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DRAFT REPORT

on the importance of consent-based rape legislation in the EU
(2025/2040(INI))

Committee on Civil Liberties, Justice and Home Affairs
Committee on Women's Rights and Gender Equality

(Joint committee procedure - Rule 59 of the Rules of
Procedure)

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the importance of consent-based rape legislation in the EU (2025/2040(INI))

The European Parliament,

- having regard to Article 2 of the Treaty on European Union,
- having regard to Article 21 of the Charter of Fundamental Rights of the European Union,
- having regard to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,
- having regard to the Beijing Declaration and Platform for Action, adopted by the UN on 15 September 1995, and to the outcomes of the relevant review conferences,
- having regard to the 1979 UN Convention on the Elimination of All Forms of Discrimination against Women and to General Recommendation No 35 (2017) of the UN Committee on the Elimination of Discrimination against Women of 26 July 2017 on gender-based violence against women,
- having regard to Articles 21 and 3 of the Charter of Fundamental Rights of the European Union and to Article 2 of the Treaty on European Union, which establishes gender equality as a core value of the Union, to be mainstreamed across all policies and programmes,
- having regard to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention), in particular Article 36 thereof,
- having regard to Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence¹,
- having regard to Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA² (the Victims' Rights Directive), which provides a framework for victim-centred justice, including in cases of sexual violence,

¹ OJ L, 2024/1385, 24.5.2024, ELI: <http://data.europa.eu/eli/dir/2024/1385/oj>.

² OJ L 315, 14.11.2012, p. 57, ELI: <http://data.europa.eu/eli/dir/2012/29/oj>.

- having regard to the Rome Statute of the International Criminal Court, and in particular Article 7(1)(g) thereof,
 - having regard to Article 83(1) of the Treaty on the Functioning of the European Union (TFEU), which allows Parliament and the Council to establish minimum rules on the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension, including gender-based violence,
 - having regard to the Commission proposal of 8 March 2022 for a directive of the European Parliament and of the Council on combating violence against women and domestic violence ([COM\(2022\)0105](#)), which included the extension of the list of EU crimes under Article 83(1) TFEU to include gender-based violence, and to Parliament's resolution of 16 September 2021 with recommendations to the Commission on identifying gender-based violence as a new area of crime listed in Article 83(1) TFEU³,
 - having regard to the EU strategy for gender equality 2020-2025, which calls for enhanced protection against gender-based violence and for comprehensive sexual education promoting consent awareness,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the joint deliberations of the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women's Rights and Gender Equality under Rule 59 of the Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women's Rights and Gender Equality (A10-0000/2025),
- A. whereas intersectionality is an important guiding principle enshrined in EU primary law through the Charter of Fundamental Rights; whereas women experience intersecting forms of discrimination;
 - B. whereas Parliament's position on the directive on violence against women and domestic violence was strongly in favour of including the offence of rape in the text, as in the Commission's proposal;
 - C. whereas Article 83 TFEU is applicable as a legal basis for legislative proposals regarding the offence of rape because rape is a serious crime with a cross-border dimension and falls within the area of crime of 'sexual exploitation of women and children';
 - D. whereas acts of sexual violence are criminalised under international human rights law in both war and peacetime; whereas the legal

³ OJ C 117, 11.3.2022, p. 88.

interpretation of rape as a war crime, as per the International Criminal Court, includes the absence of consent as a crucial element;

- E. whereas the cross-border dimension of the offence of rape results from the special need to combat rape on a common basis within the European Union, with a number of key elements: the need to ensure a minimum level of protection for all women in all Member States, the need to ensure a minimum level of protection when women exercise their freedom of movement throughout the Union, and the need and obligation to align EU law with international standards such as the Istanbul Convention, which requires the criminalisation of rape on the basis of a lack of consent;
- F. whereas all Member States have signed the Istanbul Convention but five have yet to ratify it, and the EU acceded to the Convention in 2023 for areas under its exclusive competence;
- G. whereas Article 36 of the Istanbul Convention obliges the criminalisation of all non-consensual sexual acts and specifies that ‘consent must be given voluntarily as the result of the person’s free will assessed in the context of the surrounding circumstances’;
- H. whereas the term ‘sexual exploitation’ in Article 83(1) TFEU is not limited to trafficking alone, as such a narrow interpretation would unjustly confine ‘trafficking in human beings and sexual exploitation of women and children’ to trafficking offences; whereas the wording and legislative practice, including Directive 2011/93/EU⁴, show that ‘sexual exploitation’ covers a broader range of offences, including sexual abuse; whereas sexual exploitation commonly refers to the unjust use of another person for sexual benefit, involving victim vulnerability, which is central to the crime of rape;
- I. whereas factors such as coercion, force, threats, dependency, chemical submission, or structural and intersectional discrimination can create vulnerability and prevent free consent, which is key in rape cases; whereas the opinion of 31 October 2022 of the Council’s Legal Service on the Commission proposal on violence against women and domestic violence recognises that ‘sexual exploitation of women’ can autonomously include rape; whereas this interpretation is consistent with the Treaties’ commitment to equality between women and men; whereas therefore, Article 83(1) TFEU is an appropriate legal basis for establishing minimum EU rules on the definition of rape;
- J. whereas shifting to a consent-based model of rape law is critical in acknowledging that sexual autonomy and integrity can be violated in

