



Brussels, 07 February 2023

**Interinstitutional files:
2022/0066 (COD)**

WK 1629/2023 INIT

LIMITE

**JAI
FREMP
COHOM
COPEN
EDUC
MIGR**

**SOC
ANTIDISCRIM
GENDER
JEUN
DROIPEN
CODEC**

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

NOTE

From:	Presidency
To:	Delegations
N° Cion doc.:	ST 7042 2022 ADD 1 + ST 7042 2022 ADD 2 + ST 7042 2022 ADD 3 + ST 7042 2022 ADD 4 + ST 7042 2022 ADD 5 + ST 7042 2022 INIT + COM(2022)105 final; SEC(2022)150 final; SWD(2022)60 final; SWD(2022)61 final; SWD(2022)62 final; SWD(2022)63 final
Subject:	Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence - Presentation and exchange of views on a revised draft, submitted by the Presidency, of Chapters 3 and 4

The Working Party is invited to continue the work on Chapters 3 and 4 and to examine Articles 16-35, on the basis of the revised draft submitted by the Presidency before the COPEN meeting on 31 January 2023 (see WK 17827/22). The recitals concerning Articles 16-35 are also included in the revised draft.

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

- (24) Victims should be able to report ~~crimes~~ acts of violence against women or domestic violence easily without being subject to secondary or repeat victimisation. To this end, Member States should provide the possibility to submit complaints online or through other information and communication technologies for the reporting of such acts ~~crimes~~. Victims of cyber violence should be able to upload materials relating to their report, such as screenshots of the alleged violent behaviour.
- (25) In the case of domestic violence and violence against women, especially when committed by close family members or intimate partners, victims may be under such duress by the offender that they fear to reach out to the competent authorities, even if their lives are in danger. Therefore, Member States should ensure that their confidentiality rules do not constitute an obstacle for ~~relevant professionals, such as~~ healthcare professionals, to report to the competent authorities, where they have reasonable grounds to believe that there the life of the victim is at an imminent risk of serious physical harm. Similarly, instances of domestic violence or violence against women affecting children are often only intercepted by third parties noticing irregular behaviour or physical harm to the child. Children need to be effectively protected from such forms of violence and adequate measures promptly taken. Therefore, ~~relevant~~ professionals coming in contact with child victims or potential child victims, including healthcare or education professionals, should equally not be constrained by confidentiality where they have reasonable grounds to believe that serious physical harm acts of violence under this Directive have has been or is expected to be inflicted on the child ~~committed against the child or further serious acts are to be expected~~. Where professionals report such instances of violence, Member States should ensure that they are not held liable for breach of confidentiality.
- (26) In order to tackle underreporting in the cases when the victim is a child, safe and child-friendly reporting procedures should be established. This can include questioning by competent authorities in simple and accessible language.
- (27) Delays in processing complaints of violence against women and domestic violence can bear particular risks to victims thereof, given that they might still be in immediate danger given and that offenders might often be close family members or spouses. Therefore, the competent authorities should have the sufficient adequate expertise and effective investigative tools to investigate and prosecute such crimes.
- (28) Victims of domestic violence and violence against women are typically in need of immediate protection or specific support, for example in the case of intimate partner violence, where the rate of recidivism tends to be high. Therefore, an individual assessment to identify the victim's protection needs should be ~~conducted~~ initiated at the earliest possible stage after the first contact of ~~upon the very first contact of competent authorities with~~ the victim or as soon as suspicion arises that the person is a victim of violence against women or domestic violence. This can be done before a victim has formally reported an offence or proactively if a third party reports the offence.
- (29) When assessing the victim's protection and support needs, the primary concern should lie in safeguarding the victim's safety and providing tailored support, taking into account, among other matters, the individual circumstances of the victim. Such circumstances requiring special attention could include the victim's pregnancy or the victim's dependence on or relationship to the offender.

- (30) In order to ensure comprehensive support and protection to victims, ~~all~~ competent authorities and relevant bodies, not limited to ~~law enforcement and~~ judicial authorities, should be involved in assessing the risks for victims and appropriate support measures ~~on the basis of clear guidelines issued by the Member States. Such assessment, when assessing the risk emanating from the offender or suspect, guidelines should include factors to be taken into consideration when assessing the risk emanating from the offender or suspect, including~~ the consideration that suspects charged with minor offences are as likely to be dangerous as those charged with more severe offences, especially in cases of domestic violence and stalking.
- (30 bis) For the purposes of this Directive, competent authorities should be understood as the authority or authorities which have the relevant competence to carry out the task in question, under national law. Each Member State should determine which authorities should be considered competent authorities for the purpose of each provision that refers to this concept.
- (31) Due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation, and the fact that they suffer emotional harm that prejudices their development, the victim's children should receive the same protection measures as those accorded to the victim. Other persons dependant on the victim, such as adults with disabilities or older dependant adults for whom the victim provides care, may experience similar emotional harm and should thus be accorded the same protection measures.
- (32) Victims of violence against women and domestic violence are often in need of specific support. To ensure they effectively receive offers of support, the competent authorities should refer victims to appropriate support services. This should in particular be the case where an individual assessment has found particular support needs of the victim. ~~In that case, support services should be able to reach out to the victim even without the victim's consent.~~ For the processing of related personal data by competent authorities, Member States should ensure that it is based on law, in accordance with Article 6(1)(c) read in conjunction with Article (6)(2) and (3) of Regulation (EU) 2016/679 of the European Parliament and of the Council¹. Such laws should include appropriate personal data safeguards that respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the individuals. Where competent authorities transfer victims' personal data to support services for victims' referral, they should ensure that the data transferred is limited to what is necessary to inform the services of the circumstances of the case, so that victims receive appropriate support and protection.
- (33) Member States should take the necessary measures to ensure the availability of emergency barring, restraining and protection orders to ensure effective protection of victims and their dependants.

