



**EIGE’s contribution to the open public consultation
“Digital Services Act – transparency reports (detailed rules and templates)”
22/01/2024**

Introduction

The European Institute for Gender Equality (referred to as 'EIGE') was established with the mission to actively contribute to and reinforce the promotion of gender equality. This extends to the integration of gender mainstreaming across all EU policies and subsequent national policies. Since its inception, EIGE has pioneered numerous innovative tools and methodologies, yielding crucial evidence-based research, along with consistent and reliable gender statistics and data. EIGE's commitment to delivering high-quality research, data, and policy recommendations plays a pivotal role in fostering better-informed and evidence-based decision-making. This is particularly significant in addressing gender-based violence against women, a barrier that significantly impedes the attainment of gender equality within the European Union. Through its efforts, EIGE aims to dismantle these barriers and pave the way for a more equitable and inclusive society.

The expanding influence of the internet and the widespread adoption of social media, exacerbated by the persistent pandemic of violence against women and girls (VAWG), has given rise to a burgeoning global issue known as cyber VAWG (CVAWG). This phenomenon carries profound societal and economic repercussions. In an era where digital (online) and face-to-face (offline) realms are increasingly intertwined, CVAWG frequently exacerbates existing violence or serves as a precursor to physical-world victimisation. CVAWG is an integral component of the continuum of violence against women and girls. Similar to other forms of gender-based violence, it is deeply ingrained in the enduring social inequality between women and men that persists in our world. Recognising CVAWG as part of this broader context is crucial for developing comprehensive strategies to address and eradicate the root causes of violence against women and girls in both digital and physical spaces.

Since 2017, EIGE has been dedicated to the comprehensive analysis and understanding of Cyber Violence Against Women and Girls (CVAWG). In its latest publication in 2022, EIGE conducted an in-depth investigation into this phenomenon, shedding light on its specific impacts on women and girls¹. The study systematically investigates definitions, legislation, and policies, unravelling how cyber violence is presently addressed at EU, international, and national levels. EIGE's research involved extensive consultations with ministries, statistical agencies, civil society organisations, and experts in the field to grasp current trends and confront key challenges in data collection and disaggregation. As a result of these efforts, EIGE has introduced new, research-based definitions of CVAWG and its subtypes, aimed at facilitating more accurate and insightful statistical analysis.

Building upon the insights from the 2022 report, EIGE is currently immersed in the development of a comparable measurement framework and indicators specifically tailored to selected forms of CVAWG. This ongoing initiative underscores EIGE's commitment to advancing research, enhancing understanding, and ultimately fostering effective strategies to combat cyber violence against women and girls.

¹ EIGE (2022) [Combating Cyber Violence against Women and Girls](#).

With this contribution EIGE aims to significantly add gender equality aspects to the public consultation process regarding the initiative that mandates transparency report templates for all providers of intermediary services under the Digital Services Act. Acknowledging that these templates offer crucial guidance on form, content, and other details to meet reporting requirements stipulated in the Digital Services Act, EIGE would like to highlight several key considerations.

The Digital Services Act explicitly directs providers of designated intermediary services to diligently identify, analyse, and assess systemic risks leading to actual or foreseeable negative effects, particularly concerning gender-based violence². Additionally, the proposed directive on violence against women and domestic violence advocates for the criminalisation of various forms of cyber violence, especially those disproportionately affecting women³. Against this backdrop, EIGE aims to contribute insights that not only recognise the gendered aspects but also consider the intricate interplay of various social categories in addressing the complexities of online violence and discrimination.

In this position paper, EIGE highlights the pressing need for an instrument that comprehensively captures the gendered dimension of risks associated with online violence and discrimination. While the analysis in this paper emphasises the gender category to shed light on forms of cyber violence and discrimination affecting women and girls, EIGE stresses that gender-based violence victimisation results from multiple intersecting social categories, leading to unique and complex levels of discrimination. Consequently, the elements addressed in this position paper specifically refer to **Annex - Transparency reports templates - Excel.xlsx**, particularly **sheet 2_categories_names**.

