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1. Introduction

Sexual violence is a serious human rights violation. The main target groups are women¹ and children² but considerable amount of men also experience sexual violence.³ However, boys' and men's sexual victimisation 'remains poorly documented.'⁴ Due to the disproportion in the statistics, men are often neglected as possible victims of sexual violence and thus sexual violence against men is under-researched.⁵ However, sexual violence cannot be seen as a 'gender and sex neutral'⁶ phenomenon. The question arises as to how the gender of the victims and perpetrators should be framed in the policies and laws; in short, whether gender-specific or gender-neutral language is more adequate.

The European Union combats sexual violence through various measures such as directives, programmes, and strategies. However, according to the author's knowledge no analysis has been conducted yet to see whether the EU acknowledges sexual violence against men in its policies and programmes. This working paper aims to address this question.

The EU's legislative competences in the different policy areas are clarified in the Treaty on the Functioning of the European Union. According to the document, there are three levels of competencies: exclusive competences, shared competences, and supporting competences.⁷ In order to adequately discuss the EU's activities regarding combating sexual violence, in Chapter 2.2 the question addresses to what extent the EU has its competence to act in the field of sexual violence. In this way it can be evaluated to what extent

1 European Union Agency for Fundamental Rights, 'Violence against women. An EU-wide survey', 2014, p. 21, at: http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results_en.pdf (accessed 13 March 2016).

2 European Child Safety Alliance, 'What are European countries doing to prevent intentional injury of children?', 2014, p. 8, at <http://www.childsafetyeurope.org/archives/news/2014/info/ciir-report.pdf> (accessed 14 March 2016).

3 Eurostat, 'Intentional homicide and sexual offences by legal status and sex of the person involved - number and rate for the relevant sex group', 2014, table, at http://ec.europa.eu/eurostat/web/products-datasets/-/crim_hom_soff (accessed 7 June 2016).

4 World Health Organisation, 'Global status report on violence prevention 2014', 2014, p. 76, at http://www.who.int/violence_injury_prevention/violence/status_report/2014/en/ (accessed 20 March 2016).

5 Chapleau, K. M., Oswald, D. L., and Russell, B. L., 'Male rape myths: The role of gender, violence, and sexism', *Journal of Interpersonal Violence*, Vol. 23, No. 5, 2008, p. 601.

6 Heberle, R., 'Sexual Violence' p. 60, in Gartner, R. and McCarthy, B. (eds), 'Oxford Handbook of Gender, Sex, and Crime', Oxford University Press, 2014.

7 'Consolidated Version of the Treaty on the Functioning of the European Union', *Official Journal of the European Union*, C326/51, 26 October 2012, Article 3-5, at http://eur-lex.europa.eu/resource.html?uri=cellar:2b-f140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_2&format=PDF (accessed 12 December 2016).

the EU uses and stretches its competences.

After analysing the question of EU competences, the main research question of the paper is to be answered: *To what extent do EU policies acknowledge men and boys as possible victims of sexual violence?* In answering this question the research aims to shed some light on the question of whether men and boys face discrimination on the grounds of sex in the context of sexual violence. The research focuses on the internal EU actions.

This working paper is written in the framework of the FRAME research project. The second WP 14 objective is to examine the potential for adapted or new policy tools in order to increase effectiveness and/or consistency of policies. This research contributes to the objective as it analyses the EU policies in the context of sexual violence with a focus on gender. Thus, it can be shown how inclusive or exclusive the policies are regarding men and boys and it clarifies an important human rights aspect of the EU policies; namely whether men are included in the policies combating sexual violence.

The structure of the working paper is the following. In Chapter 2 the legal context is outlined through defining sexual violence and the EU competences, then in Chapter 3 the findings of previous research are collected regarding male rape. Furthermore, it outlines previous research about using gender-specific and gender-neutral language. Chapter 4 speaks about the relevant theories. Then Chapter 5 outlines the methodology, with the analysis being conducted in Chapter 6. Finally, there is the discussion of the results and conclusion in Chapter 7.

2. Legal Context

2.1 Definition of sexual violence

There is no commonly accepted and used definition of sexual violence as its elements depend upon the settings in which it occurs. In the context of international criminal law rape has been identified as a war crime,⁸ a crime against humanity,⁹ and a crime of genocide.¹⁰ While the World Health Organisation defines sexual violence as ‘any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.’¹¹ The United Nations’ definition of sexual violence includes several acts such as ‘rape, sexual assault, sexual harassment, early and forced marriage and female genital

8 United Nations Security Council, ‘Resolution 1820’, S/RES/1820, 19 June 2008, p. 3, at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E_4FF96FF9%7D/CAC%20S%20RES%201820.pdf (accessed 12 May 2016).

9 International Criminal Tribunal for the Former Yugoslavia, Kunarac et al, IT-96-23-T& IT-96-23/1-T, 22 February 2001, at <http://www.icty.org/x/cases/kunarac/tjug/en/kun-tj010222e.pdf> (accessed 14 May 2016).

10 International Criminal Tribunal for Rwanda, ‘The Prosecutor v. Jean-Paul Akayesu’, ICTR-96-4-T, 2 September 1998, at <http://www.refworld.org/docid/40278fbb4.html> (accessed 13 May 2016).

11 World Health Organisation, ‘Sexual Violence’, 2002, p. 149, In: World Health Organisation, ‘World Report on Violence and Health’, 2002, at http://apps.who.int/iris/bitstream/10665/42495/1/9241545615_eng.pdf (accessed 10 March 2016).

mutilation.¹² A definition accepted Europe-wide is written in the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) document saying that sexual violence means acts of ‘engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object; engaging in other non-consensual acts of a sexual nature with a person; causing another person to engage in non-consensual acts of a sexual nature with a third person’.¹³

Two distinct elements of the definitions are the use of force or coercion, and non-consent. Due to the fact that sexual violence may happen without the use of force, previously the European Court of Human Rights had emphasised that definitions and laws based on non-consent respect the human rights principle of protecting bodily integrity more than definitions based on the use of force.¹⁴ Nonetheless, definitions based on the use of force are still prevalent across Europe.¹⁵ Amnesty International suggests that ‘definitions of rape and sexual violence based on force, threat of force, and coercion should be applied in cases relating to children with awareness of the rights of children’¹⁶ (...) because ‘consent-based approaches to the crime of rape do not capture the reality of how children under 18 are targeted for sexual violence.’¹⁷

When it comes to the sex of victims and perpetrators, women are usually seen as the victims of sexual violence and men as perpetrators.¹⁸ However, there is a growing body of research that recognises men and boys as possible victims of sexual violence.¹⁹ From the point of view of this working paper, it is a key question whether men and boys are recognised as possible victims in legal definitions of sexual violence. In previous decades many rape and sexual violence laws did not recognise men as possible victims of this crime. For example, until 1994 in the United Kingdom male victims of sexual violence were not recognised by the law,²⁰ and there are still three EU countries (Bulgaria, Cyprus, and Slovakia) that do not include men as possible victims in their laws punishing rape.²¹ When it comes to international human rights law, Stemple found that ‘no human rights

12 European Institute for Gender Equality, ‘The study to identify and map existing data and resources on sexual violence against women in the EU’, 2013, p. 7, at <http://eige.europa.eu/sites/default/files/documents/EIGE-Study%20to%20identify%20and%20map%20existing%20data%20and%20resources%20on%20sexual%20violence%20against%20women%20in%20the%20EU-2.pdf> (accessed 15 May 2016).

13 Council of Europe, ‘Council of Europe Convention on preventing and combating violence against women and domestic violence’, 11 May 2011, Article 36, at <http://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e> (accessed 10 May 2016).

14 European Women’s Lobby, ‘EWL Barometer on Rape in the EU 2013’, 2013, p. 7, at <http://www.womenlobby.org/2013-EWL-Barometer-on-Rape-Report?lang=en> (accessed 16 April 2016).

15 *ibid.*, p. 7.

16 Amnesty International, ‘Rape and sexual Violence, Human Rights Law and Standards in the International Criminal Court’, 2011, p. 31., at <https://www.amnesty.org/en/documents/IOR53/001/2011/en/> (accessed 3 August 2016).

