

# Victim Support Europe Contribution

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COMBATING CHILD SEXUAL ABUSE – REVIEW OF EU  
RULES



## About Victim Support Europe

Victim Support Europe (VSE) is the leading European umbrella organisation advocating on behalf of all victims of crime, no matter what the crime, no matter who the victim is. VSE represents 62 member organisations, providing support and information to more than 2 million people affected by crime every year in 30 countries. Founded in 1990, VSE has been working for 30 years for a Europe, and a world, where all victims have strong victims' rights and services, whether they report the crime or not. We work towards this mission through advocacy to improve European and International laws, through research and knowledge development and through capacity building at the national and local level.

## Introduction

VSE welcomes the opportunity to provide input to the Commission's proposal to review Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography. While the legislative framework for victims' rights and child rights have strongly developed over the last thirty years, we believe that important challenges and gaps remain and that the EU has an important role in helping overcome those challenges to achieve real change for victims

Regarding possible options for action, as with other evaluations, this is highly dependent on understating the nature of the problems, barriers to achieving objectives and gaps in existing action. Understanding that detailed analysis is required, in VSE's experience of the implementation of existing EU legislation on victims' rights, the fundamental issues relate to:

- **Failure of Member States to implement existing rules:** driven by a lack of prioritisation or a lack of understanding of the best means to implement. Improvements in EU legislation such as more detailed requirements, making State obligations mandatory, clarification and focus on common best practices – are essential mechanisms for ensuring that a consistent, practical implementation of laws is achieved within a reasonable period by all Member States and not just the most advanced.
- **Insufficient coverage of specific issues:** the range of limitations on EU action, legal basis, proportionality, subsidiarity, political and economic feasibility all result in important issues not being included within EU legislation. At the same time, development in knowledge, emerging crimes, methods, vulnerabilities also mean that it is common for any EU legislation that is a decade old to have gaps in rights and obligations. We believe this is true of the current legislation even when considered in conjunction with additional EU Victims legislation. It is essential that any evaluation, fully considers the potential for incorporating new rights not already established.
- **Lack of oversight and enforcement mechanisms:** with broad language, lack of clarity, lack of data, it is difficult for the EU, national organisations and individuals to press for full implementation of laws and to protect rights through legal redress. More specific drafting, with clear indicators on implementation, combined with obligations on the collection of data –an increasingly critical issue in this field where a lack of data is repeatedly used to slow or block change – as well as ideally redress mechanism (as might exist for other

sectors and indeed exist for defendants), and oversight mechanisms, can all improve implementation of existing and future legislation.

Whilst we understand the concerns of some stakeholders that changes to legislation could result in a weakening of the existing laws – something that must not happen – we believe the continual progress of victims’ legislation in the EU has demonstrated that EU mechanisms for proposals and negotiation of legislation tend to result in incremental improvements. With that in mind and subject to a detailed evaluation, we believe **baseline scenario n.4 foreseeing legislative changes, supported by non-legislative measures** is most likely to achieve the greatest positive impact for child victims of abuse and exploitation. In the consideration of such legislation, it will be critical to be coherent, in particular, with any new Victims’ Directive and Gender Based Violence Directive. At the same time, the coverage of an issue by the victims’ directive should not be assumed *prima facie* to be sufficient to respond to the specific situation of child victims of abuse and exploitation. Conversely, the coverage of issues in new child sexual exploitation legislation should not be seen as the sole legislative avenue for addressing the specific issues of child victims.

To support an understanding of the above position, VSE has provided a non-exhaustive example **list of issues where improvements to victim responses through legislative and non-legislative action would benefit child victims** and which should be addressed through any evaluation of the 2011 Directive on Combating Child Sexual Abuse and Exploitation (hereafter ‘the 2011 Directive’).

## Examples of key issues with regards to the 2011 Directive

### Prevention measures – Articles 22 and 23

We believe it’s fundamental to integrate child sexual abuse (CSA) prevention measures to a broader range of prevention policies. Any strategy to prevent and tackle CSA and child victimisation must therefore seek not only to address the demand end of criminal activity but also the socio-economic, psychological and awareness factors that leave victims at risk of victimisation. We believe that the EU can have an important role in this and are therefore calling the European Commission to encourage and support Member States to develop and implement education and training programmes and raising-awareness programmes through the upcoming legislative framework. These programmes must focus on inter alia **resilience training and education on victimisation related issues** (understanding the impact of trauma, victims’ rights and child rights, knowledge of available support services, identification of signs of victimisation and how to get help, how to increase safety of individuals) as well as on broader skills development such as effective communication and empathy.

Recent figures show that CSA victims are becoming younger and younger, with 92% of victims aged between 3 and 13<sup>1</sup>. It is therefore important that this training is introduced at school, for both children and teachers, as early as possible. Considering the victims’ young age, similar training must be introduced to the general public (adults). Training on how to recognise CSA material online and what to do when you come across it should be included as well.

The legislation on protecting child victims of abuse and exploitation should detail what these education programmes and training should entail and develop a framework for their organisation within educational and professional structures.

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<sup>1</sup> INHOPE, Annual Report, 2019, available at <https://www.inhope.org/EN/articles/inhope-launches-2019-annual-report>.

Finally, regarding the **training of professionals** who are likely to be in contact with children, we believe that the Directive should similarly detail what training should entail and develop a framework for their organisation such that the application of the training is facilitated through complementary tools and procedures – training alone will not result in change. All professionals, beyond the police, - such as stakeholders from: medical care, social services, education (schools, universities), communities (sports club, other activities) – should be targeted by these measures.