1. EIGE’s position with regard to Category 4 Illegal or harmful speech

Category 4	Illegal or harmful speech
<i>Category 4a</i>	<i>Defamation</i>
<i>Category 4b</i>	<i>Discrimination</i>
<i>Category 4c</i>	<i>Illegal incitement to violence and hatred based on protected characteristics (hate speech)</i>
<i>Category 4d</i>	<i>Not captured by any other category's keyword</i>

EIGE emphasises the critical importance of recognising and incorporating incitement to violence and hatred based on gender (gender-based hate speech) within the reporting framework, either as a distinct category or integrated into Category 4c. Aligning with the 2016 Code of Conduct on countering illegal hate speech online, EIGE acknowledges that the protected characteristics outlined in Category 4c may have been specified at that time, with race, colour, religion, descent, or national or ethnic origin identified as particularly vulnerable to hate speech⁴.

However, EIGE draws attention to the current and escalating prevalence of online gender-based hate speech, its pervasive nature, and the consequential impact on society by reinforcing and perpetuating gender inequality⁵. Women and girls are disproportionately affected by hate speech, primarily targeting their personal characteristics. EIGE emphasises the severe

² As stated in recital 83 and Article 34(d) of the [Digital Services Act](#).

³ [Proposal for a Directive of the European Parliament and of the Council on combating Violence against Women and Domestic Violence](#)

⁴ European Commission (2016) [Code of Conduct on countering illegal hate speech online](#).

⁵ European Commission (2021) [Criminalisation of gender-based violence against women in European States, including ICT-facilitated violence](#).

infringement of human rights, particularly freedom of expression and the right to participate in public life, caused by hate speech against women and girls.

This concern is also addressed in the proposal for a Directive on violence against women and domestic violence, where Article 10 mandates Member States to criminalise intentional conduct inciting violence or hatred directed against a group or member of a group defined by sex or gender⁶.

Recognising the urgent need to monitor trends, identify emerging threats, and inform strategies and policymaking to safeguard digital spaces, protect individuals, and promote a safer and more inclusive online environment, EIGE proposes the inclusion of the category presented in bold in the table below:

Category 4	Illegal or harmful speech
<i>Category 4a</i>	<i>Defamation</i>
<i>Category 4b</i>	<i>Discrimination</i>
<i>Category 4c</i>	<i>Illegal incitement to violence and hatred based on protected characteristics (hate speech)</i>
Category 4d	Incitement to violence and hatred based on gender (gender-based hate speech)
<i>Category 4e</i>	<i>Not captured by any other category's keyword</i>

EIGE believes that the incorporation of this category will contribute significantly to capturing and addressing the specific challenges posed by gender-based hate speech online.

2. EIGE’s position with regard to Category 6 Negative effects on civic discourse or elections

Category 6	Negative effects on civic discourse or elections
<i>Category 6a</i>	<i>Violation of EU law relevant to civic discourse or elections</i>
<i>Category 6b</i>	<i>Violation of national law relevant to civic discourse or elections</i>
<i>Category 6c</i>	<i>Misinformation, disinformation, foreign information manipulation and interference</i>
<i>Category 6d</i>	<i>Not captured by any other category's keyword</i>

EIGE underscores the pressing need to address the disproportionate levels of disinformation targeting women candidates during political campaigns compared to their male counterparts⁷. To effectively capture and combat this issue, EIGE recommends the explicit inclusion of a category on gendered disinformation within the reporting framework. Online platforms, particularly social media, play a pivotal role in the rapid dissemination and amplification of gendered disinformation during election campaigns.

Gendered disinformation encompasses false narratives, fabricated images, and attacks aimed at undermining the credibility of women candidates. This often involves the reinforcement of existing gender stereotypes and the perpetuation of biases and discriminatory attitudes. The impact extends beyond individual candidates, contributing to a broader culture of sexism and gender-based discrimination within the political sphere.

