



**Victim Support**  
Europe



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# VICTIMS OF CRIME

## MODEL PROVISIONS PAPER

VSE's vision for a revised victims' rights directive

Victim Support Europe

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Victim Support Europe (VSE) is the largest umbrella organisation advocating for the rights of all victims of all crimes in Europe and beyond. VSE represents 78 national member organisations in 36 countries providing support and information services to more than 2.5 million people affected by crime every year.

This model provisions paper was written by Levent Altan, Léa Meindre-Chautrand, Annelies Blondé, and Solène Baudouin-Naneix.

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# Introduction

Both the European Union and governments of EU Member States have long understood their roles in protecting citizens from crime and harm. For decades, they have accepted their responsibilities to address the needs of victims. They have recognised the cost of crime, its impact on victims, and the wide-ranging costs to societies and economies where we fail to address victims' needs.

As a result, the EU [Victims' Rights Directive \(VRD\)](#), which establishes essential standards for the rights, support, and protection of victims of crime, was adopted in 2012. It was an important step in establishing common standards to safeguard victims' rights and providing victims with support and protection.

At the same time, gaps in the full and effective implementation of the Directive remain and many Member States still fail to meet their obligations. Victims face significant challenges - they do not receive the information they need in a way they can understand and appropriate support services are often unavailable; victims are left without assistance to deal with and recover from the harm they have suffered. Victims also find themselves vulnerable to revictimisation, they lack the protection they need to keep them from further harm during their interaction with the justice system.

The obligations set out in the Directive fail to fully ensure victims are effectively supported and protected. Vague language and unclear obligations linger, along with numerous exceptions and insufficient guidance on how the provisions should be implemented, inhibiting the enforcement of victims' rights.

The revision of the Directive's text is crucial to **strengthening existing rights, establishing clearer obligations for Member States and establishing new rights for victims**. VSE believes that this can be done through:

- Clear and detailed drafting;
- Developing systemic solutions to improve coordination, planning and oversight;
- Empowering States, victims, and organisations to ensure proper implementation through evidence, data and enforcement.

Without sufficient legislative clarity, victims will continue to face unequal treatment across the EU due to disparities in implementation.

On 12 July 2023, the European Commission published its [proposal, amending the Victims' Rights Directive](#). This proposal aims to address shortcomings in the implementation of the Directive, as identified in the Commission's [VRD evaluation report](#) and which require action at the EU level: such as victims not receiving information on their rights, and victims not benefitting from support and guidance before participating meaningfully in criminal proceedings.

The Commission notes that, since 2012, minimum standards have risen because of victim-centred justice, and judicial and technological developments. Therefore, the proposal for a revised VRD should reflect even higher minimum standards than those adopted in 2012.

**VSE has long advocated for a revision of the VRD that establishes a strong foundation for the rights of all victims of crime, without exception. The Victims of Crime Model Provisions Paper presents VSE's vision for a revised Victims' Rights Directive.**

It aims to systemically address the failings of the current Victims' Rights Directive. In doing so, it strongly supports amendments to the Directive proposed by the European Commission on 12 July 2023, whilst addressing concerns with and shortcomings in the proposal.

The Victims of Crime Model Provisions Paper reflects several years of research which confirms that there have been wide ranging implementation failures. Our research and consultations suggest that the key to successful implementation is a **fundamental shift in thinking – a systemic and integrated approach to victims' issues.**

**This reflects some key challenges in the victims' field at the national level:**

- **Addressing all victims' issues across all fields is highly complex** and involves multiple sectors and actors, different victims and victims' needs, and adapting responses to suit various situations and timeframes. The environment is complex to navigate and co-ordinate, not only for State and civil society actors, but also for the victims themselves.
- **A fundamental rights approach establishes that there is no hierarchy of victims, whilst a victim-sensitive approach requires that responses are targeted** and adapted to the needs of individual victims. This tends to result in States focusing on some victim groups to the exclusion of many others, while competition between organisations ultimately harms the victims they should support. This creates fragmented systems where duplication and

omissions are commonplace, and where responses – that could benefit all victims of crime – are only applicable to limited groups.

- **Actions in the victims' field are often driven by short-term political priorities** and implemented on an ad hoc basis, preventing the long term, strategic development of rights and services.
- **A change in the behaviours, beliefs, and attitudes of those working with victims is necessary** to realise successful implementation of the Directive. Continuing bias, myths, lack of understanding of victims' situations, or their relevance and importance to proceedings, are amongst some of the key areas requiring change. However, change requires legislative and procedural actions as well as long-term training, tools, and guidance and leadership at every level.
- **The way we measure success in justice is fundamentally flawed** since the treatment, experience and safety of victims are generally not even considered, nor of equal importance to other outcomes such as fair trial rights or efficiency of justice. Only by incorporating a victim-sensitive approach to justice, can our justice systems truly succeed in addressing the harm caused by criminals.

To address these wide-ranging challenges, we propose the implementation of national victims' strategies and the adoption of comprehensive national support frameworks, effective communication frameworks, and safe justice systems.

Such actions address and coordinate the support, protection and justice needs of all victims of crime, without risking fragmentation. They enable Member States to determine priorities, identify synergies for action across various victims' fields and groups, and lessen the administrative burdens of services and authorities which work with victims.

They establish a strong foundation of rights and services for all victims, ensuring no victim is forgotten and that no one falls through the gaps. On this foundation, specialised responses are developed which operate in a co-ordinated manner.

VSE has evidenced the need for this approach in its recent policy papers, namely

- [Policy Paper on National Framework for Comprehensive Victim Support](#);

- [Policy paper on transforming on how we communicate with victims;](#)
- [Discussion paper on Safe Justice for Victims of Crime;](#)
- [Policy paper on Journey from Crime to Compensation;](#) and
- [Policy paper on Victim Support and Data Protection.](#)

A list of other key resources can be found in the Annex to this paper.

Whilst the proposals in this paper are ambitious and whilst we have not carried out a full impact assessment, we have taken into account the limitations of EU action on victims' rights (legal basis, subsidiarity, and proportionality) as well as political and financial feasibility.

Our approach is in-line with that taken by EU institutions, which have taken far-reaching action on victims' issues and raised minimum standards for victims' rights, for instance the European Commission's adoption of a [proposal for a Directive on combatting violence against women and domestic violence](#).

VSE understands that some of the proposed changes have cost and resource implications. However, the introduction of a systemic and integrated approach to victims' issues within a national support framework will increase complementarity and efficiency whilst decreasing the administrative burdens of various services and authorities that support victims.

In turn, this will lead to the increased well-being and resilience of victims, and will decrease costs on society connected to the long-term impacts of crime on victims, including loss of work and medical attention. The costs of implementation must always be taken into account, as should the significant costs of any failures to act – in conjunction with the significant benefits to victims, societies and economies – bearing in mind key UN Sustainable Development Goals which include poverty reduction, social cohesion, equality, justice and more.

This Model Provisions Paper proposes solutions which will genuinely impact hundreds of millions of EU citizens. These are solutions which recognise and address many seemingly intractable problems faced by Member States when assisting victims.

Whilst a few new rights have been proposed, the fundamental focus of our paper is to both remind Member States of their commitments under the UN Declaration of Basic Principles of Justice for Victims of Crime and abuse of Power, which was adopted in 1985, and assist them to properly implement their obligations under the VRD.

Every year, around 75 million EU citizens, residents and visitors fall victim to serious crime in the European Union. Since the EU Victims' Directive came into force, 750 million victims have been unable to fully access their European rights. We cannot afford to wait another ten years for improvements to be implemented and leave another 750 million victims without support, protection, and justice.

We hope this paper will support the EU Commission, Members of the European Parliament, States of the EU, Civil Society, and victims themselves, in their review of the EU Victims' Rights Directive to ensure that meaningful and impactful laws for victims are adopted.

# Proposed Model Provisions

The following section sets out a proposal for amendments to the 2012 Victims' Rights Directive. For ease of reading explanations for the proposals are provided in Annex with an 'in-document link' to each section.

The structure of the provisions, laid out below, largely follows that of the current Directive and, as far as possible, incorporates the EU Commission's proposed amendments.

To facilitate an easy understanding of what drafting is new and whether proposed changes from VSE or the European Commission, the following colour coding is adopted:

Green reflecting: new language by VSE

Orange reflecting: EU Commission drafting.

Black reflecting: Original Directive text. Deleted drafting is ~~struck through~~.

## Chapter 1 – General Provisions

### Article 1 – Objectives ([Commentary link](#))

- 1) The purpose of this Directive is to ensure that victims of crime are able to report crime, receive appropriate information, support and protection and are able to participate in criminal proceedings, in a safe manner that minimises the risk of harm, and supports recovery and access to justice.

Member States shall ensure that victims are recognised and treated in a respectful, sensitive, tailored, professional and non-discriminatory manner, in all contacts with victim support or restorative justice services or a competent authority, operating within the context of criminal proceedings.

- 2) The rights set out in this Directive shall apply to victims in a non-discriminatory manner, including with respect to their residence status, and with respect to their race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, gender, gender expression, gender identity, sex, sexual orientation, residence status or health. In respecting equality principles Member States shall ensure that obligations on the accessibility of victims with disabilities are fully respected in the implementation of rights and services in this Directive, including by ensuring that victims with disabilities can benefit from such rights and services directly and not through third parties.

- 3) Member States shall ensure that in the application of this Directive, where the victim is a child, the child's best interests shall be a primary consideration and shall be assessed on an individual basis. A child-sensitive approach, taking due account of the child's age, maturity, views, needs and concerns, shall prevail. The child and the holder of parental responsibility or other legal representative, if any, shall be informed of any measures or rights specifically focused on the child.
- 4) Member States shall ensure that all laws, policies, services, and infrastructures established to implement this Directive are victim-sensitive, prioritising listening to victims, minimising re-traumatisation and harm, focusing on safety, rights, well-being, empowerment, expressed needs and choices, and ensuring the empathetic, sensitive and non-judgmental delivery of rights and services, while respecting core principles of justice.

## Article 2 – Definitions – ([Commentary link](#))

- 1) For the purposes of this Directive the following definitions shall apply:
  - a) 'victim' means:
    - i) a natural person who has ~~suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence~~ **been subjected to a criminal offence;**
    - ii) family members of a person whose death was directly caused by a criminal offence ~~and who have suffered harm as a result of that person's death;~~
  - b) 'family members' means the spouse, the person who is in a committed intimate relationship with the victim, ~~in a joint household and~~ on a stable and continuous basis, the relatives in direct line, the siblings and the dependents of the victim;
  - c) 'child' means any person below 18 years of age;
  - d) 'restorative justice' means any process ~~whereby~~ **which enables the victim those harmed by crime and the offender those responsible for that harm (the parties),** if they freely consent, to participate actively ~~in a dialogue on~~ **in** the resolution of matters arising from the criminal offence through the help of ~~a trained and impartial third party (the facilitator);~~
  - e) 'generic support services' means **organisations specialised in supporting victims of crime and which offer support to all victims of crime. These services may include specialisations for specific groups or offer specific types of services.**
  - f) 'specialist support services' means **services offered only to particular groups of victims, based on type of crime or personal characteristics.**
- 2) Member States may establish procedures:
  - a) to limit the number of family members who may benefit from the rights set out in this Directive taking into account the individual circumstances of each case; and
  - b) in relation to paragraph (1)(a)(ii), to determine which family members have priority in relation to the exercise of the rights set out in this Directive.

## Chapter 2 - Information and communication

### Article 3 - Right to understand and to be understood ([Commentary](#) link)

- 1) Member States shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any further necessary interaction they have with a competent authority **or organisation assisting victims** in the context of criminal proceedings, including where information is provided by that authority.
- 2) Member States shall ensure that communications with victims are **accessible to all users taking into account the personal characteristics of the victim including any disability and the impact of trauma. Communications shall be accessible in particular where they are:**
  - a) **provided through multiple sources and formats, including orally, in writing and digitally;**
  - b) **accurate, simple and easy to understand allowing information to be acted upon;**
  - c) **provided in a timely manner and repeated over time; and**
  - d) **adapted to changing individual needs of victims.** ~~in simple and accessible language, orally or in writing. Such communications shall take into account the personal characteristics of the victim including any disability which may affect the ability to understand or to be understood.~~
- ~~3. Unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced, Member States shall allow victims to be accompanied by a person of their choice in the first contact with a competent authority where, due to the impact of the crime and individual circumstances, the victim requires assistance to understand or to be understood.~~

### Article 4 – Right to receive information from the first contact with a competent authority ([Commentary](#) Link)

- 1) Member States shall ensure that victims are **provided** ~~offered~~ the following information, without unnecessary delay, from their first contact with a competent authority in order to enable them to access the rights set out in this Directive:
  - a) the type of support they can obtain and from whom, including, where relevant, basic information about access to medical support, any specialist support, including psychological support, and alternative accommodation;
  - b) the procedures for making complaints with regard to a criminal offence and their role in connection with such procedures;
  - c) how and under what conditions they can obtain protection, including protection measures;
  - d) how and under what conditions they can access legal advice, legal aid and any other sort of advice;
  - e) how and under what conditions they can access **offender and State** compensation;
  - f) how and under what conditions they are entitled to interpretation and translation;
  - g) if they are resident in a Member State other than that where the criminal offence was committed, any special measures, procedures or arrangements, which are available to protect their interests in the Member State where the first contact with the competent authority is made;

- h) the available procedures for making complaints where their rights are not respected by the competent authority operating within the context of criminal proceedings;
  - i) the contact details for communications about their case;
  - j) the available restorative justice services;
  - k) how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed.
- 2) The extent or detail of information referred to in paragraph 1 may vary depending on the specific needs and personal circumstances of the victim and the type or nature of the crime. Additional details may also be provided at later stages depending on the needs of the victim and the relevance, at each stage of proceedings, of such details.

#### Article 5 – Right of victims when making a complaint ([Commentary link](#))

- 1) Member States shall ensure that victims receive a written acknowledgement of their formal complaint, made by them to the competent authority of a Member State ~~stating~~ **which includes a written copy of their testimony and states** the basic elements of the criminal offence concerned.
- 2) Member States shall ensure that victims who wish to make a complaint with regard to a criminal offence and **who indicate that they do not sufficiently** understand or speak the language of the competent authority ~~be enabled to~~ **are offered the opportunity to** make the complaint in a language that they understand or ~~by receiving~~ **to receive** the necessary linguistic assistance.
- 3) Member States shall ensure that victims who do not **sufficiently** understand or speak the language of the competent authority, **are offered the opportunity to** receive translation, free of charge, of the written acknowledgement of their complaint provided for in paragraph 1, ~~if they so request,~~ in a language that they understand.

#### Article 6 - Right to receive information about their case ([Commentary link](#))

- 1) Member States shall ensure that victims ~~are notified~~ **receive** without unnecessary delay ~~of their right to receive~~ **at least** the following information about the proceedings instituted as a result of the complaint with the regard to a criminal offence suffered by the victim ~~and that, upon request, they receive such information,~~ **unless they object to receiving such information:**
  - a) Any decision not to proceed with or to end an investigation or not to prosecute the offender;
  - b) The time and place of the trial, and the nature of the charges against the offender;
- ~~2. Member States shall ensure that, in accordance with their role in the relevant criminal justice system, victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by them and that, upon request, they receive such information~~
  - c) Any final judgment in a trial;
  - d) Information enabling the victim to know about the state of the criminal proceedings, including the apprehension of the suspect, unless in exceptional cases the proper handling of the case may be adversely affected by such notification.

- e) Any decisions taken in criminal proceedings that affect the victim directly, at least in relation to those decisions set out in Article 20(1).
- 2) Information provided for under paragraph 1(a) and paragraph 2(a) 1(c) shall include reasons or a brief summary of reasons for the decision concerned, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.
  - 3) The wish of victims as to whether or not to receive information shall bind the competent authority, unless that information must be provided due to the entitlement of the victim to active participation in the criminal proceedings. Member States shall allow victims to modify their wish at any moment, and shall take such modification into account.
  - 4) Member States shall ensure that victims are offered the opportunity to be notified, without unnecessary delay when the person remanded in custody, prosecuted or sentenced for criminal offences concerning them is released from or has escaped detention or where they have been transferred to a different detention location. Furthermore, Member States shall ensure that victims are informed of any relevant measures issued for their protection in case of release or escape of the offender.
  - 5) Victims shall, upon request, receive the information provided for in paragraph 4 5 at least in cases where there is a danger or an identified risk of harm to them, ~~unless there is an identified risk of harm to the offender which would result from the notification.~~ Where there is an identified risk of harm to the offender which would result from the notification, Member States shall make a decision on whether to inform the victim of the release based on the examination of the risks to both parties.
  - 6) Member States shall ensure that an online platform exists to provide information and updates to victims about their case as referred to in paragraphs 1 and 4.
  - 7) Member States shall ensure that information about any decision not to prosecute, the final judgment, and about the release or escape from detention of the person remanded in custody, prosecuted or sentenced for criminal offences concerning them, is provided in a manner minimising risks of secondary victimisation and emotional harm to the victim, including by providing the information to victims in person or orally, and by providing information about victim support services together with it.

