Basic information

2011/0129(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Rights, support and protection of victims of crime: minimum standards Repealing JHA act 2001/220/JHA 2000/0813(CNS) Amended by 2023/0250(COD) See also 2016/2328(INI) **Subject** 1.10 Fundamental rights in the EU, Charter 1.20 Citizen's rights 7.40.04 Judicial cooperation in criminal matters	

Key players

European Parliament

Joint committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	JIMÉNEZ-BECERRIL BARRIO Teresa (PPE)	12/07/2011
FEMM Women's Rights and Gender Equality	PARVANOVA Antonyia (ALDE)	12/07/2011

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	LÓPEZ-ISTÚRIZ WHITE Antonio (PPE)	20/06/2011

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	3096	2011-06-09
Employment, Social Policy, Health and Consumer Affairs	3188	2012-10-04

European Commission

Commission DG	Commissioner
Justice and Consumers	REDING Viviane

Key events

Date	Event	Reference	Summary
		COM(2011)0275	Summary

18/05/2011	Legislative proposal published		
07/06/2011	Committee referral announced in Parliament, 1st reading		
09/06/2011	Debate in Council		Summary
19/01/2012	Referral to joint committee announced in Parliament		
10/07/2012	Vote in committee, 1st reading		
18/07/2012	Committee report tabled for plenary, 1st reading	A7-0244/2012	Summary
11/09/2012	Debate in Parliament		
12/09/2012	Decision by Parliament, 1st reading	T7-0327/2012	Summary
12/09/2012	Results of vote in Parliament		
04/10/2012	Act adopted by Council after Parliament's 1st reading		
25/10/2012	Final act signed		
25/10/2012	End of procedure in Parliament		
14/11/2012	Final act published in Official Journal		

Technical information

Procedure reference	2011/0129(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealing JHA act 2001/220/JHA 2000/0813(CNS) Amended by 2023/0250(COD) See also 2016/2328(INI)
Legal basis	Rules of Procedure EP 59 Treaty on the Functioning of the European Union TFEU 082-p2
Stage reached in procedure	Procedure completed
Committee dossier	CJ01/7/08262

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE480.616	26/01/2012	
Amendments tabled in committee		PE483.724	29/02/2012	
Amendments tabled in committee		PE483.693	06/03/2012	
Committee opinion	JURI	PE480.514	26/03/2012	
Committee report tabled for plenary, 1st reading/single reading		A7-0244/2012	18/07/2012	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0327/2012	12/09/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00037/2012/LEX	25/10/2012	

European Commission

Document type	Reference	Date	Summary
Document attached to the procedure	COM(2011)0274	18/05/2011	Summary
Legislative proposal	COM(2011)0275	18/05/2011	Summary
Document attached to the procedure	SEC(2011)0580	18/05/2011	
Document attached to the procedure	SEC(2011)0581	18/05/2011	
Commission response to text adopted in plenary	SP(2012)665	11/10/2012	
Follow-up document	COM(2020)0188	11/05/2020	
Follow-up document	SWD(2022)0179	28/06/2022	
Follow-up document	SWD(2022)0180	28/06/2022	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	RO_CHAMBER	COM(2011)0275	26/07/2011	
Contribution	RO_SENATE	COM(2011)0275	16/08/2011	
Contribution	IT_CHAMBER	COM(2011)0275	18/08/2011	
Contribution	BG_PARLIAMENT	COM(2011)0275	28/09/2011	
Contribution	CZ_SENATE	COM(2011)0275	24/10/2011	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EDPS	Document attached to the procedure	N7-0045/2012 OJ C 035 09.02.2012, p. 0010	17/10/2011	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Directive 2012/0029 OJ L 315 14.11.2012, p. 0057	Summary

Rights, support and protection of victims of crime: minimum standards

2011/0129(COD) - 25/10/2012 - Final act

PURPOSE: to establish minimum standards on the rights, support and protection of victims of crime.