The coexistence of gendered disinformation with online harassment, including threats of physical harm, sexual violence, or other forms of intimidation, creates a hostile online

⁶ [Proposal for a Directive of the European Parliament and of the Council on combating Violence against Women and Domestic Violence](#)

⁷ EU DisinfoLab & #ShePersisted (2022) [Gender-based disinformation 101: Theory, Examples, and Need for regulation](#).

environment. This may deter women from participating in civic discourse and politics, posing a threat to the principles of equality and democracy. Gendered disinformation can significantly influence electoral outcomes, with studies indicating that smear campaigns targeting women candidates may hinder their electoral success, thereby impeding progress toward gender equality in political representation⁸.

Recognising the importance of disaggregating data by gender to understand specific risks and impacts, EIGE emphasises the crucial role of including a dedicated category on gendered disinformation. This proposed addition, marked in bold in the table below, aims to enhance the reporting framework's capacity to address the nuanced ways in which gender intersects with disinformation in diverse cultural and political contexts.

Category 6	Negative effects on civic discourse or elections
<i>Category 6a</i>	<i>Violation of EU law relevant to civic discourse or elections</i>
<i>Category 6b</i>	<i>Violation of national law relevant to civic discourse or elections</i>
<i>Category 6c</i>	<i>Misinformation, disinformation, foreign information manipulation and interference</i>
Category 6d	Gendered disinformation
<i>Category 6e</i>	<i>Not captured by any other category's keyword</i>

EIGE believes that the inclusion of this category will contribute to a more comprehensive understanding of gender-specific challenges related to disinformation and pave the way for targeted strategies to counteract its detrimental effects on women's civic and political participation and representation.

3. EIGE's position with regard to Category 7 Non-consensual behaviour

Category 7	Non-consensual behaviour
<i>Category 7a</i>	<i>Non-consensual image sharing</i>
<i>Category 7b</i>	<i>Non-consensual items containing deepfake or similar technology using a third party's features</i>
<i>Category 7c</i>	<i>Online bullying/intimidation</i>
<i>Category 7d</i>	<i>Stalking</i>
<i>Category 7e</i>	<i>Not captured by any other category's keyword</i>

EIGE stresses the importance of differentiating between bullying and harassment based on age, distinguishing the former for minors and the latter for adults, as highlighted in its 2022 report. Recognising practical and conceptual reasons, EIGE advocates for the introduction of a separate category on harassment to clearly distinguish it from bullying. While cyber bullying, harassment, and stalking can impact anyone, EIGE emphasises that women and girls are more vulnerable to these forms of violence⁹.

EIGE draws attention to the continuum between cyber and physical stalking, stressing that cyber stalking often becomes a crucial tactic in intimate partner violence¹⁰. Alarming data indicates a significant correlation between cyber stalking and physical or sexual violence from an intimate partner, with 7 in 10 women experiencing both forms of violence¹¹.

With intimate partner violence being one of the most prevalent form of violence against women, EIGE expresses concern about the power of digital technologies in enabling

⁸ United Nations (2023) [A/78/288: Gendered disinformation and its implications for the right to freedom of expression – Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#)

⁹ EIGE (2022) [Combating Cyber Violence against Women and Girls](#)

¹⁰ Ibid.

¹¹ FRA (2014) [Violence against women: an EU-wide survey. Main results report](#)

perpetrators to escalate coercive and controlling behaviours, manipulation, surveillance, and isolating tactics against victims.

Recognising the disproportionate impact of cyber stalking and harassment on women, EIGE highlights their inclusion as forms of violence to be punished as criminal offenses in Articles 8 and 9 of the proposed Directive on combating violence against women and domestic violence¹².