#### Article 7 – Right to interpretation and translation ([Commentary link](#))

- 1) Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, ~~upon request, with interpretation in accordance with their role in the relevant criminal justice system in criminal proceedings~~ interpretation, free of charge, at least during any interviews or questioning of the victim during criminal proceedings

before investigative and judicial authorities, including during police questioning, and interpretation for their active participation in court hearings and any necessary interim hearings.

- 2) Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, communication technology such as videoconferencing, telephone or internet may be used, unless the physical presence of the interpreter is required in order for the victims to properly exercise their rights or to understand the proceedings.
- 3) Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, ~~in accordance with their role in the relevant criminal justice system in criminal proceedings, upon request,~~ with translations of information essential to the exercise of their rights in criminal proceedings in a language that they understand, free of charge, to the extent that such information is made available to the victims. Translations of such information shall include at least any decision ending the criminal proceedings related to the criminal offence suffered by the victim, and ~~upon the victim's request,~~ reasons or a brief summary of reasons for such decision, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.
- 4) Translation and interpretation of information that are not essential to the exercise of victims' participation rights in proceedings, may be provided by alternative means including unofficial translators and interpreters and technological tools. Member States shall establish common standards to guide the provision and use of unofficial translation services.
- 5) Member States shall ensure that victims ~~who are entitled to about the time and place of the trial in accordance with Article 6(1)(b) and~~ who do not understand the language of the competent authority, are provided with a translation of information relating to the time and place of the trial in accordance with Article 6(1)(b) ~~to which they are entitled, upon request.~~
- 6) Victims may submit a reasoned request to consider a document as essential. ~~There shall be no requirement to translate passages of essential documents which are not relevant for the purpose of enabling victims to actively participate in the criminal proceedings.~~
- 7) Notwithstanding paragraphs 1 and 3, an oral translation or oral summary of essential documents may be exceptionally provided instead of a written translation on condition that such oral translation or oral summary does not prejudice the fairness of the proceedings, **the ability of victims to participate in proceedings or the ability to enjoy their rights.**
- 8) Member States shall ensure that the competent authority assesses whether victims need interpretation or translation as provided for under paragraphs 1 and 3. Victims may challenge a decision not to provide interpretation or translation. The procedural rules for such a challenge shall be determined by national law. **Where victims indicate language difficulties or where they**

are non-nationals, it shall be presumed they need interpretation or translation, unless there are clear indications to the contrary.

- 9) Interpretation and translation and any consideration of a challenge of a decision not to provide interpretation or translation under this Article shall not unreasonably prolong the criminal proceedings.

## Chapter 3 – Right to Support

### Article 8 – Right to Support Services ([Commentary link](#))

- 1) ~~Member States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings.~~ generic and specialist victim support services exist and are available to victims in accordance with their needs across their territory and operate in a coordinated manner. Specialist support services may be set up in addition to as well as an integrated part of Generic support services. Family members shall have access to victim support services in accordance with their needs and the degree of harm suffered as a result of the criminal offence committed against the victim.
  2. ~~Member States shall facilitate the referral of victims, by the competent authority that received the complaint and by other relevant entities, to victim support services.~~
  3. ~~Member States shall take measures to establish free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organisations to call on existing specialised entities providing such specialist support. Victims, in accordance with their specific needs, shall have access to such services and family members shall have access in accordance with their specific needs and the degree of harm suffered as a result of the criminal offence committed against the victim~~
- 2) Victim support services ~~and any specialist support service~~ may be set up as public or non-governmental organisations and may be organised on a professional or voluntary basis.
- 3) Member States shall ensure that access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority.
- 4) Member States shall ensure that victim support services, both governmental and non-governmental, are granted sufficient human and financial resources.

### Article 9 – Provision of services ([Commentary link](#))

- 1) Generic support services shall be organised to deliver services to all victims, including through referral where appropriate. Generic and specialist support services shall be organised to be able to also address the specific needs of individual victims taking into account the personal characteristics of the victim, the type or nature of the crime, the circumstances of the crime, the extent and nature of harm to the victim and any other circumstances which may require an adapted response. Generic and Specialist support services shall, as a minimum:
  - a) be accessible to victims on a non-discriminatory basis before, during and for as long as they need after criminal proceedings ensuring, in particular, sufficient proximity of services to victims, appropriate opening hours, and delivery of services through multiple channels including face to face, online, helplines and itinerant services; and be coordinated in particular through referrals in accordance with victims' specific needs;
  - b) be free of charge;
  - c) be confidential;
  - d) act in the interests of the victims;

- e) remain operational in times of crisis, such as health crises, significant migratory situations or other states of emergency;
  - f) operate in accordance with quality standards for support based on Article 1 and this article.
- 2) Generic and Specialist Victim support services, shall, as a minimum, provide:
- a) information, advice and support relevant to the rights and protection of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial and court accompaniment throughout the criminal proceedings;
  - b) information about or direct referral to any relevant specialist or other support services in place;
  - c) emotional support and where available psychological support or referral to psychological support services once they become aware of a status of a person as a victim. ~~If the special need for psychological support has been demonstrated by an individual assessment,~~ Psychological support shall be available to victims in need of such support for as long as necessary as determined by the victim's psychologist;
  - d) advice relating to financial and practical issues arising from the crime;
  - e) unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation;
  - f) an individual needs assessment during an intake process to identify victims' support needs and to tailor support provision to meet these needs.
- 3) ~~Unless otherwise provided by other public or private services, specialist support services referred to in Article XXX,~~ Member States shall ensure that specialist support services, as defined under Article 8, shall, as a minimum, develop and provide:
- a) shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of secondary and repeat victimisation, of intimidation and of retaliation;
  - b) targeted and integrated support, including trauma support and counselling for victims with specific needs, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling including violence against women and domestic violence covered by Directive (EU) .../... of the European Parliament and of the Council<sup>1</sup> [on combating violence against women and domestic violence], victims of trafficking in human beings, victims of organised crimes, victims with disabilities, victims of exploitation, victims of hate crime, victims of terrorism, victims of core international crimes.
- 4) Member States shall encourage victim support services to pay particular attention to the specific needs of victims who have suffered considerable harm due to the severity of the crime.

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<sup>1</sup> Directive (EU) .../... of the European Parliament and of the Council on combating violence against women and domestic violence (OJ ...).';

## Article 10 – Targeted and integrated support services for children ([Commentary link](#))

- 1) Member States shall take the necessary measures to ensure the availability of child-friendly targeted and integrated specialist services for children to provide for age-appropriate support and protection necessary to comprehensively address the multitude of needs of child victims.
- 2) Targeted and integrated support services for child victims shall provide for a coordinated multi-agency mechanism that includes the following services:
  - a) the provision of information;
  - b) medical examination;
  - c) emotional and psychological support;
  - d) possibility of crime reporting;
  - e) individual assessment of protection and support needs referred to in Article 22;
  - f) video recording of testimonies referred to in Article 34.
- 3) The services referred to in paragraph 2 shall be provided within the same premises.

## Article 11 – Helplines for victims of crime ([Commentary link](#))

- 1) Member States shall ~~take the necessary measures to~~ establish easily accessible, user friendly, free of charge and confidential victims' helplines which,
  - a) provide victims with the information referred to in Articles 4 and 9;
  - b) offer emotional support;
  - c) refer victims to relevant services including generic and specialised support services and/or specialised helplines if needed.
  - d) are operated by trained and supervised individuals following standards of quality support
- 2) Member States shall ensure the provision of helplines referred to in paragraph 1 through a telephone helpline connected to the EU harmonised number "116 006" and through other information and communication technologies, including websites.
- 3) Member States shall take appropriate measures to ensure the availability of the services referred to in paragraphs 1 and 2 in other languages, including at least the languages most used in the Member State and through availability during appropriate times.
- 4) Helplines shall be operated by an organisation specialised in delivering victim support, ~~may be set up~~ either by public or non-governmental organisations and may be organised on a professional or voluntary basis.

## Article 12 – Measures to remove barriers to accessing victims' rights ([Commentary link](#))

- ~~1) victims who are in detention including jails, detention centres and holding cells for suspects and accused, those in specialised detention facilities for applicants of international protection and pre-removal centres or in other institutions, including accommodation centers where applicants and beneficiaries of international protection are located:~~

- ~~a) receive the information about their rights;~~
- ~~b) can rely on facilitated crime reporting;~~
- ~~c) have access to support and protection in accordance with their individual needs;~~

Member States shall take the necessary measures to remove barriers that victims face when seeking support, reporting a crime, receiving information about their rights or accessing protection. Such measures should be addressed to all victims and may also be targeted to address victims in particular situations such as those deprived of liberty, under the coercion or control of others, or whose personal characteristics or circumstances reduce their ability to access rights.

#### Article 13 – National Referral System for victim support services ([Commentary link](#))

- 1) Member States shall establish a national referral system that co-ordinates referral of all victims to victim support services by the competent authority that received the complaint and by other appropriate services in order to ensure referrals are easy to operate and appropriate services are easy for victims and practitioners to identify.
- 2) The national referral system shall, as a minimum, ensure:
  - a) all victims are referred to the support service most suited to address their needs in a fast and effective manner in accordance with identified criteria, unless a victim declines such referral;
  - b) victims are contacted by a support service within an agreed and reasonable time following the referral of the victim to explain their services and offer support;
  - c) the referral mechanism is organised to minimise unnecessary or multiple referrals. Where appropriate Member States may organise referral from competent authorities to a single national support service best placed to co-ordinate victim referrals;
  - d) the processing of data for the purposes of referral and support is facilitated in particular through the development of data sharing rules and technical mechanisms.

## Chapter 4 – Access to Justice

### Article 14 – Reporting of a crime and measures facilitating the act of reporting ([Commentary link](#))

- 1) Member States shall ensure that all victims may report a crime to the competent authorities in a safe and easy manner through multiple reporting mechanisms and safety measures.
- 2) Member States shall take the necessary measures to encourage any person who knows about or suspects, in good faith, that criminal offences have been committed, or that further acts of violence are to be expected, to report this to the competent authorities.
- 3) In accordance with procedures in national law, diversified reporting mechanisms shall include the possibility of reporting criminal offences and submitting evidence online or through other information and communication technologies, reporting criminal offences anonymously and through third-party reporting.
- 4) Member States shall ensure that the competent authorities coming in contact with a victim reporting a crime are prohibited from transferring victims' personal data obtained as a result of reporting a crime, including the residence status of the victim, for purposes other than the processing of the victim's complaint and the subsequent criminal proceedings to any other competent authorities, including migration authorities. The data shall not be transferred to any other authorities without the victim's authorisation at any stage before, during, or after a criminal investigation.

### Article 15 – Activities assisting people to come forward ([Commentary link](#))

- 1) Member States shall fund, develop, and carry out activities aimed at removing barriers to reporting a crime including through informing the public and victims on how to report a crime and their rights when doing so.
- 2) Member States shall support awareness raising activities and information campaigns in order to ensure that victims who do not file a complaint with the competent authorities can easily reach victim support services.

### Article 16 – Right to be heard ([Commentary link](#))

- 1) Member States shall ensure that victims may be heard during criminal proceedings and may provide evidence. Where a child victim is to be heard, due account shall be taken of the child's age and maturity. As a minimum, Member States shall ensure that victims may provide a victim impact statement, either orally or in writing, during the criminal proceedings, if they so wish.
- 2) The procedural rules under which victims may be heard during criminal proceedings and may provide evidence or a victim impact statement shall be determined by national law.

## Article 17 – Right to accompaniment throughout criminal proceedings ([Commentary link](#))

- 1) Member States shall ensure that victims may be accompanied by a person of their choice in the first contact with a competent authority and throughout criminal proceedings to provide emotional support and assistance to victims in understanding proceedings and in communicating with authorities. ~~Unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced, Member States shall allow victims to be accompanied by a person of their choice in the first contact with a competent authority where, due to the impact of the crime, the victim requires assistance to understand or to be understood~~
- 2) The competent authority may refuse accompaniment by a person of choice where it is contrary to the interests of the victims or if the course of criminal proceedings would be prejudiced, unless the person of choice is a representative of a recognised victim support service.

## Article 18 - Right to access court based support services ([Commentary link](#))

Member States shall take the necessary measures to establish court-based support services to provide information, practical and emotional support to victims and witnesses attending a criminal hearing.

## Article 19 – Rights in the event of a decision not to prosecute ([Commentary link](#))

- 1) Member States shall ensure that victims, ~~in accordance with their role in the relevant criminal justice system,~~ have the right to a review of a decision not to prosecute. The procedural rules for such a review shall be determined by national law.

~~Where, in accordance with national law, the role of the victim in the relevant criminal justice system will be established only after a decision to prosecute the offender has been taken, Member States shall ensure that at least the victims of serious crimes have the right to a review of a decision not to prosecute. The procedural rules for such a review shall be determined by national law.~~

- 2) Member States shall ensure that where victims are notified ~~without unnecessary delay of their right to receive~~ of a decision not to prosecute, they are informed of their right to a review of the decision and are provided with sufficient information to decide whether to request a review of any decision not to prosecute ~~upon request~~.
- 3) Member States shall provide a reasonable deadline from the notification of the decision for victims to submit a request for a review, taking into account the circumstances of the victim, in particular if they are resident of a Member State other than that where the criminal offence was committed or where they require linguistic or legal assistance to submit a request for review. Member States shall allow in accordance with national procedural rules the extension of deadlines where victims provide reasonable explanations for a delay.
- 4) Where the decision not to prosecute is taken by the highest prosecuting authority against whose decision no review may be carried out under national law, the review may be carried out by the same authority.

- 5) Paragraphs 1-3-4 shall not apply to a decision of the prosecutor not to prosecute, if such a decision results in an out-of-court settlement, in so far as national law makes such provision.

#### Article 20 – Right to a review of decisions taken during criminal proceedings ([Commentary link](#))

- 1) ~~Member States shall ensure that victims are informed without delay of decisions taken in court proceedings that affect them directly and have the right to a review of such~~ decisions taken in criminal proceedings that affect them directly. Such decisions shall include at least decisions pursuant to the following provisions:
  - a) ~~Article 7(1) in relation to decisions on interpretation during court hearings~~ criminal proceedings;
  - b) Article 22 on the right to access legal aid;
  - c) Articles 29, 30, 33, 34, 35 on victims' right to protection
- 2) The procedural rules under which victims may request a review of decisions referred to in paragraph 1 shall be determined by national law. Member States shall ensure that the judicial decisions on the request of such a review are taken within reasonable time.

#### Article 21 - Right to access restorative justice services ([Commentary link](#))

- 1) Member States shall take measures to establish access to restorative justice services for all victims of a crime, at any stage of the criminal proceedings in co-ordination with the provision of support services.
- 2) Member States shall take measures to safeguard the victim from secondary and repeat victimisation, from intimidation and from retaliation, to be applied when providing any restorative justice services. Such measures shall ensure that victims who choose to participate in restorative justice processes have access to safe and competent restorative justice services, subject to at least the following conditions:
  - a) ~~the restorative justice services are used only if they are~~ restorative justice services respect the principles of stakeholder participation; respectful dialogue; equal concern for the needs and interests of the parties; procedural fairness and consensus-based agreement, are in the interest of the victim, subject to any safety considerations, and are based on the victim's free and informed consent, which may be withdrawn at any time. No person should be induced by unfair means to participate in restorative justice;
  - b) before agreeing to participate in the restorative justice process, victims are provided with full and unbiased information about that process and the potential outcomes, as well as information about the procedures for supervising the implementation of any agreement and, if relevant, the possible implications for ongoing legal proceedings;
  - c) the offender has acknowledged the basic facts of the case;
  - d) any agreement is arrived at voluntarily and may be taken into account in any further criminal proceedings;

- e) ~~discussions in the restorative justice processes that are not conducted in public are~~ confidential and ~~are~~ should not subsequently be disclosed, except with the express agreement of the parties ~~or as required by national law due to an overriding public interest.~~
  - f) restorative justice providers operate in a neutral way by ensuring that restorative justice is offered through a balanced distribution of independent, offender and victim led organisations following procedural standards on neutrality applicable to the facilitator and the process.
- 3) Member States shall facilitate the referral of cases to restorative justice services, including through the establishment of procedures or guidelines on the conditions for such referral.

