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**Preventing and combatting gender-based violence and domestic violence  
against intersex individuals**

**Submission by  
OII Europe**

Available data shows that **intersex persons**, i.e., intersex women and men and non-binary intersex people, are **among the most vulnerable groups** of the population **in regards to experiencing gender-based violence and domestic violence**. In addition to the experiences of gender-based and domestic violence they share with other groups of the population, many **intersex individuals experience**, intersex genital mutilation (IGM), a harmful medical practice that is performed on them as result of their variation of sex characteristics, and which is a **gender-based violence specific to intersex people**.

**Recommendations**

OII Europe recommends

- the protection of the right for everyone against gender-based violence and domestic violence, both in the public and the private spheres, including intersex people as a particularly vulnerable group
- the promotion of a life free from violence for everyone that may be a victim of gender-based violence and domestic violence
- the inclusion of comprehensive and explicit protection of intersex people, in any legislative proposal that aims to prevent and combat specific forms of gender-based violence and domestic violence
- the inclusion of the harmful practice of intersex genital mutilation (IGM) as a form of gender-based violence in any of such proposals

- the prevention, prosecution and elimination of violence against intersex persons in both the public and the private sphere
- the design of a comprehensive framework, policies and measures for the protection of and assistance to all victims of gender-based and domestic violence, explicitly including intersex persons in the scope
- the provision of support and assistance to organizations and law enforcement agencies to effectively co-operate in order to adopt an integrated approach to eliminating violence against intersex persons in both the public and the private sphere and facilitate exchange of good practice between Member States
- the inclusion of intersex persons explicitly in any EU reporting and monitoring framework on gender-based violence and domestic violence, including recording of intersex specific experiences of gender-based violence and domestic violence
- the inclusion of intersex persons explicitly in any legislative proposal which includes measures for Member States to monitor gender-based violence and domestic violence, including recording and monitoring of intersex specific experiences of gender-based violence and domestic violence

## **Who are intersex persons?**

Intersex individuals are born with a variation of sex characteristics, i.e., with sex characteristics (sexual anatomy, reproductive organs, hormonal structure and/or levels and/or chromosomal patterns) that do not fit the typical definition of male or female.<sup>1</sup> The term intersex acknowledges the fact that physically, sex is a spectrum and that people with variations of sex characteristics other than male or female exist.

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<sup>1</sup> Ghattas, D. C. (2019). *Protecting Intersex people in Europe. A toolkit for law and policy makers. With digital Appendix and Checklist*. Ed. by ILGA-Europe and OII Europe, p.9, available at <<https://oiieurope.org/library-en/toolkit-cat/legal-toolkit/>>

According to UN estimates up to 1,7 % of the global population is intersex.<sup>2</sup> According to EUROSTAT, as of 1<sup>st</sup> January 2020 the EU had 447.7 million inhabitants; this translates into to slightly more than 7.6 million intersex individuals living in the EU who are, as a group, highly vulnerable against experiencing violence and domestic violence.

### **Intersex persons need to be protected against violence and domestic violence**

Violence against vulnerable sex and gender minorities is one of the most persistent forms of gender-based discrimination in Europe. The European Commission Gender Equality Strategy 2020-2025 affirms that policy objectives and key actions to guarantee gender equality must include women and men, girls and boys, *in all their diversity*.<sup>3</sup>

The Strategy clarifies that the expression ‘in all their diversity’ is used to “express that, where women or men are mentioned, these are a heterogeneous category including in relation to their sex, gender identity, gender expression or sex characteristics. It affirms the commitment to leave no one behind and achieve a gender equal Europe for everyone, regardless of their sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.”<sup>4</sup>

The express inclusion of sex characteristics in the text of the Gender Equality Strategy means that the European Commission considered the issue of the compounded effect of dual or multiple discrimination that intersex women in particular experience. It is important that this consideration is now addressed directly in this legislative initiative.