LEGISLATIVE ACT: Directive 2012/29/EU of the European Parliament and the Council establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decision 2001/220/JHA.

CONTEXT: this Directive replaces the provisions of Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings. In particular, it seeks to promote the right to dignity, life, physical and mental integrity, liberty and security, respect for private and family life, the right to property, the principle of non-discrimination, the principle of equality between women and men, the rights of the child, the elderly and persons with disabilities, and the right to a fair trial, namely to establish minimum standards on the protection of victims of crime at the EU level.

CONTENT: following a first reading agreement, the European Parliament and Council adopted a Directive establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decision 2001/220/JHA, currently in force.

Principles and purpose: the new Directive establishes **minimum standards on the rights, support and protection of victims of crime** in every European Union Member State.

The key purpose of this Directive is to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings regardless of the place where the damage occurred in the EU. Several key principles are established to guarantee victims the protection to which they are entitled. Member States shall ensure that:

- victims of crime should be **recognised and treated in a respectful, sensitive and professional manner** without discrimination of any kind, in all contacts with victim support or restorative justice services or a competent authority, operating within the context of criminal proceedings
- victims must not undergo **discrimination of any kind** based on any ground such as 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, sexual orientation, residence status or health.

Definition of a "victim" within the meaning of the Directive: the status of the victim is clarified so that this person should be considered to be a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between them.

Knowing that such family members (the spouse, the person who is living with the victim in a stable relationship in a joint household, the relatives in direct line, the siblings and the dependants of the victim) can also suffer damage because of the offence committed and be considered as "indirect victims" of the crime, it is stipulated that these people should also benefit from protection under this Directive. However, Member States should be able to establish procedures to limit the number of family members who can benefit from the rights set out in this Directive.

Status of the victim: the Directive sets the framework surrounding the status of the victim. The Directive provides for the following main provisions:

- **Minors**: if the victim is a child, their best interests must be a primary consideration. Child victims should be considered and treated as the full bearers of rights set out in this Directive and should be entitled to exercise those rights in a manner that takes into account their capacity to form their own views. A child-sensitive approach, taking due account of the child's age, maturity, views, needs and concerns, shall prevail;

- **Persons with disabilities**: the disability of victims of crime should be taken into account while fully respecting the physical, mental and moral integrity of these people. In any case, Member States shall ensure that victims with disabilities are able to benefit fully from the rights set out in this Directive on an equal basis with other citizens;

- **Victims of terrorism**: the Directive foresees that these persons may therefore need special attention, support and protection due to the particular nature of the crime that has been committed against them. These people often need social recognition and respectful treatment by society and their security should be protected;

- **Women**: particular support should be given to women, who may be victims of all kinds of discrimination and violations of the fundamental freedoms (including rape, sexual assault and harassment, trafficking in human beings, slavery, forced marriage, female genital mutilation and so-called "honour crimes"), especially if the alleged perpetrator is a **family member**. Women victims of gender-based violence and their children often require special support and protection because of the high risk of secondary and repeat victimisation, of intimidation and of retaliation connected with such violence.

Rights conferred by the Directive: the Directive has several chapters devoted to the various rights of victims:

1)Information and support: the Directive provides for the following rights:

- **Right to understand and to be understood**: 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 in the context of criminal proceedings, including where information is provided by that authority. Communications with victims should be in simple and accessible language, taking into account the personal characteristics of the victim (including any disability). Lastly, victims may be accompanied by a person of their choice in the first contact with a competent authority, if this is required.
- **Right to receive information from the first contact with a competent authority**: Member States shall ensure that victims are 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. Among these are highlighted, basic information about access to medical support, any specialist support, including psychological support, and alternative accommodation, but also the procedures for making complaints with regard to a criminal offence and how and under what conditions they can obtain protection or compensation or a form of restorative justice. In general, **the extent or detail of information 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.
- **Right of victims when making a complaint**: Member States shall ensure that victims receive written acknowledgement of their formal complaint made by them to the competent authority of a Member State, stating the basic elements of the criminal offence concerned. If the victim does not understand the language, they will be able to receive a translation or language assistance as appropriate.
- **Right to receive information about the case**: the Directive details the list of information to be available to the victim on the matter. These include: any final judgment in a trial (as well as the reasons for the judgment), the state of the procedure, the time and place of the trial, or hearing in the case of appeal against a judgment given on the case in question. The victim should also receive specific information regarding the release or escape of the offender, at least in cases where there may be an identified danger or a risk.
- **Right to interpretation and translation**: upon the request of the victim, Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided with **interpretation free of charge**, at least during any interviews or questioning of the victim during criminal proceedings. The victim may also benefit from a translation of all information necessary for the exercise of their rights during criminal proceedings. Translations of such information shall include at least any decision ending the criminal proceedings related to the criminal offence suffered by the victim. However, it is not obligatory to translate everything. 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. In some cases, **an oral translation or oral summary of essential documents may be provided**, on condition that such oral translation or oral summary does not prejudice the fairness of the proceedings.
- **Right to access victim support services**: victims, but also family members, shall have access to victim support services, in accordance with their needs and the degree of injury. The services in question must be free, confidential, or specialised in some cases (notably depending on the seriousness of the offence). It is also expected, in particular, that Member States shall provide on their territory, shelters or any other appropriate interim accommodation for victims where they can receive targeted support, safe from any form of reprisal.

2) Participation in criminal proceedings: the role of victims in the criminal justice system and the ability to take an active part in criminal proceedings can vary from one Member State to another in the function of the national system. In consequence, the Directive sets a series of criteria to establish whether the victim has the right, by virtue of national law, to take an active part in criminal proceedings. The Member States are free to determine which of these criteria will be applicable in determining the scope of the rights provided for in the Directive. In general, the following rights are foreseen within this framework: the right to be heard, the rights granted in the event of a decision not to prosecute, restorative justice, legal aid, reimbursement of expenses and return of property.

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. 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. To this end, the authorities of the Member State where the criminal offence was committed shall, in particular, be in a position to: i) take a statement from the victim immediately after the complaint with regard to the criminal offence is made to the competent authority; ii) have recourse to video-conferencing and telephone conference-calls to make statements.

3) Protection of victims and recognition of those with special needs: a framework of protection of victims that provides that the protection is extended not only to the victims themselves, but to their family members, if necessary. The following are foreseen:

- **right to protection**: 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 dignity of victims 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;
- **right to avoid contact between victim and offender**: Member States shall, where necessary, organise the criminal proceedings so as to enable avoidance of contact between the offender, on the one hand, victims and their family members, on the other. To this end, they will have to put in place, in particular in the courts, local police and gendarmerie, separate entrances and waiting areas;
- **right to protection of victims during criminal investigations**: among other measures, it is foreseen that interviews of victims are conducted without unjustified delay and that the number of interviews of victims is kept to a minimum and only where strictly necessary for the purposes of the criminal investigation;

- **right to protection of privacy**: protecting the privacy of the victim can be an important way to prevent new injury. This protection may impose a series of measures, including the non-disclosure or the disclosure of information concerning the identity or place of residence of the victim. This is of particular importance for child victims, including the non-disclosure of their name;
- **right to an individual assessment of victims to identify specific protection needs**: a major innovation of the directive provides an **individual assessment** carried out as soon as possible, to effectively identify risks faced by victims. These evaluations should be carried out for all victims to determine if they are exposed to the risk of a new injury (in particular, risk of secondary and repeat victimisation) and what specific protection measures should be taken. The individual assessments shall take into account the personal characteristics of the victim (age, gender, disability, residency status, communication difficulties, links of kinship or dependence on the perpetrator of the offence, etc). If the victim is a child, they shall always be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation or to intimidation. Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes and of their greater or lesser vulnerability. If the victim's situation changes, the assessment updated throughout the criminal proceedings;
- **right to protection of victims with specific protection needs during criminal proceedings**: if an assessment identifies specific requirements for a victim, special measures may be taken, particularly in regard to hearings, limiting contacts with the perpetrator of the offence. Procedures will be further strengthened if the victim is a child (e.g. hearing by audiovisual recording, provision of a special representative, etc).

