

# TRAINING MANUAL

## Victims of Crime in the EU



promoted by:



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# INTRODUCTION



The European Union (EU) traditionally considered it had no competence to interfere with criminal justice affairs of the Member States through “hard law instruments”. However, in recent years, the growing number of transnational crimes and victims led the Member States to realize the importance of harmonizing their systems to some degree.

The dream of an EU without borders, with freedom of movement, came true; but it also came with further challenges. Cross-border criminality increased and became a major concern. However, this is not the only problem we face. The rising number of travellers and temporary workers/students in different Member States other than their own leads to the rise of common criminality against these people, who as a result of being in an unfamiliar land are more vulnerable to crime. Victimization has an even harder impact on these victims; since they are not familiar with the judicial system of the country and many times do not even speak the local language. Therefore, there was a shift in the EU’s standpoint and one Framework Decision<sup>1</sup> and one Directive<sup>2</sup> were developed in this field.

The implementation of these regional instruments has not been fully accomplished in every Member State. That is the conclusion of the reports made on the implementation of the Framework Decision, such as the Project Victims in Europe Report (VinE Report)<sup>3</sup>. Currently there are still many challenges ahead of us due to the broad language used in these provisions and to the lack of enforceability of such measures. Furthermore, victims across the EU are not treated equally or sufficiently. The level of recognition and respect towards the victim, the amount of support and protection provided, and the effective access to justice and compensation vary, instead of being rightfully recognized and understood by all stakeholders in every country.

In fact, although these EU measures are a milestone, so far there has been improvement on victim’s treatment before, throughout and after a proceeding, but not to a satisfying extent.

The above mentioned justifies the need to offer better training for judicial practitioners and police officers, since these are key elements in a proceeding and many times are not aware of the victim’s needs and normal reactions. Thus, the need to train judicial practitioners is one of the measures defined in the Framework Decision itself.

This manual will allow you to better prepare your workshops and seminars for these target groups. In the next pages we will set a series of recommendations, giving examples and materials helpful to your presentations, and resuming important issues to be discussed and how to do so.

This training manual is not a complete manual, only guidance to organise training activities. The procedures set forth in this training manual, as well as the activities presented, are merely meant to equip trainers. However, in countries where there are well established methods that differ from the ones hereby suggested, the activities here included can still be used without making use of the organisational model we suggest, as they are meant to be adaptable to different methodologies.

In the first chapter you will be provided with background information both on the rights and the needs of victims of crime. The needs of victims are assessed in a multidisciplinary manner, and the legal background information

1 - Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA).

2 - Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims.

3 - 2009 Project Victims in Europe Report promoted by Victim Support Europe and developed by APAV in cooperation with INTERVICT.



concerns European Union law and national laws of Germany, Portugal, The Netherlands and United Kingdom.

In the second chapter practical information on how to prepare a workshop is given. This chapter includes explanation on the importance of active participation, of setting a target group and how to work with that specific group, further presenting a hypothetical model to explain what a Victim Support organisation does.

The third chapter consists on the compilation of the proposed activities. Each activity is organised by theme and includes a process sheet, fact sheets and exercise sheets to be used, and Powerpoint presentations when applicable.

The last three parts of this manual are a table that compares the obstacles to full implementation of victims' rights among the EU Member States, the final conclusion of the manual, and a useful glossary to better understand some of the keywords used. Finally, several important documents are included in the annex section.

The sole purpose of this manual is to help Victim Support organisations with an important part of their work: teaching victims' demands and needs to professionals that directly contact with them and to assist them on how to make sure they are fulfilled.



## RIGHTS OF CROSS-BORDER VICTIMS

### EUROPEAN UNION:

The 1985 *United Nations Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power*, adopted by the UN General Assembly, was a milestone that launched the process of undertaking legislative measures on victims' rights.

Europe was the continent in which more significant transformations took place following the adoption of the 1985 UN Declaration, creating a comprehensive (quasi) legal framework for the protection of victims. Several binding and non-binding instruments in this field have been drafted both by the European Union and the Council of Europe.

The two most important binding instruments adopted at the European Union (EU) level are undoubtedly the *EU Council Framework Decision on the Standing of Victims in Criminal Proceedings* (2001), and the *EU Directive on Compensation to Crime Victims* (2004). Member States are therefore obliged to guarantee that their domestic laws comply with the EU standards established in these instruments.

The **2001 Framework Decision** entailed the following rights to every victim:

- the right to respect and recognition in all stages of the criminal proceeding (article 2);
- the right to be heard throughout a criminal proceeding (article 3);
- the right to receive general information and information about the progress of the case (article 4);
- the right to have legal advice available regardless of the victim's means (article 6);
- the right to protection of the victim's privacy and physical safety (article 8);
- the right to compensation from the offender and the State (article 9);
- the right to receive victim support (article 13);
- the duty for governments to provide mediation in criminal cases where it is appropriate (article 10);
- the duty for the State to foster, develop and improve cooperation with EU Member States in cases of cross border victimization (article 12).

The 2001 Framework Decision was legitimized by invoking the EU objective of freedom of movement and intended to provide EU citizens the same level of protection wherever they were within EU territory. Therefore, cross border victimisation was at the heart of the drafting of this Framework Decision.

As far as cross border victims are concerned, the Framework Decision dedicated two articles to their specific needs. These are article 11 (general duty to ensure appropriate measures to minimise difficulties faced by these victims), and article 12 (special duty for States to develop cooperation with Member States in case of cross-border victimisation, either through judicial cooperation or between victim support organisations).

**Reporting**<sup>4</sup> revealed that there are omissions in national laws implementing the Framework Decision, and a disparity in the extent of implementation among the different Member States. Furthermore, many provisions

4 - European Commission's evaluation reports on the implementation of the EU Framework Decision of 2004 and 2009 and 2009 Project Victims in Europe Report promoted by Victim Support Europe and developed by APAV in cooperation with INTERVICT.



were implemented as non-binding guidelines, charters or recommendations.

The Treaty on the Functioning of the European Union (Lisbon Treaty) might partially solve this disparity. With the adoption of the Lisbon Treaty framework decisions will remain within EU's legislative acts but only until they are replaced by directives, with the imposition of changing them into such in case of revision<sup>5</sup>. A Framework Decision is binding in all its elements, has an individual character (only applicable to its recipients) and might be used in courts by individuals. A Framework Decision sets specific principles, aims and measures for Member States to implement but it is only applicable after transformed into a national law. Moreover, it is an individual measure, and the persons to whom it is addressed must be specified individually. On the other hand, in a Directive only the goals thereby established are binding, whereas the means adopted are left to some margin of appreciation to Member States. However, under certain circumstances a Directive can have direct effect, meaning it can be claimed by any citizen even if the State has not implemented it yet. The conditions for that to happen are the same applied to Treaties; norms have to be clear, precise and unconditional. If a directive has not been transposed into national legislation in a Member State, if it has been transposed incompletely or if there is a delay in transposing it, citizens can directly invoke the directive in question before the national courts. The legal status of EU standards for victims' rights might insofar be improved.

The 2009 VinE survey also showed that cross-border victims generally have access to translators across the EU; nonetheless, it is usually not a right specific given to cross-border victims but part of a general criminal procedure. The same applies to the right to make a statement immediately after the crime was committed. This form of implementation does not comply with the spirit of the FD and thus weakens the guarantee of these victims' rights.

Another example of insufficient implementation concerns the **right to respect and recognition**, which is over and over again denied or restricted. Indirect victimisation is not recognised as such in various parts of the Union, and particularly vulnerable victims are not considered special cases in others. There are also severe discrepancies in terms of access to justice, due to discriminatory regulations and lack of actual information and translations in due time during the proceedings.

**Access to information**, which is of major importance to guarantee that victims are acquainted with any other rights, is not applied as it should for conventional crime victims; consequently cross-border victims' are in even higher jeopardy. Right to information is quintessential in cross-border victimisation, since these victims are not familiar with the judicial system or culture of the country where they were victimised.

Furthermore, the majority of EU Member States does not offer victims the opportunity of reporting a crime that took place in another Member State after they return to their country, or only allow such a measure when they also have jurisdiction over the case.



A new EU legislative package attempts to tackle all of these problems.

This new package originates from the possibilities opened by the **Lisbon Treaty**. This Treaty enables the establishment of minimum standards for victims' rights. The list of aspects over which the EU bodies have legislative power can be extended by the Council if that decision is taken unanimously and after the consent of the European Parliament. However, there are some limitations, such as the fact that these provisions can only establish minimum rules and they are necessary to facilitate mutual recognition and police and criminal law cooperation (Article 82.2). This does not entail that only cross border victimisation will be affected by these new EU legislative measures. EU legislation impacts cross border victims and national victims, as it is able to shift a whole paradigm.

As Letschert and Groenhuijsen state, "the addition of the cross-border dimension looks, at first sight, to seriously limit the thematic scope of competences of the EU, also with regard to improving victims' rights"(2011). Following Peers (2008), the authors believe the powers of the EU would be rendered meaningless if they could only be applied in cross-border proceedings.<sup>6</sup>

In order to achieve this aim, the European Commission (EC) is currently working on a **package on victims' rights**, which includes a *Communication on the strengthening of victims' rights in the EU*, a *Directive on minimum standards on the rights, support and protection of victims of crime*, and a *Regulation on the mutual recognition of protection measures taken in civil matters*. In the near future some new measures on compensation issues will also be undertaken.

The Stockholm Programme (2010-2014) and the Commission's action plan to implement it recognise the need for further action to place the needs of victims of crime at the centre of the justice systems of EU member states.

On the **Regulation on the mutual recognition of protection measures taken in civil matters** the EU institutions explicitly recognise that "in a common area of freedom, security and justice, victims of (for example, domestic) violence or people whose physical and/or psychological integrity or liberty is at risk and who benefit from a protection measure taken in one Member State should benefit from the same level of protection in other Member States should they move or travel, without going through expensive and time consuming procedures"<sup>7</sup>. This is an irrefutable recognition of victims as the centre of the judicial system.

The above mentioned proposed *Regulation* is based on the Article 81 of the Lisbon Treaty, which states that the Union shall develop judicial cooperation in civil matters having cross-border implications, based on the principle of mutual recognition of judgments and of decisions in extrajudicial cases. This particular *Regulation* applies exclusively to protection orders and was created as a response to the needs raised in the Impact Assessment the EC had launched previously.

6 - Letschert, R. & Groenhuijsen [2011] *Global Governance and Global Crime – Do Victims Fall in Between?* In Letschert, R. & van Dijk, J. (Eds.) *The New Faces of Victimhood. Globalization, Transnational Crimes and Victim Rights*. New York: Springer.  
7 - COM (2011) Proposal for a **REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on mutual recognition of protection measures in civil matters**, 276.



This Regulation entails the following<sup>8</sup>:

- The type of authority which issued the original protection measure in the Member State of origin is not relevant to the application of the Regulation (Article 3);
- The Regulation requires automatic recognition of a protection measure taken by the Member State that issues the original protection order (the Member State of origin) in another Member State (the Member State of recognition) (Article 4);
- If the protection measure is not known to the law of the Member State of recognition then the relevant authority should adapt it to one known under its national law (Article 8);
- A Member State may never refuse to recognise on the basis that their domestic law would not have allowed such a measure to be made based on the same facts (Article 12(4));
- The Regulation also sets out safeguards for the fundamental rights of the person causing the risk (Articles 10 and 12), and it requires both the Member States of origin and of recognition to keep the protected person and the person causing risk informed at key points during the process (Article 13);
- The authorities in the Member State of recognition may not review the substance of the protection measure (e.g. the merits of the decision which led to the issuing of it in the Member State of origin) (Article 11).

Another important aspect of the rights of victims is their **access to compensation**. The EC has not yet taken any initiative to reform the existent legislation due to a lack of information on its current effectiveness. A study on the matter has begun to be developed during the year of 2011.

Therefore, nowadays the legislation in force is the *Council Directive 2004/80/EC of 29 of April 2004 relating to Compensation of Crime Victims*.

This Directive aims to ensure all Member States have compensation schemes and not to harmonise national laws. In fact, compensation schemes widely vary among the EU Member States, since the Directive solely ensures equal access to compensation for all EU citizens and sets up a system of cooperation between the Member States, so that any cross-border victim may be treated adequately. It thus enforces the existence of a compensation mechanism in every Member State. The Directive does not prescribe any rules to determine the expenses eligible for compensation, which is left to the Member States' discretion. Nonetheless, the Directive determines all victims, either in cross-border or national situations, shall be entitled to compensation, irrespective of their country of residence or the Member State in which the crime was committed. It also clearly states that "the compensation shall be paid by the competent authority of the Member State on whose territory the crime was committed".<sup>9</sup> It furthermore establishes the need to recognise *assisting* authorities and *deciding* authorities. The first shall provide assistance to potential applicants and the latest shall decide upon applications for compensation.

The fact that offenders might not be found or have no means to pay the total amount of the compensation (or even any of it) was one of the first concerns on the discussions around victims' rights. Insofar, back in the 70s mechanisms were created in various Western countries to ensure that victims of violent intentional crimes were provided with support by the State directly. Hence the UN Declaration of 1985 itself fully recognises this principle that was further on adopted in its integrity by the EU instruments on the matter (namely the 2004 Directive)<sup>10</sup>.



For the moment, the most discussed instrument (that is already being discussed in the Council) is the EC proposal for a new Directive establishing minimum standards on the rights, support and protection of victims of crime. This might be the right move to overcome the gap between legislation and practice within the range of European Union Member States.

As Anthony Pemberton states, “‘implementation’ [is considered a] synonymous with ‘transposal’ while from the victims’ perspective the emphasis should be on ‘compliance’ ”.

When victims of crime are not subject to the same minimum standards throughout the European Union, there can be no trust that victims will be treated equally no matter what Member State they are in. Procedural rules vary, levels of protection differ, behaviours are immensely different, sometimes even antagonist.

*How can this new Directive improve the rights of victims?*

Due to all the insufficiencies and gaps detected in the implementation of the 2001 Framework Decision, the EC felt the need to reinforce the extent of the minimum rules applied to all EU Member States regarding victims’ rights. As a result, a proposal for a new **Directive on minimum standards on the rights, support and protection of victims of crime** was launched.

In comparison to the Framework Decision, this new proposed Directive provides clearer obligations to Member States, broadens the concept of victim, and focuses more in depth in the principles of subsidiarity and proportionality.

If we relate the articles on the Framework Decision and the rights there established we conclude that:

No modification	More detail	New rights
<ul style="list-style-type: none"> <li>· art. 3.º</li> <li>· art. 9.º</li> <li>· art. 12</li> <li>· art. 14</li> <li>· art. 15</li> <li>· art. 23(1)</li> </ul>	<ul style="list-style-type: none"> <li>· art. 2.º</li> <li>· art. 4.º</li> <li>· art. 5.º</li> <li>· art. 6.º</li> <li>· art. 7.º</li> <li>· art. 11</li> <li>· art. 13</li> <li>· art. 17</li> <li>· art. 18</li> <li>· art. 19</li> <li>· art. 21 e 22</li> <li>· art. 24</li> <li>· art. 25</li> </ul>	<ul style="list-style-type: none"> <li>· art. 8.º</li> <li>· art. 10.º</li> <li>· art. 20</li> <li>· art. 23(2)</li> </ul>

At the moment the text is being discussed and several changes have been introduced by the Council of the European Union. If such amendments are indeed included in the final normative text, many of the improvements of this Directive might be seriously and dangerously diminished. This document has not been made public and insofar it should not be a reference for our work preceding the approval of the Directive. However, it is



important to bear these possible changes in mind for lobby purposes. Therefore, we present you a comparative analysis of the shifts the original text of this proposed Directive brings and the reduction that might occur if the Council maintains its current position.

As far as the **concept of victim** is concerned, the proposed Directive brings about significant improvement. Not only a person who suffered injuries directly to him or herself is considered a victim, but also the close relatives of a person that died as consequence of a crime. Article 2 also defines exactly who these “family members” are, and establishes that all provisions of the Directive are applicable to them. The reason for that is such individuals are often also harmed by the crime and may themselves be at risk of secondary victimisation, as well as victimisation or intimidation by the offender or his associates.

This new Directive further establishes a mechanism to determine **vulnerable victims**. Thus, categories of vulnerable victims are determined according to personal characteristics of the victims (children and persons with disabilities), and to the type of crime committed (sexual violence and human trafficking). This formulation is now at risk, as so far the Council only confirmed<sup>11</sup> children as the only group to be always presumed vulnerable. “Apart from that, ministers agreed that there should be no indicative list of vulnerable victims in the operative part of the text as suggested by the Commission and all other victims should be treated on a case-by-case basis”<sup>12</sup>, which is a great step back in the Commission’s initiative. However, an open clause prescribes that any victim can be considered a vulnerable victim after an assessment is timely made. For the purposes of this evaluation, the personal characteristics of the victim and the type of crime inflicted upon the victim are once more taken into account.

As far as **effective access to justice** is concerned, there are several differences to note. For instance, in the original text of the proposed directive, presented by the European Commission, Article 8 established that when a person makes a complaint of a crime, the victim is provided with an official acknowledgment which they can refer back to in any future communications. This new right is in jeopardy now, as the latest version (arising from the interinstitutional file 2010/0273 (COD) of 21st December 2011) of the proposed Directive text, still under discussion, simply excludes this article.

However, Article 10 remains, establishing the right of victims to verify that consolidated procedures and rules have been complied with and that a correct decision has been made to end a prosecution in relation to a specific person. This article only entails the possibility of a review of the decision not to prosecute and no other kind of decision.

The **right to information** was also strengthened. Not only is the nationality of victims considered, but also their ability to understand the information provided taking into account their literacy level, disabilities, intellectual and emotional capacities and maturity (Articles 6 and 7). At least this is what the original proposal addressed. Unfortunately, the extent of these norms might be reduced in the final text, as it is in the current one, although the Commission maintains its opposition to such a shift. The initial proposal allowed all victims access to translation services. The text now on the table only entails this possibility “in accordance with their role in the relevant criminal justice system, for their participation in criminal proceedings”. Moreover, the new text ex-



cludes the initial proposal's mechanism to ascertain whether the victim understands and speaks the language of the criminal proceedings and whether they need translation and the assistance of an interpreter, as well as the possibility to challenge a decision finding that there is no need for interpretation or translation, and when they have been provided, the possibility to complain that the quality of the interpretation is not sufficient to exercise their rights or understand proceedings.

In terms of **economic relief** to the victim, nothing changed so far in terms of compensation. However, Article 13 (reimbursement of expenses) was broadened to include not only refund of participation costs in the proceeding but also reimbursement from expenses incurred where the victim attends the trial without participating in the proceedings as such. This only includes necessary expenses, to the extent that the victim is obliged or requested by the competent authorities to be present and actively participate in the proceedings. The purpose is to ensure that victims are not prevented from attending the trial and seeing justice done due to their own financial limitations. There were no substantial modifications on this matter because there was no feedback from the Member States on how this right was guaranteed and the needs felt.

In relation to **the right to protection**, improvement was also achieved. The initial Proposal's text established better conditions to avoid contact with the offender shall be created, not only in court but also "in any venue where victims may have personal contact with public authorities due to their being a victim and in particular venues where criminal proceedings are conducted"<sup>13</sup>. The latest text, though, changes the extent of this right completely. Article 19 of the new (still not final) text of the 21st of December establishes that conditions to avoid contact between the victim and the offender shall be met, but it does not set any minimum standard, weakening the initial proposal.

In order to **prevent secondary victimisation**, the Commission took into account the results of the above mentioned reports on the implementation of the Framework Decision. Therefore, it is ensured in this new Directive (through Article 19) that the victim is interviewed as early as possible and that interaction with authorities is as easy as possible whilst limiting the number of unnecessary interactions. Also, as a rule victims may be accompanied by a trusted person of their choice.

All protective measures in the proposed Directive, apart from those specifically addressed to vulnerable victims, are applicable to all crime victims and not only to vulnerable victims. This is quite a milestone, setting "the victim" as the centre of the judicial system.

Another important change to note is the encouragement of the **media** to pursue self-regulatory measures in order to protect victims' privacy, personal integrity and personal data (Article 20(2)).

The **role of Victim Support Organisations (VSO)** was also altered, though only slightly. All VSOs shall offer services free of charge for all victims, either they have presented a complaint or not. In article 8 minimum standards of support are established. These are:

- to provide information, advice and support relevant to the rights of victims, including on accessing state compensation schemes for criminal injuries, and their role in criminal proceedings including preparation



for attendance at the trial;

- information on or referral to, as appropriate, specialist services – referral is not mandatory because this would create problems in many countries where data protection laws are quite restrictive;
- emotional and psychological support (the 21<sup>st</sup> of December draft text now reduces the extent of assistance provided by this paragraph of former article 7, now 8);
- advice relating to financial and practical issues following the crime.

Due to resource limitations the VSOs might face, specialist services were not included as minimum standards, though they are firmly encouraged on nr 3 of article 8.

This Directive establishes **training requirements** for public officials who contact directly with victims. Those providing victim support and restorative justice services should be trained as well. This training must raise awareness of the negative effects of crime on victims and the risk of causing secondary victimisation, as well as special techniques to minimise the impact of crime on victims. This is a mandatory task for all intervening professionals referred above except judges. There was a lot of discussion around the judge status, with some alleging interference with court independence if training was obligatory for these professionals. However, training is encouraged for them in the Directive, it is a possibility that might or might not become real.

Prevention of secondary victimisation particularly motivated the phrasing of article 25. This article is the equivalent to the Framework Decision's article 12 on cooperation between Member States to facilitate protection of victims. What is innovative about this new article is the focus that is given to avoidance of secondary victimisation, setting more precisely the aim of this cooperation.

Finally, concerning **restorative justice**, article 11 ensures that where such services are provided, safeguards are in place to ensure the victim is not further victimised as a result of the process.

Participation of the victim in restorative justice proceedings should be voluntary, which implies that the victim has sufficient knowledge of the risks and benefits to make an informed choice. "It also means that factors such as power imbalances, and the age, maturity or intellectual capacity of the victim which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim should be taken into consideration in referring a case to and in conducting a restorative process. Whilst private proceedings should in general be confidential, unless agreed otherwise by the parties, factors such as threats made during the process may be considered as requiring disclosure in the public interest. Ultimately, any agreement between the parties should be reached voluntarily"<sup>14</sup>.

What about cross-border victims in particular? There was no significant change to what was already entailed in the Framework Decision. However, the sole modification existent is of great relevance. It is now clarified that there are no limitations to the rights of these victims based on a territorial criteria.





This proposed Directive, as well as the rest of the EC package on victims' rights, is not supposed to reform criminal justice per se at all, it is a legislative package that aims to set the victims' needs as a main priority.

## NATIONAL JURISDICTIONS

### GERMANY<sup>15</sup>

VICTIMS RIGHTS AS DETAILED IN FRAMEWORK DECISION - GERMAN LAW & PRACTICE			
Framework Decision Right	National Law	Cross-border specific	Implementation difficulties
Right to respect and recognition (Art 2)	<p><b>§ 406 f StPO:</b> Victims may be represented by an attorney or appoint the attorney to be an advisor; they may take along a person of their trust to the hearing; please see remarks with regard to Article 2 paragraph 2.</p> <p><b>Item 4c RiStBV</b> The public prosecution assures that the stress and strains on the victim are reduced to a minimum and that his/her interests are taken into consideration in the criminal proceedings.</p> <p><b>Item 19a RiStBV</b> If it is apparent that substantial psychological stress may be linked to the testimony as a witness for the victim, particular empathy and consideration are to be exercised during the questioning. Furthermore, an accompanying person of trust is to be permitted, providing that the examination is not jeopardised as a result.</p> <p><b>§ 247 StPO</b> The defendant may be removed from the courtroom if a serious disadvantage for the wellbeing of the witness is to be feared during the questioning of a witness (victim) under 18 years of age. This also applies to a victim older than 18 years of age if the presence of the defendant at the hearing is detrimental to the victim's health.</p> <p><b>§ 58a, 68, 168 e StPO, Item 19 RiStBV</b> governs the videotaping of the witness's testimony.</p> <p>In the case of victims under the age of</p>		

<sup>15</sup> - Different laws and regulations serve to standardise the rights of victims:

Criminal Code (StGB), Code of Criminal Procedure (StPO), German Code on Court Constitution (GVG) and the regulations governing criminal and summary proceedings (RiStBV).

The victim may be involved as a witness (victim witness) or as a private accessory prosecutor in the criminal proceedings. Many of the provisions apply for victims but also for all witnesses. You will find the most important below.

On April 29, 2009, the European Commission presented a status report on the implementation of the obligations arising from the Framework Decision [COM (2009) 166 final]. An overview of the implementation measures undertaken in the individual Member States is published in this report. The German Parliament is presently debating the law on the strengthening of victims' rights in cases of sexual abuse (StORMG), which provides for further improvements such as avoiding multiple hearings, extending the scope of application of the victim's attorney to state costs, expressly clarifying that victim witnesses are to be given an opportunity during their hearing to describe the effects the offence had on them amongst other things [Bundestag document no. 17/6261].