⁴ Directive 2011/93/EU of the European Parliament and of the Council of 13^oDecember 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L 335, 17.12.2011, p. 1, ELI: <http://data.europa.eu/eli/dir/2011/93/oj>).

situations where there is no physical violence, such as where there are coercive dynamics or abuse of power;

- K. whereas the high prevalence of secondary victimisation shows the profound failure not only of justice systems, but also of outdated laws that are not based on consent, to provide survivors with access to justice⁵;
 - L. whereas the traumatic nature of rape requires a gender- and trauma-sensitive response by trained and specialised staff in law enforcement agencies and in the judiciary to avoid secondary victimisation;
 - M. whereas victims of rape need immediate and comprehensive medical care, including clinical management of rape, sexual and reproductive healthcare, including emergency contraception, post-exposure prophylaxis, treatment for sexually transmitted infections and access to safe and legal abortion, and trauma support, and must also have the option of long-term support, including psychological counselling;
 - N. whereas widespread impunity for rape contributes to rape culture; whereas the provision of gender-sensitive, comprehensive and age-appropriate sexuality, consent and relationships education is a crucial tool in the prevention of rape;
 - O. whereas preventing sexual and gender-based violence requires an intersectional understanding of the multiple and overlapping forms of discrimination that affect women in all their diversity;
1. Calls on the Commission to propose legislation establishing an EU-wide definition of rape that is based on the requirement of freely given, informed and reversible consent, in line with Article 36 of the Istanbul Convention; calls on the Member States to commence legislative changes to bring the definition into line with Article 36 of the Istanbul Convention;
 2. Reiterates that rape legislation that is based on the absence of consent is an international human rights standard defined in the Istanbul Convention;
 3. Calls on the Commission to recognise gender-based violence as a new EU crime under Article 83(1) TFEU in order to ensure a common approach so as to effectively combat all forms of gender-based violence, which is one of the most widespread fundamental rights violations in the EU;

⁵ Council of Europe, *Case of L. and Others v. France: Criminal-law system inadequate for the punishment of all non-consensual sexual acts, exposing rape victim to secondary victimisation*, news article, 24 April 2025, <https://www.coe.int/en/web/istanbul-convention/-/case-of-l-and-others-v-france-criminal-law-system-inadequate-for-the-punishment-of-all-non-consensual-sexual-acts-exposing-rape-victim-to-secondary-victimisation>.

4. Calls on the Commission and the Member States to address intersectionality in all policies related to gender equality, acknowledging that gender-based violence and discrimination are compounded by other factors;
5. Calls on the Member States to ensure that professionals, including law enforcement officers, forensic medical personnel, court staff, judges and prosecutors, lawyers, healthcare professionals, social services employees, and educational and other relevant staff, receive adequate and tailored training to enable them to avoid secondary victimisation of the survivors, to avoid and identify gender stereotypes and victim-blaming behaviours and attitudes, and to treat victims in a trauma- and gender-sensitive manner;
6. Calls on the Member States to ensure that survivors of rape have full access to medical services, such as clinical management of rape and the provision of sexual and reproductive health and rights, including clinical including emergency contraception, post-exposure prophylaxis, treatment for sexually transmitted infections and access to safe and legal abortion;
7. Calls on Member States to develop and issue specialised and gender-sensitive guidelines for authorities, including judges; underlines that these guidelines must provide instructions on how to treat victims in a trauma- and gender-sensitive manner; recalls that eliminating gender-based violence, including sexual violence, requires not only legal reforms, but also broad cultural and societal transformation; calls, therefore, on the Member States to include mandatory comprehensive sexuality and relationships education in national educational curricula;
8. Calls for the Commission to put forward EU guidelines on gender-sensitive, intersectional comprehensive sexuality and relationship education;
9. Calls on the Commission to ensure that the Member States comply with Article 35 of Directive (EU) 2024/1385 on combating violence against women and domestic violence by adopting and regularly carrying out consent-based education initiatives, awareness-raising campaigns and measures aimed at fostering behavioural change that recognises consent as freely given, mutual and grounded in the principles of bodily autonomy and sexual integrity;
10. Stresses that only a clear, affirmative and unambiguous indication of agreement constitutes valid consent, that silence, lack of resistance or the absence of a 'no' cannot be interpreted as consent, and that neither prior consent nor an existing relationship imply ongoing or future consent for any other sexual acts;

11. Underlines that consent must be assessed in the context of the surrounding circumstances, recognising that consent cannot be given where there is an abuse of power, vulnerability, or incapacity resulting from intoxication, unconsciousness, or age;
12. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

The Council of Europe's Convention on Preventing and Combating Violence Against Women and Domestic Violence, known as the **Istanbul Convention**, is the most comprehensive international treaty addressing gender-based violence. It defines **rape** as any sexual act committed **without the victim's freely given consent**, establishing **the absence of consent** as the core legal standard. The Convention is legally binding and requires all signatory states to criminalise all non-consensual sexual acts as **violations of a person's bodily integrity and sexual autonomy**, not as crimes against morality, family honour or public decency.