Training of practitioners: the provisions have been planned to provide training so that practitioners of justice , including officials likely to come into contact with victims (police officers and court staff such as judges and prosecuting authorities, including lawyers), so that the persons concerned are better informed on the needs of victims. The training will aim, above all, to enable practitioners to recognise and deal with victims with respect and professionalism and in a non-discriminatory manner.

Cooperation and coordination of services: it is foreseen that public services should work in a coordinated manner and be involved in all new administration. Such cooperation shall be aimed at least at the following points: i) the exchange of best practices; ii) consultation in individual cases; and iii) assistance to European networks working on matters directly relevant to victims' rights. Measures shall also be taken aimed at raising awareness of the rights set out in this Directive (information and awareness raising campaigns, where appropriate, in cooperation with relevant civil society organisations and other stakeholders).

Provision of statistical data: Member States shall, by 16 November 2017, and every three years thereafter, communicate to the Commission available data showing how victims have accessed the rights set out in this Directive.

Report: the Commission shall, by 16 November 2017, submit a report to the European Parliament and to the Council, on the implementation of the Directive, notably in relation to the establishment of victim support services and on the matter of identifying the specific needs of victims, accompanied, if necessary, by legislative proposals.

Territorial arrangements: the United Kingdom and Ireland will take part in the adoption of this Directive. Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.

ENTRY INTO FORCE: 15.11.2012.

TRANSPOSITION: 16.11.2015.

Rights, support and protection of victims of crime: minimum standards

2011/0129(COD) - 17/10/2011

Opinion of the European Data Protection Supervisor on the legislative package on the victims of crime, including a proposal for a Directive establishing minimum standards on the rights, support and protection of the victims of crime and a proposal for a Regulation on mutual recognition of protection measures in civil matters

It is recalled that on 18 May 2011, the Commission adopted a package of legislative instruments on the protection of the victims of crime consisting of: (i) a **proposal for a Directive** establishing minimum standards on the rights, support and protection of victims of crime and a (ii) a proposal for a Regulation on mutual recognition of protection measures in civil matters. Both proposals are accompanied by a Commission communication on strengthening victims' rights in the EU.

However, the EDPS notes that he was not consulted under Article 28(2) of Regulation (EC) No 45/2001, and this Opinion is therefore based on Article 41(2) of the same Regulation.

Whilst the EDPS **welcomes the policy objectives of the two proposals** under consideration and generally shares the approach of the Commission, he finds that **the protection of privacy and personal data of the victims in the proposed Directive could be in some instances strengthened and clarified**.

The EDPS' comments focus mainly on the following aspects:

- Article 23 of the proposed Directive dealing with the right to protection of privacy and relations with media;
- victims' rights of information and access to their own personal data; and
- the protection of the confidentiality of communications between the victim and victim support services.

1) Protection of the victim's privacy (Article 23 of the proposed Directive): the EDPS notes, inter alia, that the Article does not cover the full right to protection of privacy of the victims of crime. The provision is much more limited in scope as it simply provides for the power of 'judicial authorities' to issue protective measures 'during the court proceedings'. However, the protection of privacy should not only be guaranteed during the court proceedings, but also during the investigation and pre-trial phase. More generally, privacy should be ensured where necessary from the first contact with the competent authorities and also after the termination of court proceedings. Furthermore, the Article does not contain any indication about the content of the specific measures that may be adopted by judicial authorities to preserve the victim's right to privacy, nor does it contain any provision guaranteeing the confidentiality of the information held by public authorities.