#### Article 22 – Access to legal aid/representation ([Commentary link](#))

- 1) Member States shall ensure that victims have access to free legal aid where they have the status of parties to criminal proceedings and free legal representation for victims of serious crimes and for victims who need legal representation in order to fully enjoy their participatory rights during criminal proceedings.
- 2) The conditions or procedural rules under which victims have access to legal aid and representation shall be determined by national law.

#### Article 23 – Reimbursement of expenses ([Commentary link](#))

- 1) Member States shall afford victims who participate in criminal proceedings, the possibility of reimbursement of expenses incurred as a result of their active participation in criminal proceedings, ~~in accordance with their role in the relevant criminal justice system at least for travel costs from the victim's place of residence to the premises of the proceedings. The conditions or procedural rules under which victims may be reimbursed shall be determined by national law.~~

Member States shall ensure timely reimbursement, in accordance with procedural rules determined by national law.

- 2) Member States shall provide advance payments to cover expenses for victims who are unable to cover costs themselves and require immediate financial assistance.
- 3) Where victims wish to attend proceedings other than for active participation, Member States shall take measures to facilitate the victim's attendance of proceedings, including through electronic means.

#### Article 24 – Right to return of property ([Commentary link](#))

- 1) Member States shall ensure that, following a decision by a competent authority, recoverable property which is seized in the course of criminal proceedings is returned to victims without delay, unless required for the purposes of criminal proceedings.

- 2) Member States shall ensure that the ownership of any property seized in the course of the criminal proceedings is properly documented and stored for the duration of the seizure, to facilitate its return.
- 3) The conditions or procedural rules under which such property is returned to the victims shall be determined by national law.

#### Article 25 – Right to decision on compensation from the offender in the course of criminal proceedings ([Commentary link](#))

- 1) ~~Member States shall ensure that, in the course of criminal proceedings, victims are entitled to obtain a decision on compensation by the offender, within a reasonable time, except where national law provides for such a decision to be made in other legal proceedings.~~ Member States shall ensure that, in the course of criminal proceedings, victims are entitled to obtain a decision on compensation by the offender, within a reasonable time.
- 2) ~~Member States shall promote measures to encourage offenders to provide adequate compensation to victims.~~ Member States shall ensure that their competent authorities pay directly to the victim the adjudicated compensation without undue delay. The competent authorities shall be subrogated to the right of the victim in relation to the offender for the amount of the adjudicated compensation.

#### Article 26 – Rights of victims resident in another Member State ([Commentary link](#))

- 1) Member States shall ensure that their competent authorities can take appropriate measures to minimise the difficulties faced where the victim is a resident of a Member State other than that where the criminal offence was committed, particularly with regard to the organisation of the proceedings. For this purpose, the authorities of the Member State where the criminal offence was committed shall, in particular, be in a position:
  - a) to take a statement from the victim immediately after the complaint with regard to the criminal offence is made to the competent authority;
  - b) to have recourse to the extent possible to the provisions on video conferencing and telephone conference calls ~~laid down in the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 (17) for the purpose of hearing victims who are resident abroad~~ to facilitate participation in criminal proceedings of victims who are resident abroad.
- 2) Member States shall ensure that victims of a criminal offence committed in Member States other than that where they reside may make a complaint to the competent authorities of the Member State of residence, if they are unable to do so in the Member State where the criminal offence was committed or, in the event of a serious offence, as determined by national law of that Member State, if they do not wish to do so.
- 3) Member States shall ensure that the competent authority to which the victim makes a complaint transmits it without delay to the competent authority of the Member State in which the criminal

offence was committed, if the competence to institute the proceedings has not been exercised by the Member State in which the complaint was made.

- 4) Member States shall ensure that the competent authorities may request assistance from Eurojust and transmit to Eurojust the information aimed at facilitating cooperation with the competent authorities of other Member States in cross-border cases

## Chapter 5 – Protection of Victims and Recognition of Victims with Specific Protection Needs

### Article 27 – Right to protection ([Commentary](#) link)

Without prejudice to the rights of the defence, Member States shall ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, including against the risk of emotional or psychological harm, and to protect the **privacy and dignity of victims during criminal proceedings, in particular during questioning and when testifying.** ~~When necessary,~~ Such measures shall also include procedures established under national law for the physical protection of victims and their family members.

### Article 28 – Right to avoid contact between victim and offender ([Commentary](#) link)

- 1) Member States shall establish the ~~necessary conditions~~ **tools, mechanisms, and environments** to enable avoidance of contact between victims and their family members, ~~where necessary,~~ and the offender within premises where criminal proceedings are conducted unless the criminal proceedings requires such contact. **This includes the availability of mobile screens in courtrooms.**
- 2) Member States shall ensure that new court premises have separate waiting areas for victims **and shall establish processes for the creation of separate waiting areas in existing court premises. Member States shall establish a plan for the creation of separate waiting areas or for the designation of rooms that can be used of this purpose in existing court premises.**

### Article 29 – Right to protection of victims during criminal investigations ([Commentary](#) link)

- 1) Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that during criminal investigations:
  - a) interviews of victims are conducted without unjustified delay after the complaint with regard to a criminal offence has been made to the competent authority;
  - b) the number of interviews of victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation.
  - c) **Member States shall ensure that interviews with victims may be audiovisually recorded and such recorded interviews may be used as evidence in criminal proceedings, in line with procedural rules established by national law.**
  - d) victims may be accompanied by their legal representative ~~and person of their choice, unless a reasoned decision has been made to the contrary;~~
  - e) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.
- 2) **Member States shall ensure through tools and procedures that the denial of measures established in paragraph 1 are kept to a minimum.**

## Article 30 – Right to protection of privacy ([Commentary link](#))

- 1) Member States shall ensure that competent authorities may take during the criminal proceedings appropriate measures to protect the privacy, including personal characteristics of the victim taken into account in the individual assessment provided for under Article 31 22, and images of victims and of their family members. Furthermore, Member States shall ensure that competent authorities may take all lawful measures to prevent public dissemination of any information that could lead to the identification of a child victim.
- 2) Member States shall ensure that personal data concerning a victim allowing the offender to identify the victim's place of residence or to otherwise contact the victim in any way is not provided to the offender either directly or indirectly. Other personal data of the victim or their family member shall not be provided to the offender unless it is essential for the facts of the case.
- 3) In order to protect the privacy, personal integrity and personal data of victims, Member States shall, with respect for freedom of expression and information and freedom and pluralism of the media, encourage the media to take self-regulatory measures.

## Article 31 – Individual assessment of victims to identify specific protection needs ([Commentary link](#))

- 1) Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures an individual needs assessment process is in place to identify and meet the specific protection needs of victims throughout the proceedings, and to determine whether and to what extent they would benefit from special protection measures in the course of criminal proceedings, as provided for under Articles 33 23 and 34 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.
- 2) The individual assessment process shall be initiated upon the first contact of the victim with the competent authorities and shall last as long as necessary depending on the specific needs of each victim. Competent authorities shall update the individual assessment at regular intervals to ensure support and protection measures relate to the victim's changing situation. If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.
- 3) Member States shall ensure that the individual needs assessment process includes basic, extensive and specialist assessments best suited to address the particular circumstances of the victim, the crime and where the competent authority makes contact with the victim.
- 4) Member States shall ensure that the individual needs assessment process is coordinated between relevant justice and law enforcement authorities working with victims and responsible for the adoption of protection measures. Member States shall take measures to ensure cooperation with other involved services, including victim support organisations, throughout the assessment process.
- 5) The individual assessment process shall, in particular, take into account:

- a) the personal characteristics of the victim, including relevant experiences of discrimination, also when based on a combination of several grounds such as sex, gender, age, disability, religion or belief, language, racial, social or ethnic origin, sexual orientation;
  - b) the type or nature of the crime;
  - c) the circumstances of the crime.
  - d) **the relationship to and the characteristics of the offender.**
- 6) In the context of the individual assessment, particular attention shall be paid to:
- a) victims who have suffered considerable harm due to the severity of the crime;
  - b) victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics;
  - c) victims whose relationship to and dependence on the offender make them particularly vulnerable.

~~In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, including violence against women and domestic violence, sexual violence, sexual violence, exploitation or hate crime, victims of core international crime and victims with disabilities shall be duly considered. Particular attention shall be paid to victims who fall under more than one of those categories.~~

- 7) **In the context of the individual assessment, particular attention shall be paid to the risk emanating from the offender, including the risk of violent behaviour and of bodily harm, the use of weapons, involvement in a group of organised crime, drug or alcohol abuse, child abuse, mental health issues, behaviour of stalking, expression of threats or hate speech.**
- 8) For the purposes of this Directive, child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles ~~33~~ 23 and 34 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article. **The individual assessment of child victims shall be organised within the framework of targeted and integrated support services referred to in Article ~~9a~~ 10.**
- 9) The extent of the individual assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim.
- 10) Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special **protection** measures as provided for in Articles ~~9a~~ 10, 33 23 and 34 24.

~~If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.~~

## Article 32 – Individual Assessment for Support Needs within Criminal Proceedings ([Commentary link](#))

- 1) **Member States shall ensure that victims receive a timely and individual assessment, to identify specific support needs during criminal proceedings that may be addressed within the scope of the activities of competent authorities.**

- 2) The support needs assessment shall not be used to determine the need to refer victims to generic and specialist support services and shall not replace the support needs assessment established under Article 9(2)(f).

### Article 33 – Right to protection of victims with specific protection needs during criminal proceedings ([Commentary link](#))

- 1) Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that victims with specific protection needs who benefit from special measures identified as a result of an individual assessment provided for in Article 2231(1), may benefit from the measures provided for in paragraphs 2 and 3 of this Article. In exceptional circumstances, a special measure envisaged following the individual assessment shall not be made available if operational or practical constraints make this impossible, or where there is an urgent need to interview the victim and failure to do so could harm the victim or another person or could prejudice the course of the proceedings.
- 2) The following measures shall be available during criminal investigations to victims with specific protection needs identified in accordance with Article 2231(1):
  - a) interviews with the victim being carried out in premises designed or adapted for that purpose;
  - b) interviews with the victim being carried out by or through professionals trained for that purpose;
  - c) all interviews with the victim being conducted by the same persons unless this is contrary to the good administration of justice **the independence of the judiciary**;
  - d) all interviews with victims of sexual violence, gender-based violence or ~~violence in close relationships~~ **including victims of violence against women and domestic violence covered by Directive (EU) .../... of the European Parliament and of the Council<sup>65</sup> [on combating violence against women and domestic violence]**, unless ~~conducted by a prosecutor or a judge~~ **contrary to the independence of the judiciary**, being conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced.
- 3) The following measures shall be available for victims with specific protection needs identified in accordance with Article ~~22~~ **31**(1) during court proceedings:
  - a) measures to avoid visual contact between victims and offenders including during the giving of evidence, by appropriate means including the use of communication technology;
  - b) measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology;
  - c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; and
  - d) measures allowing a hearing to take place without the presence of the public.

### Article 34 – Right to protection of child victims during criminal proceedings ([Commentary link](#))

- 1) In addition to the measures provided for in Article ~~23~~ **33**, Member States shall ensure that where the victim is a child:
  - a) in criminal investigations, all interviews with the child victim may be audio-visually recorded and such recorded interviews may be used as evidence in criminal proceedings;

- b) in criminal investigations and proceedings, in accordance with the role of victims in the relevant criminal justice system, competent authorities appoint a special representative for child victims where, according to national law, the holders of parental responsibility are precluded from representing the child victim as a result of a conflict of interest between them and the child victim, or where the child victim is unaccompanied or separated from the family;
  - c) where the child victim has the right to a lawyer, he or she has the right to legal advice and representation, in his or her own name, in proceedings where there is, or there could be, a conflict of interest between the child victim and the holders of parental responsibility. The procedural rules for the audiovisual recordings referred to in point (a) of the first subparagraph and the use thereof shall be determined by national law.
- 2) Where the age of a victim is uncertain and there are reasons to believe that the victim is a child, the victim shall, for the purposes of this Directive, be presumed to be a child.
  - 3) Where the offence involves the holder of parental responsibility, or there could be any other conflict of interest between the child victims and the holder of parental responsibility, Member States shall take into account the best interest of the child and ensure that any act requiring consent is not conditional upon the consent of the holder of parental responsibility.

#### Article 35 – Right to physical protection ([Commentary link](#))

- 1) Member States shall ensure that measures and procedures are established under national law for the physical protection of victims and their family members throughout criminal proceedings. Competent authorities shall offer information and assistance to victims and their family members in implementing the proposed measures. Such measures shall include:
  - a) continuous or temporary presence of law enforcement authorities;
  - b) barring, restraining or protection orders to provide protection for victims against any acts of violence, including by prohibiting or restraining certain dangerous behaviour of the offender;
- 2) Member States shall ensure that competent authorities are enabled to issue in a speedy and timely manner appropriate restraining, protection or emergency barring orders to victims who are in danger of repeat victimisation, intimidation or retaliation.
- 3) Protection orders shall be:
  - a) available for immediate protection and without undue financial or administrative burdens placed on the victim;
  - b) issued for a specified period or until modified or discharged;
  - c) where necessary, issued on an ex officio basis which has immediate effect.

Member States shall ensure that any breaches of restraining or protection orders shall be subject to effective, proportionate and dissuasive criminal or other legal sanctions.

## Chapter 6 – Coordination and cooperation framework

### Article 36 – National coordination and cooperation framework ([Commentary link](#))

- 1) Member States shall establish a national coordination and cooperation framework to facilitate the development, implementation and delivery of victims' rights, communications and support services in a consistent, efficient, co-ordinated and targeted manner.
- 2) Member States shall ensure that the development of victims' rights addresses the needs and circumstances of all victims of crime whilst also providing adapted solutions for specific victim groups. Specialised solutions for specific groups of victims should be extended to other groups of victims where they will also benefit from such solutions.
- 3) Member States shall ensure the existence and regular review of:
  - a) A National Victims' Rights Strategy that sets out long term priorities, objectives, and actions to develop rights and services for all victims of crime
  - b) A National Victims' Rights Coordinator and Victims' Rights Coordinating Committee responsible for co-ordinating the development and implementation of the National Victims' Rights Strategy, national policy and procedures related to victims' rights, and activities and actors across different sectors;
  - c) An independent Victims' Commissioner responsible for promoting and safeguarding the interests of victims including by conducting inquiries into systemic issues that affect large numbers or particular groups of victims of crime, representing the concerns of victims of crime to government and other decision-making bodies, monitoring and reporting on how agencies meet their legal obligations to victims under national or European law, investigating complaints from victims of crime who believe their rights and entitlements under the national law have not been met by an investigatory body, prosecuting agency and/or victims' service<sup>2</sup>.
  - d) A national referral mechanism to co-ordinate a national system for referring victims between competent authorities and victims support services in accordance with Article 13.
- 4) Member States shall ensure that civil society, in particular victim support services, and victims are included in the decision-making process and coordination mechanisms.

### Article 37 – Coordinated system for communication with victims ([Commentary link](#))

- 1) Member States shall facilitate communications between victims and those responsible for working with victims of crime in the context of criminal proceedings and with respect to the support of victims, through a national communication co-ordination mechanism.
- 2) Such a framework shall be established as part of the national co-ordination framework as referred to in Article 36.

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<sup>2</sup> Drafting inspired by: [Bill proposal to Scottish parliament on a victims commissioner](#) ; [Responsibilities of the Victoria \(Australia\) commissioner](#) ; [England Victim Commissioner role](#)

- 3) The communication mechanism shall include actors actively working with or for victims including law enforcement, prosecution authorities, judges, detention authorities, restorative justice services and victim support services from government and civil society and shall organise and coordinate the delivery of information to victims in a consistent manner across Member States territories and enable victims to communicate with relevant organisations.
- 4) The Communication framework shall establish:
  - a) What information should be communicated to victims, how, when and by whom;
  - b) Mechanisms and protocols for intra- and inter-agency cooperation for the communication of information to victims;
  - c) ~~Member States shall take the necessary legislative measures to allow for collection and sharing~~ facilitate the sharing of information, including information containing personal data of victims, between ~~competent~~ authorities working with victims and between those authorities and victim support services to ensure access to information and appropriate support and protection of individual victims
- 5) Member States shall establish a single dedicated website to provide information to the public on victims' rights, available victim services, functioning of the justice system and links to relevant procedures and application processes.
- 6) Member States shall ensure enhanced measures addressing the needs of victims who face higher barriers to communication, including but not limited to, victims who are residents of a Member State other than that where the crime was committed, victims with disabilities, and child victims.
- 7) Member States shall ensure that the content of information communicated to victims is developed together with civil society organisations and content is consistent and regularly updated to ensure accuracy.

