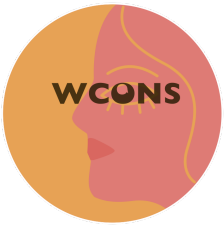

Russia

Submission to the UN Universal Periodic Review
44th Session of the UPR Working Group of the Human Rights Council

4 April 2023

Joint Stakeholder Submission

Submitted by: Equality Now (the main submitting organisation), the Consortium of Women's Non-Governmental Associations, Stichting Justice Initiative Project, the regional non-governmental non-profit organization "Independent Charity Center for Survivors of Sexual Violence "Sisters"

Introduction and Summary

1. **Equality Now** is an international human rights organisation with ECOSOC status working to protect and promote the rights of women and girls worldwide since 1992, including through our network of individuals and organisations in every region. Ending sexual violence, ending sexual exploitation, ending harmful practices and achieving legal equality are the main areas of Equality Now's work. Contact Details: Equality Now, PO Box 560, Dartford DA1 9WP, United Kingdom. Email ID: ukinfo@equalitynow.org Website: www.equalitynow.org

2. **The Consortium of Women's Non-Governmental Associations** ('The Consortium') provides legal support for victims of domestic violence throughout Russia. The Consortium fights domestic and sexual violence, engages in gender education and advocates for the rights and interests of women. In 2017, the Consortium launched the project called "The Center for Assistance to Victims of Domestic Violence". Every year, 1,000 women contact the Center for help, and attorneys take 120 cases across the country. The attorneys the Consortium works with specialize in domestic and sexual violence cases and have many years of experience and successful cases behind them. In particular, some appeals concern sexual violence against minors, sexual violence in relationships,

sexual violence against women who are sexually exploited, and sexual harassment. The Consortium helps women from different regions of Russia receive free legal assistance and, if necessary, find an attorney for them at their place of residence. Contact Details: The Consortium of Women's Non-Governmental Associations. Email ID: wcons@wcons.net Website: https://wcons.net/

3. **Stichting Justice Initiative Project** ('SJI') has been providing legal assistance to victims of human rights violations in the countries of the former Soviet Union since 2001. SJI has a particular focus on advocacy for the rights of survivors of gender-based violence in Russia. The organisation seeks to ensure that victims have guaranteed access to effective remedies at national and international levels, publishes research on women's and children's rights in Russia and carries out awareness-raising activities related to the prevention of gender-based and domestic violence. From 2019, SJI won the first cases before the European Court of Human Rights on behalf of victims of domestic violence, including a case concerning stalking in Russia. SJI also secured the first decision by the Committee on the Elimination of Discrimination against Women (CEDAW Committee) in relation to a victim of domestic violence in the North Caucasus. Email ID: srji.org@gmail.com Website: https://www.srji.org/en/

4. **The regional non-governmental non-profit organization "Independent Charity Center for Survivors of Sexual Violence "Sisters"** ('The Sisters Center') was established in 1994. It was one of the first crisis centres in the countries of the former Soviet Union. Currently, the Sisters Center's activities are focused on the following areas: 1. Crisis counseling, information and support to survivors of sexual violence and their family members via hotline or crisis mail; 2. Face-to-face counselling by psychologists; 3. Victim support groups; 4. Outreach activities, lectures, training and workshops. Email ID: sisters@sisters-help.ru Website: https://sisters-help.ru/

5. During the 3rd UPR cycle, Russia received several recommendations on combating gender-based violence against women and girls.
    a. Russia accepted the following recommendations:
        i. Conclude/ continue its work on drafting a federal law on preventing domestic violence (147.57, 147.116);
        ii. Intensify efforts to fight domestic violence (147.114, 147.117, 147.120, 147.243);
        iii. Improve support services for victims of domestic violence, including access to psycho-social support, educational centres and shelters for victims (147.118);

iv. Adopt national legislation prohibiting all forms of gender-based violence, including domestic violence, and ensuring adequate care for victims (147.119, 147.241);
v. Take all necessary measures to prevent violence and intolerance against women, whether racist, xenophobic or based on sexual orientation, guaranteeing the rights of each and every one of them without discrimination (147.238);
vi. Continue efforts aimed at combating discrimination against women and fighting violence against them, particularly domestic and sexual violence (147.239, 147.240, 147.242, 147.244);
vii. Continue the efforts to prevent all forms of violence against children and adolescents, including sexual abuse against minors and ensure their access to justice and reparation (147.272-147.273).

b. Develop a comprehensive framework for the elimination of sexual and domestic violence against women and children (147.245) was partially accepted.
c. Ratify the Istanbul Convention and repeal legislation, which decriminalises domestic violence (147.115) was not accepted.