¹ Regulation (EU) 2016/679 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 and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance), ([OJ L 119, 4.5.2016, p. 1–88](#)).

- (34) Member States should ensure that emergency barring orders may be issued in situations of immediate danger, such as where harm is imminent or has already materialised and is likely to be inflicted again.
- (35) Protection orders may include prohibiting the offender or suspect to access certain localities; to approach the victim or dependant closer than a prescribed distance or to contact them, including through the use of online interfaces ~~and to possess firearms or deadly weapons, where necessary.~~
- (36) In order to safeguard the effectiveness of emergency barring, restraining and protection orders, breaches of such orders should be subject to penalties. Those penalties can be of a criminal law or other legal nature and may include prison sentences, fines or any other legal penalty that is effective, proportionate and dissuasive.
- (37) Presenting evidence of past sexual behaviour to challenge the credibility and lack of consent of victims in sexual violence cases, especially rape cases, may reinforce the perpetuation of damaging stereotypes of victims and lead to repeat or secondary victimisation. Therefore, ~~without prejudice to the rights of defence,~~ Member States shall ensure that questions, enquiries and evidence concerning past sexual conduct of the victim should not be permitted only when it is relevant and necessary in criminal investigations and court proceedings.
- (38) Given the complexities and gravity of offences of violence against women and domestic violence and specific support needs of victims, Member States should ensure additional support and prevention of such offences is provided by designated bodies. Given their expertise in matters of discrimination on grounds of sex, national equality bodies, set up in accordance with Directives 2004/113/EC², 2006/54/EC³ and 2010/41/EU⁴ of the European Parliament and of the Council, are well placed to fulfil these tasks. ~~Such bodies should in addition have legal standing to act on behalf or in support of victims of all forms of violence against women or domestic violence in judicial proceedings, including for the application for compensation and removal of online illegal content, with the victims' approval. This should include the possibility of acting on behalf or in support of several victims together.~~ To enable these bodies to effectively carry out their tasks, Member States should ensure that they are provided with sufficient human and financial resources.
- (39) Certain offences covered by this Directive involve the increased risk of repeated, prolonged or even continuous victimisation. That risk occurs especially in relation to offences involving the making accessible to a multitude of end-users, through information and communication technologies, of material, resulting from certain offences of cyber violence, considering the ease and speed with which such material

² Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services, ([OJ L 373, 21.12.2004, p. 37](#)).

³ Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), ([OJ L204, 26.7.2006, p. 23](#)).

⁴ Directive 2010/41/EU of the European Parliament and of the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC, ([OJ L 180, 15.7.2010, p. 1](#)).

can be distributed on a large scale and the difficulties that often exist when it comes to removing such material. That risk typically remains even after a conviction. Therefore, in order to effectively safeguard the rights of the victims of those offences, Member States should be required to take suitable measures aimed at the removal of the material in question. Considering that removal at the source may not always be feasible, for instance because of legal or practical difficulties relating to the execution or enforcement of an order to remove, Member States should also be allowed to provide for measures to disable access to such material.

- (40) Those measures should include, in particular, empowering national ~~judicial~~ authorities to issue orders to providers of intermediary services to remove, or also to disable access to, one or more specific items of the material in question. ~~Those orders should be issued upon a sufficiently reasoned and substantiated request of the victim. Considering the speed with which such material can spread online and the time it can take to complete criminal proceedings against the persons suspected of having committed the relevant offences, it is necessary for the effective protection of the victims' rights to provide for the possibility of issuing, subject to certain conditions, such orders by means of interim measures, even prior to the termination of such criminal proceedings.~~
- (41) Any such measures to remove or disable access, including in particular such orders, are liable to affect the right and interests of other parties than the victims, such as the persons providing the material, the intermediary service providers whose services may be used and the end-users of those services, as well the general interest. Therefore, it should be ensured that those orders and other measures can only be taken in a transparent manner and that adequate safeguards are provided for, so as to ensure that they remain limited to what is necessary and proportionate, legal certainty is ensured, all affected parties can exercise their right to effective judicial redress in accordance with national law, and a fair balance is struck between all rights and interests involved, including the fundamental rights of all parties concerned in compliance with the Charter. A careful weighting of all rights and interests at stake on a case-by-case basis is particularly important in proceedings for interim measures. Those orders should, as a general rule, be addressed to the specific provider of intermediary services that is best placed to act, in particular so as to limit any possible negative effects for freedom of expression and information.
- (42) The provisions of this Directive on orders and other measures for the removal and disabling access to relevant material should leave the relevant rules contained in ~~Regulation XX/YYYY [proposed DSA Regulation]~~ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) unaffected. In particular, those orders should comply with the prohibition of imposing general obligations of monitoring or active fact-finding and with the specific requirements of that Regulation regarding orders to remove illegal content online.
- (43) Considering the potential importance of material that may be the object of the orders or other measures taken under this Directive to remove or disable access thereto for investigating or prosecuting the relevant offences under criminal law, the necessary measures should be taken to allow the competent authorities to obtain or secure such material, where necessary. Those measures could consist, for example, of requiring relevant intermediary service providers to transmit the material to those authorities or

to preserve the material for a limited period that does not go beyond what is necessary. Any such measures should ensure the security of the material, remain limited to what is reasonable and comply with the applicable rules on the protection of personal data.