17 *ibid.*, p. 32.

18 Heberle, R., 2014, p. 60.

19 Ferrales, G. and McElrath, S. M., ‘Beyond Rape: Reconceptualizing Gender-Based Violence During Warfare’, p. 672, in Gartner, R. and McCarthy, B. (eds), ‘Oxford Handbook of Gender, Sex, and Crime’, Oxford University Press, 2014.

20 Fisher, N. L. and Pina, A., ‘An overview of the literature on female-perpetrated adult male sexual victimization’, *Aggression and Violent Behavior*, 2012, p. 55.

21 Csokán, B., ‘Male Rape: A Neglected Phenomenon? The analysis of male rape from legal and institutional perspectives in the context of the European Union’, Venice: European Inter-University Centre for Human Rights and Democratisation, unpublished E.MA Master Thesis, 2016, p. 52.

instruments explicitly address sexual violence against men'²².

In case of sexual violence several human rights are violated such as the mental and physical integrity and sexual autonomy of the victim,²³ and the European Court of Human Rights ruled previously that rape can constitute torture and ill-treatment, thus it breaches Article 3, and it also found that it violates Article 8, the Right to Respect for Private and Family Life of the European Convention on Human Rights.²⁴ The Vienna Declaration and Programme of Action stated that 'all human rights are universal, indivisible and interdependent and interrelated'²⁵.

Due to the fact that this paper is based on the idea that the recognition of someone's sexual violence experience should not be based on the victim's gender, it is suggested that neglect towards the possible victimisation of men and boys in the context of sexual violence would mean discrimination towards men based on sex. Although it is important to note that the working paper fully acknowledges the fact that victims of sexual violence are overwhelmingly women.

2.2 The EU Competences

In order to identify the EU's competence to legislate in the topic of sexual violence, one must identify policy areas addressing issues of sexual violence which match the EU's competence based on the Lisbon Treaty. On the EUR-Lex website there is a list of 32 topics that are covered by the EU through its activities.²⁶ In the process of collecting documents for the analysis, there were two policy areas in which relevant documents were found. These are (1) Justice, freedom, and security and (2) Human Rights. Within the policy area of Justice, freedom, and security the topics are (1) Judicial cooperation in criminal matters (the rights of crime victims, European protection order – supporting crime victims EU-wide), (2) Combating discrimination, and the (3) Fight against trafficking in human beings²⁷. The relevant topic covered by Human Rights is 'Equality (non-discrimination, children's rights, equal treatment).'²⁸ Within these policy areas all key documents were collected regarding sexual violence (directives, resolutions, strategies, action plans, staff working documents, reports, programmes, conclusions) to be analysed in the working paper.

22 Stemple, L., 'Male rape and human rights', *Hastings LJ*, 60, 2008, p. 618.

23 Amnesty International, 2011, p. 6.

24 European Court of Human Rights, 'M.C. v. Bulgaria', Application number 39272/98, 4 March 2004, at https://www.coe.int/t/dg2/equality/domesticviolencecampaign/resources/M.C.v.BULGARIA_en.asp (accessed 20 May 2016).

25 'Vienna Declaration and Programme of Action', adopted at the World Conference on Human Rights in Vienna on 25 June 1993, Paragraph I/5, at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx> (accessed 9 October 2016).

26 EUR-Lex (n.d.). 'Summaries of EU Legislation', at <http://eur-lex.europa.eu/browse/summaries.html?locale=en> (accessed 15 May 2016).

27 EUR-Lex (n.d.), 'Justice, freedom and security', at http://eur-lex.europa.eu/summary/chapter/justice_freedom_security.html?root_default=SUM_1_CODED=23 (accessed 18 May 2016).

28 EUR-Lex (n.d.), 'Fundamental rights within the European Union', at http://eur-lex.europa.eu/summary/chapter/human_rights/1301.html?root=1301 (accessed 18 May 2016).

After collecting the relevant policies, it is discussed to what extent the EU has competence to act in the above mentioned policy areas. Article 3, 4, and 5 of the Treaty on the Functioning of the European Union (TFEU) list the EU's competences regarding policy areas. Article 3 of the Lisbon Treaty lists the EU's exclusive competences in which 'the EU alone is able to legislate and adopt binding acts.'²⁹ These areas are the customs union, competition policy, monetary policy, common fisheries policy, common commercial policy, and conclusion of international agreements under certain conditions.³⁰

According to Article 4, the EU has shared competences in the fields of 'internal market; social policy; economic, social and territorial cohesion; agriculture and fisheries (except conservation of marine biological resources); environment; consumer protection; transport; trans-European networks; energy; area of freedom, security and justice; public health; research; development cooperation and humanitarian aid'³¹ and it means that 'the EU and EU countries are able to legislate and adopt legally binding acts'³².

Finally, according to Article 6 the EU has supporting competence in the fields of 'protection and improvement of human health; industry; culture; tourism; education, vocational training, youth and sport; civil protection; administrative cooperation' to 'only intervene to support, coordinate or complement the action of EU countries'³³.

After reviewing the EU competences it is clear that in one of the most relevant policy areas to sexual violence, in the area of freedom, security and justice, the EU has shared competence. Furthermore, reviewing the policy areas regarding the exclusive competence, it would appear that there is no area that could be relevant to sexual violence. In conclusion, it can be said that combating sexual violence is not in the realm of EU competence. Nevertheless, actions and legislations in the topic show that the EU cares about combating sexual violence. It will be analysed later in the working paper, whether the EU does it with gender-specific or neutral language.

3. Previous Research

3.1 The prevalence of male victimisation in the context of sexual violence

Although it is not possible to know the real prevalence of victimisation because sexual violence is an under-reported crime, and there is a large hidden number of victims,³⁴ it is important, however, to get an estimation of the prevalence of male victims of sexual violence. Furthermore, it has to be noted that statistics are not suitable for comparison

29 'Division of competences within the European Union', Summary, n.d., at <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=URISERV:ai0020&from=EN> (accessed 9 October 2016).

30 *ibid.*

31 *ibid.*

32 *ibid.*

33 *ibid.*

34 National Centre for Knowledge on Men's Violence Against Women, 'Handbook, National Action Programme for the Health Care and Medical Services' Reception and Care of Victims of Sexual Assault', pp. 13-14, 2008, at <http://kunskapsbanken.nck.uu.se/nckkb/nck/publik/fil/visa/484/nck-handbook-national-action-programme-sexual-assault-english-2008.pdf> (accessed 25 May 2016).

across countries as the states use different definitions of sexual violence.³⁵

In more than half of the EU Member States, gender aggregated Eurostat statistics are available about the prevalence of sexual assault and rape reported to the police. There is no information about the settings the violence occurred in (such as intimate partner violence, child abuse etc.), thus, these figures are provided here as general statistics; and when the contexts of sexual violence are discussed below, relevant statistics are presented there.

Table 1 – Prevalence of male victimisation in sexual violence

Country	Rape and sexual assault reported to the police		Percentage of men (%)
	Number of men	Total number	
Austria	276	2064	13.4
Croatia	100	792	12.6
Czech Republic	236	1779	13.3
Denmark	232	2057	11.3
England and Wales	8374	64021	13.1
Finland	31	901	3.4
Germany	376	7424	5.1
Greece	9	204	4.4
Hungary	96	590	16.3
Ireland	750	3211	23.4
Latvia	34	191	17.8
Lithuania	25	218	11.5
Luxembourg	94	410	22.9
Northern Ireland	343	1809	19
Portugal	240	1687	14.2
Spain	1681	10564	15.9

Eurostat, 2014³⁶

According to the numbers, male sexual victimisation does exist, thus, it can be argued that to a certain extent it has to be acknowledged in policies and by law.

When it comes to the age of the victims, previous statistics show that the number of

35 Coxell, A. W., and King, M. B., 'Adult male rape and sexual assault: prevalence, re-victimisation and the tonic immobility response'. *Sexual and Relationship Therapy*, Vol. 25, No. 4, 2010, p. 372.

