



# SAVE

## REPORT ON EU LEGISLATION

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# REPORT ON EU LEGISLATION

## INTRODUCTION

In this report the main aspects of the European legislation in the matter of the victims of crime and means dedicated to their protection and support will be synthetically taken into account.

In addition to the analysis of the norms and recommendations of the Parliament and the European Commission, there is a special focus on the main information deriving from the monitoring work of the European Agency for Fundamental Rights, showing synthetically the condition of rights' protection in the 28 members of the European Union.

The strengthening of a general approach much more focused on the role and the needs of the victims can be revealed in comparison with the conception reo-centered of the criminal proceeding, even if the former approach is not yet fully spread in all the member states.

In that sense the Directive 2012/29/EU represent a pivotal turning point and constitutes a first step of the road map that should lead to the development of a common and harmonized legislation aiming at supporting and sustaining the victims, in the member states and in the EU.

Of course, there are other positive examples, both public and private, of the adoption of this new approach that can be considered as a reference for the development of active policies.

In many states there are several agencies and institutions dealing with victims' protection, assistance and support.

However, the standard of protection is not the same in all the member states and the level of implementation of the present normative is not yet uniform among them.

The main issue deals with the activation, spread and coordination of the services of victims' support highly recommended by the directive 2012/29/UE.

Indeed only **seven UE memers** have activated at least a Public **National Generic Victim Support Services**, in **other six states** is Active at least e Generic Victim Support system which is non Governamental but relies on strongly Public Founding, **there are also six states** where at least one national generic - main provider/structure is non-governmental, does not rely strongly on state funding, at least eight States didn't have a national generic victim support sistem.

From this perspective, the Save project in its operational part aims at providing a contribution to the development of these services of support in compliance with the model and the requirements set in the directive.

## METHODOLOGY

The analysis of the European legislation and the correspondence between the laws and recommendations and the current situation in the member States have been realized through the use of the desk methodologies

A special focus has been given to the following legal aspects:

- The **directive 2012/29/EU** of the European Parliament of the Council of 25 October 2012;
- The previous legal initiatives of the European Union (**Council Framework Decision of 15 March 2001** on the standing of victims in criminal proceedings; the **2004/80 UE Directive** relating to compensation to crime victims);
- The convention constituting the fundamental background for the drafting of the Directive 2012/29/EU (**Lanzarote Convention** on Protection of Children against Sexual Exploitation and Sexual Abuse signed 25 October 2007; the **Istanbul Convention** on Preventing and Combating Violence against Women and Domestic Violence signed 11 May 2011; Roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings, called **Budapest Roadmap**)
- The dg justice guidance document related to the transposition and implementation of Directive 2012/29/EU del dicembre 2013;
- The results of the monitoring activity put in place by the European Union Agency for Fundamental Rights (FRA) related to the degree of protection and the spread of the services dedicated to the support of the crimes' victims in the 28 member states.

The analysis of the documents and the materials collected is centered on the specific tools of protection of the victims of crimes and especially on the main aspects concerning the services of support, their organization and the emerging prerequisites.

In coherence with the operative approach of SAVE project oriented to implement and test a model of organization of services supporting the victims of crimes, the present analysis has taken into account the concrete consequences emerging from the legislation and the connected directives and recommendation expressed by the Council of Europe and the DG Justice.

In conclusion the collection and systematization in tables of some informations and indicators published by FRA on the website related to the assessment of the state-of-art on the protection of victims of crimes <http://fra.europa.eu/en/publications-and-resources/data-and-maps/vss> have allowed to summarise the different models of intervention adopted in several member states, the strengths and weaknesses; moreover, it has allowed to underline the gap to be filled in order to harmonize the national legislations and determine a coherent framework of protection for the victims on the entire territory of the European Union.

## OVERVIEW

The 2012/29 / EU Directive is the main reference about legislation on Victims of Crime in Europe and in member countries.

This directive is a fundamental reference in the process of recognition of the figure of the victim of crime, of its needs, which, historically, had been relegated to a marginal role in the criminal proceeding.

In fact, in the past, but also in the present situation, the case law of the criminal proceedings is centered on an approach according to which the offender is the main object of the court system and of the judicial administration.

The directive, on the other hand, has the fundamental purpose of overcoming this conception and aims to put the victim and its needs in the center of criminal proceedings, guaranteeing a structured set of rights, safeguards and support systems.

It represents a *corpus juris* of fundamental rights and considerations concerning all the victims of crime, in their general and non-specific nature, and has the fundamental aim of harmonizing the rules and practices of individual Member States in order to ensure a uniform and coherent set of minimum requirements for formal and substantial protection, psychological assistance, legal and material aid.

It is therefore a fundamental reference text from which it is necessary to start in order to verify the implementation of a system of guarantees and access to the victims rights co-ordinated and omnipresent crime before, during and after criminal trials.

The new Directive sets the minimum standard of protection and support required that each state has to ensure to the victims of crime. Each member state will have to adopt the required measures equally spread on the territory and to permit a coordinated and comprehensive access to the rights and the services set in the Directive 2012/29/UE. It implies the allocation of financial and human resources for the implementation of policies, programs and measures aiming at the prevention and the treatment of different kinds of victimization depicted in the present directive.

Moreover, the directive imposes a structural change in order to offer to victims and witnesses a better treatment and support in the criminal proceedings. It especially involves the agencies and the organisations assisting the victims during the criminal proceedings. As a consequence, the member States are in charge of encouraging and supporting the governmental organisations and those organised by the civil society, in order to offer an answer as much integrated and multilevel as possible in relation to the needs of the victims.

The directive 2012/29/UE qualifies the crime as a violation of the individual rights of the victims, as well as a fact socially harmful, and so establishes that rights provided by the directive be ensured

independently from the fact the author of the crime be identified, arrested, prosecuted or condemned and independently from the family relationship between the offender and the victim.

Among the fundamental rights recognized to the victim there is the right to **receive informations** in a comprehensible way since the very first contact with the authority, in order to be able to take part to the proceeding; as a consequence, a service of translation will be provided, as well as **free legal aid**, when the victim is not able to afford a lawyer.

Moreover, the directive set the right of the victim to be assisted by **other free services**, supporting him/her since the first contact with the judicial authority and independently from the submission of a complaint.

**Several rights to take part to the criminal proceeding** are established: in particular, for the most serious crimes, the right for the victim to appeal the order of nonsuit.

Another provision concerns the right to **free legal aid**, according to the national legislation, as well as the right not to come into contact with the author of the crime. An individual assessment of the specific needs of the victim is also provided.

One of the main concerns of the European legislator is to **reduce the risk of secondary victimisation**: therefore, special measures of protection are provided for specific categories of victims considered more vulnerable; minors, disabled persons, victims of terrorism, victims of gendered violence and those who have a close relationship with the offender. The directive doesn't give a definition of "secondary victimisation" but asks for its prevention, also by the training of the operators who can get in touch with the victims, such as the police officers, the judicial officers, the judges, the lawyers and those who provide services of assistance, sustain or reparative justice, in order to sensitize them to the needs of the victims and so make them able to treat the victim in a proper manner.

In conclusion, the necessity to introduce possible **forms of reparative justice** is expressed; such as the mediation between the victim and the author of the crime, that can take place only with the previous request of the victim, and in the interest of him/her.

Together with the 2012/29 Directive, a further key reference document is represented by the **"GUIDANCE DOCUMENT related to the transposition and implementation of 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"**.

The purpose of this guidance document is to facilitate the effective and timely transposition of Directive 2012/29/EU by the European Union (EU) Member States that are bound by its provisions.

The guidelines outline the directive by defining the operational principles that Member States should focus on defining and implementing the systems and means of support and protection of victims of

crime and thus constitute the main reference document, also for the purposes of the SAVE project, in order to guide the development and implementation of projects aimed at protecting, supporting victims.

From the operational point of view, therefore, the 88 recommendations for member states are particularly relevant and illustrate the precise analysis and description of the 26 Articles of the 2012/29 Directive, which are outlined in the Appendix.

Regarding the context of the present project are particularly important the indications concerning Articles 8 and 9 of the Directive and its recommendations, especially those referring to victims support whose fruition is considered a fundamental and central right in the document.

These articles are indicated in order to guarantee and promote access to support, material, legal, psychological and protection services for victims and their families.

These articles are not limited merely to affirm general principles but get into the merits of the characteristics and requirements of these services and indicate a wide range of institutional, public, private and NGO entities that can deliver and organize them.

Specifically, the guidelines include 10 recommendations (from 26 to 37) concerning the necessity of coordinated and harmonized interventions for all Member States, and their gratuity, the obligations of the competent authorities to facilitate access and enjoyment to victims, the need to establish minimum standards of quality of such services, indications about the professional figures that should be involved, the individual approach of the pathways of victim's support services organizations.

## VICTIM JUSTICE PRINCIPLES

In dealing with the victims' issues, the Directive adopts an operational approach focusing attention on the needs and role of the victim before, during and after the criminal trials.

The chapters in which it is articulated mainly concern specific aspects that can be defined operationally:

- **Provision of Information and Support;**
- **Participation in Criminal Proceedings;**
- **Protection of Victims and Recognition of Victims with Specific Protection Needs;**
- **Other Provisions;**
- **Final Provisions**

These Chapters, adopted different methodological approaches but the principal aim is the effective implementation, to ensure that all the rights granted and the services listed will be effectively available for victims and meet their needs.

The general principles, introducing the most operative aspect, are mainly indicated in article 3, that suggests a definition of victim and introduces the concept of "indirect victim":

"victim" means:

*(i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;*

*(ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death;*

*'family members' means the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim;*

This definition doesn't represent a European standard, since other normative acts of the Union, such as the Directive 2004/80/UE concerning the reparation for the victims of crimes, uses the expression "each person offended by a crime" therefore adopting a wider definition. Another category strictly defined is the one referred to minors: only those who have turned 18 fall under the umbrella of the Directive 2012/29/UE 43

It is noteworthy the exclusion of the legal persons from its ambit of application, in compliance with the previous framework decision 2001/220/GAI44 and with the jurisprudence of the European Court of Justice, both in the field of ordinary justice and mediation. Here, it has been affirmed that the decision to introduce a system of protection dedicated only to natural person is legitimate since their legal condition is objectively different from that one of the legal person, because of their

vulnerability, the nature of their interest, that can be affected only by violations committed against the physic persons, such as life and physical integrity.

Moreover, the victims of crimes have the right to an adequate access to justice, independently from citizenship, nationality, conditions of stay in the territory where they live. Specifically, art. 17 provides that the above-mentioned right will have to be ensured also to the victims who have the residency in a member State that is different from the one where the crime has been committed, admitting the possibility to report the facts in both countries. If the victim moves from the country where the crime has been committed, the duty to offer protection, assistance and support to the victim lies with the country of new residency, except for any criminal proceedings already initiated, possibly using the teleconference with regard to the hearings, in line with the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union.

A distinction is then made between rights whose enjoyment is guaranteed regardless of whether there is a criminal procedure and rights that are intrinsically linked to it.