	18, the hearing is to be recorded if this is necessary to safeguard the victim's interests worthy of protection. Repeated questioning of children and youths prior to the main hearing is to be avoided.		
Right to be heard (Art 3)	<b>Item 19 RiStBV:</b> Repeated questioning of children and youths prior to the main hearing is to be avoided (see above in Art. 2). In addition, the testimony of the victim may be recorded (see above in Art. 2). Under certain conditions, the questioning of a victim under 18 years of age in the main hearing may be substituted by presenting the recording ( <b>§ 255a StPO</b> ).		
Right to information - general and case specific (Art 4)	<p>The Federal Ministry of Justice has published the following information on its homepage <a href="http://www.bmj.bund.de">http://www.bmj.bund.de</a>: The Victim's Manual (still being revised), the brochure "More Protection Regarding Domestic Violence" (German, English and Turkish). Many police stations also provide information brochures in addition to the pamphlets.</p> <p>Pursuant to <b>§ 406d StPO</b>, the victim is to be informed about the outcome of the proceedings upon application, to the extent that it concerns the victim; in addition, the victim is to be informed if the convicted person has been forbidden to establish contact with the victim. Under certain conditions, the victim is to be notified when the convicted person goes to prison, is released from prison or when the convicted person is granted more relaxed prison rules for the first time. Pursuant to <b>§ 406 h StPO</b>, the victim is to be extensively informed about the following rights:</p> <ul style="list-style-type: none"> <li>• to join the proceedings as a private accessory prosecutor in certain cases (§ 395 StPO)</li> <li>• appointing an attorney/granting of legal aid (§ 397a StPO)</li> <li>• asserting damages and compensation for pain and suffering in the criminal proceedings (§§ 403 ff StPO)</li> <li>• claims in accordance with the Victims Compensation Act (OEG)</li> <li>• legal possibilities according to the Protection against Violence Act</li> <li>• support and assistance from victim support organisations.</li> </ul> <p>In accordance with Item 4 d RiStBV, the public prosecutor has to examine whether the victim was cautioned; otherwise, he must</p>	<p>Pursuant to <b>§ 187 GVG</b>, the victim authorised to private accessory prosecution is entitled to the translation of essential documents and has the right to an interpreter for the proceedings.</p> <p>If the victim is summoned as a witness and does not speak German, he/she is entitled to an interpreter for the proceedings.</p>	

	<p>give cautionary advice in retrospect. Pursuant to Item 89 RiStBV, he informs the victim of the termination of the proceedings and the reasons for such. Pursuant to Item 117 RiStBV, he provides information upon request about the date of the main hearing. Pursuant to <b>§ 397 paragraph 2 sentence 3 StPO</b>, the private accessory prosecutor has to be informed about the date of the main hearing.</p>		
Right to legal advice (Art 6)	<p>Please see above <b>§ 406 h StPO Item 4 d RiStBV</b> <b>§ 397a StPO</b>: The victim is entitled to appoint an attorney as an advisor under certain conditions; in other cases, it is entitled to the granting of legal aid if it is needy and unable to safeguard its own interests, or it cannot be expected of him to do so.</p>	<p><b>§ 1078 ZPO</b>: Cross-border legal aid is possible.</p>	<p>Legal aid is often rejected in practice on the grounds that the victim could plead his/her own case. This decision is currently not vulnerable. Following the draft of the Law to Strengthen Rights of Victims of Sexual Abuse (StORMG), the rejection is to be vulnerable.</p>
Right to protection of privacy and physical safety. (Art 8)	<p><b>Please refer above to Article 2</b>, particularly vulnerable victims; in addition, <b>Item 117 RiStBV</b> places the public prosecutor under obligation to consider that a confrontation with the accused may be perceived by victims as particularly threatening or straining; special waiting rooms are to be used for witnesses (<b>Item 135 RiStBV</b>).</p>		<p>Not every court has a room for witnesses.</p>
Right to compensation from the offender and the state. (Art 9)	<p>Victims and their surviving dependants may assert their claims in criminal proceedings against the offender for damages and compensation for personal suffering (<b>§§ 403 ff StPO</b>). The public prosecutor has to give them cautionary advice (<b>Ziffer 173 RiStBV</b>) on this possibility.</p> <p><b>§ 56 b StGB</b> makes it possible to impose constraints on the convicted person as a means of legal redress for the injustice committed; refer to Article 10: perpetrator-victim mediation.</p> <p>In Germany, the state grants compensation payments if damage to health has occurred as a result of a violent offence (Victims Compensation Act (OEG), and Federal Support Law (BVG)).</p> <p>Victims of crime receive the same compensation as war victims.</p> <p>Compensation ranges from treatments to pension benefits if the health injuries persist for at least 6 months and reach a</p>	<p>Victims from Member States of the European Union receive full compensation, while members of other countries receive compensation in differing degrees depending, for example, on the duration of their stay. The Federal Ministry of Labour and Social Affairs carry out the duties of the assisting authority in accordance with the Directive 2004/80/EC. It assists foreign victims who have been harmed in Germany when they are applying for compensation once back in their own countries as well as victims who have been harmed outside of Germany and apply for compensation in the foreign country upon their return.</p>	<p>The law provides for good compensation, but the procedure to receive such is often lengthy. Damages are neither paid for property damage nor for pain and suffering.</p>



	<p>certain degree of seriousness.</p> <p>Compensation will be granted as long as the health impairment persists. In this way, compensation provides considerable social security.</p> <p>This law was passed in 1976 and contains a ruling for hardship cases which occurred before the law came into force.</p> <p>If claims are rejected, they have to be enforced in proceedings before a social court.</p>		
Duty to provide mediation. (Art 10)	The public prosecution and courts should examine the possibility of perpetrator-victim mediation (TOA) in every phase of the criminal proceedings ( <b>§ 155 a StPO</b> ); in the event of successful perpetrator-victim mediation, the court may impose a lighter sentence or, in some cases, refrain altogether from a sentence ( <b>§ 46 StGB</b> ).		
Right to receive victim support. (Art 13)	Refer above to Article 4, <b>§ 406 h StPO</b> . Victims have to be informed about the possibilities of assistance.		The police are not allowed to pass on data to victim support organisations without the consent of the victim.
Duty of State to foster, develop, improve co-operation with other States in cases of cross border victimisation. (Art 12)	<p>The victim may report a criminal offence after returning to Germany. Upon request, the public prosecution will forward the report to the relevant authority abroad (exceptions are possible) <b>§ 158 StPO</b>.</p> <p>In other respects, refer to <b>§§ 58a, 168e, 247a, 255a StPO</b>.</p>		

## PORTUGAL

VICTIMS RIGHTS AS DETAILED IN FRAMEWORK DECISION - PORTUGUESE LAW & PRACTICE				
Framework Decision Right	National Law	Implementation difficulties	Recommendations VSE/APAV	Remarks
Right to respect and recognition (Art 2)	<p><b>Constitution of the Portuguese Republic:</b> Art. 32/7.</p> <p><b>Portuguese Criminal Code:</b> Art. 72/2/b), Art. 113, Art. 132/2/a), d) e f), Art. 147, Art. 152/4, Art. 155, Art. 160/1/d), Art. 175/2/e), Art. 177/5, Art. 178, Art. 184, Art. 207, Art. 343, Art. 344.</p> <p><b>Portuguese Criminal Proceedings Code:</b> Art. 1/h), Art. 68/1/a), Art. 82-A, Art. 88, Art. 89/1, Art. 141/4/d), Art. 187/4/c), Art. 194/5/b), Art. 271, Art. 281/6, Art. 284, Art. 285.</p> <p><b>Enforcement of Penalties Code:</b> Art. 14/1 b); Art. 19/2; Art. 32/5; Art. 68/2; Art. 71/1; Art. 73; Art. 75/3; Art. 78/2/b).</p> <p><b>Law nr 112/2009. of 16 September:</b> Art. 2/a) and b).</p>	Concept of vulnerability is legally defined and followed by special treatment; however, practice reveals an inadequate treatment and weak recognition of the status of the victim.	The role of the victim in the criminal proceedings should be respected and equally recognised as of the author of the crime. The Framework Decision is legally binding and it is of the responsibility of the Member-state to assure that every article is implemented; Adequate and concise information should be provided to the victims, with the purpose of guaranteeing that victims/witnesses have the conditions to take informed decisions in each intervention in the proceedings, understanding their role in them.	Concept of victim extended by the Council of Europe Recommendation 2006 (8) and by the Declaration of the Basic Principles of Justice Concerning Crime and Power Abuse Victims of 1985 of the United Nations.
Access to justice (Arts 3 and 5)	<p><b>Constitution of the Portuguese Republic:</b> Art. 20/1, 4 and 5 and Art. 32/1 and 7.</p> <p><b>Portuguese Criminal Code:</b> Art. 113.</p> <p><b>Portuguese Criminal Proceedings Code:</b> Art. 50/1, Art. 69, Art. 72/1/i), Art. 219, Art. 271, Art. 284, Art. 285, Art. 287/1/b), Art. 294, Art. 318, Art. 319, Art. 320.</p> <p><b>Law nr 112/2009. of 16 September:</b> Art. 14, Art. 16, Art. 25, Art. 33, Art. 34.</p>	There's no norm that foresees the possibility of victims' impact statement; Limits to repetition of inquiry only imposed on for interrogation to certain victims deemed vulnerable; Legal counselling provided depending on the victim's income; Impossibility of appeal the sentence on protection measures unfavourable for the offender by the Public Prosecutor (art. 219 CPP).	Every victim should be able to inform the court on how the crime has affected them; The personal characteristics of the victim should be taken into account in deciding how to inquire the victim; Legal counselling should be readily available for every victim, regardless of their economic means; Conditions should be effectively created to implement measures already contemplated in law, such as interpreters and translators in criminal proceedings, among others; Necessity to disseminate the existence of translation guidelines.	Further legislation: Lei n.º 34/2004, of 29 July (amended by Lei 47/2007, of 28/08) - establishing of minimum standards for improvement of access to justice in cross-border cases; Lei n.º 93/99, of 14 July - Regulates the application of protection measures for witnesses in criminal proceedings, regulated by Decreto-Lei n.º 190/2003, of 22 August (amended by Lei n.º 42/2003, of 03/09); DL n.º 34/2008, of 26 February - Regulation of Proceedings Expenses; Portaria



				n.º 419-A/2009, of 17 April - Proceedings Expenses, Fines and Other Penalties.
Right to information - general and case specific (Art 4)	<p><b>Constitution of the Portuguese Republic:</b> Art. 20/2.</p> <p><b>Portuguese Criminal Proceedings Law:</b> Art. 75, Art. 77/2 and 3, Art. 89/1, Art. 92 to 94, Art. 217/3, Art. 246/6, Art. 247/1 to 4, Art. 276/7 and 8, Art. 480/3, Art. 482/2.</p> <p><b>Enforcement of Penalties Code:</b> Art. 23.</p> <p><b>Law nr 112/2009, of 16 September:</b> Art. 11, Art. 15, Art. 37.</p>	Despite legal implementation, in practice the access to information is still insufficient and innocuous; The victim can only be notified of the release of the offender in case there is an imminent risk of re-victimisation (art. 217/3 CPP and art. 23 CEP).	Every victim should be kept completely informed, both orally and by writing, about every activity of the proceedings and receive information on how to proceed and where to seek help; Cooperation between judicial entities has to improve to guarantee that they are aware of the information received by the victim; Victims should be able to present a complaint in case they are not kept conveniently informed; Every victim should be informed of the release of the offender, as well as other movements, such as prison transfers, regardless of any other criterion beyond their victim status.	
Reimbursement of expenses related to participation in criminal proceedings (Art.7)	<p><b>Law nr 112/2009, of 16 September:</b> Art.º 19.º.</p> <p><b>Regulation on justice tax:</b> Art. 16/1/e), Art. 26/2.</p>	Delays in payment of expenses; Expenses only supported by the State in case of lack of economic means of the victim in position of assistant in the proceedings; Lack of solutions in the face of offender's lack of economic means (inexistence of a special regime, subject to a tender of creditors in the context of Executive Judicial Proceeding).	Timely and adequate reimbursement should be available to every victim; It should be a responsibility of the State, and not of the offender, to assure that every victim are reimbursed. The capacity of the author of the crime to pay should not have any impact on the victim.	
Right to compensation from the offender and the state. (Art 9)	<p><b>Portuguese Criminal Code:</b> Art. 129 and 130.</p> <p><b>Portuguese Criminal Proceedings Code:</b> Art. 71, art. 72, Art. 82-A.</p> <p><b>Enforcement of Penalties Code:</b> Art. 46/1/c).</p> <p><b>Lei n.º 112/2009, of 16 September:</b> Art. 21, Art. 40.</p>	Only victims of violent crimes and domestic violence have the right to early payment of compensation by the State, a situation that is legislated and implemented but which is insufficient as the process is still excessively long; The necessary time to process and provide the compensation is not reasonable and often victims receive insufficient support to fill out the compensation requirement form; Unawareness of the existence of the Commis-	The State should be responsible for the payment of compensation to any victim that have been put in a situation of economic need in result of the victimisation, later reclaiming this money to the offender; The victim can ask to be informed when the offender has reimbursed the total amount to the State.	Further legislation: Lei 104/2009, of 14 September; Decreto-Lei 120/2010, of 27 October.

		sion for the Protection of Crime Victims.		
Right to receive victim support. (Art 13)	<p><b>Portuguese Criminal Code:</b> Art. 20/2.</p> <p><b>Lei n.º 112/2009. of 16 September:</b> Art. 18, Art. 53, Art. 59 to 62, Art. 73, Art. 74, Art. 75, Art. 76.</p>	Legal counselling is free and provided following an assessment of the victim's income, thus being of limited access.		
Duty to provide mediation. (Art 10)	<p><b>Enforcement of Penalties Code:</b> Art. 47/4.</p> <p><b>Law nr 112/2009. of 16 September:</b> Art. 39.</p>	Criminal mediation is only allowed in less serious cases; Unawareness of its existence by the population; Current lack of cases and thus lack of experience of the mediators; Resistance of certain professionals (lawyers, magistrates, judicial workers); Lack of articulation between prosecutors and mediators; Lack of involvement of organisations; Lack of a timely assessment.	Every victim should be able to request mediation; Emotional support should be made available before, during and after the mediation proceedings; The mediation should not occur only in a pre-enquiry phase, but also in post accusation phase, pre-conviction or even post-conviction in a prison context.	Further legislation: Law 21/2007, of 12 June.
Right to protection (Art. 8)	<p><b>Constitution of the Portuguese Republic:</b> Art. 32/6.</p> <p><b>Portuguese Criminal Code:</b> Art. 135/2, 152./4, 5 and 6, Art. 178/3, Art. 179.</p> <p><b>Portuguese Criminal Proceedings Code:</b> Art. 86/2, Art. 87, Art. 88/2 als. b) and c), Art. 139/2, Art. 141/4/d), Art. 187/4/c), Art. 194/5/b), Art. 196, Art. 198, Art. 200/1, art. 201, Art. 202, Art. 203, Art. 204/c), Art. 217/3, Art. 349, Art. 352.</p> <p><b>Enforcement of Penalties Code:</b> Art. 14, Art. 19/2, Art. 68/2, Art. 71/1, Art. 73, Art. 75/3, Art. 78/2/b), Art. 126/1/in fine, Art. 146/5, Art. 173/1/b), Art. 188/4/b), Art. 225/2/b).</p> <p><b>Law nr 112/2009. of 16 September:</b> Art. 20, Art. 22, Art. 23, Art. 27, Art. 28, Art. 31, Art. 32, Art. 35, Art. 41 to 50.</p>	There's no principle of justice secrecy in the pre-trial phases, and it is necessary to present a requirement for it to be enforced; There is no prohibition to reveal the identity of victims of certain types of crimes in public hearing; Delays in the implementation of coercion measures; Unawareness of the possibility to require the adoption of coercion measures when reporting the crime; Several measures, such as the possibility to accompany the victim in hearings, legislated but insufficiently implemented; Need to clarify and effecting measures of police protection (eg: possibility of police escort); Lack of capacity in police intervention in emergency situations (e.g. in situations of domestic violence, accompanying to retrieve	It should be the victim to determine the information revealed to the media; Protection measures should be raised and different types of communication should be appropriately used; Conditions should be in place to implement legislated measures of separate waiting rooms, among other protection measures to victims. The physical disposition of the court should assure that the victim/witness is able to move freely from and into the hearing room without any risk of intimidation.	Further pieces of legislation: Law 104/2009, 14 September; Law n.º 93/99, 14 July (amended by Law n.º 29/2008, 4 July) - Lei de protecção de testemunhas (regarding protection of witnesses). In this law, "witnesses" - in a non-technical meaning - are also the assistants, civil parties, among others. This law considers "especially vulnerable witnesses" minors, older people, and people in a serious ill condition and those that testify against a relative or a member of a closed social group.





		victims' items from the family household).		
Victims with residence in other Member-state (Art. 11)	<p><b>Lei n.º 104/2009, 14 September:</b> Art.º 18.º, Art.º 19.º, Art.º 20.º.</p> <p><b>Law nr 112/2009, 16 September:</b> Art.º 15.º/1/h), Art.º 23.º.</p> <p><b>Portuguese Criminal Proceedings Code:</b> Art.º 271.º/1.</p>	A rule was transposed establishing the obligation of accepting a report of a crime occurred in other Member-state, but its implementation is weak; Insufficient information for cross-border victims.	An improvement is needed in terms of general knowledge (particularly of specialised professionals) in this area; A de facto implementation of the transposed rules for the Portuguese legislation is needed.	Further pieces of legislation: Law nr 34/2004, 29 July (amended by Law 47/2007, of 28/08) - establishment of minimum standards for the improvement of access to justice in transnational crime cases. Additionally, it should be noted that any citizen of a EU Member-state is protected under Diplomatic Law when victimised in a third country. Thus, any EU citizen can seek any consulate or embassy of other EU Member-state, whilst in a third country, to receive support when there is no consular representation of their own country. Established in: articles 20º/2/c) and 23.º TFEU, and article 46.º of the Charter of Fundamental Rights of the European Union.

## THE NETHERLANDS

VICTIMS RIGHTS AS DETAILED IN FRAMEWORK DECISION - DUTCH LAW & PRACTICE				
Framework Decision Right	National Law	Cross border victims	Implementation difficulties	EU Victims' Right change
Definition of victim (Art 1)	Anyone who as a direct consequence of a criminal offence has suffered a financial loss or other disadvantage qualifies as a victim. The legal entity that as a direct consequence of a criminal offence has suffered a financial loss or other disadvantage is put on a par with a victim. <b>Section 51a(1) Code of Criminal Procedure</b>	All rights count equally for victims with another nationality.	The new law came in effect 1-1-2011.	
Right to respect and recognition (Art 2)	The public prosecutor shall ensure that the victim is treated in a correct manner. <b>Section 51a(2) Code of Criminal Procedure</b>		This right cannot be enforced. It is possible to complain about behaviour of policemen or employees of the public prosecutor's office.	
Right to be heard (Art 3)	Victims of serious criminal offences (or surviving relatives) can tell the court about the impact of the criminal offence. Victim impact statement. <b>Section 51e Code of Criminal Procedure</b> The victim has the right to add documents to the file. The public prosecutor has the right to withhold this. The victim can appeal against this decision by the court. <b>Section 51b(2) Code of Criminal Procedure</b>		Only the victim himself or surviving relative can make use of this right. So, for example, a parent is not allowed to make a victim impact statement for his child. A new law is in the make that makes it possible that a representative can speak for the victim.  It is always possible to make a written impact statement and add this to the file.	
Right to information - general and case specific (Art 4)	The police and the public prosecutor shall inform any victim, further to their request, of the commencement date and progress in the criminal case against the suspect. The police shall in particular notify the victim of the decision to drop the investigation or the decision to drop the charges against a suspect. The public prosecutor shall notify the victim of the commencement and continuation dates of the Prosecution, the date and time of the hearing and of the final judgment in the criminal case against the suspect. Where appropriate, and in any case where the case concerns a criminal offence referred to in Section 51e(4), he shall also inform the victim, upon request, of the suspect's or convict's release. <b>Section 51a(3) Code of Criminal Procedure</b>  The victim has the right to inspect the file and can also get a copy of the file.		As a rule all agencies - police prosecution, courts, and prisons - try to keep victims informed. But this has still has to improve a lot.  Victims sometimes want to read the offender's statement or the psychological reports. It can help the victim to process grief. The public prosecutors and the courts do not allow the victim to have psychological reports because of privacy reasons.	



	<b>Section 51b(1) Code of Criminal Procedure</b>			
Right to legal advice (Art 6)	<p>Victims of serious criminal offences (or surviving relatives) can get free legal assistance by a lawyer.</p> <p><b>Section 44 (4) Code of subsidized legal assistance.</b></p> <p>All victims can get free legal advice and assistance by Victim Support.</p>			
Right to protection of physical safety and privacy. (Art 8)	<p>No specific legislation on victim safety but obligation on the state to keep all citizens safe from physical harm. The law provides special provisions for threatened witnesses (this can be the victim).</p> <p><b>Section 226a – 226f Code of Criminal Procedure.</b></p> <p>No specific legislation on victim privacy. In some cases the identity of a witness (this can be the victim) can be (partly) kept secret.</p> <p><b>Section 190 and 290 Code of Criminal Procedure</b></p> <p>When the witness (this can be the victim) is seriously threatened, it is possible that the witness is guaranteed anonymity.</p> <p><b>Section 226a – 226f Code of Criminal Procedure</b></p> <p>The media have strict regulation for coverage that involves crime victims.</p>		<p>Victims are often unpleasantly surprised when they find out that the offender knows their name and address because these are stated in the police report.</p>	
Right to compensation from the offender and the state. (Art 9)	<p>If the public prosecutor presents a criminal case to the court, the victim can join the case as an injured party. The court will not only rule in the criminal case, but will also state whether or not the suspect has to compensate the damage or loss (civil claim).</p> <p><b>Section 51f Code of Criminal Procedure</b></p> <p>The court can also compensate the damage of the victim by a special penal sanction (called the schadevergoedingsmaatregel). The state will then enforce the victim's claim, which means that all cost connected with enforcement are expense of the state. On top of the state will pay the victims of violent crime the compensation in advance, if enforcement is not (completely) successful within 8 months after the final court decision.</p>			

	<b>Section 36f Criminal Code</b>			
	Victims of violent crime can also turn to The Schadfonds Geweldsmisdrijven (Violent Offences Compensation Fund). The fund gives financial support to people who have fallen victim to a violent crime due to which they suffered serious injuries. This is also possible if the offender is unknown. It is not always necessary that the victim has filed a complaint.			
Duty to provide mediation. (Art 10)	Since 1-1-2012 the law states that the public prosecution promotes that the police informs the victim about the possibility of mediation. Mediation mainly means: arrange compensation for the victim. <b>Section 51h Code of Criminal Procedure</b>			
Victims resident in another state (Art 11)	If a victim attends the court hearing, an interpreter will be provided by the public prosecutor. <b>Section 51c (3) Code of Criminal Procedure</b>  According to law it is possible to use video conference in the criminal procedure. This includes hearing the victim from abroad. <b>Section 78a Code of the Criminal Procedure</b>	All victims, regardless of their nationality will receive similar treatment from the police and prosecution. Translation services will be made available.  Strangely enough it is Dutch policy that in the Netherlands it is not possible to file a complaint of an offence committed in another Member State.		
Right to receive victim support. (Art 13)	The police is obliged to inform the Victim about Victim Support.	Victim Support provides an interpreter if necessary.	Police forces are required to provide information about all victims to Victim Support. Victim Support will approach the victim. The victim will be offered the services of Victim Support.	



## UNITED KINGDOM - ENGLAND & WALES

<b>VICTIMS RIGHTS AS DETAILED IN FRAMEWORK DECISION - ENGLISH LAW &amp; PRACTICE</b>				
<b>Framework Decision Right</b>	<b>National Law</b>	<b>Cross border victims</b>	<b>Implementation difficulties</b>	<b>EU Victims' Rights change</b>
Right to respect and recognition (Art 2)	<p>The Code of Practice for Victims of Crime (introduced April 2006) gives victims legal rights and sets out service standards to ensure that they are treated with respect and dignity.</p> <p>Vulnerable and intimidated victims of crime have access to 'special measures' in court to help them give their best evidence (e.g. screens around the witness box or the ability to give evidence from another room via a live TV link). Special measures were introduced under the Youth Justice &amp; Criminal Evidence Act 1999.</p>			
Right to be heard (Art 3)	Victims of crime can make a Victim Personal Statement setting out how the crime has affected them.			
Right to information - general and case specific (Art 4)	<p>The Code of Practice for Victims of Crime gives victims the right to receive information, within specified time periods, from all criminal justice agencies including the Police, Crown Prosecution Service, Witness Care Units &amp; Probation Service.</p> <p>Victims have the right to information about the offender only where the offender has been sentenced to 12 months or more in prison for a violent or sexual offence.</p>			The EU victims' package would extend the right to receive information about an offender to victims of all crimes.
Right to legal advice. (Art 6)	Victims do not have the right to access legal advice as crimes are prosecuted by the Crown Prosecution Service on behalf of the state.			
Right to protection of privacy and physical safety. (Art 8)	<p>Vulnerable or intimidated witnesses can request to use special measures in court, such as giving evidence behind a screen.</p> <p>Most criminal courts in England &amp; Wales have separate facilities for prosecution witnesses.</p> <p>In England &amp; Wales there are separate interview facilities at police stations for witnesses and suspects so that victims do not come into contact with the accused. Most court buildings have separate waiting facilities.</p>			
Right to compensation from the offender and the state. (Art 9)	<p>Under the Criminal Injuries Compensation Act 1995 blameless victims of violent crime have the right to receive compensation from the state.</p> <p>The courts have the power to sentence an offender to pay a compensation order to the victim.</p>	Criminal Injuries Compensation is available irrespective of country of origin.		
Right to receive	The Government funds Victim Support in England			The victims' package



victim support. (Art 13)	& Wales as well as a range of other specialist support charities.			would oblige the Government to fund victim support services.
Duty to provide mediation. (Art 10)	There is no right to mediation in England & Wales.			



## UNITED KINGDOM - SCOTLAND

<b>VICTIMS RIGHTS AS DETAILED IN FRAMEWORK DECISION - SCOTTISH LAW &amp; PRACTICE</b>				
<b>Framework Decision Right</b>	<b>National Law</b>	<b>Cross border victims</b>	<b>Implementation difficulties</b>	<b>EU Victims' Rights change</b>
Right to respect and recognition [Art 2]	No national law - ECHR in relation to respect.		The only recognition of a victim in criminal proceedings is as a witness.	
Right to be heard [Art 3]	No general right for a victim to be heard. Victims of serious crime where a trial has taken place can make a Victim Impact Statement which will be presented to the Judge after.		The only recognition of a victim in criminal proceedings is as a witness.	
Right to information - general and case specific [Art 4]	No legislation but a large amount of generic information available from all criminal justice agencies in relation to the services they provide. No right to case specific info but prosecutors keep victims. In certain circumstances victims can, on request, be advised of the release of the offender from prison, but no general right exists. In certain circumstances victims can, on request, be advised of the release of the offender from prison, but no general right exists.	All Scottish Police Forces will engage qualified interpreters for persons making a witness statement or attending an identification parade. Similar provision is made by the prosecutor for persons giving evidence in court.	As a rule all agencies - police prosecution, courts, and prisons - try to keep victims advised of case progress but standards vary. Service often depends on resource availability.	Legislation on the need for criminal justice agencies to provide information to victims will greatly assist in a victim's recovery from crime.
Right to legal advice. [Art 6]	No legislation for victims.		Only accused persons are entitled to free legal advice.	
Right to protection of privacy and physical safety. [Art 8]	No legislation on right to privacy. No specific legislation on victim safety but obligation on the state to keep all citizens safe from physical harm.		Victims who are witnesses can be part of the Witness Protection Programme which, in extreme cases, can provide witnesses with new identity.	
Right to compensation from the offender and the state. [Art 9]	The Criminal Injuries Compensation Scheme provides state compensation to victims of physical injury based on the extent of the injury. A court can issue compensation.	Any person who has been a victim of crime in Scotland can make application irrespective of their country of origin.	State compensation for physical injuries only - no compensation for any other type of crime. A court compensation order is not commonly used and is limited in effect.	
Right to receive victim support. [Art 13]	All victims of crime entitled to specialist victim support.		Police forces are encouraged to refer victims to Victim Support Scotland "with the consent of the victim". They have no automatic right to make a referral and many victims.	New legislation will require police forces to refer all victims. This will ensure an appropriate needs assessment is carried out for every victim.
Duty to pro-	No legislation.		Mediation limited to a very small	



vide mediation. (Art 10)			number of cases where the situation and resources are available.	
Duty of State to foster, develop, improve co-operation with foreign states in cases of cross border victimisation. (Art 12)	No legislation.	All victims, regardless of their nationality will receive similar treatment from the police and prosecution. Translation services will be made available to those who do not.		