36 Eurostat, 'Intentional homicide and sexual offences by legal status and sex of the person involved - number and rate for the relevant sex group', 2014, table, at http://ec.europa.eu/eurostat/web/products-datasets/-/crim_hom_soff (accessed 7 June 2016).

men experiencing sexual violence decreases from a higher number in childhood to lower victimisation in adulthood, while this tendency is not as clearly visible in the case of women.³⁷

3.2 Sexual violence against men: attitudes and myths

According to previous studies male sexual victimisation is a neglected topic in research,³⁸ and it is seen as a taboo.³⁹ There might be several reasons for it and this phenomenon also has important implications. These are discussed in this chapter and in chapter 4.

The traditional view is that men are the aggressors and women are the victims of sexual violence.⁴⁰ This view is supported by the available statistics because the number of women becoming victims of sexual violence is much higher than men. However, this does not mean that men and boys do not experience sexual violence. Due to the fact that the number of men becoming survivors of sexual violence is lower and also because of the traditional view, there are stereotypes in the society that shape the attitude towards male sexual victimisation. These stereotypes are called rape myths in the literature.⁴¹ Previous research collected these myths about male victimisation, namely that men cannot be raped,⁴² male rape cannot happen outside the prison context,⁴³ male survivors are often seen as homosexuals,⁴⁴ women cannot rape men,⁴⁵ and finally that male rape is not a serious problem because men are strong,⁴⁶ and they should be able to defend themselves.⁴⁷ Previous research found that men tend to accept these rape myths more than women.⁴⁸ Male survivors may feel that they are responsible for their experience because they failed to protect themselves.⁴⁹

According to the previous findings, women are more likely to report their experience regarding sexual violence than men.⁵⁰ Literature shows that men and boys often do not want to bring their case to the authorities because of the fear of stigmatization, and this

37 Rape Crisis Network Ireland, 'National Rape Crisis Statistics', pp. 14-15, 2014, at <http://www.rcni.ie/wp-content/uploads/RCNI-National-Statistics-2013.pdf> (accessed 6 June 2016); Plant, M., Miller, P., and Plant, M., Childhood and adult sexual abuse: Relationships with alcohol and other psychoactive drug use. *Child Abuse Review*, Vol. 13, No. 3, 2004, p. 200.

38 Chapleau, K. M., Oswald, D. L., and Russell, B. L., 2008, p. 601.

39 Eriksson, M., 'Sexual Violence in Context', In: Eriksson, M., *Defining Rape: Emerging Obligations for States under International Law?*, Martinus Nijhoff Publishers, 2011 (b), p. 170.

40 Moser and Clark, 2001, cited by Stemple, 2008, p. 611.

41 Lonsway and Fitzgerald, 1994 cited by Chapleau, Oswald and Russell, 2008, p. 602.

42 Stermac, L., Del Bove, G., and Addison, M., 'Stranger and acquaintance sexual assault of adult males'. *Journal of Interpersonal Violence*, Vol. 19, No. 8, 2004, p. 901.

43 Groth and Burgess, 1980, cited by Struckman-Johnson, C., and Struckman-Johnson, D., Acceptance of male rape myths among college men and women. *Sex Roles*, Vol. 27, No. 3-4, 1992, p. 86.

44 *ibid*, p. 901.

45 Turchik, J. A., and Edwards, K. M., 'Myths about male rape: A literature review', *Psychology of Men & Masculinity*, Vol. 13, No. 2, 2012, p. 212.

46 Anderson, 1988, cited by Struckman-Johnson and Struckman-Johnson, 1992, p. 87.

47 Groth and Burgess, 1980, cited by Chapleau, Oswald and Russell, 2008, p. 602.

48 *ibid*, p. 98.

49 Groth and Burgess, 1980, cited by Struckman-Johnson, C., and Struckman-Johnson, D., 1992, p. 87.

50 Pino, N. W., and Meier, R. F., 'Gender differences in rape reporting', *Sex roles*, Vol. 40, No. 11-12, 1999, p. 989.

can cause under-reporting.⁵¹ Thus the recognition and acknowledgement of male sexual victimisation in policies and programmes can be crucial in order to shape both public attitude and the way in which survivors and society are to treat the victims of sexual violence.

When it comes to the specific settings in which sexual violence against men and boys may occur, literature suggests various forms. According to the World Health Organisation, '[r]ape and other forms of sexual coercion directed against men and boys take place in a variety of settings, including in the home, the workplace, schools, on the streets, in the military and during war, as well as in prisons and police custody'.⁵² The WHO identifies a long list of settings in which violence may occur. Stemple focuses on child abuse, prisoner rape, and armed conflicts in her research.⁵³ Sivakumaran suggests that it is 'unlikely that the number of men sexually abused in armed conflict will ever exceed or even equate to the number of women similarly abused'⁵⁴ and this may result in the lack of acknowledgement of men as possible victims of sexual violence. However, due to the fact that men are also victims of sexual violence in armed conflict they should not be overlooked.⁵⁵ In scholars' literature men and boys have been getting more attention as possible victims of sexual violence in the context of armed conflict but 'this development has yet to be consolidated in salient policy guidelines and handbooks'⁵⁶.

The second context mentioned by Stemple is sexual violence committed in prisons.⁵⁷ It is relevant for male victimisation because the number of male prisoners is high. Previous research shows that the prevalence of prison rape highly differs among states. In the US prison rape is a more common phenomenon than, for example, in the UK.⁵⁸ There have been studies trying to identify the reasons for this.⁵⁹

Another vulnerable situation where sexual violence may occur is the case of migrants. In this type of violence men are also affected. A study analysing the experiences of migrants and asylum-seekers in Belgium and in the Netherlands shows that 28.6% of sexual violence revealed by the participants in the research were committed against men.⁶⁰ It is a positive sign towards the acknowledgement of male victimisation of sexual violence that in 2012 the European Court of Human Rights ruled in the *Zontul v. Greece*⁶¹ case in which a Turkish male migrant was raped by Greek coastguards and the Court decided

51 Amnesty International, 2011, p. 8.

52 World Health Organisation, 2002, p. 154.

53 Stemple, 2008, p. 607-608.

54 Sivakumaran, S., 'Sexual violence against men in armed conflict', *European journal of international law*, Vol. 18, No. 2, 2007, p. 260.

55 *ibid*, p. 260.

56 Touquet, H. and Gorris, E., 'Out of the shadows? The inclusion of men and boys in conceptualisations of war-time sexual violence', *Reproductive Health Matters*, Vol. 24, No. 47, 2016, p. 1.

57 Stemple, 2008, p. 608.

58 O'donnell, I., 'Prison rape in context', *British Journal of Criminology*, Vol. 44, No. 2, 2004, p. 244.

59 *ibid*, p. 249.

60 Keygnaert, I., Vettenburg, N., and Temmerman, M., 'Hidden violence is silent rape: sexual and gender-based violence in refugees, asylum seekers and undocumented migrants in Belgium and the Netherlands', *Culture, health & sexuality*, Vol. 14, No. 5, 2012, p. 510.

61 European Court of Human Rights, 'Zontul v. Greece', Application number 12294/07, 17 January 2012, at <http://www.redress.org/case-docket/necati-zontul-v-greece-> (accessed 27 June 2016).

that it constituted torture and ill-treatment.

Based on this literature review, the above mentioned settings are the most common that are discussed in connection with male sexual victimisation. However, there are other settings such as sexual harassment at workplaces or intimate partner violence that may not be the most vulnerable situations for men but violence may occur in these contexts as well. These are also discussed in the next sub-chapter regarding how the EU combats sexual violence.

3.3 The EU combating sexual violence

In this section scholarly papers analysing the ways the EU combats sexual violence and studies issued by the EU are overviewed to set the context of this working paper. The following forms of violence are addressed here: sexual harassment, child sexual abuse, domestic violence, human trafficking, and prison violence. Sexual violence in armed conflict is not discussed because the working paper focuses on EU internal actions only. Due to the widespread activities of the EU combating sexual violence, the presentation of all the measures, policies, and documents would go beyond the scope of this paper. However, it is relevant to mention some key documents and statistics in order to set the context.