All EU Member States have *signed* the Istanbul Convention, and the European Union acceded to the Convention in 2023, in areas where it holds exclusive competence. This marks a vital step in the EU's commitment to adhering to international human right standards regarding gender-based violence, including centring the absence of consent in legal definitions of rape. However, the absence of a harmonised, consent-based definition of rape leads to stark disparities in protection for survivors across the EU and undermines access to justice and the effective prosecution of sexual violence.

Reforming rape laws to centre on consent is essential. It sends a strong message about the kind of society we strive for – one that is free from rape and where everyone's sexual autonomy and bodily integrity are respected, protected and valued. While legal reform alone cannot end sexual violence, it is a crucial first step toward **challenging harmful attitudes, ensuring justice for survivors, and holding perpetrators accountable**. It also serves a crucial **preventive function** by reshaping societal norms, fostering a culture of mutual respect, and clearly signalling that sexual violence will not be tolerated.

Importantly, most rapes are not committed by strangers in dark alleys, but often by a friend or partner, and they do not always involve physical violence or visible resistance. Most victims experience what is known as the **'freeze response'**, a common survival reaction to trauma in which the body becomes immobilised. This involuntary reaction can prevent the victim from physically fighting back or saying no. Scientific research and trauma-informed approaches confirm that freezing is a natural response to fear and threat, and **the absence of resistance does not equal consent**.

Sexual violence and rape are not only serious crimes under national law, but also a violation of **international human rights law**. It infringes upon multiple fundamental rights, including the right to dignity, physical and mental integrity, liberty and personal security, freedom from discrimination and protection from torture or inhuman and degrading treatment.

Under international law, rape is recognised as a **war crime**, a **crime against humanity** and in certain cases, an **act of genocide**, provided other requisite elements of these crimes are present. The International Criminal Court (ICC) includes lack of consent as a key element in its legal definition of rape, reflecting global consensus on this standard. Hence, sexual violence is criminalised in both war and peacetime, underscoring the severity of the crime.

The European Court of Human Rights (ECtHR) has affirmed in its case law that **absence of physical resistance does not imply consent**. State Parties to the European Convention on Human Rights (ECHR) have a positive **obligation** to criminalise and effectively prosecute all non-consensual sexual acts, including in the absence of physical resistance. The Court has also stressed that victim-blaming and the use of harmful gender stereotypes in legal proceedings violate victims' rights and obstruct access to justice.

The European Parliament has consistently supported a strong and survivor-centred legal framework on gender-based violence. During the negotiations on the Directive on combating violence against women and domestic violence, the European Parliament called for the **explicit inclusion of rape** based on lack of consent, as originally proposed by the European Commission. There is a clear **legal basis under Article 83(1) of the Treaty on the Functioning of the EU (TFEU)**, which allows the EU to legislate on particularly serious crimes with a cross-border dimension, including sexual exploitation of women and children. Instruments such as the Victims' Rights Directive and the Anti-Trafficking Directive establish important protections for victims of violence, yet they do not clearly define rape in line with the Istanbul Convention. Thus, incorporating consent-based definitions fills this gap and strengthens the coherence and effectiveness of EU law in protecting victims.

However, to create long-lasting change and a legal and cultural environment where sexual violence is no longer tolerated, it is not enough to reform legislation. Concerted efforts to challenge widespread **harmful rape myths and gender stereotypes** shall accompany changes in law. Comprehensive sexuality education must also be provided to promote healthy relationships, mutual respect, and a clear understanding of consent from an early age.

Justice professionals – including police officers, lawyers, prosecutors, and judges – must be trained in trauma-informed approaches, the psychological impact of rape, and the legal significance of consent, to ensure **fair and respectful treatment of survivors, avoid secondary victimisation** and ensure **meaningful access to justice**. When the law reflects the lived realities of survivors and guarantees effective prosecution, it strengthens trust in the justice system, empowers victims to come forward and regain their sense of agency, and contributes to ending the impunity for sexual violence in Europe.

ANNEX: ENTITIES OR PERSONS FROM WHOM THE RAPORTEURS HAVE RECEIVED INPUT

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteurs declare that they received input from the following entities or persons in the preparation of the draft report:

Entity and/or person
Women Against Violence Europe (WAVE)
Amnesty International
European Union Agency for Fundamental Rights (FRA)
European Parliamentary Forum for Sexual and Reproductive Rights
Danuta Wawrowska

The list above is drawn up under the exclusive responsibility of the rapporteurs.

Where natural persons are identified in the list by their name, by their function or by both, the rapporteurs declare that they have submitted to the natural persons concerned the European Parliament's Data Protection Notice No 484 (<https://www.europarl.europa.eu/data-protect/index.do>), which sets out the conditions applicable to the processing of their personal data and the rights linked to that processing.