The overview of the Directive under examination suggests that it can be divided into two parts: one in which the rights of the victim are recognized in the field of assistance, protection, participation in the trial and restorative justice and the legislator is peremptory with regard to their effective recognition by the Member States; and the first part of the legal text, which is characterized by the use of the conditional and by the continuous reference to the internal rules of the States, thus subordinating the exercise of certain rights to the role covered by the victim in the judicial system of each country. In this way, the definition of the criteria for the participation of the victim in the criminal proceedings and the actual contents of the rights he enjoys is deferred to national governments, thus limiting the harmonization of the European Union's legislation concerning victims of crime.

Then there are two objectives that the European legislator intends to pursue: first, to eliminate the risk of secondary victimization, or "those negative consequences from an emotional and relational point of view, deviating from the contact between the victim and the system of institutions in general and of criminal justice in particular", of which there is however no specific definition in Directive 2012/29 / EU; second, the benefits provided by restorative justice services. With reference to the first, the importance of ad hoc training of the operators who come into contact with the victim at all levels of the criminal proceedings is emphasized, while regarding the second one we note first of all an enlargement of its forms compared to the previous framework decision, in which only the mediation was mentioned and a precise definition is given in Article 2 (d) as "any procedure that allows the victim and the offender to actively participate, if they consent to it freely, to the resolution of the issues deriving from the crime with the help of an impartial third party". The use of these measures is then subjected to the compliance with certain requirements set forth in art. 12, including first of all the victim's interest as a *conditio sine qua non*, his/her free and informed consent, wilfulness on both sides, protection from risks of secondary victimization and the fact that the offender recognizes the essential facts of the case.

Other rights sanctioned by Directive 2012/29/EU are: the right to receive information in a manner understandable under the articles 3-9, the right to participate in the criminal proceedings under



Articles 10-17, the right to protection of the victim and his individual assessment to identify any specific protection needs, specifying certain categories that require special measures under Articles 18-24, the right to support the victims and the assistance services provided to them in Articles 25-26. There is a twofold objective: first of all, to provide victims with information, assistance and protection, even independently from the existence of a criminal investigation and, secondly, to give them the opportunity to take part to criminal proceedings. The intensity of the protection guaranteed varies according to the objective pursued. For example, the right to information and assistance is fully recognized and subordination to the rules of the national systems is not admitted. On the other hand, the right to a criminal trial is not fully recognized within the law, as well as the right to take part to legal proceedings. Therefore, the European drive is arrested when national regulations limit the role of the victim in the procedural dynamics.

The Directive is based on three main and distinct pillars, and one that can be considered horizontal because it directly affects all other factors considered.

The three vertical pillars can be considered:

1. Victim Justice bodies and co-ordination between different structures responsible for the roles of the ages
2. The rights and guarantees of victims in the criminal process
3. Organization of Victim Assistance Services

The horizontal issues deal with the different forms and procedures for victims' compensation.

## VICTIM'S JUSTICE BODIES

The goals of this comprehensive, far-reaching Directive can be achieved by **various means, combining legislative, administrative and practical measures**, and should take into account **good practices** in the field of assistance and protection for victims.

**In particular, Article 8 Directive lays down the obligation for Member States to establish general victim assistance services.**

**Extensive national coordination** among competent authorities, when preparing national transposition measures, can facilitate the preparation of consistent and effective transposing measures.

This coordination should include the Ministry of Justice, Ministry of Interior, the police and public prosecution authorities, the courts, ministries and/or public bodies in charge of equality, non-discrimination, health and social welfare, specialised with victim support organizations and restorative justice services.

Currently there are different models and ways of coordinating victims' support actions in different European countries.

First of all we must consider the important reference at the continental level made up of **Victim Support Europe (VSE)** which is the leading European umbrella organisation advocating on behalf of all victims of crime, no matter what the crime, no matter who the victim is.

VSE represents 47 national member organisations, providing support and information services to more than 2 million people affected by crime every year in 27 countries.

The organisation founded in 1990 is non-profit-making international association, promotes the establishment and development of victim rights and services throughout Europe. The organisation aims to ensure that every victim in Europe is able to access information and support services in the aftermath of crime, regardless of where the victim lives or where the crime took place.

Victim Support Europe also works to ensure that victims are respected, have access to strong rights and are able to make their voice heard throughout the criminal justice process.

The mission of the organisation is to encourage, support, promote and develop the provision of national services providing practical and emotional support to victims and others affected by crime in any European state as defined by the Council of Europe. This includes providing assistance with parties interested in creating national organisations aimed at supporting victims of crime in any European state. The mission includes work to prevent crime, re-victimisation and secondary victimisation. The mission extends to the development, advancement and promotion of knowledge and learning including in and through academic institutions across all European states so as to

improve the position of victims and others affected by crime in Europe. The mission includes the commissioning of research and development in victims' rights, national and international standards and best practice for the provision of services. The mission involves representing the interests of victims and the membership to European institutions including the European Commission, the Council of Europe as well as international bodies such as the United Nations. Representation will be extended to European and international organisations concerned with human rights and social and criminal justice. The mission will seek to secure justice, freedom and security for victims and others affected by crime in Europe.

By switching to a rapid assessment of the situation in individual member countries, on the basis of the last survey realized by Fundamental Rights Agency in 2015:

- In 6 countries, (Croatia, France, Italy, Portugal, Romania, Slovakia, Spain) all four major ministries (Justice, Health, Interior, Labour/Social affair) provide action and co-ordination to support the victims
- In Bulgaria, Czech Republic, Lithuania, Poland, Slovenia the action to support victims are coordinated by Ministry of Justice, Ministry of interior, Ministry of Social and labour affair
- In Belgium, Finland, Greece the action to support victims are coordinated by Ministry of Justice, Ministry of interior, Ministry of Health
- In Austria, Hungary, United Kingdom, the Ministries of Justice and the Interior are in charge of coordination actions;
- Finally, in three countries (Ireland, Luxembourg, Netherlands, Sweden) the responsibility for coordination lies exclusively on the Ministry of Justice

Table 1 Ministers responsible for co-ordinating victim support in the 28 EU countries

Country	Responsibility g under Ministry of Justice	Responsibility for under Ministry of Health	Responsibility under Ministry of Labour/Social Affairs	Responsibility under Ministry of Interior
Austria	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs not responsible	Ministry of Interior/Home Affairs responsible
Belgium	Ministry of Justice responsible	Ministry of Health responsible	Ministry of Labour/Social Affairs not responsible	Ministry of Interior/Home Affairs responsible
Bulgaria	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs responsible
Croatia	Ministry of Justice responsible	Ministry of Health responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs responsible
Cyprus	Ministry of Justice not responsible	Ministry of Health responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs not responsible
Czech Republic	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs responsible
Denmark	Ministry of Justice responsible	Ministry of Health responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs not responsible
Estonia	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs not responsible
Finland	Ministry of Justice responsible	Ministry of Health responsible	Ministry of Labour/Social Affairs not responsible	Ministry of Interior/Home Affairs responsible
France	Ministry of Justice responsible	Ministry of Health responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs responsible
Germany	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs not responsible
Greece	Ministry of Justice responsible	Ministry of Health responsible	Ministry of Labour/Social Affairs not responsible	Ministry of Interior/Home Affairs responsible
Hungary	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs not responsible	Ministry of Interior/Home Affairs responsible
Ireland	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs not responsible	Ministry of Interior/Home Affairs not responsible
Italy	Ministry of Justice responsible	Ministry of Health responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs responsible

Source: European Union Agency for Foundamental Rights - Mapping victims' rights and support in the EU

Table 1 Ministers responsible for co-ordinating victim support in the 28 EU countries(continued)

Country	Responsibility g under Ministry of Justice	Responsibility for under Ministry of Health	Responsibility under Ministry of Labour/Social Affairs	Responsibility under Ministry of Interior
Latvia	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs not responsible
Lithuania	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs responsible
Luxembourg	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs not responsible	Ministry of Interior/Home Affairs not responsible
Malta	Ministry of Justice not responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs not responsible	Ministry of Interior/Home Affairs responsible
Netherlands	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs not responsible	Ministry of Interior/Home Affairs not responsible
Poland	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs responsible
Portugal	Ministry of Justice responsible	Ministry of Health responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs responsible
Romania	Ministry of Justice responsible	Ministry of Health responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs responsible
Slovakia	Ministry of Justice responsible	Ministry of Health responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs responsible
Slovenia	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs responsible
Spain	Ministry of Justice responsible	Ministry of Health responsible	Ministry of Labour/Social Affairs responsible	Ministry of Interior/Home Affairs responsible
Sweden	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs not responsible	Ministry of Interior/Home Affairs not responsible
United Kingdom	Ministry of Justice responsible	Ministry of Health not responsible	Ministry of Labour/Social Affairs not responsible	Ministry of Interior/Home Affairs responsible

Source: European Union Agency for Foundamental Rights - Mapping victims' rights and support in the EU

Furthermore, the Member States have to put in place specific plan and action:

- To ensure implementation and organization a wide range of victims' support services;
- To realize national programs against specific crimes such as gender violence against children, hate crimes;
- To define technically within its own legislature the tools for the implementation of victim support systems;
- To specify the system of financing and mutual coordination among national authorities and the private and non-governmental sector would be governed.

Regarding the organization of the support services for the victims, the directive, although not defining in detail the notion of univocal system, allows to identify a reference model that configures forms of integration and cooperation between public and private, between state-organizations and non-governmental social voluntary organizations.

Currently, in many member states the action of NGOs involved in the activities of support and assistance to victims of crime plays a fundamental and widespread role from an operative point of view and has contributed in an effective and essential way to sensitize public opinion and institutional bodies. In many cases, then their contribution has been essential for the legislative and regulatory recognition of the instances and rights of the victims of crime.

The staff of these organizations is made up by volunteers and professionals who work in a professional manner. In some member states, the general services of assistance to victims are provided by private associations that are independent from the government, both at the organizational level and the financial level and that are committed to the public support of the victims' interest. Therefore, it can be concluded that the existence of influential NGOs and with a certain degree of independence is important to promote the victims' rights.

## Victim's rights in criminal proceedings

Directive 2012/29 / EU devotes a number of articles to the topic of victims' rights throughout the course of the criminal proceedings, by means of a set of measures which Member States should adopt on the basis of a **coherent and comprehensive national policy** on the rights of crime victims, including access to support, protection and participation throughout the criminal proceedings.

The main directions are shown below.

**Transposition into the criminal procedure code** directly in order to ensure that national legislation provides an opportunity for victims of crime to be heard and provide evidence during criminal proceedings.

**Developing procedures allowing authorities to assess the communication needs and constraints of each individual victim, from the victim's first contact with the criminal justice system** to be able to assess whether victims have any communication difficulties.

Setting up **national practices and schemes to provide information in simple and accessible language, available both orally and in writing.**

Ensuring that rights set out in this Directive are **not** made **conditional** on the victim having **legal residence status** in their territory or on the victim's citizenship or nationality.