- (44) In order to avoid secondary victimisation, victims should be able to obtain compensation in the course of criminal proceedings. ~~Compensation from the offender should be full and should not be restricted by a fixed upper limit. It should cover all harm and trauma experienced by victims and costs incurred to manage the damages, including among other things therapy costs, impact on the victim's employment situation, loss of earnings, psychological damages, and moral prejudice due to the violation of dignity. The amount of compensation should reflect that victims of domestic violence may have to uproot their lives in order to seek safety, entailing a possible change of employment or finding new schools for children or even creating a new identity.~~
- (45) Assistance and support to victims of violence against women and domestic violence should be provided before, during and for an appropriate period after the criminal proceedings have ended, for example where medical treatment is still needed to address the severe physical or psychological consequences of the violence, or if the victim's safety is at risk in particular due to the statements made by the victim in those proceedings.
- (46) Specialised support services should provide support to victims of all forms of violence against women and domestic violence, including sexual violence, female genital mutilation, forced marriage, forced abortion and sterilisation, sexual harassment and of various forms of cyber violence. Victims should benefit from specialist support services irrespective of whether they have filed a formal complaint.
- (47) Specialist support services should offer victims support tailored to their specific needs. Building on the requirements set out in Directive 2012/29/EU, the legal framework needs to be supplemented in order to ensure that specialist support services are provided with all the necessary tools to provide a targeted and integrated support for victims of violence against woman and and domestic violence, in view of their specific needs, and irrespective of any official complaint. Such services could be provided in addition to, or as an integrated part of, general victim support services, which may call on existing entities providing specialist support. Specialist support may be provided by public national authorities, victims' support organisations, or other non-governmental organisations. They should be granted sufficient human and financial resources and, where the services are provided by non-governmental organisations, Member States should ensure that they receive appropriate funds.
- (48) Victims of domestic violence and violence against women typically have multiple protection and support needs. In order to address these effectively, Member States should provide such services at the same premises, or have such services coordinated through a central contact point or through online access to such services. The latter would ensure also victims in remote areas or unable to physically reach such centres are reached, ~~Member States should could provide for online access to such services.~~ This should at least entail setting up a single and updated website where all relevant information on and direction to access to available support and protection services is provided (one-stop online access). The Such a website should follow accessibility requirements for persons with disabilities.

- (49) Specialist support services, including shelters and rape crisis centres, should be considered essential during crises and states of emergency, including during health crises. These services should continue to be offered in these situations, where instances of domestic violence and violence against women tend to surge.
- (50) The traumatic nature of sexual violence, including rape, requires a particularly sensitive response by trained and specialised staff. Victims of this type of violence need immediate medical care and trauma support combined with immediate forensic examinations for the safe-keeping of to collect the evidence needed for future prosecution. Rape crisis centres or sexual violence referral centres should be available in sufficient numbers and adequately spread over the territory of each Member State, with the respect of the Member States geographical and demographic composition. Such centers can form part of the existing healthcare system in the Member State. Similarly, victims of female genital mutilation, who are often girls, typically are in need of targeted support. Therefore, Member States should ensure they provide dedicated support tailored to these victims.
- (51) Sexual Harassment at work is considered as a form of discrimination on grounds of sex by Directives 2004/113/EC, 2006/54/EC and 2010/41/EU. Given that sexual harassment at work has significant negative consequences both for the victims and the employers, Therefore external counselling services should be provided to both victims and employers, where such conduct is criminalised under national law. These should include information advice on ways to adequately addressing such instances at the workplace, on legal remedies available to the employer to remove the offender from the workplace and providing the on possibilities of early conciliation, if the victim so wishes, could should be provided by external counselling services to both victims and employers.
- (52) Member States should ensure that national helplines are operated under the EU-harmonised number [116016] and this number is widely advertised as a public number, free of charge and available round-the-clock. The support provided should include crisis counselling and should be able to refer to face-to-face services, such as shelters, counselling centres or the police.
- (53) Shelters play a vital role in protecting victims from acts of violence. Beyond providing a safe place to stay, shelters should provide the necessary support concerning interlocking problems related to victims' health, financial situation and the well-being of their children, ultimately preparing victims for an autonomous life.
- (54) To effectively address negative consequences for children victims, support measures to children should include specialised and age-appropriate to age psychological counselling developmental needs and the individual situation of the child, together with paediatric care where necessary, and be provided as soon as competent authorities have reasonable grounds to believe that children might have been victims, or having including child witnesses of violence against women or domestic violence. In the provision of support to children victims, the rights of the child, as laid down in Article 24 of the Charter, should be a primary consideration.
- (55) In order to ensure the safety of children during possible visits with an offender or suspect who is a holder of parental responsibility with rights of access as determined under the applicable national civil law rules, Member States should ensure that

supervised neutral places, including child protection or welfare offices, are made available so that such visits can take place there in the best interests of the child. If needed, the visits should take place in the presence of child protection or welfare officials. Where it is necessary to provide for interim accommodation, children should as a priority be accommodated together with the holder of parental responsibility who is not the offender or suspect, ~~such as the child's mother~~. The best interest of the child should be always taken into account.

- (56) Victims experiencing discrimination based on a combination of sex and other grounds are at a heightened risk of violence, with specific needs and groups at risk of violence against women or domestic violence, such as women with disabilities, women with dependant residence status or permit, undocumented migrant women, women applicants for international protection, women fleeing armed conflict, women affected by homelessness, with a minority racial or ethnic background, living in rural areas, women in prostitution sex workers, detainees, lesbians, trans women, or older women or women with use of alcohol and drugs or drugs use disorders, They should consequently receive specific protection and support.
- (57) Women with disability disproportionately experience violence against women and domestic violence and due to their disability often have difficulties in accessing protection and support measures. Therefore, Member States should ensure they can benefit fully from the rights set out in this Directive, on an equal basis with others, while paying due attention to the particular vulnerability of such victims and their likely difficulties to reach out for help.

CHAPTER 3

PROTECTION OF VICTIMS AND ACCESS TO JUSTICE

General remark: “criminal offences” is changed to “acts”. The reporting is of the act, not the offence.

Article 16

Reporting of violence against women or domestic violence

<i>1. Some MS indicated that they can't support the idea of a possibility to report online in all cases. One possibility could be to change “shall” to “may”.</i>

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

2. We have noticed concerns from MS on how the victim would know if a report were made by a third party. One suggestion could be to add a sentence on this. This could be elaborated in a recital where references could be made to relevant Articles on safety.

