

# Newsletter

Newsletter Victim Support Europe

**Victim Support Europe**  
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## **EU Directive establishing minimum standards on the rights, support and protection of victims of crime**

This newsletter is dedicated to provide all VSE members with an update on the EU Directive establishing minimum standards on the rights, support and protection of victims of crime.

The negotiations regarding the new Directive on victims' rights is coming to an end and the European Institutions have reached an agreement on the wording of the text. The final version of the Directive has a few amendments and additions compared to the first draft from the Commission, published in May 2011. This newsletter will give you a summary over the content of the new text.

### **Victims' Rights**

The overall aim of the Directive is to "ensure that victims are recognised and treated in a respectful, sensitive, individual, professional and non-discriminatory manner,

in all contacts with victim support or restorative justice services or any competent authority, operating within the context of criminal proceedings".

Where the victim is a child, the child's best interest shall be a primary consideration.

The recital clarifies that "a person should be considered to be a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the offender and that person."

The different rights of the Directive include:

- ❖ Right to understand and to be understood
- ❖ Right to receive information from the first contact with a competent authority
- ❖ Right of victims when making a complaint
- ❖ Right to receive information about their case
- ❖ Right to interpretation and translation
- ❖ Right to access victim support services

- ❖ Minimum standards of support available from victim support services
- ❖ Right to be heard
- ❖ Rights in the event of a decision not to prosecute
- ❖ Right to safeguards in the context of restorative justice services
- ❖ Right to legal aid
- ❖ Right to reimbursement of expenses
- ❖ Right to the return of property
- ❖ Right to decision on compensation from the offender in the course of criminal proceedings
- ❖ Right of victims resident in another Member State
- ❖ Right to protection
- ❖ Right to avoidance of contact between victim and offender
- ❖ Right to protection of victims during criminal investigations
- ❖ Right to protection of privacy
- ❖ Individual assessments of victims to identify specific protection needs
- ❖ Right to protection of victims with specific protection needs during criminal proceedings
- ❖ Right to protection of child victims during criminal proceedings
- ❖ Training of practitioners
- ❖ Co-operation and co-ordination of services

In this newsletter Victim Support Europe has summarised some of the main rights

contained in the Directive with particular focus on rights impacting on the delivery of victim support services across Europe.

### **Right to access victim support services**

The Directive states that “Member States shall ensure that victims in accordance with their needs have access to free of charge, confidential victim support services acting in the interests of the victims before, during and for an appropriate time after criminal proceedings.” Family members are also given access to victim support services in accordance with their needs and degree of harm suffered.

The Directive highlights that victim support services may be set up as public or non-governmental organisations and may be organised on a professional or voluntary basis.

Services should be available to victims regardless of whether or not they have reported the crime to the police. However, since the police is often in a good place to provide information regarding support services, the Directive includes a call on Member States to facilitate referrals between the police to victim support services. This is a vital addition to the Directive compared to the 2001 Framework Decision, aimed to ensure that as many victims as possible are offered access to support services in the aftermath of crime.

Victim Support services should, according to the Directive, provide as a minimum:

- Information, advice and support on the rights of victims, access to compensation, their role in the criminal proceedings and attendance at the trial
- 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 of retaliation, intimidation and repeat or further victimisation and how to prevent or avoid it
- Information and if required, referral to specialist support service
- Shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of retaliation, intimidation or repeat or further victimisation
- Targeted and integrated support for victims with specific needs, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling

Following strong support from the EU Parliament, the Directive introduced an addition to the original text, in relation to specialised victim support services. The Directive now highlights that “Member States shall take measures to establish free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or by enabling victim support organisations to call on existing professional agencies providing such specialist support.

These specialist services should as a minimum provide:

The Directive’s recital highlights that “Victim support services are not by definition expected to provide extensive specialist and professional expertise themselves. If necessary, victim support services should assist victims in calling on existing professional support, for instance psychologists.” The recital also clarifies that “support should be provided through a variety of means, without excessive formalities and through a sufficient geographical distribution to allow all victims opportunity to access such services.”

### **Individual assessment of victims to identify specific protection needs**

This is another area, relating to vulnerable victims, that has changed significantly during the negotiation process. Rather than talking about ‘vulnerable victims’, the Directive includes a call on Member States to ensure that victims receive a timely and individual assessment to identify specific protection needs and to determine whether

the victim would benefit from special measures due to their being “particularly vulnerable to secondary and repeat victimisation or to intimidation”. The assessment shall particularly take into account:

- the personal characteristics of the victim;
- the type or nature of the crime; and
- the circumstances of the crime

Child victims are, according to the Directive, always presumed to have specific protection needs to them being vulnerable to secondary and repeat victimisation or to intimidation. For all other victims, an individual assessment will determine their vulnerability.