## EUROPEAN UNION'S LEGISLATION AFFECTING CROSS-BORDER VICTIMS TABLE

Nº	Body	Name	Date	Obs. and weblink
<b>VICTIMS</b>				
<a href="#">2008/679/JHA</a>	Commission Decision	on the attribution of action grants for translating and testing a <b>victimisation survey module ...</b>	31 July 2008	<a href="http://eur-lex.europa.eu/Notice.do?mode=dbl&amp;lang=en&amp;ihmlang=en&amp;lng1=en,pt&amp;lng2=bg,cs,da,de,el,en,es,et,fi,fr,hu,it,lt,lv,mt,nl,pl,pt,ro,sk,sl,sv&amp;val=477287:cs&amp;page=">http://eur-lex.europa.eu/Notice.do?mode=dbl&amp;lang=en&amp;ihmlang=en&amp;lng1=en,pt&amp;lng2=bg,cs,da,de,el,en,es,et,fi,fr,hu,it,lt,lv,mt,nl,pl,pt,ro,sk,sl,sv&amp;val=477287:cs&amp;page=</a>
<a href="#">2011/C 187/01</a>	Council Resolution	on a Roadmap for strengthening the <b>rights and protection of victims</b> , in particular in criminal proceedings	10 June 2011	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:187:0001:0005:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2011:187:0001:0005:EN:PDF</a>
<a href="#">2001/220/JHA</a>	Council Framework Decision	on the <b>standing of victims</b> in criminal proceedings	15 March 2001	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:082:0001:0004:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:082:0001:0004:EN:PDF</a>
<a href="#">2004/80/EC</a>	Directive	relating to compensation to crime victims	29 April 2004	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:261:0015:0018:en:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:261:0015:0018:en:PDF</a>
<a href="#">2003/8/EC</a>	Council Directive	<b>to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes</b>	27 January 2003	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:026:0041:0047:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:026:0041:0047:EN:PDF</a>
<a href="#">2009/170</a>	Report	on the implementation of 2004/80/EC directive (compensation to victims)	20 April 2009	<b>NOT LAW</b> <a href="http://ec.europa.eu/civiljustice/news/docs/report_compensation_crime_victim_en.pdf">http://ec.europa.eu/civiljustice/news/docs/report_compensation_crime_victim_en.pdf</a>
<a href="#">2004/54</a>	Report	on the implementation of Art 18, 2001/220/JHA	16 February 2004	<b>NOT LAW</b> <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2004:0054:FIN:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2004:0054:FIN:EN:PDF</a>
<a href="#">2001/536</a>	Green Paper	Compensation to crime victims	28 September 2001	<b>NOT LAW</b> <a href="http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0536en01.pdf">http://eur-lex.europa.eu/LexUriServ/site/en/com/2001/com2001_0536en01.pdf</a>
<a href="#">2011/275</a>	Directive	establishing	18 May 2011	<b>PROPOSAL</b>

		minimum standards on the rights, support and protection of victims of crime		<a href="http://ec.europa.eu/justice/policies/criminal/victims/docs/com_2011_275_en.pdf">http://ec.europa.eu/justice/policies/criminal/victims/docs/com_2011_275_en.pdf</a>
<b>TRAFFICKING</b>				
<a href="#">2011/36/EU</a>	Directive	on preventing and combating <b>trafficking in human beings and protecting its victims,</b>	5 April 2011	Replacing Council Framework Decision 2002/629/JHA  <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:101:0001:0011:EN:PDF</a>
<a href="#">2004/81/EC</a>	Directive	on the residence permit issued to third-country nationals who are <b>victims of trafficking</b> in human beings ... <b>who cooperate with the competent authorities</b>	29 April 2004	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0081:EN:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004L0081:EN:HTML</a>
<a href="#">2003/C 260/03</a>	Council Resolution	on initiatives to <b>combat trafficking</b> in human beings, in particular women	20 October 2003	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003G1029(02):EN:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003G1029(02):EN:HTML</a>
<a href="#">2008/604/EC</a>	Commission Decision	on the appointment of members of the <b>Group of Experts on Trafficking in Human Beings</b>	22 July 2008	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:194:0012:0013:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:194:0012:0013:EN:PDF</a>
<a href="#">2002/C 114/02</a>	Council Recommendation	on the need to enhance cooperation and exchanges of information between the various operational units <b>specialising in combating trafficking</b> in precursors in the Member States of the European Union	25 April 2002	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2002:114:0003:0004:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2002:114:0003:0004:EN:PDF</a>
<b>CHILDREN</b>				
<a href="#">2000/375/JHA</a>	Council Decision	to combat <b>child pornography</b> on the Internet	29 May 2000	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000D0375:EN:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32000D0375:EN:HTML</a>

<a href="#">2004/68/JHA</a>	Council Framework Decision	on combating the <b>sexual exploitation</b> of children and child pornography	22 December 2003	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:013:0044:0048:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:013:0044:0048:EN:PDF</a>
<a href="#">2001/C 283/01</a>	Concil Resolution	Resolution on the contribution of civil society in <b>finding missing</b> or sexually exploited children	9 October 2001	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2001:283:0001:0002:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2001:283:0001:0002:EN:PDF</a>
<b>CRIMINAL PROCEEDINGS</b>				
<a href="#">1226/2010</a>	Commission Regulation	concerning <b>trade in certain goods</b> which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment	20 December 2010	amending Council Regulation (EC) No 1236/2005  <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:336:0013:0014:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:336:0013:0014:EN:PDF</a>
<a href="#">2009/299/JHA</a>	Council Framework Decision	thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the <b>absence of the person concerned at the trial</b>	26 February 2009	amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA  <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:081:0024:0036:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:081:0024:0036:EN:PDF</a>
<a href="#">2008/C 299/01</a>	Council Resolution	Resolution of the Council and of the Representatives of the Governments of the Member States meeting within the Council on the <b>training of judges, prosecutors and judicial staff</b> in the European Union	22 November 2008	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:299:0001:0004:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:299:0001:0004:EN:PDF</a>
<a href="#">95/C 327/04</a>	Council Resolution	<b>on the protection of witnesses in the fight against international organized crime</b>	23 November 1995	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995Y1207(04):EN:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995Y1207(04):EN:HTML</a>
<a href="#">97/C 10/01</a>	Council Resolution	<b>on individuals who cooperate with the judicial process in the fight against international</b>	20 December 1996	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997G0111:EN:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31997G0111:EN:HTML</a>

<a href="#">2010/64/EU</a>	Directive	<b>organized crime</b> on the right to interpretation and <b>translation in criminal proceedings</b>	20 October 2010	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:280:0001:0007:en:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:280:0001:0007:en:PDF</a>
<a href="#">1999/C 26/06</a>	Council Decision	instructing Europol to deal with crimes committed or likely to be committed in the course of <b>terrorist activities</b> against life, limb, personal freedom or property	3 December 1998	<a href="http://eur-lex.europa.eu/Notice.do?mode=dbl&amp;lang=en&amp;ihmlang=en&amp;lng1=en,pt&amp;lng2=bg,cs,da,de,el,en,es,et,fi,fr,hu,it,lt,lv,mt,nl,pl,pt,ro,sk,sl,sv,&amp;val=329506:cs&amp;page=">http://eur-lex.europa.eu/Notice.do?mode=dbl&amp;lang=en&amp;ihmlang=en&amp;lng1=en,pt&amp;lng2=bg,cs,da,de,el,en,es,et,fi,fr,hu,it,lt,lv,mt,nl,pl,pt,ro,sk,sl,sv,&amp;val=329506:cs&amp;page=</a>
<a href="#">2005/671/JHA</a>	Council Decision	on the exchange of information and cooperation concerning <b>terrorist offences</b>	20 September 2005	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:253:0022:0024:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:253:0022:0024:EN:PDF</a>
<a href="#">2007/562/EC</a>	Council Recommendation	concerning sharing of information on <b>terrorist kidnappings</b>	12 June 2007	<a href="http://euromed-justice.eu/files/repository/20090130154445_CouncilRecommendation2007_562_ECconcerningsharingofinformationonterroristkidnaping.pdf">http://euromed-justice.eu/files/repository/20090130154445_CouncilRecommendation2007_562_ECconcerningsharingofinformationonterroristkidnaping.pdf</a>
<b>TRANSNATIONAL CRIME</b>				
<a href="#">2000/261/JHA</a>	Council Decision	on the improved exchange of information to combat <b>counterfeit travel documents</b>	27 March 2000	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:081:0001:0003:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:081:0001:0003:EN:PDF</a>
<a href="#">2009/1023/JHA</a>	Council Decision	on the signing, on behalf of the European Union, on the application of certain provisions of Council Decision 2008/615/JHA on the <b>stepping up of cross-border cooperation</b> , particularly in combating terrorism and cross-border crime	21 September 2009	<a href="http://eur-lex.europa.eu/Notice.do?mode=dbl&amp;lang=en&amp;ihmlang=en&amp;lng1=en,pt&amp;lng2=bg,cs,da,de,el,en,es,et,fi,fr,hu,it,lt,lv,mt,nl,pl,pt,ro,sk,sl,sv,&amp;val=506356:cs&amp;page=">http://eur-lex.europa.eu/Notice.do?mode=dbl&amp;lang=en&amp;ihmlang=en&amp;lng1=en,pt&amp;lng2=bg,cs,da,de,el,en,es,et,fi,fr,hu,it,lt,lv,mt,nl,pl,pt,ro,sk,sl,sv,&amp;val=506356:cs&amp;page=</a>
<a href="#">2010/131/EU</a>	Council Decision	on setting up the Standing Committee on operational <b>cooperation on internal security</b>	25 February 2010	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:052:0050:0050:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:052:0050:0050:EN:PDF</a>
<a href="#">COM/2000/0760</a>	Council Decision	on the signing, on behalf of the European Community, of the <b>United Nations</b>	8 December 2000	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52000PC0760:EN:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52000PC0760:EN:HTML</a>

		<b>Convention against transnational organised crime and its Protocols</b> on combating <b>trafficking</b> in persons, especially women and children, and the <b>smuggling</b> of migrants by land, air and sea		
<a href="#">2004/C 116/07</a>	Council Resolution	on a Model Protocol for the establishment in Member States of partnerships between the public and private sectors to <b>reduce the harm from organised crime</b>	29 April 2004	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004G0430(02):EN:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32004G0430(02):EN:HTML</a>
<a href="#">2008/977/JHA</a>	Council Framework Decision	on the <b>protection of personal data</b> processed in the framework of police and judicial cooperation in criminal matters	27 November 2008	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:350:0060:0071:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:350:0060:0071:EN:PDF</a>
<a href="#">2008/616/JHA</a>	Council Decision	on the <b>implementation of Decision 2008/615/JHA</b> on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime	23 June 2008	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:210:0012:0072:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:210:0012:0072:EN:PDF</a>
<a href="#">98/C 408/01</a>	Council Resolution	<b>on the prevention of organised crime with reference to the establishment of a comprehensive strategy for combating it</b>	21 December 1998	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:1998:408:0001:0004:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:1998:408:0001:0004:EN:PDF</a>
<a href="#">96/747/JHA</a>	Joint Action	<b>concerning the creation and maintenance of a directory of specialized competences, skills and expertise in the fight against international</b>	29 November 1996	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996F0747:en:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996F0747:en:HTML</a>

		<b>organized crime, in order to facilitate law enforcement cooperation</b>		
<a href="#">2008/841/JHA</a>	Council Framework Decision	on the <b>fight against organised crime</b>	24 October 2008	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008FO841:EN:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008FO841:EN:HTML</a>
<a href="#">N° 743/2002</a>	Council Regulation	establishing a general Community framework of activities to facilitate the implementation of <b>judicial cooperation in civil matters</b>	25 April 2002	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:115:0001:0005:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:115:0001:0005:EN:PDF</a>
<b>IMMIGRATION</b>				
<a href="#">No 493/2011</a>	EU Regulation	on the creation of an <b>immigration liaison officers network</b>	5 April 2011	amending Council Regulation (EC) No 377/2004  <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:141:0013:0016:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:141:0013:0016:EN:PDF</a>
<a href="#">No 216/2010</a>	Commission Regulation	on Community <b>statistics on migration and international protection</b> , as regards the definitions of categories of the reasons for the residence permits	15 March 2010	implementing Regulation (EC) No 862/2007  <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:066:0001:0002:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:066:0001:0002:EN:PDF</a>
<a href="#">2009/52/EC</a>	Directive	providing for minimum standards on <b>sanctions</b> and measures <b>against employers of illegally</b> staying third-country nationals	18 June 2009	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:168:0024:0032:EN:PDF</a>
<a href="#">2008/115/EC</a>	Directive	on common standards and procedures in Member States for <b>returning illegally staying third-country nationals</b>	16 December 2008	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:348:0098:0107:EN:PDF</a>
<a href="#">2006/688/EC</a>	Council Decision	on the establishment of a <b>mutual information mechanism</b> concerning	5 October 2006	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:283:0040:0043:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:283:0040:0043:EN:PDF</a>

		Member States' measures in the areas of <b>asylum and immigration</b>		
<a href="#">2006/617/EC</a>	Council Decision	on the conclusion, on behalf of the European Community, of the <b>Protocol Against the Smuggling of Migrants</b> by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organised Crime	24 July 2006	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:262:0034:0043:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:262:0034:0043:EN:PDF</a>
<a href="#">2004/867/EC</a>	Council Decision	adopting an action programme for administrative <b>cooperation in the fields of external borders, visas, asylum and immigration</b> (ARGO programme)	13 December 2004	amending Decision 2002/463/EC  <a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:371:0048:0049:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:371:0048:0049:EN:PDF</a>
<a href="#">2002/90/EC</a>	Directive	defining the <b>facilitation of unauthorised entry, transit and residence</b>	28 November 2002	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:328:0017:0018:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:328:0017:0018:EN:PDF</a>
<a href="#">No 1030/2002</a>	Council Regulation	laying down a <b>uniform format for residence permits</b> for third-country nationals	13 June 2002	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:157:0001:0007:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:157:0001:0007:EN:PDF</a>
<a href="#">96/749/JHA</a>	Council Decision	<b>on monitoring the implementation of instruments adopted by the Council concerning illegal immigration, readmission, the unlawful employment of third country nationals and cooperation in the implementation of expulsion orders</b>	16 December 1996	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996D0749:EN:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996D0749:EN:HTML</a>
	Council Resolution	<b>on minimum guarantees for asylum procedures</b>	20 June 1995	<a href="http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/l33103_en.htm">http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/l33103_en.htm</a>
<a href="#">2003/170/JHA</a>	Council Decision	on the common use of <b>liaison officers</b>	27 February 2003	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:067:">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2003:067:</a>

		<b>posted abroad</b> by the law enforcement agencies of the Member States		0027:0030:EN:PDF
<b>VISAS</b>				
<a href="#">No 810/2009</a>	Regulation	establishing a <b>Community Code on Visas</b> (Visa Code)	13 July 2009	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:243:0001:0058:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:243:0001:0058:EN:PDF</a>
<a href="#">94/409/CFSP</a>	Decision of the Representatives of Member States, deciding in the Council	on the establishment of an <b>emergency travel document</b>	25 June 1996	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1996:168:0004:0011:EN:PDF">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1996:168:0004:0011:EN:PDF</a>
<a href="#">96/C 80/01</a>	Council Recommendation	<b>relating to local consular cooperation regarding visas</b>	4 March 1996	<a href="http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996Y0318(01):EN:HTML">http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31996Y0318(01):EN:HTML</a>

For further information on EU policy on the rights of victims, and for information on the Council of Europe's instruments on this matter, we recommend that you read **The New Faces of Victimhood, Globalization, Transnational Crimes and Victim Rights**, chapter 2, pages 20 to 28, edited by Rianne Letchert and Jan van Dijk, Springer, 2011.



## NEEDS OF VICTIMS IN CROSS-BORDER VICTIMISATION

A crime has always a strong impact on a victim, regardless of how the victim reacts afterwards. The common link to all crimes and the reason for the victimisation it entails is the **intentionality of the human being who committed it**. Physical injury, for instance, has also a psychological effect on the victim, especially because it is committed by another person. The victim loses autonomy at the hands of another human being, and this may cause feelings of anxiety, frustration, insecurity, loss of control, and guilt.

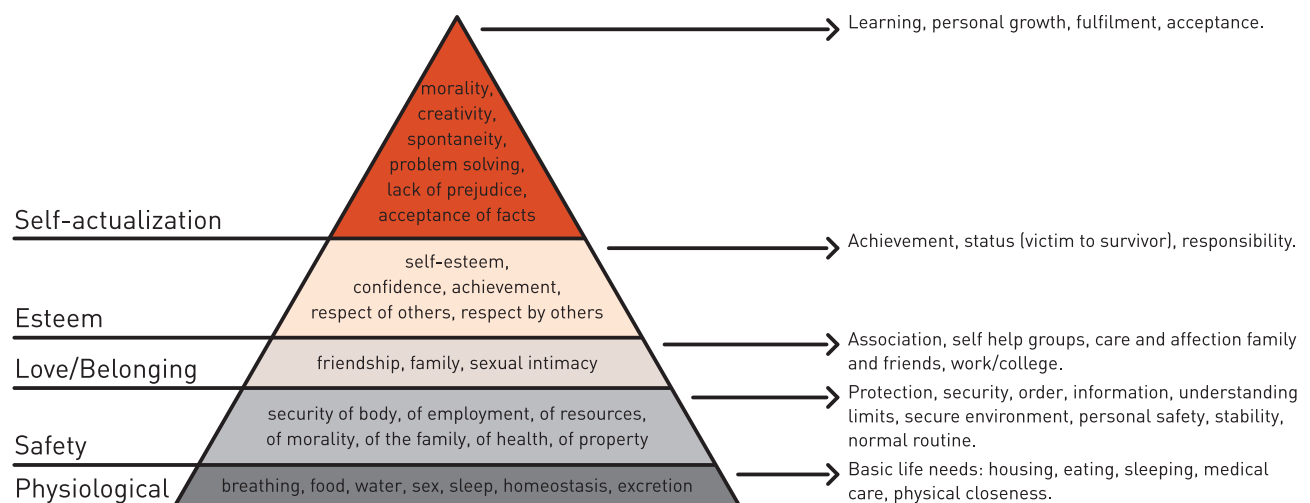
“Physical assault is not just a physical injury, but also an injury to self-esteem and personal security.”

Victim **responses vary widely** and they are not necessarily related to the seriousness of the crime. Whatever reaction a victim expresses, it should be remembered that it is a normal human reaction carried out in relation to an abnormal situation. Nonetheless, at any given point, victims are entitled to:

- 1) Feel supported and assisted;
- 2) Access appropriate support;
- 3) Participate in the justice system.

Each of us is motivated by need. Among the various studies developed throughout times about needs and motivation, Abraham Maslow’s Hierarchy of Needs is one of the most commonly used.

Maslow states that we must satisfy each need in turn, starting with the first, which deals with the most obvious need for survival itself. We are only able to achieve the higher needs when the most basic needs are fulfilled. This concept clearly applies to the recovery of victims of crime.





The different **characteristics of victims** and the diverse **circumstances** of the crime may affect the victim differently. The genetic code of a person, their ability to cope with different emotions and to understand, their tolerance threshold, the victim's culture, personal experience and supporting network are variables that influence the way a victim will respond to a crime. The circumstances in which the crime was committed are also of great importance. The facts that the victim **knew his/her aggressor**, for instance, or the **repetitiveness of the crime** are also factors impacting on the victim's response to the crime they suffered.

The impact of a crime is usually expressed in **three categories of effects**:

- The **physiological impact**, which consists of involuntary bodily reactions;
- The **psychological impact**, which is the effect that the crime has on a person's mental well-being;
- The **behavioural impact**, which translates into changes of behaviour and/or attitudes propelled by the crime.

## PHYSIOLOGICAL IMPACT

A crime may leave physical injuries, in the long or short term, on the victim. Moreover, victims may experience several bodily reactions, during and after the crime. The immediate reactions consist of:

- **shock** and disorientation: right after the crime occurs, people usually feel frozen with shock, unable to grasp the full significance and impact of what just happened. They may feel disoriented and confused, as only seconds before everything was fine and then something drastic occurred and changed their lives.
- **adrenaline rush**: especially during the crime and right after it, adrenaline rushes through the victim's veins, an instinctive reaction to prepare the body to fight or flee. The response will be determined by emotion and instinct, and rational choice is rarely involved in this decision.
- other bodily manifestations such as **regurgitation**, loss of bowel and bladder control, increase in heart rate, **hyperventilation**, physical agitation, heightened sensory perception, collapse in **exhaustion**.

In a medium to long term, the effects can be panic attacks, eating disorders, sleeping difficulties, self harm.

## PSYCHOLOGICAL IMPACT

Just as physical injuries may be long or short-term lasted, so psychological effects of a crime have that **dual nature**. Again, different emotions are to be expected in different victims, and the following reactions are amongst the ones possible:

- **Fear** and terror: "Fear is the primary emotion experienced when a person is threatened by a traumatic event."<sup>16</sup>
- **Anger** and rage: fear normally results in anger, particularly in adults. A person is expected to experience anger, if not immediately after the crime is committed, at least some time in the aftermath. Feelings of desire for revenge are also common, and they usually subside after a while, although intensive anger may remain.
- **Frustration**: this feeling is a consequence of a sense of helplessness and hopelessness related to a loss



of control over one's affairs. It might be heightened if the victim cannot get appropriate support and assistance in the aftermath of the crime.

- **Confusion:** people often feel confused as to why that crime happened to them in the first place. Usually that question has no answer but it can impact profoundly on the person's general world perception, as individuals tend to seek order and rationality in their lives.
- **Guilt:** this is a result of the unanswered question "why me?". Victims often attempt to identify behaviours and events of their doing that led to the crime occurrence, although more often than not they were random events that could only be avoided in retrospect.
- **Shame** and humiliation: these are tightly linked with crimes particularly intended to degrade the victim, such as rape and long-term domestic violence.
- **Grief** or sorrow: grief over losses is very common. It is often the most intense emotion in the aftermath of a crime.

## BEHAVIOURAL IMPACT

Being a victim of crime usually has consequences on the normal behaviour of individuals. Crime victims often experience changes in their behaviour due to their **feeling of loss of control**. Victims may be too afraid to get out of the house, of going into certain areas, and they may over or under react to their close ones or to significant life events (e.g. birthdays, anniversaries, and holidays). These behavioural changes may be long-lasting or temporary, bearing in mind, however, that a victim, when recovering and finding an equilibrium again does not return to the same equilibrium pattern of before the crime.

### Cross-border victims in particular

Cross-border victims share these **same impacts** with regular victims but, due to their very characteristics, foreigners who suffer a crime are at an **increased risk of victimisation**.

Tourists usually stand out and carry on their persons large amounts of money or valuables, and are often unaware of their surroundings, which makes them particularly attractive for certain types of crime, such as pick-pocketing or robbery.

Cross-border victims normally face **further obstacles** than regular victims, which might reinforce their victimisation experience. They face **linguistic difficulties**, have no knowledge of the criminal justice system of the country, and they have **no social support network**. Because cross-border victims are often tourists, the short length of their stay means that it will be additionally **hard to accompany the criminal investigations** and overall process. Therefore, cross-border victims have specific needs that should be catered for.



## A WORKSHOP: HOW TO PREPARE IT?<sup>17</sup>

“(...) Participation is, ever more, the main vehicle of personal and organisational empowerment, of co-responsibility, learning, and of ongoing improvement of efficiency and quality of processes and organisations. (...)”

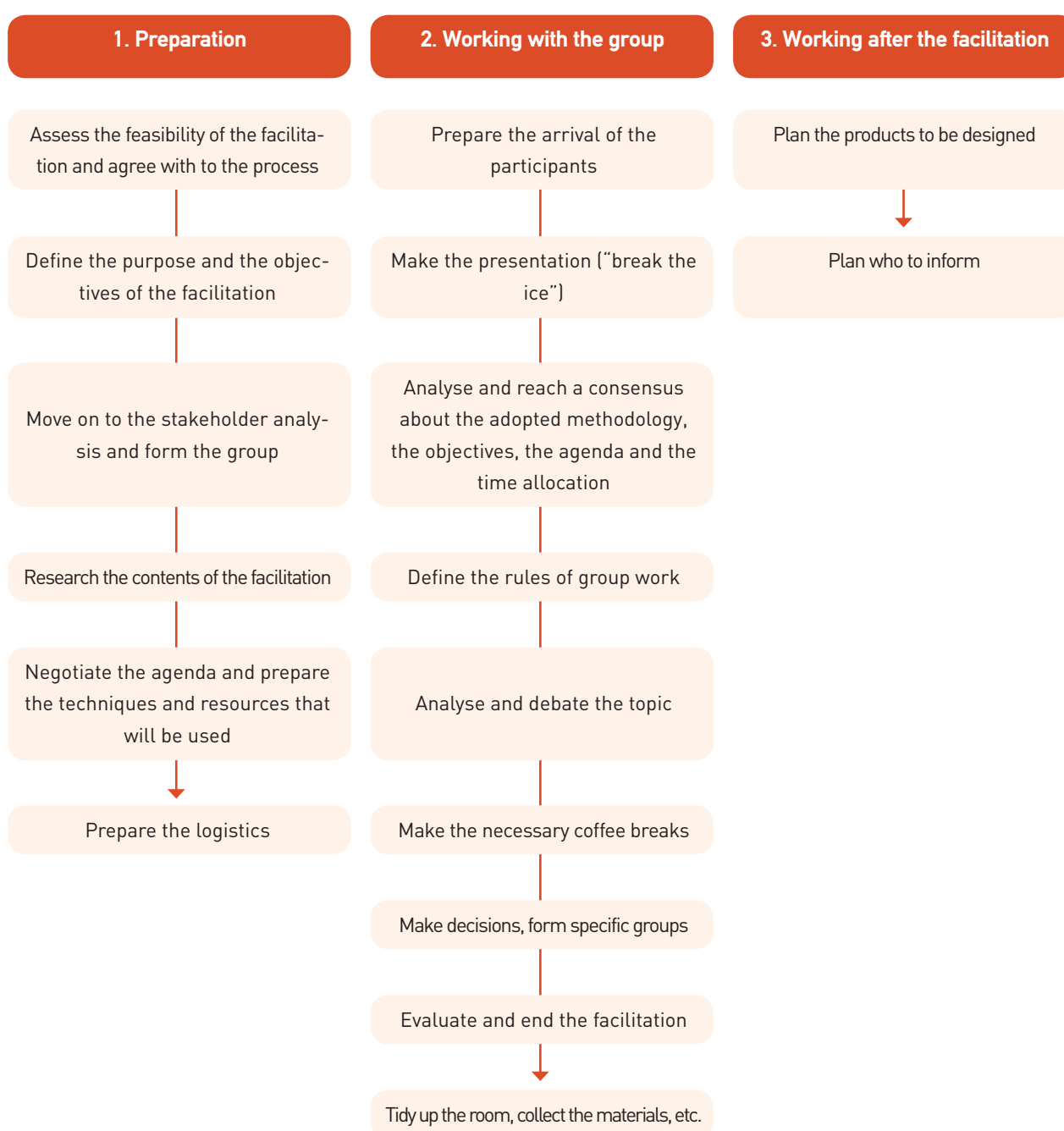
**Why consider participation a crucial matter?** Because:

- It allows for the exercise of the right to freedom of expression, of access and integration in decision-making processes;
- It promotes awareness for causes and processes related to an organisation and its activities;
- It improves the compromise of individuals; it allows them to take responsibility and roles in collective action;
- It benefits consensus towards a specific decision and action;
- It allows for an expanding impact of activities in time and space.