The high vulnerability of intersex individuals and the need to protect them against violence has been confirmed repeatedly on EU level:

- Already in 2019, the European Parliament passed a resolution on “The rights of intersex people”,<sup>5</sup> which lays out the need for a clear EU commitment to protect the fundamental rights of intersex people, including protecting them against all forms of violence

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<sup>2</sup> United Nations Office of the High Commissioner for Human Rights (2015): Fact Sheet. Intersex. [https://unfe.org/system/unfe-65-Intersex\\_Factsheet\\_ENGLISH.pdf](https://unfe.org/system/unfe-65-Intersex_Factsheet_ENGLISH.pdf)

<sup>3</sup> p. 2

<sup>4</sup> p. 2, footnote 9

<sup>5</sup> 2018/2878(RSP). Available from: [https://www.europarl.europa.eu/doceo/document/TA-8-2019-0128\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-8-2019-0128_EN.html)

- The **European Commission**, in its LGBTIQ Equality Strategy 2020-2025<sup>6</sup> and in its EU strategy on the rights of the child 2021-2024<sup>7</sup>, has **affirmed the high vulnerability of intersex children and adults** and the need to **protect them against violence in all areas**.
- The **European Commission**, in its LGBTIQ Equality Strategy 2020-2025 has confirmed that **intersex individuals suffer from “harmful practices** such as non-vital surgery and medical intervention on intersex infants and adolescents without their personal and fully informed consent (intersex genital mutilation)”<sup>8</sup>; **this violence** is specific to them on the grounds of being born with a variation of sex characteristics and therefore **needs to be considered as a form of gender-based violence**
- The UN Committee on the Elimination of Discrimination against Women (CEDAW) has repeatedly expressed strong concern about violence against intersex persons, taking place in EU Member States, including “medically irreversible sex reassignment surgery on intersex persons, a practice which is defined as non-consensual, unnecessary genital surgery and includes other comparable procedures that violate the physical integrity of such individuals”<sup>9</sup>
- The **EU Fundamental Rights Agency** 2019 LGBTI II Survey<sup>10</sup> confirmed that **intersex people are among the most vulnerable groups** within the LGBTI spectrum in regards to **experiencing violence**, including domestic violence.

The Union of Equality series of strategies and action plans draws direct reference to intersectionality and the need to address issues of concern for those who may fall between the cracks of individual approaches. The acknowledgement of IGM in the LGBTIQ Equality Strategy as a violation of intersex persons’ bodies must be addressed at the form of gender-based violence that it is, in parallel to other forms of bodily violations such as female genital mutilation (FGM).

<sup>6</sup> [https://ec.europa.eu/info/sites/default/files/lgbtiq\\_strategy\\_2020-2025\\_en.pdf](https://ec.europa.eu/info/sites/default/files/lgbtiq_strategy_2020-2025_en.pdf)

<sup>7</sup> [https://ec.europa.eu/info/sites/default/files/child\\_rights\\_strategy\\_version\\_with\\_visuals3.pdf](https://ec.europa.eu/info/sites/default/files/child_rights_strategy_version_with_visuals3.pdf)

<sup>8</sup> P. 15; [https://ec.europa.eu/info/sites/default/files/lgbtiq\\_strategy\\_2020-2025\\_en.pdf](https://ec.europa.eu/info/sites/default/files/lgbtiq_strategy_2020-2025_en.pdf)

<sup>9</sup> CEDAW/C/LUX/CO/6-7 <https://intersexrights.org/wp-content/uploads/2020/08/N1807025.pdf>, see also these recommendations to EU member states: CEDAW/C/BGR/CO/8, CEDAW/C/AUT/CO/9, CEDAW/C/ITA/CO/7, CEDAW/C/DEU/CO/7-8, CEDAW/C/IRL/CO/6-7, CEDAW/C/NLD/CO/6, CEDAW/C/EST/CO/5-6, CEDAW/C/FRA/CO/7-8, CEDAW/C/SVK/CO/5-6

<sup>10</sup> European Union Agency for Fundamental Rights (2020). *A long way to go for LGBTI equality*, available at <https://fra.europa.eu/en/publication/2020/eu-lgbti-survey-results>.