One form of sexual violence is sexual harassment. According to a study issued by the European Commission in 1998, about 10% of men⁶² and around 30-50% of women⁶³ experience sexual harassment in the EU. In the EU, sexual harassment is defined as 'where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment'⁶⁴. In 2002, the EU adopted the Directive 2002/73/EC, which is 'a major step toward harmonizing public policy aimed at reducing sexual harassment in the workplace.'⁶⁵

Another form of sexual violence is child sexual abuse. In Europe, around 10-20% of children experience sexual assault during their childhood.⁶⁶ Worldwide, data suggests that 8-31% of girls, and 3-17% of boys face sexual abuse.⁶⁷ According to WHO, '20% of women and 5-10% of men report having been sexually abused as children'⁶⁸. There are

62 European Commission, Directorate-General for Employment, Industrial Relations and Social Affairs Unit V/D.5, 'Sexual harassment in the workplaces in the European Union', 1998, p. 5, at <http://www.un.org/womenwatch/osagi/pdf/shworkpl.pdf> (accessed 16 June 2016).

63 *ibid.*, p. 5.

64 'Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions', *Official Journal of the European Commission*, 5 October 2002, p. L269/17.

65 Gomes, G. M., Owens, J. M., and Morgan, J. F., 'Prohibiting sexual harassment in the European Union: An unfinished public policy agenda'. *Employee Relations*, Vol. 26, No. 3, 2004, p. 304.

66 European Commission, 'Child Sexual Abuse', Last update: 18 March 2016, at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/child-sexual-abuse/index_en.htm (accessed 28 May 2016).

67 Barth, J., Bermetz, L., Heim, E., Trelle, S., and Tonia, T., 'The current prevalence of child sexual abuse worldwide: a systematic review and meta-analysis', *International journal of public health*, Vol. 58, No. 3, 2013, p. 469.

68 World Health Organisation, 2014, p. 70.

several forms of abuse. It is not limited to abuse by parents and relatives; another form of sexual violence is child pornography. In order to combat child sexual abuse, the EU adopted the Directive 2011/92/EU⁶⁹.

Domestic violence is addressed in various documents in the EU such as the European Protection Order (Directive 2011/99), the victim's rights directive (Directive 2012/29), whilst other specific programmes were also launched, such as the Daphne Programmes to combat violence.⁷⁰

Human trafficking is a widespread human rights violation. People are trafficked for different reasons such as forced labour or sexual exploitation. In this working paper, human trafficking for the purpose of sexual exploitation is relevant. There are 15 846 'registered victims' of trafficking in the EU, 67% of them are trafficked for sexual exploitation, and 76% of all victims are women and at least 15% are children.⁷¹ In order to combat human trafficking, the EU adopted the Directive 2011/36/EU.

As far as the author knows, so far the EU has not adopted a legal act explicitly addressing the problem of sexual violence committed in prisons.

3.4 Adequate policy framing: Gender-neutral or gender-specific language

One of the main questions regarding addressing sexual violence is whether the fact that women experience more sexual violence should be visible in policies with using gender-specific language, or whether the best way to handle the issue is using gender-neutral language. This debate has been addressed in previous studies.

Goldscheid argues that the gender-specific 'violence against women' framework that has been used with the hope that the focus on women would contribute to the elimination of violence directed towards women 'is problematic empirically, theoretically, politically and legally, and practically'⁷². Empirically, gender-specific language goes against statistics because even though women are vastly over-represented amongst victims of intimate partner violence, there are also male victims of sexual violence.⁷³ Theoretically, the problem is that saying that only men commit violence against women only exclude different groups of survivors such as homosexuals and transgendered people. Thus the

69 'Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA', *Official Journal of the European Union*, L 335/1, 17 December 2011, at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011L0093&from=EN> (accessed 1 June 2016).

70 Lamont, R., 'Beating domestic violence? Assessing the EU's contribution to tackling violence against women', *Common Market Law Review*, Vol. 50, No. 6, 2013, pp. 1787-1807.

71 European Commission, 'Report on the progress made in the fight against trafficking in human beings (2016) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims {SWD(2016) 159 final}', 2016, p. 4, at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings/docs/commission_report_on_the_progress_made_in_the_fight_against_trafficking_in_human_beings_2016_en.pdf (accessed 22 June 2016).

72 Goldscheid, J., 'Gender Neutrality and the "Violence Against Women" Frame', *University of Miami Race & Social Justice Law Review*, Vol. 5, 2015, p. 310, at <http://repository.law.miami.edu/cgi/viewcontent.cgi?article=1040&context=umrsjlr> (accessed 20 June 2016).

73 *ibid*, p. 313.

gender-specific language in the gender binary system is not inclusive.⁷⁴ Furthermore, according to Richie the ‘violence against women’ frame implies that ‘any woman (...) can be the victim’⁷⁵. Furthermore, this frame can be seen as an obstacle for intersectionality.⁷⁶ Although, the frame was supported by feminists, it also contradicts with feminist theory as it does not acknowledge that women can be violent as well and considers women as targets.⁷⁷

According to Goldscheid, gender-specific language is problematic politically and legally as according to the advocates of fathers’ rights movements and conservative feminists, it constitutes ‘reverse discrimination and violates equal protection’⁷⁸.

Finally, the practical problem according to Goldscheid is that the ‘violence against women’ frame makes it difficult for the LGBT community to seek for and find support services.⁷⁹ In conclusion, Goldscheid suggests the framing of ‘gender based violence’ or ‘gender violence’, instead of using ‘violence against women’.⁸⁰ These frames integrate women as the main target, but do not exclude men completely.⁸¹

Another context in which gender-specific or gender-neutral language may be important is surveys. In previous research, it has been analysed whether gender-neutral language has an impact on the self-reporting of experience about sexual violence. Research suggests that gender neutrality can be more appropriate compared to gender-specific language because gender-neutral language does not include heterosexual assumption that same-sex victimisation does not happen. Furthermore, neutral language is legally grounded as in many countries it is used in the laws.⁸² Although, there is a rationale behind the gender-neutral language, previous research has not found significant results supporting that gender-neutral language leads to higher reporting rates.⁸³

Rumney – in his paper defending gender neutrality – has summarized the main arguments on the other side of the debate, favouring gender-specific language. Based on Novotny’s article, he identified 6 arguments for gender-specific language: namely that the analysis of male sexual victimisation is not newsworthy; gender neutrality can be seen as a backlash against feminism; it causes women to no longer be seen as the main target group of rape; it implies equal victimisation between men and women; it undermines the legal response to rape and, finally, gender neutrality is not able to capture the differences in experiences faced by female and male survivors.⁸⁴ Rumney argues that the criticisms

74 *ibid.*, p. 315.

75 Richie, B. E., ‘How We Won the Mainstream but Lost the Movement’, p. 91, In: Richie, B. E. *Arrested Justice: Black Women, Violence, and America’s Prison Nation*, New York University Press, New York and London, 2012.

76 Goldscheid, 2015, p. 316.

77 *ibid.*, p. 316.

78 *ibid.*, p. 317.

79 *ibid.*, p. 318.

80 *ibid.*, p. 322.

81 *ibid.*, p. 324.

82 Koss et al, 2007, cited by Anthony, E. R., and Cook, S. L., ‘Assessing the impact of gender-neutral language on disclosure of sexual violence’. *Psychology of Violence*, Vol.2, No. 3, 2012, p. 298.

83 Anthony, E. R. and Cook, S. L., 2012, p. 304.

84 Rumney, P., ‘In defence of gender neutrality within rape’. *Seattle Journal of Social Justice*, Vol. 6, No. 1, 2007, p. 489, p. 490, p. 492, p. 500, p. 503, p. 506.

favouring gender-specific language are not based on empirical evidence and sufficient analysis.⁸⁵ Brownmiller also argues that the gender of the victim should not matter in the help and service the survivor gets. She says that 'all the acts of sex forced on unwilling victims deserve to be treated in concept as equally grave offenses in the eyes of the law, for the avenue of penetration is less significant than the intent to degrade. Similarly, the gravity of the offence ought not to be bound by the victim's gender. That the law must move in this direction seems clear'⁸⁶.