Finally, we encourage the Commission to include these prevention measures in a comprehensive and global approach to child rights, protection and support. These measures should particularly cover the **linkages between abuse and exploitation and child disappearance**. In a number of cases, CSA and/or grooming can lead to children going missing and missing children becoming victims of CSA<sup>2</sup>. Preventing children from going missing will help prevent CSA and preventing CSA will help reduce the number of missing children's cases. In that regard, stronger cooperation between law enforcement and hotlines for missing children, as well as with families during investigations, should be implemented.

### **Information systems**

Information rights granted by the 2012 Victims' Rights Directive are particularly relevant for child victims, who are among the most vulnerable groups of victims. For this reason, child victims should be able to benefit from reinforced, adapted and child-friendly information rights within any EU legislation focusing on protecting child victims. All authorities that are in contact with child victims must be able to provide information **in a format and language adapted to their specific needs, age and maturity**. It is fundamental that children are given relevant information about their rights and their role in the criminal proceedings, be asked their opinion on decisions involving their case, to grant them the ability to fully participate in the proceedings – within the limit of their maturity and willingness - and be heard as a subjects of rights. A number of these rights are well set out in existing EU legislation. However, they are often poorly implemented or not well adapted to the specific needs of children. A more systemic and structural approach to communication with child victims is necessary. This means that information provision and communication is co-ordinated across the multiple stakeholders that engage with child victims to ensure information is provided in a consistent manner, that it is repeated, provided in different forms and contexts and is as simple and easy to understand as possible. VSE particularly encourages the EU to push for this comprehensive approach to victim communications at both the national and regional level taking into account the cross border aspects of child sexual exploitation.

### **Support and assistance to child victims – Articles 18, 19, 20 – National Support Frameworks**

Providing adequate and tailored support and assistance to child victims is fundamental in their recovery and in preventing secondary victimisation, as highlighted in the 2011 Directive. Within the next legislative framework, the Commission should evaluate access conditions for children to support services in all Member States, particularly restrictions linked to age. More broadly, the Commission should **evaluate what accessibility of support services means for child victims** and develop innovative ways of helping children to come forward, using accessible, child friendly and high quality channels of communication with child victims, for providing support and information: online platforms and chats, 116 and national helplines etc. The type of support and the focus of such support should also be

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<sup>2</sup> Missing Children Europe, Report of the online symposium, Child Safety First: Multi-stakeholder approaches to fight online child sexual abuse, March 2021

expanded to ensure practical assistance in coping with ongoing crime such as non-consensual image sharing and to help a child's social network e.g. family and friends, to be supportive of them.

When looking at online child abuse or exploitation, a high number of cases have a **cross-border dimension**, which often results in additional difficulties and barriers in accessing their rights, information and support. The provision of assistance and support to child victims should look at ways to ensure that they keep receiving support even when moving from one Member State to another, and that they are provided support in the long-term.

We believe that there is also a need for an **increased multidisciplinary approach** in the frameworks established for protecting and supporting child victims. Professionals from different sectors should be included in the child's support system, in order to ensure appropriate medical, psychological and social support.

Overall, it is clear that to achieve genuine and full access to quality support requires a **comprehensive framework of support**. This means that Member States must have a strategic approach to the design and delivery of support systems whereby victim resilience and self-help is developed, victim networks are strengthened and fully co-ordinated to help victims, that national services exist specialised in supporting all victims and which include child focused approaches, specialist services exist that support child victims of sexual exploitation, specialist support capability is developed in organisations such as the police and prosecution to assist victims when engaging with those services and that wider organisations such as education establishments, social services etc. have support capabilities in line with broader child protection approaches. It is through these national development and co-ordination mechanisms that children will have genuine access across the territory of a country to support in all circumstances.

### **Child friendly justice systems**

In line with the Council of Europe 2010 Guidelines<sup>3</sup>, any EU legislation on child sexual abuse and exploitation should ensure that all national justice systems must be child-friendly, that is to say accessible, age appropriate, adapted and focused on the needs of the child.

As child victims are of the most vulnerable groups of victims, they are at a high risk of suffering from secondary victimisation during criminal proceedings, leading to the development of long-term trauma affecting their childhood and adulthood. Member States must be encouraged to look at introducing **innovative ways to support children during proceedings both to reduce the trauma of participation but also to increase the ability to provide evidence**, such as the use of facility dogs that have been demonstrated to significantly reduce the victims' anxiety, providing a contact-comfort and a safe feeling<sup>4</sup>.

Linked to information rights developed above, all professionals who are in contact with child victims during the criminal proceedings should be **trained on understanding the impact of trauma** and crime on children, their specific rights and needs and how they should be taken into account within the proceedings. The legislation on protecting child victims of abuse and exploitation should detail what these trainings should entail and develop a framework for their organisation (mandatory/optional

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<sup>3</sup> Council of Europe, Guidelines of the Committee of Ministers of the Council of Europe on Child-friendly Justice, 2010, available online: <https://www.coe.int/en/web/children/child-friendly-justice>

<sup>4</sup> For more information on the use of facility dogs in court proceedings, please consult VSE's project page Facility Dogs Europe – FYDO, available at: <https://victim-support.eu/what-we-do/our-projects/ongoing/prjct-fydo/>

trainings, frequency, impact assessment and review, etc) and make sure that these trainings serve as a baseline to evaluate whether professionals are fit to work with children or not.