To guarantee the overall transparency of the process, it is suggested to **record the delivery of a copy or written acknowledgement of the formal complaint in the police/judicial file**, including a specific **case reference number**. This is particularly important for **victims in cross border cases**, especially if the victim is unlikely to remain in the country.

Developing **internal practices and procedures for police services** to provide **immediate access to linguistic assistance** in order to ensure that victims can make a complaint in a language they understand

Developing **standard practices for police, public prosecution and courts**, whereby every victim is notified of their right to receive information and is asked to confirm what type of information about their case they wish to receive.

Making **practical arrangements** for victims to receive **appropriate, updated flow of information** about their case. When providing information to victims, there must be compliance with **data protection rules**.

Developing **internal practices**, whereby a person of the victim's choice may be present during the first contact with police and other criminal justice authorities.

Article 22 of the Directive establishes a **series of measures to protect vulnerable victims**, such as listening and witnessing in protected places, the possibility of being interviewed by specially trained personnel and to avoid visual contact between the victims and the perpetrators of the offenses, even during depositions, by using appropriate means including the use of information and communication technologies.

**Member States should ensure that at least victims of serious crime have the right to review of a decision not to prosecute**, in accordance with procedural rules determined by national law. As the notion ‘serious’ crime is not defined by the Directive, the existing **EU criminal law legislation** and **international criminal justice standards** may be taken into account when interpreting this term at national level.

On the basis of these indications, the EU Fundamental Rights Agency has systematized a series of information on the situation in the Member UE States in relation to six major references:

1. Provision of the right to be heard
2. Provision of the right to supply evidence
3. Provision of the right for vulnerable victims to be questioned & testify in court in a protected manner
4. Provision of the right to be accompanied at trial by support persons
5. Provision of the Right to access and copy trial records
6. Implementation of the right to an effective legal remedy against a decision by the public prosecutor not to prosecute or to discontinue proceedings

The following table 2 summarizes the information collected and allows to identify the recognition of these rights in different countries:

- Austria, Croatia, Finland, France, Germany, Sweden provide all rights considered.
- Belgio e Repubblica Ceca where almost all rights are provided and only the right to challenge the decision not to prosecute is guaranteed.
- Hungary, Latvia, Luxembourg, Poland, Slovenia provided for 5 rights (all except provision of right to be accompanied at trial by support persons in Hungary, Latvia, Poland, Slovenia whereas in Luxembourg no measures are contemplated for vulnerable victim’s protected listening e witness)
- Estonia, Greece, Netherlands, Portugal, Slovakia, Spain provided totally four rights and one partially (Provision of right to be accompanied at trial by support persons is not guaranteed in Estonia, Greece, Netherlands, Portugal; while in Slovakia no measures are contemplated for vulnerable victim’s protected listening e witness.).
- In Lithuania 4 rights are provisioned totally.
- Italy recognizes the rights to supply evidence, the right for vulnerable victims to be questioned & testify in court in a protected manner, the right to access and copy trial records and partially the right to challenge the decision not to prosecute;
- Finally in United Kingdom, which provides the right for vulnerable victims to be questioned & testify in court in a protected manner, the right to be accompanied at trial by support persons and to an effective legal remedy against public prosecutor decision not to prosecute or to discontinue proceedings.



Table 2 Right for victim in Criminal proceedings provided in in the 28 EU countries

Country	Provision of right to be heard	Provision of right to supply evidence	Provision of right for vulnerable victims to be questioned & testify in court in a protected manner	Provision of right to be accompanied at trial by support persons	Provision of Right to access and copy trial records	Implementation of right to an effective legal remedy against a decision by the public prosecutor not to prosecute or to discontinue proceedings	rating
Austria	provided for	provided for	provided for	provided for	provided for	file for a review and institute private prosecution	6
Belgium	provided for	provided for	provided for	provided for	provided for	institute private prosecution	5,5
Bulgaria	provided for	not provided for	not provided for	not provided for	provided for	file for a review and institute private prosecution	6
Croatia	provided for	provided for	provided for	provided for	provided for	file for a review and institute private prosecution	6
Cyprus	not provided for	not provided for	provided for	partly provided for	not provided for	No implementation	1,5
Czech Republic	provided for	provided for	provided for	provided for	provided for	file for a review	5,5
Denmark	not provided for	not provided for	provided for	provided for	not provided for	file for a review	2,5
Estonia	provided for	provided for	provided for	not provided for	provided for	file for a review	4,5
Finland	provided for	provided for	provided for	provided for	provided for	file for a review and institute private prosecution	6

Source: European Union Agency for Fundamental Rights - Mapping victims' rights and support in the EU

Table 2 Right for victim in Criminal proceedings provided in in the 28 EU countries (continued)

Country	Provision of right to be heard	Provision of right to supply evidence	Provision of right for vulnerable victims to be questioned & testify in court in a protected manner	Provision of right to be accompanied at trial by support persons	Provision of Right to access and copy trial records	Implementation of right to an effective legal remedy against a decision by the public prosecutor not to prosecute or to discontinue proceedings	rating
France	provided for	provided for	provided for	provided for	provided for	file for a review and institute private prosecution	6
Germany	provided for	provided for	provided for	provided for	provided for	file for a review and institute private prosecution	6
Greece	provided for	provided for	provided for	not provided for	provided for	file for a review	4,5
Hungary	provided for	provided for	provided for	not provided for	provided for	file for a review and institute private prosecution	5
Ireland	not provided for	not provided for	provided for	partly provided for	not provided for	file for a review	2
Italy	not provided for	provided for	provided for	not provided for	provided for	file for a review	3,5
Latvia	provided for	provided for	provided for	partly provided for	provided for	file for a review	5
Lithuania	provided for	provided for	not provided for	not provided for	provided for	file for a review and institute private prosecution	4
Luxembourg	provided for	provided for	not provided for	provided for	provided for	file for a review and institute private prosecution	5
Malta	partly provided for	partly provided for	partly provided for	provided for	partly provided for	No implementation	2,5
Netherlands	provided for	provided for	provided for	not provided for	provided for	file for a review	4,5

Source: European Union Agency for Fundamental Rights - Mapping victims' rights and support in the EU

Table 2 Right for victim in Criminal proceedings provided in the 28 EU countries (continued)

Country	Provision of right to be heard	Provision of right to supply evidence	Provision of right for vulnerable victims to be questioned & testify in court in a protected manner	Provision of right to be accompanied at trial by support persons	Provision of Right to access and copy trial records	Implementation of right to an effective legal remedy against a decision by the public prosecutor not to prosecute or to discontinue proceedings	rating
Poland	provided for	provided for	provided for	not provided for	provided for	file for a review and institute private prosecution	5
Portugal	provided for	provided for	provided for	not provided for	provided for	file for a review	4,5
Romania	not provided for	not provided for	partly provided for	partly provided for	not provided for	file for a review	1,5
Slovakia	provided for	provided for	not provided for	provided for	provided for	file for a review	4,5
Slovenia	provided for	provided for	provided for	not provided for	provided for	file for a review and institute private prosecution	5
Spain	provided for	provided for	partly provided for	not provided for	provided for	file for a review and institute private prosecution	4,5
Sweden	provided for	provided for	provided for	provided for	provided for	file for a review and institute private prosecution	6
United Kingdom	not provided for	not provided for	provided for	provided for	not provided for	file for a review and institute private prosecution	3

Source: European Union Agency for Fundamental Rights - Mapping victims' rights and support in the EU

## VICTIM SUPPORT SYSTEM ORGANIZATION AND EXPERTS

### *Suggestions from the Directive*

In defining in a particularly detailed and operative way the system of rights of victims of crime and the operational tools to ensure their enjoyment, it is possible to identify a complex and articulated set of figures, professional requirements and training paths related the victim protection and support activities.

It is therefore particularly useful and meaningful to retrace the main indications contained in the Directive and the relevant DG Justice guidelines in order to highlight these aspects of fundamental importance for the SAVE project development.

The starting point can be considered the Article 8 of the Directive, which sets out the minimum victim support requirements that must be guaranteed by the member states:

- **information, advice and support** relevant to the **rights of victims** including on accessing national **compensation** schemes for criminal injuries, and on their **role in criminal proceedings** including preparation for attendance at the trial;
- information about or direct **referral** to any relevant specialist support services in place;
- **emotional** and, where available, **psychological support**;
- **advice** relating to **financial** and **practical** issues arising from the crime;
- unless otherwise provided by other public or private services, **advice** relating to the **risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation**.

Competent authorities should ensure that victims, and their family members, have access to **confidential support services free of charge**.

These should provide information and advice, emotional and psychological support and practical assistance.

Victim support is often crucial for the recovery of victims to help them cope with the aftermath of a crime and with the strain of any criminal proceedings.

Support should be available from the **earliest possible moment** after a crime has been committed, **irrespective of whether it has been reported**. Equally, victims may require support both during proceedings and for an **appropriate period** thereafter, **depending on the victim's individual needs**.

Support will be valuable, for example, if medical treatment is ongoing due to the severe physical or psychological consequences of the crime, or if the victim's safety is at risk due to their statements during criminal proceedings.

**Victims must have access to victim support in accordance with their needs.** Their **family members** must have access in accordance with their **needs and the degree of harm suffered** as a result of the crime committed against the victim.

Furthermore, the Directive enters into the merits of multiple operational aspects, which are summarized and briefly described below.

### **Protection**

The directive in several steps indicates a wide range of victim protection measures ranging from the implementation of protected residences to the definition of support procedures to be delivered before, during and after criminal proceedings.

It is recommended that Member States:

- adopt administrative and practical procedures to incorporate these protective measures into the daily routine of criminal justice authorities in order to ensure that victims are fully aware of the victim's rights of protection, the various available protection measures and how they can be provided;
- develop professional codes of conduct for criminal justice authorities in contact with victims by ensuring that they have the protection as a priority of their work.

### **Specific protection for vulnerable victims**

According to the individual approach, a number of specific measures are indicated for particularly vulnerable victims.

The purpose of individual assessment is to **determine whether a victim is particularly vulnerable to secondary and repeated victimisation, to intimidation and to retaliation during criminal proceedings**. It is important to understand this, in order to establish the appropriate extent and scope of questions the victim is asked for in this assessment.

The assessment implies a **two-step process** (which could be combined):

- 1) to determine whether a victim has **specific protection needs** personal characteristics of the victim, the type or nature of the crime, the relationship between the victim and the offender and the circumstances of the crime);
- 2) to determine if **special protection measures** should be applied, and what these should be.

The **individual approach** taken in the Directive does **not create priority categories or hierarchy of victims**.

Nevertheless, in the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; or victims whose relationship to and dependence on the offender make them particularly vulnerable.

Anyhow victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crime; and victims with disabilities shall be duly considered since they typically have special vulnerabilities.

### **Professional and specialist support to victims**

Some victims require specialist support due to their personal vulnerability or particular circumstances or the nature of the crime (most commonly victims of sexual violence, violence in close relationships, victims of hate crime or human trafficking).