#### Article 38 – Use of electronic means of communication ([Commentary link](#))

- 1) ~~Member States shall ensure that victims of crime may exercise their rights provided for in Article 3a 11, Article 4(1), Article 5(1), Article 5a 14, Article 6(1), (2), (3) (4), (4) (5) and (6) and Article 10b 20~~ using electronic means of communication.
- 2) ~~Victims of crime shall not be prevented from accessing or otherwise using national systems offering the electronic means of communication referred to in paragraph 1 on the basis that they are residents of another Member State.~~
- 3) ~~Where national systems offering electronic means of communication require the use of electronic identification, signatures and seals, Member States shall allow the use of notified electronic identification schemes, qualified electronic signatures, and qualified electronic seals of any other~~

Member States as provided for in Regulation (EU) No 910/2014 of the European Parliament and of the Council.<sup>3</sup>

#### Article 39 – Cross border and European Union cooperation ([Commentary link](#))

- 1) Member States shall take appropriate action to facilitate cooperation between Member States and with civil society to improve the access of victims to the rights set out in this Directive and under national law. Such cooperation shall be aimed at least at:
  - a) the exchange of best practices;
  - b) consultation in individual cases;
  - c) assistance to European networks working on matters directly relevant to victims' rights from both the State and Civil Society sectors;
  - d) coordination and exchange of knowledge of the activities of national Victims' Rights Coordinators as referred in article 36.
- 2) Member States shall take appropriate action, including through the internet, aimed at raising awareness of the rights set out in this Directive, reducing the risk of victimisation, and minimising the negative impact of crime and the risks of secondary and repeat victimisation, of intimidation and of retaliation, in particular by targeting groups at risk such as children, victims of gender-based violence and violence in close relationships. Such action may include information and awareness raising campaigns and research and education programmes, where appropriate in cooperation with relevant civil society organisations and other stakeholders.
- 3) Member States shall facilitate the tasks of the Commission Coordinator for Victims' Rights, to improve coordination and coherence and avoid duplication of effort between Union institutions and agencies as well as between Member States, to contribute to the development of existing or new European Union policies and strategies relevant to the protection and support of victims of crime. Member States shall transmit to the Commission Coordinator for Victims' Rights the information referred to in Article 41 on the basis of which the Commission Coordinator for Victims' Rights shall contribute to reporting carried out by the Commission every two years.

#### Article 40 – Prevention ([Commentary link](#))

- 1) Member States shall take appropriate measures to prevent crime. Preventive measures shall include awareness-raising campaigns, research and education programmes, developed in cooperation with civil society organisations, social partners, impacted communities and other stakeholders.
- 2) Member States shall take measures to support research on prevention measures including through appropriate funding.

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<sup>3</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

- 3) Targeted action shall be addressed to groups that are particularly vulnerable to crime or to be targeted by criminals, as determined through research, statistics, reporting of crimes and information provided by those working with victims, taking into consideration language barriers and different levels of literacy and abilities. Information shall be formulated to take into account any barriers to communication victims may face in accordance with Article 37 (6)
- 4) Member States shall make information on preventive measures, the available protection and support measures available to the general public.
- 5) Member States shall take the necessary measures to ensure that targeted and effective intervention programmes are established to prevent and minimise the risk of committing crimes or reoffending. The intervention programmes shall be made available to those who have committed a crime or to those who fear they might commit a serious offence including violence against women or domestic violence, child abuse, and sexual abuse.

#### Article 41 – Data collection and research ([Commentary link](#))

- 1) Each Member State shall take the necessary measures to establish a system for the collection, production and dissemination of statistics on victims of crime. The statistics shall include data relevant to the application of national procedures on victims of crime, including at least the number and type of reported crimes, ~~the number~~, the age, sex of the victims ~~and the type of the offence~~. They shall also include information on how victims have accessed the rights set out in this Directive.
- 2) Member States shall collect the statistics referred to in this Article on the basis of common disaggregation developed in cooperation with the Commission (Eurostat) **and experts in the field of victims rights**. They shall transmit this data to the Commission (Eurostat) every three years. The transmitted data shall not contain personal data.
- 3) The European Union Agency for Fundamental Rights shall support Member States and the Commission in the collection, production and dissemination of statistics on victims of crime and in reporting on how victims have accessed the rights set out in this Directive.
- 4) The Commission (Eurostat) shall support Member States in the data gathering referred to in paragraph 1, including by establishing common standards on counting units, counting rules, common disaggregation, reporting formats, and on the classification of criminal offences.
- 5) The Member States shall make the collected statistics available to the public. The statistics shall not contain personal data.
- 6) The collection of data under paragraph 1 shall not affect the dedicated data collection under Article 44 of Directive (EU) .../... [on combating violence against women and domestic violence].'

- 7) The European Commission, together with its agencies, shall carry out regular data collection exercises relevant to priority issues as determined by the EU Coordinator for victims' rights and the EU Victims' Rights Platform.
- 8) Member States shall take the necessary measures to promote, support and, to the extent possible, fund or facilitate fund-raising for victimological research, including comparative research. Research shall, inter alia, focus on:
  - a) criminal victimisation and its impact on victims;
  - b) prevalence and risks of criminal victimisation including factors affecting risk;
  - c) the effectiveness of legislative and other measures for the support, compensation and protection of victims of crime;
  - d) the effectiveness of available interventions by criminal justice authorities, victim services and restorative justice programmes.

## Chapter 7 – Training

### Article 42 – Training of professionals ([Commentary link](#))

- 1) Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to their contact with victims to increase their awareness of the needs of victims, to enable them to recognise victims and to treat them in an impartial, non-discriminatory, respectful and professional manner.
- 2) Without prejudice to judicial independence, and differences in the organisation of the judiciary across the Union, Member States shall ~~request that those responsible for the training of judges and prosecutors involved in criminal proceedings make available both general and specialist training to increase the awareness of judges and prosecutors of the needs of victims.~~ take measures, including through their public services and by funding, to support responsible training bodies and organisations to develop, deliver and ensure the receipt of training for practitioners, including judges, prosecutors, lawyers, those providing victim support and restorative justice, health care professionals, translators and interpreters working with victims, and other professionals likely to come into contact with victims or who work on victims matters, where the government does not have oversight or control of the sector. Training shall cover general and specialist training appropriate to the nature and level of contacts with victims, to enable practitioners to recognise victims and to treat them in an impartial, non-discriminatory, respectful, professional manner, and to support the practical implementation and operation of victims' rights.
3. ~~With due respect for the independence of the legal profession, Member States shall recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of lawyers of the needs of victims.~~
4. ~~Through their public services or by funding victim support organisations, Member States shall encourage initiatives enabling those providing victim support and restorative justice services to receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner~~
- 3) In accordance with the duties involved, and the nature and level of contact the practitioner has with victims, training shall aim to enable the practitioner to recognise victims and to treat them in a respectful, professional and non-discriminatory manner. referred to in paragraph 1 and 2 shall, as a minimum:
  - a) Enable such professionals to acquire the skills and knowledge to identify and understand signs of victimisation, the needs of victims, the impact of crime and trauma, the national law and procedures relative to victims' rights, including on protection measures, specificities of certain groups of victims, taking account their specific vulnerabilities;
  - b) Be organised to address skills and knowledge necessary to working with all victims as well as for specialised knowledge and skills to ensure targeted and appropriate responses for specific groups of victims, based on type of crime or personal characteristics;
  - c) Include sensitisation on the risks of secondary victimisation and ways to reduce it;

- d) enable such professionals to develop soft skills to engage and communicate with victims in a victim sensitive manner;
  - e) be provided by specially trained professionals or other suitable persons on a regular basis, included on-boarding training and in lifelong career development. Member States shall encourage and fund training by non-governmental actors, including victims' associations and civil society organisations. Innovative practices, including multi-agency training, the use of new technologies and interactive training should be promoted.
- 4) Without affecting media freedom and pluralism, Member States shall encourage and support the setting up of media training activities by media professionals' organisations, media self-regulatory bodies and industry representatives or other relevant independent organisations, to combat stereotypical portrayals of victims, victim-blaming in the media, media intrusion in criminal justice proceedings, overall media induced secondary victimisation and to ensure victim sensitive engagement with victims in particular when interviewing them.

## Chapter 8 - Final provisions

### Article 43 – Legal remedies ([Commentary link](#))

Member States shall ensure that victims of crime have an effective remedy under national law, in the event of a breach of their rights under this Directive.

### Article 44 - Transposition ([Commentary link](#))

- 1) Member States shall take the necessary measures to comply with this Directive [by two years after the entry into force] with the exception of the provisions necessary to comply with Article 38 which shall be adopted and published [by four years after the entry into force]. They shall immediately inform the Commission thereof.
- 2) When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.
- 3) Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

### ~~Article X – Provision of data and statistics~~

~~Member States shall, by [insert date] and every three years thereafter, communicate to the Commission available data showing how victims have accessed the rights set out in this Directive.~~

### Article 45 – Reporting ([Commentary link](#))

By [six years after adoption], the Commission shall submit a report on the application of this Directive to the European Parliament and the Council. The report shall assess the extent to which the Member States have taken the necessary measures to comply with this Directive, including the technical implementation.

The report shall be accompanied, if necessary, by a legislative proposal.;

The Commission shall, by [at most two years after the date of the first report] submit a report to the European Parliament and to the Council, assessing the extent of the practical implementation of the Directive identifying any rights which are not fully or correctly in force.

### Article 46 – Entry into force ([Commentary link](#))

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Brussels,

# Commentary

The following section provides a short explanation of the proposed amendments to the Victims' Rights Directive. As reflected in the introduction, for ease of reading, detailed evidence and data is not provided here with the primary sources of information deriving from VSE, EU Commission and EU agencies' reports.

## Article 1 – Objectives – ([Back to Article](#))

### COMMENTARY – Article 1 – Objectives

VSE suggests further clarification is needed of the Directive's objectives which explicitly sets out key concepts - such as a victim-sensitive approach to improve implementation by Member States.

While EU Member States increasingly include victims' voices, perspectives, and experiences within their criminal justice systems, many are still limited in their provision of giving victims a voice, reducing the harm they encounter, ensuring a victim-sensitive approach, and maximising their positive experience and the outcomes of proceedings<sup>4</sup>. Including these key principles<sup>5</sup> within the Directive will focus Member States' attention, support critical behaviour change and ensure they are mainstreamed when Member States implement the Directive's provisions.

When determining relevant action, Member States should determine objectives not only on the type of crime but also based on victims' individual characteristics (age, disabilities, etc), the severity of the crime, possible bias/discrimination and victims at specific risks of repeat and secondary victimisation; and adapt their response to such needs by means of a victim-sensitive approach.

Victims with disabilities continue to face many issues when they try to get support and access justice because of the lack of accessible victims' services to victims with disabilities, including shelters, legal aid and psychological support<sup>6</sup>. Bias and discrimination based on disability – included in the Commission's proposal under Article 26c - should be addressed in line with Member States' obligations arising from international obligations such as the UN Convention on the Rights of Persons with Disabilities (UN CRPD). VSE reflects the Commission's proposals taking into account that it largely emphasises pre-existing obligations of States towards victims with the exception of direct access to rights.

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<sup>4</sup> Safe justice for victims of crime, Victim Support Europe, 2023, available at: <https://victim-support.eu/publications/safe-justice-for-victims-of-crime-discussion-paper/>

<sup>5</sup> Safe justice for victims of crime, Victim Support Europe, 2023, available at: <https://victim-support.eu/publications/safe-justice-for-victims-of-crime-discussion-paper/>

<sup>6</sup> [https://www.edf-fehp.org/content/uploads/2021/02/edf\\_recommendations\\_on\\_eu\\_strategy\\_for\\_victims\\_rights\\_2020-2024\\_final\\_0\\_0.pdf](https://www.edf-fehp.org/content/uploads/2021/02/edf_recommendations_on_eu_strategy_for_victims_rights_2020-2024_final_0_0.pdf)

## Article 2 – Definitions – ([Back to Article](#))

### COMMENTARY – Article 2 – Definitions

By its referral to ‘harm’, the definition of a ‘**victim**’, as used in EU legislation, differs from other international instruments<sup>7</sup>, which define victims as persons subjected to behaviour which is criminalised under their provisions. There is currently no evidence supporting the notion that victims should have to suffer harm to be defined as such. Conversely, as proposed by the EU FRA, when a victim is deemed to ‘own’ rights that have been violated, the victim is entitled to see that justice is served and becomes an active party in proceedings. Removing the term ‘harm’ from the definition supports a stronger recognition of victims within the justice system<sup>8</sup> - an approach that is in line with Recital 9 of the 2012 Directive<sup>9</sup>.

In defining **family members**, VSE suggests the removal of any limitation requiring the term ‘joint household’ to qualify stable, committed intimate relationships. With the freedom of movement granted to EU citizens, a high number of committed couples live in different Member States, whether for a limited or prolonged period. The requirement for a ‘joint household’ no longer addresses the reality of modern relationships.

The updated definition of **restorative justice (RJ)**, as suggested by the European Forum for Restorative Justice<sup>10</sup>, derives from the Council of Europe’s recommendation on Restorative Justice<sup>11</sup>. It aims to better reflect the scope of RJ, which focuses on the harm caused by a crime and includes, as relevant parties, those members of the community (relatives, friends, neighbours, etc) affected by the crime.

The VSE proposal also introduces definitions on **generic support services** and **specialist support services**. Whilst the terms specialist and generic are regularly used, no European definition currently exists which can create confusion, in particular where other legislative texts may refer to services such as social welfare services as being general support services. These services should not be considered as (generic) support services since they do not specialise in supporting victims, even though they may incorporate support to victims. The differentiation is important since within a national support framework, it is necessary to have a combination of services specialised in supporting all victims

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<sup>7</sup> Such as Council of Europe conventions on preventing and combating violence against women and domestic violence (the Istanbul Convention, available at <https://rm.coe.int/168008482e> or on the Protection of Children against Sexual Exploitation and Sexual Abuse (the Lanzarote Convention, available at <https://rm.coe.int/protection-of-children-against-sexual-exploitation-and-sexual-abuse/1680794e97>)

<sup>8</sup> Justice for victims of violent crime, Part I: Victims’ rights as standards of criminal justice, the European Union Agency for Fundamental Rights (EU FRA), 2019, available at: <https://fra.europa.eu/en/publication/2019/victims-rights-standards-criminal-justice-justice-victims-violent-crime-part-i>

<sup>9</sup> Recital 9 recognises that: ‘*Crime is a wrong against society as well as a violation of the individual rights of victims. As such, victims of crime should be recognised and treated in a respectful, sensitive and professional manner [...]*’, see DIRECTIVE 2012/29/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&from=EN>

<sup>10</sup> European Forum for Restorative Justice: <https://www.euforumrj.org/en>

<sup>11</sup> Recommendation CM/Rec(2018)8 of the Committee of Ministers to member States concerning restorative justice in criminal matters, Council of Europe, 2018, available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016808e35f3](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016808e35f3)

(Generic support services), services specialised in supporting specific groups of victims (Specialist Support Services) and other organisations which work with victims, whose tasks are not primarily the support of victims but who have a role in assisting them.

## Article 3 – Right to understand and be understood – ([Back to Article](#))

### COMMENTARY – Article 3 – Right to understand and be understood

The European Commission has not amended the right to understand and to be understood in its proposal. However, an amendment to Article 26a (Protocols through national coordination and cooperation) introduces new principles through which Member States should provide information to victims and organise information provision mechanisms. This proposal is a key improvement in defining and harmonising how information should be communicated and ensuring that victims understand it and can act on it. However, VSE suggests these guiding principles should be added to the Right to understand and be understood: they better clarify this right and what it means for a victim to have access to understandable information. VSE's suggestions use language similar to that of the Commission, though with additional principles (e.g. accurate, provided through multiple sources), so as to achieve a more comprehensive delivery of information.

At this time, a variety of quality issues prevent victims effectively understanding the information communicated to them, thus impeding their ability to act on it and exercise their rights. Quality issues range from the use of complex and technical language to the lack of accessible information or its untimely delivery. To address such challenges, guiding principles must be established and integrated within the Directive. For further information on individual principles, please refer to VSE's policy paper '*Transforming how we communicate with victims*' (2023)<sup>12</sup>, which examines the barriers victims face when accessing information, and provides recommendations on addressing them.