EDPS advises the legislator to:

- include in Article 23 a **general provision** on the protection of privacy and personal data stating that Member States shall guarantee as far as possible the protection of the private and family life of victims and protect personal data of the victims from the first contact with the official authorities, throughout any court proceedings and after such proceedings;
- the current Article 23(1) should be modified so as to enable judicial authorities to issue protective measures '**during criminal investigation**';
- specify under Article 23(1) a list of **minimum measures** (such as non-disclosure or limitation of the disclosure of information concerning the identity and whereabouts of the victims or family members) which judicial authorities may adopt in order to protect the privacy and photographic images of the victims and their family members ;
- provide that Member States shall require all authorities in contact with victims to adopt clear standards by which they may only disclose to a third party information received from or relating to a victim under the condition that the victim has **explicitly consented** to such disclosure or that there is a **legal requirement or authorisation** to do so.

As it deals with the relationship between **privacy and the media**, the EDPS notes that the proposal has adopted a minimalistic approach, by simply referring to the instrument of self- regulation. The EDPS understands the reasons for adopting a cautious attitude with regard to this subject and generally agrees with the Commission's approach.

2) Specific rights to information and access: the EDPS notes that Article 3 of the proposed Directive, dealing with the right to receive information from the first contact with a competent authority, does not mention information relating to data protection. In order to ensure adequate protection of their personal data, victims should receive at appropriate times all the information necessary to enable them to fully understand how their personal data will be processed. The EDPS asks the legislator to:

- include in Article 3 **a requirement to provide victims with information concerning further processing of his/her personal data** in conformity with Article 10 of Directive 95/46/EC and consider whether to include specific provisions on the right to access his/her personal data;

3) Confidentiality of communications between victims and support services: certain categories of victims, such as victims of sexual violence, gender, racial hatred or other bias crimes, or victims of terrorism, may require specialist support services, including psychological support. In these cases, the communications between the victim and the professionals providing support services should be adequately protected from disclosure. The EDPS suggests that the legislator:

- **clarify the scope of the confidentiality requirement of victim support services** under Article 7, by specifying that the victim shall have the right to refuse disclosure in any judicial or administrative proceedings of confidential communications with a support service provider and that in principle such communications may be disclosed by a third party only with his/her consent.

Regulation on mutual recognition of protection measures in civil matters: the proposed Regulation complements the EPO initiative concerning mutual recognition of protection measures in criminal matters. Since the proposed Regulation concerns judicial cooperation in civil matters having cross-border implications, its application falls within the scope of Directive 95/46/EC. This was not the case for the EPO initiative.

Furthermore, it is not sufficiently clear from the proposal which personal data of the protected person will be communicated to the person causing the risk, in particular pursuant to Article 13.

The EDPS advises the legislator to:

- insert, at least in the recitals of the proposal, **a reference to Directive 95/46/EC** stating that personal data processed under the regulation should be protected in accordance with the national laws implementing Directive 95/46/EC;
- state clearly in Article 13 that **the person causing the risk should be provided only with those personal data of the protected person that are strictly necessary for the execution of the measure**. The communication in question should, as far as possible, avoid disclosing the address or other contact details concerning the protected person.

Rights, support and protection of victims of crime: minimum standards

2011/0129(COD) - 18/07/2012 - Committee report tabled for plenary, 1st reading/single reading

The Committees on Civil Liberties, Justice and Home Affairs and on Women's Rights and Gender Equality adopted the report by de Teresa JIMENEZ-BECERRIL BARRIO (EPP, ES) and Antonyia PARVANOVA (ALDE, BG) on the proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime.

General approach: overall, Members have sort to enhance the rights of all victims of any kind of crime into minimum standards across the EU, granting all victims - irrespective of their nationality or the place where the crime took place. Victims of crime must be treated with respect and dignity at all stages of the legal proceedings and, from a practical point of view, in a language that they understand. Support to victims should also take into account the specific nature of the needs of victims and their greater or lesser degree of vulnerability.