2. Member States shall take the necessary measures to encourage any person who knows about or suspects, in good faith, that ~~offences~~ acts of violence against women or domestic violence have occurred, or that ~~further~~ acts of violence are to be expected, to report this to the competent authorities. Where it is not the victim who is making the report, Member States shall take adequate measures for the victim's safety.

3. MS have concerns on lawyers being covered by the term "relevant professionals". Since the aim with this Paragraph is to facilitate reporting by healthcare professionals (see Recital 25) we suggest to delete relevant professionals and refer only to healthcare professionals. Alternative suggestions by COM in footnote⁵. Changes in the end to align text on adults with text on children.

3. 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 ~~any of the offences covered under this Directive~~. 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 a serious physical harm ~~act of violence covered under this Directive~~ has been or is expected to be inflicted on the child ~~committed or further serious acts of violence are to be expected~~.

4. Minor changes to clarify.

4. Where children report ~~criminal offences~~ acts of violence against women or domestic violence to the competent authorities, Member States shall ensure that the reporting procedures are safe, confidential, designed and accessible in a child-friendly manner and language, in accordance with their age and maturity. If the ~~offence~~ act involves the holder of parental responsibility, Member States ~~should~~ shall ensure reporting is not conditional upon this person's consent.

5. It's our understanding that we are trying to create a protection in line with Article 6 of Directive 2004/81.

5. Member States shall ensure that, at least until completion of the first individual assessment referred to in Article 18, it shall not be possible to enforce an expulsion order against the competent authorities coming in contact with a victim reporting offences acts of violence against women or domestic violence ~~are prohibited from transferring personal data pertaining to the residence status of the victim to~~

⁵ To keep "relevant professionals", which would also cover lawyers and to replace "that serious physical harm will be inflicted or has been inflicted on a person" with "for the life of the victim".

competent migration authorities, at least until completion of the first individual assessment referred to in Article 18.

Article 17

Investigation and prosecution

1-3: Minor changes to clarify

1. Member States shall ensure that persons, units or services investigating and prosecuting violence against women or domestic violence have ~~sufficient~~ adequate expertise and effective investigative tools to effectively investigate and prosecute such ~~acts~~ crimes, especially to gather, analyse and secure electronic evidence in cases of cyber violence.
2. Member States shall ensure that reported ~~offences~~ acts of violence against women or domestic violence are processed and transferred without delay to the competent authorities for prosecution and investigation.
3. The competent authorities shall promptly and effectively ~~record~~ investigate allegations of acts of violence against women or domestic violence and ensure that an official ~~complaint~~ record is filed in all cases.

4. We understand that the primary intention of this paragraph is to require competent authorities to send victims to doctors or to support services, in order to gather evidence. Therefore, we suggest to turn the provision around. Article 27–29 includes different support services, and this addition could clarify that only support services specialised in securing evidence are relevant.

4. Where the victim wishes to bring charges, and in order to assist in securing evidence, in particular in cases of sexual violence, ~~the~~ competent authorities shall promptly ~~refer~~ direct victims to relevant health care professionals or to the support services referred to in Articles 27, 28 and 29, specialised in ~~to~~ assisting in securing evidence, ~~in particular in cases of sexual violence,~~ where the victim wishes to ~~bring charges~~ and make use of such services.

5. Change from “shall” to “may” to align with Art. 55 Istanbul Convention and allow for necessary prosecutorial discretion. Suggestion to replace “Article 5” with “acts of rape”.

5. Member States shall ensure that ~~Investigations into or prosecution of offences acts referred to in Article 5~~ acts of rape shall not be dependent on reporting or accusation by a victim or by their representative, and that criminal proceedings ~~shall~~ may continue even if the report or accusation has been withdrawn.

Article 18

Individual assessment to identify victims’ protection needs

1. In the framework of the individual assessment which is to be carried out under Article 22 of Directive 2012/29/EU, Member States shall ensure that, as regards

victims covered by this Directive, the additional elements as set out in paragraphs 2 to 7 of this Article are assessed.

2. In practice, it is not possible to initiate an individual assessment upon the first contact of the victim. "At the earliest stage after" indicates some flexibility. We suggest deleting the requirement to verify. Since all competent authorities should update the assessment, any mistake should be detected (Paragraph 18.7). Suggestion by COM in footnote⁶.

2. This individual assessment shall be initiated ~~upon~~ at the earliest possible stage after the first contact of the victim with the competent authorities. ~~The competent judicial authorities shall verify at the latest at the initiation of criminal proceedings whether an assessment has been conducted. If this has not been the case, they shall remedy the situation by undertaking an assessment as soon as possible.~~
3. The individual assessment shall focus on the risk emanating from the offender or suspect, including the risk of repeated violence, the risk of bodily harm, the use of weapons, the offender or suspect living with the victim, an offender or suspect's drug or alcohol misuse, child abuse, mental health issues or behaviour of stalking.
4. The assessment shall take into account the victim's individual circumstances, including whether they experience discrimination based on a combination of sex and other grounds and therefore face a heightened risk of violence, as well as the victim's own account and assessment of the situation. It shall be conducted in the best interest of the victim, paying special attention to the need to avoid secondary or repeated victimisation.

5. Change to clarify that a-c are examples.

5. Member States shall ensure that adequate protection measures are taken on the basis of the individual assessment, ~~such as:~~ These may include:
 - (a) measures referred to in Articles 23 and 24 of Directive 2012/29/EU;
 - (b) the granting of emergency barring and restraining or protection orders pursuant to Article 21 of this Directive;
 - (c) further measures to manage the offender or suspect's behaviour, in particular under Article 38 of this Directive.

6. Change to

6. When appropriate, ~~the~~ individual assessment shall be undertaken in collaboration with ~~all~~ relevant competent authorities depending on the stage of the proceedings,

⁶ This individual assessment shall be initiated upon the first contact of the victim with the competent authorities and be completed at the earliest possible stage. The competent ~~judicial~~ authorities shall verify at the latest at the initiation of criminal proceedings whether an assessment has been conducted. If this has not been the case, they shall ensure ~~remedy the situation by that undertaking~~ an assessment is carried out as soon as possible.

and relevant support services, such as victim protection centres and women's shelters, social services and healthcare professionals.