6. However, as demonstrated in the submission below, Russia has not yet implemented the recommendations it undertook to implement from the 3rd cycle. This submission outlines the challenges in the implementation of international norms and standards and the national legislation of Russia in addressing gender-based violence against women and girls, particularly domestic and sexual violence. The submission also provides recommendations to the Human Rights Council for consideration for its follow-up on the preceding review, as well as the Governments participating in the review of the Russian Federation.

Ratification of International and Regional Human Rights Instruments

7. Russia has not yet accepted individual complaints procedures provided for by the Optional protocol to the International Covenant on Economic, Social and Cultural Rights, Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD). During the 3rd cycle, Russia received recommendations to ratify the Optional Protocol to the CRC on a communications procedure (147.19-147.20). However, Russia did not accept these recommendations saying, "the Russian Federation concluded that a number of provisions of the Optional Protocol are incompatible with current domestic law".

8. At the same time, given Russia's expulsion from the Council of Europe on 16 March 2022, it is important for persons claiming to be victims of a violation by Russia to have

additional avenues, such as UN Treaty Bodies, for bringing complaints of human rights violations against Russia.

Domestic Violence in Russia

9. After the 3rd cycle of the UPR, the CEDAW Committee adopted its Concluding observations on the ninth periodic report of the Russian Federation (CEDAW/C/RUS/CO/9). The Committee noted with concern:
    a. barriers faced by women in gaining access to justice such as bias and discriminatory stereotypes among all actors in the justice system towards women reporting violations of their rights (para. 12(b)).
    b. the absence of comprehensive legislation to prevent and eliminate gender-based violence against women and the lack of a definition of domestic violence (para. 24(f));
    c. the existence of the system of private-public prosecution, requiring victims to initiate private prosecution proceedings in which they must play a role of an investigator and a prosecutor (para. 24(c));
    d. the absence of a victim protection system (para. 24(b));
    e. the high prevalence of femicide, domestic violence, abduction, female genital mutilation and other forms of gender-based violence against women and the lack of shelters and victims support services (para. 24(h));
    f. harmful practices against women in the North Caucasus region (para. 26).

10. The CEDAW Committee provided recommendations accordingly to abolish the system of private prosecution of gender-based violence; adopt comprehensive legislation to prevent and address domestic violence; ensure that all cases of gender-based violence are promptly and thoroughly investigated; ensure that victims of gender-based violence have access to legal assistance, free of charge when necessary, and to adequate shelter, protection orders and victim support services; ratify the Istanbul Convention, implement the recommendations by the Committee in its Views in cases on domestic violence (para. 25) and address situation with harmful practices against women and girls in the North Caucasus region (para. 27). However, these recommendations have not been implemented.

11. On 14 December 2021, the European Court of Human Rights (ECtHR) delivered a pilot judgement in *Tunikova and Others v Russia* (App. nos. 55974/16 and 3 others) in which it stated that Russia is required to take comprehensive measures to address structural and discriminatory lack of protection of women against domestic violence (paras. 146-158). On 7 June 2022, the Russian State Duma adopted a set of laws on non-implementation of

ECtHR judgments.[1] Under the laws, the Government will execute only those ECtHR judgments that became final before 15 March 2022, the day before Russia's expulsion from the Council of Europe. While the judgement in *Tunikova and Others v. Russia* entered into force on 14 March 2022 and, therefore, should have already been implemented, nothing yet has been done to implement this judgement which was highlighted by the Committee of Ministers.[2]

12. However, gender-based violence, in particular domestic violence, is a systemic problem in Russia. In the study conducted by one of the authors of this submission, the analysis of verdicts from 2011 to 2019 indicated that 65.8% of women were murdered as a result of domestic violence, i.e., 12,209 out of 18,547 women died at the hands of a partner or relative.[3] In 2020 and 2021, the rate of lethal domestic violence increased significantly. 70.9% (in 2020) and 71.7% (in 2021) of all women killed were killed by either a partner or relative.[4] A recent study demonstrates that in Russia, intimate partner violence is strongly gendered. Women are almost twice as likely to suffer from physical, economic and sexual violence. 21.8% (38.2% top estimate) of women reported experiencing physical violence during their lifetime. The first number indicates the results of the door-to-door polls, and, according to the authors of the study, this number is greatly underestimated because the respondents are reluctant to disclose any personal information to unfamiliar people.[5] The second number indicates the results of the online polls, and, according to the authors of the study, this number is closer to the real indicators of partner violence.[6] Therefore, the rate of intimate partner violence against women is higher than globally and in Europe. The 2018 global estimates indicate that 26% of ever-married/ partnered women aged 15 years and older have been subjected to physical and/or sexual violence from a current or former husband or male intimate partner at least once in their lifetime.[7] In the four subregions of Europe, the rate is 16-23%.[8]