Objectives: recalling that the main purpose of the directive is to ensure that victims of crime receive appropriate support and protection and are able to participate in criminal proceedings, irrespective of where the crime has taken place, Members stipulate that Member States shall ensure that **victims are recognised and treated in a respectful, sensitive , individual, professional and non-discriminatory manner** in all contacts with victim support or restorative justice service or any competent authority, operating within the context of criminal proceedings. In this regard, victims shall not be submitted

to **any form of discriminatory treatment** based on their race, colour, ethnic or social origin, genetic characteristics, language, sexual orientation or residence status.

It is also stipulated that 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.

Definition of a "victim" within the meaning of the Directive: the statute of the victim is clarified in that the "victim" shall be recognised regardless of whether an offender is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the offender and that person.

Given that **family members of a victim** may also be harmed as a result of a crime; as "indirect victims", it is stipulated that these persons may therefore also benefit from protection under this Directive. However, Member States may establish procedures to limit the number of family members who may benefit from the rights under this Directive.

Information and support: this Chapter has been revised with a view to strengthening and clarifying the rights conferred by the Directive:

- **Right to understand and to be understood:** the information and advice provided by the competent authorities, the victim support services and the justice services should, as much as possible, take different forms in order to be able to be understood by the victim. In this context, Member States shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any necessary interaction they have with any competent authorities in the context of criminal proceedings, including where information is provided by such authorities. Communications with victims must be offered in a simple and accessible language, either orally or in writing and such communications shall take into account personal characteristics of the victim including any disability which may affect their ability to understand or to communicate. Unless this would be contrary to the interests of the victim or 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 competent authorities, where the victim requires assistance to understand and to be understood due to the impact of the crime.
- **Right to receive information from first contact with a competent authority:** provisions were added to the range of information that the victim can be offered. These include 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. It is stipulated that the extent or detail of that information may be varied based 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 its relevance at each stage of proceedings.
- **Right of victims when making a complaint:** new provisions are introduced to improve the complaints procedure. Member States shall ensure that victims receive written acknowledgement stating the basic elements relating to the crime of any formal complaint of a criminal offence made by them to their competent authority. If the victim does not understand the language, he can receive the necessary linguistic assistance or a translation, if necessary.
- **Right to receive information about their case:** important new provisions are added to the victim's right to receive information about their case. These include the time and place of the trial, or hearing related to an appeal of a judgment in the case. The victim should also be given to victims regarding the release or the escape of the offender where they have so requested, at least in cases where there might be danger or identified risk of harm to the victims, 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, the competent authority should take into account all risks when determining an appropriate action. Victims should receive information on any right to appeal of a decision to release the offender, if such a right exists in national law.
- **Right to interpretation and translation:** provisions regarding the right to interpretation and translation have been revised in order to clarify the framework in which this right shall be applied. In particular, there shall be no requirement to translate passages of essential documents which are not relevant for the purposes of enabling victims to actively participate in the criminal proceedings. In certain cases, an oral translation or oral summary of essential documents may be provided instead of a written translation on condition that such oral translation or oral summary does not prejudice the fairness of the proceedings. Member States shall ensure that the competent authority assesses whether victims need translation and assistance of an interpreter. Translation and interpretation, as well as any consideration of a challenge of a decision not to provide translation or interpretation, shall not unreasonably prolong the criminal proceedings.
- **Right to access victim support services:** it is specified that 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 crime committed against the victim. These services should be free of charge and confidential, as well as specialised, in some cases.
- **Support available from victim support services:** besides the support already envisaged in the Commission's proposal, it is stipulated that victims should be able to receive advice relating to the risk of retaliation, intimidation and repeat or further victimisation and how to prevent or avoid it. Specific needs of victims should at least include: i) shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of retaliation, intimidation or repeat or further victimisation; ii) targeted and integrated support for victims with specific needs**, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling**.

