the Act to Enhance the Implementation of Accessibility (*Barrierefreiheitsstärkungsgesetz, BFSG*); in section 4 BGG, they are defined as follows: "Buildings and other facilities, means of transport, technical items of daily use, information processing systems, acoustic and visual sources of information and communication facilities as well as other designed areas of life are considered accessible if they can be located, accessed and used by persons with disabilities in the usual way, without any particular difficulty and, in principle, without the assistance of others". Recital 38 of the European Accessibility Act suggests that the term “barrier-free” is wider in scope than “accessible”. Furthermore, the subheading of the European Disability Strategy 2010-2020, adopted by the Commission, read “A Renewed Commitment to a Barrier-Free Europe”.

- What kind of measures for the safety of a victim not making the report does **Article 16(2)** sentence 2 (new) refer to? At the least, the sentence needs to be worded in more precise terms.
- With regard to **Article 16(3)**, it should be taken into account that Article 28 of the Istanbul Convention, too, only applies to future acts, since that Article uses the word “and”, not the word “or”. Under national law, too, persons bound by professional secrecy may only supply data if this is justified by the “necessity” standard of section 34 of the German Criminal Code (*Strafgesetzbuch*, StGB) on account of an immediate risk of serious physical harm. Under these preconditions (risk of serious physical harm and current danger), the limitation to health care professionals does not need to be maintained. We therefore propose the following wording:

“Member States shall ensure that the confidentiality rules imposed by national law on relevant professionals, such as healthcare professionals, do not constitute an obstacle to their reporting to the competent authorities if they have reasonable grounds to believe that there is an imminent risk that serious physical harm will be inflicted on a person due to their being subject to violence against women or domestic violence. If the victim or potential victim is a child, the relevant professionals subject to the protection of legal privilege or confidentiality rules imposed by national law shall be able to report to the competent authorities if they have reasonable grounds to believe that there is an imminent risk that serious physical harm will be inflicted.”

- We welcome the addition of “to the competent authorities” in **Article 16(4)**. We assume that the addition is to be interpreted as referring only to the authorities responsible for the reporting procedure and that Article 16(4) sentence 1 does not also cover statements made by the child in family court proceedings, for example. If this assumption is incorrect, we would ask to be notified of this. The reason for this request is the following: Statements about violent incidents made by the child during a personal hearing in family court proceedings have to be passed on to the other parties to the proceedings so as not to violate their right to be heard. This means that the confidentiality of such statements could not be guaranteed.

- In **Article 17(4)**, the term “refer” should be retained. The “competent authority” should help those affected in contacting the “relevant health care professionals” and not just inform them of who they can turn to. Insofar as **Article 17(5)** refers to “acts of rape” – and not instead to Article 5, deleted in this provision in the text proposal put forward by the Swedish Presidency – it is logical for us to agree to this change, since we are in favour of deleting Article 5 on account of the substantial risks under EU law that have been pointed out in the legal opinion prepared by the Council Legal Service.
- The reference to the Victims’ Rights Directive in **Article 18(1)** should be less specific, as some cases are initially only addressed in terms of prevention/police intervention and criminal proceedings are not initiated until later, if at all; the “individual assessment” must therefore be separate from the Victims’ Rights Directive. It should be made clear that the individual “assessment” pursuant to **Article 18** applies alongside the provisions of the Victims’ Rights Directive (the sentence should begin with “in addition to” instead of “in the framework of”), as the assessment is in large part to relate to matters that are not part of criminal proceedings. Another important point is that the findings of an individual assessment cannot be binding when it comes to measures by independent courts where the assessment has been undertaken beforehand by a different body. This is because of constitutional requirements relating to the independence of the judiciary. We also support the Netherlands’ proposal to replace “shall” with “may” in Article 18(1). The assessment and the provisions made with regard to the protection measures under Article 21 should also be decoupled (see below).

How extensive does the individual assessment have to be, e.g. is an examination by the police (initial contact) alone sufficient, possibly on the basis of checklists, or do NGOs have to be involved? In our view a softer wording would be preferable, for example “where appropriate” or “where necessary”.

In the interests of clarity, the necessary flexibility for implementing the concept of individual assessments could also be detailed in recital 30. In connection with this, we welcome the inclusion of the new recital 30a according to which it is up to the Member States to determine which authorities should be considered “competent authorities” for the purpose of the Directive’s provisions. We understand this to mean that, even within one specific Article, different agencies may be responsible for the individual assessment, depending on the stage reached in the procedure and the need for protection. Here, too, Member States should be allowed as much flexibility as possible regarding the implementation of this concept.

**Paragraph 3** deals with the assessment of the danger posed by the offender, for example whether he/she owns any weapons. This is primarily a police task.

In line with Article 51 of the Istanbul Convention, all necessary measures should be taken to ensure that a risk analysis is conducted by all competent authorities and is taken into account.

We therefore propose adding the following sentence to the end of paragraph 3: “Existing findings from a risk and threat analysis related to the offender may be taken into account by the courts.”

The amendment to **Article 18(5)** is to be welcomed, but is still not sufficient. We understand this amendment to mean that there is no obligatory link/no automatic linkage between the assessment and the protection measures according to Article 21, and that the Member States have a certain discretion in this regard. We welcome the fact that the Swedish Council Presidency has confirmed this. In order to make this point clear in the text, “...taken into consideration” should be used instead of “on the basis of”. This is necessary in view of the independence of the judiciary which, in addition to the justified interests of victims, must also take account of any justified interests of the alleged offender. Furthermore, it should be possible to issue protection orders immediately and independently of an assessment, in order to ensure fast and effective victim protection. This is also necessary because, in Germany, civil courts independently decide on any necessary protective measures. If our understanding of Article 18(5) is not shared, Article 18(5)(b) should, as an alternative, be deleted without any replacement.

To make sure that judicial independence remains intact, we propose the following wording: “The findings of the individual assessment may be taken into consideration when decisions on adequate protection measures are made by national authorities. These measures may include: (...)”

The inclusion of “where appropriate” in **paragraph 6** is a step in the right direction. The list (of examples) of relevant support services should also include specialised counselling centres, which play a major role in practice in identifying both people affected and their vulnerability.

“[...] relevant support services, such as victim protection centres, ~~and~~ women’s shelters **and specialised counselling centres**, social services and healthcare professionals.”

The second sentence of **Article 18(7)** should be deleted entirely, or at least the reference to Article 21 (“in particular under Article 21”). The reason for this is, again, that the measures should not be imposed on adult victims, but should depend on the decisions made by the victims themselves. Furthermore, it should be possible to issue or amend protection orders immediately and independently of an assessment, in order to ensure fast and effective victim protection. Ultimately, civil courts such as those in Germany must retain the power to decide independently on necessary protective measures.

However, we are happy with paragraph seven provided the reference to Article 21 is deleted.

**Article 18(8)** should be deleted entirely, as dependants are not always / not necessarily vulnerable. Either they are themselves victims, in which case they will be entitled to protection in their own right, or they are not, in which case they will not have the same need for protection as the actual victim. We do not see any specific need for protection for “dependants” that would go beyond the definition of the victim.

We would also raise the question of how the various authorities are to interact for individual assessments, not least regarding data protection.

- Our comments on Article 18(3) and (4) also apply to **Article 19**.
- Overall, the changes to **Article 20** go in the right direction. In Article 20(1) and (2), it is now clear that support and protective measures are not to be imposed on a victim but require the victim’s consent. We welcome this principle. However, the steps set out in Article 20(4) should also be conditional on consent or a request from the victim. This principle should, moreover, also be applied to the second sentence of Article 18(7) and to Article 21(1) and (2).

On paragraph 5, we would suggest that a retention period of 12 months is quite possibly sufficient.

“Where needed” at the start of the sentence should also be deleted now that “when necessary” has been added.

- **Article 21** contains overly far-reaching provisions on protection against violence (which in Germany, in compliance with Article 21(5), falls largely under civil law). Specifically: in Article 21(2), it should be ensured that (civil-law) protection orders are not imposed on adult victims ex officio, but can be made dependent on an application by the victim (as is the case in Germany under civil-law protection against violence).

Germany advocates victim protection in accordance with the principle of self-determination. Protection measures should respect the autonomy of adult victims and be made dependent on their decisions. Germany proposes the following wording for a **new paragraph 3**:

“Member States can provide that the measures under paragraph 2 each require an application by the victim if the victim is an adult.”

The extension to “dependants” in **Article 21(1) and (2)** should be deleted. “Dependants” do not require protection in all cases. Automatically extending the scope of application of (civil-law) protection against violence to include such “dependants” would be a mistake. Either they are themselves victims, in which case they will be entitled to protection in their own right, or they are not, in which case they will not have the same need for protection as the actual victim. We do not see any specific need for protection for “dependants” that would go beyond the definition of the victim.

The extension to “suspects” in Article 21(2) should be deleted entirely. In particular in cases involving a shared residence or workplace, the envisaged protective measures represent a considerable interference in the rights and lives of the persons concerned. Therefore, the obligation to order (without exception) such far-reaching measures should only apply where the perpetrator of the offence has been established. Otherwise, this provision would be problematic in terms of the rule of law and the principle of proportionality. Moreover, there would be a risk of abuse that must be averted.

Do all the measures listed in Article 21(1) need to be available in the member states and do they have to be mentioned explicitly in the national provisions (including for example the ban on entering the victim’s workplace)? “Can” issue orders could create more flexibility.

- We welcome the changes to **Article 22**.

- We welcome the changes to **Article 23**. Greater flexibility in the provisions and, in particular, the non-binding nature of the guidelines are to be welcomed given the implications for judicial independence. Article 23 appears to relate solely to criminal proceedings. We do not see it as affecting civil-law proceedings relating to protection against violence. If appropriate, we would ask for clarification on this point.

We welcome the addition of “disability-sensitive” in Article 23(c) if and to the extent that the term covers barrier-free services.

We also propose the following addition to (f): “and raise awareness of all victim groups in the context of domestic violence” in order to make it clear that violence also affects men (they account for 20% of victims of domestic violence).

- We welcome the changes to **Article 24**.
- The changes to **Article 25** are relatively minor. It is, in our view, still not entirely clear how this article will operate alongside the provisions of the Digital Services Act and of the CSA Regulation, and we see a need for improvements in the wording. An in-depth assessment as regards the CSA Regulation was unfortunately not possible within the time allowed. We would appreciate an explanation of how the different pieces of legislation are to operate together, and reserve the right to submit a statement on this issue at a later point.