However, the UN Handbook on Violence against Women suggests that gender-sensitive legislation is better than gender blind because it 'recognizes the inequalities between women and men, as well as the specific needs of women and men'⁸⁷ but it is acknowledged in the document that gender sensitive language makes it difficult to prosecute violence against men.

A study issued by the European Commission analysing the gender characteristic of human trafficking also suggests that due to the fact that women are overwhelmingly the victims of sexual exploitation (e.g. women are advertised on the internet for sexual purposes) gender-specific measures are needed. It is said that 'assistance to victims needs to be gender-specific since the harms are gender-specific and the harms from trafficking for purposes of sexual exploitation, of which women are overwhelmingly the victims, are different from the harms from trafficking for other purposes which are more evenly experienced by women and men'⁸⁸.

Based on the previous studies and the human rights approach that this working paper has, the adequate frame is identified to be the gender-neutral language as it is more inclusive because it does not neglect men. However, it is acknowledged that women experience much more sexual violence than, thus gender-specific support services and programmes may be adequate, addressing the problems faced by women and men separately.

4. Relevant Theories to Male Sexual Violence

4.1 Social Constructionism

According to social constructionism, our lives are influenced by the society we live in because it shapes our thoughts and knowledge. Thus social forces influence our understanding of the world.⁸⁹ One of the social forces is language thus it is important to

85 *ibid*, p. 508.

86 Brownmiller, 1975, cited by Rumney p. 491.

87 United Nations, Department of Economic and Social Affairs Division for the Advancement of Women, 'Handbook for Legislation on Violence against Women', ST/ESA/329, Chapter 3, 2010, p. 15, at <http://www.un.org/women-watch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf> (accessed 26 May 2016).

88 European Commission, Study on the gender dimension of trafficking in human beings, 2016, p. 182, at https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/study_on_the_gender_dimension_of_trafficking_in_human_beings_final_report.pdf (accessed on 27 July 2016).

89 Bacchi, C. and Eveline, J., 'Approaches to gender mainstreaming: What's the problem represented to be?' In

analyse how a problem is addressed.⁹⁰ Gender-specific and gender-neutral languages are connected to this line of thought as important factors that may have impact on our views.

The social constructs of traditional gender roles affect people's lives and behaviour. In the context of sexual violence, masculinity has a key role. Men are traditionally considered to be strong, and it can have an impact on the way they overcome the trauma of sexual victimisation and for example, as mentioned previously, can cause under-reporting.⁹¹ Masculinity is embedded in the society as a concept⁹² and the question is what kind of impact using gender-specific language in legal acts and documents, and portraying men as offenders of sexual violence have and how they strengthen traditional gender roles.

4.2 Feminism

It is an important subject why male victimisation in sexual violence is neglected in the literature. The question is whether lower prevalence is the only reason for this, or there are other issues that need to be taken into account as well. According to several researchers, sexual violence is seen as a feminist issue⁹³ and feminist research has had an impact on why male victimisation is neglected. "A number of authors argue that the publicity of female rape and some feminist literature facilitate the silence and isolation of male rape survivors by relegating discussions on male rape."⁹⁴

According to Goodey there are two key reasons why feminist research has neglected male victimisation of sexual violence. First, feminist researchers – as the rest of societies too – rely on the assumptions that women are vulnerable and fearful, and men are violent and fearless.⁹⁵ Second, they emphasise women's trauma of violence perpetrated by men and this simply leads to the neglect of male victims.⁹⁶ However, there are scholars who 'are reluctant to 'blame feminism' for the negligence of male rape.'⁹⁷

Bacchi, C. and Eveline J. (eds): *Mainstreaming politics: Gendering practices and feminist theory*. University of Adelaide Press, 2010, p. 117.

90 Richardson, P., 'Language as personal resource and as social construct: Competing views of literacy pedagogy in Australia'. *Educational review*, Vol. 43, No.2, 1991, p. 171.

91 Solangon, S., and Patel, P., Sexual violence against men in countries affected by armed conflict. *Conflict, Security & Development*, Vol. 12, No. 4, 2012, p. 422.

92 Berrington, E., and Jones, H., 'Reality vs. myth: Constructions of women's insecurity', *Feminist Media Studies*, Vol. 2, No. 3, 2002, p. 307.

93 Cohen, C., 'Introduction – Feminism, Governmentality, and 'Male' Rape', Chapter 1, p. 3, In: Cohen, C. *Male Rape is a Feminist Issue: Feminism, Governmentality, and Male Rape*, Palgrave Macmillan, 2014.

94 Goodey, J., 2005 cited by Javaid, A., 'Voluntary Agencies' Responses to, and Attitudes toward Male Rape: Issues and Concerns', *Sexuality & Culture*, 2016, p. 8.

95 Goodey, J., 2005 cited by Javaid, A., 2016, p. 9.

96 *ibid*, p. 9.

97 Javaid, A., 2016, p. 12.

5. Methodology

5.1 Selection of the research material and identification of the relevant policy areas

In the literature review, settings were identified in which sexual violence may occur (including both female and male victims). These were presented in Chapter 3.

The relevant research material was identified in different ways. Firstly, materials were collected from the EUR-Lex website. The two relevant policy areas to search for documents were (1) Justice, freedom, and security and (2) Human Rights. Secondly, relevant research materials were identified by using other previous studies as well. In databases (Scopus, Jstor, Google Scholar, ScienceDirect), previous research papers⁹⁸ were identified that analyse the EU's activities combating sexual violence. The relevant EU documents mentioned in these papers were used in the selection process.

In order to limit the large number of documents for the analysis, the timeframe was set from 2000 to 2016. If the EU renewed a policy document overtime, only the most recent version of the document was analysed.

In the selection process, 45 documents were collected for analysis. These are all official documents released by the EU. The nature of the texts varies: there are 2 treaties, 2 regulations, 8 directives, and 33 soft law documents. The list of the analysed documents is available in the Appendix.

In this selection process the intention was to collect a wide range of documents that are relevant to sexual violence in the EU. A document was considered to be relevant if it discussed the EU's actions combating sexual violence. The identification of these materials was based on the title of the documents found on the above mentioned site of the EUR-Lex policy areas. In case the selection could not be made clearly based on the titles, the documents were checked more thoroughly (by searching in the text for certain phrases that are identified in the next sub-chapter). The author is aware of the fact that it is possible that not every relevant document was collected due to the widespread activities of the EU. Nevertheless, it is believed that due to the number of the collected documents the analysis conducted was reliable.

5.2 Methodological techniques

In the working paper a discourse analysis is conducted in order to analyse whether the EU documents selected for the analysis use gender-specific or gender-neutral language. Thus, at the end of the analysis it would be possible to answer the research question to what extent men and boys are recognised as possible victims of sexual violence in EU

98 Lamont, R., 2013, pp. 1787-1807; Gomes, G. M., Owens, J. M., and Morgan, J. F., 2004, pp. 292-306; European Parliament, Directorate-General for Internal Policies, 'The Issue of Violence Against Women in the European Union', 2016, pp. 32-40, at [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556931/IPOL_STU\(2016\)556931_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/556931/IPOL_STU(2016)556931_EN.pdf) (accessed 26 May 2016).

policy documents.

Due to the fact that in most cases the documents have a broader focus than sexual violence, the relevant parts of the texts have to be located. In order to do so, several search terms were used to find the relevant parts of the documents. These search terms were 'sexual', 'violence', 'assault', 'harassment', 'rape', 'abuse', 'boys', 'girls', 'women', and 'men'. These terms are based on how different organisations, such as the WHO define sexual violence. These broad terms are used instead of phrases (such as sexual violence etc.) to find all the instances that are relevant for the research. This method to locate relevant parts of documents has been used in previous research, however, a paper in which it was applied used phrases such as 'sexual violence' as search terms.⁹⁹ It is believed that more relevant parts can be identified with using words instead of phrases, therefore this method is used in this working paper.