7. Competent authorities shall update the individual assessment at regular intervals to ensure the protection measures relate to the victim's current situation. This shall include an assessment of whether protection measures, in particular under Article 21, need to be adapted or taken.

8. Some MS indicated that they can't support that dependants are included, please indicate if that applies for this Paragraph.

8. Victims' dependants shall be presumed to have specific protection needs without undergoing the assessment referred to in paragraphs 1 to 6.

Article 19

Individual assessment of victims' support needs

1. Change to align with Article 51.1 in the Istanbul Convention ("if necessary to provide for coordinated safety and support"). We ask MS to indicate their opinion on including dependant's in Article 19.

1. Member States shall ensure that, taking into account the individual assessment referred to in Article 18, the competent authorities, when necessary, assess the victim's and their dependant's individual needs for support as provided for under Chapter 4.
2. Article 18(4) and (7) shall apply to the individual assessment of support needs under paragraph 1 of this Article.

Article 20

Referral to support services

1. MS asked for inclusion of consent from the victim.

1. If the assessments referred to in Articles 18 and 19 have identified specific support or protection needs ~~or if~~ and the victim consents, or if the victim requests support, Member States shall ensure that support services, in cooperation with the competent authorities, contact victims to offer support.

2. Minor change to make it clear that it is the victim's request.

2. The competent authorities shall respond to the victim's requests for protection and support in a timely and coordinated manner.

3. A recital could clarify that refer only means that the child victim is offered support. Adding "when necessary" is intended to make it clear that parents should be included as a startingpoint and that it should be decided case by case when it's necessary to do. MS indicated they don't want to include child witnesses..

3. Where needed, ~~they~~ competent authorities shall be able to refer child victims, ~~including witnesses,~~ to support services, when necessary without the prior consent of the holder of parental responsibility.

4. Member States shall ensure the transmission of relevant personal data concerning the victim and their situation to the relevant support services, where this is necessary to ensure that the victim receives appropriate support and protection. Such transmission shall be confidential.

5. There needs to be a time-limit, could 24 months be acceptable?

5. Support services shall store personal data for as long as necessary for the provision of support services, and in any event for no longer than ~~12~~ 24 months after the last contact between the support service and the victim.

Article 21

Emergency barring, restraining and protection orders

1. We ask MS to indicate their opinion on including dependant's in Article 21.

1. Member States shall ensure that, in situations of immediate danger for the victim's [or their dependant's] health or safety, the competent authorities issue orders addressed at an offender or suspect of violence covered by this Directive to vacate the residence of the victim [or their dependants] for a sufficient period of time and to prohibit the offender or suspect from entering the residence or to enter the victim's workplace or contacting the victim [or their dependants] in any way. Such orders shall have immediate effect and not be dependent on a victim reporting the criminal offence.

2. Long-term is not proportionate, restraining or protection orders should be used for the time needed. Changes to align with Istanbul Convention.

2. Member States shall ensure that the competent authorities can issue restraining or protection orders to provide ~~long-term~~ protection for as long as necessary for victims [or their dependants] against any acts of violence covered by this Directive, ~~including by prohibiting or restraining certain dangerous behaviour of the offender or suspect.~~

3. Doesn't seem reasonable to require this in every case covered by the scope of this Directive. Suggestion to allow some flexibility.

3. Member States shall ensure that the competent authorities, where relevant, inform victims of the possibility to apply for emergency barring and restraining or protection orders, as well as the possibility to seek cross-border recognition of protection orders pursuant to Directive 2011/99/EU or Regulation (EU) No 606/2013.

4. Any breaches of emergency barring or restraining and protection orders shall be subject to effective, proportionate and dissuasive criminal or other legal penalties.

5. This Article does not oblige the Member States to modify their national systems as regards the qualification of emergency barring orders and protection orders as falling under criminal, civil or administrative law.

Article 22

Protection of victim's private life

MS have raised concerns and we are trying to be more aligned with Istanbul Article 54. "Criminal proceedings" includes both questions and enquiries.

~~Without prejudice to the rights of defence, Member States shall ensure that, in criminal investigations and court proceedings, questions, enquiries and evidence concerning past sexual conduct of the victim or other aspects of the victim's private life related thereto are not permitted~~ shall be permitted only when it is relevant and necessary.

Article 23

Guidelines for law enforcement and judicial authorities

Member States have raised concern regarding the fact that it is binding to issue guidelines. Moreover, change from "shall" to "may" is also necessary as all the listed guidelines are not relevant for all competent authorities. For example a and b are not relevant for courts.

Member States ~~shall~~ [may issue]/[shall consider issuing] ~~issue~~ non-binding guidelines for the competent authorities acting in criminal proceedings, including prosecutorial ~~and judicial~~ guidelines, concerning cases of violence against women or domestic violence. Those guidelines ~~shall~~ may include guidance on:

- (a) how to ensure the proper identification of all forms of such violence;
- (b) how to conduct the individual assessment under Articles 18 and 19;
- (c) how to treat victims in a trauma-, gender- disability and child-sensitive manner;
- (d) how to ensure the proceedings are conducted in a manner as to prevent secondary or repeat victimisation;
- (e) how to cater to the enhanced protection and support needs of victims experiencing discrimination based on a combination of sex and other grounds;
- (f) how to avoid gender stereotypes;
- (g) how to refer victims to support services, to ensure the appropriate treatment of victims and handling of cases of violence against women or domestic violence;-
- (h) how to ensure the protection of the victim's privacy and confidential information.

Article 24

Role of national bodies and equality bodies

Many Member States raised concerns regarding this Article and especially Paragraph 2 that gives the bodies the task to work on behalf of the victim. Our understanding is that MS already have lawyers or others who have been entrusted with this task and that it is not desirable to change there systems. Having both lawyers and the bodies could can lead to difficulties and you could question the added value and cost. We therefor suggest deleting a) and 2. COM suggestion in footnote⁷.