As regards the relationship with the DSA, we propose the following changes to Article 25(1): “*Without prejudice to Regulation (EU) 2022/2065, Member States shall take the necessary measures to ensure the prompt removal of online material referred to in Article 7, points (a) and (b), Article 8, point (c), and Articles 9 and 10 by the relevant provider of intermediary services. Those measures shall include the possibility for their competent judicial authorities to issue, upon application by the victim, binding legal orders to remove or disable access to such material addressed to relevant providers of intermediary services. Such orders shall be issued in accordance with the minimum conditions set out in Article 9(2) of Regulation (EU) 2022/2065. Where removal at the source is not feasible, Member States shall ensure the order may include the disabling of access to the material in question.*”

- The change to **Article 26(1)** (deletion of “all forms” and addition of “offences”) is to be welcomed. The words “as provided by national law” should also be added at the end of the sentence to ensure that the other elements necessary for the existence of liability under national law must also be present, for example fault (*Verschulden*) in German law.

As regards the adhesion procedure under **Article 26(2)**, we welcome the addition of the words “where appropriate”. This allows for the specificities of German law relating to criminal proceedings against juveniles.

We also welcome the deletion of **Article 26(3) to (5)**. The law of damages (in Germany, sections 249 et seqq. of the Civil Code) is not harmonised at EU level. Regulation governing the scope of compensation should therefore remain the purview of the Member States. The same applies to the statute of limitations under civil law.

- We support the changes to **Article 27**. However, the term “accessible” in Article 27(2) should be replaced by the term “barrier-free”. How does the “central contact point” in Article **27(4)** relate to the “national focal point” provided for in Article 11(4) of the proposed amendment to the EU Directive on Trafficking in Human Beings (2011/36/EU)? In Article **27(5)** we propose replacing the term “healthcare” with the term “care”.
- Restricting **Article 30** to cases of sexual harassment that constitute criminal offences is problematic. Moreover, in its current form Article 30 is too narrowly formulated in respect of Article 10 of ILO Convention No. 190 (Convention concerning the elimination of violence and harassment in the world of work) where the reference to availability of external counselling services is concerned, and it should be expanded to include other potential measures by Member States listed in Article 10.
- In Germany, a 24/7 barrier-free service in 19 languages is available to female victims of all forms of violence covered by the Directive, in line with **Article 31** and the Istanbul Convention, in the form of the helpline for violence against women, which will soon be reachable under the EU-wide harmonised helpline number 116 016.  
At present, there is not a comparable service for male victims of (domestic) violence: for such persons, there is merely a service with restricted hours that is operated jointly by several *Länder*.

Accordingly, in Germany’s view there should be greater leeway for the implementation of this service where non-female victims of (domestic) violence are concerned; in particular, the requirement for round-the-clock availability should be removed. In this regard the draft Directive exceeds the requirements of the Istanbul Convention.

- **Article 32** should include a requirement for shelters to be set up in sufficient numbers, and to be easily accessible (cf. Article 23 of the Istanbul Convention). The following wording is suggested:

“The shelters and other appropriate interim accommodations shall be provided in sufficient numbers and easily, fully accessible [...]”

To comply with the principle of non-discrimination, instead of restricting the scope of this article to women, the phrase “victims, especially women (and their children)” could be used in line with Article 23 of the Istanbul Convention. Furthermore, Germany assumes that in the spirit of Article 2(2), sentence 2 of the Istanbul Convention, implementation of victim support services should continue to “pay particular attention to women victims of gender-based violence”.

- **Article 34** should include a requirement stipulating that incidents of violence are taken into account in decisions on the custody of affected children, and that the exercise of the right of access does not jeopardise the rights of the victim or children (cf. Article 31(1) and (2) of the Istanbul Convention). The following wording is suggested after sentence 1:

“Member States shall take necessary measures to ensure that, in determination of custody and visitations rights, incidents of violence should be taken into account and that the exercise of the right of access does not jeopardise the rights and the safety of the victims or children.”

- We welcome the addition and explicit mention of lesbians and trans women as a particularly vulnerable group in **Article 36(4)**, but suggest that reference be made to all LGBTI(Q) persons.

With regard to **paragraph 7**, we prefer the second proposal (replacement of “education” by “such”). The text deleted in the first proposal should be retained (as in the second proposal), since it could provide a useful contribution to the self-empowerment of citizens.

In the new version of **Article 36(8)** (and also in Article 37(3)), the restriction to cases of sexual harassment that constitute criminal offences could contravene Directive 2006/54. This Directive addresses all forms of sexual harassment in the workplace. It obliges Member States to call upon employers and those responsible for vocational training to take effective measures to prevent all forms of discrimination on grounds of sex, in particular harassment and sexual harassment in the workplace (Article 26) We request a coherence review in this respect and a (further) explanation as to why this change has been made in the new version.

- We expressly welcome the Swedish amendments to **Article 37(1)**. However, it remains unclear exactly which personnel fall under “court staff” and what kind of need is seen here. The term “court staff” is very broad and could also include court security officers and registry clerks. In addition, with regard to “restorative justice services”, it should be noted that in Germany, training matters in this respect fall within the competence of the *Länder*. The additions proposed by the Swedish Council Presidency regarding women with disabilities in **Article 37(1)** are welcomed.
- The alignment of the wording in **Article 39** with Article 10 (and 11) of the Istanbul Convention is a step in the right direction.
- In **Article 40(1)**, the insertion of “in accordance with national law or practice” is a step in the right direction to take account of the particularities of the federal system in Germany. We also welcome the deletion of “at the national level” and “public prosecutors”. We believe it is positive that the Swedish Council Presidency has taken into account the amendments proposed by Germany in this respect. We would like to point out once again that in Germany such extensive cooperation would at best be possible at *Land* level. We also welcome the addition of “non-binding” before “guidelines”. Furthermore, “and witnesses” should be deleted, as witnesses are not always/not automatically victims.
- **Article 42**: We still generally welcome additional voluntary cooperation between service providers. We support the clarification in recital 63 that the provision is only intended to supplement the requirements of the DSA, and that there is no need to fear any impact on the risk analysis and assessment mandatory for very large online platforms under Articles 34 and 35 of the DSA. Overall, it would be desirable to clarify the relationship (as merely supplementary measures) to the DSA in Article 42, and not just in recital 63.

With regard to the drawing up of codes of conduct, Article 45 of the DSA provides that it is precisely the Commission and the Board (DSA supervisory body) that shall encourage and facilitate them at Union level to contribute to the proper application of the DSA. As it is conceivable that gender-based violence and image/video material covered by Article 25 will be considered a category of illegal content and/or a category of systemic risk within the meaning of the DSA, it is questionable to what extent there is any further room for action by the Member States. In this respect, a scrutiny reservation applies.

Furthermore, we have doubts as to whether the proposed mechanism is promising at all in the area of illegal pornography.

It would also be desirable to require platforms to provide the content moderators themselves with psychological training and psychological assistance in carrying out this mentally extremely demanding task. In order to clarify that this is a separate obligation, it could be included in a separate article or the heading could be supplemented by the words “and psychological assistance”

- Why are letters (a) and (b) of **Article 43** listed separately? We propose the following wording:
  - “(a) exchanging information such as best practices and consulting each other in individual cases with relevant Union agencies within their corresponding mandates
  - (b) providing assistance to Union networks working on matters directly relevant to violence against women and domestic violence”.

This wording is more in line with Article 26 of the Victims’ Rights Directive, although the addition of “exchanging information” goes even further. It is therefore in any case important to add “within their corresponding mandates”. The European Judicial Network could then be subsumed under “Union networks” in letter (b).

- Our review of **Article 44** is still ongoing. Here are our preliminary comments:
  - Paragraph 1:** We welcome the proposed deletion. However, what is now the purpose of this paragraph? Will it be for the Member States to decide which offences are covered by each of the two categories? This would be desirable in the interests of flexibility.
  - **Paragraph 2:** We prefer the wording from the PIF Directive to that of the Environmental Directive, on which consultations are still ongoing. The wording from the Environmental Directive, “as a minimum, include existing data...”, appears to us to be contradictory and does not contain the criterion “availability at a central level”, which is essential for Germany.

It also remains unclear what criminal offences are to be included in the statistics (cf. paragraph 1). Depending on how work on paragraph 1 progresses, paragraph 1 and paragraph 2 could potentially also be combined.

**Paragraph 2(a):** We welcome the proposed deletion.

**Paragraph 2(b):** Germany would amend the addition “of such offences” to “of reported offences”. Germany is not able to provide the number of “persons prosecuted for”. Our proposed wording is as follows: “the annual number of victims of reported offences and the annual number of reported offences, obtained from national administrative sources.” This proposal can, however, only apply if – as proposed – the reference to Articles 5 to 10 in paragraph 1 is deleted and the Member States are allowed to define at their discretion which offences are covered by the two categories of offence.

**Paragraph 3:** Instead of deleting Article 3 as proposed, Germany would suggest amending it so that it does not set the standards to be used. Germany proposes the following wording: “Member States shall conduct a population-based survey on violence against women or domestic violence on a regular basis. Member States shall transmit those data to the Commission.” This also allows for the greater flexibility requested by the Member States whilst still creating a binding obligation on them to undertake these essential surveys.

**Paragraphs 4 and 5:** These two paragraphs are not in line with the rest of the text following the deletion of passages from paragraphs 1 and 2 and do not reflect the concept of greater flexibility as raised by the Swedish Presidency in its preliminary remark. In paragraph 2, all but one of the categories after “disaggregated by....” have been deleted, but paragraph 4 still requires data collection on the basis of “common disaggregations”. Can you tell us why this has been left unchanged and what the implications would be if not every category by which data are to be disaggregated is recorded by the Member States? For example, if paragraph 4 ultimately introduces the “relationship between the victim and the offender” as a common disaggregation category although it has been deleted from paragraph 2, there could be differences between the Member States as to how they define and record this relationship. Germany also proposes an amendment to the annual reporting requirement to “regular” reporting requirements.

**Paragraph 5** seeks “common standards”. What would be the implications if the Member States were unable to meet these standards in full? There must be provision for the standards to allow “not available” as a response where certain data are not available.

**Paragraph 6:** no comments.

- **Article 45** relates closely to Article 5 and should therefore also be deleted. As regards the proposed minimum level of the maximum term of imprisonment, we refer you to our position statement on Article 12, in which we noted that any provisions must continue to allow for specific sanctions that do not come under the sentencing ranges of general criminal law for offenders who are subject to special juvenile criminal law. We do not propose that this be addressed in the operative provisions, but the matter could be clarified at an appropriate point in the recitals unless the Commission (and if applicable its Legal Service) recognises the particularities of juvenile criminal law as a general principle and does not see a need for clarification. To ensure provisions are aligned with domestic law, the minimum level of maximum terms of imprisonment for adults should only apply to particularly serious cases.
  
