

INAVEM Workshop

December, 5th



**Implementation of the Directive
2012/29/EU in France:
assessment of the victims' needs**

➤ deadline : 15th november 2015



differences with the framework decision

2001/220/JHA :

- competence of the ECJ (art.260 TFEU)
- monitoring of the Commission - right to seize the ECJ (infringement action : art 258 TFEU)
- severe fines in case of breach : minimum 9 M € + 36000 €/day late

The challenges of the implementation of article 22



- **Existing practices...**

- Requisition of victim support associations to take care of the victim (art. 41-1 of the criminal procedure code)
- Requisition of experts (forensics, psychologists, psychiatrics) : at the initiative of the judicial authority or upon request of the victim (partie civile). Usually systematic for child victims of sexual abuses, THB,...
- A written procedure with a quite exhaustive and detailed interview of the victim; dedicated software
- Guidelines for victims of specific offenses (domestic violence, THB...); victims support officer in police stations
- Special training of practitioners (judges, police officers : family protection officers...)

... but no formalized methodology



- Which tools ? Templates, software, liaison documents...
- challenges :
 - User-friendly, fast, future-proof (adapted to technological developments and electronic transmission)
 - avoid the increase of work for practitioners (obstacle for a real ownership and commitment). 2013 : 2 M victims in France
- Which actors (investigating authorities, VSA, experts,...)? At what time ?
- Based on which criteria ?
- How should the victim be part of the assessment ? At what time ?

The implementation work



- A multidisciplinary working group : prosecutors, judges, police officers, victims support associations (INAVEM)

- Launching experiments beforehand :
 - EVVI Europe (EValuation of Victims) : EU project (rated 1st) funded 80% by COM, 20% by partners (membre states, VSA). UK, ES, FR, PL, PT. Pilot : Ministry of justice, France.
 - Started january 2014, end in april 2025
 - Aims : to develop practical tools designed for practitioners in charge of the victim's assessment (police officers, VSA, judges) :
 - questionnaire
 - Good practices guide



- **EVVI France :**
 - **Launched during summer 2014. First results expected end 1014-spring 2015 (// EVVI Europe)**
 - **8 pilot sites selected on their complementarity (big courts, small courts, countryside courts, urban courts...)**
 - **Carte blanche (free hand) given to participants**
 - **Mid-term assessment**

 - **Challenge : given the parliamentary agenda, the bill had to be drafted during 2014, before the end of the experiments.**
 - > **choice : a general architecture in the law, to be completed by regulatory measures (decree, « circulaires » : guidelines)**

State of play



- **Summer 2014 : drafting of the bill as regards directive 2012/29/EU**

the bill implements many other EU instruments : the whole « victims package » (directive EPO n°2011/99/EU), and framework decisions 2009/829/JHA and 2008/947 JHA on supervision and probation)

- **October - November 2014 : parliamentary work (Sénat, High Chamber)**
- **5th november 2014 : adopted by the Sénat**
- **Spring 2015 : planned to be examined by the Assemblée nationale**

what is planned ?



• The bill :

The preliminary title of the Code of criminal procedure (overall principles of criminal law : PoI, right to a fair trial, acces to a lawyer..) is complemented by specific provisions on the rights of the victims (« victims' code»):

- Right to information
- Right to translation and interpretation
- The assessment procedure : article 10-5 :

« As soon as possible, victims are subject to an individual assesement, to determine if they need protection measures during the criminal proceedings.

The assesement is conducted by the authority in charge of the hearing of the victim. It can be deepened, with the agreement of the competent judicial authority, in the light of the first elements collected.

The victim takes part in this assessment. If necessary, the VSA required by the prosecutor or the investigation judge (juge d'instruction) in application of article 41-1 of this code also takes part in the assessment; its opinion is joined to the proceedings.

The modalities of implementation of this article shall be specified by a decree. »



- « as soon as possible » : in practice, when the victim reports the offense.
(« timely » : art.22§1)
- « by the authority conducting the hearing » : generally, the law enforcement authorities; rarely, the judicial authorities
- « it can be deepend » : two steps (art.22§5) :
 - 1st step : broad assessment, for all victims. Objectives : to determine which victims
 - 2d step : deeper assessment, for flagged victims. Objectives : to determine which specific protection measures do they need
- « With the agreement of the competent judicial authority » : the decision belongs to the judiciary
- « the victim takes part in the assessment » : see art. 22 §6 of the directive
- « the VSA required by.. also takes part in the assessement » :
 - Upon judicial decision ; Free of charge for the victim
- « specified by a decree » : to take into account the results of experimentations

What's next ?



- **Waiting for the results of the experiments**
- **Waiting for the results of the second step of parliamentary work**
- **Setting up a concrete implementation of the directive's guidelines : setting up a methodology involving all stakeholders (law enforcement, justice, VSA,..)**
 - The assesment shall take into account the personal characteristics of the victim, the type and nature of the crime and its circumstances (art. 22§2)
 - Particular attention shall be paid to specific categories of victims (severity of the harm, crime committed with a bias or discriminated motive, terrorism, organised crime, human trafficking, sexual violence..) see art. 22 §3
 - Updating the assessment
- **Initiating specific training for practitionners**
- **Disseminating tools** (eg incorporating this methodology in case management software, enabling electronic sharing)



Thanks for your attention !

Aurélia SCHAFF

General Secretariat for European Affairs

Aurelia.schaff@sgae.gouv.fr