## **Data on violence and domestic violence experienced by intersex persons**

Existing research and reports submitted to OII Europe by intersex individuals and OII Europe member organisations show that intersex girls and women, experience violence on a regular basis, including physical and psychological intimidation, aggression, physical or sexual assault, including rape, and verbal assault.

### **1. Gender-based violence in public spaces**

According to the 2019 FRA LGBTI survey,<sup>11</sup> in the five years before the survey

- 22% of intersex respondents experienced gender-based violence in the form of a physical and/or sexual attack

In the 12 months before the survey,

- 38% of intersex people at least once experienced gender-based violence in the form of violent in-person threats and
- 27% even six or more times.

Across the EU,<sup>12</sup>

- intersex respondents indicated the highest rate (41%) for often or always avoiding certain locations.

Among intersex youth<sup>13</sup>, in the 12 months before the survey

- 14% (aged 15-17) suffered gender-based violence in the form of from physical or sexual attacks
  - 79% of them reported physical attack
  - 20% sexual attack or a combination of physical and sexual attack
  - 50% experienced bullying at school/university

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<sup>11</sup> See OII Europe infographic <<https://oiieurope.org/physical-violence-and-harassment/>> based on the data accessible through the FRA LGBTI Survey Data Explorer available at <https://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-fundamental-rights-lesbian-gay-bisexual-and>

<sup>12</sup> *Ibid.*

<sup>13</sup> See OII Europe infographic based on the FRA LGBTI Survey Data Explorer available at <<https://oiieurope.org/intersex-youth/>>

- 39% identified school as the location of the last incident of hate-motivated harassment.

Among all respondents, intersex (42%) and trans (48%) people, experienced the **highest rates of harassment and violence** in the year before the survey.

The negative impact of these incidents on the individual is severe:<sup>14</sup>

- 59% intersex respondents were afraid to go out or visit places
- 56% had psychological problems (e.g., depression or anxiety)
- 9% needed medical assistance or hospitalization.

## **2. Domestic violence**

Reports submitted by intersex people to OII Europe show that physical assault and verbal attacks are common incidents within the family of an intersex person.

The **high number of homeless intersex people**, the highest among the respondents to the 2019 FRA LGBTI survey, **stems** to a significant percentage **from domestic violence**.

According to the FRA 2019 LGBTI II survey<sup>15</sup>

- 29% of the intersex respondents faced housing difficulties
- close to half of them, 41%, stated family or relationship problems, including domestic violence, as reason for the housing difficulties<sup>16</sup>

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<sup>14</sup> Ibid.; on the negative impact of hate crime on the victims and the community, also see Equality and Diversity Forum / Aziz Foundation (2018). *Hate Crime: Cause and Effect. A research synthesis*, available at <<https://www.equallyours.org.uk/wp-content/uploads/2018/10/Hate-crime-cause-and-effect.pdf>>, p. 6. See also research referenced there.

<sup>15</sup> See OII Europe infographic based on LGBTI Survey Data Explorer available at <<https://oiieurope.org/housing-and-economic-difficulties/>>

<sup>16</sup> 20% had to stay with friend or relatives temporarily, 6% had to stay in emergency or temporary accommodation, 8% had to stay in a place not intended as a permanent home, 5% had to 'sleep rough' or sleep in a public space, see OII Europe infographic based on LGBTI Survey Data Explorer available at <<https://oiieurope.org/housing-and-economic-difficulties/>>

The FRA findings are supported by recent 2021 research<sup>17</sup> focusing particularly on homelessness and its connection to domestic violence.<sup>18</sup> Of the 72 participating organisations, representing 32 countries across Europe, over half (52%) stated that they work specifically with intersex youth. According to this survey the most common reason for homelessness is reported to be identity related family conflict (72%), including young people’s choice to flee from violence in the family home.

### ***3. Intersex genital mutilation***

In 2013, Juan E. Mendés, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, issued a strongly worded statement condemning **non-consensual surgical intervention on intersex people as a form of torture**.