By **participating method**, we mean a “[...] variety of methods and techniques characterised mostly by approaches and proceedings that actively involve the social actors relevant to a specific context, process or event. In these types of methodologies we value, above all, the participation of the actors, the involvement of participants, and the interaction and debate of perspectives. (...)”

## THE WORKSHOP PREPARATION STEP BY STEP

When giving a workshop on whatever subject, you may follow the following suggested steps:<sup>18</sup>





## Setting the target

The goal of the training should be well understood in advance. These are:

- To inform;
- To enthuse;
- To optimise collaboration;

Determine the target and put the emphasis on their particular needs and gaps.

### a) Target Mapping

The target audience has to be taken into account.

Think about how many people you can expect, if it is mainly men or women, what is their average age, what is their expertise in the matters to be discussed, etc. Try to take into account what the audience wants to know.

### b) The group

- Remember that you are the face of your organization;
- Introduce yourself and make a brief general introductory talk;
- Do not manipulate participants to a certain ideological end and never be judgemental. Always pay the utmost attention to what participants are saying;
- Explain the program;
- Interact with the participants, ask questions, and divide your attention through the whole group;
- Don't cram in too much information; go step by step within the participants' pace;
- Please try not to mumble, make sure you are heard and understood!
- Spare some time for questions and comments, but steer the conversation away when it focuses too much on one person. Everyone should be kept interested;
  - Repeat the question posed, so that everyone hears them;
- Summarize what has been said and continue your own agenda;
- Make sure you finish on time;
- In the end of the presentation, give the opportunity for a final short set of questions and thank those present for their interest on the topic.<sup>19</sup>

**In sum**, the role of the trainer is:

- To stimulate the participation;
- To build up a psychological favourable atmosphere;
- To level out the degree of participation;
- To supervise the activities to be carried out by the group(s);



- To solve possible conflicts;
- To write down a summary of results.

To help you better understand all that preparing a workshop entails, here is a more detailed list of the trainer’s tasks when facilitating a workshop<sup>20</sup>:

Participants	Objectives	Logistics
- Greeting every participant as they arrive and at the beginning of the session	- Make the structure explicit, objectives, and the sessions schedule	- Always send in advance the agenda and, whenever pertinent, send the documentation in advance for the participants to prepare.
- Give time and space for introductions, whenever necessary	- Clarify the participants’ expectations	- Assure that all necessary materials for the session are available and that it is sufficient
- Guarantee that participants are safe and comfortable	- Guide the group according to the pre-defined questions and tasks	- Assure that the equipments to use are in order
- Create a relaxed and participative environment	- Keep the debate focused on the core issue	- Guarantee that the room is clean, warm and with sufficient light
- Watch the participants and guarantee that everyone is involved in the process	- Provide relevant information to the participants	- Choose a room with easy accessibility
- Deal with participants who present a challenging behaviour	- Guarantee an efficient management of the time of the session	- Organise the room in a way so that every participant is able to see the place where the information will be noted on
- Encourage participants to structure their ideas and to be able to analyse different points of view	- Note down the obtained information and the decisions taken	- organise the room in a way so that every participant can see the other participants clearly
- Be available at the end of the session to chat or to provide any clarification	- Assure that every participant understands what is being said and what is expected of them	- At the end of the session, tidy up the room and remove all information that resulted from the work

### Topics of information to be given and how to present them

A number of issues have to be taken into account when informing about Victim Support organisations’ work:

- The victim’s demands
- The method of Victim Support organisations
- Explaining for whom Victim Support organisations work

#### a) Opening

At the start of the meeting, introduce yourself. Thank the attendees for their presence and briefly go



through the agenda with the attendees. Explain briefly what the purpose of the meeting is.

b) What to bear in mind throughout the whole session:

- **Neutrality**: do not express and/or impose opinions;
- **Active listening**: to listen attentively to participants, keeping eye contact and using an appropriate body language;
- Emphasise **respect** for the opinions and interventions;
- Develop **questions** which not only are pertinent for the objectives of the session, but also galvanise discussion;
- Collect, repeat and summarise the **key ideas** of the debate;
- Pay attention to the **duration and pertinence** of interventions;
- **Come back** regularly to the **original question** (or questions), in order to maintain participants focused in the objectives of the session;

c) Warm ups

No matter what type of audience you are working with, warm ups are always good ways to set the context of the workshop and allow participants to get to know each other and feel more comfortable to engage in the upcoming activities.

One possibility to start the workshop is to go round the room and ask people to say their names, and if there is enough time ask them to add what they hope to get out of the workshop. This can also help you pitch things accordingly throughout the session.

Examples of warm ups:

1) Debate it!<sup>21</sup>

Generally, participants value being given the opportunity to talk freely. However, this is a very difficult task for a facilitator because it might be difficult to structure the debate and to ensure everybody's participation due to dominant personalities or viewpoints.

In order to surpass these obstacles, you might use the YES/NO game.

*Aim*: To see opinions in relation to other points of view and for participants to try and defend or persuade others to their perspective.

*Method*: All stand up and explain that you are all standing on a long line with YES at one end and NO at the other and NOT SURE somewhere in the middle. Read a statement and ask people to position themselves in the room depending on their point of view. When people have moved, ask





someone standing in the YES or NO sections to try and explain why they are standing where they are, then ask the opposite side for an opinion. Allow the debate to continue a while and then ask participants to reposition themselves depending on what they have heard.

*Outcomes and tips:* These debates are often lively. Be careful not to allow any one person, including the facilitator, to dominate and make sure the question has a possible yes-no range of answers. Try working in smaller groups to allow everyone to speak and then give time for groups to feed back their main points.

#### d) Explaining the victim's demands

While providing training to the above established target groups (police forces, judicial practitioners and victim support workers) you should pay attention to the different mandates of these multiple actors, as well as their different approaches to victims' issues. Here is a compilation of hints on how to address the different target groups. When you are providing training to a group that includes all three target groups within it, you should balance your language and activities considering their diversity. You can make the most of it by confronting the different approaches, enabling the participants to learn with each other.

#### To the **police**:

You can start by questioning who among the audience has recently referred to your Victim Support organisation when speaking to the victims.

These are the typical comments you might get:

**Expectations** "People do not need to talk" or "I could see that the victim did not need the Victim Support, he showed no emotions".

You can choose to answer these comments as described below or display the video 'A Victim' beforehand.

It is important to make the police understand why it is essential to fully inform the victim that we can offer assistance. You should be short and concise about what we do. The film says a lot but the purpose is not that the police inform the victims of what your Victim Support organisation is doing. The police should know about it so they can understand why it is important that aid is offered to the victims and Victim Support organisations have that precise function.

**What we do** The support that Victim Support organisations provide is unique, free and there are no waiting lists. Another advantage is that people do not feel like a patient, as we work with volunteers (and some paid staff).



**Clarify misconceptions** Make clear that the police cannot estimate whether a victim is emotionally ready for support. Only the victim can. It is best if Victim Support organizations contact the victim within two days. The VSN's officer can then determine what is needed.

**Victims' needs** Make it clear that a victim nearly always refuses help immediately after a major event. The victim just wants to go home, where he/she feels safe. Once safe, the emotions unravel. Therefore, it is best if the Victim Support organisation can assist the victim within two days. Victim Support organisations choose very consciously the people who will make these phone calls. People have trouble asking for help. By establishing contact with them, things will become easier.

**To judicial practitioners:**

**How to inform victims** Start with the question of how the audience thinks Victim Support Organisations can help them deal better with victims while doing their job.

You can choose to advocate the ideas below or display the video 'A Victim' before starting the discussion.

It is important to make the judicial practitioners understand why it is essential to inform the victim in an adequate manner and why judicial practitioners also play a role in this matter.

You have to be short and concise about:

- how victim support can provide judicial practitioners with complementary knowledge skills to better equip them to deal with victims;
- how we help victims;
- why this assistance can help smooth the course of a criminal proceeding to everyone that plays a role in it, not only the victim.

The film says a lot but the purpose is not that the judicial practitioners inform the victims of what Victim Support is doing. These professionals should know about it so they can understand why it is important that aid is offered to the victims.

**Victims needs in mind** Make sure these professionals understand that they should also be able to properly communicate with the victim and not expect that only victim support workers will deal with the delicate issues. Explanations given to the victim, whether outside court or in court, should always be given in a manner which is easy to understand without the need for explanation by a lawyer or a victim support worker, though it is always important that victim support is available to help the victim. It is always essential, when giving an explanation, to bear in mind the impact it can have on the person to whom it is addressed.



Also, judicial practitioners should not be exclusively focused on the pursuit of truth and legality, but also take into account the needs of victims while doing so.

**To victim support workers:**

Start with the question of who the audience believes to be a typical victim of crime and what that person might need immediately. Then question the audience about what they believe their approach to victims in crisis should be.

**Cast misconceptions away** Your first attempt shall be to cast away any pre-conceptions (and often misconceptions) the audience might bring with them to the discussion.

After making the audience ponder upon the flaws of their own conceptions, you shall establish which studies and victim support work over the years have shown the main needs of victims are.

**How to behave** Afterwards, you shall make it clear how victim support workers shall behave when in company of victims and how to properly accomplish their responsibilities towards them.

Here is a small list of the basic ideas you shall make sure victim support workers apprehend:

- That all victims react differently and you should be open to listen to them and give them time to react according to their emotions;
- That listening effectively is an active skill;
- That we need to pay attention to our non-verbal communication, not just to the words we use;
- That we need to be aware of the way our verbal and non-verbal communication may be perceived by others, including cultural differences;
- That open questions encourage a person to provide an extended response and do not confine reply too narrowly;
- That closed questions encourage a person to give a specific piece of information or response;
- 'Why' questions should be used sparingly, as they can create an atmosphere of judgement or interrogation;
- That learning to use the right type of questioning at the right time is an important support skill;
- Information should be kept confidential unless it falls under one of the exceptions.

e) What exactly does a Victim Support organisation do? How to explain it to these target groups?

When you are explaining our role as Victim Support organisations, you can point out some of our functions point by point, as exemplified below. It might be easier if you just choose a pair and give it as an example. For instance, "we recently helped a man who was hit by a car. The driver drove past him and run away. We can help this man to structure his story. We can tell him it's normal that he has nightmares and we can submit an application to the Insurance". Keep the notes close to you, referring no



names or other sensitive classified information. Explain that your Victim Support organisation is not only “a comfort provider,” but that it is centred on the needs of the victim.

#### **Practical** help

- Completion of insurance forms
- Searching for injuries
- Writing letters
- If necessary, go in to make the declaration
- Traffic Accident: stress injury specialist

#### **Legal** help

- Support to claim recovering of damages
- Preparation to speak / Victim Written Statement
- Explanation and advice on legal procedure
- Support before, during and after the session

#### **Emotional** help

- Support for processing, based on victim’s resilience
- Suggest possible ‘normal’ reactions
- Refer to regular care

Based on practical experience, we can often explain why a victim does not want support initially.

A clear example is that of a bank robbery. Among the visitors to the bank was a man in a wheelchair. When the bank robber threatened the people inside with a weapon, the visitors hid behind the wheelchair. When the **police** arrived the man was asked if he wanted support. He didn’t. Only when he got home he began to tremble and realized what had happened.

Emotions often only reveal themselves when the victim is already safe.

In the film “A victim”, the victim is asked whether he wants help. You can ask the police how it is possible that this man does not want help. Let them think about it and exchange ideas.

Later, the man goes through all kinds of problems. He does not know in advance what is to come. Asking the right question in advance can make the healing process faster and more effective.

By the end of your discussions it should be clear to the police that the questions they should be asking are:  
- For countries where referral system is in place - It is customary for us to give your details to the Victim Support organisation. Employees of this organisation will contact you and take a look at your case with you and see what they can do for you. Would it be alright for you?



- For countries without referral system put in practice – You can receive continuous support by contacting the national Victim Support organisation. Employees of this organisation will take a look at your case with you and see what they can do for you. Would you like to contact this organisation?

These needs do not necessarily ease down along time. A criminal proceeding is always a stressful factor for victims. Insecurity and frustration are feelings that might arise, as well as anger, fear and confusion. It is important that the victim feels protected and trusts that justice will be done. It is also crucial that the victim feels recognised as such, by being properly and timely informed, and presented with an explanation on the reasoning for every decision undertaken. Furthermore, victims must feel their needs are taken into account.

Insofar, all **judicial practitioners** shall be attentive on how they speak to victims and how they can ensure that they feel confident and safe enough to cope with the proceedings. The victim should be the centre of the criminal justice system and therefore of any proceeding within it.

Lord Justice Thomas pointed out ways to improve the judiciary’s approach to victims<sup>22</sup>. Among them are the following:

- “when a judge makes a decision in the course of the hearing which affects the victim (such as an adjournment) and when the decision on the case and penalty is made, the judge should set out in his reasons an explanation of how the interests of both the victim and the accused have been taken into account.”
- “This should be done in everyday language, taking into account the respective nationality and background, which can be understood without the need for explanation by a lawyer or victim support, though it is always important that victim support is available to help the victim”.

This means that the roles of victim support and the judiciary, in terms of the victims’ relief, shall be complementary. The judiciary is not required to assist victims, but there should be preoccupation concerning how their decisions are received by the victims. The Victim Support role shall not be that of handling damage made by bad or absent provision of information or lack of communication sensitivity, but one of further assisting victims properly informed and recognised by the judicial system.

The trainer can establish this distinction and show the intertwined nature of the roles of victim supporters and judicial practitioners. The purpose is to allow the audience to understand that there is no confusion on our different functions and at the same time make it clear that there can be no pursuit of justice without consideration for those who were directly affected by this breach.

## TRAINING ACTIVITIES

### *Explanatory note*

The present section of this manual contains various materials that can be used throughout your trainings. They are mere guidelines and suggestions, as well as a compilation of several training materials of some of the Victim Support organisations members to Victim Support Europe.

As previously mentioned (above *Introduction*), this training manual focuses on the rights of victims and the changes new legislative initiatives bring about, reflecting how the needs of victims are better addressed with these endeavours, and considering more in depth the situation of people who become victims in a Member State other than that of their residence.

The activities concerning the changes the new Directive establishing minimum standards on the rights, support and protection of victims of crime might bring are based on the original proposal's text. Considering that that writing offers greater protection and that there is no agreement on the final wording, we believe it is wiser to offer a broader approach. If the new Directive ends up being more restrictive it will be easier for the trainers to adapt the exercises by cutting out information than the other way around.

In the first chapter you found useful background information on the issues at stake. Now you will find the actual materials to work on. This chapter is therefore organised by themes, each consisting on a different activity. Each activity contains three different materials:

- one process sheet, that establishes the general information on the training activity and how that theme shall be addressed to the determined target group;
- exercise guidance sheets, with the actual explanation on how that activity shall be conducted;
- handouts, that include not only exercise sheets (the exercises *de facto*), but also Powerpoint presentations and fact sheets (with further information on the topic, to hand out to the trainees).

## *A proposed new methodology: Worldcafe<sup>1</sup>*

Worldcafe conversations consist in a methodology of training, through which diverse groups of people get together to discuss different topics. It is ideal to groups of participants with different backgrounds, and guarantees active participation by the whole group. The Café process has been used in many different cultures, among many different age groups, for many different purposes, and in many different types of communities and organisations.

In order to apply it, you should:

- 1) Divide the participants into small groups of, preferably, 4 to 5 people;
- 2) All these groups will be discussing within them, at the same time, a question or issue that is relevant for their community;
- 3) As they talk, participants shall write down key ideas on a card or sketch them on a tablecloth that are set there for that purpose;
- 4) After an initial round of conversations in the small groups, lasting between 20 to 30 minutes, participants are invited to change tables, dividing the small group completely, forming new groups;
- 5) When participants change tables, they bring the ideas shared in the previous group where they were integrated;
- 6) However, one of the participants of each small group shall stay in the same table all the time, he/she is the “table host”, and his/her task is to share with the new arrivals the key insights and questions that emerged from the prior dialogue table;
- 7) This process shall be repeated for two or three rounds;
- 8) The session will end with a whole group conversation where all participants contribute and hear each other, and it should be a moment for deepening the issues previously discussed and improving the actionable ideas and recommendations that emerged in all the small groups.

This model can always be adapted according to your workshop/seminar audience and to your logistical or human resources conditions.

One possible adaptation of this methodology is the following:

- 1) Establish a general theme to be discussed in a workshop session;
- 2) Select different specific topics within the general subject to focus on the different workshop groups;
- 3) Each workshop group will be led by a different facilitator previously chosen according to his/her expertise on the topic;
- 4) Each facilitator will be helped by a rapporteur that shall note the group’s questions raised and ideas for solutions for the issue at stake;

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<sup>1</sup> To get more information about this methodology, please read [The World Café - Shaping our Future through Conversations that Matter](#), Juanita Brown, David Isaacs and The World Café Community, San Francisco, 2005.

- 5) The facilitator will start the workshop with an introductory communication (context);
- 6) Afterwards, the facilitator launches different questions for the participants to discuss, aiming at a final assessment of the participants perceptions, needs in practice and suggestions for improvement;
- 7) Each group session shall take no more than 50 minutes and no less than 40 minutes;
- 8) After each session, the facilitators and their rapporteurs circulate to different groups, taking their topic with them;
- 9) The participants remain always in the same group, receiving information and discussing all the topics;
- 10) After this workshop session, the facilitators shall present the main conclusions of the groups regarding their topics to the general assembly (whole-group discussion).

The World Café Community sets seven basic principles essential to the use of this methodology<sup>2</sup>. These are:

- **“Set the context:** Clarify the purpose and parameters within which the dialogue will take place.
- **Create hospitable space:** Design a welcoming environment that is physically appealing and that assures personal comfort, safety and mutual respect.
- **Explore questions that matter:** Focus collective attention on powerful questions that will benefit from collaborative engagement.
- **Encourage everyone’s contribution:** Enliven the relationship between the “me” and the “we” by inviting full participation and by fostering deep listening and speaking.
- **Cross-pollinate and connect diverse perspectives:** Enable the emergence of new insights by designing conversations that foster multiple points of view while keeping the focus on core questions.
- **Listen together for patterns, insights, and deeper questions:** Guide the conversation in ways that will reveal deeper patterns and common perspectives without losing the uniqueness of individual contributions.
- **Harvest and share collective discoveries:** Make the collective knowledge and insight that emerges both visible and actionable”.

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<sup>2</sup> In A World Café Hosting Guide, The World Café Community, San Francisco, 2007.



## Activity 1: New directions for victims' rights

### Process sheet - notes for trainers

Themes	Proposal for a new Directive establishing minimum standards on the rights, support and protection of victims of crime.
Target Group	Police enforcement and judicial practitioners.
Group size	15 to 20
Time allocation	70 minutes
Overview	This is both an explanatory and awareness-raising activity, which aims at improving the level of understanding on EU legislation on victims' rights and the challenges and opportunities it might bring at a national level.
Specific objectives	<ul style="list-style-type: none"> <li>• To ponder upon the legislation concerning victims' rights</li> <li>• To understand the specificity of cross border victimisation issues</li> <li>• To be aware of the possible changes that the new Directive might bring</li> </ul>
Preparation	<ul style="list-style-type: none"> <li>• Familiarise yourself with the fact and exercise sheets</li> <li>• Read Chapter 1 part 1</li> <li>• Read the Impact Assessment Report</li> <li>• Read relevant legislation on the appendix section</li> </ul>
Methodology	Theoretical and practical
Training resources and equipments	<ul style="list-style-type: none"> <li>• Fact sheets 1 and 2</li> <li>• Projector and screen</li> <li>• Pencils / Pens</li> <li>• Powerpoint presentation n° 1 and n° 2</li> </ul>

Outputs The participants understand the scope of the proposal for a new Directive and the upcoming legislative measures, as well as the role the EU plays in this field. They have established a shared understanding of key issues, realised what areas can be more problematic, and covered the key points listed in the fact sheets.

- Instructions
1. You should show the participants, from the very beginning, that the training approach is based on mutual sharing of knowledge and information. The participants' and the trainers' knowledge should be equally valued and respected.
  2. Distribute Fact Sheet 1. Participants could be invited to first share their experiences and tell what their main difficulties have been and what they feel the new Directive should entail. The trainer may encourage looking at different aspects. For instance, if the audience concentrates too much on the right to information; try broadening the conversation to the right to be treated in a respectful manner. Make sure the trainer asks the participants to name the rights they believe are less ensured to victims of cross-border victimisation. By the end of this first part of the session, it should be clear for the participants the full extent of these rights. The trainer may use Powerpoint n° 1. This activity should never take more than 30 minutes.
  3. Present Powerpoint n° 2 and distribute the fact sheet n° 1. Ask the audience to list all the questions and concerns they might still have about the changes this new Directive will bring about. This part of the activity can take up to 40 minutes.
  4. Briefly explain the audience that these doubts should be clarified to some extent during the best-practice seminar that will follow.

Tips for facilitator

If the audience is not very participative at first, you could spur them on by suggesting topics for reflection. For example:

- What are the main obstacles for cooperation with other Member State agencies?
- Would you consider providing written information and forms to victims in their mother tongues a matter of implementation of the right to information?
- What do you think is the greatest impediment to treating cross-border victims equally to national victims?
- Do you believe there is a lack of EU legislative harmonisation or does the problem concern implementation and understanding of the legislation?
- What challenges does this new Directive seem to present in practice?
- How can the new Directive benefit victims in national context?

- What changes can this new legislative framework bring about to internal procedures?

## HANDOUTS

### Fact sheet 1 - Rights of EU crime victims today

#### **Who is a victim of crime?**

According to the 2001 Framework Decision, a victim is a person who suffered injury, namely against his/her physical or psychological integrity, damage or pain and suffering caused by actions or omissions that violate the Member State's criminal law.

Due to what is prescribed in the European Council Recommendation 2006(8), the victims' immediate relatives are also considered victims, where applicable. Also, people who intervened to help victims and where injured in the process are also considered victims, as due in the UN Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power.

#### **Who is a cross-border victim?**

Anyone who has suffered directly from a crime that took place in a different country from the one the victim lives in.

#### **What rights are entailed in the EU framework?**

- the right to respect and recognition in all stages of the criminal proceeding (article 2);
- the right to be heard throughout a criminal proceeding (article 3);
- the right to receive general information and information about the progress of the case (article 4);
- the right to have legal advice available regardless of the victim's means (article 6);
- the right to protection of the victim's privacy and physical safety (article 8);
- the right to compensation from the offender and the State (article 9);
- the right to receive victim support (article 13);
- the duty for governments to provide mediation in criminal cases where it is appropriate (article 10);
- the duty for the State to foster, develop and improve cooperation with foreign States in cases of cross-border victimization (article 12).

#### **Right to respect and recognition:**

Definition - Member States shall ensure that all victims are respected throughout the criminal proceedings, and that their rights and interests are effectively recognised. Vulnerable victims shall benefit from special treatment when applicable.

Where can you find it?

## Article 2

### How has it been fulfilled?

The VinE report<sup>3</sup> shows the following:

In most countries victims are not given an appropriate role in the criminal justice system and do not feel adequately recognised by the professional personnel involved in the criminal justice system.

In fact, fifty three percent of the experts consulted find the victim's role in the criminal justice system inappropriate.

In addition, victims are not adequately recognised by criminal justice professionals, according to fifty eight per cent of the experts.

All Member States have adopted varied interpretations of the concept of vulnerable victim, referring to, for instance, the victim's age, mental disability or the type of crime suffered. Some States have not adopted the concept at all, although they have an implicit concept since they all provide child victims with special treatment.

### **Right to information:**

Definition - The right to information may be split into 3 different categories:

- the right to receive information that will enable victims to best protect their interests (e.g. how to get victim support, information about the criminal system, how to claim compensation). In the case of cross-border victims, special information should be provided on how to best protect their interests;
- the right to be kept informed on the progress of criminal proceedings (e.g. the outcome of their complaint, the court's sentence, the release of the offender);
- the right to not be informed about the progress of criminal proceedings.

### Where can you find it?

## Article 4

### How has it been fulfilled?

The interests of cross-border victims lie at the heart of the Framework Decision. Cross-border victims are the reason that the European Union has competence in the area of victims' issues.

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<sup>3</sup> 2009 Project Victims in Europe Report promoted by Victim Support Europe and developed by APAV in cooperation with INTERVICT

Suffering crime abroad delivers additional problems to many victims, such as language issues and unfamiliarity with the criminal justice process.

The outcome of the survey shows that best practices in this area can be found in four Member States, providing both translators and interpreters free of charge, as well as information in other languages for all victims, either witnesses or not. These Member States are: The Netherlands, United Kingdom, Spain and Lithuania.

The organisational survey sheds additional light on the findings of the legal implementation. A majority of the respondents is of the opinion that adequate resources are not available (fifty seven point three per cent), and if they are, they are not effective (fifty three point five per cent).

### **Right to have access to justice and effective remedy:**

#### Definition

The right to have access to justice entails the right to have a real and appropriate role in the criminal system, the right to be heard and provide evidence, and the right to be provided with legal advice. The right to effective remedy encompasses the right to receive compensation from the State and from the offender.

#### Where can you find it?

The right to have access to justice: Article 2 (1), Article 3, Article 6

The right to effective remedy: Article 9

#### How has it been fulfilled?

Overall, most Member States seem to comply with article 3 paragraph 1, and in some instances (right to review) the majority of States even excels. However, as far as providing free assistance, information, and compensation is concerned, there is still room for some improvement.

The survey discovered that only a few countries have free legal assistance available without restrictions.

Providing the courts with information concerning the victim's need for compensation is mostly a right for the victim, rather than a duty for the prosecutor, but the court is obliged to take compensation issues into account in nearly all of the European Union. More and more countries are implementing forms of Victim Impact Statements.

Most countries have implemented either a form of private prosecution or the right to review the decision to not prosecute. Only in Malta and Belgium does neither right exist.

## Right to protection:

Definition - Member states shall ensure the protection of victims and their relatives and friends, particularly when there is strong indication that revenge actions or intrusion of victim's private life are imminent. This must include the protection of the victim's privacy and photographic image during court proceedings, and, whenever possible, avoid further contacts between victim and offender in the court premises (i.e. separate waiting rooms in court).

### Where can you find it?

#### Article 8

### How has it been fulfilled?

*Hearings on camera* - Although all Member States have the possibility to hold hearings on camera, it is usually left to the discretion of the courts (fourteen Member States), which is the weakest form of protection. The highest level of protection - to make hearings on camera obligatory if the victim so requests - was reported in eight member states.

*Victim protection* - As to the protection of the victim against threat and intimidation by the offender, fourteen Member States had five or more protection measures in place. The measures that were most favoured were police protection, preventive custody and relocation of the victim. The right to complete anonymity was implemented by no less than fourteen member states, although this right may often apply to certain types of victims.

All in all, every Member State seems to endorse the importance of protection measures and they often apply more than one measure to make sure that the victim is protected against the offender.

*Separate waiting rooms* - Separate waiting areas, however, are not available to victims in most Member States. Twenty four reported no obligation to provide separate waiting areas in court premises.

*Personal information* - Finally, most Member States place limits on the disclosure of the victim's personal information. The measure that was favoured the most was the pre-trial principle of secrecy (seventeen Member States).