- The **recitals** need to be amended accordingly; this should include the following changes:
  - **(25)** “to believe that serious physical harm has been or is expected to be inflicted on the child” is to be changed to “to believe that there is an imminent risk that serious physical harm will be inflicted on the child.”
  
  - **(31)** should be deleted. On the first sentence: the children of victims are not necessarily / not always as vulnerable as the victims themselves. On the second sentence: purely emotional harm does not necessarily constitute violence, and “dependants” may require protection as victims themselves and in line with their own vulnerability.
  
  - **(33)** “and their dependants” is to be deleted
  
  - **(35)** “suspect” is to be deleted.
  
  - **(56)** For the sake of completeness, “intersex people” should also be included here.

## HUNGARY

### Written comments of Hungary

#### (Proposal on Combatting violence against women and domestic violence, doc. WK 2576/2023)

##### Recital 58

Hungary proposes to include qualifiers, highlighting that education on sexuality should always correspond to the age/maturity of the child.

(58) Member States should **take appropriate preventive measures**. ~~actions to prevent ensure that~~ **Such preventive measures may include**, such as awareness-raising campaigns, ~~are taken to~~ counter violence against women and domestic violence. Prevention ~~should~~ **may** also take place in formal education, in particular, through strengthening **evidence-based and age-appropriate** sexuality education and socio-emotional competencies, empathy and developing healthy and respectful relationships.”

##### Recital 59

~~„(59) Member States should take measures to prevent the cultivation of harmful gender stereotypes to eradicate the idea of the inferiority of women or stereotyped roles of women and men. This could also include measures aimed at ensuring that culture, custom, religion, tradition or honour is not perceived as a justification for, or a more lenient treatment of, offences of violence against women or domestic violence. Considering that from a very young age onwards, children are exposed to gender roles that shape their self-perception and influence their academic and professional choices as well as expectations of their roles as women and men throughout their life, it is crucial to address gender stereotypes as of early childhood education and care.”~~

##### Article 36, para. (4) and (5)

Hungary proposes to delete the term *„lesbians and trans woman”* from the paragraphs. In our view, listing certain vulnerable groups contradicts the objective of flexibility. Hungary is in favour of a comprehensive wording.

**Article 36, para. (7)** – Hungary is in favour of option 2.

„Preventive measures shall also specifically address cyber violence. In particular, Member States shall ensure that ~~education~~ **such** measures include the development of digital literacy skills, including critical engagement with the digital world, to enable users to identify and address cases of cyber violence, seek support and prevent its perpetration. Member States shall foster multidisciplinary and stakeholder cooperation, including intermediary services and competent authorities, to develop and implement measures to tackle cyber violence.”

**Article 45**

Hungary supports the deletion of the article.



## IRELAND

Ireland welcomes the opportunity to provide written comments on the redraft of Chapters 3 – 7 and thanks the Swedish Presidency for their continued work to progress this file.

### **Article 15**

In our common law legal system, we have limitation periods for summary (less serious) offences. Indictable offences (more serious offences, such as assault, murder, rape) generally do not have a limitation periods.

At the meeting on 13<sup>th</sup> January, the Presidency presented two options on Article 15. We favour the second option as we consider this better reflects our legal system.

In addition, and read in conjunction with Article 49, we would welcome reference in a recital that takes account of Member States that do not have statutory limitation periods.

### **Article 16**

We fully support the principle that migrant victims of violence against women and domestic violence should not be afraid to come forward and report crimes regardless of their immigration status.

However, it is important not to create an incentive to submit false claims after the event of a deportation order being issued. In order to ensure the integrity of MS immigration systems, it is important that the Directive and MSs in their operational procedures should allow for an assessment to be carried out in a timely fashion, especially in respect of an alleged victim for whom a deportation or expulsion order has been issued prior to the person coming forward with a claim of domestic violence.

### **Article 21**

In para 1 – we would like to add the word ‘can’ in the second line. The *competent authorities can issue orders addressed....*

In our judicial system, orders must be applied for and granted by a Judge so the ‘can’ here is important for us. The addition would be coherent with paragraph 2.

### **Article 25**

- We consider the redrafted text is much improved. The deletion of “judicial” in paragraph 1 is the main positive development and we support it. As the deletion of para 2 follows naturally from that we also support its removal.
- As regards the new line added in para 1 about disabling access, we consider that this addition follows the logic of the Child Sexual abuse Directive by possibly showing that removal is the first choice, and disabling access should only happen if removal is not possible.

However, in our view the use of “shall ensure the order may include” is a little confusing. Does that mean that in transposing the Directive, Member States shall ensure that their competent authorities are given the option of issuing an order to disable the content?

- On Paragraph 3: we propose the deletion of this paragraph in its entirety. This would decouple the removal of content with the outcome of criminal proceedings, meaning that where, for whatever reason, no conviction arises, the offending material would stay down – unless the person who posted it or another affected party challenged the order before the courts.

This would assume that the competent authority was correct in issuing the removal order and that it should only be taken down if successfully challenged. This would be in line with the Terrorist Content Online Regulation and the CSAM Regulation.

We think this deletion of paragraph 3 would be consistent and coherent with para 4 and with the Presidency’s new paragraph 7, which we could support.

- Another option which we think could strengthen this is to add the words “including a mechanism for administrative review” in para 4 after “safeguards,” This would mean that people who believed their content had been removed wrongfully, including in error, could appeal to the competent authority without having to go to court.
- If deletion of paragraph 3 in its entirety is not favoured , we support the deletion of “not exceeding one year”, and in addition propose that “upon application of the victim” and “judicial” in the same sentence of the third line also be deleted to be consistent with the changes in para 1.

## Article 26

We welcome the flexibility provided in the redrafted article 26 and support a provision that allows victims to claim compensation from offenders.

However, we have concerns regarding the word ‘full’ in paragraph 1. In our domestic legislation, the amount of compensation which our courts will order an offender to pay in criminal proceedings is determined by the Judge taking into account the circumstances of the case and representations made by either party. Therefore, it may not be possible for the State to ensure that a victim receives “full compensation” from the offender as the courts will *inter alia* take into account ability to pay.

As regards claiming compensation in civil actions, the amount payable depends on which court the case is pursued through, with limits applying in the lower courts.

### **Article 31**

We think that paragraph 4 should be deleted if not favoured we prefer the first option for this paragraph presented by the Presidency.

### **Article 36**

We prefer the first option for paragraph 7.

### **Article 44**

We do not support the removal of paragraph 3 which makes provision for a population based survey.

From our perspective, we think that the proposed survey is an important one, and speaks to very important societal issues. There is a need for comprehensive and up-to-date information on the different forms of violence being experienced in society, a need that we have recognised in our National Strategy on Domestic, Sexual and Gender-based Violence.

We consider that it would be better to have agreement that such a population study be done in a consistent way by all EU countries. By ensuring, where feasible, consistency in terms and questions, an internationally comparable account of DSGBV violence in the EU can be better ensured.

We refer to the EU Regulation for European Statistics (Regulation (EC) No 223/2009) which outlines a legal mandate for the development, production and dissemination of European statistics. If it is not possible to reach agreement at Council level on the population based survey, we think that would be a useful avenue to pursue in order to agree a common EU approach.

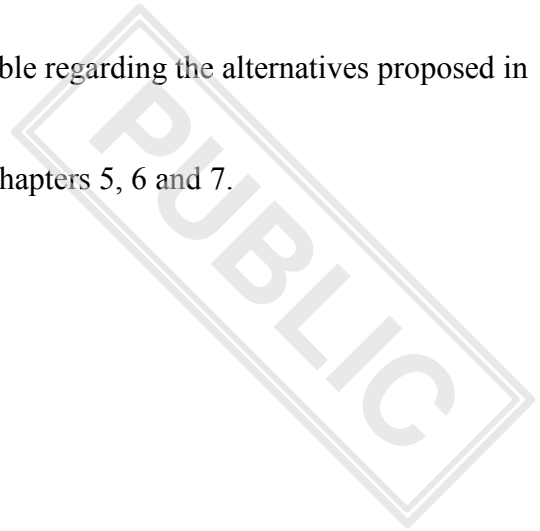
### **Article 45**

We favour this being considered in the forthcoming review of Directive 2011/93/EU rather than in this proposal.

## **LITHUANIA**

Herewith we would like to inform you that Lithuania is flexible regarding the alternatives proposed in Article 39(4).

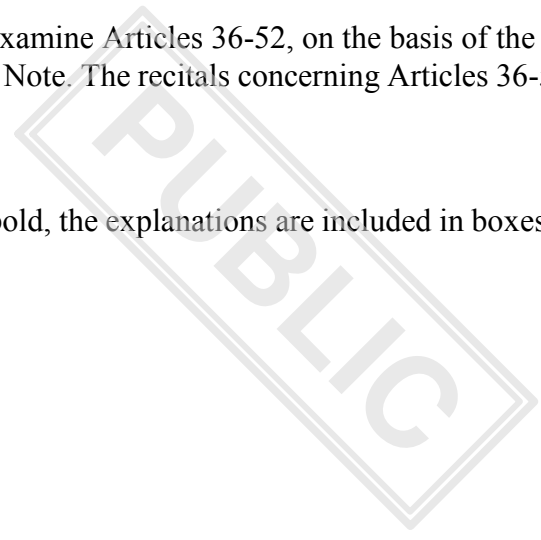
We do not have any further comments on the provisions of chapters 5, 6 and 7.



## NETHERLANDS

The Working Party is invited to address Chapters 5-7 and examine Articles 36-52, on the basis of the revised draft, submitted by the Presidency, as set out in this Note. The recitals concerning Articles 36-52 are also included in the revised draft.

Suggested changes are highlighted with strikethrough and bold, the explanations are included in boxes in relation to the relevant provisions.



- (58) Member States should **take appropriate preventive measures**. ~~actions to prevent ensure that~~ ~~Such preventive measures may include, such as awareness-raising campaigns, are taken~~ to counter violence against women and domestic violence. Prevention ~~should~~ **may** also take place in formal education, in particular, through strengthening sexuality education and socio-emotional competencies, empathy and developing healthy and respectful relationships.

