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Positiva

**Letter of Recommendations for the
Legislative Report on Combating Gender-based Violence: Cyberviolence**

June 2021

Addressed to: The Rapporteurs of the Legislative Report on Gender-Based Cyberviolence
CC: Shadow Rapporteurs of the Legislative Report

Dear Members of European Parliament,
Ms. Elissavet Vozemberg-Vrionidi and Dr. Sylwia Spurek,

Together with Women in Development Europe+ (WIDE+) and Creación Positiva, the undersigned organizations, networks and experts welcome the initiatives by the European Parliament's FEMM and LIBE committees to come up with a legislative report to combat gender-based violence, with specific reference to cyberviolence. We would like to, first and foremost, thank you for taking the initiative to drive this important legislative process.

We would like to suggest several recommendations for the report and related areas in which new policies can be put forward to address the current legislative and policy gaps. These gaps must be remedied within the broader framework of human rights in which the root causes of inequalities, discrimination, and violence faced by women are addressed.

Gender-based cyberviolence is part of the continuum of widespread violence against women and girls and is a serious violation of women's human rights. All forms of systemic and social discrimination, including gender, racial and economic ones, are reproduced and magnified online. These discriminations intersect, resulting in more extreme consequences for migrant women, young women, women from ethnic minorities and indigenous and racialized women, LGBTIQ+ people, women with functional diversity and women from other vulnerable and marginalized groups.

According to a 2018 report commissioned by the FEMM Committee, in Europe, 1 in 10 women (10%) above the age of 15 have experienced cyber stalking or cyber harassment, two types of cyberviolence. This figure does not provide the full picture as it only captures a small snapshot of this phenomenon. During COVID-19, with increased reliance on ICT tools to connect socially and professionally, gender-based cyberviolence is expected to be more widespread than before. A recent European Added Value Assessment report¹, published by the European Parliamentary Research Service, revealed that the overall costs of cyberviolence on individuals and society are enormous, between €49 to €89.3 billion per year. These costs include healthcare, legal and quality of life costs. These are significant impacts and securing both legislative and non-legislative solutions will affirm the European Union's commitments in upholding fundamental human rights, most notably here, the right to have a life free of violence, offline and online. The European Union and its Member States,

¹ To understand the methodology behind the computation of costs, access the report here:
[https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_STU\(2021\)662621](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_STU(2021)662621)

as well as its future members, have an obligation to protect women's human rights under the EU Charter of Fundamental Rights. As such, here are our recommendations.

The draft legislative report to Combat Gender-based Cyberviolence should:

- Provide a **specific and comprehensive definition of gender-based cyberviolence** that can capture the scope, extent, types, gendered and intersectional nature of this form of violence. This is imperative as this definition can form a consistent legal basis for laws and policies of not just the EU, but for its Member States, and also those that are in pre-assessing process. One of the most comprehensive definitions has been provided through the UN report by the Special Rapporteur on violence against women² presented to the Human Rights Council in 2018. In this report, online gender-based violence is defined as “*any act of gender-based violence against women that is committed, assisted or aggravated in part or fully by the use of ICT, such as mobile phones and smartphones, the Internet, social media platforms or email, against a woman because she is a woman, or affects women disproportionately.*” This definition explicitly focuses on the gendered nature of cyberviolence which is crucial to include. Any definition adopted by the EU needs to also emphasise that online violence is part of the gender-based violence continuum and must seek to avoid creating a division between offline and online spaces.
- Include recommendations to **amend Article 83(1) of the TFEU**³ to not only add gender-based violence on the list of EU-recognised crimes, but also the inclusion of gender-based cyberviolence to this list. This is necessary in order to prohibit and criminalize **all** forms of gender-based violence.
- Emphasize **the need for the EU to accede to the Istanbul Convention**, despite blocking attempts from certain Member States. The Istanbul Convention remains the most comprehensive framework to combat ALL forms of gender-based violence, including cyberviolence, and has specific references to protect migrant and refugee women's rights (Article 4). Considering the surge of violence, both offline and online, against women during the pandemic, this accession process has to be prioritized, as it ensures harmonization of laws and cooperation amongst Member States, especially since cyberviolence crimes are not limited by borders and jurisdiction of states. Ensure that the Istanbul Convention provisions are brought to the local level, so that local policies also address cyberviolence. The Istanbul Convention also obliges the private sector to commit to eliminating both discrimination and gender-based violence (Article 17), hence it remains particularly relevant in the discussion of cyberviolence and the role of the information and communication, technology sector and the media, in its prevention.