## Right to emergency and long-term support:

### Definition

Victims have the right to receive specialised victim support services, free of charge, particularly the following services:

- information to victims;
- assisting victims according to their immediate needs;



- accompanying victims, if necessary and possible during criminal proceedings;
- assisting victims, at their request, after criminal proceedings have ended.

### Where can you find it?

#### Article 13

### How has it been fulfilled?

There are not many jurisdictions that offer legal advice and assistance free of charge to victims, merely due to the fact that they are victims. The assistance is mostly offered in a similar fashion that a jurisdiction offers free legal advice and assistance to other participants in trials, using the income as the main criterion.

The studies conducted for the VinE project concluded that views on the efficiency of special assistance were very negative, amounting to fifty five point five per cent of the experts enquired.

Three specific aspects of this larger problem were analysed:

- victims' awareness of the existence of special assistance services
- accessibility to victim support services
- effectiveness of legal advice and aid

Member States can be said to comply with article 13 whether they have victim support organisations or not. The article specifically stresses that the services rendered by victim support may also be of the responsibility of governmental agencies.

Where victim support organisations do exist, two criteria should be applied: national coverage and general services for all types of victims. If countries do not meet these criteria, victims in certain regions or certain types of victims will not be able to access the services provided by victim support.

According to the opinion of the experts consulted in this survey, like other articles in the Framework Decision, the phrasing of article 13 is vague. Member States only have to 'promote' or 'encourage'. This means that the Member States who fall short on one or both criteria can still comply with the literal text of the Framework article. The experts inquired are of the opinion that there are Member States that fit this lack of true implementation.

The work of victim support organisations is appreciated by the experts in the survey, with a majority finding both the level of services and access to be adequate. However, they consider the funding of victim support across Europe to leave room for improvement.

## **Right to access restorative justice:**

Definition - Member States shall promote mediation in criminal cases deemed appropriate for it. Eventual agreements between the victim and the offender reached through penal mediation must be taken into account.

### Where can you find it?

Article 10

### How has it been fulfilled?

Member States vary widely in their application of restorative justice. Some Member States allow for restorative justice in all criminal cases, while others do not contemplate access to restorative justice at all. Nevertheless, the most common situation is for the application of restorative justice in petty crimes, and its non-application in serious criminality. This variation does not mean that Member States do not comply with the Framework Decision, as article 10 is rather ambiguous, leaving Member States with the possibility to choose when to apply penal mediation, and whether they wish to apply it at all.

According to the results of a survey conducted for the VinE Report, sixty three point seven percent of those enquired stated that victims' awareness of criminal mediation was insufficient, and slightly more than half of those enquired stated that access to criminal mediation was also insufficient.

## **Victims from another EU Member State:**

Definition - Member States shall insure that victims resident in a State other than the one where the offence was committed are given special regard to minimise the difficulties they face. This might include:

- Possibility to make a statement right after the crime takes place;
- The use of videoconferencing for the purpose of hearing victims with residence abroad.

Cross-border victims should also be given the possibility of making a statement to the authorities of their State of residency, and those authorities have the responsibility of referring the statement to the competent authorities of the Member State where the offence occurred.

### What makes them different?

Cross-border victims have characteristics that make them specially vulnerable to victimisation. This Framework Decision added some provisions that address their special needs.

Cross-border victims, because they are mostly tourists and due to this very characteristic, will remain in the country where the offence occurred for a short period of time. This makes the accompanying of the case very difficult. The provisions on Article 11 about the use of videoconferencing on hearings and the possibility to report the crime in the victim's country of residence try to address this issue.

Another difficulty which cross-border victims often face is the language. This may add an extra burden for the victim, as comprehension of their rights and criminal proceedings is crucial for the victim to make informed choices regarding their interests.

The fact that culture, habits, and the criminal and justice system are distinct from the victim's own country increases the confusion and feeling of loss of control for the victim.

### How have their special needs been fulfilled?

Article 11, particularly section 2, has faced interpretation issues in several Member States. Member States have mostly taken it to mean that victims could report a crime in their country of residence if, and only if, the authorities of the country had jurisdiction over the crime. However, the intention of this provision is to address the short-term stay of cross-border victims in the country where the crime took place and allow them to report the crime when they return home. Therefore, this provision only has an added value for cross-border victims if they can report any crime to authorities of their country of residence in all cases, not just the ones where jurisdiction is shared.

In terms of information available for cross-border victims, the survey conducted for VinE Project shows that sixty four point five percent of those enquired expressed that the information available was inadequate.

### **Key points:**

- Victims are those that were injured or damaged directly by the crime and also their close relatives and those who were injured while trying to help the direct victim;
- Cross-border victims are victims of a crime that took place in a Member State other than the one where they normally reside;
- Victims are protected under EU law;
- The rights of victims are entailed in the 2001 Framework Decision;
- There are great differences on the extent of implementation of the Framework Decision between the different Member States;
- All in all, the Framework Decision has been insufficiently implemented in all Member States.

## Fact sheet 2 - Cross-border victims at stake<sup>4</sup>

### Why is it an emerging challenge to focus on cross-border victims?

The European Commission is concerned that there is in fact no real security, freedom and effective justice within the European Union.

Data has shown that the two main obstacles to full criminal justice are:

- 1) Vague legislation, with no specific obligations giving way for Member States not to implement them adequately;
- 2) Victims are recklessly and insufficiently treated in the European space in terms of: respect and recognition, protection, assistance and effective access to justice and compensation.

### Why the need to regulate at EU level?

- 1) The issues at stake have a transnational dimension (victims emigrate or travel; victims that become so in other Member States) that cannot be adequately tackled with isolated national measures;
- 2) The EU has power to act in civil and criminal matters when it comes to establish minimum rules for victims' rights and mutual recognition of sentences and judgements and extrajudicial decisions applicable in all Member States (see respectively art. 82 and 81 of the Lisbon Treaty) - in order to achieve it, mutual trust is crucial;
- 3) Weak victim protection, or diverse considering the different Member States, leading to a distrust in the whole system;
- 4) Wider range of action - European instruments use vague language and are already somewhat out of step with social evolution and the current legal culture. Hence it needs to be adapted with regard to access to justice and the right to appeal. There were improvements in the framework of national laws, but the victims still do not hold a central role in them and, in general, states do not provide the victim with the statute of party to the proceedings;
- 5) Increasing the effectiveness of action - harmonization of policies and laws of the Member State (including within the framework of restorative justice), allowing a more effective European legislation.

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<sup>4</sup> Based on the original text of the proposal for a new Directive presented by the European Commission. This proposal is still under debate within the EU institutions and has already suffered some amendments that are not final yet. Negotiations are still going on.

## Current cross-border victims' situation:

Within the EU, there is only one legislative act, the 2001 EU Framework Decision on the Standing of Victims in Criminal Proceedings, which provides legally binding rights for all victims of crime. However, the implementation of the Framework into national legislation of the Member States has been unsuccessful. No EU Member State has fully implemented all articles and given victims access to the rights and services contained in the Framework.

As Victim Support Associations, we see daily examples of victims' rights not being respected and victims being ignored, mistreated and re-victimised within the criminal justice system.<sup>5</sup>

## New spectrum of victims' rights:

The new Directive proposal brings about several important changes to the rights prescribed in the 2001 Framework Decision.

Concept of victim - Not only a person who suffered injuries directly to him or herself is considered a victim, but also the close relatives of a person that died as consequence of a crime. Article 2 also defines exactly who these "family members" are, and establishes that all provisions of the Directive are applicable to them. The reason for this is that such individuals are often also harmed by the crime and may themselves be at risk of secondary victimisation, as well as victimisation or intimidation by the offender or his associates.

Vulnerable victims - establishment of a mechanism to determine vulnerable victims, in which categories are determined according to personal characteristics (children and persons with disabilities), and to the type of crime committed (sexual violence and human trafficking). Furthermore, an open clause prescribes that any victim can be considered a vulnerable victim after an assessment is timely made. For the purposes of this evaluation, the personal characteristics of the victim and the type of crime inflicted upon the victim are once more taken into account.

Right to access effective justice - new rights are established:

- 1) Article 8 establishes that when a person makes a complaint of a crime, the victim is provided with an official acknowledgment which they can refer back to in any future communications.
- 2) Article 10 prescribes the right of victims to verify that established procedures and rules have been complied with and that a correct decision has been made to end a prosecution in relation to a specific person. This article only entails the possibility of a review of the decision not to prosecute and no other kind of decision.

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<sup>5</sup> Fact Sheet 1 goes in depth on this topic.

Right to information - The right to information was also strengthened. Not only the nationality of victims is considered, but also their ability to understand the information provided, taking into account their literacy level, disabilities, intellectual and emotional capacities and maturity. The new Directive thus proposes that information is provided in a variety of formats to take account of these factors. Also, this information shall be provided from an early stage and sufficient detail should be given to enable victims to make informed decisions about their participation in proceedings and how to access their rights, in particular when deciding whether to request a review of the decision not to prosecute.

Right to protection - Better conditions to avoid contact with the offender shall be created, not only in the court but also “in any venue where victims may have personal contact with public authorities due to their being a victim, and in particular venues where criminal proceedings are conducted”<sup>6</sup>. To make it effective, best practice and guidance shall be offered to public officials, informing them on how to assist in avoiding contact.

In order to prevent secondary victimisation, the Commission took into account the results of the above mentioned reports on the implementation of the Framework Decision. Therefore, it is ensured in this new Directive (through Article 20) that the victim is interviewed as early as possible and that interaction with authorities is as easy as possible whilst limiting the number of unnecessary interactions. Also, as a rule victims may be accompanied by a trusted person of their choice.

All protective measures in the proposed Directive are applicable to all crime victims and not only to vulnerable victims. This is quite a milestone, setting “the victim” as the centre of the judicial system.

Another important change to note is the encouragement of the media to pursue self-regulatory measures in order to protect victims' privacy, personal integrity and personal data (Article 23(2)).

Restorative justice - article 11 ensures that where such services are provided, safeguards are in place to ensure the victim is not further victimised as a result of the process.

Participation of the victim in restorative justice proceedings should be voluntary, which implies that the victim has sufficient knowledge of the risks and benefits to make an informed choice. “It also means that factors such as power imbalances, and the age, maturity or intellectual capacity of the victim which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim should be taken into consideration in referring a case to and in conducting a restorative process. Whilst private proceedings should in general be confidential, unless agreed otherwise by the parties, factors such

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<sup>6</sup> Excerpt from the proposed Directive text, article 19.

as threats made during the process may be considered as requiring disclosure in the public interest. Ultimately any agreement between the parties should be reached voluntarily”<sup>7</sup>.

Training for victims’ rights - This Directive establishes training requirements for public officials who contact directly with victims. Those providing victim support and restorative justice services should be trained as well. This training must raise awareness of the negative effects of crime on victims and the risk of causing secondary victimisation, as well as special techniques to minimise the impact of crime on victims. This is a mandatory task for all intervening professionals referred above except judges, although training is encouraged for such judicial practitioners.

#### Key points:

- This proposed Directive explicitly states that direct victims are not only those that were injured or damaged directly by the crime, but also family members of a person that died as consequence of a crime;
- The concept of vulnerable victims is broadened, for instance with the introduction of an open clause that prescribes that any victim can be considered a vulnerable victim after an assessment is timely made;
- Victims are given the right to an official acknowledgment which they can refer back to in any future communications and the possibility of a review of the decision not to prosecute and no other kind of decision;
- When providing information to the victims, not only the nationality of victims is considered to evaluate communication difficulties, but also their ability to understand the information provided taking into account their literacy level, disabilities, intellectual and emotional capacities and maturity;
- Right to protection is enlarged, now guaranteeing that victims:
  - a) are provided with better conditions to avoid contact with the offender;
  - b) are interviewed as early as possible whilst limiting the number of unnecessary interactions;
  - c) with access to protective measures are not only vulnerable victims but all crime victims;
  - d) are protected from media’s invasive interaction, since the media is now encouraged to pursue self-regulatory measures;
- Restorative justice services have to establish safeguards to ensure the victim is not further victimised as a result of the process;
- Public officials who contact directly with victims and those providing victim support and

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<sup>7</sup> Excerpt from the proposed Directive text, preamble.

## Activity 2: Equality Union

### Process sheet - notes for trainers<sup>8</sup>

Themes	Equality, Victims' Rights, Education
Target Group	Victim support workers and victims
Related rights:	Right to respect and recognition, Right to non-discrimination
Group size	5 to 10
Time allocation	60 min
Overview	This activity involves small group work, creativity, and drawing to explore issues of equal treatment of all victims and non-discrimination
Specific objectives	<ul style="list-style-type: none"> <li>• To develop understanding and appreciation of the goals of equality</li> <li>• To develop understanding on what the right to respect and recognition entails</li> <li>• To develop imagination and creativity to envision the future</li> <li>• To promote justice and respect</li> </ul>
Preparation	<ul style="list-style-type: none"> <li>• Familiarise yourself with the fact sheet, the map and the symbols used</li> <li>• Read Chapter 1 parts 1 and 2</li> </ul>
Materials	<ul style="list-style-type: none"> <li>• 1 A4 sized sheet of paper and 1 pencil per small group for the brainstorm</li> <li>• Large sheets of paper (A3 size) or flipchart paper, one sheet per small group</li> <li>• Marker pens of different colours, enough for all small groups</li> <li>• A map, preferably a hiking map or any other sort of map that shows physical features, for instance, mountains, rivers, etc</li> <li>• Fact Sheet 2</li> </ul>

<sup>8</sup> Based on Compass exercise Equality Land - <http://eycb.coe.int/compass/en/contents.html>



### Instructions

- Explain that in this activity participants will be drawing a fantasy map of how to travel through Equality-Union, a Union of countries where all victims are treated the same way, regardless of their country of origin. It will exist in the future, but at present it only exists in people's imaginations.
- Ask people if they know of any folk tales or other stories that use the metaphor of a person going on a journey to present ideals. Talk about the way a dark forest, for instance, may be used as a metaphor for total inaccessibility. The traveller may show understanding by swimming across a fast flowing river or sensitivity by helping a distressed animal.
- Briefly review what a map looks like. Point out the ways that contours are drawn, the shading for mountains and rivers, and the symbols that are used for forests, moorland, buildings, power cables, etc.
- Ask people to get into small groups of three to five people. Hand out the small sheets of paper and pens and give the group about 15 minutes to make three short brainstorms on:
  - what they imagine Equality-Union might look like
  - what obstacles they might encounter on the path to Equality-Union
  - how they would overcome the obstacles
- Now hand out the large sheets of paper and the markers. Ask each group to make their own fantasy map to represent the landscapes of the present and the future together with a path that runs between the two. They should make up their own symbols for the geographical features and for the obstacles and facilities that lie along the path.
- Give the groups 40 minutes to draw their maps. Remind them to make a legend for the symbols they have used.
- Come into plenary and ask people to present their maps
- Distribute fact sheet 2 and give the audience time to briefly read it

### Debriefing and evaluation

Start with a discussion about the way the different groups worked together and how they made decisions about what to represent and about the way they drew the map. Then go on to talk about what Equality-Union in reality might look like and the obstacles.

- Did people enjoy the activity? Why?
- Which of the three questions was the easiest to brainstorm? Which was the hardest and why?
- What were the main features of Equality-Union?
- What are the main obstacles which prevent the European Union from being the ideal Equality-Union?
- What needs to change in order to build a society where there is true equality in guaranteeing all victims the same rights?
- If you had to rate your country amongst all the world countries for equality of treatment of victims of crime, how would you rate it on a scale of 1 to 10? 1 is very unequal, 10 is almost ideal equality.
- How is inequality of treatment reflected in victims' daily lives?
- Take into account fact sheet 3:
  - a) Is there any doubt about the information provided in the fact sheet?
  - b) Do the new legislative measures seem to be a means to overcome existing problems?
  - c) What problems are still not addressed in this new package?

Tips for  
facilitator

If participants get stuck thinking about how to picture their ideas, you could start them off by suggesting a victim uses a bridge of mutual recognition of protection measures to go over a river of permanent stalking by her husband in the country she fled to. Another example could be for a man to find a jewel of satisfaction when given a leaflet with information in his own language. Of course you will have to think of examples that reflect the reality in your society!

Suggestions for  
follow-up

Explore the right to recognition further or one of the other issues which were raised. For example, you could ask a representative of an organisation that works to address victims' rights or a police officer from a police tourist station known for their good practices to come talk to the group. Also, one might present the film "A woman's world" to narrow down the discussion already started out in the exercise to the impact of sexual crimes committed abroad within the domestic and professional spheres.

### Fact sheet 2 - Cross-border victims at stake

#### Why is it an emerging challenge to focus on cross-border victims?

The European Commission is concerned that in fact there is no real security, freedom and effective justice within the European Union.

Data has shown that the two main obstacles to full criminal justice are:

- 3) Vague legislation with no specific obligations, giving way for Member States not to implement them adequately;
- 4) Victims are recklessly and insufficiently treated in the European space in terms of: respect and recognition, protection, assistance and effective access to justice and compensation.

#### Why the need to regulate at EU level?

- 6) The issues at stake have a transnational dimension (victims emigrate or travel; victims that become such in other Member States) that cannot be adequately tackled with isolated national measures;
- 7) The EU has competencies to act in civil and criminal matters when it comes to establish minimum rules for victims' rights and mutual recognition of sentences and judgements and extrajudicial decisions applicable in all Member States (see respectively art. 82 and 81 of the Lisbon Treaty) - in order to achieve it, mutual trust is crucial;
- 8) Weak or diverse victim protection, considering the different Member States, leading to a distrust in the whole system;
- 9) Wider range of action - European instruments use vague language and are already somewhat out of step with social evolution and the current legal culture. Thus, it needs to be adapted with regard to access to justice and the right to appeal. There were improvements in the framework of national laws, but the victims still do not hold a central role in them and, in general, states do not provide the victim with the statute of party to the proceedings;
- 10) Increasing the effectiveness of action - harmonisation of policies and laws of the Member State (including within the framework of restorative justice), allowing a more effective European legislation.

## Current cross border victims' situation:

Within the EU, there is only one legislative act, the 2001 EU Framework Decision on the Standing of Victims in Criminal Proceedings, which provides legally binding rights for all victims of crime. However, the implementation of the Framework into national legislation of the Member States has been unsuccessful. No EU Member State has fully implemented all articles and given victims access to the rights and services contained in the Framework.

As Victim Support Associations, we see daily examples of victims' rights not being respected and victims being ignored, mistreated and re-victimised within the criminal justice system.<sup>9</sup>

## New spectrum of victims' rights:

The new Directive proposal brings about several important changes to the rights prescribed in the 2001 Framework Decision.

Concept of victim - Not only a person who suffered injuries directly to him or herself is considered a victim, but also the close relatives of a person who died as consequence of a crime. Article 2 also defines exactly who these "family members" are, and establishes that all provisions of the Directive are applicable to them. The reason for this is that such persons are often also harmed by the crime and may themselves be at risk of secondary victimisation, as well as victimisation or intimidation by the offender or his associates.

Vulnerable victims - establishment of a mechanism to determine vulnerable victims, in which categories are determined according to personal characteristics of the victims (children and persons with disabilities), and to the type of crime committed (sexual violence and human trafficking). Furthermore, an open clause prescribes that any victim can be considered a vulnerable victim after an assessment is timely made. For the purposes of this evaluation, the personal characteristics of the victim and the type of crime inflicted upon the victim are once more taken into account.

Right to access effective justice - new rights are established:

- 3) Article 8 establishes that when a person makes a complaint of a crime, the victim is provided with an official acknowledgment which they can refer back to in any future communications.
- 4) Article 10 prescribes the right of victims to verify that established procedures and rules have been complied with and that a correct decision has been made to end a prosecution in relation to a specific person. This article only entails the possibility of a review of the decision not to prosecute and no other kind of decision.

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<sup>9</sup> Fact Sheet 1 goes in depth on this topic.

Right to information - The right to information was also strengthened. Not only the nationality of victims is considered, but also their ability to understand the information provided taking into account their literacy level, disabilities, intellectual and emotional capacities and maturity. The new Directive thus proposes that information is provided in a variety of formats to take account of these factors. Also, this information shall be provided from an early stage and sufficient detail should be given to enable victims to make informed decisions about their participation in proceedings and how to access their rights, in particular when deciding whether to request a review of the decision not to prosecute.

Right to protection - Better conditions to avoid contact with the offender shall be created, not only in court but also “in any venue where victims may have personal contact with public authorities due to their being a victim and in particular venues where criminal proceedings are conducted”<sup>10</sup>. To make it effective, best practice and guidance shall be offered to public officials, informing them on how to assist in avoiding contact.

In order to prevent secondary victimisation, the Commission took into account the results of the above mentioned reports on the implementation of the Framework Decision. Therefore, it is ensured in this new Directive (through Article 20) that the victim is interviewed as early as possible and that interaction with authorities is as easy as possible whilst limiting the number of unnecessary interactions. Also, as a rule victims may be accompanied by a trusted person of their choice.

All protective measures in the proposed Directive are applicable to all crime victims and not only to vulnerable victims. This is quite a milestone, setting “the victim” as the centre of the judicial system.

Another important change to note is the encouragement of the media to pursue self-regulatory measures in order to protect victims' privacy, personal integrity and personal data (Article 23(2)).

Restorative justice - article 11 ensures that where such services are provided, safeguards are in place to ensure the victim is not further victimised as a result of the process.

Participation of the victim in restorative justice proceedings should be voluntary, which implies that the victim has sufficient knowledge of the risks and benefits to make an informed choice. “It also means that factors such as power imbalances, and the age, maturity or intellectual capacity of the victim which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim should be taken into consideration in referring a case to and in conducting a restorative process. Whilst private proceedings should in general be confidential, unless agreed otherwise by the parties, factors such

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<sup>10</sup> Excerpt from the proposed Directive text, article 19.

as threats made during the process may be considered as requiring disclosure in the public interest. Ultimately any agreement between the parties should be reached voluntarily”<sup>11</sup>.

Training for victims’ rights - This Directive establishes training requirements for public officials who contact directly with victims. Those providing victim support and restorative justice services should be trained as well. This training must raise awareness of the negative effects of crime on victims and the risk of causing secondary victimisation, as well as special techniques to minimise the impact of crime on victims. This is a mandatory task for all intervening persons referred above except judges, although training is encouraged for such judicial practitioners.

#### Key points:

- This proposed Directive explicitly states that direct victims are not only those that were injured or damaged directly by the crime, but also family members of a person who died as consequence of a crime;
- The concept of vulnerable victims is broadened, for instance with the introduction of an open clause that prescribes that any victim can be considered a vulnerable victim after an assessment is timely made;
- Victims are given the right to an official acknowledgment which they can refer back to in any future communications and the possibility of a review of the decision not to prosecute and no other kind of decision;
- When providing information to the victims, not only the nationality of victims is considered to evaluate communication difficulties, but also their ability to understand the information provided taking into account their literacy level, disabilities, intellectual and emotional capacities and maturity;
- Right to protection is enlarged, now guaranteeing that victims:
  - a) are provided with better conditions to avoid contact with the offender;
  - b) are interviewed as early as possible whilst limiting the number of unnecessary interactions;
  - c) with access to protective measures are not only vulnerable victims but all crime victims;
  - d) are protected from media’s invasive interaction, since the media is now encouraged to pursue self-regulatory measures;
- Restorative justice services have to establish safeguards to ensure the victim is not further victimised as a result of the process;
- Public officials who contact directly with victims and those providing victim support and restorative justice services should be trained as well.

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<sup>11</sup> Excerpt from the proposed Directive text, preamble.

## Activity 3: Victims first

### Process sheet - notes for trainers

Themes	Proposal for a new Directive establishing minimum standard on the rights, rights of victims within the EU, cross-border victimisation.
Target Group	Victims and victim support workers.
Group size	5 to 15
Time allocation	90 minutes
Overview	This is an explanatory and discussion activity, which aims to improve the level of understanding on victims' rights and especially how those rights are guaranteed while travelling or living temporarily abroad
Specific objectives	<ul style="list-style-type: none"> <li>• To understand the specificity of cross-border victimisation issues</li> <li>• To understand what rights these victims have and what they should do when victimised</li> <li>• To be aware of the possible changes the new Directive can bring</li> </ul>
Materials	<ul style="list-style-type: none"> <li>• Fact sheet 2</li> <li>• Projector and screen</li> <li>• Powerpoint presentation n° 2</li> <li>• Exercise sheet n° 1</li> <li>• Pens / Pencils</li> </ul>
Preparation	<ul style="list-style-type: none"> <li>• Familiarise yourself with the fact sheet</li> <li>• Read Chapter 1 part 1</li> <li>• Read relevant legislation in appendix</li> <li>• Read Impact Assessment Report</li> </ul>

## Outputs

The participants understand the scope of the proposal for a new Directive and the role the EU plays in this field. They have established a shared understanding of key issues and covered the key points listed in the fact sheets. Victim support workers were able to openly talk and listen to victims, understanding what they expect from their work; and victims have learnt their rights and how to demand them, as well as understood what victim support workers can and cannot provide them with.



## Exercise guidance sheet

### Instructions

1) You should show the participants, from the very beginning, that the training approach is based on mutual sharing of experiences. The trainers should provide the information using a simple and clear language. The trainers are meant to help empower these victims and help victim support workers understand how they can better help victims.

2) Divide the audience into groups of pairs or 4 people. Make sure you have a good mixture of the 2 groups of participants within each small group. Distribute exercise sheet n° 3.

#### Small group activity

Write the following questions on the flipchart and explain that you wish them to consider these questions in relation to each case study:

- What might be the impact of this crime on the victim?
- Who else might be affected, and how?
- What would be the main needs of these victims in these different contexts?

#### Whole group feedback

- Convene the group and take feedback on issues arising. Use this feedback session to:
  - 1) draw attention to the 'ripple effect', i.e there may be more than one victim
  - 2) emphasise the importance of being aware of any assumptions they might be making (especially about how people react differently to the same type of crime)
  - 3) remind them that it is important to be conscious of their own feelings
  - 4) try to establish a comparison between the answers from victim support workers and victims. Promote discussion between different perceptions.

This activity should never take more than 30 minutes.

- Distribute Fact Sheet 2. Ask the participants to name the rights they believe are less ensured to victims of cross-border victimisation and how

could the victims from the previous exercise benefit from it. Participants could be invited to first share their experiences and tell what their main difficulties have been and what they feel the new Directive should entail. By the end of this first part of the session, it should be clear for the participants the full extent of these rights. The trainer may use Powerpoint n° 2. This activity should never take more than 30 minutes.

- Ask the audience to list all the questions and concerns they might still have about the changes this new Directive will bring and clarify them. This activity should never take more than 30 minutes.

#### Tips for facilitator

If the audience is not very participative at first, you could start them off by suggesting topics for reflection. For example:

- What would worry you the most if you were victimised in a different country?
- Do you think a foreign student victimised in your country would have more difficulties in getting assistance? Why?
- Would you consider providing written information and forms to victims in their mother tongues essential to help these victims?
- What do you believe is the greatest impediment to treat cross- border victims equally to national victims?
- What tools do you think are missing to better fulfil victims' rights?
- Think about another Member State, any of your choice. If you were a victim there, would you know who to contact?

### Fact sheet 2 - Cross-border victims at stake

#### Why is it an emerging challenge to focus on cross-border victims?

The European Commission is concerned that in fact there is no real security, freedom and effective justice within the European Union.