### We support the changes made

- (59) Member States should take measures to prevent the cultivation of harmful gender stereotypes to eradicate the idea of the inferiority of women or stereotyped roles of women and men. This could also include measures aimed at ensuring that culture, custom, religion, tradition or honour is not perceived as a justification for, or a more lenient treatment of, offences of violence against women or domestic violence. Considering that from a very young age onwards, children are exposed to gender roles that shape their self-perception and influence their academic and professional choices as well as expectations of their roles as women and men throughout their life, it is crucial to address gender stereotypes as of early-childhood education and care.
- (60) In order to ensure victims of violence against women and domestic violence are identified and receive appropriate support **and protection**, Member States should ensure that professionals likely to come into 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.
- (61) In order to counteract underreporting, Member States should also liaise with law enforcement authorities in the development of trainings in particular regarding harmful gender stereotypes, but also in the prevention of offences, given their typical close contact with groups at risk of violence and victims.
- (62) Intervention programmes should be set up to prevent and minimise the risk of (repeated) offences of violence against women or domestic violence. The programmes should specifically aim at teaching offenders or those at risk of offending how to adopt non-violent behaviour in interpersonal relationships and how to counter violent behavioural patterns. Programmes should encourage offenders to take responsibility for their actions and examine their attitudes and beliefs towards women.
- (62 bis) ~~(15)~~ With regard to offences amounting to rape, offenders who have been previously convicted of offences of the same nature should be encouraged obliged able to participate in intervention programmes to mitigate the risk of recidivism.**

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<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).

- (63) In order to ensure that victims of the offences of cyber violence contained in this Directive can effectively realise their rights to have illegal material relating to such offences removed, Member States should encourage the cooperation between providers of intermediary services. To ensure that such material is detected early on and tackled effectively and that victims of those offences are adequately assisted and supported, Member States should also facilitate the establishment or use of existing self-regulatory measures of a voluntary nature, such as codes of conduct, including on the detection of systematic risks in relation to such cyber violence and the training of the providers' employees concerned by preventing such violence and assisting victims. **Such self-regulatory measures could complement EU-level action, in particular under the Digital Services Act.**
- (64) Policies to adequately tackle violence against women and domestic violence can only be formulated on the basis of comprehensive and comparable disaggregated data. In order to effectively monitor developments in the Member States and fill the gaps of comparable data, Member States should regularly conduct surveys using the harmonised methodology of the Commission (Eurostat) to gather data and transmit these data to the Commission (Eurostat).
- (65) Member States should ensure that the data collected are limited to what is strictly necessary in relation to supporting the monitoring of the prevalence and trends of violence against women and domestic violence and design new policy strategies in this field. When sharing the data collected, no personal data should be included.
- (66) Any processing of personal data carried out pursuant to this Directive, including the exchange or transmission of personal data by the competent authorities, ~~is to should~~ be carried out in accordance with Regulation (EU) 2016/679, Directives 2016/680/EU<sup>2</sup> and 2002/58/EC<sup>3</sup> of the European Parliament and of the Council. Any processing of personal data by Union institutions, bodies, offices or agencies ~~is to should~~ be carried out in accordance with Regulations (EU) 2018/1725<sup>4</sup>, 2018/1727<sup>5</sup> and 2016/794<sup>6</sup> of the European Parliament and of the Council, or any other applicable Union rules on data protection.

<sup>2</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, ([OJ L 119, 4.5.2016, p. 89](#)).

<sup>3</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) OJ L 201, 31.7.2002, p. 37.

<sup>4</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, ([OJ L 295, 21.11.2018, p. 39](#)).

<sup>5</sup> Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA, ([OJ L 295, 21.11.2018, p. 138](#)).

<sup>6</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, ([OJ L 135, 24.5.2016, p. 53](#)).

- (67) Directive 2011/93/EU provides for criminal offences concerning the sexual abuse of children. In order to ensure coherence with this Directive as regards the criminal offence of rape, the same degree of protection for children who have reached the age of sexual consent should be ensured and a specific offence should be defined as regards children below the age of sexual consent. Therefore, Directive 2011/93/EU should be amended accordingly.
- (68) Since the objective of this Directive, namely to prevent and combat violence against women and domestic violence across the Union on the basis of common minimum rules, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the envisaged measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.
- (69) ~~[In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application.]~~ OR  
 [In accordance with Article 3 of Protocol No 21 on the position of United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Ireland has notified [, by letter of...], its wish to take part in the adoption and application of this Directive.]
- (70) In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.
- (71) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on [XX XX 2022],

## CHAPTER 5

### PREVENTION

#### *Article 36*

#### ***Preventive measures***

1. Member States shall take appropriate actions to prevent violence against women and domestic violence.

*2. MS asked for more flexibility. We suggest to align with Article 13 Istanbul Convention. "Supporting" allows for campaigns being run by third parties.*

2. Preventive measures shall include **conducting or supporting** awareness-raising campaigns **or programmes, which may include** research and education programmes, where appropriate developed in cooperation with relevant civil society organisations, social partners, impacted communities and other stakeholders, **to increase awareness and understanding among the general public of the different manifestations and root causes of all forms of violence against women and domestic violence, their consequences on children and the need for their prevention.**

**We support the changes made.**

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.

*4. MS have indicated a need for some flexibility and also for adding lesbians, trans women and persons with alcohol and drug use disorders.*

4. Targeted action shall be addressed to groups at risk, **such as including** children, according to their age and maturity, ~~and~~ persons with disabilities, taking into consideration language barriers and different levels of literacy and abilities, **lesbians and trans women, as well as persons with alcohol and drug use disorders.** Information for children shall be formulated **or adapted** in a child-friendly way. **Information shall be presented in formats accessible to people with disabilities.**

*5. Additions suggested by MS.*

5. Preventive measures shall in particular aim at challenging harmful gender stereotypes, promoting equality between women and men, encouraging all, including men and boys, to act as positive role models to support corresponding behaviour changes across society **and to seek help where needed** ~~as a whole in line with the objectives of this directive.~~

*6. Addition to respond to MS concerns.*

6. Preventive measures shall develop and/or increase sensitivity about the harmful practice of female genital mutilation, **in an manner proportionate according to its prevalence in the Member State concerned.**

*7. MS asked to delete specific requirements on education, since it is detailed and far-reaching. One alternative could be delete the word education.*

7. Preventive measures shall also specifically address cyber violence. ~~In particular, Member States shall ensure that education measures include the development of digital literacy skills, including critical engagement with the digital world, to enable users to identify and address cases of cyber violence, seek support and prevent its perpetration.~~ Member States shall foster multidisciplinary and stakeholder cooperation, including intermediary services and competent authorities, to develop and implement measures to tackle cyber violence.

**We prefer option one.**

or

Preventive measures shall also specifically address cyber violence. In particular, Member States shall ensure that ~~education~~ **such** measures include the development of digital literacy skills, including critical engagement with the digital world, to enable users to identify and address cases of cyber violence, seek support and prevent its perpetration. Member States shall foster multidisciplinary and stakeholder cooperation, including intermediary services and competent authorities, to develop and implement measures to tackle cyber violence.

*8. MS asked to clarify that this Article only apply to criminal offense under national law and for more flexibility.*

8. Member States shall take adequate and appropriate measures to address ~~ensure that~~ sexual harassment at work, when it constitutes a criminal offense under national law, ~~is addressed~~ in relevant national policies. Those national policies may ~~shall~~ identify and establish targeted actions referred to in paragraph 2 for sectors where workers are most exposed.

**We support the changes made.**

Article 37

**Training and information for professionals**

*1. Regarding “victims” see the definition in Article 4 which refers to violence against women and domestic violence. COM suggestion in footnote<sup>7</sup>.*

1. Member States shall ensure, **when appropriate**, that professionals likely to come into contact with victims, **including such as** 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 **and communicate with victims with disabilities in an accessible manner. Member States shall encourage such training for judges, prosecutors and lawyers.**

**We prefer option one. We support the change to “such as” if this remains we can be flexible in regards to the addition or removal of “when appropriate”**

or

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<sup>7</sup> Member States shall ensure that professionals likely to come into contact with victims, including police officers~~law enforcement authorities~~[, court staff,] and healthcare professionals ~~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 [and communicate with victims with disabilities in an accessible manner].

1bis. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Member States, and with due respect for the role of those responsible for the training of judges and prosecutors, Member States shall take appropriate measures to ensure that judges and prosecutors who deal with criminal proceedings involving victims of violence against women and domestic violence have effective access to specific training for the purposes set out in paragraph 1.

1ter. With due respect for the independence of the legal profession and for the role of those responsible for the training of lawyers, Member States shall take appropriate measures to promote the provision of specific training as referred to in paragraph 1 to lawyers who deal with criminal proceedings involving violence against women and domestic violence.

1. Member States shall ensure that ~~professionals~~ **officials** likely to come into contact with victims, ~~including such as police officers law enforcement authorities, and 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 **and communicate with victims with disabilities in an accessible manner. Member States shall encourage such training for judges, prosecutors and lawyers.**

*2. MS proposed an addition.*

2. Relevant health professionals, including paediatricians, **gynecologists** and midwives shall receive targeted training to identify and address, in a cultural-sensitive manner, the physical, psychological and sexual consequences of female genital mutilation.

*3. MS asked to clarify that this Article only apply to criminal offense under national law*

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, **when it constitutes a criminal offense under national law, 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.

**This article concerns training to individuals in supervisory positions. Whilst we do think it is important. It is also too specific in what this training should be about, for example about providing initial support (or shelter) to victims (something that we think is more appropriate for a confidential adviser). We therefore propose to delete these specific points from the article.**

4. The training activities referred to in paragraphs 1 and 2 shall include training on co-ordinated multi-agency co-operation to allow for a comprehensive and appropriate handling of referrals in cases of violence against women or domestic violence.
5. Without affecting media freedom and pluralism, Member States shall encourage and support the setting up of media training activities by media professionals' organisations, media self-regulatory bodies and industry representatives or other relevant independent organisations, to combat stereotypical portrayals of women and men, sexist images of women, and victim-blaming in the media, aimed at reducing the risk of violence against women or domestic 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.

*7. Suggestion to put the requirement in Paragraph 7 in relation to the changes suggested in Paragraph 1.*

7. Training activities referred to in paragraphs 1 and 2 ~~shall be regular and mandatory~~, including on cyber violence, ~~and shall be~~ built on the specificities of violence against women and domestic violence. Such training activities ~~shall~~ may include training on how to identify and address the specific protection and support needs of victims who face a heightened risk of violence due to their experiencing discrimination based on a combination of sex and other grounds.

We support the changes made.

8. The measures under paragraphs 1 to 6 shall be implemented without affecting judicial independence, the self-organisation of regulated professions and differences in the organisation of the judiciary across the Union.