In light of these considerations, EIGE deems it crucial to capture gender-disaggregated information on cyber bullying, harassment, and stalking. Therefore, EIGE recommends the introduction of:

1. A separate category on harassment;
2. Distinguished categories on bullying, harassment, and stalking on the grounds of gender.

EIGE's proposed categories are presented in bold in the table below.

Category 7	Non-consensual behaviour
<i>Category 7a</i>	<i>Non-consensual image sharing</i>
<i>Category 7b</i>	<i>Non-consensual items containing deepfake or similar technology using a third party's features</i>
<i>Category 7c</i>	<i>Online bullying/intimidation</i>
<i>Category 7d</i>	<i>Stalking</i>
Category 7e	Harassment
Category 7f	Cyber stalking against women
Category 7g	Cyber harassment against women
Category 7h	Cyber bullying against girls
<i>Category 7f</i>	<i>Not captured by any other category's keyword</i>

EIGE believes that the inclusion of these categories will enrich our comprehension of diverse forms of online violence, fostering the development of nuanced strategies and policies. This inclusive approach seeks to create a safer digital environment, capable of recognising intersectional patterns of vulnerability and risk, particularly at the crossroads of gender, age, and other influencing factors.

4. EIGE's position with regard to Category 8 Pornography or sexualized content

Category 8	Pornography or sexualized content
<i>Category 8a</i>	<i>Adult sexual material</i>
<i>Category 8b</i>	<i>Image-based sexual abuse (excluding content depicting minors)</i>
<i>Category 8d</i>	<i>Not captured by any other category's keyword</i>

Numerous research studies consistently highlight that women and girls bear a disproportionate impact of image-based sexual abuse¹³. Given historical tendencies of objectification and sexual exploitation, offline patterns of gender-based harm are mirrored in the online realm. Women targeted by image-based sexual abuse often endure additional forms of online violence and

¹² [Proposal for a Directive of the European Parliament and of the Council on combating Violence against Women and Domestic Violence](#)

¹³ European Commission (2021) [Criminalisation of gender-based violence against women in European States, including ICT-facilitated violence](#).

discrimination, fostering a hostile digital environment that perpetuates power imbalances, inequality, and societal rape myths.

Attention must be paid to the growing concerns relating to the use of deepfake technology for image-based sexual abuse, with evidence indicating that women are the primary targets¹⁴. This misuse of personal images not only violates privacy but also heightens vulnerability. Deepfakes emerge as tools for intimidation, harassment, and manipulation, reflecting broader issues of power and control. Notably, the majority of circulating deepfake videos contain sexual content and primarily target women, exemplifying the gendered impact of deepfake abuse, with over 100,000 women targeted by July 2021¹⁵.

As an increasing number of countries criminalise or consider criminalising image-based sexual abuse¹⁶, these gendered and sexualised offenses are also proposed to be penalised in Article 7 of the proposed Directive on violence against women and domestic violence, specifically under non-consensual sharing of intimate or manipulated material¹⁷.

Recognising the gendered nature of image-based sexual abuse, EIGE strongly advocates for the introduction of categories that address these specific concerns. The proposed categories, marked in bold in the table below, aim to facilitate a comprehensive understanding of this form of gendered violence.

Category 8	Pornography or sexualized content
<i>Category 8a</i>	<i>Adult sexual material</i>
<i>Category 8b</i>	<i>Image-based sexual abuse (excluding content depicting minors)</i>
Category 8c	Image-based sexual abuse against women (excluding content depicting minors)
Category 8d	Image-based sexual content against women containing deepfake or similar technology using a third party's features
<i>Category 8e</i>	<i>Not captured by any other category's keyword</i>

EIGE emphasises the importance of these categories to effectively address and combat image-based sexual abuse as a highly gendered form of cyberviolence, reflecting its commitment to promoting a safer and more equitable online environment for women and girls.