The victim has the right to access confidential specialist support services free of charge in accordance with their specific needs (and for family members, their needs and degree of harm suffered as a result of the crime committed against the victim). Member States have some flexibility in how such specialist support should be set up. Specialist services can be provided by separate entities or within the framework of general support services; or through a referral mechanism whereby general support services can call on existing specialist services to support victims with specific needs.

General and specialist support may be provided by governmental or non-governmental organizations, on a professional and/or voluntary basis.

Access to support should not involve excessive procedures or formalities for victims, as these might reduce effective access to such services. Support may be provided in a variety of ways, such as face-to-face meetings, by telephone, online or other remote means to maximise the geographical distribution and availability of services. For example, there is a wide range of specialist services for victims, particularly for victims of domestic violence and rape and sexual violence.

### **Cooperation between public authorities and private organizations**

**NGOs have a long tradition of providing shelters** and other forms of safe, accessible alternative accommodation, Legal advice, medical and psychological counselling as well as of running hotlines and other essential services for victims and their families. These various types of specialised services reflect optimally the individual approach to every victim, taking into account the nature and severity of crime.

However, specialist support may also be provided by other public or private services (such medical establishments, health and psychiatric entities or social services).

An 'integrated' approach when providing victim support should take into account the relationship between victims, perpetrators, children and their wider social environment to avoid the risk of assessing their needs in isolation or without acknowledging their social reality. Thus, when providing targeted, integrated support, it is important to ensure that the needs of victims are assessed in the light of all relevant circumstances to allow professionals to take properly informed, appropriate decisions. This approach is in line with the requirements under the Council of Europe Istanbul Convention.

Furthermore, Member States may decide on the most appropriate methods of providing information and the role of national police and judicial authorities in doing so. However, good practice illustrates that the various actors dealing with it should cooperate closely to ensure that the appropriate, updated flow of information for victims is maintained throughout all stages of criminal proceedings. Modern means of communication such as electronic transfer systems may be very useful to achieve this goal.

In addition, the directive suggests setting up a **one - stop shop for victims' agency** could be established to serve as the main contact for victims and should be responsible for keeping the victim informed, liaising between the victim and all authorities and agencies involved. This is an approach promoted by the Istanbul Convention, as such one-stop shops have been tried and tested for services to victims of domestic violence and could be adapted to victims of other types of crime.

If the Member State decides to operate victim support services through the private sector or through NGOs, the State should evaluate **the allocation of sustainable financial** or other required resources to these organizations, unless the organization chooses to function without government funding and remain independent. To this end, Member States could develop private partnerships based on service agreements, where financial support is provided for the provision of specifically agreed support services to victims of crime. The selection of providers may be run in different ways, such as through specific accreditation/certification systems, public procurement systems for victims' services providers or through subsidiary systems, where a VSO applies to the public entity concerned, based on quality, reliability and transparency criteria.

## Training

**Training** is absolutely essential for making the victims' rights in the Directive real and effective for victims in Europe. Member States should do their utmost to ensure that all practitioners in contact with victims receive proper training. A number of Articles in this Directive presuppose that training is available, notably the provisions on support and restorative justice services (training being a requirement for accreditation). **Member States' obligations in the area of training include developing awareness of victims' needs, in a professional and non-discriminatory manner.**

It is also indicated in principle what types of training meet the underlying objectives of the Directive.

Training on victims' rights and needs is part of the basic training for **police officers and court staff**. Good practice shows that for **lawyers, judges and prosecutors**, victim awareness training should also form part of the **basic curriculum** in law or barschool. Specialised courses regarding the rights and needs of victims of crime should also be offered as part of on-going **professional development**. Professionals could be encouraged to take part in training courses, including **cross-disciplinary training**, if, for instance, taking and completing specific victim awareness courses were a requirement for professional promotion and specific judicial positions.

Victim awareness training to all staff/volunteers within **victim support and restorative justice services**. A requirement for specialised victim awareness training could, for instance, form part of the funding or service delivery agreement between the State and individual support organization(s).

**All practitioners and professionals in contact with victims should be trained**, including police, court staff, prosecutors, lawyers, judges, victim support and restorative justice services. However, because of the independence of the judiciary (which includes prosecutors in several Member States) and the lack of State control over lawyers and non-governmental organizations, the Directive has a lighter obligation for training these practitioners compared to police and court staff.

### Legal AID

The UE member state are invited to:

- specify in **national criminal law legislation** under what conditions and circumstances victims are able to access legal aid, bearing in mind the need to ensure equal access to justice and victims' right to a fair remedy
- adopt **administrative procedures to implement victims' access to legal aid**, without excessive bureaucratic requirements,
- ensure that victims are **informed** about how and under what conditions they can access legal aid at their first contact with the competent authorities.

### Victim information services

The Victim support Organization should be able to provide support and information services (including telephone services) which are free of charge for the victim and which provide a sufficient geographical network across the Member State, adequately covering also rural and remote areas.

Member States must also develop:

- procedures allowing authorities to assess the communication needs and constraints of each individual victim, from the victim's first contact with the criminal justice system;
- appropriate models, templates, IT tools etc. for providing information to victims and specify which criminal justice actor is responsible for providing each type of information.

The competent police/criminal justice authority should provide such services without the request of the victim.

Member States should ensure the information provided to victims of crime is provided in a sensitive manner that takes into account their personal characteristics and the nature of the crime in which they were a victim.

Contact with the authorities also includes helpline phone calls and online/ internet contacts. requires officials to take an **individual, pro-active approach** when dealing with victims. Consequently, the main challenge is to develop appropriate tools that make different types of information accessible to victims.

In addition, the directive also describes a series of information and notification tools to support the victims. However, **victims' notification procedures or schemes** should be **timely and effective**. Member States could consider establishing a **victim notification system** through which victims can get information regarding their offender's custody status and register to receive notifications when that status changes. The system could allow the different national authorities involved in the administration of custody to coordinate and share information.



### **Linguistic assistance and translators.**

Victims are entitled to make their complaint in a language that they understand. To that end, they have the right to get linguistic assistance from the authorities free of charge.

The Member states are invited to develop internal practices and procedures for police services to provide immediate access to linguistic assistance in order to ensure that victims can make a complaint in a language they understand.

Police should therefore have operational access to a network of translators and interpreters to ensure their services are available as and when required.

Some tools suggested are:

- introducing an official registration/accreditation system (albeit not obligatory) for certified interpreters and translators at national level. Such a system would be a basis for developing a network of translators and interpreters with appropriate coverage to provide services as and when required experience);
- use a variety of means, such as model questions for the victims or (especially in case of doubt) the involvement of a specialised service or experts.
- when assessing the victim's needs for translation/interpretation, clear and transparent mechanisms (e.g. guidelines or administrative instructions) to enable competent authorities to determine what information and documents are 'essential' for the victim to exercise their rights in criminal proceedings, and that allow victims to submit a reasoned request for such information, thus safeguarding the principle of fair trial.
- Establishing videoconferencing and other technological tools that may be used to ensure victims can access interpretation and translation as and when required.
- Developing cooperation practices among competent authorities in Member States to share resources and liaise between translation and interpretation services in crossborder cases.

### **Tutors and support staff as part of the right to understand and to be understood**

The Directive clarifies '**communication safeguards**' in detail gives victims the **right to be accompanied** by a person of their choice in their first contact with the authorities if they need assistance due to the impact of the crime or if the victim has difficulties understanding proceedings or to be understood.

Consequently, it is necessary developing **practices** whereby a person of the victim's choice may be present during the first contact with police and other criminal justice authorities

The victim's right to avail himself of a person of trust and support can also be extended to all stages of criminal proceedings

### **Mediation services and restorative justice**

A coordinated national approach among the competent criminal justice authorities, including the police, judicial authorities, relevant administrative bodies (such as legal aid administration, probation and mediation service) and victims' support providers. Mediators and those directly involved in restorative justice processes should cooperate with psychologists, psychiatrists, debt counsellors, child protection specialists etc.

The Member State should establish national restorative justice service providers as a public authority or concluding service agreements with accredited private/non-governmental restorative justice service providers so as all restorative justice measures delivered in their territory fulfil the minimum standards.

To this extent, it may be useful to:

- Develop national service delivery standards relating to the provision of restorative justice, which fulfil the Directive's requirements and reflect European good practice in relation to victims of crime. Where mediation is envisaged, Member States should support the adoption of model standards to protect the interests of victims. These should include the ability of the parties to give free consent, be duly informed of the consequences of the mediation process, issues of confidentiality, access to impartial/neutral advice, the possibility to withdraw from the process at any stage, the monitoring of compliance with the agreement and the competence of mediators. The interests of victims should be fully and carefully considered when deciding upon and during a mediation process, taking into account the vulnerability of the victim. Due consideration should be given not only to the potential benefits but also to the potential risks for the victim.
- Meeting regularly with service providers of restorative justice to discuss opportunities and challenges, for instance, how current service delivery meets the needs of victims of crime, any gaps regarding victims not able to access restorative justice services and how that can be addressed.

### **Awareness and communication Tools**

Therefore, Member States should ensure that there are general awareness raising campaigns and that information is available to the general public (leaflets, poster campaigns, websites etc.) and in places where victims are likely to go as a result of crime (hospitals, school nurse, housing and employment centres, women's organizations, embassies, consulates etc.)

### *The UE Member situation*

Foundamental Right Agency in the survey on the situation has analyzed the different Member States on the basis of some indicator:

- Models of generic victim support services
- Legal Aid
- Helpline available
- Formally adopted quality standards
- Main support service provider is a member of a cross-border network
- Information is provided by support services in different languages

To sum up the situation is the following:

- **seven UE member** has activated at least a Public **National Generic Victim Support Services**, in **other six states** is Active at least e Generic Victim Support system which is non Governmental but relies of strongly Public Founding, **there are also six states** where at least one national generic - main provider/structure is non-governmental, does not rely strongly on state funding, at least eight States didn't a national generic victim support sistem;
- in every Member State **Legal Aid** is provided to the victims, **in thirteen countries** both state and victim support services have a role, **in fourteen countries** State is main provider, in Grece Legal Aid is provided by VSO's;
- in every countries some **national helplines** are present;
- in **fourteen** states no **KPI to assess quality has been formally adopted**, on the contrary KPYs are adopted completely **in ten states**, at least in four countries some elements of quality standards based on KPI exist;
- In 20 countries main generic victim support organisation maintains formal **contact with victim support organisations in other countries** other eight countriues didn't;
- In **25 UE Mebers**Information is provided by support services in **different languages**.