After identifying where the EU official documents speak about sexual violence, a categorisation is provided as part of the analysis. This categorisation aims to find out whether the policies use gender-neutral language (person, victim etc.), or specify one gender. This part of the analysis includes a quantitative part, namely counting the instances when gender-neutral and gender-specific language are used, followed by a qualitative analysis of what context the usage of a given language occurs in (such as whether the document underlines with statistics why women are discussed more extensively, or whether it speaks about both genders or only about one).

After analysing the documents regarding gender neutrality, the next step in the analysis is to identify in which contexts and settings sexual violence is addressed by the EU (these contexts are identified in chapter 3.3) and whether there are contexts that are identified by previous research but the EU does not focus on them.

In the discussion it is addressed what implications the findings might have for male victimisation, such as whether gender-specific/gender-neutral language may discourage/encourage men to report their experience or how it may influence the available support services etc. To answer these questions further research would be needed. However, the first step is to identify the EU's approach towards sexual victimisation. This is what this working paper aims to do.

⁹⁹ Keygnaert, I., and Guieu, A., 'What the eye does not see: a critical interpretive synthesis of European Union policies addressing sexual violence in vulnerable migrants'. *Reproductive health matters*, Vol. 23, No. 46, 2015, p. 46.

6. Analysis and results

The table below summarises the results of the analysis.

Table 2 – The types of documents analysed

	Primary law sources	Secondary law sources			
		legally binding documents (regulations and directives)	soft law documents about women (Question: are men mentioned?)	soft law documents about children ¹	the remaining soft law documents
gender neutral		9	1	2	1
gender specific	1		17		11
no mention of sexual violence explicitly	1	1			1

The only primary law documents that are analysed here are the Treaty on the European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU), because these are the most recent treaties of the EU. TFEU mentions sexual exploitation in relation with female and children victims in Article 83(1) saying that:

‘The European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules concerning the definition of criminal offences and sanctions in the areas of particularly serious crime with a cross-border dimension resulting from the nature or impact of such offences or from a special need to combat them on a common basis.

These areas of crime are the following: terrorism, trafficking in human beings and sexual exploitation of women and children, illicit drug trafficking, illicit arms trafficking, money laundering, corruption, counterfeiting of means of payment, computer crime and organised crime.’¹⁰⁰

This means that in TFEU there is a direct reference to sexual exploitation and gen-

¹⁰⁰ ‘Consolidated Version of the Treaty on the Functioning of the European Union’, *Official Journal of the European Union*, C326/81, 26 October 2012, Article 83(1), at http://eur-lex.europa.eu/resource.html?uri=cellar:2b-f140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_2&format=PDF (accessed 12 December 2016).

der-specific language is used. Both TFEU Article 8¹⁰¹ and TEU Article 2-3¹⁰² refer to the principle of equality between men and women.

Among the secondary law documents, first those documents are analysed that have legally binding status to a certain extent. These are the regulations and the directives. 'Regulations are of general application, binding in their entirety and directly applicable.'¹⁰³ Among the collected documents, there are two regulations that are relevant regarding sexual violence. These have the strongest status among the analysed secondary law documents. *Regulation (EU) No 606/2013 on mutual recognition of protection measures in civil matters* uses gender-neutral language because it does not mention the gender of the victims when it speaks about sexual violence, and furthermore it specifies that 'it is important to underline that this Regulation applies to all victims, regardless of whether they are victims of gender-based violence'¹⁰⁴.

The other analysed regulation is the *Regulation (EU) No 1381/2013 on establishing a Rights, Equality and Citizenship Programme*. It does not explicitly mention sexual violence but it speaks about all forms of violence. The Regulation has a gender-specific language as it says that one of its objectives is 'to prevent and combat all forms of violence against children, young people and women, as well as violence against other groups at risk'¹⁰⁵. According to the Regulation, it is important to take steps against violence against women because this activity 'contributes to the promotion of equality between women and men'¹⁰⁶.

The 8 analysed directives 'are binding, as to the result to be achieved, upon any or all of the Member States to whom they are addressed, but leave to the national authorities the choice of form and methods'¹⁰⁷. *Directive 2012/29/EU on establishing minimum standards on the rights, support and protection of victims of crime* uses gender-neutral language with using the words 'person' and 'victim' when it speaks about the survivors, but it highlights women and children in the sense that 'women victims of gender-based violence and their children often require special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and of retaliation connected with such violence'¹⁰⁸.

101 *ibid*, p. 53.

102 Consolidated Version of the Treaty on the European Union', *Official Journal of the European Union*, C326/17, 26 October 2012, Article 2-3, at http://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e-6da6.0023.02/DOC_1&format=PDF (accessed 12 December 2016).

103 European Parliament, 'Sources and Scope of European Union Law', 2016, p. 2, at http://www.europarl.europa.eu/ftu/pdf/en/FTU_1.2.1.pdf (accessed 3 July 2016).

104 'Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters', *Official Journal of the European Union*, L 181/4, 29 June 2013, p. 4, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:181:0004:0012:en:PDF> (accessed 1 June 2016).

105 'Regulation (EU) No 1381/2013 of the European Parliament and of the Council of 17 December 2013 establishing a Rights, Equality and Citizenship Programme for the period 2014 to 2020', *Official Journal of the European Union*, L 354/62, 28 December 2013, p. 67, at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1381&from=EN> (accessed 1 June 2016).

106 *ibid*, p. 63.

107 European Parliament, 2016, p. 2.

108 '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/JHA', *Official Journal of the European Union*, L 315/57, 14 November 2012, p. 59, at <http://eur-lex.europa>.

The second analysed directive is the *Directive 2011/99/EU on the European protection order*. It does not use a specific gender when it describes the victims, instead of gender-specific language it uses the word 'person'.¹⁰⁹

The next relevant directive is the *Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*. Although specific genders are mentioned it acknowledges that both women and men can be victims of human trafficking (thus, it is categorised into the gender-neutral group) and emphasises that 'this Directive recognises the gender-specific phenomenon of trafficking and that women and men are often trafficked for different purposes. For this reason, assistance and support measures should also be gender-specific where appropriate'¹¹⁰, thus, it promotes gender-specific services.

The fourth directive is the *Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings*. The document speaks about the survivors of sexual violence, as 'victims of sexual violence'¹¹¹, thus, it also uses gender-neutral language.

The *Directive 2002/73/EC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working condition* does not use gender-specific language (it says e.g. victim) and it refers to the importance of non-discrimination. The Directive also emphasises that 'harassment and sexual harassment within the meaning of this Directive shall be deemed to be discrimination on the grounds of sex and therefore prohibited'¹¹².

The *Directive 2006/54/EC on men and women in matters of employment and occupation (recast)* defines sexual harassment with a gender-neutral term 'person', namely that 'where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment'¹¹³.

[eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=en](http://eu.legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=en) (accessed 2 June 2016).

109 'Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order', *Official Journal of the European Union*, L 338/2, 21 December 2011, p. 3, at http://ec.europa.eu/justice/criminal/files/directive_2011_99_on_epo_en.pdf (accessed 9 June 2016).

110 'Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA', *Official Journal of the European Union*, L 101/1, 15 April 2011, p. 1, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF> (accessed 5 June 2016).

111 'Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities', *Official Journal of the European Union*, L 261/19, 6 August 2008, p. 22, at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32004L0081&from=EN> (accessed 3 June 2016).

112 'Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions', *Official Journal of the European Union*, L 269/15, 5 October 2002, p. 17, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:269:0015:0020:EN:PDF> (accessed 2 June 2016).

113 '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)', *Official Journal of the European Union*, L 204/23, 26 July 2006, p. 26, at <http://eur-lex.europa.eu/>

The seventh directive is the *Directive 2010/41/EU on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity* and it uses the same definition for sexual harassment as the previous directive. Thus, it uses gender-neutral terms, and also emphasises that sexual harassment is a form of discrimination based on sex¹¹⁴ (as it was mentioned in the fifth directive as well).

Lastly, regarding children there is a specific directive, the *Directive 2011/92/EU on combating the sexual abuse and exploitation of children and child pornography* and it does not speak about girls and boys separately but about children in general, thus, it uses gender-neutral language.¹¹⁵

In conclusion, the 8 directives analysed above do not discriminate men on the basis of sex when they speak about victims. In 2 directives it is emphasised that women are the main target group and gender-specific assistance is important.