1. Member States shall designate and make the necessary arrangement for a body or bodies to carry out the following tasks:
 - ~~(a) provide independent assistance and advice to victims of violence against women and domestic violence;~~
 - (b) publish independent reports and make recommendations on any issue relating to such forms of violence;
 - (c) exchange available information with corresponding European bodies such as the European Institute for Gender Equality.

Those bodies may form part of equality bodies set up pursuant to Directives 2004/113/EC, 2006/54/EC and 2010/41/EU.

- ~~2. Member States shall ensure that the bodies referred to in paragraph 1 can act on behalf or in support of one or several victims of violence against women or domestic violence in judicial proceedings, including for the application for compensation~~

⁷ Member States shall ensure that the bodies referred to in paragraph 1 can act on behalf or in support of one or several victims of violence against women or domestic violence in judicial proceedings, including for the application for compensation referred to in Article 26 and removal of online content referred to in Article 25, with the victims' approval and in accordance with national rules on legal representation.

2. Member States shall ensure that the bodies referred to in paragraph 1 can act on behalf or in support of one or several victims of violence against women or domestic violence in judicial proceedings, including for the application for compensation referred to in Article 26 and removal of online content referred to in Article 25, with the victims' approval and in accordance with national rules on legal representation.

3. Member States shall ensure that the bodies referred to in paragraph 1 are provided with the human, technical and financial resources necessary to perform their task and exercise their competences effectively.

Recital 38 could be amended as follows:

“Given the complexities and gravity of offences of violence against women and domestic violence and specific support needs of victims, Member States should ensure additional support and prevention of such offences is provided by designated bodies. Given their expertise in matters of discrimination on grounds of sex, national equality bodies, set up in accordance with Directives 2004/113/EC, 2006/54/EC and 2010/41/EU of the European Parliament and of the Council, are well placed to fulfil these tasks. Such bodies should in addition have legal standing to act on behalf or in support of victims of all forms of violence against women or domestic violence in judicial proceedings, including for the application for compensation and removal of online illegal content, with the victims' approval. This should include the possibility of acting on behalf or in support of several victims together. It should be left to the relevant bodies' discretion to decide in which cases to make use of this right. To enable these bodies to effectively carry out their tasks, Member States should ensure that they are provided with sufficient human, technical and financial resources.”

referred to in Article 26 and removal of online content referred to in Article 25, with the victims' approval.

Article 25

Measures to remove certain online material

Article 25: The proposal differs from both CSAM and TCO. Is it reasonable to introduce a new set of rules here? One solution is to have a more general framework in this Directive. 1. We suggest allowing for other than judicial authorities, deleting application by the victim, which doesn't exist in other regulations and to clarify that removal is the first step. 2. We suggest deleting interim proceedings, MS could have it but it would not be a requirement for all MS. 3-6 minor changes. 7. We should also consider introducing a system on judicial review (Article 9 TCO and Article 14 CSAM).

1. Member States shall take the necessary measures to ensure the prompt removal of material referred to in Article 7, points (a) and (b), Article 8, point (c), and Articles 9 and 10. 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. 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.
2. ~~Member States shall ensure that orders referred to in paragraph 1 can be issued in interim proceedings, even prior to the termination of any criminal proceedings regarding the offences referred to in Article 7, points (a) and (b), Article 8, point (c), Article 9 or Article 10 where the judicial authority seized considers that:~~
 - ~~(a) — it has been presented with sufficient evidence to justify the conclusion that the conduct referred to in Article 7, points (a) and (b), Article 8, point (c), Article 9 or Article 10 likely took place in respect of the applicant and that the material that is the object of the application constitutes material as referred to in those articles;~~
 - ~~(b) — the removal of that material is necessary to prevent or limit significant harm to the victim;~~
 - ~~(c) — the rights and interests of other parties involved associated with the potential removal are not such as to outweigh those of the victim associated with removal.~~
3. Member States shall ensure that orders referred to in paragraph 1 ~~and 2~~ are valid for an appropriate time period ~~not exceeding one year~~, subject to renewal for an additional appropriate time period, upon application by the victim, where the judicial authority seized considers that the conditions of paragraph 2 continue to be met. However, Member States shall ensure that, where criminal proceedings regarding the offences referred to in Article 7, point (a) and (b), Article 8, point (c), Article 9 or Article 10 are terminated without leading to the finding of such an offence having been committed, the orders are invalidated and the provider of intermediary services concerned is informed thereof.

4. Member States shall ensure that the orders and other measures referred to in paragraphs 1 ~~and 2~~ are taken following transparent procedures and are subject to adequate safeguards, in particular to ensure that those orders and other measures are limited to what is necessary and proportionate and that due account is taken of the rights and interests of all parties involved.
5. Member States shall ensure that the end-users of the relevant services are informed, where appropriate by the intermediary service providers concerned, of the reasons for the removal of or disabling access to the material pursuant to the orders or other measures referred to in paragraphs 1 ~~and 2~~ ~~and that those end-users have~~ and of the possibility to have access to judicial redress.
6. Member States shall ensure that the removal of or disabling access to the material pursuant to the orders or other measures referred to in paragraphs 1 ~~and 2~~ does not prevent the competent authorities from obtaining or securing the evidence necessary for the investigation and prosecution of the offences referred to in Article 7, points (a) and (b), Article 8, point (c), Article 9 or Article 10.
7. Member States shall ensure that all parties affected of an order referred to in paragraph 1 have a right to an effective judicial remedy. That right shall include the right to challenge such a removal order before the courts of the Member State of the competent authority that issued the removal order. [Member States shall put in place effective procedures for exercising the rights referred to in this paragraph.]