His report states that “[t]here is an abundance of accounts and testimonies of persons being ... subjected to ... a variety of forced procedures such as sterilization, State-sponsored forcible ... hormone therapy and genital-normalizing surgeries under the guise of so-called ‘reparative therapies’. These procedures are rarely medically necessary, can cause scarring, loss of sexual sensation, pain, incontinence and lifelong depression and have also been criticized as being unscientific, potentially harmful and contributing to stigma”.

The UN Special Rapporteur on torture pointed out that **this violence is gender-based** as intersex children are often subject to irreversible sex assignment, involuntary sterilisation and/or genital-normalising surgery, performed without their informed consent or that of their parents **“in an attempt to fix their sex” as they fail to conform to socially constructed gender expectations**, and that these harmful practices leave intersex children with permanent, irreversible infertility and causes severe mental suffering.<sup>19</sup>

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<sup>17</sup> Shelton, J., Ritosa, A., Van Roozendaal, B., Hugendubel, K. & Dodd, S.J. (2021). Perceptions: Addressing LGBTI Youth Homelessness in Europe and Central Asia - Findings from a Survey of LGBTI Organisations. ILGA-Europe, True Colors United, and the Silberman Center for Sexuality and Gender at Hunter College, p. 3, 14, 15; in total, 71 organizations participated in the survey, representing 32 countries estimate of the in-country prevalence rate of LGBTI youth homelessness

<https://www.feantsa.org/public/user/Activities/events/2021/Perceptions - ILGA Europe Compressed.pdf>

<sup>18</sup>

<sup>19</sup> Commissioner for Human rights of the Council of Europe (2015): Human rights and Intersex people, p. 30-31 <https://rm.coe.int/16806da5d4>

According to a 2015 survey published by the EU Fundamental Rights Agency, such **so-called sex-“normalising” surgeries** on intersex infants and children **are carried out in at least 21 of the EU Member States.**<sup>20</sup>

Many of these countries have laws against (unconsented) sterilisation and/or sterilisation of minors<sup>21</sup> and against FGM.<sup>22</sup> **The different treatment of IGM and FGM is even more striking when considering that many intersex individuals who experience IGM are registered as female, and, hence, have their genitalia operated on while legally registered as girls without their wish or consent.**

This legal differentiation, though, is largely arbitrary. In 2014, the 24th Conference of Equality and Women Ministers and Senators of the German Länder (GFMK) pointed to the **similarities between IGM and FGM and called for implementing a corresponding standard of protection for intersex children.** The GFMK pointed out that “family law already prohibits guardians from consenting to the sterilisation of a child (§ 1631c BGB)” and that, “in the case of girls, parents cannot give effective consent to the removal or circumcision of the clitoris, as this is punishable as female genital mutilation (§ 226a StGB)”, but that intersex minors were “in fact often denied this protection by carrying out procedures that have a sterilizing effect or that alter the genitals of intersexual minors without their consent and without compelling medical indication”.<sup>23</sup>

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<sup>20</sup> See: European Union Agency for Fundamental Rights: FRA Focus Paper. The Fundamental Rights Situation of Intersex People. Vienna 2015, p. 1 <http://fra.europa.eu/en/publication/2015/fundamental-rights-situation-intersex-people>

<sup>21</sup> The findings of the German Family Ministry, however, showed that the German sterilisation legislation (§ 1631c BGB), is not impervious when it comes to intersex children, as their gonadal hormone producing tissue may not be considered equivalent to testes or ovaries, see also: Bundesministerium für Familie, Senioren, Frauen und Jugend (2016.a): Situation von trans- und intersexuellen Menschen im Fokus. Sachstandsinformation des BMFSFJ. Begleitmaterial zur Interministeriellen Arbeitsgruppe Inter- & Transsexualität – Band 5. Berlin, p. 19. <https://www.bmfsfj.de/blob/112092/f199e9c4b77f89d0a5aa825228384e08/imag-band-5-situation-von-trans-und-intersexuellen-menschen-data.pdf>