After analysing the legally binding documents, we turn to soft law documents. 18 out of the 45 analysed documents cover violence against women. These texts belong to the category of soft law documents, and are not legally binding. These documents are not gender-neutral, thus, the question analysed in them is whether they mention that men can also be victims of sexual violence. After analysing these documents it was found that there is 1 document, the *Opinion on EU Strategy on Violence Against Women and Girls* that points out that men and boys can also be targets of sexual violence. It says that 'the working group also notes that men and boys may also be victims of some forms of violence and the importance of this is not diminished by the development of the strategy on violence against women'¹¹⁶. Therefore, it is acknowledged that men and boys can be victims of violence.

In the documents about children (3 out of 45) the analysed question is whether gender-neutral terms are used, such as children, minors, or boys and girls are mentioned. One of these documents was analysed among the directives, and it does not use gender-specific language. The other two relevant texts also speak about children in general, and they only mention one gender when it is disproportionately affected by a form of violence such as in the example that 'around 6 million children in forced and bonded labour (mostly in Asia and the Pacific), and around 300,000 children (mostly boys) involved at any given time in armed conflicts'¹¹⁷.

[LexUriServ/LexUriServ.do?uri=OJ:L:2006:204:0023:0036:en:PDF](#) (accessed 2 June 2016).

114 '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', *Official Journal of the European Union*, L 180/1, 15 July 2010, p. 4, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:180:0001:0006:en:PDF> (accessed 5 June 2016).

115 'Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA', 2011, p. 1.

116 European Commission, Advisory Committee on Equal Opportunities for Women and Men, 'Opinion on EU Strategy on Violence Against Women and Girls', 2010, p. 9, at http://ec.europa.eu/justice/gender-equality/files/opinions_advisory_committee/2010_12_opinion_on_eu_strategy_on_violence_against_women_and_girls_en.pdf (accessed 4 June 2016).

117 European Commission, 'Commission Staff Working Document, Trade and Worst Forms of Child Labour', SWD(2013) 173 final, 30 April 2013, p. 37, at http://trade.ec.europa.eu/doclib/docs/2013/may/tradoc_151114.pdf

Among the remaining 13 documents, 12 documents use gender-specific language. The important question to be analysed is in what context they do so. There are examples when there are gender-specific statistics about the prevalence of certain crimes. In other cases, women or women and girls are highlighted as the main target groups of sexual violence. There are examples among the analysed texts where prevalence data is provided. *The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016* says that '(...) 79 per cent of identified victims of human trafficking were subject to sexual exploitation, 18 per cent to forced labour and 3 per cent to other forms of exploitation. Of these victims, 66 per cent were women, 13 per cent girls, 12 per cent men and 9 per cent boys'¹¹⁸. The same document discusses statistics from the EU Member States. 'Twenty-one EU Member States were able to give gender-specific information. This shows that over the three years women and girls are the main victims of trafficking in human beings; female victims accounted for 79 per cent (of whom 12 per cent were girls) and male victims for 21 per cent (of whom 3 per cent were boys)'¹¹⁹. It is important to note that the document acknowledges that 'women and men, girls and boys in vulnerable positions'¹²⁰ can be targeted. This document also highlights that 'gender specificities of the way men and women are recruited and exploited'¹²¹ are important to be noted.

Another document providing statistics is the *Report on the progress made in the fight against trafficking in human beings (2016) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*. It provides statistics about human trafficking for sexual exploitation and says that 95% of all registered victims of sexual exploitation were female.¹²²

The final document providing statistical data is the *Strategic engagement for gender equality 2016-2019*. It says that the proportions of victims in different gender and age groups are the following: 68 % women, 17 % men, 12 % girls and 3 % boys.¹²³

The *Report on the progress made in the fight against trafficking in human beings (2016) as required under Article 20 of Directive 2011/36/EU* highlights that although women are the main target of sexual exploitation 'a few Member States have reported an increase in the number of male victims'¹²⁴.

(accessed 4 June 2016).

118 European Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions *The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016*'; COM(2012) 286 final, 19 June 2012, p. 2, at http://ec.europa.eu/home-affairs/doc_centre/crime/docs/trafficking_in_human_beings_eradication-2012_2016_en.pdf (accessed 4 June 2016).

119 *ibid*, p. 3.

120 *ibid*, p. 2.

121 *ibid*, p. 14.

122 European Commission, 'Report from the Commission to the European Parliament and the Council *Report on the progress made in the fight against trafficking in human beings (2016) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims* {SWD(2016) 159 final}; COM(2016) 267 final, 19 May 2016, p. 6, at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings/docs/commission_report_on_the_progress_made_in_the_fight_against_trafficking_in_human_beings_2016_en.pdf (accessed 4 June 2016).

123 European Commission, 'Strategic engagement for gender equality 2016-2019', 2015, p. 8, at https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/strategic_engagement_for_gender_equality_en.pdf (accessed 5 June 2016).

124 European Commission, 19 May 2016, p. 6.

In the Commission's Communication on *Fighting trafficking in human beings - an integrated approach and proposals for an action plan*, it is highlighted that 'human trafficking is not necessarily a gender specific crime as men and, in particular, boys are also victims of sexual and labour exploitation'¹²⁵. However, 'trafficking in women and girls especially for commercial sexual exploitation is a wide reality'¹²⁶. However, as in other previously analysed documents, it is stated in this Communication as well that 'gender specific prevention strategies'¹²⁷ are key elements 'to combat trafficking in women and girls'¹²⁸.

The *EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings* is another document that highlights the importance of 'gender specific prevention strategies (...) to combat trafficking in women and girls.'¹²⁹

The *Commission Working Document on the Evaluation and monitoring of the implementation of the EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings* identifies 'children, women, migrants and indigenous people'¹³⁰ as the most vulnerable groups to become victims.

The *Stockholm Programme - An open and secure Europe serving and protecting the citizen* highlights that among the serious crimes there are some that should be prioritised. One example is sexual exploitation of women and children,¹³¹ thus, the text uses gender-specific language.

The *Action Plan Implementing the Stockholm Programme* points out the importance of combating violence against women and children, and it does not speak about men.¹³²

The *Roadmap for equality between women and men 2006-2010* also only speaks about women and children as main targets of sexual exploitation,¹³³ and does not address men

125 Commission of the European Communities, 'COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Fighting trafficking in human beings - an integrated approach and proposals for an action plan', COM(2005) 514 final, 18 October 2005, p. 7, at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52005DC0514&from=EN> (accessed 4 June 2016).

126 *ibid*, 2005, p. 7.

127 *ibid*, p. 8.

128 *ibid*, p. 8.

129 'EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings', *Official Journal of the European Union*, C 311/1, 9 December 2005, p. 2, at https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu_action_plan_on_combating_human_trafficking_en_1.pdf (accessed 6 June 2016).

130 Commission of the European Communities, 'Commission Working Document Evaluation and monitoring of the implementation of the EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings', COM(2008) 657 final, 17 October 2008, p. 7, at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008DC0657&from=en> (accessed 5 June 2016).

131 Council of the European Union, 'Stockholm Programme - An open and secure Europe serving and protecting the citizen', 17024/09, 2 December 2009, p. 28, at https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/the_stockholm_programme_-_an_open_and_secure_europe_en_1.pdf (accessed 15 June 2016).

132 European Commission, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Delivering an area of freedom, security and justice for Europe's citizens, Action Plan Implementing the Stockholm Programme', COM(2010) 171 final, 20 April 2010, p. 35, at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:0171:FIN:en:PDF> (accessed 10 June 2016).

133 Commission of the European Communities, 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, A Roadmap for equality between women and men 2006-2010 {SEC(2006) 275}', COM(2006) 92 final, 1 March 2006, p. 7, at <http://>

as possible victims.

The *Strategy for the equality between men and women 2010-2015* does not address sexual violence explicitly but it uses a gender-neutral approach in the sense that it encourages that 'policies should also address gender-related inequalities that affect boys/men such as literacy rates, early school-leaving and occupational health'¹³⁴. This specific quotation is not about sexual violence but it shows that men and boys are not neglected.