Data as shown that the two main obstacles to full criminal justice are:

- 1) Vague legislation, with no specific obligations giving way for Member States not to implement them adequately;
- 2) Victims are recklessly and insufficiently treated in the European space in terms of: respect and recognition, protection, assistance and effective access to justice and compensation.

#### Why the need to regulate at EU level?

- 1) The issues at stake have a transnational dimension (victims emigrate or travel; victims that become so in another Member States) that cannot be adequately tackled with isolated national measures;
- 2) The EU has power to act in civil and criminal matters when it comes to establish minimum rules for victims' rights and mutual recognition of sentences and judgements and extrajudicial decisions applicable in all Member States (see respectively art. 82 and 81 of the Lisbon Treaty) - in order to achieve it, mutual trust is crucial;
- 3) Weak or diverse victim protection, considering the different Member States, leading to a distrust in the whole system;
- 4) Wider range of action - European instruments use vague language and are already somewhat out of step with social evolution and the current legal culture. Thus, it needs to be adapted with regard to access to justice and the right to appeal. There were improvements in the framework of national laws, but the victims still do not hold a central role in them and, in general, states do not provide the victim with the statute of party to the proceedings;
- 5) Increasing the effectiveness of action - harmonisation of policies and laws of the Member State (including within the framework of restorative justice), allowing for a more effective European legislation.

## Current cross-border victims' situation:

Within the EU, there is only one legislative act, the 2001 EU Framework Decision on the Standing of Victims in Criminal Proceedings, which provides legally binding rights for all victims of crime. However, the implementation of the Framework into national legislation of the Member States has been unsuccessful. No EU Member State has fully implemented all articles and given victims access to the rights and services contained in the Framework.

As Victim Support Associations, we see daily examples of victims' rights not being respected and victims being ignored, mistreated and re-victimised within the criminal justice system.<sup>12</sup>

## New spectrum of victims' rights:

The new Directive proposal brings about several important changes to the rights prescribed in the 2001 Framework Decision.

Concept of victim - Not only a person who suffered injuries directly to him or herself is considered a victim, but also the close relatives of a person that died as consequence of a crime. Article 2 also defines exactly who these "family members" are, and establishes that all provisions of the Directive are applicable to them. The reason for that is that such persons are often also harmed by the crime and may themselves be at risk of secondary victimisation, as well as victimisation or intimidation by the offender or his associates.

Vulnerable victims - establishment of a mechanism to determine vulnerable victims, in which categories are determined according to personal characteristics of the victims (children and persons with disabilities), and to the type of crime committed (sexual violence and human trafficking). Furthermore, an open clause prescribes that any victim can be considered a vulnerable victim after an assessment is timely made. For the purposes of this evaluation, the personal characteristics of the victim and the type of crime inflicted upon the victim are once more taken into account.

Right to access effective justice - new rights are established:

- 1) Article 8 establishes that when a person makes a complaint of a crime, the victim is provided with an official acknowledgment which they can refer back to in any future communications.
- 2) Article 10 prescribes the right of victims to verify that established procedures and rules have been complied with and that a correct decision has been made to end a prosecution

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<sup>12</sup> Fact Sheet 1 goes in depth on this topic.

in relation to a specific person. This article only entails the possibility of a review of the decision not to prosecute and no other kind of decision.

Right to information - The right to information was also strengthened. Not only the nationality of victims is considered, but also their ability to understand the information provided taking into account their literacy level, disabilities, intellectual and emotional capacities and maturity. The new Directive thus proposes that information is provided in a variety of formats to take account of these factors. Also, this information shall be provided from an early stage and sufficient detail should be given to enable victims to make informed decisions about their participation in proceedings and how to access their rights, in particular when deciding whether to request a review of the decision not to prosecute.

Right to protection - Better conditions to avoid contact with the offender shall be created, not only in court but also “in any venue where victims may have personal contact with public authorities due to their being a victim and in particular venues where criminal proceedings are conducted”<sup>13</sup>. To make it effective, best practice and guidance shall be offered to public officials, informing them on how to assist in avoiding contact.

In order to prevent secondary victimisation, the Commission took into account the results of the above mentioned reports on the implementation of the Framework Decision. Therefore, it is ensured in this new Directive (through Article 20) that the victim is interviewed as early as possible and that interaction with authorities is as easy as possible whilst limiting the number of unnecessary interactions. Also, as a rule victims may be accompanied by a trusted person of their choice.

All protective measures in the proposed Directive are applicable to all crime victims and not only to vulnerable victims. This is quite a milestone, setting “the victim” as the centre of the judicial system.

Another important change to note is the encouragement of the media to pursue self-regulatory measures in order to protect victims' privacy, personal integrity and personal data (Article 23(2)).

Restorative justice - article 11 ensures that where such services are provided, safeguards are in place to ensure the victim is not further victimised as a result of the process.

Participation of the victim in restorative justice proceedings should be voluntary, which implies that the victim has sufficient knowledge of the risks and benefits to make an informed choice. “It also means that factors such as power imbalances, and the age, maturity or intellectual capacity of the victim which could limit or reduce the victim’s ability to make an informed choice or could prejudice a positive outcome for the victim should be taken into consideration in referring a case to and in conducting a restorative process. Whilst private

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<sup>13</sup> Excerpt from the proposed Directive text, article 19.

proceedings should in general be confidential, unless agreed otherwise by the parties, factors such as threats made during the process may be considered as requiring disclosure in the public interest. Ultimately any agreement between the parties should be reached voluntarily”<sup>14</sup>.

Training for victims’ rights - This Directive establishes training requirements for public officials who contact directly with victims. Those providing victim support and restorative justice services should be trained as well. This training must raise awareness of the negative effects of crime on victims and the risk of causing secondary victimisation, as well as special techniques to minimise the impact of crime on victims. This is a mandatory task for all intervening professionals referred above except judges, although training is encouraged for such judicial practitioners.

#### Key points:

- This proposed Directive explicitly states that direct victims are not only those that were injured or damaged directly by the crime, but also family members of a person that died as consequence of a crime;
- The concept of vulnerable victims is broadened, for instance with the introduction of an open clause that prescribes that any victim can be considered a vulnerable victim after an assessment is timely made;
- Victims are given the right to an official acknowledgment which they can refer back to in any future communications and the possibility of a review of the decision not to prosecute and no other kind of decision;
- When providing information to the victims, not only the nationality of victims is considered to evaluate communication difficulties, but also their ability to understand the information provided taking into account their literacy level, disabilities, intellectual and emotional capacities and maturity;
- Right to protection is enlarged, now guaranteeing that victims:
  - a) are provided with better conditions to avoid contact with the offender;
  - b) are interviewed as early as possible whilst limiting the number of unnecessary interactions;
  - c) with access to protective measures are not only vulnerable victims but all crime victims;
  - d) are protected from media’s invasive interaction, since the media is now encouraged to pursue self-regulatory measures;
- Restorative justice services have to establish safeguards to ensure the victim is not further victimised as a result of the process;
- Public officials who contact directly with victims and those providing victim support and restorative justice services should be trained as well.

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<sup>14</sup> Excerpt from the proposed Directive text, preamble.

## Exercise Sheet 1 - Victim case studies<sup>15</sup>

1. **John Hope**, 26 years old, victim of a burglary in which a CD system, CDs, a fax machine, a computer and £250 in cash were stolen. Mr Hope lives with his 24-year-old partner. They are a young professional couple. She is six months pregnant.

2. **Sarah O'Mally**, 33 years old, victim of a burglary (forcible entry through window of child's room) in which jewellery, which belonged to the victim's grandmother, and a TV/video were stolen. Ms O'Mally is a single parent with a six-year-old daughter. She thinks she disturbed the burglar as she entered the house, having just picked up her daughter from her childminder.

3. **Maria Jones**, 54 years old, victim of a robbery in which a shopping bag was stolen. Maria was shopping with a friend in a shopping centre while on holidays in southern Europe. Two youths barged into her in the crowd and stole her shopping bag. This bag contained her handbag with £75 in cash which she had just taken out of the cash machine, her chequebook, cheque card, house keys and some groceries. She had only £60 cash more in her hotel room.

4. **Ethel Stone**, 72 years old, victim of a theft in which a handbag was stolen. Mrs Stone is a widow - her husband died six months ago. She placed her handbag on the bus seat next to her but it was not there when she got up to leave. She thinks she had a few pounds in her bag but can't remember what else was in it.

5. **Praful Patel**, 32 years, victim of a physical assault. Mr Patel is a barman in a pub. He was hit on the head by a bottle thrown by a customer whom he had refused to serve. This was not the first time he had had problems with this particular customer. He is married with two young children, and the family live in the same street as the pub.

6. **Arthur Donaldson**, 69 years old, victim of a burglary by deception ('burglary artifice') in which £25 in cash was stolen. Two men called at the house, occupied by Mr Donaldson and his wife, claiming to be gas board officials. Mrs Donaldson caught one of the men stealing money from the tea caddy - he pushed her away and both of them ran out of the house.

7. **Terry Johnson**, 19, victim of an assault. Terry was on holidays in another EU Member State. He was sightseeing in walking back to the hotel from a wine bar in a popular part of town with his girlfriend Sharon when a group of youths began to harass his girlfriend. Although they could not understand what the youngsters were saying, they were obviously intrusive & very aggressive. Terry remonstrated with them & was punched & pushed to the ground, suffering cuts & bruises.

<sup>15</sup> Exercise extracted from Victim Support Northern Ireland's *The Impact of Crime - community-based service. Trainers notes.*

**8. Mary Calthott**, 46 years old, victim of an aggravated burglary in which £60 in cash and a video were stolen and she was assaulted. Mary is single and works as an author. She was working upstairs in her study when she heard a noise. She disturbed two young male burglars. In their haste to escape, they pushed Mary to the floor, banging her head on the radiator in the process. She was treated for shock and required eight stitches to her forehead.

**9. Becky Smith**, 16 years old, was walking home from school when she was mugged by a gang of boys from her school. They stole her mobile phone, and kicked and punched her.

**10. Maria Khan**, 35 years old, victim of domestic assault. Maria came home from a party and her husband accused her of flirting with another friend. An argument ensued, and Maria was punched and kicked. Their three young children were in the next room. A neighbour heard screaming and called the police. This is not the first time Maria's husband has been violent. She does not work, and has no family nearby.



## Activity 4: Equality & Diversity

### Process sheet - notes for trainers<sup>16</sup>

Themes	Right to respect and recognition; Diversity; Cross-border victims.
Target Group	Victim support workers.
Group size	up to 10
Time allocation	90minutes
Overview	This is both a practical activity that aims to promote discussion and an explanatory module. The aim is to promote understanding on specific needs of victims from another Member State and consider diversity when dealing with victims.
Specific objectives	<ol style="list-style-type: none"> <li>1) To understand the specificity of cross-border victimisation issues</li> <li>2) To understand what diversity means and how it can influence a victim's perception of crime and victims' needs</li> </ol>
Materials	<ul style="list-style-type: none"> <li>• Pens / Pencils</li> <li>• Flipchart</li> </ul>
Preparation	<ul style="list-style-type: none"> <li>• Familiarise yourself with the exercise-sheet and the game</li> <li>• Read Chapter 1 part 1 in what concerns the right to respect and recognition</li> <li>• Read Chapter 1 part 2 in what concerns cross-border victims</li> </ul>

<sup>16</sup> Based on Victim Support Northern Ireland's *The Impact of Crime - community-based service. Trainers notes*. Training activity.

## Exercise guidance sheet

### Instructions

- 1) Divide the group in two, giving one group a flip with the word 'equality' written on it and the other a flip with the word 'diversity'. Ask them to write words or phrases that define the term they are working on.
- 2) Reconvene the whole group and get the two groups to present what they have contributed. Try to gain a group consensus on the terms. If this is difficult, give them the following definitions and explain that these are the ones they will be working with on the learning event:
  - **Equality:** The 'level playing field' concept. Acknowledging past imbalances and taking steps to redress them, while maintaining the element of competition. Providing and promoting equal access to jobs, services and benefits.
  - **Diversity:** Recognising and valuing the differences between people.
- 3) Ask the whole group what they think could be an impediment to equality and respect for diversity in practical terms for victims of crime.
- 4) Explain that at some point in all our lives we have experienced being treated unfairly and that this session will help identify the feelings and emotions this can raise. It is vital to understand ourselves and the feelings generated by these experiences as a way of informing us how victims may feel due to the experience of the crime. More generally, it helps us understand how ongoing unfair treatment may have an effect on the impact of the crime.
- 5) Divide the group into pairs and ask them to explore a personal experience they have had of being treated unfairly. Explain that they will not have to share the experience itself with the whole group, but they will need to feedback the feelings and emotions that these experiences generated. Tell the group to choose the experience carefully: it should be one that is meaningful but will not cause them too much pain to explore. You may like to give the following examples to help trainees think of a real situation:
  - a colleague or friend treating you differently
  - not being listened to

- not being believed
  - always being expected to do something
  - being given unequal treatment.
  - *TIP: During the discussion in pairs, trainees should focus on the following points:*
  - *how it made them feel*
  - *their behaviour / what they did as a result*  
*the reaction of others to their behaviour*
- 6) Reconvene the whole group. On a prepared flipchart there should be three columns with ‘feelings’, ‘behaviour’ and ‘reactions’ written at the top. In turn, the pairs should feedback the feelings, behaviour and reactions they identified from their own experiences. Document each piece of feedback under the relevant column heading.
- 7) Once the feedback has been completed, explore the following with the group:
- Most, if not all, feelings will be negative, and why that is the case. Behaviours can range on a continuum from frozen withdrawal to physical violence
  - The list of reactions of others will mirror our own behaviours.
- 8) Ask the group:
- Was the behaviour in or out of character, and how did they feel about it?
  - What effect did this experience have on their self-esteem?
- 9) Go on to reiterate how these experiences and behaviours relate to how people react when constantly discriminated against and how this may impact on their recovery as victims.
- 10) Write down on a new flipchart one word at a time from the following list:
- Exchange student
  - Temporary worker

- Temporary worker from an ethnic minority
- Traveller / Tourist

11) Ask them to tell the audience what added difficulties they believe these groups of people could face when victimised.

12) Throughout the discussions introduce the following questions:

- a) What effects (if any) do they believe our stereotypes could have on our behaviours?
- b) Present them the following case:

*A Finnish man was assaulted while on a holiday in Greece. He went to the police station but the police did not seem interested, he felt like “just another tourist”. He did not speak Greek so did not understand what was being said or how to seek compensation for his injuries. He returned home to Finland and he has never heard anything more about*

*the case so does not know if the police ever found the offender. He still feels insecure when going out at night.*

- What do they believe was wrong in this case?
- What do they think was the reason for such treatment?
- How do they think the police should have acted instead? What do they think should be the system’s response to it (talk about national law, EU law, etc)?
- How do they think VSOs should intervene?

## Activity 5: A giant leap

### Process sheet - notes for trainers<sup>17</sup>

Themes	Right to respect and recognition; Equality.
Target Group	Victim support workers.
Group size	5 to 10
Time allocation	60 minutes
Overview	Simulating a visual representation of the inequalities within European society in the 21st century, in order to explore why such inequalities exist, to examine the attitudes and value systems of trainees, and for trainees to experience the traveller victim perspective. This is an experimental activity followed by group discussion.
Specific objectives	To understand the specificity of cross-border victimisation issues
Materials	<ul style="list-style-type: none"> <li>• Pens / Pencils</li> <li>• Flipcharts</li> <li>• Race for equality cards</li> <li>• Exercise Sheet 2</li> </ul>
Preparation	<ul style="list-style-type: none"> <li>• Familiarise yourself with the exercise</li> <li>• Read Chapter 1 part 1 in what concerns respect and recognition</li> </ul>
Outputs	Understanding the effective needs of victims and how our perception and prejudices interfere with the way we deal with people. Understand what the right to respect and recognition truly entails.

<sup>17</sup> Based on Victim Support Northern Ireland's *The Impact of Crime - community-based service. Trainers notes.* training activity.

## Exercise guidance sheet

### Instructions

- 1) Clear the room of furniture, line trainees up against a wall, and give each trainee a role card. It is important that trainees are instructed not to divulge their identity at this stage.
  - Try to allocate a different role from their true one, for example give ‘single white mother’ to a black man.
  - The ‘asylum seeker’ should remember that they cannot understand English and be ignored for the remainder of the exercise.
  - Read through the list of statements one by one (see Exercise sheet 4). Instruct trainees to take one step forward **only if they can answer ‘true’** to a statement and to stay where they are if they cannot (take ‘normal-sized’ step).
  - The first part of the review of this activity should be done *in situ* if possible. Remind them they are still those characters. Ask each trainee in turn:
    1. How did they get on in the race? Why?
    2. How do they feel about their position and everyone else’s?
    3. Did anyone feel that there were moments when their basic rights were being ignored?
  - Throughout this process ignore the asylum seeker and deaf woman, first language not English - until someone in the group eventually points this out. Point out the cost of interpreter fees and stress how society and the judicial system make decisions for these people.
    - At the end invite everyone to take note of their final positions. Then give them a couple of minutes to come out of role before debriefing in plenary. Set the grounds for a discussion:
      - a. How easy or difficult was it to play the different roles? How did they imagine what the person they were playing was like?
      - b. Does the exercise mirror society in some way? How? How good or badly does the judicial system tackle these discrepancies?
      - c. Which rights are at stake for each of the roles? Could anyone

say that their rights were not being respected or that they did not have access to them?

- d. What first steps could be taken to address these inequalities?
- e. What could the trainees do to improve this situation in their daily professional life?
- f. Did their perception of the extent of the right to respect and recognition enlarged? How? What does it entail after all?

#### Tips for facilitators

If you do this activity outdoors, make sure that the participants can hear you, especially if you are doing it with a large group! You may need to use your co-facilitators to relay the statements.

In the imagining phase at the beginning, it is possible that some participants may say that they know little about the life of the person they have to role-play. Tell them, this does not matter especially, and that they should use their imagination and to do it as best as they can.

The power of this activity lies in the impact of actually seeing the distance increasing between the participants, especially at the end when there should be a big distance between those that stepped forward often and those who did not. To enhance the impact, it is important that you adjust the roles to reflect the realities of the participants' own lives. As you do so, be sure you adapt the roles so that only a minimum of people can take steps forward (i.e. can answer "yes"). This also applies if you have a large group and have to devise more roles.

During the debriefing and evaluation it is important to explore how participants knew about the character whose role they had to play. Was it through personal experience or through other sources of information (news, books, and jokes)? Are they sure the information and the images they have of the characters are reliable? In this way you can introduce how stereotypes and prejudice work.

## HAND-OUTS

### Exercise sheet 2<sup>18</sup>

- 1) I am likely to go to university.
- 2) I feel safe walking alone at night.
- 3) I am not likely to be a victim of harassment.
- 4) I am not likely to be ridiculed.
- 5) I am likely to get a bank loan without difficulty.
- 6) I am likely to be believed if I am victimised.
- 7) I am likely to be treated fairly by the criminal justice system.
- 8) In a crowd I am not likely to be singled out.
- 9) I am likely to be served without question in any public house.
- 10) I could defend myself against aggression.
- 11) I am always perceived as a local without any question.
- 12) I am not likely to be seen as a weak, easy or vulnerable target.
- 13) I am likely to own my own home and to afford a nice car.
- 14) I am not treated as a second-class citizen.
- 15) My skin colour does not cause any problems.
- 16) I can get life insurance without any difficulties.
- 17) I fit the dominant culture perfectly.
- 18) My opinions are always taken into account.

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<sup>18</sup> Exercise extracted from Victim Support Northern Ireland's *The Impact of Crime - community-based service. Trainers notes.* and Compass.



## Race for equality cards

Asylum seeker, does not speak the country's language (this means you will not understand any of the statements)	Black gay man	Black male, professional status, educated abroad
White elderly widow, receives state pension	White HIV-positive woman	White lesbian mother
White male ex-offender	White single father	White single mother
White wheelchair user	White female, professional status	White female, professional status, deaf, first language other than that of the country
White male, middle-aged, mental health service user	White male, professional status	White male, unemployed
White young homeless male	Tourist from outside the EU	Seasonal worker from an Eastern European EU Member State

## Activity 6: Listen like spring, talk like autumn

### Process sheet - notes for trainers

Themes	Right to information; Impact of victimisation; Communication skills
Target Group	Victim support workers, police forces, judicial practitioners
Group size	10 to 15
Time allocation	90 minutes
Overview	In this activity the trainees will be presented with diverse situations to make them ponder upon how they would react under certain circumstances and respond to others. That reflection will allow them to better understand what difference a good or bad communication would make for their well-being. The right to information, what it entails, and how it is further developed under the proposed Directive are explained to the trainees, providing them with the necessary skills to put rules into practice adequately. You may opt not to use all the activities hereby proposed and instead extend the time for debate in the ones you use.
Specific objectives	<ol style="list-style-type: none"> <li>1) Identify characteristics of the communication process</li> <li>2) Identify types of communication</li> <li>3) Identify non-verbal communication</li> <li>4) Understand how behaviour affects the communication process</li> <li>5) Understand active listening principles</li> <li>6) Identify types of conflict</li> <li>7) Identify steps to undertake while managing conflict</li> <li>8) Identify four types of communication</li> <li>9) Understand what the right to information entails</li> <li>10) Understand information needed by the different groups of victims</li> <li>11) Learn to listen and learn to communicate</li> <li>12) Take the needs of the victims into account</li> </ol>
Materials	<ul style="list-style-type: none"> <li>• Pens / Pencils</li> <li>• Exercise sheets n° 3, 4 and 5</li> </ul>

- Powerpoint presentation n° 3
- Fact Sheet 3

#### Preparation

- Familiarise yourself with the exercises
- Familiarise yourself with the fact sheet
- Read Chapter 1 part 1 in what refers to the right to information
- Read Chapter 1 part 2
- Read Listening Support report by ITAS

#### Outputs

The participants understand the victims' perspective and needs and see the way they react as crucial to help victims cope with their recovery. Participants understand the way they communicate and inform can make a difference. Participants understand what the new Directive entails in terms of right to information.

## Exercise guidance sheet

### Instructions

1 You should show the participants, from the very beginning, that the training approach is based on mutual sharing of experiences. The trainers should provide the information using a simple and clear language. The trainers are meant to help police officers, judicial practitioners and victim support workers understand the victim's standpoint and therefore know how they can help victims better.

2 Distribute Exercise sheet 5. Ask the participants to fill in the form according to their first instinct. Participants shall make their own self evaluation, with the correction guidelines provided in the exercise sheet. Ask the participants what their main difficulties have been and how they feel their behaviours can impact on a victim's recovery. This part of the exercise should only take up to 10 minutes.

3 After this first discussion distribute Exercise sheet 6 and ask participants to fill it in. Discuss the responses given with the participants and talk about victims possible reactions and signs that show their emotions under the following circumstances:

- At the scene of the crime
- One week after reporting the crime
- During a hearing
- While awaiting a decision on a protective measure

This part of the exercise should only take up to 15 minutes.

4 Ask the participants what they believe would in fact be the needs of victims in the above mentioned situations (10 min discussion).

5 When the activity is finished, present Powerpoint presentation 3 to the audience and clarify doubts they might have. This part of the exercise should only take up to 15 minutes.

6 Apply Exercise Sheet 7. Explain that the following exercise is a role-playing one, in which each person will impersonate a different role in a particular discussion. Participants shall put themselves in that person's shoes. After a 15 minute discussion exercise, discuss with the audience its results. Try to establish a comparison between

the different answers.

7 Distribute Fact Sheet 3 to the audience and give 2 minutes to read it. In 25 minutes clarify doubts they might have and discuss the following topics:

- Communication guarantees;
- Relevant information and information the victim can opt not to receive;
- Right to information for vulnerable victims;
- Repetitive questioning;
- New Directive's improvements in this field.

### Fact sheet 3 - Right to information

The right to information has various dimensions:

- 1) the right to **receive information** that will enable victims to best protect their interests, regardless of their role in the proceedings (e.g. how to get victim support, information about the criminal system, how to claim compensation);
- 2) the right to be **kept informed** on the progress of criminal proceedings (e.g. the outcome of their complaint, the court's sentence, the release of the offender);
- 3) the right to **not be informed** about the progress of criminal proceedings.

What do those emanations of the right to information entail?

- 1) Victims shall be informed at the very first moment on *their rights*, how to *guarantee them, support facilities* available to help them. Right after a crime was committed, the victim might experience a multitude of contradictory feelings such as: shock, adrenaline rush, hyperventilation, exhaustion, fear, anger not only at the offender but also at the authorities, confusion, shame, insecurity.
- 2) Information on the course of the proceedings shall be provided to the victim along the whole proceeding. The mentioned information concerns everything from *any decision undertaken* to any major shift on the *offender's situation*. The big issue is how to transmit this information to the victim. All public officers involved shall bear in mind that it is essential to provide information: using **language** which is easy to understand; explaining the **reasons** that motivated that decision; in a **sensitive** manner, taking into account how words might impact the victims' feelings and therefore recovery.
- 3) Right *not to be informed*. This means that some *non essential information* may be occulted from the victim if the victim so requests. Studies<sup>19</sup> have shown that some victims might get into even more distress if they are constantly confronted with the remembrance of the crime and the offender; therefore victims shall be provided with an **opt-out mechanism** that guarantees they only received the information they **consented to**.

### Cross-border victims in particular

Cross-border victims share these **same impacts** with regular victims but, due to their very characteristics, foreigners who suffer a crime are at an **increased risk of victimisation**.

Tourists usually stand out and carry on their persons large amounts of money or valuables, and are often unaware of their surroundings, which make them particularly attractive for certain types of crime, such as pick-pocketing or robbery.

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<sup>19</sup> VinE report, reference to Reeves and Mulley, 2000, in page 62.

Cross-border victims normally face **further obstacles** than regular victims, which might reinforce their victimisation experience. They face **linguistic difficulties**, have no knowledge of the criminal justice system of the country, and they have **no social support network**. Because cross-border victims are often tourists, the short length of their stay means that it will be additionally **hard to accompany the criminal investigations** and overall process. Therefore, cross-border victims have specific needs that should be catered for.

#### Communication guarantees:

Not only the nationality of victims shall be considered, under the new proposed Directive, but also their ability to understand the information provided taking into account their literacy level, disabilities, intellectual and emotional capacities and maturity.

Therefore, communication guarantees are not only **interpreters** and **language diversity** in the written information provided, but also a **variety of formats** that might tackle, for instance, the needs of people with disabilities.

#### Key points:

- The right to information consists on receiving information right after the crime is committed / charges pressed, being kept informed on all developments on the proceedings and not be informed about the progress of criminal proceedings if the victim requests so;
- Right after the crime is committed, the victim might experience a multitude of contradictory feelings such as: shock, adrenaline rush, exhaustion, anger not only at the offender but also at the authorities;
- There are also different medium and long term consequences of crime, depending on the type of crime or on the personality of the victim. Panic attacks, eating disorders, sleeping difficulties, self harm are just some of these possible consequences;
- All public officers involved shall bear in mind that it is essential to provide information: using language which is easy to understand; explaining the reasons that motivated that decision; in a sensitive manner, taking into account how words might impact the victims' feelings and therefore recovery;
- Therefore victims shall be provided with an opt-out mechanism that guarantees they only received the information they consented to;
- Cross-border victims share these same impacts with regular victims but, due to their very characteristics, foreigners who suffer a crime are at an increased risk of victimisation;
- Communication guarantees: interpreters / translators, language diversity in the written information provided and a variety of formats that might tackle, for instance, the needs of people with disabilities.