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[1] The State Duma, 'The State Duma adopted laws on non-implementation of the ECHR verdicts' (07 June 2022), available at: http://duma.gov.ru/en/news/54515/ (accessed on 30 March 2023)
[2] 1451st (Human Rights) meeting of the Ministers' Deputies, December 2022 - H46-36 Volodina group v. Russian Federation (Application No. 41261/17), available at: https://hudoc.exec.coe.int/eng?i=CM/Del/Dec(2022)1451/H46-36E (accessed on 30 March 2023)
[3] "Algorithm of Light", an independent project by "the Consortium of Women's NGOs", available at: https://readymag.com/algorithmsveta/2020-2021/ (accessed on 30 March 2023)
[4] ibid
[5] Kamalov E., Sergeeva I. 2023. Partner violence in Russia: results of a series of surveys, available at: https://violencemonitor.org/report_2023?tpclid=facebook.PAAaYtW8DJJM_JnONYL6qbzTxPozyT9v_RaLr9z7363iu44IYhS7Xdd3qUGqA, p. 43 (accessed on 30 March 2023)
[6] ibid
[7] WHO, 'Violence Against Women Prevalence Estimates, 2018', available at: https://www.who.int/publications/i/item/9789240022256, p. XII, (accessed on 30 March 2023)
[8] ibid, p. XIII

13. Despite these very high statistics, Russian law still does not criminalise domestic violence. Attempts to draft a law on domestic violence in Russia have been ongoing since the 1990s. In 2019, the Federation Council of the Federal Assembly of the Russian Federation published for discussion a draft federal law, "On Prevention of Domestic Violence in the Russian Federation".[9] However, experts concluded that the draft law is useless in its present form and christened it "the result of pandering to radical conservative groups".[10] If adopted, the federal law will not protect victims of domestic violence as it is required by the ECtHR judgement in *Tunikova and Others v. Russia*.

14. However, the parliamentary discussion and the attempt to pass even this law were unexpectedly halted. According to the journalists, the process was stopped by Vladimir Putin and blocked by powerful hierarchs of the Russian Orthodox Church who consider that "the application of such a law would violate the rights to protection of privacy, to the constitutional protection of the family and the free upbringing of children by parents in accordance with their beliefs".[11]

Sexual Violence in Russia

15. In the above-mentioned concluding observations of the CEDAW Committee, it noted with concern specifically on sexual violence:
    a. The narrow definition of rape and sexual crimes in the Criminal Code, which requires coercion and the use or threat of violence or abuse of the "victim's state of helplessness", and that marital rape is not criminalized (para. 24(a));
    b. The exemption of perpetrators of statutory rape from criminal liability in case of marriage to the victim (article 134 of the Criminal Code) (para. 24(b));

16. The Committee provided recommendations accordingly, including introducing a consent-based definition of rape. However, as with recommendations on domestic violence, these recommendations have not yet been implemented.

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[9] The Federation Council of the Federal Assembly of the Russian Federation, 'A Draft Federal Law "On Prevention of Domestic Violence in the Russian Federation"' (2019), available at: http://www.council.gov.ru/services/discussions/themes/110611/ (accessed on 30 March 2023)
[10] openDemocracy, 'Inside the fight over Russia's domestic violence law' (17 February 2020), available at: https://www.opendemocracy.net/en/odr/russia-domestic-violence-law/ (accessed on 30 March 2023)
[11] Verstka, 'The Patriarch Personally Addressed"": Who Blocked The Domestic Violence Law And Why' (07 September 2022), available at: https://verstka.media/pochemu-ne-priniali-zakon-o-domashnem-nasilii/ (accessed on 30 March 2023)

17. According to the official data, 13,500 to 14,200 people are victims of sexual violence each year in Russia.[12] Women and girls of all ages account for up to 90% of victims.[13] It should be noted that the official statistics of the Russian Ministry of Internal Affairs include only those cases in which criminal proceedings have been initiated. These statistics do not include cases where a report of sexual violence was not accepted or where criminal proceedings were refused. According to various studies conducted by the authors of the present submission, only about 3-15% victims file a report with the police.[14] As a result, only 1% of the perpetrators reported by female respondents in the survey had been subjected to criminal punishment.[15] Consequently, the real scale of sexual violence in Russia is truly shocking.

18. In 2019, in its report "Roadblocks to Justice: How the Law is Failing Survivors of Sexual Violence in Eurasia",[16] Equality Now identified gaps in the law which allow for actual and potential impunity for perpetrators of sexual violence crimes. These gaps have not yet been addressed by Russia.