#### Article 38

#### Intervention programmes

1. Member States shall take the necessary measures to ensure that targeted and effective intervention programmes are established to prevent and minimise the risk of committing offences of violence against women or domestic violence, or reoffending.

*2. Suggestion from MS to include some flexibility in regard to participation from for example persons who fear they might commit an offence. COM suggestion in footnote.<sup>8</sup>*

2. The intervention programmes ~~shall~~ may be made available for participation, ~~including~~ to persons who **feel the need to participate for example because they** fear they might commit any offence of violence against women or domestic violence.

*3. Moved, and reformulated, text from Article 12.3, since text on intervention programmes should apply in general and not only in relation to penalties. MS asked to make participation voluntary since it would not seem reasonable to oblige a person to participate if he or she isn't motivated. Recital 15 moved to 62 bis.*

3. Member States shall ensure that an offender of the offence of rape is **personally** encouraged to participate in an intervention programme.

## CHAPTER 6

### COORDINATION AND COOPERATION

#### *Article 39*

#### **Coordinated policies and coordinating body**

1. Member States shall adopt and implement state-wide effective, comprehensive and co-ordinated policies encompassing all relevant measures to prevent and combat all forms of violence against women and domestic violence.

*2. MS asked to aligne with Article 10(1) Istanbul Convention.*

2. Member States shall designate or establish **one or more** ~~an~~ official body(ies) responsible for coordinating, implementing, monitoring and evaluating policies and measures to prevent and combat all forms of violence covered under this Directive.

*3. Consequential change because according to Paragraph 2, there may be several official bodies.*

3. That body, **or one of the bodies designated pursuant to paragraph 2**, shall coordinate the collection of data referred to in Article 44, and analyse and disseminate its results.

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<sup>8</sup> The intervention programmes shall be made available ~~for participation including to~~ at least for offenders of an offence of violence against women or domestic violence and persons who fear they might commit any offence of violence against women or domestic violence such an offence.

4. Several MS expressed difficulties with regard to their federal system, municipalities etc. The Paragraph goes beyond Article 10 Istanbul Convention. We suggest either deleting this paragraph or clarifying that MS have flexibility on who collects the data.

4. ~~It shall be responsible for coordinating policies at the central, regional and local levels.~~  
or  
~~It~~ **Member States** shall be responsible for coordinating **ensure** policies **are** **coordinated** at the central, regional and/or local levels.

## Small change preferred in paragraph 4

### Article 40

#### Multi-agency coordination and cooperation

1. Suggestion to allow for flexibility regarding the mechanism, to add “independence” and to delete national level (could be problematic for MS with federal system) and prosecutor (included in judiciary). We also suggest adding a short explanation on what the mechanism is about, in line with Article 18 Istanbul Convention.

1. Member States shall put in place appropriate mechanisms, **in accordance with national law or practice**, to ensure effective coordination and cooperation, ~~at the national level~~, of relevant authorities, agencies and bodies, including local and regional authorities, law enforcement agencies, **the judiciary**, **with due respect for judicial independence** ~~public prosecutors~~ **public prosecutors**, support services providers as well as non-governmental organisations, social services, including child protection or welfare authorities, education and healthcare providers, social partners, without prejudice to their autonomy, and other relevant organisations and entities, **in protecting and supporting victims and witnesses from violence against women and domestic violence.**

**We prefer the inclusion of prosecutor and the removal of the judiciary since the prosecutors are the ones preparing the case and need the bigger picture. Judges shall have to remain completely independent.**

2. See Article 23.

2. Such mechanisms shall in particular pertain to the individual assessments under Articles 18 and 19, and the provision of protection and support measures under Article 21 and Chapter 4, the **non-binding** ~~guidelines for law enforcement and judicial authorities~~ under Article 23, and in the trainings for professionals as referred to in Article 37.

**We support the changes made**

### Article 41

#### Cooperation with non-governmental organisations

Member States shall cooperate with and consult civil society organisations, including non-governmental organisations working with victims of violence against women or domestic

violence, in particular in providing support to victims, concerning policymaking initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures to support and protect victims.

*Article 42*

**Cooperation between intermediary service providers**

*Article 42: Suggestion from MS to clarify. See also Recital 89 DSA. Addition to Recital 63 to explain the relationship to the DSA, including that actions is required under this Directive.*

Member States shall **encourage self-regulatory cooperation between providers of intermediary services, such as codes of conduct, and raise awareness** ~~facilitate the taking~~ ~~of~~ ~~on~~ self-regulatory measures **which may be adopted** by providers of intermediary services in connection to this Directive, in particular to reinforce ~~internal~~ mechanisms **that they implement** to tackle the online material referred to in Article 25(1) and to improve the training of their employees concerned on preventing, assisting and supporting the victims of the offences referred to therein.

#### *Article 43*

#### **Union level cooperation**

*Article 43: "Appropriate" in the first sentence allows for flexibility. See Article 26 Victims Rights Directive. We ask MS to inductate if they can accept this Article.*

Member States shall take appropriate action to facilitate cooperation between each other to improve the implementation of this Directive. Such cooperation shall aim at least at:

- (a) exchanging best practices and consulting each other in individual cases, including through Eurojust and the European Judicial Network in criminal matters;
- (b) exchanging information and best practices with relevant Union agencies;
- (c) providing assistance to Union networks working on matters directly relevant to violence against women and domestic violence.

Artikel 26 slachtofferrechten richtlijn (samenwerking lidstaten)

## Article 44

### Data collection and research

*Article 44: MS expressed a number of concerns on this Article. We suggest to align with Istanbul Convention and to introduce more flexibility, see Environmental Directive. COM suggestion in footnote<sup>9</sup>.*

1. Member States shall have a system in place for the collection, development, production and dissemination of statistics on violence against women or domestic violence, including the forms of violence referred to in Articles 5 to 10.

- 
- <sup>9</sup>
1. Member States shall have a system in place for the collection, development, production and dissemination of statistics on violence against women or domestic violence, including the forms of violence referred to in Articles 5 to 10.
  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:
    - ~~(a) the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime;~~
    - ~~(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.~~

2. The statistics shall, as a minimum, include the following existing data disaggregated by sex, age of the victim and of the offender, relationship between the victim and the offender and type of offence:
  - (a) ~~the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime;~~
  - (b) the annual number of such victims of such offences, of reported offences, of persons prosecuted for and convicted of such forms of violence, obtained from national administrative sources.
3. ~~Member States shall conduct a population-based survey every 5 years using the harmonised methodology of the Commission (Eurostat) to gather the data referred to in paragraph 2, point (a), and on this basis assess the prevalence of and trends in all forms of violence covered by this Directive.~~

~~Member States shall transmit those data to the Commission (Eurostat) [3 years after the entry into force of the directive] at the latest.~~
4. In order to ensure administrative data comparability across the Union, Member States shall collect administrative data on the basis of common disaggregations developed in cooperation with and according to the methodology developed by the European Institute for Gender Equality in accordance with paragraph 5. They shall transmit this data to the European Institute for Gender Equality on a yearly basis. The transmitted data shall not contain personal data.

- 
3. Member States shall conduct a population-based survey every 5 years using the harmonised methodology of the Commission (Eurostat) to gather the data on the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime referred to in paragraph 2, ~~point (a)~~, and on this basis assess the prevalence of and trends in all forms of violence covered by this Directive.

Member States shall transmit those data to the Commission (Eurostat) [3 years after the entry into force of the directive] at the latest.
  4. ~~In order to ensure administrative data comparability across the Union~~, Member States shall collect administrative data on the annual number of victims, of reported offences, of persons prosecuted for and convicted of forms of violence against women and domestic violence on the basis of common disaggregations developed in cooperation with and according to the methodology developed by the European Institute for Gender Equality in accordance with paragraph 5. They shall transmit this data to the European Institute for Gender Equality on a yearly basis. The transmitted data shall not contain personal data.
  5. The European Institute for Gender Equality shall support Member States in the data gathering referred to in paragraph 2, point (b), including by establishing common standards to improve the comparability of data, taking into account European statistics in the field of Crime and Criminal Justice collected by the Commission (Eurostat) [on counting units, counting rules, common disaggregations, reporting formats, and on the classification of criminal offences].
  6. The Member States shall make the collected statistics available to the public. The statistics shall not contain personal data.
  7. ~~The Member States shall support research on root causes, effects, incidences and conviction rates of the forms of violence covered by this Directive.~~

5. The European Institute for Gender Equality shall support Member States in the data gathering referred to in paragraph 2, point (b), including by establishing common standards ~~on counting units, counting rules, common disaggregations, reporting formats, and on the classification of criminal offences.~~ The standard format shall as far as possible be based on the definitions and standards that have been developed and applied to European statistics in the field of Crime and Criminal Justice that is collected by Eurostat.
  6. The Member States shall make the collected statistics available to the public. The statistics shall not contain personal data.
- |                                  |
|----------------------------------|
| 7. <i>Moved to Article 36.1.</i> |
|----------------------------------|
7. ~~The Member States shall support research on root causes, effects, incidences and conviction rates of the forms of violence covered by this Directive.~~

We need more time to analyse the suggestions of the commission.

## CHAPTER 7

### FINAL PROVISIONS

#### *Article 45*

*Article 45: Some MS suggest deleting this Article, since it seems more appropriate to include it in the upcoming amendments to Directive 2011/93/EU. Negotiations are set to start Q3 2023. The reason for including this Article in the Directive seems to be that children would have a lower level of protection than adults, if Article 5 was included in this Directive. For the time being it is our understanding that there is not enough support to keep Article 5 in the Directive. Please indicate your position on Article 45. This includes Recital 67.*

#### **Amendment to Directive 2011/93/EU**

In Article 3 of Directive 2011/93/EU, the following paragraphs are added:

- “7. Member States shall ensure that the following intentional conduct shall be punishable by a maximum term of imprisonment of at least 12 years:
  - (a) engaging with a child below the age of sexual consent in any act of vaginal, anal or oral penetration of a sexual nature, with any bodily part or object;
  - (b) causing a child below the age of sexual consent to engage with another person in any act of vaginal, anal or oral penetration of a sexual nature, with any bodily part or object.
8. Where the child is above the age of sexual consent and does not consent to the act, Member States shall ensure that the conduct set out in paragraph 7 is punishable by a maximum term of imprisonment of at least 10 years.
9. For the purpose of paragraph 8, Member States shall ensure that a non-consensual act is understood as an act which is performed without the child’s consent given voluntarily, or where the child is unable to form a free will due to the presence of circumstances referred to in paragraph 5, including the child’s physical or mental condition such as a state of unconsciousness, intoxication, sleep, illness or bodily injury.