## Exercise sheet 3 - Behavioural patterns<sup>20</sup>

### Self-evaluation exercise

Reply honestly to the questions posed, ticking the column that better suits your answer.

TRUE, if you usually think or act that way.

FALSE, if you rarely think or act the way it is described.

	MOST OF THE TIMES	TRUE	FALSE
1	I say YES when, in fact, I would like to say no.		
2	I fight for my rights without harming the rights of others.		
3	When I don't know a person well enough, I rather pretend I feel or think something I don't.		
4	I am determined and authoritarian.		
5	It is easier to act through an intermediary.		
6	I am not afraid of telling others what I think about them.		
7	I do not dare to deny doing things that I am not obliged to by the requisites of my tasks.		
8	I am not afraid to speak my mind even if the listeners are hostile.		
9	When in a debate, I rather sit quiet and "see what happens".		
10	People often accuse me of going against the grain for nothing.		
11	They normally tell me I am a bad listener.		
12	I do all that is in my power to keep things under wraps, and I have been quite successful in doing so.		
13	They say I am quite sly.		
14	My relationships are mainly based in confidence, instead of dominance and calculation.		
15	I never ask a colleague for help, they might think I am not competent enough.		
16	I am shy and therefore block when I have to do something out of the ordinary.		
17	Sometimes people mock me, it embarrasses me but I make the others laugh.		
18	I am very comfortable with face-to-face interaction.		
19	I am ambitious and therefore I am ready to do whatever it takes to accomplish my goals.		
20	Inspire fear in others is a good way of gaining power.		

<sup>20</sup> Activity developed by APAV Training Centre.



## Correction

Each sentence you replied to equals a specific type of behaviour: passivity, aggression, manipulation, or assertiveness.

The phrases are marked with a number and were classified into four columns, corresponding to the four behavioural styles.

You should put 1 point if you answered TRUE. The total number of points reveals your tendency to use the behaviour indicated.

Runaway behaviour	Passivity	Confronting behaviour	Aggression
1		4	
7		6	
15		10	
16		11	
17		19	
		20	
<b>TOTAL</b>		<b>TOTAL</b>	

Ingratative behaviour	Manipulation	Self Affirmation Behaviour	Assertively
3		2	
5		8	
9		14	
12		18	
13			
<b>TOTAL</b>		<b>TOTAL</b>	

## Graphic of Behavioural Patterns

15				
10				
5				
0	<b>PASSIVE</b>	<b>AGRESSIVE</b>	<b>MANIPULATIVE</b>	<b>ASSERTIVE</b>

## Exercise sheet 4 - dictionary of physical signs<sup>21</sup>

Instructions: Here is a list of postures and gestures we normally use while communicating. Write down what do you think it usually means.

Gestures	Meaning
Raising your hand	
Tapping your fingers on the table	
Cracking your fingers	
Rubbing your hands	
Tousling someone's hair	
Rolling up your sleeves	
Keeping your hands behind your back	
Arms crossed	
Blink	
Hands around your waist	
Hands in the pockets	
Hands holding your head	
Eyebrows raised	
Yawn	
Shoulders down	
Crestfallen	

<sup>21</sup> Activity developed by APAV Training Centre.

## Exercise Sheet 5 - Impact of expectations in communication

*Subject for discussion: Should victims be informed of every single step of the proceedings or can they opt not to be?*

1 - you shall select 4 direct participants in this activity, they will be given a role to play according to what they believe such person would think under the given situation;

2 - the different roles are: a **police officer**, a **victim support worker**, a **judge**, a **victim**. Beware that you do not give to the participants a role they already play in real life!

3 - explain to the participants that all of them believe information is a crucial component of victims rights and what you will be trying to analyse is if the victims' will not to receive a certain information should be taken into account or not and what information could and what could not be omitted to the victim.

4 - if participants have difficulties on discussion this issue try posing the following questions:

- a) Imagine that a victim has just started to get on with her life and becomes anxious all over again after being notified after the notification of the offender's release. Could this information not be provided to the victim?
- b) What information is essential and what isn't? Who should determine it?
- c) Why is information crucial for the victim in a proceeding? (You will try to make it clear that informing the victim is essential to assure the victims' well-being, provide the victim with a sense of justice, allow the victim to make timely decisions, protect the victim, diminish the victim's suffering, and build trust on the judicial system. This might entail that the victim opts out of receiving certain information precisely to guarantee her/his well-being, so this is one aspect of the right to information as well. The victim should be heard to decide if she/he wants to receive that information, but only on what is possible to opt out from)
- d) Is it the way the information is provided that harms the victim or is it the information in itself? Can it be both under certain circumstances?

5 - after the group role play, discuss with the whole group and try to compare what the players envisioned as being the position of another group and what the individuals of that group actually think about the issue. Also, try to understand if the audience change their positions throughout the discussions.

## Activity 7: Understanding the victims

### Process sheet - notes for trainers

Themes	Impact of victimisation; Communication skills
Target Group	Victim support workers, police forces, judicial practitioners
Group size	10 to 15
Time allocation	90 minutes
Overview	In this activity the trainees will be able to reflect upon better ways of communicating with victims. Furthermore, they will better understand what the victim needs from them.
Specific objectives	<ol style="list-style-type: none"> <li>1) Identify types of communication</li> <li>2) Identify non-verbal communication</li> <li>3) Understand how behaviour affects the communication process</li> <li>4) Understand active listening principles</li> <li>5) Learn to listen and learn to communicate</li> <li>6) Take the needs of the victims into account</li> </ol>
Materials	<ul style="list-style-type: none"> <li>• Pens / Pencils</li> <li>• Exercise sheet n° 7</li> <li>• Powerpoint presentation n° 3</li> <li>• Projector and screen</li> </ul>
Preparation	<ul style="list-style-type: none"> <li>• Familiarise yourself with the exercise and the videos</li> <li>• Read Chapter 1 part 2 and read Listening Support report by ITAS</li> </ul>
Outputs	The participants understand the victims' perspective and needs and see the way they react as crucial to help victims cope with their recovery. Participants understand the way they communicate and inform can make a difference.

## Exercise guidance sheet

### Instructions

1) Present the video Victims' Voices and stimulate a whole group discussion. You could start up by showing the first part of the video and then converse about:

- what impact they see the crime had on the victim;
- what behaviours, wording and gestures showed them that;
- what different reactions did they notice and why they think they exist;
- who else they believe might be affected;
- what would be the main needs of these victims.

This part of the workshop should only take up to 30 minutes.

2) Distribute Exercise sheet 8 and ask participants to fill it in. Discuss the responses given with the participants and talk in depth about what they believe would in fact be the needs of victims in the above mentioned situations. This part of the workshop should only take up to 30 minutes. You might also use Powerpoint presentation 3 by the end of this part of the workshop to summarise ideas.

3) Afterwards you shall show the second half of the video. Discussion thereafter should focus on the importance of the way the judicial practitioners and police forces interact with the victims. This part of the workshop should only take up to 30 minutes.

## HAND-OUTS

### Exercise Sheet 7 - Impact of communication on victims

#### Situation 1

You are a police officer attending at the scene of a crime and noting the report from the victim. Age is something that you would note but it is also a factor that might influence the victims' ability to cope. List other factors that might affect the victim.

#### Situation 2

When you attend the crime scene you might find the victim crying. Remember that tears are a sign of distress but there might be other reactions to your arrival. Can you think of a few?

Ponder upon the importance of taking into account the following questions while at a crime scene:

The crime	Who is affected?
	Where did it happen? Does this factor matter?

Emotional impact	Feelings about the crime?
	Feel safe?

Coping skills	How is the person handling it?
	Does the person understand the legal process?

Sources of support	Family & Friends?
	Access to other help?

### Situation 3

At the scene of crime you noted a report from the victim. Which of the following practical steps should you take at this early stage?

Practical steps	Yes	No
Telephone the Criminal Injuries Compensation Authority		
Find a counsellor		
Get medical help		
Offer Victim Support		
Make sure they can pay their bills		
Get emergency repairs		
Make sure they understand enquiry procedures and the legal process		
Get them re-housed		
Consider support for any children/dependent relatives		
Find out if they need help to contact anyone		
Telephone their insurance company		



## Situation 4

You are a public prosecutor or judge. Think about how the following demands of criminal proceedings can jeopardise victims' and witnesses' needs if there is no sensitivity on the approached towards victims.

### V&W needs

- 

### Requirements

- Court requires them to endure a public challenge to their credibility.

- 

- Court requires them to submit to a complex set of rules and procedures that they may not understand, and over which they have no control.

- 

- Court requires them to respond in accordance with evidential rules, hearsay, inadmissible evidence

- 

- Court requires them to relive the experience by directly confronting the perpetrator.

## Situation 5

As a judicial practitioner, you should be aware of the needs of victims while you make decisions and communicate them, but you should also never forget them while investigating, questioning, or in any way contacting with the victims. Ponder upon the following questions:

- 1) At the investigation stage when the law enforcement officers first come in contact with a victim, the officers should as a matter of duty employ certain measures that engender confidence and trust from the victim. Can you think about some?
- 2) How do you think the victim can be involved in a decision not to prosecute?
- 3) What support do you think the victim needs in pre-trial and trial phase? What is your role in providing such support?
- 4) Victims' needs should be taken into account on how to fulfil the right to information?

## Exercise 7 - notes for trainer

### Situation 1

Some priority issues to consider at this early age are: name, age, contact details, crime category, disability, repeat victimisation, ethnicity, gender, illness, mental health issues, communication issues, life style issues, deprived/high risk area where the crime occurred.

Often it is the combination of such factors and other events in a victim's life that can affect their ability to cope. Yet it is not safe to assume that one or other factor will stop someone from coping. People are resilient and time is a great healer.

Some of the responses the audience may come up with are indicators of vulnerability and it is vital that you provide any information which explains why a witness may be fearful or distressed at the prospect of giving evidence.

### Situation 2

Some possible reactions are: shock; numb; anger; frustration; fear; hostility; coldness; confusion; stoicism; relief. This last reaction might seem strange to the audience, but in fact it is due to the victim's trust that a police officer will know what to do next and will be able to give guidance. However, victims might turn against the police officers as well. The policemen should understand that it is unlikely to be personal and more likely it is a reaction to the crime. The police officer's role is to gather information for the crime report but this task will be easier if the police officer injects an air of calm and control rather than command and control. The ideal scenario is to be able to gather information and simultaneously be in a position to offer help. If a victim feels safety and trust, then it will be easier to properly give information about the crime.

The crime	Who is affected? <b>Most of the times it is very clear who the victim is, but unfortunately the impact of the crime spreads wider to SECONDARY VICTIMS and the possible long term consequences can be less clear at first sight. Talk about these issues with the audience.</b>
	Where did it happen? Does this factor matter? <b>The locus of the crime can also have a debilitating effect on a victim. If it happens at or near home or work there may be feelings of insecurity or long term financial implications.</b>

Emotional impact	Feelings about the crime? The effect on emotions can continue for a long period. Anger might continue, flashbacks can happen, depression and isolation can set in. All this can be on top of any physical factors such as injuries, alcohol or drug dependency. A police officer is not there to deal with that but by taking simple, practical steps early on the police officer might be able to lessen these effects.
	Feel safe? Talk about the importance of careful observation, namely when vulnerability is an issue, helping not only the victim but also the pursuit for truth.

### Situation 3

Practical steps	Yes	No	Reasons
Call the Criminal Injuries Compensation Authority		X	No urgency for this to be done early.
Find a counsellor		X	No-one expects you to do this; it is not your duty.
Get medical help	X		Number 1 priority!
Offer Victim Support	X		All victims of crime should be offered support. Mostly this will be no more than a few words describing support available and providing contact details.
Make sure they can pay their bills		X	No-one expects you to do this; however the financial impact of the crime may be needed for your report.
Get emergency repairs	X		This applies only in some circumstances, for instance housebreaking where there is the need to re-secure the premises. You have to be clear on who it is to borne the repairs.
Make sure they understand enquiry procedures and the legal process	X		You should give information on: proceedings; your role in them;

			reports on progress and where they can get them; where to get further information and assistance.
Get them re-housed		X	No-one expects you to do this; except in very unusual circumstances e.g. the house was inhabitable for some reason. In this case example your role would only be to facilitate access to an appropriate service.
Consider support for any children/dependent relatives	X		At this early stage you should ask yourself: who needs support? Why do they need support? What do I need to do?
Find out if they need help to contact anyone	X		The best people to give support, particularly at this early stage, are families and close friends who can provide comfort and information.
Telephone their insurance company		X	This is not your task but do bear in mind that many people will be uninsured.

#### Situation 4

#### V&W needs

- Victims need social acknowledgment and support.
- Victims need to establish a sense of power and control over their lives.
- Victims need an opportunity to tell their

#### Requirements

- Court requires them to endure a public challenge to their credibility.
- Court requires them to submit to a complex set of rules and procedures that they may not understand, and over which they have no control.
- Court requires them to respond in

stories in their own way, in a setting of their choice.

- Victims often need to control or limit their exposure to specific reminders of the trauma.

accordance with evidential rules, hearsay, inadmissible evidence

- Court requires them to relive the experience by directly confronting the perpetrator.

## Situation 5

1)<sup>22</sup>

- Ensure that you are aware of the rights and assistance available for victims within your jurisdiction. Familiarize yourself with the proceedings of your criminal justice and social service system in providing for the immediate needs and assistance to the identified victim of a certain crime to avoid unnecessary delay. This knowledge will help ensure you are providing accurate information and allow you to realistically plan victim support.
- Always tell the victim who you are and your role in the whole process. Where other professionals are involved and introduced to the victim, identify them and explain their respective roles or ask them to do so themselves.
- Ensure you have a competent, non-biased interpreter involved, if needed.
- Whenever possible, let the victim know what is happening and why it is happening. Knowing the reasons for certain actions is likely to increase trust and enhance the possibility of the victim cooperating in the investigation and as a witness during the trial.
- As soon as circumstances allow, tell the victim what his or her rights are and what assistance can be provided.
- Never make promises of assistance that cannot be kept.
- Everyone involved in the criminal justice process (including investigators, prosecutors and the judicial officers) should communicate clearly in the language and in a way that the victim understands.
- Make sure that the victim understood what he or she has been told. Invite questions from the victim to ensure dialogue and mutual understanding. If there is no response, do not force the issue. If possible, change your mode of interviewing. Allow for a short recovery period and consider checking his or her understanding later.
- Check for any available information leaflets that may be useful to the victim. Such leaflet must be ones that the victim can read and understand.
- Be aware that the victim may be suffering from trauma. While being mindful of the possible effect of trauma on the victim's ability to give an accurate account of the events,

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<sup>22</sup> Based on Anti-human trafficking manual for criminal justice practitioners, UNODC, 2009.

emphasize the need for and value of detailed, coherent and accurate accounts of the events leading to his/her present circumstances.

- Any intrusive investigative processes requiring physical and psychological examination and evaluation should only take place with the informed consent of the victim. The victim should be informed of the steps and the process involved and why it is required. The victim's silence should not be construed as consent.
- The victim's privacy, identity and information disclosed during the examination and assessment process should be kept confidential. Their rights to privacy and confidentiality in accordance with your legislation should be protected at all times during the investigation.

2) "Before a decision is made (by the person in charge of the investigation or the prosecutor or the investigating judge) to stop the investigation or to decline to take court proceedings, the victim should be given the opportunity to comment. If the decision is made to stop or not proceed any further, then the victim should be notified in person. The reasons for the decision should be explained in terms the victim can understand; the options available to the victim, such as a right of appeal or a right to a review, should also be explained. In Member States where there is no right of appeal against the decision, it is good practice to provide an opportunity for review of the decision by another officer or prosecutor", Lord Justice Thomas.

3)<sup>23</sup>

- Whenever you can, let the victim know what is happening and why it is happening. Knowing the reasons for something is likely to increase trust and enhance witness contribution.
- Information you may consider communicating includes:
  - Likely time before a case will come to trial in a full hearing;
  - Any information about the location of suspects, for example if they are held in custody and, particularly, any change to those circumstances such as the release of a suspect;
  - Court processes, particularly whether or not victims will be screened from the view of the public and media of any other special measures available in the court;
  - Support that is available in the time leading up to the trial, at the trial or after the trial.
- Communicate these messages clearly in a way that the victim understands, regardless if you are investigator, prosecutor or judge.
  - Assessments of the victim's psychological and emotional situation should continue as appropriate throughout the pre-trial and trial phase. It should be noted that some victims might initially appear to be coping well with their experience; it is only as time goes on that the full extent and impact of their traumatised may be revealed.

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<sup>23</sup> Based on Anti-human trafficking manual for criminal justice practitioners, UNODC, 2009.

- Counselling might be the role of health professionals, but supportive environments at all parts of criminal justice may help a victim's recovery.
- Consider some measures you can adopt in court hearings to protect victim-witnesses. Examples include separate waiting rooms, screens for witnesses, closed-door hearings, video links and use of pseudonyms. These measures need not be complex or expensive, and they are explicitly encouraged in current EU legislation.



## Activity 8: On a victim's shoes

### Process Sheet - notes for trainers

Themes	Understanding the victims; Communication skills
Target Group	Victim support workers
Group size	10 to 15
Time allocation	45 minutes
Overview	In this activity the trainees will be able to ponder upon their own prejudices and reactions. They will also reflect upon better ways of communicating with victims. Furthermore, they will better understand what the victim needs from them.
Specific objectives	<ul style="list-style-type: none"> <li>• Understand active listening principles</li> <li>• Learn to listen and learn to communicate</li> <li>• Take the needs of the victims into account</li> </ul>
Materials	<ul style="list-style-type: none"> <li>• Pens / Pencils</li> <li>• Exercise sheet no 8</li> </ul>
Preparation	<ul style="list-style-type: none"> <li>• Familiarise yourself with the exercise</li> <li>• Read Chapter 1 part 2</li> <li>• Read Listening Support report by ITAS</li> </ul>
Outputs	The participants understand the victims' perspective and needs and see that the way they act is crucial to help victims cope with their recovery. Participants understand that the way they communicate and inform can make a difference.

### Instructions

Distribute Exercise sheet 8 and ask participants to fill it in. Discuss the responses given with the participants and talk in depth about what they believe would in fact be the needs of victims in the above mentioned situations.

For the end of the first part of the discussion, you might use the following answers to guide your recommendations to the audience:

#### On Case Study 1:

- You could advise them to ask her if there is anyone who could give her some support, such as friends or family. Has she thought about asking her doctor if she could have some support at home? In other words, help her to find some suitable support for herself.
- Explain to them why it is important to discuss it in supervision with their manager.
- Remember this is a non-judgemental service - we all live differently.

#### On Case Study 2:

- You should let them know they should acknowledge the victim's feelings or anger and revenge, and that these feelings are understandable in this situation. Encourage the person to think through the consequences of acting on these feelings in the way described, for example he may be prosecuted - explore what the impact of that might have on him and others.
- Remind them that they should encourage the victim to talk over his thoughts, and any evidence he might have, with the police.
- Many victims express the desire for revenge, but few actually resort to it.
- Explain to them why it is important to discuss it in supervision with their manager.

### On Case Study 3:

- Empathise with Sonia and acknowledge that she must be feeling very worried.
- Explore reasons for her not wanting to tell her mother, and encourage her to think about what might really happen if she told her mum or if she didn't.
- Offer to talk to her mum with her.
- Find out if there is another adult she can talk to.
- Check out what makes her think she might be pregnant, and advise her to go to her GP or a family planning clinic to find out if she is.
- If Sonia still refuses to talk to her mother, you will have to respect her confidentiality. A manager should make the decision about whether she is competent to receive a service without informing her mother.

## HANDOUTS

### Exercise Sheet 8

#### Case Study 1

You visit an 89-year-old woman who lives alone. She is a victim of burglary artifice (burglary by deception), the second time this has happened in recent months. You are concerned about the state of her house, which appears to you to be very dirty and smells bad. There is bedding in the front room, and the woman explains that she cannot get upstairs any more. She enjoys talking to you, although she does seem somewhat confused. When you ask if she has any contact with social services, she becomes upset and says: “I don’t want to be put into a home.”



How does this case make you feel?  
What should you do in this case?  
What do you think might be the consequences of your actions?

## Case Study 2

You telephone a 40-year-old man, who lives with his partner and two children. You have a brief conversation with him, during the course of which he makes it clear that he believes he knows who the burglar is and that he intends to “ensure he’s not able to do anything similar again”.



How does this case make you feel?  
What should you do in this case?  
What do you think might be the consequences of your actions?

### Case Study 3

You have visited the Carter family, whose house has been burgled. The mother tells you that her 15-year-old daughter, Sonia, has been very upset since then, and asks if you could have a word with her.

Sonia tells you that she's upset about the burglary, and then she starts crying and says that she is much more upset because she thinks she might be pregnant by her 16-year-old boyfriend. She insists she cannot talk to her mum about it, as her mum is preoccupied by the burglary and would be furious with her.



How does this case make you feel?  
What should you do in this case?  
What do you think might be the consequences of your actions?

## Activity 9: After crime

### Process Sheet 9 - notes for trainers

Themes	Criminal injuries compensation; Right to compensation; Crime prevention
Target Group	Victim support workers; Judicial practitioners; Police
Group size	15 to 20
Time allocation	50 minutes
Overview	In this activity the trainees will be able to identify the assistance that Victim Support can offer in the three key areas of criminal injuries compensation, insurance and crime prevention. Also, they will understand the importance of the right to compensation and appropriately informing about it. The trainees will also be given information on the current status of this right in the European Union's law.
Specific objectives	<ul style="list-style-type: none"> <li>• Understand the right to compensation</li> <li>• Learn what Victim Support can do</li> <li>• Take the needs of the victims into account</li> </ul>
Materials	<ul style="list-style-type: none"> <li>• Pens / Pencils</li> <li>• Exercise sheet no 10</li> <li>• Fact Sheet 4</li> <li>• Photocopies of compilation of national legislation on compensation</li> </ul>
Preparation	<ul style="list-style-type: none"> <li>• Familiarise yourself with the exercise and the fact sheet</li> <li>• Read Chapter 1 part 1 and read Challenges for Victims in Assessing Compensation Report</li> </ul>

### Instructions

- 1) You might like to invite a local crime prevention officer, or similar person, to give a presentation to complement this session; this will mean extending the timings of the session.
- 2) Introduce the session by explaining that Victim Support can offer a range of information and practical help to victims, and you will be looking more closely at this in a later exercise. This session highlights three areas that Victim Support can help with:
  - **Crime prevention:** explain how help with home security can be provided and crime prevention advice obtained.
  - **Insurance:** outline how Victim Support can assist with insurance claims.
  - **Criminal injuries compensation:** introduce and explain that VS branches must offer assistance to anybody wishing to apply, up to and including the stage of completing the application form, with the exception of people who clearly fall outside of the terms of the scheme.
- 3) Divide the audience into groups of three or five and give out the quiz sheet. Allow the groups 10 minutes to complete this.
- 4) Reconvene the group, read out each case in turn and take answers from the group. Give the correct answer and discuss it briefly before moving on. Give out the quiz answers sheet at this stage, or ensure that this is provided later. **Do not forget** that you should complete the answer sheet as a preparation to the workshop, since the presented version is only in accordance with European Union Law and therefore not adapted to your national law and Compensation Authority regulations. Also, you shall change the names and country references made to make it more suitable for your national reality.
- 5) Present Fact Sheet 4 and photocopies of your national legislation on compensation, giving the audience up to 5 minutes to read it. Discuss the information provided with the audience, questioning the different target groups separately at first and then bringing them altogether to the discussion. You can use the following questions to start up the reflection:
  - For judicial practitioners: what are the main problems you are confronted with in this area? How do envision the improvement of



this right? What do you believe the European Union can do to tackle the existent problems?

- For police forces: why do you believe it is important to immediately inform the victim on the possibility of a civil claim when he/she presents a criminal complaint? What would you need to better inform the victim?
- For victim support workers: how much information do you have on the matter? From your experience, what difficulties do victims normally encounter in terms of getting compensation? What do you expect from the European Institutions in order to change the *status quo*?

Additional trainer's notes

- Insurance

Our role as Victim Support Organisations might be to check, non-judgementally, if victims are insured. Ensure this is done sensitively. Highlight that many people living in high crime rate areas have a low income. The cost involved in taking out a policy may mean that these vulnerable households are not insured.

Volunteers can help fill in forms, if necessary, and help with contacting an insurance company. It may be appropriate for a loss adjuster to visit the victim, especially if there is confusion, or the victim is particularly vulnerable, or the victim requires that level of help. Volunteers need to be clear that they are not experts in insurance and refer to appropriate agencies.

- Criminal injuries' compensation

Trainers should read or distribute the hand-out (Fact Sheet 4) and the quiz answers sheet.

- Crime prevention

The support in regard to crime prevention and home security differs in local areas. This space has been left blank for you to insert what is available locally and how to access this.

## HAND-OUTS

### Fact sheet 4 - Right to compensation

Right to compensation is not only a matter of guaranteeing that offenders are liable for the damages caused, it is an alternative interpretation of retribution (Kaptein, 2004). Its symbolic value is essential for the recovery of victims, for they usually provide a sense of justice through the effort of the offender to repay damages.

#### *Framework Decision and compensation models*

2001 Framework Decision article 9 establishes that “every Member State shall take appropriate measures to encourage the offender to provide adequate compensation to victims”.

Research has shown that there are pitfalls to this procedure. In fact, compensation measures are not enforced and insolvency of the offender may delay compensation. However, the psychological impact is undeniably important for the victim.

There are various differences between the ways compensation is provided within the European Union. There is an important difference between the traditional known as the continental and the common law models.

The first model, known as the adhesion procedure, consists on the possibility of a presenting a civil claim that will adhere to the criminal proceedings, allowing a conjunction of two different lawsuits on the same criminal offense. However, this model also raises some issues. For instance, is the compensation in addition to the sanction or can it also be a substitute? And how is the payment enforced?

The latter model, the compensation order, entails the inclusion of provisions relating to payment of compensation within a sentence. The advantage of this model is that compensation has priority over a fine or paying costs and the States assumes the responsibility of collecting the compensation amount in a similar fashion to a fine.

There is a great variety of models to stimulate the offender to pay within the Member States. Some Member States, due to the application of the legality principle, do not accept that prosecutors consider payment of compensation on their decision to prosecute or not to prosecute. Other States accept payment of compensation as criteria for dismissal to prosecute. Finally in a third category of countries prosecutors mediate between the offender and the victim to obtain compensation.

Considering such a diverse approach to the same right along the different judicial systems, how can the right prescribed in the Framework Decision be guaranteed?

## *Implementation of the Framework Decision*

So far, in spite of the different methods used, as far as the possibility to stimulate the offender to pay is concerned there has been a generally satisfying implementation into national laws of article 9.

However, the compensation awarded through the adhesion procedure is solely an additional measure, which, in most member states, has to be enforced by victims themselves.

Timely and adequate payment seems to be a problem in the majority of countries, according to the national experts surveyed.