² To read the full report go to: <http://undocs.org/A/HRC/38/47>

³ Article 83 of the TFEU can be read here: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12008E083>

- Consider the principle of **due diligence** not only to investigate, sanction and provide reparation for acts of gender-based cyberviolence, and to particularly focus on prevention.
- Emphasize the need for support services to be available to all women victims of cyberviolence.
- Ensure that all legislative and non-legislative measures prevent re-traumatization and stigmatization of women victims of cyberviolence.
- Extend all legislative and non-legislative action to pre-accession states⁴.
- Ensure that it also **refers to relevant EU regulations such as the Victims' Rights Directive**⁵ which establishes minimum standards on the rights, support and protection of victims of any crime. Moreover, it is the most relevant directive related to data collection on gender-based violence (Paragraph 64 and Article 28). There is an urgent need to collect and publish large-scale data that is disaggregated by gender, race, and other relevant categories, to map the extent and types of gender-based cyberviolence. Collection of data around cyberviolence can be added to existing efforts by Eurostat and EIGE which are currently conducting research on gender-based violence⁶.
- **Consider other core international human rights instruments**, such as the CEDAW Committee's General Recommendation number 35⁷ that clearly outlines how the Convention is applicable to violence against women in technology-mediated environments.
- Adopt a gender-sensitive and intersectional approach when drafting regulation and policies as **gender-based violence disproportionately impacts migrant women, young women, women from ethnic minorities and indigenous and racialized women, LGBTIQ+ people, women with functional diversity and women from other vulnerable and marginalized groups**. This is crucial, for instance, to allow victims of violence to report and receive culturally sensitive support in different languages or ensuring that people with disabilities are protected from cyberviolence.
- **Include policy action that also works towards rehabilitation** of perpetrators to prevent repeat offences, and to shift behaviour and mindset away from violence. Consider community-based, restorative, and transformative justice approaches which are crucial to stopping the cycle of harm, often perpetuated by the penal and legal systems.
- At the same time, there needs to be more efforts towards prevention and education to address the root causes of gender-based violence. Subjects like gender equality, digital citizenship and digital safety should be mainstreamed into education systems so that younger generations can engage in digital spaces safely.

⁴ Read the joint statement of women-human rights activists from the Balkan region toward gender-based violence on the Internet: <http://www.atina.org.rs/en/joint-statement-women-human-rights-activists-balkan-region-toward-gender-based-violence-internet>

⁵ To read the full text of the directive go to: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012L0029

⁶ <https://eige.europa.eu/gender-equality-index/2020/domain/violence>

⁷ To read more on the General Recommendation No. 35:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=en

- Provide recommendations, as a non-legislative option, **to increase funding and partnership with women, migrant women-led, and other civil society organizations** to combat gender-based violence online and offline. Funding to counter gender-based violence through existing programmes like the Daphne strand under the Citizens, Equality, Rights and Values (CERV) programme needs to be increased. Funding is necessary to acknowledge and support the important work that these organizations do in responding to all forms of gender-based violence. Yet they remain under-funded. Women-led civil society groups have raised concerns around the reduction of funds under this programme, on top of complex processes to access these funds. Furthermore, public consultations must be carried out with these organizations as they provide specific support services to women victims of gender-based violence, including cyberviolence, and they collect relevant data and qualitative information on the occurrence and impact of gender-based cyberviolence. At the same time, they provide a feminist, human-rights centred perspective in responding to the phenomenon.
- Introduce gender-based cyberviolence preventive measures into schools as these behaviours and actions are prevalent even at early ages. Schools can organize “cyberviolence free networks” for students, parents and teachers.

Policy coherence with the Digital Services Act package:

- Overall, efforts to counter gender-based cyberviolence must actively involve and engage Internet intermediaries (search engines, social media platforms, internet service providers). Given that the legislative process of the Digital Services Act package is currently underway, the legislative report proposed by the FEMM and LIBE committees must ensure that there is coherence with the package.
- While this letter welcomes and supports the proposed legislation tools under the Digital Services Act package in demanding greater accountability from Internet intermediaries for content on their platforms, **there needs to be a more specific reference to gender-based cyberviolence in the package.** The legislative report should highlight this gap in the Digital Services Act package and therefore recommend the use of its proposed definition of ‘gender-based cyberviolence’ within the package.
- Internet intermediaries must acknowledge that the digital space, where there is a high degree of social interactions and exchanges, is a public space. Therefore, **fundamental human rights have to be protected above other priorities.** While freedom to express is a human right, hate speech cannot be protected under this right. The legislative report should also propose that self-regulatory mechanisms like the EU Code of Conduct⁸ should be made mandatory under the Digital Services Act package, as there is currently insufficient participation by Internet intermediaries.

⁸ To read more about The EU Code of Conduct, go to: https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-code-conduct-countering-illegal-hate-speech-online_en

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