19. There are three main types of crimes of sexual violence in the Criminal Code of Russia: rape; assault of a sexual nature; and compulsion into sexual intercourse/actions and these fall short of regional and international human rights standards in a number of ways.
    a. The definitions fail to require lack of consent as a constituting element of crimes of sexual violence and that any consent must be given voluntarily as the result of the person's free will, assessed in the context of surrounding circumstances;
    b. The definitions require additional violence, threat of violence or using the helplessness of the victim for the act to constitute rape. In addition, the current

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[12] Based on the statistics from the Main Information and Analytical Centre of the Russian Ministry of Internal Affairs on crimes against sexual inviolability (Chapter 18 of the Criminal Code) and the number of victims of these crimes, disaggregated by sex, age and relationship between the victim and the accused, for the period from 2014 to 2020, available at: https://bochkova.academy/wp-content/uploads/2022/06/Полное-исследование-1.pdf (accessed on 30 March 2023)

[13] ibid

[14] Interview with Nadezda Zamotayeva, director of the regional non-governmental non-profit organization "Independent Charity Center for Survivors of Sexual Violence "Sisters", available at: https://wcons.net/novosti/nadezhda-zamotaeva-v-rossii-nasilie-nachinaja-s-detskogo-sada-norma-zhizni/ (accessed on 30 March 2023);
Joint study by "the Consortium of Women's NGOs" and Olga Bochkova's Safety Academy #Not Taboo, 'New Evidence on Sexualised Violence against Children' (2022), available at: https://bochkova.academy/netabu/ (accessed on 30 March 2023)

[15] Joint study by "the Consortium of Women's NGOs" and Olga Bochkova's Safety Academy #Not Taboo, 'New Evidence on Sexualised Violence against Children' (2022), available at: https://bochkova.academy/netabu/ (accessed on 30 March 2023)

[16] Equality Now, 'Roadblocks To Justice: How The Law Is Failing Survivors Of Sexual Violence In Eurasia' (January 2019), available at: https://www.equalitynow.org/resource/roadblocks_to_justice/ (accessed on 30 March 2023)

definition of rape is interpreted in a rigid and restrictive manner, denying justice to survivors of sexual violence.

i. Violence and threat of violence, as elements of rape, are interpreted as only by physical means, rather than also psychological or economic harm or of any other form of coercion.
ii. In addition, the threat of violence must be immediate to constitute an element of the crime. Threats of future violence, no matter how severe, are not considered.
iii. According to the clarification from the Supreme Court, which is mandatory for lower courts, "helpless state" contains an indirect resistance requirement, i.e., one of the manifestations of helpless state is inability to resist, which shifts the focus from the actions of the offender to the conduct of the victim.[17] This is also problematic when a woman could have physically resisted but did not do so out of fear for her life. Such situations would not constitute "helplessness."
iv. Despite isolated positive examples, situations in which the victim was unable to resist the accompanying systematic physical and psychological violence (e.g. sexual violence as a manifestation of the pattern of domestic violence) are generally not recognised as rape. The victim may be afraid of the violence or believe that resistance is impossible or not resist because of previous experiences of physical and psychological abuse.

c. Additionally, the Criminal Code of Russia downgrades some acts, equivalent to rape, as minor crimes with lenient penalties. Namely, the Code distinguishes between rape and violent actions of a sexual nature, and coercion/compulsion into acts of a sexual nature. Under Article 133(1), the crime of coercion/compulsion into acts of a sexual nature involves any of the types of behaviour criminalised by the offences of rape and violent action of a sexual nature, but that have been committed using either blackmail, threats of destruction, damage or seizure of property or taking advantage of the material or other dependence of the victim(s). Coercion/compulsion is classified as a less serious crime than rape or violent actions of sexual nature. The problematic assumption behind these definitions is a myth that rape and violent action of a sexual nature must involve physical force. This presumption ignores other means that perpetrators use to commit acts against the genuine and willing consent of the victim.
d. While the definition of rape and other forms of sexual violence do not exclude acts committed in marriage, the definitions fail to separately criminalise rape within marriage and/or intimate relationships, which leads to the criminal justice

[17] Resolution of the Plenum of the Supreme Court of the Russian Federation of 04.12.2014 No. 16 "On judicial practice in cases involving crimes against sexual inviolability and sexual freedom of the individual", para. 5

system overlooking the issue. Rape in marriage/intimate relationship is not included as an aggravating circumstance of rape;[18]

e. Non-aggravated rape and non-aggravated sexual assault are crimes where public-private prosecutions are used, which places the onus of bringing the perpetrator to justice on the victim, rather than the state.
f. Also, statute of limitation provisions do not consider the fact that survivors of sexual abuse may report the abuse after a long period and that historical cases of rape should also be prosecuted.

20. Additionally, stereotypes in the justice system (including disbelief in victims' testimonies or statements and stereotypes about "ideal victims") and burdensome evidential requirements result in an extremely small proportion of reported sexual violence cases committed without the use of additional actual physical force reaching the prosecution stage. All forms of sexual violence committed using threats of violence or other forms of coercion that do not involve physical force are largely ignored by law enforcement in practice. Also, even when there is proof of physical injuries resulting from rape, investigators often require proof of biological evidence confirming sexual intercourse and/or injuries, specifically in the genital area.