Therefore length of effective payment is one of the main problems when the state offers no assistance in the enforcement of the offender's obligation to pay compensation it stands to reason that this may well improve when more states opt for an active role in this respect.

### *Shall the State pay the compensation in advance?*

In spite of the preference on receiving compensation FROM the offender, there might be cases in which States anticipate payment, regardless of their subsequent right to demand that amount from the offender.

### *State compensation and the need for EU intervention*

Crime victims will often not be able to obtain compensation from the offender, since the offender may lack the necessary means to satisfy a judgment on damages or because the offender cannot be identified or prosecuted.

Some Member States approved legislation that allows State payment of compensation for violent crimes. This is an imposition of EU law<sup>24</sup>.

The European Union also has a key role to play. By creating a system of cooperation between the authorities of the Member States it can facilitate access to compensation in cases where the crime was committed in a Member State other than that of the victim's residence.

This system should ensure that crime victims could always turn to an authority in their Member State of residence and should ease any practical and linguistic difficulties that occur in a cross-border situation.

The *Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims* establishes that “where a violent intentional crime has been committed in a Member State other than the Member State where the applicant for compensation is habitually resident, the applicant shall have the right to submit the application to an authority or any other body in the latter Member State”. Compensation shall be paid by the Member State where the crime was

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<sup>24</sup> Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims

committed but Member States of residence of the victim shall always receive such complaints and interconnect with the authorities on the Member State where the crime took place.

The rules on access to compensation in cross-border situations operate on the basis of Member States' schemes on compensation to victims of violent intentional crime committed in their respective territories.

The European Commission has committed itself to gather more information on how this Directive has been implemented and what needs to be improved, so that by 2012 a package on this right is presented.

### Key points:

- Right to compensation is an alternative interpretation of retribution;
- 2001 Framework Decision establishes that “every Member State shall take appropriate measures to encourage the offender” to pay compensation;
- Difference between the continental and the common law models;
- The first model, known as the adhesion procedure, consists on the possibility of a presenting a civil claim that will adhere to the criminal proceedings;
- The second model, the compensation order, entails the inclusion of provisions relating to payment of compensation within a sentence;
- There are pitfalls to both systems and insolvency is an important barrier to effective payment;
- There is a great variety of models to stimulate the offender to pay within the Member States: prosecutors may consider payment of compensation on their decision to prosecute or not to prosecute; payment of compensation as criteria for dismissal to prosecute is forbidden; prosecutors mediate between the offender and the victim to obtain compensation;
- Timely and adequate payment seems to be a problem in the majority of Member States;
- In cases of violent criminality, States anticipate payment, regardless of their subsequent right to demand that amount from the offender;
- The European Union created a system of cooperation between the authorities of the Member States to facilitate access to compensation in cases where the crime was committed in a Member State other than that of the victim's residence;
- The rules on access to compensation in cross-border situations operate on the basis of Member States' schemes on compensation to victims of violent intentional crime committed in their respective territories.

## Exercise Sheet 10<sup>25</sup>

### Activity sheet - quiz

Spend approximately 10 minutes completing the quiz in small groups.

**Yes or No**

1. Rodney is a 20-year-old Scottish boy. He was cycling to work when he stopped at a shop to get a paper. As he came out of the shop, he saw a boy stealing his bike. He ran after the boy and was pushed to the ground, grazing his leg. Rodney was late to work and had his pay docked. Might he be able to claim compensation from the Compensation Authority?
2. Katka was mugged outside a Post Office in Prague a year and a half ago. Her pension book was stolen. She was injured in the attack and spent a couple of weeks in hospital. She is fine now and the perpetrator has been caught by the police, appeared in court and almost finished his sentence. Might she be able to claim compensation from the Compensation Authority?
3. Jaasper and Eva, a Dutch young couple, were on holiday in Malaga when Eva's handbag was snatched. Eva tried to hold on to her bag and her wrist was badly hurt. They cancelled their travellers' cheques but their camera and gifts were in the bag. They were both very shaken by the incident. They made a report to the police and gave statements with the aid of an interpreter. Might they be able to claim compensation from the Compensation Authority?
4. Andrea and Frank were on holiday in Greece when a man approached them holding a knife. The man wanted to burgle the couple but when Frank fought back he stabbed him twice in the chest and runaway with their handbags. Frank died minutes after he arrived at the hospital. Andrea was in shock when the police approached her and has been in therapy ever since she came back to Germany. Might she be able to claim compensation from the Compensation Authority?
5. Mr. Ahmed arrived home from work to find that his flat had been broken into. The back door had been forced open and a window had been smashed. His video and television were taken, along with other valuable items. The police referred him / give him contact info to Victim Support England & Wales. Might he be able to claim compensation from the Compensation Authority?

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<sup>25</sup> Based on Victim Support Northern Ireland's Support Skills Manual - Trainer notes for community-based service.

6. There has been a long-standing feud between the Silva and Medeiros families. In the pub last night, João Silva and Bernardo Medeiros came to blows. The landlord called the police, who took statements. Bernardo had some superficial cuts. João had broken ribs and a broken collarbone. Might João be able to claim compensation from the Compensation Authority?
  
7. Sandra left Oliver a few months ago after a violent and volatile relationship. He waited for her at the school gates and when she came to pick up her son he became verbally abusive and started to beat her up. The police took statements from all the witnesses, including her son. Sandra has withdrawn her statement and wants the whole thing dropped, as she does not want Oliver to get into trouble or her son to be upset. Might she be able to claim compensation from the Compensation Authority?
  
8. Quentin is 19 years old. He left prison two months ago, having been convicted of ‘joy-riding’. He was mugged yesterday coming away from a cash-point machine in Paris and was kicked badly in the head, causing injury. The assault was witnessed by Mr. Dupont and Quentin gave a statement to the police. Might he be able to claim compensation from the Compensation Authority?

### Activity sheet - quiz answers

1. Rodney is a 20-year-old Scottish boy. He was cycling to work when he stopped at a shop to get a paper. As he came out of the shop, he saw a boy stealing his bike. He ran after the boy and was pushed to the ground, grazing his leg. Rodney was late to work and had his pay docked. Might he be able to claim compensation from the Compensation Authority?

*The injuries sustained are unlikely to qualify for a minimum award.*

2. Katka was mugged outside a Post Office in Prague a year and a half ago. Her pension book was stolen. She was injured in the attack and spent a couple of weeks in hospital. She is fine now and the perpetrator has been caught by the police, appeared in court and almost finished his sentence. Might she be able to claim compensation from the Compensation Authority?

*Yes. She reported it to the police and co-operated with them, she was injured and the incident occurred less than two years ago.*

3. Jaasper and Eva were on holiday in Malaga when Eva's handbag was snatched. Eva tried to hold on to her bag and her wrist was badly hurt. They cancelled their travellers' cheques but their camera and gifts were in the bag. They were both very shaken by the incident. They made a report to the police and gave statements with the aid of an interpreter. Might they be able to claim compensation from the Compensation Authority?

*No. They were out of the country when the incident occurred. They could claim on their holiday insurance or possibly consider seeing if they were eligible for a claim under the Spanish compensation scheme.*

4. Andrea and Frank were on holiday in Greece when a man approached them holding a knife. The man wanted to burgle the couple but when Frank fought back he stabbed him twice in the chest and runaway with their handbags. Frank died minutes after he arrived at the hospital. Andrea was in shock when the police approached her and has been in therapy ever since she came back to Germany. Might she be able to claim compensation from the Compensation Authority?

*Yes. They were out of the country when the incident occurred. She could claim on their holiday insurance or possibly consider seeing if they were eligible for a claim under the Greek compensation scheme for the burglary, but as far as the murder case is considered,*

*she can claim compensation from the Spanish State through the UK's compensation scheme.*

5. Mr Ahmed arrived home from work to find that his flat had been broken into. The back door had been forced open and a window had been smashed. His video and television were taken, along with other valuable items. The police referred him / give him contact info to Victim Support England & Wales. Might he be able to claim compensation from the Compensation Authority?

*No, as no injury has occurred.*

5. There has been a long-standing feud between the Silva and Medeiros families. In the pub last night, João Silva and Bernardo Medeiros came to blows. The landlord called the police, who took statements. Bernardo had some superficial cuts. Billy had broken ribs and a broken collarbone. Might João be able to claim compensation from the Compensation Authority?

*Yes, but the tariff may be reduced if he is regarded as having contributed to his injury in any way, such as wilfully getting into a fight. The reduction could be 100 per cent, so he might get nothing.*

6. Sandra left Oliver a few months ago after a violent and volatile relationship. He waited for her at the school gates and when she came to pick up her son, he became verbally abusive and started to beat her up. The police took statements from all the witnesses, including her son. Sandra has withdrawn her statement and wants the whole thing dropped, as she does not want Oliver to get into trouble or her son to be upset. Might she be able to claim compensation from the Compensation Authority?

*The claim is likely to be turned down due to her failure to co-operate with the police in bringing the offender to justice.*

7. Quentin is 19 years old. He left prison two months ago, having been convicted of 'joy-riding'. He was mugged yesterday coming away from a cash-point machine in Paris and was kicked badly in the head, causing injury. The assault was witnessed by Mr. Dupont and Quentin gave a statement to the police. Might he be able to claim compensation from the Compensation Authority?

*Yes, but the tariff may be reduced, as he has recent criminal convictions.*



## Activity 10: Rules of protection

### Process Sheet - notes for trainers

Themes	Right to protection; Mutual recognition of judicial decisions; Crime prevention
Target Group	Victim support workers; Judicial practitioners; Police forces
Group size	15 to 20
Time allocation	45 minutes
Overview	In this activity the trainees will be able to identify the assistance that Victim Support can offer in key areas of protection to victims. By pointing out its limitations, the trainer will try to sensitise the audience for the importance of a good approach to the issue both by the judicial and police professionals, only possible if those practitioners understand the victims' needs. Also, they will understand the importance of the right to protection and appropriately informing about it. The trainees will also be able to understand the further problems presented to cross-border victims in this specific issue, and given information on the current status of this right in the European Union's law.
Specific objectives	<ul style="list-style-type: none"> <li>• Understand the right to protection</li> <li>• Learn what Victim Support can do</li> <li>• Take the needs of the victims into account</li> <li>• Raise awareness on the mutual recognition of judicial decisions and its importance</li> </ul>
Materials	<ul style="list-style-type: none"> <li>• Pens / Pencils</li> <li>• Fact Sheet 5</li> <li>• Flipchart</li> </ul>
Preparation	<ul style="list-style-type: none"> <li>• Familiarise yourself with the exercise and the fact sheet</li> <li>• Read Chapter 1 part 1 and read legislation concerning the topic in Annex section</li> </ul>



### Instructions

- a. You should show the participants, from the very beginning, that the training approach is based on mutual sharing of experiences. The trainers should provide the information using a simple and clear language. The trainers are meant to help police officers, judicial practitioners and victim support workers understand the victim's standpoint and therefore know how they can help victims better.
- b. Write the word protection on a flipchart and ask the participants what they think this right entails, why there is a need to further protect the victim, and what might be necessary for a victim to feel effectively protected. Let the participants freely give their answers and justify their choices. This should take 5 minutes.
- c. Afterwards, ask the participants how they perceive this need in their daily work. Keep this discussion for about 10 minutes.
- d. Now, present the participants with the following case example:

Eva is a Belgian actress, living in Hungary ever since she got married to Márk, a Hungarian classical singer. She lives there for 10 years now and became quite famous 5 years ago for a performance in a TV soap opera. Earlier this year, the newspapers shockingly announced that Eva had pressed charges against Márk for domestic abuse, accusing him of constant physical and psychological abuse, and even rape. The tabloids have been all over this case, even publishing photos of a confrontation between the couple in the streets of Budapest already after the inquiries within the criminal proceeding had started. The media also made public that the court had applied a restraining order against Márk but he could not be found.

Tired of the media pressure and afraid of reprisals by Márk, Eva flew back to her home country. Unfortunately, her nightmare did not end by changing addresses. In fact, 2 months later Márk started threatening her again by phone, a pre-paid Belgian cellphone. The media in Belgium then got interested in the case and wanted to interview Eva. Eva feels this is a never-ending bad dream and wants to know what she can do.

Then promote discussion about the case. For instance, you can ask the following:

- i. What might this victim most urgently need?

- ii. What added problems might come from the fact that she is not currently living in the place where the crime was committed?
- iii. Is there any way Eva can be protected from disclosure to the media in Belgium?
- iv. What could the police in Belgium do?

Discussions shall take 15 minutes.

Distribute Fact Sheet 5. Start by clarifying any doubts that the audience might have. Discuss more deeply the topic by giving concrete explanations and questioning the audience about their experiences in such cases, their difficulties, and how the new EU law might or might not solve some of the existent problems. This should take 15 minutes. By the end of the session, make sure the participants understand that:

- in the aftermath of a crime, and especially in violent crimes, victims will usually feel insecure, frightened, and will tend to relive the victimisation every time they bump into the offender.
- any public exposure has to be dealt with the most sensitive of approaches, since it might deeply affect a victim's psychological well-being;
- the rights of crime victims are to be applied equally regardless of age, sex, sexuality, race, disability, occupation, religious belief or political opinion of the person concerned;
- each Member State shall ensure that its competent authorities can take appropriate measures to minimize the difficulties faced where the victim is a resident of a State other than the one where the offence has occurred, particularly with regard to the organisation of the proceedings (2001/220/JHA: Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings), and that also applies to protection measures;
- effective and fast mutual recognition of sentences is essential for the welfare of the victim, and both judicial practitioners and police forces have a role to play in this matter.

## Outputs

The participants understand the victims' perspective and needs and understand what mutual recognition of judicial decisions entails. Participants understand what their role is in this particular issue, both when it comes to national and non-national victims.

## HAND-OUTS

### Fact sheet 5 - Right to protection

Definition: Article 8 of the 2001 Framework Decision states that all Member states shall ensure the protection of victims and their relatives and friends, particularly when there is strong indication that revenge actions or intrusion on the victim's private life are imminent. This must include the protection of the victim's privacy and photographic image during court proceedings, and, whenever possible, avoid further contacts between victim and offender in the court premises (*i.e.* separate waiting rooms in court).

#### Extent of the right to protection:

Right to protection entails:

- protection from further contact with the offender, that might make the victim relive the crime or increase the victim's anxiety;
- protection from further harm inflicted by the offender;
- protection from invasion of privacy, for instance by the media;
- protection of personal data;
- avoidance of secondary victimisation.

#### How has it been fulfilled?

*Hearings on camera* - Although all Member States have the possibility to hold hearings on camera, it is usually left to the discretion of the courts (fourteen member states), which is the weakest form of protection. The highest level of protection - to make hearings on camera obligatory if the victim so requests - was reported in eight member states.

*Victim protection* - As to the protection of the victim against threat and intimidation by the offender, fourteen Member States had five or more protection measures in place. The measures that were most favoured were police protection, preventive custody and relocation of the victim. The right to complete anonymity was implemented by no less than fourteen member states, although this right may often apply to certain types of victims.

All in all, every Member State seem to endorse the importance of protection measures and they often apply more than one measure to make sure that the victim is protected against the offender.

*Separate waiting rooms* - Separate waiting areas, however, are not available to victims in most Member States. Twenty four reported no obligation to provide for separate waiting areas in court premises.

*Personal information* - Finally, most Member States place limits on the disclosure of the victim's personal information. The measure that was favoured the most was the pre-trial principle of secrecy (seventeen Member States).

### What will change with the new Directive?

Better conditions to avoid contact with the offender shall be created, not only in the court but also “in any venue where victims may have personal contact with public authorities due to their being a victim and in particular venues where criminal proceedings are conducted”<sup>26</sup>. To make it effective, best practice and guidance shall be offered to public officials, informing them on how to assist in avoiding contact.

In order to prevent secondary victimisation, the Commission took into account the results of the above mentioned reports on the implementation of the Framework Decision. Therefore, it is ensured in this new Directive (through Article 20) that the victim is interviewed as early as possible and that interaction with authorities is as easy as possible whilst limiting the number of unnecessary interactions. Also, as a rule victims may be accompanied by a trusted person of their choice.

All protective measures in the proposed Directive are applicable to all crime victims and not only to vulnerable victims. This is quite a milestone, placing “the victim” at the centre of the judicial system.

Another important change to note is the encouragement of the media to pursue self-regulatory measures in order to protect victims' privacy, personal integrity and personal data (Article 23(2)).

### What are in fact the needs of victims?

- Safety from further offenses;
- Security in order to reduce anxiety and start coping with his/her recovery;
- Trust the judicial system - so that there can be security;
- Feel respected and paid suitable attention;
- Privacy guaranteed - avoid media coverage and disclosure of the case (except where legally required);
- Time for recovery - reducing the amount of inquiries helps the victim dedicate him/herself to his/her own recovery and stop reliving the criminal offense

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<sup>26</sup> Excerpt from the proposed Directive text, article 19.

## How can cross-border victims be better protected? The importance of mutual recognition of protection measures

In order to prevent a new crime being committed against the victim in the executing State (Member State to where the victim moves), that State should be given a legal basis for recognising the decision previously adopted in the issuing State (Member State where the crime was committed) in favour of the victim, while also avoiding the need for the victim to start new proceedings or to produce the evidence in the executing State again as if the issuing State had not adopted the decision.

Insofar, the protected person receives the same or equivalent protection in the executing State as he/she would have received if the protection measure had been issued in that State *ab initio*, thus avoiding any discrimination.

Mutual recognition<sup>27</sup> of judicial final sentences is already guaranteed and is crucial, but it is also of the utmost importance to provide victims with the recognition of protective measure, also judicial decisions. Judicial cooperation is therefore further accomplished by the proposed Directive of European Protection Order<sup>28</sup>.

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<sup>27</sup> The new package of the European Commission on victim's rights also includes improvement on mutual recognition by establishing a Regulation for Mutual Recognition of Protection Measures on Civil Matters

<sup>28</sup> Proposal for a Directive of the European Parliament and of the Council on the European Protection Order, COD/2010/0802. For the purposes of this law, "European protection order means a judicial decision relating to a protection measure issued by a Member State and aiming at facilitating the taking by another Member State, where appropriate, of a protection measure under its own national law with a view to the safeguard of the life, physical and psychological integrity, freedom or sexual integrity of a person", in Article 1.

## Activity 11: Vulnerability is not frailty

### Process Sheet - notes for trainers

Themes	Vulnerable victims, right to respect and recognition
Target Group	Victim support workers; Judicial practitioners; Police
Group size	15 to 20
Time allocation	45 minutes
Overview	In this activity the trainees will be able to identify vulnerable victims and their specific needs. Also, they will understand the importance of the right to respect and recognition for such victims and of an especially attentive approach to them by all practitioners that deal directly with such victims.
Specific objectives	<ul style="list-style-type: none"> <li>• Understand the right to respect and recognition</li> <li>• Learn what Victim Support can do</li> <li>• Learn what police and judicial practitioners should do</li> <li>• Take the needs of the victims into account</li> <li>• Understand who are vulnerable victims and why</li> </ul>
Materials	<ul style="list-style-type: none"> <li>• Pens / Pencils</li> <li>• Exercise sheet no 13</li> <li>• Powerpoint 4</li> </ul>
Preparation	<ul style="list-style-type: none"> <li>• Familiarise yourself with the exercise sheet</li> <li>• Read Chapter 1 part 1 and read relevant legislation</li> </ul>



### Instructions

- 1) You might like to invite local experts on the matter, professionals from various areas that have already developed work with vulnerable victims (for instance, psychologists, pedo-psychiatrists, VSO policy makers, public prosecutors), to give a presentation to complement this session; this will mean extending the timings of the session.
- 2) Distribute exercise sheet nr 13. Give trainees 5 minutes to reply.
- 3) Ask the trainees to tell the whole group what the images make them reflect upon. Ask them to identify victims in those situations, distinguishing vulnerable victims among those. This should take 10 minutes.
- 4) Explain who in fact vulnerable victims are, how one can determine who is a vulnerable victim and what special needs they have<sup>29</sup>, using Powerpoint presentation 4. Do not forget to mention the possible modification introduced with the proposed new Directive (if it enters in force with such wording), which brings an individual assessment of vulnerability (bear that in mind for picture nr 3 on the exercise sheet). Give time for Q&A. This point should take 30 minutes.

### Outputs

The trainees understand how to determine who is a vulnerable victim. Hence, they clearly recognise the importance of taking special attention to the way they deal with vulnerable victims for their special needs.

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<sup>29</sup> You will find this information on Chapter 1, part 1, page 14 and on Chapter 1, part 2.

## HANDOUTS

### Exercise Sheet 13





# CONCLUSION



CAB  
VIS

Capacity building for EU  
crime victim support



Victim Support Europe

A new perspective on victims' rights has just started to set on the EU institutions' minds, one in which the victim is the centre of the judicial system, one in which the victims' needs are integrated and prioritised and therefore respected.

Cross border victims are particularly at stake when we talk about European measures, as they are especially vulnerable in a Union without borders, where freedom of movement becomes a reality.

As the European Commission initiates a new package on victims' rights, training becomes crucial to better implement this new paradigm.

Through this training manual we attempted to concise some of the necessary background information to provide training in this field, as well as give new materials for trainers to use.

The materials hereby included were mainly based on existent training materials from different Victim Support organisations within Victim Support Europe.

We remind you that this is not an extensive manual, only a selection of materials and information that we hope is useful for your trainings.

**Cross border crime** – or transnational crime is, according to Nikos Passas<sup>23</sup>, “a conduct which jeopardises the legally protected interests in more than one national jurisdiction and which is criminalised in at least one of the states/jurisdictions concerned”. This might entail various forms of organised crime, such as human trafficking.

**Cross border victimisation** – the effect of crime on a person that became victim in a country other than her/his own.

**Defendant** – procedural status given to the person in relation to whom there are reasonable grounds to believe he or she has committed a crime which grants such person a series of procedural rights and duties.

**Directive** – is a legislative act of the European Union in which only the goals thereby established are binding, whereas the means adopted are left to some discretion to Member States.

**Filing** – closure of a criminal inquiry by not putting the Defendant to trial given that no sufficient evidence was gathered to prove that the crime occurred or that it was committed by a particular suspect.

**Framework Decision** – is a legislative act binding in all its elements that has an individual character (only applicable to its recipients) and might be used in courts by individuals.

**Implementation** – effective adoption of EU norms into the Member States law and practice, implying the adoption of execution measures.

**International crime** – acts prohibited under International Criminal Law.

**Judgement** – decision taken by a collective court or jury court.

**Jurisdiction** – a particular geographic area containing a defined legal authority, defining the area where certain laws are applicable and which court is proper to bring a particular case.

**Organised crime**<sup>24</sup> – the Council of Europe agreed upon four mandatory criteria to define organised crime, plus two to seven optional criteria. The mandatory criteria are:

1. group must have at least 3 people;
2. gathered for prolonged/indefinite period;
3. suspected/convicted of committing serious criminal offences;
4. with the objective of pursuing profit and/or power;
5. Makarenko suggests that use of violence should be mandatory criteria too.

**Principle of mutual recognition** - principle of mutual recognition is founded on notions of equivalence and trust. It means that a State recognises a decision taken by an authority in another Member State as it stands inside

23 - NIKOS, P. et al (2002), *Upperworld and Underworld in cross-border crime*, page 11.

24 - MAKARENKO, T. (2004) *The Ties that bind: uncovering the relationship between organised crime and terrorism*.



their jurisdiction. Therefore it implies that the judicial act is considered in its interpretation of all provisions applicable to the case<sup>25</sup>.

**Principle of proportionality** – a general principle that establishes that a public authority may not impose obligations on a citizen except to the extent to which they are strictly necessary in the public interest to attain the purpose of the measure.

**Principle of subsidiarity** - a general principle of European Union law according to which the EU may only act (i.e. make laws) where action of individual countries is insufficient. The principle was established in the 1992 Treaty of Maastricht.

**Protection measures** – judicial orders that impose the offender to take or abstain of taking certain behaviour in order to protect the victim and allow the regular functioning of the criminal proceeding.

**Regulation** – legislative act of the European Union that becomes immediately enforceable as law in all member states simultaneously.

**Sentence** – name given to the decision of a singular court.

**Transposal** – reception of an EU norm by the national law, transforming internal legislation accordingly.

**Trial** – phase of criminal proceedings during which evidence is produced, as a rule at a public hearing, and at the end of which a sentence/judgement is passed, either to condemn or to acquit the accused.

**Witness** – person who, given his or her knowledge of the facts, is called to collaborate with the authorities in finding the truth.

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VICTIM SUPPORT NORTHERN IRELAND, The impact of crime – community-based service, Belfast.

VICTIM SUPPORT NORTHERN IRELAND, Working with diversity and promoting equality, Belfast.



### **Online resources**

Office for Victims of Crime (Office of Justice Programs) <http://ovc.ncjrs.gov>

Compass – a manual on human rights education with young people <http://eycb.coe.int/compass/en/contents.html>

Skills for justice <http://www.skillsforjustice.com>

FEMA <http://www.training.fema.gov>

Australian Government – Department of Foreign Affairs and Trade [http://www.smarttraveller.gov.au/tips/working\\_os.html](http://www.smarttraveller.gov.au/tips/working_os.html)



## ERRATA

### Chapter 1: Background information

- p. 7, third paragraph. “As Letschert and Groenhuijsen state, “the addition of the cross-border dimension looks, at first sight, to seriously limit the thematic scope of competences of the EU, also with regard to improving victims’ rights” (2011). Following Peers (2008), the authors believe the powers of the EU would be rendered meaningless if they could only be applied in cross-border proceedings” should be “As Letschert and Groenhuijsen (2011) state, “the addition of the cross-border dimension looks, at first sight, to seriously limit the thematic scope of competences of the EU, also with regard to improving victims’ rights” (p. 25). Following Peers (2008), the authors believe the powers of the EU would be rendered meaningless if they could only be applied in cross-border proceedings”.
- p. 8, first paragraph. Lack of footnote 8 that should be: In Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on mutual recognition of protection measures in civil matters, COM(2011) 276.
- p. 9, second paragraph. “As Anthony Pemberton states, “‘implementation’ [is considered a] synonymous with ‘transposal’ while from the victims’ perspective the emphasis should be on ‘compliance’” should be “As M.S Groenhuijsen and A. Pemberton (2009) state, “‘implementation’ [is considered a] synonymous with ‘transposal’ while from the victims’ perspective the emphasis should be on ‘compliance’” (p. 49)”.
- p. 9, new reference to “As M.S Groenhuijsen and A. Pemberton (2009) state, “‘implementation’ [is considered a] synonymous with ‘transposal’ while from the victims’ perspective the emphasis should be on ‘compliance’” (p. 49)”. Reference text: Groenhuijsen and Pemberton (2009), *The EU Framework Decision for Victims of Crime: Does Hard Law Make a Difference?*, European Journal of Crime, Leiden: Martinus Nijhoff Publishers, p. 49.

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- p. 183, before IRISH TOURIST ASSISTANCE SERVICE, Listening Support Manual, Dublin should be GROENHUIJSEN, M.S; PEMBERTON, A., *The EU Framework Decision for Victims of Crime: Does Hard Law Make a Difference?*, European Journal of Crime, Martinus Nijhoff Publishers, Leiden, 2009.

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