### Training of professionals

The final text of the Directive is slightly weaker than the original draft regarding training requirements for professionals in contact with victims of crime. It states that Member States shall ensure that police officers and court staff receive both general and specialist training to sensitise them to the needs of victims and to help them deal with victims in an impartial, respectful and professional manner. Regarding judges, prosecutors and lawyers, training should be made available.

### Cross-border cases

The Directive strengthens the rights for cross-border victims. For instance, it highlights that a victim should be able to make a complaint to the competent authority of the Member State of residence if they are unable to do so in the Member State where the crime took place or in case of a serious offence, if they do not wish to do so. A victim should also be allowed to report a crime in a language that the victim understands.

Regarding provision of assistance in cross-border cases, the Directive states that “if the victim has left the territory of the Member State where the criminal offence occurred, that Member State should no longer be obliged to provide assistance, support and protection except for what is directly related to any criminal proceedings it is conducting regarding the criminal offence in question, such as special protection measures during court proceedings. The Member State of the victim’s residence should provide assistance, support and protection required for the victim’s need to recover.”

### Right to information

The EU Directive strengthens and clarifies victims’ right to information, both in relation to generic and case specific information. From the first contact with the criminal justice system, a victim should be able to

receive information regarding:

- (a) available support
- (b) how and where to report a crime
- (c) how and under what conditions the victim can obtain protection
- (d) how and under what conditions the victim can access legal advice, legal aid etc.
- (e) how and under what conditions the victim can access compensation
- (f) available interpretation and translation
- (g) cross-border arrangements
- (h) any procedures for making complaints where their rights are not respected
- (i) contact details for communication on their case
- (j) available restorative justice services
- (k) reimbursement of expenses

Regarding case-specific information, Member States shall continually inform the victim regarding:

- (a) any decision ending the criminal proceedings, including reasons for that decision
- (b) on-going information throughout the criminal proceedings
- (c) the time and place of the trial
- (d) final judgment in a trial, including any sentence, including reasons for that decision
- (e) release of offender from detention (at least in cases with danger or identified risk of harm to the victim)

### Right to protection

The Directive includes a range of articles strengthening victims' rights to protection. Below follows a summary of included protection rights:

- ❖ General right to protection from retaliation, intimidation, repeat or further victimisation (including psychological or emotional harm)
- ❖ Right to avoid contact between victim and offender. This for instance includes establishment of separate waiting areas in court
- ❖ Right to protection of victims during criminal investigations. This includes protection rights for all victims of crimes, for instance that interviews of victim should take place as soon as possible and that the number of interviews should be kept to a minimum
- ❖ Right to protection of privacy. This for instance includes measures, adopted at court, to protect the privacy and image of the victim, or to prevent public dissemination of information that could identify a child victim
- ❖ Right to protection of victims with special protection needs during criminal proceedings. There is a range of protective measures available for victims who are identified as having particular protection needs. For instance, interviews with victims should be carried out in appropriate

premises by trained professionals.

- ❖ Right to protection of child victims during criminal proceedings. This right means that Member States shall for instance ensure that interviews with child victims may be recorded and used as evidence, sparing the child from having to attend court to give evidence.

### Formal adoption and implementation

The text of the Directive has been finalised during the Danish EU presidency and the EU Commission does not expect any further changes to be made. The EU Parliament has planned a formal vote on the text in September after which the Council of the European Union will hold their formal vote (probably in October).

The Directive calls on Member States to “bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by three years after the date of adoption”. If the text is agreed in 2012, we can therefore expect the Directive to be made law in all EU Member States by 2015.

### Importance of victim support services in the implementation of the Directive

Victim Support Europe has been in regular contact with the EU Commission, the Council of the European Union and the EU

Parliament throughout the development and negotiation of the Directive. Overall, we have managed to secure some major advancements in victims’ rights.

Victim support organisations across Europe will serve a vital role in the national implementation of many of the articles contained in the Directive, in particular in relation to:

- provision of support services
- provision of information
- conducting individual assessments
- training of professionals
- identifying best practice and assist implementation
- monitoring implementation, Member States fulfilment of implementation and victim’s ability to access their rights

We encourage all VSE members to contact your national Governments to discuss any possible co-operation in the national implementation of the Directive, to ensure it brings tangible improvements in practice and enables victims to access their rights. If you have any questions or need any further information regarding the Directive, please contact:

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