## Article 4 — Right to Receive information on first Contact ([Back to Article](#))

### COMMENTARY – Article 4 – Right to receive information on first contact

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<sup>12</sup> Transforming how we communicate with victims, Victim Support Europe, 2023, available at: [https://victim-support.eu/wp-content/files\\_mf/1681918001TransformingHowWeCommunicateWithVictims\\_compressed.pdf](https://victim-support.eu/wp-content/files_mf/1681918001TransformingHowWeCommunicateWithVictims_compressed.pdf)

This article was not amended in the European Commission's proposal. However, recent research indicates that many problems persist in the provision of information to victims at first contact; these are detailed in VSE's policy paper '*Transforming how we communicate with victims*'<sup>13</sup>. Some of these challenges are addressed by VSE amendments to other information-related articles (e.g. right to understand and be understood, coordination system for communication with victims).

In this article, the key change is the **obligation to provide information** rather than merely to *offer information*. By obliging information to be provided, victims should receive sufficient guidance to make certain decisions on their own. This obligation enables the implementation of the right to be monitored and legal remedies against failures to be enacted.

Reports from the EU FRA<sup>14</sup> show that confusion remains over the provision of information on compensation at the first contact with victims. Reasons for this confusion include not knowing who/which authority should provide the information on compensation; specifically, information on State compensation, which is often not handed out at all. VSE recommends the article should explicitly mention both offender and State compensation, and victims should be told about their right to compensation on their first contact with competent authorities.

## Article 5 – Right of Victims when making a Complaint ([Back to Article](#))

### COMMENTARY – Article 5 – Right of victims when making a complaint

The right of victims when making a complaint was not amended by the Commission. VSE's study on the 2018 implementation of the VRD<sup>15</sup> described how Member States failed – in practice – to implement this right; only one third of victims (35%) received written acknowledgement of their complaint<sup>16</sup>. Moreover, information contained in a written acknowledgement may be limited and may not include details provided by the victim, which could be later used or documented by the police.

VSE's amendment seeks to close these gaps and enable victims to determine whether their initial statement had been recorded correctly.

The amendment seeks to overcome problems with language comprehension; victims may feel they do not understand, or cannot communicate well within, the proceedings. These concerns may be ignored

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<sup>13</sup> Transforming how we communicate with victims, Victim Support Europe, 2023, available at: [https://victim-support.eu/wp-content/files\\_mf/1681918001TransformingHowWeCommunicateWithVictims\\_compressed.pdf](https://victim-support.eu/wp-content/files_mf/1681918001TransformingHowWeCommunicateWithVictims_compressed.pdf)

<sup>14</sup> Proceedings that do justice, Justice for victims of violent crimes, Part II, EU Agency for Fundamental Rights, 2019, available at: <https://fra.europa.eu/en/publication/2019/proceedings-do-justice-justice-victims-violent-crime-part-ii>

<sup>15</sup> VOCIARE Synthesis report, Victim Support Europe and partners, 2019, available at: [https://victim-support.eu/wp-content/uploads/2021/02/VOCIARE\\_Synthesis\\_Report.pdf](https://victim-support.eu/wp-content/uploads/2021/02/VOCIARE_Synthesis_Report.pdf)

<sup>16</sup> For more information please see VSE Policy paper 'Safe justice for victims of crime', 2023, available at: <https://victim-support.eu/publications/safe-justice-for-victims-of-crime-discussion-paper/>

by authorities; in general, when the victim has some knowledge of the language of proceedings (yet may struggle with the specialist language used). The amendment promotes the empowerment of victims and helps ensure that pertinent (personal) information is correctly taken by the authorities and understood by the victim.

## Article 6 – Right to receive information about their case –

### [\(Back to Article\)](#)

#### COMMENTARY – Article 6 – Right to receive information about their case

The Commission did not amend the right of victims to receive information about their case. However, proposal's Article 26b (Use of electronic means of communication) introduces an obligation for Member States to ensure that victims are able to exercise a number of their rights, including the right to receive information about their case via the use of electronic means of communication (e.g. websites, online platforms, emails, etc). Whilst this amendment represents a positive first step, its language and scope remain vague and do not offer a solution that best addresses all victims' needs in terms of accessing information about their case in a victim-sensitive manner. VSE's amendment (Article 6, paragraph 6) suggests the introduction of a victim-friendly online platform, which reflects existing best practices and solutions that facilitate multi-agency platforms, empowering and individualising victims' access to information, and offering multiple provision of information formats<sup>17</sup>. Such platforms can make the process more efficient, reduce repeated requests from victims, and reduce duplication or gaps in information, etc.

Further information about victims' cases is currently unavailable, even when requested, or is not provided in a consistent and timely manner. This is, in part, driven by the notification process; therefore, VSE proposes that an obligation to provide information is added, whilst ensuring the victim's right to refuse. This changes the nature of the obligation and increases the likelihood that the information will, in fact, be provided.

The current Directive also excludes access to information for victims who are not considered to have a role in proceedings. The information on proceedings in these articles is deemed to be the minimum essential information and should be available to all victims unless they refuse. This is reflected in VSE proposal.<sup>18</sup>

Under paragraph 1, VSE added the Commission's provision from Article 10b in its proposal (article 20 in VSE Model Provisions paper), requiring victims to be informed about decision that affect them directly.

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<sup>17</sup> Transforming how we communicate with victims, Victim Support Europe, 2023, available at: [https://victim-support.eu/wp-content/files\\_mf/1681918001TransformingHowWeCommunicateWithVictims\\_compressed.pdf](https://victim-support.eu/wp-content/files_mf/1681918001TransformingHowWeCommunicateWithVictims_compressed.pdf)

<sup>18</sup> *Ibid.*

This aims to facilitate the information provision to victims throughout proceedings by combining related obligations under this article. Victims' right to review these decisions remains.

VSE recommends a balanced system for analysing and evaluating the risks to the offender and to the victim when providing information in paragraph 5. The current wording prioritises the risk to the offender over the risk to the victim by removing the right to information where there is such a risk. Rather, a risk assessment of both sides is necessary to make a proportionate decision.

Finally, when information provision is not carried out adequately and in accordance with a victim-sensitive and trauma-informed approach, it risks distressing and further victimising the victim<sup>19</sup>. Such a risk is severely increased if the information provided is problematic and stressful to victims, such as the release of an offender who may pose a danger to the victim. VSE therefore suggests that information that might bring distress to victims, on decisions not to prosecute, final judgments, and information regarding the release/escape of offenders from detention, is provided in a sensitive manner and combined with appropriate support.

These amendments are necessary to the fundamental provision of information during and throughout criminal proceedings. Improved provision of information leads to increased victim participation, hence impacts the outcomes of proceedings, and reduces the risk of secondary victimisation<sup>20</sup>.

## Article 7 – Right to interpretation and translation – ([Back to Article](#))

### COMMENTARY – Article 7 – Right to interpretation and Translation

The Commission did not propose an amendment to the right to interpretation and translation; however, numerous reports demonstrate that victims are often unable to access such services despite needing them. When interpreters are available, the quality of interpretation provided cannot always be guaranteed. A lack of knowledge in working with victims can cause secondary victimisation as interpreters do not always fulfil, and respect, victims' needs or vulnerabilities<sup>21</sup>. At the same time, it is recognised that interpretation and translation services are difficult to organise and are expensive to provide.

To achieve a balance between a victim's right to understand proceedings and potential costs, VSE proposes a two-tier system. Victims should be able to receive interpretation and translation from

<sup>19</sup> Transforming how we communicate with victims, Victim Support Europe, 2023, available at: [https://victim-support.eu/wp-content/files\\_mf/1681918001TransformingHowWeCommunicateWithVictims\\_compressed.pdf](https://victim-support.eu/wp-content/files_mf/1681918001TransformingHowWeCommunicateWithVictims_compressed.pdf)

<sup>20</sup> Transforming how we communicate with victims, Victim Support Europe, 2023, available at: [https://victim-support.eu/wp-content/files\\_mf/1681918001TransformingHowWeCommunicateWithVictims\\_compressed.pdf](https://victim-support.eu/wp-content/files_mf/1681918001TransformingHowWeCommunicateWithVictims_compressed.pdf)

<sup>21</sup> VOIARE Synthesis report, Victim Support Europe and partners, 2019, available at: [https://victim-support.eu/wp-content/uploads/2021/02/VOIARE\\_Synthesis\\_Report.pdf](https://victim-support.eu/wp-content/uploads/2021/02/VOIARE_Synthesis_Report.pdf)

qualified persons at key moments and for essential information e.g. reporting the crime. Notably, victims should not have to request this service, it must simply be provided to them where they indicate they do not understand the language or where it is clear they don't. The act of asking for this service acts as a barrier to its access. In other instances, the services should be accessible but may be provided in an informal manner or via technology.

Access to interpretation and translation services should be facilitated for all victims who are non-nationals of the country or who indicate language difficulties, based on the presumption they require access to such services, unless it is apparent that the victim does not need access to these services. This will encourage the implementation of more proactive behaviours by authorities, and overcome barriers for victims seeking help. At the same time, the approach will alleviate fears of competent authorities with regard to requests for access to interpretation and translation services of victims who are non-nationals and who clearly do not need such services.

## Article 8 and 9 – Right to Support Services – ([Back to Article](#))

### COMMENTARY – Article 8 and 9 – Right to Support services

The European Commission has proposed several amendments with respect to Support Services, including the requirement that victims are to be contacted by support services when predicated by an individual needs assessment, set out in Article 22 of the 2012 VRD. Furthermore, the amendments require services remain operational during crises, that psychological services are available to victims for as long as they are required (as determined by an individual needs assessment), that articles are aligned with the European Commission's proposal for a Directive on combatting violence against women and domestic violence, and that new specific rules on specialist services for child victims are established.

Whilst we are generally supportive of the proposals, the procedures around the individual needs assessment – specifically, who carries it out and for what purposes – require further examination; support needs assessments and access to support services should not be the purview of the police and other authorities. Not only would this be burdensome, these entities are usually not well placed to make such decisions, which can impact the number of victims supported. We support the objective that psychological support is available for as long as needed, but suggest this should be determined by a psychologist, rather than by the organisation carrying out the needs assessment; especially if the assessment is carried out by police officers. Furthermore, services which do not themselves employ psychologists should at least be able to refer victims to ones which do.

Whilst these amendments are a good first step, they fall short of addressing key failings and challenges in implementing support. It must be noted that across Europe the quality of services offered is not standardised and varies widely, while in some countries generic services do not even exist and in others, services are inaccessible for a range of reasons.

The following amendments are proposed:

- First and foremost, all countries must offer coordinated generic and specialist victim support services: addressing the failure to implement services. It is notable that it is often repeated that some groups of victims can only be served by certain types of organisations. This does not reflect evidence based or victim focused approaches and it is dangerous to create through laws, monopolies on the delivery of services. The determining factor for providing support should be quality, based on compliance with identified standards, rather than other factors based on e.g. ideology. This approach places victims interests first and foremost in the organisation of support rather than the interests of organisations themselves;
- Clearer stipulations to ensure services are, in fact, accessible which include the provision of support via multiple channels: the current Directive requires services to be accessible but does not specify how. This has resulted in inconsistent approaches with no measurable standards against which to hold states;
- Introduction of recognised operating standards for services: this addresses inconsistent quality in services whilst leaving the precise standards for Member States to determine. VSE has adopted the following standards which it recommends for all support services:
  - Services are available to all types of victims of crime
  - Respect, and treat victims with courtesy and dignity
  - Work to ensure victims' safety
  - Respond to victims' individual needs
  - Diversify service provision
  - Provide services using referrals and cooperation
  - Ensure good governance structures
  - Provide and/or encourage training
  - Have monitoring and evaluation mechanisms in place.
- In line with the EU Victims' Strategy, recognition as essential social services must be given to support services, and therefore they should continue to operate in crises: the Covid pandemic demonstrated that in times of crisis, there is a higher risk of crime, particularly against the vulnerable and that it is essential to maintain support services. Recognition as an essential service can facilitate data sharing protocols with authorities.
- Support services should be well funded: NGOs are often best placed to deliver victim services yet lack sufficient State funding. This obligation not only ensures the implementation of support services, it also aims to prevent States from unnecessarily taking over the delivery of services from existing civil society support organisations.

## Article 10 – Targeted and integrated support services for children – ([Back to Article](#))

**Commentary – Article 10 – Targeted and integrated support services for children**

The European Commission proposed a new article, 9a, on targeted and integrated support services for children. In the explanatory memorandum, the Commission indicates that a child-sensitive approach remains problematic in many Member States, demonstrating a need for a targeted and multi-agency approach to support and protect child victims throughout proceedings; such as highlighted by the principles of Barnahus model. VSE is supportive of this proposal since multi-agency solutions for child victims (or at least for child abuse victims and other types of child victims) are generally recognised as good practice.

VSE suggests including access to legal aid in the list of accessible services, given that children are likely to have less agency and less ability to navigate these aspects – either because of their age and maturity, their legal competence, or the emotional whirlwind they are experiencing. Having specialists on their side to understand and navigate the legal and administrative aspects, including residence procedures if applicable, ensures that victims can meaningfully participate in proceedings, where necessary, and takes into account child-friendly justice principles.

## Article 11 – Helplines – ([Back to Article](#))

### COMMENTARY – Article 11 – Helplines

The European Commission proposed a new obligation on Member States to set up 116 006 support helplines.

VSE strongly supports this proposal as 116006 helplines greatly increase access to assistance, both through the service itself and through referrals to support services, or direct appointments for face-to-face support.

We have proposed some changes, which reflect best practice experiences of members of VSE's Centre of Excellence for Distance Support; members include all current operators of the 116 006 helpline:

- **Requirement to establish 116006 helplines:** the Commission proposes only that necessary measures are taken. Given the poor implementation of support services under the current Directive, it is important to define clear obligations which can be effectively monitored.
- **Referrals to all relevant services:** the Commission proposal focusses only on specialist services whereas, importantly, the helplines refer individuals to the most appropriate service, including generic support.
- **Helplines work to identified standards and are operated by trained personnel:** in line with requirements on support, minimum quality standards of professional service must be implemented to avoid inconsistent experiences across the EU.
- **Helplines are operated by a service specialising in delivering support:** support helplines cannot be operated by just any organisation. The needs of and assistance to victims require specialist skills, knowledge, and training. States may seek to incorporate this service within existing social

services; however, this may mean that staff working with victims are not appropriately qualified, that resources are diverted to other priorities, and that the service itself is less visible. While 116 006 helplines may be delivered by civil society or state entities, the Directive should not be misconstrued or used to require or result in the replacement of existing 116 006 services.

## Article 12 – Measures to remove barriers to accessing victims’ rights – ([Back to Article](#))

### **COMMENTARY – Article 12 – Measures to remove barriers to accessing victims’ rights**

The European Commission introduced additional safeguards for people in detention facilities, namely in new article on reporting of crime (art. 5a, §3 of proposal) and the new article on protocols through national coordination and cooperation (art. 26, §1b of proposal).

VSE agrees that people in detention facilities may be particularly vulnerable and in need of specific assistance with regard to information about their rights, to facilitated reporting and to support and protection.

VSE is concerned about the focus only on people in detention facilities, which does not take into account all persons deprived of liberty, which includes persons in mental health and social care institutions, children in orphanages and aged persons in retirement or care homes. The proposal also ignores the situation of other victims who are controlled by others, or have significant barriers to accessing their rights.

VSE’s proposal seeks to ensure a better coverage of all the above mentioned vulnerable groups.

## Article 13 – National Referral System for Support Services– ([Back to Article](#))

### **COMMENTARY – Article 13 – National Referral System for Support Services**

Whilst the European Commission proposal has recognised the importance of victims being contacted by support services, it has not established clear obligations with respect to referrals. Moreover, it appears that the proposal risks creating a system whereby victims will only be referred to support services once an assessment, carried out by an authority (most probably law enforcement), has deemed this to be necessary. In our experience, such systems result in lower rates of access to and take-up of support than a formal referral mechanism.

Experience and research show that the most effective approach to referral between police authorities and support services is a mandatory opt-out system. When a system is not obligatory, the referral rates are highly variable; officers do not always ask victims for consent or assume they do not need further support. In contrast, when victims' details are sent to support services and staff contact victims directly with an offer, uptake is much higher.

However, knowing which organisations should be referred to or how a country-wide system should operate is problematic. For this reason, the proposal sets out core principles and an obligation for a system of referral, without setting out specific commitments. Such a system should, as a priority, ensure the correct management of referrals between generic and specialist support services, in accordance with the national situation.