Further Harm to Girl Survivors of Sexual Violence

21. In its Concluding observations on the combined fourth and fifth periodic reports of the Russian Federation (2014), the CRC Committee expressed its concerns about a large number of cases of sexual exploitation and abuse of children in Russia and harmful practices in the North Caucasus and, therefore, *inter alia* recommended Russia to develop a comprehensive national strategy to prevent and address all forms of violence against children (para. 34(a)); adopt a national coordinating framework to address all forms of violence against children; pay particular attention to and address the gender dimension of violence (paras. 34(a)-(c)); take urgent measures to investigate all information relating to the sexual abuse of children (para. 36). However, the situation in Russia largely remains the same.

22. As it was mentioned above, according to the official data, 13,500 to 14,200 people are victims of sexual violence each year in Russia. Women and girls of all ages account for up to 90% of victims, with minors accounting for 75% to 90% of victims each year. Girls

[18] Under article 63(1)(p) of the Criminal Code of Russia, Commission of an offence against a minor by a parent or other person responsible for the maintenance, upbringing, education and/or protection of the rights and lawful interests of the minor, or by a person living with the minor, or by a teacher or other staff member of an educational, medical, social services or other organisation responsible for supervising the minor is an aggravating factor.

constitute the main victims in these categories of cases (between 70% and 75% of the total number of victims and between 80% and 83% of the total number of females).[19]

23. In the first 6 months of 2022, 273 individuals were convicted under Article 131 of the Criminal Code of Russia for aggravated rape and 822 individuals were convicted under Article 132 for aggravated violent actions of a sexual character. However, the data is not disaggregated by age of the victim to be able to separate how many girls were affected. For the same period of time, 15 individuals were convicted under Article 133 ('Compulsion to Perform Sexual Actions in respect of an underage boy (or girl)'); 1265 individuals were convicted under Article 134 ('Sexual Intercourse and Other Actions of Sexual Character with a Person Who Has Not Reached the Age of Sixteen Years'); 363 individuals were convicted under Article 135 ('Depraved Actions').[20] As it has already been mentioned, the official statistics on violence against children, particularly on sexual violence against girls, are only the tip of the iceberg.

24. In Russia, much of the violence perpetrated against children (including girls) goes unchallenged because of inadequate laws, the lack of child-friendly reporting mechanisms and certain forms of abusive behaviour are understood by children as accepted practices. All of these have been summarised by the authors of the present submission in their submission on Russia for Consideration by the Committee on the Rights of the Child at its 94th Pre-Sessional Working Group (6 - 10 February 2023).[21] It can be summarised as follows:
    a. Definitions of sexual violence crimes enable impunity for perpetrators of sexual violence against girls:
        i. Article 134 of the Criminal Code of Russia criminalises sexual intercourse of an adult with someone under 16. Even though the word "consent" is not mentioned in the article, it is presumed that the minor perceives the act as consensual, but the act still constitutes a crime since the consent of a minor is legally invalid. According to Article 134(2), same-sex "consensual" sex between an adult and someone aged 14-16 is perceived as a more dangerous crime.[22] Under the article, there is a very problematic

[19] Joint study by "the Consortium of Women's NGOs" and Olga Bochkova's Safety Academy #Not Taboo, 'New Evidence on Sexualised Violence against Children' (2022), available at: https://bochkova.academy/netabu/ (accessed on 30 March 2023)

[20] Available at: http://www.cdep.ru/index.php?id=79&item=7069 (Form No. 10-a "Report on the number of persons convicted for all offences under the Criminal Code of the Russian Federation")

[21] Equality Now, 'Russia – Submission To The Committee On The Rights Of The Child (OHCHR) 94th Session October 2022', available at: https://www.equalitynow.org/resource/russia-submission-to-committee-on-the-rights-of-the-child-ohchr-94th-session-october-2022/ (accessed on 30 March 2023)

[22] A crime under Article 134(1) is punishable up to 4 years of imprisonment. A crime under Article 134(2) is punishable up to 6 years of imprisonment.

assumption that the minor consented (even though she was legally incapable of consent), wanted or even initiated or provoked sexual intercourse, which can put the blame on the minor instead of the perpetrator and affect the way the perpetrator might be treated by the criminal justice system.

ii. The Criminal Code provides that a minor under 12 years old is in a helpless state due to his or her age, i.e. unable to understand the nature and meaning of the acts perpetrated against him or her, and, because of these reasons, sexual acts committed against her or him are either rape or violent action of a sexual nature. If the child is over 12 but under 16, sexual intercourse with the child (not involving violence or threats) is still a criminal offence, but there is no longer a presumption of helplessness to classify it as either rape or violent action of a sexual nature, which results in lesser sentences for the perpetrator. However, a child between 12 and 15 years (but who has not reached 16), could also be considered helpless if the helpless state is established through a psychological and psychiatric assessment. In exceptional cases, a helpless state can also be considered when the accused took advantage of the victim's particular gullibility or vulnerability.