Consent can be withdrawn at any moment during the act. The absence of consent cannot be refuted exclusively by the child's silence, verbal or physical non-resistance or past sexual conduct."

As indicated earlier, we follow the advice of the legal service. We are in favour of deleting the article 5.

#### *Article 46*

#### **Level of protection**

*Article 46: We suggest deleting this Article since it has no added value. It contains nothing that doesn't already follow from Article 83 EUF.*

~~This Directive establishes minimum rules. Member States may introduce or maintain provisions with higher standards, including such which provide a higher level of protection and support for victims.~~

#### *Article 47*

#### **Reporting**

*Article 47: MS raised questions in relation to Article 44 and we wonder if the same flexibility is needed here. If that is the case we suggest to introduce text from Article 28 Victims Rights Directive.*

1. By [seven years after the entry into force of this Directive] at the latest, Member States shall communicate to the Commission ~~all relevant~~ **available** information concerning the application of this Directive necessary for the Commission to draw up a report on the application of this Directive.
2. On the basis of the information provided by Member States pursuant to paragraph 1, the Commission shall submit to the European Parliament and the Council a report in which it reviews the application of this Directive.

*Article 48*

**Relationship with other Union acts**

1. This Directive shall not affect the application of the following legal acts:
  - (a) Directive 2011/36/EU,
  - (b) Directive 2011/93/EU,
  - (c) Directive 2011/99/EU,
  - (d) Directive 2012/29/EU,
  - (e) Regulation (EU) No 606/2013,
  - (f) ~~{Regulation (EU) 2022/2065.../... on a Single Market for Digital Services}~~.
2. The specific measures of prevention, protection of and support to victims under this Directive shall apply in addition to measures laid down in Directives 2011/36/EU, 2011/93/EU and 2012/29/EU.

*Article 48 bis: There is a need for a provision in order to safeguard the rules on freedom of the press. Discussions on possible wording are ongoing and we will come back to this Article at the meeting on March 30–31.*

[Article 48 bis

**Freedom of the press and the freedom of expression in other media]**

Article 49

**Non-regression clause**

*Article 49: Suggestion to use language from Directive on work-life balance, see Art. 16(2) 2019/1158.*

Nothing in this Directive shall be construed as lowering, limiting or derogating from any of the rights and procedural safeguards that are guaranteed under the law of any Member State which provides a higher level of protection. Member States shall not lower that higher level of protection guaranteed at the time of entry into force of this Directive. **The implementation of this Directive shall not constitute grounds for justifying a reduction in the level of protection of victims in the areas covered by this Directive. The prohibition of such a reduction in the level of protection shall be without prejudice to the right of Member States to lay down, in light of changing circumstances, legislative or regulatory arrangements other than those in force on the date of entry into force of this Directive, provided that the minimum requirements laid down in this Directive are complied with.**

*Article 50*

**Transposition**

*1: Suggestion to change to three years since the Directive is comprehensive and detailed.*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by ~~two~~ **three** years after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

**We support the changes made**

*Article 51*

**Entry into force**

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

*Article 52*

**Addressees**

This Directive is addressed to the Member States in accordance with the Treaties. Done at Strasbourg,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## POLAND

### **Comments from Poland on the proposal for a directive of the European Parliament and of the Council on combating violence against women and domestic violence - COM(2022) 105 (revised draft chapters 5,6 and 7 submitted by the Presidency - WK 2576/2023 INIT)**

Poland would like to thank the Presidency for the opportunity to submit written comments on the proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence.

With regard to the revised draft of Chapters 5, 6 and 7 of the Directive, during the ongoing negotiations, Poland makes the following comments:

#### **To the Preamble:**

##### **Recital (62 bis)**

Poland welcomes the addition of a recital on encouraging rape perpetrators to participate in therapeutic programs preventing recidivism.

#### **To Chapter 5 "Prevention"**

##### **Article 36 sec. 2**

- Poland supports the current wording of Art. 36 paragraph 2, which is concise, yet provides for the possibility of involving civil society organizations in the campaigns created, while maintaining the leading role of the state.
- The proposed reference to Art. 13 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) is incomplete. This poses a risk that public authorities could limit their public awareness policy to financial or verbal support for campaigns of private entities.
- The current wording of Art. 36 is universal and precise.

##### **Article 36 paragraph 4**

- Poland is in favor of maintaining the original wording of Art. 36 par. 4, listing groups at risk of becoming a victim or perpetrator of violence, introduced with the word "including", with flexibility towards extending the list to "persons with alcohol and drug use disorders". The term "drug" could be extended to "substance abuse" to include persons abusing prescription drugs or solvents for intoxication.
- Poland objects to adding lesbian and transsexual women to this catalogue of addressees in particular risk. The Polish authorities responsible for counteracting violence do not have data indicating that women living in homosexual relationships are more likely to use (and fall victim to) violence than women living in heterosexual cohabitations with men.
- Poland does not support replacing the word "including" with "such as" in the introduction to the catalogue of groups to which specific actions should be addressed to. Such a modification would thwart the universal protective nature of Art. 36 and could lead to the differentiation of women in different life situations, giving priority to protection of only arbitrarily selected groups.

## **Article 36 paragraph 6**

- According to Art. 36 par. 6 of the draft, preventive measures must develop or increase sensitivity to the harmful practice of female genital mutilation. It should be noted, that the concept of female genital mutilation does not include necessary medical intervention, performed *lege artis* e.g. in case of vulvar cancer.
- This reservation of admissibility of surgical intervention for medical reasons should apply to all Articles concerning female genital mutilation, in particular to Art. 6 in conjunction with Art. 12.
- The literal wording of Art. 6 of the draft directive suggests that both the above-mentioned oncological surgery and, for example, vaginoplasty for gender affirmation of transgender persons would be unlawful - even after a final court decision confirming belonging to a gender other than the registered one.

## **Article 36 sec. 7**

- Poland is in favor of the second alternate version of the proposed amendment, referring directly to the need for education in the field of combating cyberbullying. The proposed deletions in Art. 36 pairs 7 could discourage Member States to address the youth through education, although the pathological phenomenon of on-line hate is developing in the young generation.

## **Article 37 section 1**

- Poland is in favor of the second proposed version of the amendment.

## **Article 37 sec. 2**

- Article 37 sec. 2, imposing obligations on the relevant healthcare professionals, including pediatricians, midwives and gynecologists, should be limited with the provision "if the intervention does not result from the indications of medical knowledge".
- Poland recognizes the educational and preventive role of medical personnel in preventing female genital mutilation, in discouraging patients from culturally, religiously or aesthetically motivated cutting, piercing or surgical intervention in the intimate area, provided that it is not necessary to protect the health and life of women.

## **To Chapter 6 "Coordination and Cooperation"**

### **Article 39 paragraph 2 and following**

- Poland expresses doubts whether the change consisting in the possibility of establishing multiple institutions or bodies responsible for coordinating, implementing and monitoring the fulfillment of anti-violence obligations, proposed in Art. 39 par. 2 and following, will actually facilitate this coordination and will not cause disputes over competence.
- Poland, as a unitary country, does not intend to use this option - if introduced.

## ROMANIA

Please, find below, RO comments on article 40 of the proposal:

### **Art. 40 Multi-agency coordination and cooperation**

Although the importance of cooperation between the various state authorities is indisputable, RO appreciates that the wording of the article is too broad, potentially creating difficulties in its transposition and evaluation. Hence RO proposes at least the following rewording:

*„Member States shall put in place appropriate mechanisms, in accordance with national law or practice, to ensure effective coordination and cooperation, at the national level, of relevant authorities, agencies and bodies, ~~including~~ **such as/which may include** local and regional authorities, law enforcement agencies, the judiciary, with due respect for judicial independence public prosecutors, support services providers as well as non-governmental organisations, social services, including child protection or welfare authorities, education and healthcare providers, social partners, without prejudice to their autonomy, and other relevant organisations and entities, in protecting and supporting victims and witnesses from violence against women and domestic violence.”*

## SLOVENIA

- (58) Member States should **take appropriate preventive measures**. ~~actions to prevent ensure that~~ ~~Such preventive measures may include~~, such as awareness-raising campaigns, ~~are taken~~ to counter violence against women and domestic violence. Prevention ~~should~~ **may** also take place in formal education, in particular, through strengthening sexuality education and socio-emotional competencies, empathy and developing healthy and respectful relationships.
- (59) Member States should take measures to prevent the cultivation of harmful gender stereotypes to eradicate the idea of the inferiority of women or stereotyped roles of women and men. This could also include measures aimed at ensuring that culture, custom, religion, tradition or honour is not perceived as a justification for, or a more lenient treatment of, offences of violence against women or domestic violence. Considering that from a very young age onwards, children are exposed to gender roles that shape their self-perception and influence their academic and professional choices as well as expectations of their roles as women and men throughout their life, it is crucial to address gender stereotypes as of early-childhood education and care.
- (60) In order to ensure victims of violence against women and domestic violence are identified and receive appropriate support **and protection**, Member States should ensure that professionals likely to come into 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.
- (61) In order to counteract underreporting, Member States should also liaise with law enforcement authorities in the development of trainings in particular regarding harmful gender stereotypes, but also in the prevention of offences, given their typical close contact with groups at risk of violence and victims.
- (62) Intervention programmes should be set up to prevent and minimise the risk of (repeated) offences of violence against women or domestic violence. The programmes should specifically aim at teaching offenders or those at risk of offending how to adopt non-violent behaviour in interpersonal relationships and how to counter violent behavioural patterns. Programmes should encourage offenders to take responsibility for their actions and examine their attitudes and beliefs towards women.
- (62 bis) (15) With regard to offences amounting to rape, offenders who have been previously convicted of offences of the same nature should be encouraged obliged able to participate in intervention programmes to mitigate the risk of recidivism.**

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<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).