## Article 14 – Reporting of a crime and measures facilitating the act of reporting – ([Back to Article](#))

### **COMMENTARY – Article 14 – Reporting of a crime and measures facilitating the act of reporting**

The European Commission introduces article 5a on Reporting of crime in its proposal. This new article ensures that Member States facilitate the reporting of crime by, amongst other means, enhancing accessible communication. VSE applauds the introduction of an article on the reporting of crime. The article specifically obliges Member States to ensure access to reporting for various victims, including access to user-friendly reporting mechanisms for children and people in detention facilities. The article also introduces a measure – called the “firewall principle” – that allows migrant victims to report crime to the police without information on their residence status being shared with immigration authorities. As previously indicated, VSE is concerned about the focus on people in detention facilities, which does not consider persons in mental health and social care institutions, in orphanages, or in retirement homes. VSE suggests aligning this definition with the UN and ECHR definitions of deprivation of liberty, which encompasses all places where: i) persons are not free to leave; ii) staff and authorities exercise total control over a person's movement; iii) persons require assistance by staff or authorities for all activities of daily living.<sup>22</sup> VSE is also concerned about the restrictive interpretation of the “firewall” principle, which does not offer sufficient protection to victims of crime with irregular residence status. It ensures that migrant victims can report a crime to the police without having information on their residence status being shared with relevant immigration authorities. However, this obligation is only

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<sup>22</sup> This definition is included in Article 4 of the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-against-torture-and-other-cruel>; Association for the Prevention of Torture, Older persons deprived of liberty: addressing the risks of torture and ill-treatment: Contribution to UN Independent Expert Report (2022), available at: <https://www.ohchr.org/sites/default/files/2022-05/submissions-older-persons-deprived-of-liberty--association-prevention-torture-submission2.pdf>; European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Factsheet: Persons deprived of their liberty in social care establishments (2020), available at: <https://rm.coe.int/1680a0cc19>

absolute until the completion of the first individual needs' assessment. At this point, victims information could be passed on to immigration authorities thus defeating the purpose of the protection or indeed causing additional harm to victims.

Underreporting of crime, particularly by some victim groups, is well-documented. Victims face many barriers, when reporting a crime, that prevent them from coming forward. Such barriers can be categorised as follows: fear of a perpetrator, influence by victim's social networks, administrative burden connected to the act of reporting, a lack of trust in the police and the criminal justice system and a perception that the crime is not serious enough to report. When victims do not report a crime, they may not have full access to the support and assistance they need, and offenders may escape punishment. In turn, this negatively impacts societal well-being.

The aim of the VSE proposal is to ensure that Member States have in place mechanisms that help overcome all barriers to reporting a crime. Our proposal makes explicit reference to solutions such as online reporting and evidence collection (removing the burden of physically attending a police station), anonymous reporting (allowing victims to initially report a crime without sharing their personal data, even if some data may later need to be shared to initiate criminal proceedings), and third-party reporting (to facilitate the reporting of crime when victims are unable to go to police themselves) for all victims of crime. Furthermore, we propose the introduction of an extended interpretation of the "firewall" principle, to ensure that no personal data is shared with authorities for reasons other than the complaint or subsequent criminal proceedings connected to the crime reported.

## Article 15 – Activities assisting people to come forward – ([Back to Article](#))

### **COMMENTARY – Article 15 – Activities assisting people to come forward**

The European Commission did not introduce changes to this article in its proposal for a revised VRD.

Across Member States, many citizens are unaware of what constitutes a crime under national law and how to report a crime. These factors contribute to the underreporting of crime.

VSE proposes an article on Member States' obligation to fund and develop activities to encourage individuals to come forward to report crime. It is our understanding that there is a need for broader public information campaigns and educational intervention on crime and victimisation. These actions must be accompanied by community activities which aim to generate trust in law enforcement agencies and build social resilience.

## Article 16 – Right to be heard – ([Back to Article](#))

### COMMENTARY – Article 16 – Right to be heard

The European Commission did not propose changes to this Article in its proposal.

In various Member States, the right to provide evidence at the victim's initiative and the right to be heard depend on the role victims are allocated by national procedural rules. Given that the proceedings concern them personally, this approach is harmful to victims who consider the ability to testify during criminal proceedings as being important.

The VSE proposal aims to provide recognition to victims who wish to actively participate in the criminal justice process, regardless of their role under national procedural law. It introduces a right, for all victims of crime, to provide a victim impact statement, regardless of their role in proceedings. The ability to present a victim impact statement within criminal proceedings should be considered as it empowers victims, it provides recognition that a crime has affected a victim's life, and acknowledges that a crime may leave scars.

## Article 17 – Right to accompaniment throughout criminal proceedings – ([Back to Article](#))

### COMMENTARY – Article 17 - Right to accompaniment throughout criminal proceedings

The European Commission's proposal did not include a provision on the right to accompaniment. In its explanatory memorandum to the proposal, the Commission refers to the fact that the right to be accompanied by a person other than a lawyer is important to emotional support and for the provision of advice on a victim's role and rights during proceedings. However, the right remains limited to the investigation stage.

Victims face numerous challenges in exercising their rights and in participating in a trial. They may be impacted by the crime to the extent that they are unable to engage in proceedings. Even if trauma isn't a factor, many people have never entered a court room; they may not have the education or capacity to follow proceedings; many victims have vulnerable backgrounds which significantly affect how well they, without assistance, can exercise their rights under law. These barriers may result in victims omitting information, crucial to the criminal justice process, during their interaction with competent authorities. Even when victims exercise their rights, they may experience further harm due to the insensitive attitudes of justice officials.

Victims should be empowered to act upon their participatory rights. For them to do so, it is essential they receive appropriate support throughout proceedings – this right alone can make significant differences to access to rights and a victim’s experience of justice.

VSE introduces the right for victims to be accompanied throughout proceedings by a person of their choice. This right may be refused under exceptional circumstances, by a reasoned decision by competent authorities that demonstrate it is contrary to the interest of the victim (e.g.: the victim wishes to be accompanied by their partner, who is also the suspect in the criminal proceedings), or that it would prejudice the proceedings.

However, VSE sees not reasonable explanation for why competent authorities can refuse the accompaniment by a support worker connected to a recognised support service. Practice across several EU Member States shows that being accompanied by a support worker may assist victims with respect to their rights, with understanding the proceedings and their role, whilst helping to reduce the trauma of participation in proceedings. As a result, victims can feel better prepared to participate in the justice process. Research shows that victims are usually treated more respectfully, and their rights are better respected, when they are accompanied by a support worker.

## Article 18 – Right to access court based support services – ([Back to Article](#))

### **COMMENTARY – Article 18 – Right to access court based services**

In article 10a of its proposal, the European Commission introduces the right to assistance at court. VSE welcomes the addition of this important new right. However, VSE suggests changes to the scope of the service in terms of the type of support offered, and the users who benefit from such support. VSE further emphasises the need to clarify the reference, in the explanatory memorandum, to “court staff” as being those that will deliver the service.

Some victims may not have contacted support services before attending their court hearing, whilst others may only feel the need for support on arrival at the court building. For these victims, access to court based support will limit further harm, thus benefitting their effective participation and overall experience of the criminal proceedings. Victims, who have received court based support, indicate that they feel better informed, safer and more confident, and better prepared to give evidence. Besides reducing stress and trauma, court-based support may also contribute to improving the number of victims and witnesses who attend court hearings.

The VSE proposal introduces a broader right to access court based support. Firstly, the VSE proposal includes a reference to practical support as being one of the services offered by court based support service. This may include, for instance, setting up of a room for video evidence or arranging separate waiting rooms for victims to avoid contact with offender on court premises.

Secondly, VSE believes that this right should be available not only to victims, but also to witnesses. Witnesses may also experience trauma following a crime, or feel stressed as they have never been to a courtroom. Moreover, in many countries, witnesses, unlike victims, must testify under oath, thus they risk additional consequences if they are unable to fully share their story. We recognise, however, that this may be considered to be beyond the scope of the current Directive.

Thirdly, VSE has not included any specifics on the delivery of court based support. We consider that this may be offered by various operational means, such as having support workers from external (non-court-based) organisations accompanying victims to or meeting victims at the courthouse for support purposes. This accompaniment should be provided by trained support workers, whether volunteers or employees. VSE strongly recommends that staff delivering court based support are present onsite during court hours. As an example; in 2022, over 20% of V-Sac's (the Irish Victim Support at Court organisation) clients were walk-ins, meaning that these victims or witnesses only contacted the service on their arrival at court.

Finally, the VSE proposal refers to criminal hearings, to ensure court based support may be offered to those attending all hearings during the criminal justice process whether these are: preliminary hearings; preparatory interviews and meetings with criminal justice agencies; to record evidence; attend trial, retrial, sentencing, appeal and release proceedings; or any other proceeding at which the crime committed against the victim, or the sentence of the offender is to be discussed.

## Article 19 – Rights in the event of a decision not to prosecute

### – ([Back to Article](#))

#### **COMMENTARY – Article 19 – Right in the event of a decision to not prosecute**

The European Commission did not make changes to this right in its proposal.

The right to review decisions not to prosecute supports the rule of law, and aims to identify and adjudicate against those guilty of committing crimes. It recognises that, however well trained and professional individuals are, mistakes can be made, and abuse of the system may occur: information may be missed or ignored; officials may be overwhelmed by work and miss the importance of specific evidence; corruption or personal biases may unduly influence decisions, etc. However, victims are currently experiencing barriers in exercising this right, namely: strict time limits for submitting a request to review, insufficient explanation for a decision not to prosecute, and complexity of the application to submit a review request. Due to the complex nature of this procedure across Member States, victims often do not have sufficient knowledge and expertise to pursue a claim and submit the required application documents on time. The emphasis on the role of victims may be used as a further way to restrict victims' access to this right.

The VSE proposal reflects the right to an effective investigation for every victim of crime, following Article 47 of the EU Charter of Fundamental Rights. The proposal addresses the practical barriers to

exercising this right. It ensures that all victims receive an appropriate, easy to understand communication of the decision not to prosecute, which allows victims to determine whether they should seek a review and on what grounds. It also ensures sufficient time is available for the submission of a review request and introduces the opportunity to request a reasonable extension of the submission deadline; specifically, when victims require the support of a translator or a lawyer.

## Article 20 – Right to a review of decisions taken during court proceedings – ([Back to Article](#))

### **COMMENTARY – Article 20 – Right to a review of decisions taken during court proceedings**

The European Commission introduced Article 10b on the right to review decisions taken during court proceedings, which concerns victims' rights under the directive.

This article was introduced to achieve a more effective access to justice. In 13 Member States, victims have limited legal remedies with which to challenge decisions that affect them directly, regardless of their role in criminal proceedings.

VSE is supportive of the introduction of this new right, which contributes to better participatory rights for victims of crime in the context of criminal proceedings. VSE suggests two amendments to the proposal. Firstly, VSE recommends the removal of the reference to obligation to inform victims about this right. Instead, we suggest this obligation is referred to in the Chapter on Information rights, in Article 6 on the Right to receive information about their case. Secondly, VSE has extended the list of decisions, to ensure that the right to review has a practical impact on improving victims' rights as properly reflects key moments which can fundamentally affect justice for victims.

## Article 21 – Right to access restorative justice services – ([Back to Article](#))

### **COMMENTARY – Article 21 – Right to access restorative justice services**

The European Commission did not revise this article in its proposal.

In many Member States, restorative justice (RJ) services either do not exist or are inaccessible to many victims; exclusions are commonly based on the type of crime or the characteristics of the offender. Victims often lack information about RJ or are not referred to the service. Where victims have access to restorative justice services, there are few measures to ensure their well-being and safety during the RJ process. Moreover, the provision of RJ services tends to be mostly offered by offender-focused organisations at the national level which may lead to a bias being introduced to the process.

Our proposal offers a comprehensive solution to these problems. It aims to remove access barriers by addressing victims' access to information and referral, while eliminating unreasonable exemption criteria. The VSE proposal advocates for the adoption of common standards, values, and accreditation processes for RJ services, and promotes neutrality across the process. VSE proposal also ensures that the development of restorative justice services takes place in a coherent, integrated system of service provision at national level, which does not create competition between victim support services and restorative justice services. Importantly, restorative justice services should not be implemented in place of or prioritised over support services. This is particularly important since, many more victims are likely to need and seek victims support services compared to those wishing to engage with offenders for restorative purposes. Lastly, our proposal aligns the text of the article with the Council of Europe's landmark Recommendation on restorative justice in criminal matters (CM/Rec(2018)8), which received the overwhelming consensus of EU Member States.

## Article 22 – Right to access to legal aid/ legal representation – ([Back to Article](#))

### **COMMENTARY – Article 22 – Right to access legal aid/representation**

The European Commission did not include any revisions to this article in its proposal.

Across Member States, significant problems stem from the restrictive application of victims' right to legal aid during criminal justice process. Victims often find themselves unable to fully exercise their participatory rights during proceedings because of limited access to legal assistance, primarily determined by their status as a party to the proceedings.

While the ideal scenario is universal access to free legal aid for all victims of crime, resource constraints at national level are a reality. However, the VSE proposal ensures that those with the status of party to proceedings have access to free legal aid; this encompasses the provision of legal advice, assistance, and representation by a lawyer, provided at no cost. The express reference to legal aid "free of charge" is included to avoid Member States introducing the obligation for victims to pay financial contributions, based on their income or other factors. The VSE proposal recognises the essential importance of free legal representation; due to the intricate nature of serious crimes with complex proceedings, legal assistance is crucial to enabling victims to navigate the complexities of the legal system.

Lastly, the VSE proposal extends access to free legal representation to situations where victims require such support to fully enjoy their participatory rights. This may include the right to make decisions on offender compensation, and the right to review decisions not to prosecute, or decisions taken within the context of proceedings that directly affect victims. By broadening access to legal aid and representation, the VSE proposal seeks to empower victims and ensure that their participatory rights are upheld throughout the criminal justice process.

## Article 23 – Right to reimbursement of expenses – ([Back to Article](#))

### COMMENTARY – Article 23 – Right to reimbursement of expenses

The European Commission did not make changes to this article in its proposal.

Victims experience many challenges with the reimbursement of costs connected to their participation in criminal proceedings. States may limit which costs may be reimbursed or may only reimburse costs when victims are obliged to attend proceedings, rather than when they exercise their participatory right to do so. Reimbursement is often linked to victims' income levels, while complex procedures and delays in payments further compound this issue. Exposure to unplanned costs for participating in proceedings may lead to secondary victimisation, and negatively affect a victim's wellbeing.

The VSE proposal seeks to rectify these problems. A victim's financial situation should not negatively impact on their participation in proceedings. Our proposal prioritises the timely reimbursement of victims through simplified procedures, streamlining the process and reducing delays. The VSE proposal advocates for a list of expenses to be covered by all Member States, including as a minimum, travel costs for active participation, irrespective of the victim's role in proceedings. This approach ensures that victims can access reimbursement for legitimate expenses related to participation. Additionally, the VSE proposal facilitates victims' attendance, even through electronic means, making it more convenient for them to engage in proceedings. It also recognises the financial urgency faced by vulnerable victims, advocating for advance payments to provide immediate financial support as needed. This comprehensive approach aims to remove barriers to victim participation and ensure that reimbursement is not a burden, but a right upheld for all victims.

## Article 24 – Right to return of property – ([Back to Article](#))

### COMMENTARY – Article 24 – Right to return of property

The European Commission did not make changes to this article in its proposal.

Any recoverable property or personal assets seized during criminal proceedings should be returned without delay, once such property is no longer required for the purposes of the proceedings. In practice, returning personal effects can be challenging if ownership must be established. Furthermore, officials often lack empathy when returning victims' property. Procedures relating to the reclamation of property tend to incur unreasonable deadlines and systematic delays.

The VSE proposal aims to facilitate the process of reclaiming personal effects and property by requiring the use of proper documentation and secure storage of these items. Besides making changes to the article, we also recommend that clear protocols for returning seized personal effects are established at the national level. Such protocols should foresee transparent communication with victims and victims'

families concerning the reasons as to why property is withheld. This communication will help manage victims' expectations, which may lead to a reduction in further harm. If personal effects are retained by the authorities, protocols should ensure that justice officials conduct regular reviews on their retention as evidence.

## Article 25 – Right to decision on compensation from the offender in the course of criminal proceedings – ([Back to Article](#))

### COMMENTARY – Article 25 - Right to Decision on Offender Compensation in the course of criminal proceedings

The European Commission has proposed amendments to this article in its proposal. VSE welcomes the robust changes proposed to this article, which aim at facilitating a victim's effective access to compensation and at minimising delays and the administrative burden on victims. It is of vital importance that victims do not have to take proactive actions in order to get their awarded compensation and that it is the State's responsibility to ensure payment is made in a timely manner.