Article 26
Compensation from offenders

Article 26. The Article is far more detailed than Art. 30 Istanbul Convention, Art. 16 Victim's Rights Directive and Art. 17 Trafficking Directive. 1. Suggestion to clarify that this only apply to offences (Article 82(2)(c) TFEU). 2. There are cases where it is reasonable to handle compensation in civil proceedings, adding "where appropriate" indicates that. 3-5. Should be left to MS to decide, matter on civil proceedings and matters. Goes much firther than other Directives. COM suggestion in footnot.

1. Member States shall ensure that victims have the right to claim full compensation from offenders for damages resulting from ~~all forms~~ offences of violence against women or domestic violence.
2. Member States shall ensure where appropriate that victims are able to obtain a decision on compensation in the course of criminal proceedings.
3. ~~The compensation shall place victims in the position they would have been in had the offence not taken place, taking into account the seriousness of the consequences for the victim. Compensation shall not be restricted by the fixing of an upper limit.~~
4. ~~The damage shall include costs for healthcare services, support services, rehabilitation, loss of income and other reasonable costs that have arisen as a result of the offence or to manage its consequences. The amount of the damages awarded shall also compensate for physical and psychological harm and moral prejudice.~~

~~5. The limitation period for bringing a claim for compensation shall be no less than 5 years from the time the offence has taken place.~~

~~In cases of sexual violence, the limitation period shall be no less than 10 years.~~

~~The limitation period for bringing a claim for compensation of criminal offences referred to in Article 7 shall commence with the victim's knowledge of the offence.~~

~~The limitation period shall not commence as long as the offender and the victim share the same domestic unit. In addition, if the victim is a child, the limitation period shall not commence before the victim has reached 18 years of age.~~

~~The limitation period shall be interrupted or suspended for the duration of pending legal proceedings concerning the offence.~~

CHAPTER 4

VICTIM SUPPORT

Article 27

Specialist support to victims

1. Suggestion to clarify that support should be available regardless of reporting, see Recital 47. We also suggest changing the referens to Article 8 (3) Victims Right's Directive. On a) we move legal issues to a separate Paragraph ba) and change to information, in order not to interfer with advice, that can only be given by lawyers in some MS. On b) clarification. On c) same as a) with regard to lawyers.

1. Member States shall ensure that specialist support services referred to in Article 98(3) of Directive 2012/29/EU are available for victims of acts of violence covered by this Directive, irrespective of whether they have filed a formal complaint.

Those specialist support services shall provide:

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

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

3. Point c) on cyber does not seem more important than a) and b) with regard to resources, we therefore suggest deleting the reference to c). MS can't control the priorities within a NGO, as deciding on human resources. We suggest a change to clarify this.

3. Member States shall ensure sufficient human and financial resources to provide the services referred to in paragraph 1, ~~especially those referred to in point (e) of that paragraph, including~~ Where such services are provided by non-governmental organisations, Member States shall provide the latter with adequate funding.

4. MS indicated a need for more flexibility. We suggest making it clear that MS is obliged to have at least one, but not all, of the alternatives listed.

4. Member States shall provide the protection and specialist support services necessary to comprehensively address the multiple needs of victims either by providing these services at the same premises, or by coordinating services ~~have such services coordinated~~ through a central contact point, or by facilitating access to such services through one-stop online access to such services. The ~~Such combined offering of services included~~ shall ~~include~~ at least cover first hand medical care and social services, psychosocial support, legal, and police services, or information on and direction to such services.

5. Suggestion to make it possible for the Government or other national authorities to issue these guidelines.

5. Member States shall ensure that issue guidelines and protocols for healthcare and social service professionals on identifying and providing appropriate support to victims of all forms of violence against women and domestic violence are issued, including on referring victims to the relevant support services. Such guidelines and protocols shall also indicate how to address the specific needs of victims who are at an increased risk of such violence as a result of their experiencing discrimination based on a combination of sex and other grounds of discrimination.
6. Member States shall ensure that specialist support services remain fully operational for victims of violence against women and domestic violence in times of crisis, such as health crises or other states of emergency.
7. Member States shall ensure that specialist support services are available to victims before, during and for an appropriate time after criminal proceedings.

Article 28

Specialist support for victims of sexual violence

1: Clarification to underline that this is about gathering and keeping evidence. "Psychological" deleted inline with Article 25 Istanbul Convention. We also suggest to clarify in Recital 50 that centers can form part of the existing healthsystem and that preserving evidence refers to the safekeeping of evidence.

1. Member States shall provide for appropriately equipped, easily accessible rape crisis or sexual violence referral centres 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.
2. The services referred to in paragraph 1 shall be available free of charge and accessible every day of the week. They may be part of the services referred to in Article 27.
3. Member States shall ensure a sufficient geographical distribution and capacity of these services across the Member State.
4. Article 27(3) and (6) shall apply to the provision of support for victims of sexual violence.

Article 29

Specialist support for victims of female genital mutilation

1. Member States shall ensure effective, age-appropriate support to victims of female genital mutilation, including by providing, gynaecological, sexological, psychological and trauma care and counselling tailored to the specific needs of such victims, after the offence has been perpetrated and for as long as necessary thereafter. This shall also include the provision of information on units in public hospitals that perform clitoral reconstructive surgery. Such support may be provided by the referral centres referred to in Article 28 or any dedicated health centre.
2. Article 27(3) and (6) and Article 28(2) shall be applicable to the provision of support for victims of female genital mutilation.

Article 30

Specialist support for victims of sexual harassment at work

Article 30: MS asked to clarify that this Article only apply to criminal offense under national law. The suggestion to change from advice to information is in line with changes suggested in Article 27.

In cases of sexual harassment at work that constitute a criminal offense under national law, Member States shall ensure that external counselling services are available for victims and employers ~~in cases of sexual harassment at work~~. These services shall include advice information on ways to adequately addressing such instances ~~at the workplace,~~ including on

available legal remedies available to the employer to remove the offender from the workplace and providing the on possibilities of early conciliation, if the victim so wishes.