iii. The commission of indecent assault[23] without the use of violence by a person who has attained the age of eighteen against a person under the age of sixteen is a crime under Article 135 of the Criminal Code. The commission of indecent assault against children aged between 16 and 18, however, is not criminalised and does not constitute an offence.

b. Legal provisions allowing impunity for perpetrators of sexual violence against girls:

i. Firstly, Article 134 of the Criminal Code still expressly provides that if an adult (over the age of 18) marries a girl aged between 14 and 16 with whom he has had sexual relations with her supposed consent, he will not be punished by the court as he is no longer considered to be socially dangerous. Not only does this exemption exonerate the perpetrator from punishment if he does register the marriage, it also fails to protect the girl as a victim of sexual violence.

[23]According to Ruling No. 16 of the Plenum of the Supreme Court of Russia from 4 December 2014, indecent acts in Article 135 of the Criminal Code include any acts, other than sexual intercourse, sodomy and lesbianism, committed against persons who have reached the age of twelve but have not reached the age of sixteen, which were aimed at satisfying the sexual desire of the guilty party, or at causing sexual arousal in the victim, or at arousing interest in sexual relations in the victim (para 17).

ii. Secondly, according to Article 75(1) of the Criminal Code, a person who has committed a crime of light[24] or of medium gravity[25] for the first time may be released from criminal liability if, after the perpetration of the offence, he has given himself up, assisted in the exposure and investigation of this crime, compensated for the damage, or in any other way effected restitution for the damage caused as a result of this crime, and has ceased to be socially dangerous as a result of active repentance.

iii. Thirdly, according to Article 76 of the Criminal Code, a person who has committed a crime of light or medium gravity for the first time may be released from criminal liability if he has reconciled with the victim and restituted any damage inflicted on the victim.

c. Secondary victimisation of girl survivors of sexual violence during criminal proceedings and lack of child-sensitive justice

i. According to the CEDAW Committee's General Comment No. 13 (para. 51), the investigation of instances of violence must be undertaken by qualified professionals who have received role-specific and comprehensive training, and require a child rights-based and child-sensitive approach. Extreme care must be taken to avoid subjecting the child to further harm through the process of the investigation. However, Russia lacks any gender and child-sensitive methodology to investigate sexual violence crimes which means girls are being re-victimised in the process. As a result, necessary and relevant evidence for filing charges may not be collected.

ii. Throughout the country, there is a lack of female police officers and investigators. Rape investigations are, in many cases, conducted by men, which further traumatises girls and creates a barrier to reporting. Investigators have no special training, and modern protocols and guidelines on how to investigate sexual violence crimes against children often perpetuate myths and lack of awareness regarding child victims of sexual violence.

iii. In February 2023, the ECtHR delivered its judgement in an emblematic case, *B v. Russia* (App. no. 36328/20), which showed that in total, in the course of the investigation and trial proceedings, the girl had to retell the circumstances of her sexual abuse at least 23 times; the identification of suspects was organised so that she had to see them in person; she had to participate in lengthy (2 hours and 20 minutes, and 55 minutes with a ten-minute break) confrontations with the alleged perpetrators, despite the

[24] Applies to Compulsion to Perform Sexual Actions, Depraved Actions

[25] Applies to Compulsion to Perform Sexual Actions committed in respect of a minor boy (minor girl), Sexual Intercourse and Other Actions of Sexual Character with a Person Who Has Not Reached the Age of Sixteen Years

experts' opinion that her meetings with them should be excluded. During the confrontations, she had to answer questions from the accused, their male lawyers and an investigator. The ECtHR found a violation of Article 3 of the ECHR (prohibition of torture).

Lack of protection measures for victims of gender-based violence

25. While there are several measures under Russian legislation which are aimed at protecting a victim throughout the criminal proceedings,[26] they all have proved to be ineffective when it comes to the protection of victims of gender-based violence. The Federal Law "On State Protection," which aims to protect victims, witnesses and other participants of criminal proceedings, is rarely applied in practice in relation to gender-based violence. This is because authorities do not fully appreciate the gravity of gender-based violence, its impact on victims and its systemic nature as a human rights violation. Also, the law involves highly disruptive and heavy-handed measures for a victim and does not target an aggressor.[27]

26. Recently, in 2018, the Criminal Procedure Code introduced certain restrictions for the suspect or the accused (Article 105.1 § 6), including communicating with certain persons or sending and receiving postal and telegraphic communications. Given the nature of the prohibitions in Article 105.1, this measure has a strong potential to protect victims of sexual violence. However, there are several practical limitations. Firstly, the restrictions are imposed on suspects or accused persons but they are not available at the pre-investigation stage, where the safety and integrity of the victim are particularly endangered. Also, they are not available post-conviction. Moreover, sexual violence cases are often not initiated - and restrictive measures have no application in such cases. Secondly, these restrictive measures do not provide that the perpetrators must not approach their victims. Thirdly, such measures cannot be imposed on the perpetrator's friends and/or family members or on the victim's family members.