<sup>22</sup> All EU Member States criminalise female genital mutilation, either by incorporating it in in general criminal law or by explicitly mentioning it in a specific provision or law; 18 countries have a specific criminal law on female genital mutilation, see: European Institute for Gender Equality (EIGE, 2018): Estimation of girls at risk of female genital mutilation in the European Union Belgium, Greece, France, Italy, Cyprus and Malta, p. 16. <https://eige.europa.eu/rdc/eige-publications/estimation-girls-risk-female-genital-mutilation-european-union-report-0>

<sup>23</sup> See: 24. Konferenz der Gleichstellungs- und Frauenministerinnen und -minister, -senatorinnen und -senatoren der Länder (GFMK) (2014): Tagesordnungspunkt 8.1: Rechte intersexueller Menschen wahren und Diskriminierung beenden – insbesondere Schutz der körperlichen Unversehrtheit

In 2017, the **BanFGM Conference** on the worldwide ban on female genital mutilation **decided to include victims of intersex genital mutilation in their supporting structure** through the provision of essential services (medical, psychological and legal).<sup>24</sup>

FGM and IGM share many common characteristics and **individuals who are subject to FGM or IGM experience gender-based violence:**

- ***Framed in terms of the need to be accepted socially;*** however, for many intersex people, surgeries in their childhood and teenage years did not improve their situation concerning social inclusion or marginalisation.
- ***Motivated by beliefs about what is considered acceptable sexual behaviour;*** in the case of intersex people, the ultimate goal of those performing IGM is to allow for penetrative intercourse of the future adult and for an alleged ability to procreate. Neither the impossibility to foresee the future intersex adult's gender identity, sexual orientation or sexual preference,<sup>25</sup> nor the fact that the capacity for penetrative intercourse may be less important for the intersex adult than unharmed genitalia are taken into account.
- ***Motivated by the notion that parts that are not considered female (or male) enough should be removed;*** in the case of intersex people this includes interventions on infants and children such as clitoris reduction/recession, removing the labia, moving the opening of the urethra to the tip of the penis, to name but a few.
- ***Impactful on the person's life and health;*** in the case of intersex people this includes impairment of sexual sensation, poorer sexual function, painful scarring, painful intercourse, increased sexual anxieties, problems with desire, infertility issues and lifelong trauma, including feelings of child abuse and sexual abuse.<sup>26</sup>

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[https://www.gleichstellungsministerkonferenz.de/documents/2014\\_10\\_13\\_beschluesse\\_gesamt\\_extern\\_2\\_15\\_10227377.pdf](https://www.gleichstellungsministerkonferenz.de/documents/2014_10_13_beschluesse_gesamt_extern_2_15_10227377.pdf) (translated from German by the author)

<sup>24</sup> [http://www.npwj.org/sites/default/files/ressources/Declaration%20in%20EN\\_rev.pdf](http://www.npwj.org/sites/default/files/ressources/Declaration%20in%20EN_rev.pdf)

<sup>25</sup> See: M. J. Elders et. al. (2017), p. 2.; see also: S2k-Leitlinie Varianten der Geschlechtsentwicklung 2016. Leitlinie der der Deutschen Gesellschaft für Urologie (DGU) e.V., der Deutschen Gesellschaft für Kinderchirurgie (DGKCH) e.V., der Deutschen Gesellschaft für Kinderendokrinologie und -diabetologie (DGKED) e.V., p. 5 [https://www.awmf.org/uploads/tx\\_szleitlinien/174-001l\\_S2k\\_Geschlechtsentwicklung-Varianten\\_2016-08\\_01.pdf](https://www.awmf.org/uploads/tx_szleitlinien/174-001l_S2k_Geschlechtsentwicklung-Varianten_2016-08_01.pdf)

<sup>26</sup> See J. Woweries (2012), p. 7.



**OII Europe (Organisation Intersex International Europe)** is the European umbrella organisation of intersex-led human rights organisations with member organisations in 14 member states of the EU (18 in the Council of Europe region). OII Europe works to end human rights violations intersex people/people with variations of sex characteristics face in the EU and the Council of Europe region and to promote visibility and recognition of intersex people in Europe and worldwide. To this aim OII Europe works with and is regularly consulted by Council of Europe and European Union bodies as well as national governments and other stakeholders, NGOs and professionals.

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