Table 3 Victim support system and organization provided in in the 28 EU countries (continued)

Country	Models of generic victim support services	Legal Aid	Helpline available	Formally adopted quality standards	Main support service provider is a member of a cross-border network	Information is provided by support services in different languages	rating
Austria	At least one national generic - main provider/structure is non-governmental, does not rely strongly on state funding	Victim support services are the main providers	available	Formally adopted KPI to assess quality exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	5
Belgium	At least one national generic - main provider/structure is state run and funded	Both state and victim support services have a role	available	Formally adopted KPI to assess quality exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	6
Bulgaria	No generic support service	Both state and victim support services have a role	available	No KPI to assess quality have been formally adopted	No victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	3
Croatia	At least one national generic - main provider/structure is state run and funded	State is the main provider	available	Some elements of quality standards based on KPI exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	5
Cyprus	No generic support service	State is the main provider	available	No KPI to assess quality have been formally adopted	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	3,5

Table 3Victim support system and organization provided in in the 28 EU countries (continued)

Country	Models of generic victim support services	Legal Aid	Helpline available	Formally adopted quality standards	Main support service provider is a member of a cross-border network	Information is provided by support services in different languages	rating
Czech Republic	At least one national generic - main provider/structure is state run and funded	Both state and victim support services have a role	available	Formally adopted KPI to assess quality exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	6
Denmark	At least one national generic - main provider/structure is non-governmental but relies strongly on state funding	State is the main provider	available	No KPI to assess quality have been formally adopted	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	4
Estonia	At least one national generic - main provider/structure is state run and funded	State is the main provider	available	No KPI to assess quality have been formally adopted	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	4,5
Finland	At least one national generic - main provider/structure is non-governmental but relies strongly on state funding	Both state and victim support services have a role	available	Formally adopted KPI to assess quality exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	5,5
France	At least one national generic - main provider/structure is non-governmental but relies strongly on state funding	State is the main provider	available	Formally adopted KPI to assess quality exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	5

Table 3Victim support system and organization provided in in the 28 EU countries (continued)

Country	Models of generic victim support services	Legal Aid	Helpline available	Formally adopted quality standards	Main support service provider is a member of a cross-border network	Information is provided by support services in different languages	rating
Germany	At least one national generic - main provider/structure is non-governmental, does not rely strongly on state funding	Both state and victim support services have a role	available	Some elements of quality standards based on KPI exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	5
Greece	No generic support service	Both state and victim support services have a role	available	No KPI to assess quality have been formally adopted	No victim support organisation maintains formal contact with victim support organisations in other countries	No information is available to victims	2
Hungary	At least one national generic - main provider/structure is state run and funded	Both state and victim support services have a role	available	Formally adopted KPI to assess quality exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	6
Ireland	At least one national generic - main provider/structure is non-governmental but relies strongly on state funding	State is the main provider	available	No KPI to assess quality have been formally adopted	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	4
Italy	No generic support service	Both state and victim support services have a role	available	No KPI to assess quality have been formally adopted	No victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	3
Latvia	No generic support service	Both state and victim support services have a role	available but does not specifically target victims of crime	No KPI to assess quality have been formally adopted	No victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	2,5

Table 3Victim support system and organization provided in in the 28 EU countries (continued)

Country	Models of generic victim support services	Legal Aid	Helpline available	Formally adopted quality standards	Main support service provider is a member of a cross-border network	Information is provided by support services in different languages	rating
Lithuania	No generic support service	State is the main provider	available but does not specifically target victims of crime	No KPI to assess quality have been formally adopted	No victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	2
Luxembourg	At least one national generic - main provider/structure is state run and funded	State is the main provider	available but does not specifically target victims of crime	No KPI to assess quality have been formally adopted	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	4
Malta	At least one national generic - main provider/structure is non-governmental but relies strongly on state funding	State is the main provider	available	No KPI to assess quality have been formally adopted	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	4
Netherlands	At least one national generic - main provider/structure is non-governmental but relies strongly on state funding	Both state and victim support services have a role	available	Formally adopted KPI to assess quality exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	5,5
Poland	At least one 6 Stes national generic - main provider/structure is non-governmental but relies strongly on state funding	Both state and victim support services have a role	available	Some elements of quality standards based on KPI exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	5
Portugal	At least one national generic - main provider/structure is non-governmental but relies strongly on state funding	State is the main provider	available	Formally adopted KPI to assess quality exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	5

Table 3Victim support system and organization provided in in the 28 EU countries (continued)

Country	Models of generic victim support services	Legal Aid	Helpline available	Formally adopted quality standards	Main support service provider is a member of a cross-border network	Information is provided by support services in different languages	rating
Romania	No generic support service	State is the main provider	available	Some elements of quality standards based on KPI exist	No victim support organisation maintains formal contact with victim support organisations in other countries	No information is available to victims	2
Slovakia	At least one national generic - main provider/structure is non-governmental, does not rely strongly on state funding	Both state and victim support services have a role	available	No KPI to assess quality have been formally adopted	No victim support organisation maintains formal contact with victim support organisations in other countries	No information is available to victims	2,5
Slovenia	No generic support service	Both state and victim support services have a role	available	No KPI to assess quality have been formally adopted	No victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	3
Spain	At least one national generic - main provider/structure is state run and funded	State is the main provider	available	Formally adopted KPI to assess quality exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	5,5
Sweden	At least one national generic - main provider/structure is non-governmental but relies strongly on state funding	State is the main provider	available	No KPI to assess quality have been formally adopted	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	4
United Kingdom	At least one national generic - main provider/structure is non-governmental but relies strongly on state funding	State is the main provider	available	Formally adopted KPI to assess quality exist	Main generic victim support organisation maintains formal contact with victim support organisations in other countries	Information is available to victims	5



## COMPENSATION

Within the integrated support systems for crime victims, a key element defined and addressed in the Directive concerns the need to ensure free legal aid to victims of crime.

Also, the Directive recommends the creation of a national fund for crime victims to fund non-public VSOs. This fund could be directly State funded (funded for example by proceeds gathered by financial penalties, surcharges or fees imposed on offenders, from confiscated assets or as a solidarity fund financed by insurance policies).

Currently, in most of the member states, this condition is generally guaranteed, however in many cases access to free legal aid is subject, for example, to the assessment of the victim's economic situation (aimed at determining who meets the financial criteria set for granting free legal assistance) or legal residency. These limitations can represent bureaucratic obstacles that are difficult to overcome, especially when free legal aid must be made available quickly to guarantee the rights of the victim. Some principles issued by international organizations also recommend a less restrictive use of the assessment of the economic situation. For example, the UN guidelines and principles of 2012 on access to free legal aid in criminal justice systems provide that children should always be exempted from this assessment.

## CONCLUSION

DIRECTIVE 2012/29/EU is the fundamental reference of the European legislator's approaches to the role and the consideration of the needs of the victims of crime.

It is a document that indicates the stages of a process of change and modification of legislative conceptions, until now mainly reo-centered, which should be followed by all member states.

The fundamental issues of this change concern the rights and the role that the victim must and can play in the criminal proceedings and the considerations regarding his needs and the need for protection and support before, during and after the criminal proceedings concerning them.

It is also established unequivocally that the support that must be given to victims must relate to a broad scope and move to ensure maximum possible mitigation and repair of the damage they suffered.

Articles 8 and 9 of the Directive define obligations and recommendations for member states to establish a common path leading to the full realization of a European system of support for victims of crime that guarantees some fundamental principles:

- The right for victims of crime to make use of support and service agencies that can accompany and support them, in their immediate and material needs, in judicial proceedings, in the need for protection, in the path of physical and psychological recovery for the overcoming of traumas suffered;

- the right to be informed about their rights and access to support services;
- the right to be aided and supported by expert personnel specifically dedicated to addressing their own problems;
- the right to be protected from the risks of secondary victimization;
- the right to legal aid, compensation and financial support.

The analysis carried out through the available documentation, the researches and monitoring carried out in particular by the European Union Agency for Fundamental Rights and Victim Support Europe have further highlighted how broad is still the path to be taken to achieve the objective of bottom of the directive.

Currently in the 28 member States cohabit diversified models and modalities of support to the victims.

In particular, it should be underlined that only in seven UE members are active and functioning Public National Generic Victim Support Services and that in 6 other countries there are organizations strongly supported by public funding. So in almost half of the member states the spirit of the directive is far from being accepted in its main fundamental aspect.

Also, with regard to the other elements considered, concerning, legal support, information and support services, professional structuring and definition of evaluation criteria and quality measurement, the situation of the member States has lights and shadows.

In fact, only in seven countries out of 28 reaches a level of at least 5 out of 6 if we consider the realization of all the following conditions:

1. presence of a national support agency;
2. complete availability of legal support;
3. availability of a national helpline;
4. adoption of formal quality standards for support services;
5. international connection of the support services to the offenses of crime present on the single national territory;
6. Availability of multilingual information on support services for victims of crime.

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5. ***Victims of crime in the EU: the extent and nature of support for victims* (2014).** [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2015-victims-crime-eu-support\\_summary\\_it.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2015-victims-crime-eu-support_summary_it.pdf)
6. **Victim Support Europe: Operating Networks for Victim Support Services** [https://victimsupport.eu/activeapp/wp-content/files\\_mf/1506075235WB\\_networkoperationsreport\\_final.pdf](https://victimsupport.eu/activeapp/wp-content/files_mf/1506075235WB_networkoperationsreport_final.pdf)
7. **Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Lanzarote 25/10/2007** <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/201>
8. **Council of Europe Convention on preventing and combating violence against women and domestic violence. Istanbul 11/05/2011** <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210>
9. **Resolution of the Council of 10 June 2011 on a Roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings** <https://publications.europa.eu/en/publication-detail/-/publication/236ce4bd-36a9-4e56-92c4-888a085f2b6c/language-en>

## ***APPENDIX 1***

**Recommendation in DG JUSTICE GUIDANCE DOCUMENT *related to the transposition and implementation of 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***

### **ARTICLE 1. OBJECTIVE**

#### **MEMBER STATES ARE INVITED TO CONSIDER:**

1. Adopting a **coherent and comprehensive national policy** on the rights of crime victims, including access to support, protection and participation throughout the criminal proceedings, as well as all forms of hate crime

Measures intended to achieve the directive's objectives may include **nation-wide codes of conduct/guidelines for professionals in regular contact with victims of crime** (police, judicial authorities, victims' support services providers etc.) and probably will require **setting clear responsibilities for the entities concerned**. These guidelines should be made public, promoted and followed up by appropriate **training** of professionals (see Article 25).

2. Paying particular attention to **inter-agency co-operation**. It is of utmost importance to ensure **horizontal collaboration** and **coherence** between **police, judicial authorities** and **victim support organizations**, when they are dealing with a victim's case in order to minimize the burden upon the victim. Ensuring that rights set out in this Directive are **not** made **conditional** on the victim having **legal residence status** in their territory or on the victim's citizenship or nationality. Thus, third country nationals and stateless persons who have fallen victims of crime on EU territory as well as victims of crime committed extra-territorially in relation to which criminal proceedings are taking place within the EU must benefit from these rights.

3. Current practice from some Member States shows this can be achieved by adapting appropriate immigration rules, for example, by suspending deportation orders and/or issuing temporary residence permits in relation to on-going criminal proceedings.