Lack of services for survivors of gender-based violence, including sexual violence

27. Survivors of gender-based violence do not have access to free legal assistance and services to support them through the proceedings, including providing psychological and social assistance and safe housing. These factors, together with lengthy and stigmatising criminal proceedings, many times contribute to a survivor's reluctance to seek justice for gender-based violence crimes.

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[26] Federal Law on State Protection of Victims, Witnesses and Other Participants of Criminal Proceedings (FZ-119 of 20 August 2004, with amendments); prohibition of certain actions (article 105.1 of the Code of Criminal Procedure)
[27] ECtHR, *Volodina v. Russia,* App. No. 41261/17, para. 89

Harmful practices against women and girls in the North Caucasus region

28. Harmful practices against women and girls in the North Caucasus are still prevalent in the region. In 2016 and 2018, the SJI, one of the authors of this submission, issued two reports on the practice of female genital mutilation (FGM) in some areas of Dagestan[28] and in the North Caucasus region of the Russian Federation.[29] The SJI estimates that at least 1,240 girls undergo FGM each year in Dagestan, and in some districts, this practice is carried out on between 30% to 100% of underage girls. FGM is predominantly performed on girls in early childhood, up to the age of three.[30] In mountainous, remote villages and settlements, the procedure is mostly performed by non-medical professionals at home, which often carries serious health complications for girls. However, in the context of large cities, cases have been documented and reported where such services are provided in commercial medical clinics, indicating a harmful trend of 'medicalisation'.

29. Due to the lack of an explicit criminalisation of FGM, it is difficult to apply existing provisions in the Criminal Code, even for the very few cases that reach the court. On 28 January 2022, in Russia's first trial in connection with FGM performed on a child that took place in the Republic of Ingushetia in 2019, a magistrate found the doctor who performed "ritual circumcision" for 2,000 rubles (32 USD) guilty of intentionally causing minor damage to health. The doctor was sentenced to a fine of 30,000 roubles and was released from punishment due to the expiry of the statute of limitations (therefore, the doctor did not pay the fine).[31]

30. Despite the lack of official statistics, child and forced marriages and bride kidnappings are still not uncommon in the North Caucasus part of Russia. However, these acts are not specifically criminalised. Bride kidnappings are investigated/prosecuted under the general crime of abduction (Article 126 of the Criminal Code), which leads to no criminal liability if the victim is released unless there are indications of another crime being committed by the perpetrator.

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[28] SJI, 'Female Genital Mutilation of Girls in Dagestan. Report based on the results of a qualitative study' (2016), available at: https://web.archive.org/web/20220125081219/https://www.srji.org/about/annual/proizvodstvo-kalechashchikh-operatsiy-na-polovykh-organakh-u-devochek-1-otchet/ (accessed on 30 March 2023)

[29] SJI, 'Mutilation Practices in the North Caucasus Republics: Strategies for Coping' (2018), available at: https://web.archive.org/web/20220124092434/https://www.srji.org/about/annual/strategii-protivodeystviya-FGM-proizvodstvo_kalechashchikh_operatsiy_sji/ (accessed on 30 March 2023)

[30] SJI, 'Female Genital Mutilation of Girls in Dagestan. Report based on the results of a qualitative study', section 2.4.2, (2016), available at: https://web.archive.org/web/20220125081219/https://www.srji.org/about/annual/proizvodstvo-kalechashchikh-operatsiy-na-polovykh-organakh-u-devochek-1-otchet/ (accessed on 30 March 2023)

[31] Information about the case is available at: https://www.bbc.com/russian/news-60179906

31. Bride kidnapping, as one of the main methods of forced marriage, in many cases, is followed by the rape of an abducted victim. When it comes to underage victims, under Article 134 of the Criminal Code, an adult (over the age of 18) who marries a girl aged 14-16 with whom he has had sexual relations, without using violence, threats or coercion (leading to the problematic presumption that minor consented), is exempt from punishment. The article expressly provides for the condition that "the person and the crime committed cease to be socially dangerous on account of marriage to the victim".

32. In the context of women in the North Caucasus region, societal attitudes and these norms are used to exonerate the rapist and encourage pressure on the victim to marry the rapist. Such pressure is often exacerbated by threats of violence against the victim by members of her own family, who may consider her extramarital "affair", however involuntary, as a threat to the honour of the family or clan.