5. EIGE's position with regard to Category 14 Violence

Category 14	Violence
<i>Category 14a</i>	<i>Coordinated harm</i>
<i>Category 14b</i>	<i>Gender-based violence</i>
<i>Category 14c</i>	<i>Human exploitation</i>
<i>Category 14d</i>	<i>Human trafficking</i>
<i>Category 14e</i>	<i>General calls or incitement to violence and/or hatred</i>
<i>Category 14f</i>	<i>Not captured by any other category's keyword</i>

¹⁴ European Parliament (2021) [Tackling deepfakes in European policy](#).

¹⁵ Ibid.

¹⁶ European Commission (2021) [Criminalisation of gender-based violence against women in European States, including ICT-facilitated violence](#).

¹⁷ [Proposal for a Directive of the European Parliament and of the Council on combating Violence against Women and Domestic Violence](#)

Beginning with *human trafficking* (category 14d), EIGE acknowledges the rising use of social media and online platforms by traffickers to recruit victims for sexual and labour exploitation. Moreover, EIGE stresses that women and girls are the primary targets of human trafficking, accounting for 60 % of all the victims (42% women and 18% girls) and are subjected to physical and extreme violence (including sexual violence) at the hands of traffickers at a rate three times higher than males¹⁸. For these reasons, EIGE urges the inclusion of a gendered category of human trafficking, as introduced in bold in the table below.

Category 14	Violence
<i>Category 14a</i>	<i>Coordinated harm</i>
<i>Category 14b</i>	<i>Gender-based violence</i>
<i>Category 14c</i>	<i>Human exploitation</i>
<i>Category 14d</i>	<i>Human trafficking</i>
Category 14e	Trafficking in women and girls
<i>Category 14f</i>	<i>General calls or incitement to violence and/or hatred</i>
<i>Category 14g</i>	<i>Not captured by any other category's keyword</i>

EIGE identifies all the gendered categories proposed in this position paper as forms of gender-based violence and, therefore, deems that the naming of *category 14 Violence* minimises the conceptualisation and severity of the behaviours listed in the other categories. For this reason, EIGE encourages the inclusion of a rationale that supports the need for such category to stand separately rather than being an umbrella one of the categories that should fit within it.

Recognising the disproportionate impact on women and girls, EIGE finds the lack of reference to the gendered dimension within the analysed categories concerning. Additionally, category 14b *gender-based violence* may appear incomplete without specifying the types of violence it encompasses. EIGE proposes options to address this issue:

- **Option A** suggests the deletion of category 14b incorporating the proposed gendered categories under categories 4, 6, 7, 8, and 14. This deletion is contingent upon introducing other forms of gender-based violence not explored in the paper but not covered by the proposed categories.
- **Option B** proposes the creation of a standalone category exclusively for gender-based violence, encompassing all the proposed gendered categories. The suggested categories are presented in bold in the table below.

Category 15	Gender-based violence
<i>Category 15a</i>	<i>Incitement to violence and hatred based on gender (hate speech)</i>
<i>Category 15b</i>	<i>Gendered disinformation</i>
<i>Category 15c</i>	<i>Cyber bullying against girl</i>
<i>Category 15d</i>	<i>Cyber harassment against women</i>
<i>Category 15e</i>	<i>Cyber stalking against women</i>
<i>Category 15f</i>	<i>Image-based sexual abuse against women (excluding content depicting minors)</i>
<i>Category 15g</i>	<i>Image-based sexual content against women containing deepfake or similar technology using a third party's features</i>
<i>Category 15h</i>	<i>Trafficking in women and girls</i>

¹⁸ UNODC (2022). [Global report on trafficking in persons](#)

EIGE welcomes the adoption of either option, and remains open to collaboration in this endeavour. Reiterating that the analysed categories define violent behaviours disproportionately affecting women and girls, EIGE stresses the significance of including these proposed categories to establish gender-disaggregated data collection systems. This approach will enable the capture of more accurate information and develop targeted interventions, strategies, and policymaking.