Finally, the *European Pact for Gender Equality (2011-2020)* points out the importance of strategies that aim to eliminate violence against women,¹³⁵ therefore, there is gender-specific language in it.

In the process of the analysis, 45 primary and secondary law documents addressing sexual violence released by the EU were analysed regarding the gender language that is used in them. 3 did not mention sexual violence explicitly; 10 documents were gender-neutral; 24 were gender-specific; 1 document was gender-neutral in the sense that it mentioned both men and women explicitly but it called for gender-specific actions; 1 was neutral when it talked about the victims, but it emphasised that the main target group is women, and 6 documents were gender-specific but acknowledged men as possible victims.

As the final part of the analysis, it is noted that there are various settings in which the EU addresses sexual violence (e.g. human trafficking) but there are contexts that are only included implicitly in the general documents such as sexual violence committed in prisons.

7. Discussion with concluding remarks

The working paper aimed to analyse the EU's actions combating sexual violence. It is important to point out that based on Chapter 2.2 the EU does not have exclusive competence to act in the field of sexual violence: in other words it is not in the realm of the EU to legislate in this area. Thus, the EU's actions to combat sexual violence are appreciated. The research question of this working paper was '*To what extent do EU policies acknowledge men and boys as possible victims of sexual violence?*'. The results of the analysis show that roughly half of the analysed documents used gender-neutral language, whilst approximately half used gender-specific language. But the picture is not as clear as it seems because there were specific categories when, for example, the documents used gender-specific language but acknowledged male victims as well. It means that men and boys are recognised as possible victims of sexual violence in the EU to a certain extent.

eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52006DC0092&from=EN (accessed 12 June 2016).

¹³⁴ European Commission, 'Strategy for the equality between men and women 2010-2015', 2010, p. 32, at http://ec.europa.eu/justice/gender-equality/files/documents/strategy_equality_women_men_en.pdf (accessed 7 June 2016).

¹³⁵ 'Council conclusions of 7 March 2011 on European Pact for Gender Equality (2011-2020)', *Official Journal of the European Union*, C 155/10, 25 May 2011, p. 12, at [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011XG0525\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011XG0525(01)&from=EN) (access 8 June 2016).

However, it is difficult to evaluate whether this proportion of gender-neutral and gender-specific documents is desirable. With the methodology of this working paper it is not possible to answer this point on a scientifically well-founded basis. Thus, the results are discussed from the aspect of the legal status of the analysed texts. 12 out of the 45 analysed documents have legally binding status to a certain extent. Out of these 12, 2 used gender-specific language; 7 were completely gender-neutral; 1 document mentioned both men and women; 1 was gender-neutral but mentioned women as a high-risk group, and 1 did not mention sexual violence. This means that the proportion of gender-neutral documents was higher among the legally binding acts.

The idea behind the research was that even though women are the high risk group of sexual violence, in policy and legal documents it should be acknowledged that men can also become victims of sexual violence. According to the literature as well gender-neutral language seems to be desirable, however it does not mean that the fact should not be addressed that women overwhelmingly experience sexual violence compared to men. Gender-specific policies, programmes, or legal acts are favourable in this sense. However, it also means that a gender-specific policy would be desirable regarding men as well, in order to acknowledge the gender-specific problems men face as survivors of sexual violence. In the EU's activities such programmes exist for women, for example the Daphne Programmes.

Regarding the topics and settings that are covered by the EU, it can be said that different weights are put on the various topics. While human trafficking seems to be addressed extensively, there are some settings that according to the author's knowledge are not addressed explicitly, such as sexual violence committed in prisons. In the context of male sexual victimisation it would be desirable to discuss prison violence as men are highly affected by it.

The research has some limitations that have to be discussed. First of all, the EU has a large amount of legal acts and policy documents: therefore it was not possible to collect every single legal act that addressed sexual violence. However, it is believed that the most important documents were found, and there is no reason to think that there were systematic distortions during the sampling procedure that would have affected the results. Another limitation of the working paper is that it cannot properly evaluate the results regarding the question of what would be a desirable proportion of gender-neutral and gender-specific policies. Due to the fact that the prevalence of male and female victimisation are disproportionate, it is understandable that to a certain extent there is difference in the number of documents using gender-neutral and gender-specific languages. In order to answer this question in the future the satisfactory balance between the prevalence of and the response to sexual violence has to be operationalised.

Further research would be useful on the impact of gender-neutral and gender-specific languages. It would also be interesting to see a comparison between the older and more recent EU documents over time.

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Appendix

Table 3 – Research Material

Primary Law	Secondary Law		
	Legally binding		Soft law
	Regulations	Directives	
TFEU	Regulation (EU) No 606/2013	Directive 2012/29/EU	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016
TEU	Regulation (EU) No 1381/2013	Directive 2011/99/EU	Communication from the Commission to the Council and the European Parliament on Trafficking In Women For The Purpose Of Sexual Exploitation, Brussels, 20.11.1996 COM(96) 567 final
		Directive 2011/36/EU	Communication from the Commission to the European Parliament and the Council Fighting trafficking in human beings - an integrated approach and proposals for an action plan, Brussels, 18.10.2005 COM(2005) 514 final
		Council Directive 2004/81/EC	EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings (2005/C 311/01)
		Directive 2002/73/EC amending Council Directive 76/207/EEC	Commission working document on the Evaluation and monitoring of the implementation of the EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings (COM(2008) 657 final

Primary Law	Secondary Law		
	Legally binding		Soft law
	Regulations	Directives	
		Directive 2006/54/EC	Commission Staff Working Document, Report on the progress made in the fight against trafficking in human beings (2016) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims
		Directive 2010/41/EU	Report from the Commission to the European Parliament and the Council, Report on the progress made in the fight against trafficking in human beings (2016) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims
		Directive 2011/92/EU	The Stockholm Programme - An open and secure Europe serving and protecting the citizen
			Delivering an area of freedom, security and justice for Europe's citizens, Action Plan Implementing the Stockholm Programme
			A Roadmap for equality between women and men 2006-2010
			Strategy for the equality between men and women 2010-2015
			Strategic engagement for gender equality 2016-2019
			European Pact for Gender Equality (2011-2020)
			Commission Staff Working Document, Trade and Worst Forms of Child Labour

Primary Law	Secondary Law		
	Legally binding		Soft law
	Regulations	Directives	
			Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An EU Agenda for the Rights of the Child
			Resolution on Violence against Women (11 June 1986)
			European Parliament resolution of 26 November 2009 on the elimination of violence against women
			European Parliament resolution of 5 April 2011 on priorities and outline of a new EU policy framework to fight violence against women (2010/2209(INI))
			European Parliament resolution of 6 February 2013 on the 57th session on UN CSW: Elimination and prevention of all forms of violence against women and girls (2012/2922(RSP))
			Motion for a European Parliament Resolution with recommendations to the Commission on combating Violence Against Women (2013/2004(INL))
			European Parliament resolution of 25 February 2014 with recommendations to the Commission on combating Violence Against Women (2013/2004(INL))
			2014/2152(INI) resolution on the EU Strategy for equality between women and men post 2015
			European Parliament resolution of 14 June 2012 on ending female genital mutilation (2012/2684(RSP))

Primary Law	Secondary Law		
	Legally binding		Soft law
	Regulations	Directives	
			EU guidelines on violence against women and girls and combating all forms of discrimination against them (2008)
			Council conclusions on the Eradication of Violence Against Women in the European Union (2010)
			Council conclusions on Combating Violence Against Women, and the Provision of Support Services for Victims of Domestic Violence (2012)
			Council conclusions - "Preventing and combating all forms of violence against women and girls, including female genital mutilation" (2014)
			The Daphne Programme III
			Communication from the Commission to the European Parliament and the Council, Towards the elimination of female genital mutilation, COM(2013) 833 final
			A Strengthened Commitment to Equality between Women and Men, A Women's Charter (2010)
			Opinion on a possible EU awareness raising campaign on violence against women and girls (VAWG)
			Opinion on data collection on violence against women
			Opinion on EU Strategy on Violence Against Women and Girls