- (63) In order to ensure that victims of the offences of cyber violence contained in this Directive can effectively realise their rights to have illegal material relating to such offences removed, Member States should encourage the cooperation between providers of intermediary services. To ensure that such material is detected early on and tackled effectively and that victims of those offences are adequately assisted and supported, Member States should also facilitate the establishment or use of existing self-regulatory measures of a voluntary nature, such as codes of conduct, including on the detection of systematic risks in relation to such cyber violence and the training of the providers' employees concerned by preventing such violence and assisting victims. **Such self-regulatory measures could complement EU-level action, in particular under the Digital Services Act.**
- (64) Policies to adequately tackle violence against women and domestic violence can only be formulated on the basis of comprehensive and comparable disaggregated data. In order to effectively monitor developments in the Member States and fill the gaps of comparable data, Member States should regularly conduct surveys using the harmonised methodology of the Commission (Eurostat) to gather data and transmit these data to the Commission (Eurostat).
- (65) Member States should ensure that the data collected are limited to what is strictly necessary in relation to supporting the monitoring of the prevalence and trends of violence against women and domestic violence and design new policy strategies in this field. When sharing the data collected, no personal data should be included.
- (66) Any processing of personal data carried out pursuant to this Directive, including the exchange or transmission of personal data by the competent authorities, ~~is to should~~ be carried out in accordance with Regulation (EU) 2016/679, Directives 2016/680/EU<sup>2</sup> and 2002/58/EC<sup>3</sup> of the European Parliament and of the Council. Any processing of personal data by Union institutions, bodies, offices or agencies ~~is to should~~ be carried out in accordance with Regulations (EU) 2018/1725<sup>4</sup>, 2018/1727<sup>5</sup> and 2016/794<sup>6</sup> of the European Parliament and of the Council, or any other applicable Union rules on data protection.

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<sup>2</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, ([OJ L 119, 4.5.2016, p. 89](#)).

<sup>3</sup> Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) OJ L 201, 31.7.2002, p. 37.

<sup>4</sup> Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, ([OJ L 295, 21.11.2018, p. 39](#)).

<sup>5</sup> Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA, ([OJ L 295, 21.11.2018, p. 138](#)).

<sup>6</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA, ([OJ L 135, 24.5.2016, p. 53](#)).

- (67) Directive 2011/93/EU provides for criminal offences concerning the sexual abuse of children. In order to ensure coherence with this Directive as regards the criminal offence of rape, the same degree of protection for children who have reached the age of sexual consent should be ensured and a specific offence should be defined as regards children below the age of sexual consent. Therefore, Directive 2011/93/EU should be amended accordingly.
- (68) Since the objective of this Directive, namely to prevent and combat violence against women and domestic violence across the Union on the basis of common minimum rules, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale and effects of the envisaged measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.
- (69) ~~{In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application.}~~ — OR {In accordance with Article 3 of Protocol No 21 on the position of United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Ireland has notified [, by letter of...,] its wish to take part in the adoption and application of this Directive.}
- (70) In accordance with Articles 1 and 2 of the Protocol (No 22) on the position of Denmark annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.
- (71) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on [XX XX 2022],

## CHAPTER 5

### PREVENTION

#### *Article 36*

#### **Preventive measures**

1. Member States shall take appropriate actions to prevent violence against women and domestic violence.

2. *MS asked for more flexibility. We suggest to align with Article 13 Istanbul Convention. “Supporting” allows for campaigns being run by third parties.*

2. Preventive measures shall include **conducting or supporting** awareness-raising campaigns **or programmes, which may include** research and education programmes, where appropriate developed in cooperation with relevant civil society organisations, social partners, impacted communities and other stakeholders, **to increase awareness and understanding among the general public of the different manifestations and root causes of all forms of violence against women and domestic violence, their consequences on children and the need for their prevention.**

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.

*4. MS have indicated a need for some flexibility and also for adding lesbians, trans women and persons with alcohol and drug use disorders.*

4. Targeted action shall be addressed to groups at risk, **such as including** children, according to their age and maturity, **and** persons with disabilities, taking into consideration language barriers and different levels of literacy and abilities, **lesbians and trans women, as well as persons with alcohol and drug use disorders.** Information for children shall be formulated **or adapted** in a child-friendly way. **Information shall be presented in formats accessible to people with disabilities.**

*5. Additions suggested by MS.*

5. Preventive measures shall in particular aim at challenging harmful gender stereotypes, promoting equality between women and men, encouraging all, including men and boys, to act as positive role models to support corresponding behaviour changes across society **and to seek help where needed as a whole in line with the objectives of this directive.**

*6. Addition to respond to MS concerns.*

6. Preventive measures shall develop and/or increase sensitivity about the harmful practice of female genital mutilation, **in an manner proportionate according to its prevalence in the Member State concerned.**

*7. MS asked to delete specific requirements on education, since it is detailed and far-reaching. One alternative could be delete the word education.*

7. Preventive measures shall also specifically address cyber violence. ~~In particular, Member States shall ensure that education measures include the development of digital literacy skills, including critical engagement with the digital world, to enable users to identify and address cases of cyber violence, seek support and prevent its perpetration.~~ Member States shall foster multidisciplinary and stakeholder cooperation, including intermediary services and competent authorities, to develop and implement measures to tackle cyber violence.

or

Preventive measures shall also specifically address cyber violence. In particular, Member States shall ensure that ~~education~~ education as a preventive measure supports development of digital literacy skills, including critical engagement with the digital world, to enable users to identify and address cases of cyber violence, seek support and prevent its perpetration. Member States shall foster multidisciplinary and stakeholder cooperation, including intermediary services and competent authorities, to develop and implement measures to tackle cyber violence.

8. MS asked to clarify that this Article only apply to criminal offense under national law and for more flexibility.

8. Member States shall take adequate and appropriate measures to address ~~ensure that~~ sexual harassment at work, when it constitutes a criminal offense under national law, ~~is addressed~~ in relevant national policies. Those national policies may shall identify and establish targeted actions referred to in paragraph 2 for sectors where workers are most exposed.

#### Article 37

#### Training and information for professionals

1. Regarding “victims” see the definition in Article 4 which refers to violence against women and domestic violence. COM suggestion in footnote<sup>7</sup>.

1. Member States shall ensure, that professionals likely to come into contact with victims, ~~including such as~~ 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 **and communicate with victims with disabilities in an accessible manner. Member States shall encourage such training for judges, prosecutors and lawyers.**

or

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<sup>7</sup> Member States shall ensure that professionals likely to come into contact with victims, including police officers~~law enforcement authorities~~[, court staff,] and healthcare professionals ~~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 [and communicate with victims with disabilities in an accessible manner].

1bis. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Member States, and with due respect for the role of those responsible for the training of judges and prosecutors, Member States shall take appropriate measures to ensure that judges and prosecutors who deal with criminal proceedings involving victims of violence against women and domestic violence have effective access to specific training for the purposes set out in paragraph 1.

1ter. With due respect for the independence of the legal profession and for the role of those responsible for the training of lawyers, Member States shall take appropriate measures to promote the provision of specific training as referred to in paragraph 1 to lawyers who deal with criminal proceedings involving violence against women and domestic violence.

1. Member States shall ensure that ~~professionals~~ **officials** likely to come into contact with victims, ~~including such as police officers law enforcement authorities, and 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 **and communicate with victims with disabilities in an accessible manner. Member States shall encourage such training for judges, prosecutors and lawyers.**

*2. MS proposed an addition.*

2. Relevant health professionals, including paediatricians, **gynecologists** and midwives shall receive targeted training to identify and address, in a cultural-sensitive manner, the physical, psychological and sexual consequences of female genital mutilation.

*3. MS asked to clarify that this Article only apply to criminal offense under national law*

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, **when it constitutes a criminal offense under national law,** 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.
4. The training activities referred to in paragraphs 1 and 2 shall include training on co-ordinated multi-agency co-operation to allow for a comprehensive and appropriate handling of referrals in cases of violence against women or domestic violence.
5. Without affecting media freedom and pluralism, Member States shall encourage and support the setting up of media training activities by media professionals' organisations, media self-regulatory bodies and industry representatives or other relevant independent organisations, to combat stereotypical portrayals of women and men, sexist images of women, and victim-blaming in the media, aimed at reducing the risk of violence against women or domestic 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.

*7. Suggestion to put the requirement in Paragraph 7 in relation to the changes suggested in Paragraph 1.*

7. Training activities referred to in paragraphs 1 and 2 ~~shall be regular and mandatory,~~ including on cyber violence, ~~and shall be~~ built on the specificities of violence against women and domestic violence. Such training activities ~~shall~~ may include training on how to identify and address the specific protection and support needs of victims who face a heightened risk of violence due to their experiencing discrimination based on a combination of sex and other grounds.

8. The measures under paragraphs 1 to 6 shall be implemented without affecting judicial independence, the self-organisation of regulated professions and differences in the organisation of the judiciary across the Union.

#### Article 38

#### Intervention programmes

1. Member States shall take the necessary measures to ensure that targeted and effective intervention programmes are established to prevent and minimise the risk of committing offences of violence against women or domestic violence, or reoffending.

*2. Suggestion from MS to include some flexibility in regard to participation from for example persons who fear they might commit an offence. COM suggestion in footnote.<sup>8</sup>*

2. The intervention programmes ~~shall~~ **may** be made available for participation, ~~including~~ to persons who **feel the need to participate for example because they** fear they might commit any offence of violence against women or domestic violence.

*3. Moved, and reformulated, text from Article 12.3, since text on intervention programmes should apply in general and not only in relation to penalties. MS asked to make participation voluntary since it would not seem reasonable to oblige a person to participate if he or she isn't motivated. Recital 15 moved to 62 bis.*

3. **Member States shall ensure that an offender of the offence of rape is [personally] encouraged to participate in an intervention programme.**

## CHAPTER 6

### COORDINATION AND COOPERATION

#### Article 39

#### Coordinated policies and coordinating body

1. Member States shall adopt and implement state-wide effective, comprehensive and co-ordinated policies encompassing all relevant measures to prevent and combat all forms of violence against women and domestic violence.

*2. MS asked to aligne with Article 10(1) Istanbul Convention.*

2. Member States shall designate or establish **one or more** ~~an~~ official body(ies) responsible for coordinating, implementing, monitoring and evaluating policies and measures to prevent and combat all forms of violence covered under this Directive.

*3. Consequential change because according to Paragraph 2, there may be several official bodies.*

3. That body, **or one of the bodies designated pursuant to paragraph 2**, shall coordinate the collection of data referred to in Article 44, and analyse and disseminate its results.

<sup>8</sup> The intervention programmes shall be made available ~~for participation including to~~ at least for offenders of an offence of violence against women or domestic violence and persons who fear they might commit any offence of violence against women or domestic violence such an offence.

4. Several MS expressed difficulties with regard to their federal system, municipalities etc. The Paragraph goes beyond Article 10 Istanbul Convention. We suggest either deleting this paragraph or clarifying that MS have flexibility on who collects the data.

4. ~~It shall be responsible for coordinating policies at the central, regional and local levels.~~  
or

~~It~~ **Member States** shall ~~be responsible for coordinating~~ **ensure** policies are **coordinated** at the central, regional and local levels.