However, the implementation of a system of immediate upfront payment of the full amount of adjudicated compensation for all victims of crime may be very resource intensive. This can be evidenced by the cost-benefit analysis conducted by the Dutch government when setting up its system of offender compensation.<sup>23</sup> As an alternative solution, VSE suggests exploring the introduction of a reasonable delay to payment of compensation by the State, and the introduction of an option for a partial payment of the adjudicated compensation, except in cases of serious crime. In doing so, the following changes to paragraph 2 of this article might be helpful: “Member States shall ensure that competent authorities pay directly to the victim the adjudicated compensation within a reasonable delay. The competent authorities shall be subrogated to the right of the victim in relation to the offender for the amount of compensation. The prepayment of adjudicated compensation can be limited for all crimes, except for serious crimes.” We also suggest adding the following paragraph 3, to ensure that Member States can decide on what “reasonable delay” and “limitation of prepayment of adjudicated compensation by Member States for some crimes”: “The conditions or procedural rules for prepayment of adjudicated compensation shall be determined by national law.”

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<sup>23</sup> Ministerie van Justitie en Veiligheid (2021). Op verhaal komen: Naar een afgewogen, consistent en betaalbaar stelsel voor compensatie van slachtoffers van een strafbaar feit, accessed September 2023, <https://open.overheid.nl/documenten/ronl-810f9bed-7ddb-4192-848a-ec1f7ca4fa75/pdf>

The guarantee that all victims can request and obtain a decision on compensation may also not be appropriate in every context or may require changes to fundamental aspects of Member States' criminal justice systems. If Member States oppose this proposed approach, we suggest adding the following in paragraph 1 of this article: "Where national law provides for such a decision to be made in other legal proceedings, the transfer of the decision to other legal proceedings shall be made only in exceptional circumstances."

## Article 26 – Rights of victims resident in another Member State

### – ([Back to Article](#))

#### **COMMENTARY – Article 26 – Rights of victims resident in another Member State**

The European Commission proposed amendments to the article on the rights of victims resident in another Member State. VSE is supportive of these amendments, because cross-border victims often experience additional problems in accessing their rights across the EU. VSE does not propose additional changes to this article, but addresses matters that particularly affect cross-border victims in amendments to other articles of the Directive, such as the proposed changes to the right to translation and interpretation.

## Article 27 – Right to protection – ([Back to Article](#))

#### **COMMENTARY – Article 27 – Right to protection**

The European Commission did not make changes to this article in its proposal for a revised VRD.

In practice, research has shown that the protection available to victims and their family members is inadequate. As shown by the VSE VOciare Synthesis report and VSE Discussion Paper on Safe Justice, protection measures are not generally made available to all victims. When measures are available, they are often improperly implemented and enforced, leading to victims and victims' families suffering further harm and retraumatisation.

It is our understanding that this article sets out the scope of protection measures that should be available to victims and victims' families. This includes safeguarding their privacy, ensuring the availability of physical protection measures, and extending protection throughout criminal proceedings. Our changes reflect this general understanding in the umbrella article on right to protection.

## Article 28 – Right to avoid contact between victim and offender – ([Back to Article](#))

### COMMENTARY – Article 28 – Right to avoid contact between victim and offender

The European Commission did not make changes to this article in its proposal for a revised VRD.

Whilst many States have in place appropriate measures to enable the separation of victims and suspects, there has been limited progress in changing all Member State's police and court environments; as a result, victims are not often offered the use of or given access to such facilities. The VOCIARE report indicates that in only 19% of cases are victims always granted measures to avoid visual contact with the perpetrator. Equally, victim-friendly rooms are often either not available in national courts or are limited to certain victim groups (most often to children).<sup>24</sup> The Commission's evaluation report of the VRD reveals a widespread absence of these separate physical areas, especially in newer court buildings.

The proposal does not change the protection obligations themselves, but rather establishes concrete actions to be taken by Member States to move towards a more protective environment. The creation, in just a few years, of separate areas within court buildings and other locations would require significant investment and would potentially impact proceedings, is likely to be unfeasible. States should have to demonstrate, on an ongoing basis, what actions they are taking and what planning is in place to improve protection measures; however, some flexible approaches – such as using existing rooms for multiple purposes – can be easily and cheaply adopted. The proposal therefore achieves a balanced approach whilst creating an opportunity to monitor progress.

A key aspect of the VSE proposal is the introduction of mobile screens in courtrooms. Recognising that facing the offender is a well-documented cause of secondary victimisation, these screens offer a readily attainable and cost-effective solution. They can be used when victims and offenders must be in the same courtroom, while the victim presents their testimony, and can effectively block the victim's view of the offender at this sensitive time.

## Article 29 – Right to protection of victims during criminal investigations – ([Back to Article](#))

### COMMENTARY – Article 29 – Right of protection to victims during criminal proceedings

The European Commission did not make changes to this article in its proposal for a revised VRD.

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<sup>24</sup> European Commission Staff Working Document, Evaluation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, SWD (2022) 180 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD%3A2022%3A179%3AFIN>

Whilst protection measures are largely defined in law, in practice, victims are too frequently denied initiatives aimed at reducing secondary victimisation; minimising the number of interviews and medical examinations, or adjusting timings for interviews. As a result, victims are further harmed by proceedings, which prolongs their recovery and reduces their ability to participate in proceedings.

The VRD draft uses language that offers authorities leeway for noncompliance with protection measures. While this acknowledges operational feasibility and potential challenges, the result is that authorities often do not adjust their protocols to ensure that, in most cases, protection measures may be complied with.

To resolve this, VSE's proposal sets out an obligation for procedures to minimise the frequency with which protection measures are not complied.

VSE also proposes extending measures in one critical area: the audio-visual recording of evidence as an essential means to eliminating repeated interviews. This option should be available to all victims, even if it may not be granted in all cases. States may therefore have to establish processes by which audio-visual recordings are approved for every case; ideally, needs assessment tools can be used to support this decision.

VSE deletes the reference to the right to accompaniment by a person of their choice, since this right is included in article 17 of the VSE Victims of Crime Model Provisions Paper.

## Article 30 – Right to protection of privacy – ([Back to Article](#))

### **COMMENTARY – Article 30 – Right to protection of privacy**

The European Commission proposed changes to this article. Their proposal reflects the fact that personal data is routinely passed to the defence, which may put victims in further danger. The right to privacy is a fundamental human right of equal importance to the right to a fair trial. Proceedings must therefore be organised to reflect a balanced approach between both rights.

VSE supports the Commission proposal which not only upholds the right to privacy but also better protects the right to life. Nevertheless, the proposal is limited to only two forms of, rather than all, personal information. With some possible exceptions, VSE proposes extending protection to all personal data, e.g. personal information collected during the victim's needs assessment, which is often then considered part of the case file. As, in some countries, the public have access to case files, this may be particularly harmful to victims.

VSE's proposal changes the concept of presumption that personal data of victims is provided into one where privacy is presumed unless there are strong reasons to breach it i.e. privacy by design. This is more in accordance with the fundamental right itself and will better protect victims whilst maintaining

a balance with fair trial rights principles. The proposal extends privacy protection to family members who are also placed at risk if data is revealed.

## Article 31 & 32 – Individual assessment of victims to identify specific support and protection needs – ([Back to Article](#))

### **COMMENTARY – Article 31 & 32 – Individual assessment of victims to identify specific support (article 32) and protection needs (article 31)**

The Commission has recognised several problems with the implementation of the needs assessment. Specifically, Member States have largely failed to ensure that all victims receive a thorough and meaningful assessment designed to identify and monitor risks throughout criminal proceedings and to promptly put in place necessary protection measures for those who need them.

The Commission has made a series of proposals, which VSE generally supports, to address these issues. Importantly, the Commission has laid out detailed rules on the application of the assessment, to ensure it is carried out on a regular basis and to take into account a minimum set of factors.

Nevertheless, by combining the support and protection needs assessments, VSE has strong concerns that many victims are at an elevated risk of being denied access to support services.

VSE appreciates the Commission's recognition of the importance of a support needs assessment and agrees with the general concept. However, as currently drafted, it appears that or risks that police authorities will be relied on to carry out a single support needs assessment to determine whether victims are referred to external support services.

Evidence clearly shows that organisations specialised in supporting victims, rather than police authorities, should carry out wide-ranging support assessments, whilst a mandatory, direct referral of victims from competent authorities to such services is an essential best practice and maximises victims' access to support. Requiring police authorities to carry out such assessments not only risks overburdening them but, in many cases, will result in inadequate assessments being carried out by unqualified personnel.

VSE believes it is essential that all victims are referred to independent support services, whose trained staff will carry out a support needs assessment.

Nevertheless, VSE also recognises that other competent authorities play an important role in assisting victims within the context of criminal proceedings and the scope of their activities, e.g. provision of information by a prosecutor to the victim is a form of support. To ensure such authorities have a clear understanding of how they may best support victims, a needs assessment for this purpose is proposed. Whenever an authority identifies support needs they cannot address, they should co-ordinate with generic and specialist support services.

## Article 33 – Right to protection of victims with specific protection needs during criminal proceedings – ([Back to Article](#))

### **COMMENTARY – Article 33 – Right to protection of victims with specific protection needs during criminal proceedings**

The European Commission's proposal introduces notable changes to this article. It includes the addition of physical protection measures and aligns the provisions with the proposed VAW Directive.

VSE supports these changes but proposes additional amendments that will increase the use of protection measures whilst reducing the frequency with which victims are denied protection. This is reflected by removing vague exceptions such as 'contrary to the interests of justice' which can be used too easily as a catchall to repeatedly deny victims protection.

At the same time, it is recognised that there remain circumstances where protection may not be possible or appropriate. For example, in some States, interviews may be carried out by the prosecution or by a judge, and it may be contrary to the independence of the judiciary to seek that the interviewer is changed or not chosen according to pre-existing rules. VSE's proposal therefore retains an exception but adds precision to its use.

## Article 34 – Right to protection of child victims during criminal proceedings – ([Back to Article](#))

### **COMMENTARY – Article 34 – Right to protection of child victims during criminal proceedings**

In its proposal, the European Commission includes an additional paragraph on the right to protection of child victims during criminal proceedings. VSE is supportive of this insertion as it ensures that the best interest of the child is considered in protection measure decisions in cases of conflict of interest between children and their parents, or any other holders of parental responsibility. VSE does not propose additional changes to this article.

## Article 35 – Right to Physical Protection – ([Back to Article](#))

### COMMENTARY – Article 35 – Right to physical protection

The current Victims' Rights Directive does not contain specific provisions on physical protection measures for victims. Across EU Member States, physical protection orders have generally been developed for victims of domestic violence, leaving victims of other crimes at risk.<sup>25</sup> For instance, reports<sup>26</sup> show significant shortcomings in the availability of such measures for all victims of crime, including a lack of support for victims who fear retaliation, both for themselves and family members, after filing a complaint or during criminal proceedings.

The European Commission's proposal introduces changes to address these concerns, laid out in a paragraph on physical protection measures.

In general, VSE supports these proposals. However, the proposed changes come with limitations, they apply only to victims with specific protection needs and exclude the protection needs of family members. Furthermore, it lacks specific detail on the procedures for obtaining protection measures and for reviewing cases when protection orders are denied or breached. These issues act as barriers to victims receiving protection in a timely manner and can ultimately put victims lives in danger.

VSE therefore proposes a more comprehensive stance. It advocates for the availability of physical protection measures not only for victims but also for their families throughout proceedings, irrespective of crime type or personal characteristics. It emphasises the importance of timely procedures and a swift implementation of measures, when needed. Additionally, our proposal calls for penalties in case of breaches of protection orders, reinforcing the commitment to safeguarding victims and their families throughout the criminal justice process.

## Article 36 – National Co-ordination and Co-operation Framework – ([Back to Article](#))

### COMMENTARY – Article 36 - National Co-ordination and co-operation framework

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<sup>25</sup> Suzan van der Aa, Johanna Niemi, Lorena Sosa, Ana Ferreira & Anna Baldry (2015). Mapping the legislation and assessing the impact of protection orders in the European Member States, (Oisterwijk: Wolf Legal Publishers), <http://poems-project.com/wp-content/uploads/2015/04/Intervict-Poems-digi-1.pdf>.

<sup>26</sup> European Union Agency for Fundamental Rights (2019). Proceedings that do justice. Justice for victims of violent crime: Part II, (Luxembourg: Publications Office of the European Union), [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2019-justice-for-victims-of-violent-crime-part-2-proceedings\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-justice-for-victims-of-violent-crime-part-2-proceedings_en.pdf); Victim Support Europe (2023), Discussion paper on Safe Justice for Victims of Crime, [https://victim-support.eu/wp-content/files\\_mf/1677284356SafeJusticeforvictimsofCrime\\_compressed1.pdf](https://victim-support.eu/wp-content/files_mf/1677284356SafeJusticeforvictimsofCrime_compressed1.pdf).

The European Commission introduced an amendment which relates to national coordination and cooperation in Article 26a (Protocols through national coordination and cooperation). VSE welcomes this positive step in requiring Member States to establish protocols for organising the provision of 'services and actions' under the Directive. The article mentions more specifically coordination in the field of information provision, individual needs assessments, data collection, information sharing between authorities, and victims who are in detention facilities.

However, these amendments cannot sufficiently address fundamental failings to the implementation of support in Member States, which has resulted in short term decision making and services being limited or absent across many countries.

A comprehensive framework for victim support based on a strategic approach will address all victims' needs in all areas of their lives, as described in VSE's policy paper 'National Framework for Comprehensive Victim Support'<sup>27</sup>. This approach is fundamental to addressing the fragmented system of support that exists in most Member States today, to addressing the multiple layers of response, gaps and duplications, as well as the failure to coordinate actions across sectors. As the Commission's amendments on Article 26a have been largely covered by other articles in this MPP, this article focuses on introducing a new national cooperation and coordination framework.

The amendments introduce key elements meant for Member States to establish such a framework, i.e.: a national victims' rights strategy, a national victims' rights coordinator, an independent victims' rights commissioner, and a national referral mechanism. The adoption of **integrated strategies** has been identified as being crucial to effectively promoting the rights of victims of crime; addressing complex and cross-cutting issues; and effectively addressing multi-dimensional issues, and assigning clear roles to all actors<sup>28</sup>. In Europe, the only countries to adopt a national strategy for victims of crime are the UK<sup>29</sup> and Croatia<sup>30</sup>. The establishment of a **national referral mechanism** addresses issues where referrals rely on individual efforts, a lack of a consistent approach, and where competition between support services impedes victims from getting help. Finally, a **national coordinator, coordinating committee and Independent Commissioner** aim to develop, monitor and coordinate a victims' strategy and related policies, and the overall delivery of a victims' rights framework<sup>31</sup>. It is fundamental that they work together with civil society organisations to complement pre-existing advocacy and policy work, and not simply replace the role of civil society.

These changes are essential to ensuring that support rights are fully implemented in a coherent manner and that support services are organised in a way that reflects their essential nature, similar to that of health services.

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<sup>27</sup> National Framework for Comprehensive Victim Support, Victim Support Europe, 2022, online at: [https://victim-support.eu/wp-content/files\\_mf/1673427018NationalFrameworkforComprehensiveVictimSupportcompressed.pdf](https://victim-support.eu/wp-content/files_mf/1673427018NationalFrameworkforComprehensiveVictimSupportcompressed.pdf)

<sup>28</sup> <https://rm.coe.int/council-of-europe-strategy-for-the-rights-of-the-child-2022-2027-child/1680a5ef27>

<sup>29</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/746930/victim-strategy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/746930/victim-strategy.pdf)

<sup>30</sup> [https://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_07\\_75\\_1437.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2015_07_75_1437.html)

<sup>31</sup> More details in National Framework for Comprehensive Victim Support, Victim Support Europe, 2022, online at: [https://victim-support.eu/wp-content/files\\_mf/1673427018NationalFrameworkforComprehensiveVictimSupportcompressed.pdf](https://victim-support.eu/wp-content/files_mf/1673427018NationalFrameworkforComprehensiveVictimSupportcompressed.pdf)

## Article 37 – Co-ordinated system for communication – ([Back to Article](#))

### COMMENTARY – Article 37 - Coordinated system for communication with victims

Whilst the European Commission has proposed improvements on information provision through e.g. establishment of 116 006 helplines, they have largely left information rights unchanged.

Given the essential nature of information and the significant problems faced by victims, VSE proposes a more comprehensive and systemic approach to communicating with victims.