Article 31
Helplines for victims

1: MS expressed a need for some flexibility with regard to the technologie used. “Set-up” changed to clarify that existing helplines are sufficient.

1. Member States shall ensure that ~~set-up~~ state-wide round-the-clock (24/7) telephone helplines are available, free of charge, to provide advice for victims of violence against women and domestic violence. Advice shall be provided confidentially or with due regard for their anonymity. Member States are encouraged to provide ~~shall ensure the provision of~~ such service also through other information and communication technologies, including online applications.
2. Member States shall take appropriate measures to ensure the accessibility of services referred to in paragraph 1 for end-users with disabilities, including providing support in easy to understand language. Those services shall be accessible in line with the accessibility requirements for electronic communications services set in Annex I to Directive 2019/882/EU of the European Parliament and of the Council⁸.
3. Article 27(3) and (6) shall apply to the provision of helplines and support through information and communication technologies under this Article.

4: MS asked for more flexibility since several MS already have national helplines and not all MS indicated that they will join that initiative. One solution could be to clarify that the Paragraph only requires that an existing national number is reachable under the harmonised number. Another solution could be to make this Paragraph non-binding.

4. ~~{~~Member States are encouraged to ~~shall~~ ensure that the service under paragraph 1 for victims of violence against women is reachable ~~operated~~ under the harmonised number at EU level “116 016” in addition to any existing national number(s) ~~and that the e~~End-users shall be ~~are~~ adequately informed of the existence and use of such number.~~}~~

or

Member States shall ensure that the service under paragraph 1 for victims of violence against women is reachable ~~operated~~ under the harmonised number at EU level “116 016” in addition to any existing national number(s) ~~and that the~~ End-users shall be ~~are~~ adequately informed of the existence and use of such number.

⁸ Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services, [OJ L 151, 7.6.2019, p. 70–115](#).

Article 32

Shelters and other interim accommodations

1: One possibility is to change (delete “women”) in line with the opinion from the Council Legal Service to make the Paragraph non-discriminatory. Such a change would not exclude special shelters only for women, but ensures that shelters are available regardless of gender.

1. The shelters and other appropriate interim accommodations as provided for in Article 9(3), point (a), of Directive 2012/29/EU shall address the specific needs of women victims of domestic violence and sexual violence. They shall assist them in their recovery, providing adequate and appropriate living conditions with a view on a return to independent living.
2. The shelters and other appropriate interim accommodations shall be fully accessible and equipped to accommodate the specific needs of children, including child victims.
3. The shelters and other appropriate interim accommodations shall be available to victims regardless of their nationality, citizenship, place of residence or residence status.
4. Article 27(3) and (6) shall apply to shelters and other appropriate interim accommodations.

Article 33

Support for child victims

1. Deleting “including” is a consequential change with regard to changes made in Article 4 c. Suggestion include children having witnessed in this Article.

1. Member States shall ensure that children are provided specific adequate support as soon as the competent authorities have reasonable grounds to believe that the children might have been subject to or ~~including~~ having witnessed, violence against women or domestic violence. Support to children shall be specialised and appropriate to age-appropriate, developmental needs and the individual situation of the child, respecting the best interests of the child.
2. Child victims shall be provided with age-appropriate medical care, emotional, psychosocial, psychological and educational support, tailored to developmental needs and individual situation of the child, as well as any other appropriate support tailored in particular to situations of domestic violence.

3. We suggest not having a specific order for a certain type of protection. The principle of the best interests of the child and each child’s individual needs must be the overarching guidelines when assessing an interim accommodation for a child victim.

3. Where it is necessary to provide for interim accommodation, children shall as a priority be placed together with other family members, in particular with a non-violent parent in permanent or temporary housing, equipped with support services.

The principle of the best interests of the child shall be decisive when assessing matters regarding interim accommodation. Placement in shelters shall be a last resort.

Article 34
Safety of children

Article 34: An addition in Recital 55 regarding concerns in relation to civil law.

Member States shall establish and maintain safe places which allow a safe contact between a child and a holder of parental responsibilities who is an offender or suspect of violence against women or domestic violence, to the extent that the latter has rights of access. Member States shall ensure supervision by trained professionals, as appropriate, and in the best interests of the child.

Article 35
Targeted support for victims with specific needs and groups at risk

1. MS expressed that the non-exhaustive list of examples should only remain in Recital 56. We suggest changing women sex workers to women in prostitution, since this is aged international language, see for example Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women. We also suggest including lesbians, trans women and women with use of alcohol and drugs or drugs use disorders in the list of examples. We also add a some more grounds in the Recital.

1. Member States shall ensure the provision of specific support to victims at an increased risk of violence against women or domestic violence due to intersecting forms of discrimination, ~~such as women with disabilities, women living in rural areas, women with dependant residence status or permit, undocumented migrant women, women applying for international protection, women fleeing from armed conflict, women affected by homelessness, women with a minority racial or ethnic background, women sex workers, women detainees, or older women.~~
2. The support services under Articles 27 to 32 shall have sufficient capacities to accommodate victims with disabilities, taking into consideration their specific needs, including personal assistance.
3. The support services shall be available for third-country nationals who are victims of violence against women and domestic violence, including for applicants for international protection, for irregular migrants ~~undocumented persons~~ and for persons subject of return procedures in detention. Member States shall ensure that victims who request so may be kept separately from persons of the other sex in detention facilities for third-country nationals subject of return procedures, or accommodated separately in reception centres for applicants for international protection.

4. Concern from MS that detention center should do the assessments etc. in accordance with Art. 18-20. Suggestion to clarify that it is the competent authorities that are responsible, see the recital that clarifies the concept of competent authorities.

4. Member States shall ensure that persons can report occurrences of violence against women or domestic violence in reception and detention centres to the relevant staff and that protocols are in place to ensure they or the competent authorities adequately and swiftly address such reports in accordance with the requirements set out under ~~in~~ Articles 18, 19 and 20.