#### Article 40

#### Multi-agency coordination and cooperation

1. Suggestion to allow for flexibility regarding the mechanism, to add “independence” and to delete national level (could be problematic for MS with federal system) and prosecutor (included in judiciary). We also suggest adding a short explanation on what the mechanism is about, in line with Article 18 Istanbul Convention.

1. Member States shall put in place appropriate mechanisms, **in accordance with national law or practice**, to ensure effective coordination and cooperation, ~~at the national level~~, of relevant authorities, agencies and bodies, including local and regional authorities, law enforcement agencies, the judiciary, **with due respect for judicial independence** ~~public prosecutors~~, support services providers as well as non-governmental organisations, social services, including child protection or welfare authorities, education and healthcare providers, social partners, without prejudice to their autonomy, and other relevant organisations and entities, **in protecting and supporting victims and witnesses from violence against women and domestic violence**.

2. See Article 23.

2. Such mechanisms shall in particular pertain to the individual assessments under Articles 18 and 19, and the provision of protection and support measures under Article 21 and Chapter 4, the **non-binding** guidelines ~~for law enforcement and judicial authorities~~ under Article 23, and in the trainings for professionals as referred to in Article 37.

#### Article 41

#### Cooperation with non-governmental organisations

Member States shall cooperate with and consult civil society organisations, including non-governmental organisations working with victims of violence against women or domestic violence, in particular in providing support to victims, concerning policymaking initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures to support and protect victims.

#### Article 42

#### Cooperation between intermediary service providers

Article 42: Suggestion from MS to clarify. See also Recital 89 DSA. Addition to Recital 63 to explain the relationship to the DSA, including that actions is required under this Directive.

Member States shall **encourage self-regulatory cooperation between providers of intermediary services, such as codes of conduct, and raise awareness** ~~facilitate the taking of~~ on self-regulatory measures **which may be adopted** by providers of intermediary services in connection to this Directive, in particular to reinforce ~~internal~~ mechanisms **that they implement** to tackle the online material referred to in Article 25(1) and to improve the training of their employees concerned on preventing, assisting and supporting the victims of the offences referred to therein.

#### *Article 43*

#### **Union level cooperation**

*Article 43: "Appropriate" in the first sentence allows for flexibility. See Article 26 Victims Rights Directive. We ask MS to inductate if they can accept this Article.*

Member States shall take appropriate action to facilitate cooperation between each other to improve the implementation of this Directive. Such cooperation shall aim at least at:

- (a) exchanging best practices and consulting each other in individual cases, including through Eurojust and the European Judicial Network in criminal matters;
- (b) exchanging information and best practices with relevant Union agencies;
- (c) providing assistance to Union networks working on matters directly relevant to violence against women and domestic violence.

*Article 44*  
**Data collection and research**

*Article 44: MS expressed a number of concerns on this Article. We suggest to align with Istanbul Convention and to introduce more flexibility, see Environmental Directive. COM suggestion in footnote<sup>9</sup>.*

1. Member States shall have a system in place for the collection, development, production and dissemination of statistics for the Articles 5 to 10. .

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- <sup>9</sup>
1. Member States shall have a system in place for the collection, development, production and dissemination of statistics on violence against women or domestic violence, including the forms of violence referred to in Articles 5 to 10.
  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:
    - ~~(a) the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime;~~
    - ~~(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.~~
  3. Member States shall conduct a population-based survey every 5 years using the harmonised methodology of the Commission (Eurostat) to gather the data on the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime ~~referred to in paragraph 2, point (a)~~, and on this basis assess the prevalence of and trends in all forms of violence covered by this Directive.

Member States shall transmit those data to the Commission (Eurostat) [3 years after the entry into force of the directive] at the latest.
  4. ~~In order to ensure administrative data comparability across the Union,~~ Member States shall collect administrative data on the annual number of victims, of reported offences, of persons prosecuted for and convicted of forms of violence against women and domestic violence on the basis of common disaggregations developed in cooperation with and according to the methodology developed by the European Institute for Gender Equality in accordance with paragraph 5. They shall transmit this data to the European Institute for Gender Equality on a yearly basis. The transmitted data shall not contain personal data.
  5. The European Institute for Gender Equality shall support Member States in the data gathering referred to in paragraph 2, point (b), including by establishing common standards to improve the comparability of data, taking into account European statistics in the field of Crime and Criminal Justice collected by the Commission (Eurostat) ~~[on counting units, counting rules, common disaggregations, reporting formats, and on the classification of criminal offences]~~.
  6. The Member States shall make the collected statistics available to the public. The statistics shall not contain personal data.
  7. ~~The Member States shall support research on root causes, effects, incidences and conviction rates of the forms of violence covered by this Directive.~~

2. The statistics shall include data disaggregated by sex, age of the victim and of the offender, relationship between the victim and the offender. ~~sex, age of the victim and of the offender, relationship between the victim and the offender and type of offence:~~
  - (a) ~~the number of victims who experienced violence against women or domestic violence during the last 12 months, last five years and lifetime;~~
  - (b) the annual number of ~~such~~ victims of such offences, of reported offences, of persons prosecuted for and convicted of such forms of violence, obtained from national administrative sources.
3. ~~Member States shall conduct a population-based survey every 5 years using the harmonised methodology of the Commission (Eurostat) to gather the data referred to in paragraph 2, point (a), and on this basis assess the prevalence of and trends in all forms of violence covered by this Directive.~~

~~Member States shall transmit those data to the Commission (Eurostat) [3 years after the entry into force of the directive] at the latest.~~
4. Member states shall transmit this data to the European Institute for Gender Equality on a yearly basis. The transmitted data shall not contain personal data
5. The standard format shall as far as possible be based on the definitions and standards that have been developed and applied to European statistics in the field of Crime and Criminal Justice that is collected by Eurostat.
6. The Member States shall make the collected statistics available to the public. The statistics shall not contain personal data.

*7. Moved to Article 36.1.*

7. ~~The Member States shall support research on root causes, effects, incidences and conviction rates of the forms of violence covered by this Directive.~~

## CHAPTER 7

### FINAL PROVISIONS

#### *Article 45*

*Article 45: Some MS suggest deleting this Article, since it seems more appropriate to include it in the upcoming amendments to Directive 2011/93/EU. Negotiations are set to start Q3 2023. The reason for including this Article in the Directive seems to be that children would have a lower level of protection than adults, if Article 5 was included in this Directive. For the time being it is our understanding that there is not enough support to keep Article 5 in the Directive. Please indicate your position on Article 45. This includes Recital 67.*

#### **Amendment to Directive 2011/93/EU**

In Article 3 of Directive 2011/93/EU, the following paragraphs are added:

- “7. Member States shall ensure that the following intentional conduct shall be punishable by a maximum term of imprisonment of at least 12 years:
- (a) engaging with a child below the age of sexual consent in any act of vaginal, anal or oral penetration of a sexual nature, with any bodily part or object;
  - (b) causing a child below the age of sexual consent to engage with another person in any act of vaginal, anal or oral penetration of a sexual nature, with any bodily part or object.
8. Where the child is above the age of sexual consent and does not consent to the act, Member States shall ensure that the conduct set out in paragraph 7 is punishable by a maximum term of imprisonment of at least 10 years.
9. For the purpose of paragraph 8, Member States shall ensure that a non-consensual act is understood as an act which is performed without the child’s consent given voluntarily, or where the child is unable to form a free will due to the presence of circumstances referred to in paragraph 5, including the child’s physical or mental condition such as a state of unconsciousness, intoxication, sleep, illness or bodily injury.

Consent can be withdrawn at any moment during the act. The absence of consent cannot be refuted exclusively by the child’s silence, verbal or physical non-resistance or past sexual conduct.”

*Article 46*  
**Level of protection**

*Article 46: We suggest deleting this Article since it has no added value. It contains nothing that doesn't already follow from Article 83 EUF.*

~~This Directive establishes minimum rules. Member States may introduce or maintain provisions with higher standards, including such which provide a higher level of protection and support for victims.~~

*Article 47*  
**Reporting**

*Article 47: MS raised questions in relation to Article 44 and we wonder if the same flexibility is needed here. If that is the case we suggest to introduce text from Article 28 Victims Rights Directive.*

1. By [seven years after the entry into force of this Directive] at the latest, Member States shall communicate to the Commission ~~all relevant~~ **available** information concerning the application of this Directive necessary for the Commission to draw up a report on the application of this Directive.
2. On the basis of the information provided by Member States pursuant to paragraph 1, the Commission shall submit to the European Parliament and the Council a report in which it reviews the application of this Directive.

*Article 48*  
**Relationship with other Union acts**

1. This Directive shall not affect the application of the following legal acts:
  - (a) Directive 2011/36/EU,
  - (b) Directive 2011/93/EU,
  - (c) Directive 2011/99/EU,
  - (d) Directive 2012/29/EU,
  - (e) Regulation (EU) No 606/2013,
  - (f) [~~Regulation (EU) 2022/2065.../... on a Single Market for Digital Services~~].
2. The specific measures of prevention, protection of and support to victims under this Directive shall apply in addition to measures laid down in Directives 2011/36/EU, 2011/93/EU and 2012/29/EU.

*Article 48 bis: There is a need for a provision in order to safeguard the rules on freedom of the press. Discussions on possible wording are ongoing and we will come back to this Article at the meeting on March 30–31.*

[Article 48 bis  
Freedom of the press and the freedom of expression in other media]

Article 49

**Non-regression clause**

*Article 49: Suggestion to use language from Directive on work-life balance, see Art. 16(2) 2019/1158.*

Nothing in this Directive shall be construed as lowering, limiting or derogating from any of the rights and procedural safeguards that are guaranteed under the law of any Member State which provides a higher level of protection. Member States shall not lower that higher level of protection guaranteed at the time of entry into force of this Directive. **The implementation of this Directive shall not constitute grounds for justifying a reduction in the level of protection of victims in the areas covered by this Directive. The prohibition of such a reduction in the level of protection shall be without prejudice to the right of Member States to lay down, in light of changing circumstances, legislative or regulatory arrangements other than those in force on the date of entry into force of this Directive, provided that the minimum requirements laid down in this Directive are complied with.**

*Article 50*

**Transposition**

*1: Suggestion to change to three years since the Directive is comprehensive and detailed.*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [~~two~~ **three** years after entry into force] at the latest. They shall forthwith communicate to the Commission the text of those provisions.  
When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.
2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 51*

**Entry into force**

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

*Article 52*  
**Addressees**

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Strasbourg,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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