Recent research<sup>32</sup> indicates that many gaps remain in how information rights, included in the 2012 Directive, are implemented and that current mechanisms for information provision are not working. Inconsistencies, gaps, duplication, and confusion are observed in the provision of information to victims by authorities. A distinct lack of coordination between authorities has also been observed.

Given that the right to information has existed for decades, a shift in approach is required to make this right a reality, and to support authorities which struggle to communicate with large numbers of victims with diverse needs across multiple crimes.

Fundamentally, this requires a system of communication that encompasses all relevant actors working together. It also requires that communication rather than information is prioritised – this means both informing victims, and helping them to inform authorities in an understandable and actionable manner.

Using a victim-centric communication system, stakeholders working with victims 'operate in a coordinated and strategic manner to send and receive consistent and high-quality information to and from victims, in accordance with agreed standards and objectives.'<sup>33</sup>

*"The framework [...] defines what information should be communicated by who, when, and how, based on a strategic vision and needs assessments. It also provides the framework for the long-term planning, development, implementation and review or evaluation of communications. A communication framework should operate at multiple levels including at the national, regional, local and individual level."*

This vision and objectives are to be converted into day-to-day cooperation measures, such as memorandums of agreement, inter- and intra-organisational procedures and protocols, and tools and platforms to implement them.

In VSE's view, the long-term failure to implement information rights can only be resolved through such a systemic approach.

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<sup>32</sup> Transforming how we communicate with victims, Victim Support Europe, 2023, available at: [https://victim-support.eu/wp-content/files\\_mf/1681918001TransformingHowWeCommunicateWithVictims\\_compressed.pdf](https://victim-support.eu/wp-content/files_mf/1681918001TransformingHowWeCommunicateWithVictims_compressed.pdf)

<sup>33</sup> *Ibid.*

## Article 38 – Use of electronic means of communication – ([Back to Article](#))

### **Commentary – Article 38 – Use of electronic means of communication**

The European Commission included a new article, 26b, on the use of electronic communication in their proposal. This article reflects technological developments since the adoption of the Directive in 2012; research shows that many more EU victims of crime use digital and technological devices during their every day lives. However, digital tools that could improve victims' access to justice, such as online reporting mechanisms or an online portal offering access to victims' files, are not available in many Member States. VSE is supportive of this proposal.

## Article 39 – Cross border and Union Co-operation – ([Back to Article](#))

### **COMMENTARY – Article 39 - Cross border and Union Co-operation**

The Commission proposed a series of amendments on cooperation issues, but has not proposed amendments on cooperation and coordination between Member States.

Cross-border coordination and cooperation is essential within the EU; as an increasing number of EU citizens/residents fall victim to crime outside their country of residence, effective cooperation between Member States is required. Equally, civil society actors, such as those which offer support services are essential to cross border solutions; yet they are often excluded from cross border mechanisms.

VSE's proposal seeks to address this issue as well as to ensure the regular exchange of knowledge and good practices between States, civil society organisations, and the EU. The EC Co-ordinator for Victims' Rights is well placed to support the co-ordination of activities across Member States and should be properly recognised as having such a role within EU Legislation.

## Article 40 – Prevention – ([Back to Article](#))

### **COMMENTARY – Article 40 - Prevention**

The Commission did not amend or introduce new provisions relating to prevention activities.

However, as reflected by VSE's policy paper 'Transforming how we communicate with victims'<sup>34</sup>, most prevention activities, such as awareness-raising campaigns and associated activities (training, education programmes, etc.), are *ad hoc* initiatives of limited duration, which are unable to address long-term behaviour or change attitudes.

Member States should support and participate in activities that reduce crime, including measures that raise public awareness on the risks of crime so that citizens can mitigate such risks. The suggested amendments are inspired by the EU's Proposal for a Directive on Violence against Women and the EU's Anti-Trafficking Directive.

There is clear evidence that well-planned crime prevention strategies not only avert crime and victimisation, but also improve community safety and contribute to national sustainable development efforts; effective, responsible crime prevention enhances the quality of life of all citizens. Crime prevention has long-term benefits in terms of reducing the costs associated with the formal criminal justice system, as well as social costs that arise as a result of crime. We suggest that this can be achieved by incorporating a variety of related topics (e.g. healthy communication and resilience activities, addressing violence from a victim's perspective, identifying 'safe' adults, etc.) into school curricula and other educational programmes.

## Article 41 – Data Collection and research – ([Back to Article](#))

### COMMENTARY – Article 41 – Data collection and research

The Commission's proposal includes an amended article 28 (Provision of data and statistics). The amendments aim to establish a system for the collection, production, and dissemination of data and statistics on victims of crime and how they access the rights set out in the Directive.

VSE strongly welcomes this new article, which closely aligns with VSE's calls in its policy paper 'National framework for comprehensive victim support'<sup>35</sup>. The significant lack of available data on the implementation of and access to rights is repeatedly identified as an impediment to the effective implementation and future development of victims' rights.

Member States regularly dilute proposals to collate data with respect to justice systems and victims' rights, despite their importance. This dilution has contributed to the poor implementation of the 2001 Framework Decision on the Standing of Victims by Member States.

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<sup>34</sup> Transforming how we communicate with victims, Victim Support Europe, 2023, available at: [https://victim-support.eu/wp-content/files\\_mf/1681918001TransformingHowWeCommunicateWithVictims\\_compressed.pdf](https://victim-support.eu/wp-content/files_mf/1681918001TransformingHowWeCommunicateWithVictims_compressed.pdf)

<sup>35</sup> National Framework for Comprehensive Victim Support, Victim Support Europe, 2022, online at: [https://victim-support.eu/wp-content/files\\_mf/1673427018NationalFrameworkforComprehensiveVictimSupportcompressed.pdf](https://victim-support.eu/wp-content/files_mf/1673427018NationalFrameworkforComprehensiveVictimSupportcompressed.pdf)

VSE fully supports the Commission's proposal. VSE has suggested extending the proposal, to ensure the development of statistical priorities includes discussions with victims' experts and that additional, periodic, data collection exercises are carried out on specific topics.

Victims' rights also require more extensive short and long term research, as is regularly carried out in fields such as health and law enforcement. VSE proposes this research is explicitly recognised in the EU Directive.

## Article 42 – Training of professionals – ([Back to Article](#))

### COMMENTARY – Article 42 - Training

The European Commission did not make changes to the article on training of practitioners in its proposal.

Crime impacts everyone differently. Crime, and victimisation, may not only be a physical experience, but one that disempowers the individual, in social and psychological terms: affecting a victim's social bonds. For many victims, the impact of, or harm from a crime will be relatively low. Individuals are generally resilient to stressors; however, the nature and severity of a crime – and the victim's personal circumstances – can dramatically affect its impact, two individuals could be affected by the same crime to a greater or lesser extent.

Training is a vital resource for professionals working with victims of crime<sup>36</sup>; inadequate or a lack of training can lead to victims being re-victimised. Being asked inappropriate questions by or encountering inappropriate behaviours from professionals also leads to re-victimisation<sup>37</sup>.

The VSE proposal underwrites the importance for professionals likely to come into contact with victims to recognise signs of victimisation and victims, and treat them in a non-discriminatory manner. It also takes into consideration the duties of the professionals as well as the nature and level of contact the practitioner has with the victims. It also reflects the finding of the Commission's evaluation of the VRD that stakeholders believe the training of judges to be overly formalistic and lack aspects relating to communication skills, and that overall topics such as 'recognising one's own bias, empathetic communication or active listening' should be included in training.

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<sup>36</sup>[https://victimsupporteurope.eu/activeapp/wp-content/files\\_mf/1385974688NewVersionVSEHandbookforImplementation.pdf](https://victimsupporteurope.eu/activeapp/wp-content/files_mf/1385974688NewVersionVSEHandbookforImplementation.pdf)

<sup>37</sup> IVOR Report (2016). Implementing Victim-Oriented Reform of the criminal justice system in the European Union. Available at: [https://lmo.libis.be/primo-explore/fulldisplay?docid=LIRIAS1909708&context=L&vid=Lirias&search\\_scope=Lirias&tab=default\\_tab&fromSitemap=1](https://lmo.libis.be/primo-explore/fulldisplay?docid=LIRIAS1909708&context=L&vid=Lirias&search_scope=Lirias&tab=default_tab&fromSitemap=1)

The proposal recognises the limitations that States may have in ensuring the independent actors such as judges are properly trained. Whilst independence should not be jeopardised more proactive solutions should be sought such that all actors are properly qualified to work with victims.

Secondly, the VSE proposal calls for need for trainers to be qualified professionals or otherwise be deemed suitable as trainers (for instance, because of their practical experience of engaging with victims). Training organised and provided by non-State actors, including victims' associations and CSOs is widespread<sup>38</sup> and States should provide the resources necessary to this effect, including providing trainers with training rather than just drawing on their experience in training others<sup>39</sup>. CSOs and national authorities should work together, CSOs are well placed to provide victim sensitization training for criminal justice officials, legal teams, and police officers.

An example of using civil society organisations to design and deliver training, is project 'Hate no More', coordinated by APAV and developed in a partnership with Austria, the United Kingdom, Malta, Sweden, and Italy. This multi-agency project delivered training on hate crime victims to 147 law enforcement agents, 164 public prosecutors and 81 victim support workers in the six project countries.

Thirdly, VSE encourages innovative interdisciplinary, multi-agency training – specifically the incorporation and increased use of new technologies, to increase engagement and interaction – is highlighted in line with the findings of the Commission's VRD evaluation report. The use of technology includes widely accessible online courses,<sup>40</sup> or the design of immersive training using Virtual Reality.<sup>41</sup>

Lastly, VSE proposal highlights that media coverage of crimes can inflict secondary victimisation on direct and indirect victims, as well as communities which identify with the victim, or victims of the same type of crime, as well as contributing to stigmatisation and isolation<sup>42</sup>. Portrayals of the perpetrator-victim duality can also lead to the stigmatisation of whole communities, through both victim-blaming and profiling<sup>43</sup>. Media reporting may enhance feelings of violation, disorientation, and loss of control. According to a report by the US National Centre for Victims of Crime, '*common concerns victims express about the media include: interviewing survivors at inappropriate times, filming and photographing scenes with bodies and body bags, searching for the "negative" about the victim, printing the victim's name or address, inappropriately delving into the victim's past, and using footage from a previous social media video or post*'.<sup>44</sup>

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<sup>38</sup> Strengthening victims' rights: from compensation to reparation: For a new EU Victims' rights strategy 2020-2025, [https://commission.europa.eu/system/files/2019-03/strengthening\\_victims\\_rights\\_-\\_from\\_compensation\\_to\\_reparation\\_rev.pdf](https://commission.europa.eu/system/files/2019-03/strengthening_victims_rights_-_from_compensation_to_reparation_rev.pdf)

<sup>39</sup> Revised Guidelines of the Committee of Ministers of the Council of Europe on the Protection of Victims of Terrorism, 2017

<sup>40</sup> Council of Europe (2022), <https://www.coe.int/en/web/help/courses>

<sup>41</sup> VSE (2022) TESTING COUNTER TERRORISM RESPONSES FROM A VICTIM AND MEMBER WELLBEING PERSPECTIVE Design of an international tabletop exercise for law enforcement in Canada and the UK. Available at: <https://victim-support.eu/publications/testing-counter-terrorism-responses-from-a-victim-and-member-wellbeing-perspective/>

<sup>42</sup> Paterson, J. L., Brown, R., & Walters, M. A. (2018). The Short and Longer Term Impacts of Hate Crimes Experienced Directly, Indirectly, and Through the Media. *Personality and Social Psychology Bulletin*, 45(7), 994–1010.

<sup>43</sup> Kearns, E., Betus, A., & Lemieux, A. (2018). Why Do Some Terrorist Attacks Receive More Media Attention Than Others? SSRN Electronic Journal.

<sup>44</sup> National Centre for Victims of Crime, 2018, Privacy and dignity: a guide to interacting with the media. Available at: <https://victimsofcrime.org/wp-content/uploads/2020/08/Privacy-and-Dignity-final.pdf>

Some existing training tools for media practitioners provide guidance as to possible avenues of action, these include the UN Handbook on Media Coverage of Gender-based Violence, which incorporates a train the trainer component; guidelines by NGOs on media portrayals of victims, such as the Media Guidelines for Reporting Child Abuse by NAPAC (the National Association for People Abused in Childhood) or policy recommendations by agencies such as the US Department of Justice. Codes of conduct, policy documents, guidelines and handbooks contribute towards the continuous training of media professionals on issues of victims' rights.

## Article 43 – Legal Remedies – ([Back to Article](#))

### COMMENTARY – Article 43 - Legal Remedies

This new article introduces legal remedies for all victims of crime. As noted in both a 2019 FRA report<sup>45</sup> and the VOIARE report<sup>46</sup>, this addresses the poor implementation of victims' rights and victims' general inability to access effective systems in Member States to ensure violations of their rights are redressed and enforced. A lack of legal remedies perpetuates a general view that victims' rights are suggestions rather than legally binding obligations<sup>47</sup>.

The proposed amendment aligns with the European Commission's proposal for a revised Directive (Article 26d) as well as existing effective remedies articles in EU legislation for suspects or accused persons, for example:

- Article 10 (Remedies) of Directive 2016/343 2016 on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings<sup>48</sup>;
- Article 12 (Remedies) of Directive 2013/48/EU on the right to access a lawyer<sup>49</sup>;
- Article 19 (Remedies) of Directive 2016/800 on the rights of children who are suspects or accused<sup>50</sup>.

## Article 44 - 46– Final Provisions – ([Back to Articles](#))

### COMMENTARY – Articles 44 to 46 – Final Provisions

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<sup>45</sup> Justice for victims of violent crimes, EU Fundamental Rights Agency, 2019, available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2019-justice-for-victims-of-violent-crime-part-1-standards\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-justice-for-victims-of-violent-crime-part-1-standards_en.pdf)

<sup>46</sup> VOIARE Synthesis report, Victim Support Europe et al., 2019, available at: [https://victim-support.eu/wp-content/uploads/2021/02/VOIARE\\_Synthesis\\_Report.pdf](https://victim-support.eu/wp-content/uploads/2021/02/VOIARE_Synthesis_Report.pdf)

<sup>47</sup> Safe justice for victims of crime, Victim Support Europe, 2023, available at: <https://victim-support.eu/publications/safe-justice-for-victims-of-crime-discussion-paper/>

<sup>48</sup> Directive 2016/343 2016 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 9 March 2016, on the strengthening of certain aspects of the presumption of innocence and of the right to be present at the trial in criminal proceedings (2016)<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L0343>

<sup>49</sup> DIRECTIVE 2013/48/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013L0048>

<sup>50</sup> Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings, available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32016L0800>

The European Commission has proposed amendments to the final provisions of the Directive. They include changes to reporting, and review and entry into force. VSE amendments align with the Commission's on Entry into force, and include some of the Commission's language on reporting.

Assessing the Directive's practical implementation is fundamental to evaluating results and the implementation of rights. The Directive should consequently include robust and detailed provisions that require regular and specific reporting and communications on transpositions between Member States and the EU.

# ANNEX – Key Resources

European Commission Staff Working Document, Evaluation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, SWD (2022) 180 final, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=SWD%3A2022%3A179%3AFIN>

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Mapping the legislation and assessing the impact of protection orders in the European Member States, Suzan van der Aa, Johanna Niemi, Lorena Sosa, Ana Ferreira & Anna Baldry (2015). (Oisterwijk: Wolf Legal Publishers), <http://poems-project.com/wp-content/uploads/2015/04/Intervict-Poems-digi-1.pdf>

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Strengthening victims' rights: from compensation to reparation: For a new EU Victims' rights strategy 2020-2025, [https://commission.europa.eu/system/files/2019-03/strengthening\\_victims\\_rights\\_-\\_from\\_compensation\\_to\\_reparation\\_rev.pdf](https://commission.europa.eu/system/files/2019-03/strengthening_victims_rights_-_from_compensation_to_reparation_rev.pdf)

Transforming how we communicate with victims, Victim Support Europe, 2023, available at: [https://victim-support.eu/wp-content/files\\_mf/1681918001TransformingHowWeCommunicateWithVictims\\_compressed.pdf](https://victim-support.eu/wp-content/files_mf/1681918001TransformingHowWeCommunicateWithVictims_compressed.pdf)

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**Victim Support  
Europe**

## **VICTIMS OF CRIME MODEL PROVISIONS PAPER**

VSE's vision for a revised victims' rights directive

Victim Support Europe

L. Altan, L. Meindre Chautrand, A. Blondé, S. Baudouin-Naneix

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