### **ARTICLE 2 DEFINITION**

#### **MEMBER STATES ARE INVITED TO CONSIDER:**

4. **Reflecting these definitions in national legislation and policies relevant for victims' rights** in a precise and concise manner. The 2009 Implementation Report showed that most Member States referred to existing national definitions instead of amending their legislation to implement the provision on definitions in the FD. However, shortcomings of the previous experience can be avoided by including **the definitions of the Directive in national legislation by full legislative transposition to preserve the legal certainty and clarity of victims' rights**.

**5. Specifying clearly and precisely the moment at which criminal proceedings are considered to begin for the purposes of the Directive** (recital 22) in order to allow for victims' enjoyment of Directive rights from the earliest opportunity within the context of their national legal systems.

**6. Paragraph 2 allows for 'procedures in national law' to limit and/or prioritise family members.** However, to preserve legal certainty in decisions to limit or prioritise family members there is a need for objective and transparent foreseeable criteria. Any limitation or prioritisation of **rights to support and protection should be avoided**, since these rights are inherently **needs-based**.

**7. Providing training and guidance for competent authorities** to ensure full understanding of the definitions in practice, in particular regarding 'victims' and the fact that **'a person should be seen as a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted'**.

### **ARTICLE 3 RIGHT TO UNDERSTAND AND TO BE UNDERSTOOD**

#### **MEMBER STATES ARE INVITED TO CONSIDER :**

**8. Developing procedures allowing authorities to assess the communication needs and constraints of each individual victim, from the victim's first contact with the criminal justice system** to be able to assess whether victims have any communication difficulties. The assessment process should look at all factors affecting the victim's ability to communicate and include any language requirements or other needs that must be met to ensure the victim understands the information provided and is able to be understood. This assessment should also include all factors affecting the victim's ability to cope with the consequences of the crime.

**9. Setting up national practices and schemes to provide information in simple and accessible language, available both orally and in writing** to comply with paragraph 1. Good practice shows that standard basic pieces of information should be readily available in a range of languages, including **Easy Read versions**.

**10. To allow for translation and interpretation as quickly as possible, especially in urgent situations, competent authorities and professionals working with victims should establish an operational network of easily accessible translators and interpreters.** The competent police/criminal justice authority should provide such services without the request of the victim. Particular attention should be given to the **gender** of the translator/interpreter in contact with the victim, in accordance with the needs and wishes of the victim (e.g. in cases of gender-based violence).

**11. Developing internal (predominantly police) practices** to comply with paragraph 3, whereby a person of the victim's choice may be present during the first contact with police and other criminal justice authorities. The safeguard **'unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced'** allows for some flexibility on the part of Member States. The authorities may exclude the person of choice, say, in cases of conflicts of interest (e.g. if the person of choice may be suspected of domestic violence or honour crime; or the confidentiality requirement of the accompanying person would not be met).

### **ARTICLE 4 — RIGHT TO RECEIVE INFORMATION FROM THE FIRST CONTACT WITH A COMPETENT AUTHORITY**

#### **MEMBER STATES ARE INVITED TO CONSIDER:**

**12. Developing appropriate models, templates, IT tools etc. for providing information to victims and specify which criminal justice actor is responsible** for providing each type of information listed under Article

4. For general/generic types of information, the **brochure/leaflet/website** available at the police/judicial authority could be deemed sufficient, provided that additional individual information is provided simultaneously by competent officials/victims' support services on an individual assessment basis (orally or in writing). It is also very important **to differentiate between different types of information from the outset**, reflecting the actual victim's personal situation. Member States should ensure the information provided to victims of crime is provided in a sensitive manner that takes into account their personal characteristics and the nature of the crime in which they were a victim, making sure they understand the concepts as clarified in Recitals 55, 56 and 57 of the Directive.

**13.** Developing **internal practices and procedures** that duly respect **data protection rules** and the **wishes of the victim** to ensure that victims actually receive the required information. When implementing Article 4, Member States may decide on the most appropriate methods of providing information and **the role of national police and judicial authorities in doing so** (including their internal subordination and supervision competences). However, good practice illustrates that the various actors dealing with victims (including police, prosecution, judiciary authorities, social services, victim support organizations) should cooperate closely to ensure that the **appropriate, updated flow of information for victims** is maintained throughout **all stages of criminal proceedings**. **Modern means of communication technology** such as **electronic transfer systems** may be very useful to achieve this goal.

**14.** Consulting Member States that already have experience with good practices of **police sharing information with victim support organizations** (VSOs) so that they can assist individual victims. Some Member States already provide for information exchange between the authorities and VSOs, but this is often done on a case-by-case basis, not in a structured manner. Thus, a **more structured, sustainable approach** would be valuable. For example, a **one-stop-shop victim agency** (see Recital 62) could be established to serve as the main contact for victims and should be responsible for keeping the victim informed, liaising between the victim and all authorities and agencies involved. This is an approach promoted by the **Istanbul Convention**<sup>18</sup>, as such one-stop shops have been tried and tested for services to victims of domestic violence and could be adapted to victims of other types of crime.

**15.** The **situation of victims normally residing in another country** entering into contact with the competent authority in the country in which the crime occurred should be treated specifically, and linguistic factors should be taken into account. **16. Acknowledging that victims who choose not to report a crime to the police may also benefit from receiving much of this information** (for instance, information on where and how to report a crime, role of the victim in criminal proceedings, access to support etc.) **as not all provisions of the Directive are applied only if the victim has made a formal complaint**. Therefore, Member States should ensure that there are general awareness raising campaigns and that information is available to the general public (leaflets, poster campaigns, websites etc.) and in places where victims are likely to go as a result of crime (hospitals, school nurse, housing and employment centres, women's organizations, embassies, consulates etc.), also in line with the requirements of Article 26 para 2.

## **ARTICLE 5 RIGHT OF VICTIMS WHEN MAKING A COMPLAINT**

### **MEMBER STATES ARE INVITED TO CONSIDER:**

**17.** Any possible need to take measures to align **internal procedures** with the new requirements when victims make complaints, particularly regarding police internal organization (see recital 24), e.g. **copy of their complaint, or a written confirmation that they have filed a complaint, that they can take with them when leaving the police station** (or without delay, if the crime was reported by electronic means of communication). In line with good practice in some Member States, it is often possible to produce an acknowledgement using a standard **template** that states the contact details of the victim and a description and circumstances of the criminal offence, to ensure speed and efficiency in delivering the

acknowledgement. To guarantee the overall transparency of the process, it is suggested to **record the delivery of a copy or written acknowledgement of the formal complaint in the police/judicial file**, including a specific **case reference number**. This is particularly important for **victims in cross border cases**, especially if the victim is unlikely to remain in the country.

**18. Developing internal practices and procedures for police services** to provide **immediate access to linguistic assistance** in order to ensure that victims can make a complaint in a language they understand. Police should therefore have **operational access to a network of translators and interpreters** to ensure their services are available as and when required. Instantaneous **translation service available via telephone or videoconference** is another way to arrange immediate access to translators/interpreters for victims who want to report a crime but who do not speak/understand the language.

## **ARTICLE 6 RIGHT TO RECEIVE INFORMATION ABOUT THEIR CASE**

### **MEMBER STATES ARE INVITED TO CONSIDER:**

**19. Developing standard practices for police, public prosecution and courts**, whereby every victim is notified of their right to receive information and is asked to confirm what type of information about their case they wish to receive. Since victims may not know what information is available, the State (through criminal justice authorities) should be responsible for informing victims of their options as soon as possible. Victims' preferences in their individual cases should be recorded and adhered to, and they should be allowed to modify these later.

**20. Making practical arrangements** for victims to receive **appropriate, updated flow of information** about their case. When providing information to victims, there must be compliance with **data protection rules**. Article 6 leaves it up to the Member States how to provide access to such information in practical terms. Good practice shows the benefits of close cooperation among the **various entities** dealing with victims (including **police, prosecution, judiciary authorities, victim support organizations**) to ensure that an **appropriate, updated flow of information** for victims is maintained throughout criminal proceedings. The use of **modern communication technology** (such as an electronic transfer) may be particularly useful in achieving this objective.

**21. As existing examples of good administrative practice may show**, Member States should introduce the obligation in national legislation for criminal justice authorities to **record reasons (or summaries) for their decisions (including decisions not to prosecute)**, so that victims can be provided with such information. Member States should adjust their **administrative procedures** to make the information available to victims. Developing **models** for summaries may be helpful.

**22. Member States should ensure that victims' requests for notifications** on the *escape or release of an offender* are **shared by all competent authorities** involved in such processes (e.g. **police, probation and prison services**) and that victims **actually receive notifications they have requested in a coordinated and efficient manner**. Article 6 allows Member States to decide how such requests and notifications are managed and by whom (**for example, there is no obligation to set up specific entities or to establish particular information-sharing protocols for such purpose**). However, **victims' notification procedures or schemes** should be **timely and effective**. Member States could consider establishing a **victim notification system** through which victims can get information regarding their offender's custody status and register to receive notifications when that status changes. The system could allow the different national authorities involved in the administration of custody to coordinate and share information.

**23. In the cross-border cases context**, Member States are invited to consider what the **role of issuing and executing Member State** should be when providing information to victims in the application of the Council



Framework Decision 2008/947/JHA (Probation and Alternative Sanctions) and the Council Framework Decision

## ARTICLE 7 — RIGHT TO INTERPRETATION AND TRANSLATION

### MEMBER STATES ARE INVITED TO CONSIDER:

**24. Transposing Article 7 preferably into criminal law legislation** (supported through practical guidelines and administrative provisions).

**25.** A number of **implementing measures** which can ensure effective achievement in the practice of the objectives set by the Directive, e.g. - Introducing an **official registration/accreditation system (albeit not obligatory)** for certified interpreters and translators at national level. Such a system would be a basis for developing a **network of translators and interpreters** with appropriate coverage to provide services as and when required (for example, to build on **EULITA22** experience). - Use a **variety of means**, such as **model questions for the victims** or (especially in case of doubt) the **involvement of a specialised service or experts**. - **When assessing the victim's needs for translation/interpretation**, clear and **transparent mechanisms** (e.g. guidelines or administrative instructions) to enable competent authorities to determine what information and documents are '**essential**' for the victim to exercise their rights in criminal proceedings, and that allow victims to submit a reasoned request for such information, thus safeguarding the principle of a fair trial. An **extension of the mechanism' in place for defendants** to challenge refusals to provide translation/interpretation to victims. - Establishing **videoconferencing and other technological tools** that may be used to ensure victims can access interpretation and translation as and when required. - Developing **cooperation** practices among **competent authorities in Member States** to share resources and liaise between translation and interpretation services in **crossborder cases**.

## ARTICLE 8 — RIGHT TO ACCESS VICTIM SUPPORT SERVICES

**MEMBER STATES ARE INVITED TO CONSIDER:** Examples of current practice, as experienced in particular by the Victim Support Europe<sup>28</sup>, in order to ensure effective implementation, such as:

**26.** At national level, victim support services and any specialist support services can be provided in various ways: **public bodies/entities** (including regional entities/municipalities), **private sector service providers** or **NGOs**. **The victim support services can be performed on a professional or voluntary basis.**

**27.** VSOs should be able to provide support and information services (including telephone services) which are **free of charge** for the victim and which provide a **sufficient geographical network** across the Member State, adequately covering also **rural** and **remote areas**.