33. Article 13 of the Family Code provides that the minimum age of marriage is 18. Marriage at 16 may be allowed by local authorities due to 'justifiable reasons'. In at least 12 regions, marriage is allowed at 14, while in four other regions, it is allowed at 15 due to "justifiable reasons".[32] The Family Code does not provide a list of such reasons. According to Article 13(2), the procedure and conditions under which, by way of exception and taking into account special circumstances, marriage may be allowed before the age of sixteen may be established by the laws of the constituent entities of the Russian Federation. Usually, these circumstances are pregnancy, childbirth, and immediate threat to life of one of the partners. E.g., in the Karachay-Cherkessia Republic, marriage may be entered into by persons over the age of fifteen in the following special circumstances: "the birth of a child and the actual presence of the child with the mother who wishes to marry; pregnancy (22 weeks and over), the termination of which is impossible due to the wish of both parties to preserve it or is contraindicated by a medical committee conclusion; an imminent threat to the life of one of the parties; in cases where the pregnant minor is in unfavourable circumstances (orphan, single-parent family, dysfunctional family environment) and by marrying the minor improves the conditions for herself and the unborn child".[33]

We respectfully urge the State Parties of the Human Rights Council to give Russia the following recommendations:

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[32] Equality Now, 'Roadblocks to Justice: How the Law is Failing Survivors of Sexual Violence in Eurasia' (2019), p. 81, available at: https://d3n8a8pro7vhmx.cloudfront.net/equalitynow/pages/1581/attachments/original/1547485403/EN-Eurasia_Rpt_ENG_-_Web.pdf?1547485403 (accessed on 30 March 2023)

[33] Law of the Karachayevo Cherkess Republic No. 589-XXII of 12 February 1999 "On the conditions and procedure for the marriage of persons who have reached the age of fifteen"

1. Adopt comprehensive legislation to prevent and address domestic violence and ensure that it criminalises all forms of domestic violence, including physical, sexual, economic and psychological in accordance with international and regional standards, in particular General Recommendations of the CEDAW Committee Nos. 19, 33 and 35 and the Istanbul Convention.

2. Amend the definitions of rape and other acts of sexual nature (Criminal Code Articles 131-133), in order for these definitions to be based on free, genuine and voluntary consent, assessed in the context of the surrounding circumstances. Ensure that force is not a required element of the crime of rape but rather an aggravating factor.

3. Ensure that the issue of "consent" of a minor under 16 with respect to an adult accused is immaterial and not examined in practice and that sexual acts committed by adults against minors are treated as rape and entail sentences commensurate to the gravity of the crime. Develop legal mechanisms to improve law enforcement practices against persons who kidnap, molest and rape or have sexual intercourse with persons under the age of 16.

4. Fix the minimum age of marriage to 18 in all territories of Russia without any exceptions.

5. Pass a specific law criminalising the practice of female genital mutilation.

6. Develop guidelines on investigating and prosecuting cases of adult and child sexual abuse based on international standards and best practices to make sure that all reports rape or other acts of sexual violence are taken seriously and investigated promptly, thoroughly and impartially from a gendered perspective and free from stereotypes, and that sentences are commensurate with the gravity of crimes.

7. Ensure data collection:
    a. Collect, analyse and publish data on sexual violence crimes, disaggregated based on sex, age, ethnic origin, nationality status, immigration status, disability, sexual orientation and gender identity, involvement in prostitution and other indicators of vulnerability;
    b. Collect, analyse and publish disaggregated data on the attrition rate of sexual violence crimes, which would involve researching the reasons why reported cases of sexual violence do not reach the stage of conviction;
    c. Collect, analyse and publish disaggregated data on the relationship between the perpetrator(s) and the victim and whether the sexual violence crime was linked to other forms of violence against women and girls, including but not limited to

domestic or intimate partner violence, femicide, disappearance, forced pregnancy and the like;

d. Collect, analyse and publish disaggregated data on the number of sexual violence cases reported, the time taken to conclude a case after its reported, the number of cases prosecuted, the number of convictions and the conviction rate, and the penalties given on conviction.

8. Accept individual complaints procedures before the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities.

Annex 1 - a list of organisations for joint submission

1. **Equality Now (the main submitting organisation)** Contact Details: Equality Now, PO Box 560, Dartford DA1 9WP, United Kingdom. Email ID: ukinfo@equalitynow.org Website: www.equalitynow.org

2. **The Consortium of Women's Non-Governmental Associations** Contact Details: The Consortium of Women's Non-Governmental Associations. Email ID: wcons@wcons.net Website: https://wcons.net/

3. **Stichting Justice Initiative Project** Contact Details: Stichting Justice Initiative Project. Email ID: srji.org@gmail.com Website: https://www.srji.org/en/

4. **The regional non-governmental non-profit organization "Independent Charity Center for Survivors of Sexual Violence "Sisters"** Contact Details: The regional non-governmental non-profit organization "Independent Charity Center for Survivors of Sexual Violence "Sisters". Email ID: sisters@sisters-help.ru Website: https://sisters-help.ru/