**28.** If the Member State decides to operate **victim support services through the private sector or through NGOs**, the **State should evaluate the allocation of sustainable financial or other required resources to these organizations, unless the organization chooses to function without government funding and remain independent**. To this end, Member States could develop **private partnerships based on service agreements**, where financial support is provided for the provision of specifically agreed support services to victims of crime. The **selection of providers** may be **run in different ways**, such as through **specific accreditation/certification systems**, **public procurement systems for victims' services providers** or through **subsidy systems**, where a VSO applies to the public entity concerned, based on **quality, reliability and transparency criteria**.

**29.** In countries with more than one organization providing general victim support services, good practice suggests that **cooperation agreements or a national network should be set up**, to ensure that the same quality of support is available across the whole Member State's territory.



**30.** Exploring the possibility of launching the **116 006 telephone number for helplines for victim support** at national level. Member States may also consider requesting the telephone number **116016** for providing specific, up-to-date information and assistance to victims of **gender-based violence**

**31.** Establishing a **national fund for crime victims to fund non-public VSOs**. This fund could be directly State funded, funded for example by **proceeds gathered by financial penalties, surcharges or fees imposed on offenders, from confiscated assets or as a solidarity fund financed by insurance policies**.

**32.** Establishing **national referral arrangements between the police and VSOs**, ensuring all victims are offered **as soon as possible preferably automatic access to general/specialist victim support services**

**31,** taking into account **consent of the victim and data protection requirements**. For example, some Member States with more than one victim support organization have effective referral agreements, whereby one organization acts as a focal point, directing victims to the most appropriate service, according to their needs. It is also important **not to duplicate referrals**, to avoid victims being contacted by several victim support organizations simultaneously. Member States should make referral arrangements according to their national conditions and the availability of victim support services.

**33.** If several specialised victim support services are developed, focusing on particular groups of victims, there should be flexible **referral arrangements among victim support organizations**, ensuring that victims get the support services most suited to their needs **without unnecessary delays**.

**34.** Arrangements could also be made to allow **other relevant agencies** that are in direct contact with victims of crime (e.g. hospitals, schools, embassies, consulates, welfare or employment services) to refer victims to VSOs, based on their needs

#### **ARTICLE 9— SUPPORT FROM VICTIM SUPPORT SERVICES**

**MEMBER STATES ARE INVITED TO CONSIDER: Examples of current practice, as experienced in particular by the Victim Support Europe, in order to ensure effective implementation, such as**

**35.** **Needs assessment tool** identifying support needs, ensuring that any support services can be tailored to fit the individual needs of the victim. **This assessment could be linked to and combined with the individual assessment set out in Article 22.**

**36.** A **horizontal coordinated approach at national level** among the authorities involved (such as the ministries responsible for justice, home affairs, equality, non-discrimination and social affairs and the police, prosecutor and probation services etc.) for **targeted and integrated support for victims with specific needs**.

**37.** A **regular policy dialogue** with VSOs regarding the national availability and provision of support services, any challenges met during service delivery, gap analysis to identify any victims currently not offered automated access to victim support services and how such gaps can be addressed and resolved. Any irregularities or challenges in referral arrangements should be addressed. Member States should aim to fulfil the requirement of ensuring that quality victim support services, **including as a minimum the services listed in Article 9**, are always routinely offered to all victims of crime and their families throughout their territories.

#### **ARTICLE 10 — RIGHT TO BE HEARD MEMBER STATES ARE INVITED TO CONSIDER :**

**38.** **Transposition into the criminal procedure code** directly in order to ensure that national legislation provides an opportunity for victims of crime to be heard and provide evidence during criminal proceedings. Good practice suggests that a victim should be free to present to the authorities concerned his/her view about the manner in which he/she would like to participate in the trial and that the Member State would respect and fulfil this request, to the greatest extent possible. For example, when deciding on sentence, jurisdiction of one country operates with the concept of a **Victim Personal/Impact Statement (VPS)**. In

general, this allows the victim to explain to the court what impact the crime has had on them, whether emotionally, physical financially or in any other way. The criminal practice direction provides judges with information about the weight of consideration to be given to the VPS when sentencing. Judges are required to take the VPS into consideration during sentencing.

**39.** Developing appropriate **training for practitioners** handling the questioning of victims, in line with Article 25.

## **ARTICLE 11— RIGHTS IN THE EVENT OF A DECISION NOT TO PROSECUTE**

### **MEMBER STATES ARE INVITED TO CONSIDER:**

**40.** Developing a procedure **in the criminal procedure code** whereby a victim will be entitled to ask for a review of a decision not to prosecute. The process should be **clear** and **transparent** and not overly bureaucratic to ensure that victims can request the review without legal representation.

**41.** Ensuring in **internal procedures** (public prosecution, court) that victims are able to make an informed decision as to whether to request a review of a decision not to prosecute. If a more formal process for requesting a review is adopted, ability to ask for a review should not be hindered by limited financial resources.

## **ARTICLE 12 — RIGHT TO SAFEGUARDS IN THE CONTEXT OF RESTORATIVE JUSTICE SERVICES STATES ARE INVITED TO CONSIDER:**

**42.** A **coordinated national approach among the competent criminal justice authorities**, including the police, judicial authorities, relevant administrative bodies (such as legal aid administration, probation and mediation service) and victims' support providers. Mediators and those directly involved in restorative justice processes should cooperate with psychologists, psychiatrists, debt counsellors, child protection specialists etc.

**43.** Establishing **national restorative justice service providers** as a **public authority** or concluding **service agreements with accredited private/non-governmental restorative justice service providers** so as all restorative justice measures delivered in their territory fulfil the minimum standards in this Article. To this extent, it may be useful to: Develop **national service delivery standards** relating to the provision of restorative justice, which fulfil the Directive's requirements and reflect European good practice in relation to victims of crime. Where mediation is envisaged, Member States should support the adoption of **model standards** to protect the interests of victims. These should include the ability of the parties to give **free consent**, be **duly informed of the consequences** of the mediation process, issues of **confidentiality**, **access to impartial/neutral advice**, the **possibility to withdraw** from the process at any stage, the **monitoring of compliance with the agreement** and the **competence of mediators**. The **interests of victims** should be fully and carefully considered when deciding upon and during a mediation process, taking into account the **vulnerability of the victim**. Due consideration should be given not only to the potential benefits but also to the potential risks for the victim. It is understood that any restorative justice **Meeting regularly with service providers of restorative justice** to discuss opportunities and challenges, for instance, how current service delivery meets the needs of victims of crime, any gaps regarding victims not able to access restorative justice services and how that can be addressed.

**44.** Ways to ensure that victims are **informed** about the possibility of participating in restorative justice processes at their first contact with the competent authorities (linked to Article 4, paragraph 1(j)).

**45.** Establishing **referral arrangements** for victims looking to participate in restorative justice measures, adapted to national circumstances and restorative justice measures offered in the Member State.

**46.** Encouraging **the use of mediation during criminal proceedings, as well as during the execution phase, at least in cases of less serious or minor crimes.** The use of mediation as **an important factor that plays a**

role in the conditional discontinuation of proceedings or out-of-court settlement at the pre-trial stage of the proceedings. In fact, the use of restorative justice services has an important link to offender compensation to the victim (as an alternative or complement to financial compensation).

#### ARTICLE 13 — RIGHT TO LEGAL AID

##### MEMBER STATES ARE INVITED TO CONSIDER:

47. Specifying in **national criminal law legislation** under what conditions and circumstances victims are able to access legal aid, bearing in mind the need to ensure equal access to justice and victims' right to a fair remedy.<sup>37</sup>

48. Adopting **administrative procedures to implement victims' access to legal aid**, without excessive bureaucratic requirements. Good practice suggests that application forms for legal aid should be available in a range of different languages, or assistance should be given to victims not speaking the official language of the country but looking to apply for legal aid.

49. Ensuring that victims are **informed** about how and under what conditions they can access legal aid at their first contact with the competent authorities (linked to Article 4, paragraph 1(d))

#### ARTICLE 14 — RIGHT TO REIMBURSEMENT OF EXPENSES

##### MEMBER STATES ARE INVITED TO CONSIDER:

50. Specifying in national **criminal law legislation/policy guidelines/labour law guidelines** how and under what conditions and circumstances victims are able to get their expenses reimbursed and what type of expenses could be covered, bearing in mind the need to ensure equal access to justice and victims' right to a fair remedy.

51. Developing an effective **administrative process** whereby victims can apply for reimbursement. This could, for instance, be done on the day of the trial while the victim is present in court. Alternatively, payment for expenses could be settled beforehand (for instance, by the court service or victims' support organization) paying for the victim's travel upfront or by using vouchers.

52. Ensuring that victims are **informed** about how and under what conditions they can get expenses reimbursed at their first contact with the competent authorities (linked to Article 4, paragraph 1(k)).

#### ARTICLE 15 — RIGHT TO THE RETURN OF PROPERTY

##### MEMBER STATES ARE INVITED TO CONSIDER:

53. Specifying in national **criminal law legislation/ policy guidelines** when and under what conditions victims can have their property returned. It should also be clarified within what **timeframe and in what condition** the property should be returned. The return of property should be free of charge for the victim. All costs related to returning the property should be borne by the State.

54. Where appropriate, developing an effective **administrative procedure** whereby victims can ask to have their property returned sooner under certain circumstances. This could, for instance, be applicable if an investigation is closed or a prosecutor decides not to prosecute the case. In addition, due to the information technology nature of many criminal acts (e.g. identity theft or cyber stalking), the competent authorities should be encouraged to take a copy of the relevant information in the victim's mobile phone or computer containing evidence and return the device as soon as possible. Alternatively, the authorities may provide a

certificate to the victim that the property has officially been seized, which entitles the victim to terminate immediately any mobile phone or internet services contract linked to that particular device as a consequence of that crime if the victim so wishes.

## **ARTICLE 16 — RIGHT TO DECISION ON COMPENSATION FROM THE OFFENDER IN THE COURSE OF CRIMINAL PROCEEDINGS**

### **MEMBER STATES ARE INVITED TO CONSIDER:**

**55. Specifying in national legislation** how and under what circumstances victims are able to receive **compensation from the offender**. Member States could explore ways to simplify national procedures for claiming compensation (e.g. one single ‘access point’ for victims at the legal aid administration or Ministry of Justice etc.).

**56.** As compensation is intended to assist the victim in his/her **recovery process**, it is important that it is made available as soon as possible. Therefore, the **legal and/or administrative procedures** should ensure that a decision on compensation is reached within a **reasonable time** in criminal proceedings. Member States may consider developing ways to speed up proceedings by, for example, applying **the adhesion procedure in criminal proceedings**<sup>39</sup> for compensation matters (instead of referring the compensation claim to civil proceedings, where victim bears the burden of proof and pays court fees), or **compensation orders** imposed by judges.

**57.** Mechanisms that give offenders **an incentive to pay adequate compensation awards** to victims. For example, the payment of compensation to the victim by the offender can be taken into account as a positive element in the assessment of application of supervision measure in pre-trial stage or custodial sentences or conditions for early release.. Good national practice in one Member State shows that when compensation has been awarded (e.g. as the part of a **conviction decision**), the State pays the compensation to the victim as an **advance payment** and then recovers the amount from the offender. Alternatively, a **victims’ surcharge** paid by the offender can be applied, which would go to a fund for victims’ services.

## **ARTICLE 17— RIGHTS OF VICTIMS RESIDENT IN ANOTHER MEMBER STATE**

### **MEMBER STATES ARE INVITED TO CONSIDER:**

**58. Criminal law procedure/administrative practices** whereby victims can report a crime in their country of residence or in the country where the crime took place. For the transmission of a victim’s complaint to the victim’s country of residence, criminal justice authorities in the countries involved should develop at least internal practices to immediately transmit the report and cooperate regarding the investigation and throughout the criminal proceedings, benefiting **from the existing legal instruments on judicial cooperation in criminal matters or use Article 17 of this Directive as a basis for this flexible information transmission**.

**59. Bilateral cooperation agreements (e.g. memoranda of understanding between Ministries of Justice) with other Member States** to ensure that **networks** are established and made available as and when required in **cross-border cases**, respecting **data protection rules**. Police authorities, central authorities and VSOs could also be encouraged to develop networks to ensure they know whom to contact when crossborder cases arise. This may be particularly beneficial in the **border regions of neighbouring Member States**.

**60.** Providing training and practical guidance to practitioners regarding the rights of victims in cross-border cases and the manner in which to provide mutual legal and victim assistance in cross-border cases.

**61.** Encouraging VSOs to establish **cross-border cooperation agreements** to share information on support necessary for cross-border victims more easily (to apply the arrangement set out in Recital 51).

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## ARTICLE 18 — RIGHT TO PROTECTION

### MEMBER STATES ARE INVITED TO CONSIDER:

**62.** Making **criminal, administrative or civil protection measures available** to victims in order to address the protection needs of individuals under national legislation.

**63.** **Providing training to professionals** so as to ensure that they treat victims of crime with respect and dignity in all their contacts with them. The physical safety of victims should be protected throughout criminal proceedings.

## ARTICLE 19— RIGHT TO AVOID CONTACT BETWEEN THE VICTIM AND OFFENDER

### MEMBER STATES ARE INVITED TO CONSIDER:

**64.** Various means to achieve Article 19 objective, such as **providing separate entrances, waiting areas and facilities** (e.g. eating and refreshment facilities) for victims of crime, separate from the offender and his/her associated friends and family or by controlling the arrival of victims and the accused in the premises and in the courtroom. The **time arrangement of appointments for victims** should be carefully scheduled by the authorities.

**65.** Adopting **national courtroom specifications** for any new courts to be established after 16 November 2015, designating separate **waiting areas** for victims. Ideally, the design of the courtroom itself should also be constructed to avoid the victim/witness having to walk in front of the accused or any associated friends/family in order to get to the witness box, as this may increase the victim/witness' sense of feeling threatened or intimidated.

**66.** Establishing **procedures whereby a victim/witness who feels insecure about attending court can contact a victim or witness support service**, which can provide generic information and support and prepare them for the trial. If required, the victim support service should also be able to meet a victim/witness upon arrival in court and wait with them to provide moral support during the trial.

## ARTICLE 20 — RIGHT TO PROTECTION OF VICTIMS DURING CRIMINAL INVESTIGATIONS

### MEMBER STATES ARE INVITED TO CONSIDER:

**67.** Ensuring that **professionals** in contact with victims are fully aware of victims' rights to protection, the various protection measures available and how to provide these measures in practice (linked to Article 25 on training).

**68.** Developing **professional codes of conduct for the criminal justice authorities** in contact with victims of crime, ensuring they have the protection of victims of crime as a priority in their work. Member States could adopt **administrative and practical procedures** to incorporate these protective measures into the daily work routines of criminal justice authorities.

## ARTICLE 21— RIGHT TO PROTECTION OF PRIVACY

### MEMBER STATES ARE INVITED TO CONSIDER:

**69.** National authorities should adopt **proportionate disclosure regulations** regarding background information relating to victims' personal life, to protect the personal integrity and personal data of victims, and images of the victim and their family members or the crime scene. In practice, only information about

the victim and his/her personal circumstances that is strictly relevant for the case should be disclosed to the accused (**proportionality test**). Detailed descriptions and images of sexual abuse should never be left in the possession of the accused/offender, but kept by the defence. Member States should explore how **professionals in close contact with the victim, the crime scene or the case file** (e.g. police officers, court medical experts, emergency medical staff and fire brigades) could be guided in their potential contacts with the media.

**70.** Guaranteeing that Member States' judicial authorities have powers to restrict recording and reports on **activities in the court room** to protect victims' privacy.

## **ARTICLE 22 — INDIVIDUAL ASSESSMENT OF VICTIMS TO IDENTIFY SPECIFIC PROTECTION NEEDS MEMBER STATES ARE INVITED TO CONSIDER:**

**71.** Establishing **national models (e.g. criminal code practices, written guidelines) to introduce individual assessments of all victims** of crime, adapted according to the criteria set out in Article 22. These models should be based on **a tool and practical guidance on how to assess the individual needs of all victims** of crime. The tool should be flexible enough to take the needs and wishes of the victim into account. The Member States should make use of inclusive definitions of the concept of '**personal characteristics**' and of '**the type or nature of the crime**' regarding the victim. In particular, Member States should make sure that the **correlation between victims' personal characteristics and the possibility of the occurrence of a crime committed** (e.g. with bias or discriminatory motive) is taken into consideration.

**72.** Identifying which **police/criminal justice authority/victim support service** should conduct the **individual assessment** and **provide sufficient training to the appointed agency**. The agency conducting the needs assessment should have experience and knowledge of working with victims in a respectful and professional manner. Good practice shows that the **police or victim support services** are ideally placed to conduct the needs assessment. To ensure the assessment takes place promptly after the crime, there need to be **robust national referral mechanisms** whereby the **police** refer the victim to support services for assessment (link to Article 8).

**73.** Ensuring that, in addition to the criteria listed in this Article, **the individual assessment takes into account all other factors affecting the victim's reaction to the crime and recovery**. Good practice demonstrates that factors such as gender, age, maturity, ethnicity, language skills, relationship/dependency between the victim and the offender, previous experience of crime etc. should be taken into account to identify the victim's communication needs, support needs, protection needs and any need for any other kind of assistance.

**74.** Developing **national practices regarding the regularity of individual assessments**. Good practice suggests that service providers should continually follow up the individual needs assessment to ensure that the services offered are amended and adjusted in line with the victim's recovery and changing needs.

**75.** Ensuring that **children are automatically given protection measures, as all child victims are presumed to have specific protection needs**. Standardised national practices and criminal justice policies should reflect and fulfil this requirement.

## **ARTICLE 23 — RIGHTS TO PROTECTION OF VICTIMS WITH SPECIFIC PROTECTION NEEDS DURING CRIMINAL PROCEEDINGS**

### **. MEMBER STATES ARE INVITED TO CONSIDER:**

**76.** Adjusting **national criminal code practices to introduce the listed protection measures as part of standard practice** and working routines of criminal justice professionals. To this end, facilities need to be adapted and modernised. Depending on the individual assessment of needs, relevant measures include



interviews conducted by specially trained professionals, interviews of victims of gender-based violence by a person of the same sex (if the victim so wishes), avoidance of unnecessary questioning about the victim's private life, and the organization of court hearings without the presence of the public. Good practice suggests that the measures listed in paragraph 2(a)-(b) should be offered to all victims of crime, not just victims recognised as having specific protection needs.

**77. Ensuring that all professionals working with victims with specific protection needs receive specialised training** as regards the impact of crime on victims, coping strategies and how to identify and limit risk of re-victimisation (see Article 25).

#### **ARTICLE 24 — RIGHT TO PROTECTION OF CHILD VICTIMS DURING CRIMINAL PROCEEDINGS MEMBER STATES ARE INVITED TO CONSIDER:**

**78. How to ensure that the best interests and needs of the child victim are a primary consideration** throughout the victim's interaction with the criminal justice system, if necessary by reviewing their national criminal justice system. Ensuring that **professionals working with child victims** receive **specialised training** in how to communicate with young victims of crime and how to identify and limit the risk of revictimisation (see Article 25).

**79. Adjusting and modernising** police, prosecutor and court **facilities** to enable the smooth application of listed measures. This includes the set-up of an adequate video conferencing system to use when interviewing children.

#### **ARTICLE 25 — TRAINING OF PRACTITIONERS**

##### **MEMBER STATES ARE INVITED TO CONSIDER:**

**80. Which types of training** will allow and best suit the achievement of the objectives set in this Directive. Training on victims' rights and needs is part of the basic training for **police officers and court staff**. Good practice shows that for **lawyers, judges and prosecutors**, victim awareness training should also form part of the **basic curriculum** in law or bar school. Specialised courses regarding the rights and needs of victims of crime should also be offered as part of on-going **professional development**. Professionals could be encouraged to take part in training courses, including **cross-disciplinary training**, if, for instance, taking and completing specific victim awareness courses were a requirement for professional promotion and specific judicial positions. Victim awareness training to all staff/volunteers within **victim support and restorative justice services**. A requirement for specialised victim awareness training could, for instance, form part of the funding or service delivery agreement between the State and individual support organization(s).

**81. The importance of feedback from victims**, e.g. by providing procedures whereby victims can complain about the manner in which they were treated by professionals and/or the lack of access their rights in practice. If a professional/authority/entity is found to have breached a victim's rights, it could be obliged to undergo specialised victim awareness training to inform staff of victims' rights and to raise their awareness of the needs of victims of crime.

#### **ARTICLE 26 — COOPERATION AND COORDINATION OF SERVICES**

##### **MEMBER STATES ARE INVITED TO CONSIDER:**

**82. Establishing close cooperation among themselves and with DG Justice** throughout the implementation phase of this Directive.

**83. Investing resources in European networks, civil society and cooperation** in the field of victims of crime, including **private sector service providers**.

**84.** Supporting and encouraging national law enforcement and judicial authorities to take part in **European networks and cooperation**, as a way to learn and exchange best practice and expand knowledge regarding the manner in which to protect and fulfil victims' rights. Cooperation between criminal justice professionals would also be required to ensure that victims' rights are fulfilled in cross- border cases.

**85. Formulating European standards of good practice in selected areas** such as victims' support service providers, **in cooperation with DG Justice.**

## **ARTICLE 28 — PROVISION OF DATA AND STATISTICS**

### **MEMBER STATES ARE INVITED TO CONSIDER**

**86.** Collecting and disseminating reliable, regularly updated judicial, police and administrative data on victims and perpetrators of all crimes, working in close cooperation with national and the European statistical office (Eurostat).