Participation in criminal proceedings: noting that the role

of victims in the criminal justice system and their possibility of actively participating in criminal proceedings may vary from one Member State to another, a series of criteria have been introduced to strengthen this right. Member States should determine which of those criteria will be applicable to determine the scope of rights provided for under Articles, where there are references to the role of the victim in the relevant criminal justice system. Generally speaking, thee following rights were strengthened in the framework: the right to be heard, rights in the event of a decision not to prosecute, to safeguards in the context of restorative justice services, to legal aid, **to reimbursement of expenses and to the return of property**.

Strengthening of the protection of victims and recognition of victims with specific protection needs: the framework for the protection of victims was strengthened to ensure that the protection does not only benefit the victims themselves, but also members of their family if necessary.

Provision has been made for the following:

- **Right to avoidance of contact between victim and offender:** Member States should, to the extent possible, plan the criminal proceedings so that contacts between the offender and the victims and their family members are avoided, such as by summoning the victim and the offender to hearings at different times;
- **Right to protection of victims during criminal investigations:** Member States shall ensure that during criminal investigations that the number of interviews with the victim is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of criminal investigations;
- **Right to protection of privacy:** protecting the privacy of the victim can be an important means of preventing further victimisation and can be achieved through a range of measures including non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of the victim;
- **Right to the individual assessment of victims to identify specific protection needs:** this is a major innovation of the Directive and provides for an individual assessment, undertaken as soon as possible, to minimise the risks to which victims are exposed. Such assessments should be carried out for all victims to determine whether they are at risk of further .victimisation and what specific protection measures they require. Individual assessments should take into account the personal characteristics of the victim such as age, gender and gender identity or expression, ethnicity, race, religion, sexual orientation, health, disability, residence status, communication difficulties, relationship to or dependence on the offender, etc. Child victims shall always be presumed to have specific protection needs due to them being vulnerable to secondary and repeat victimisation or to intimidation. The individual assessment shall be carried out with close involvement of the victims and take into account their wishes including where they do not wish to benefit from special measures. If the elements for the individual assessment have changed significantly, Member States shall ensure that the individual assessment is updated throughout the criminal proceedings;
- **Right to protection of victims with specific protection needs:** if an assessment determines that specific needs are required for a victim, special provisions should be made, particularly with respect to hearings and contacts with the alleged offender (s). Procedures would be strengthened if the victim is a child (e.g. audiovisual recording of hearing, etc.).

Training of practitioners: provisions have been added regarding the enhancement of the training of practitioners, in particular for **officials likely to come into contact with victims** (police officers and court staff but also lawyers) to sensitise them to the needs of victims and to deal with them in an impartial, respectful and professional manner.

Co-operation and co-ordination of services: for victims of crime to receive the proper degree of attention, support and protection, public services should work in a coordinated manner and be involved at all administrative levels. Such co-operation shall be aimed at least at: i) exchange of best practices; ii) consultation in individual cases; and iii) assistance to European networks working on matters directly relevant to victims' rights. Measures are also recommended to **sensitise the public to the rights included in this directive** by means of information and awareness raising campaigns, research and education programmes, where appropriate in co-operation with relevant civil society organisations and other stakeholders.

Data collection: in order to facilitate evaluation of the application of this Directive, Member States should communicate to the Commission relevant data related to the application of national procedures on victims of crime, including at least the number, type or nature of the reported crimes and, as far as such data is known and available, the number of the victims, their age and gender. Judicial data can include information on reported crime, number of cases that are investigated, prosecuted and sentenced.

Provisions limited to the territory of the EU: this Directive applies in relation to criminal offences committed in the European Union and to criminal proceedings that take place in the Union. It only confers rights on victims of extra-territorial offences in relation to criminal proceedings that take place in the Union. Complaints made to competent authorities outside the Union, such as embassies, do not trigger the obligations set out in this Directive.

Reporting: the Commission shall submit a report to the European Parliament and the Council, assessing the extent to which the Member States have taken the necessary measures in order to comply with this Directive, including a description of action taken concerning the establishment of victim support services and the identification of victims' specific needs, accompanied, if necessary, by legislative proposals.

Rights, support and protection of victims of crime: minimum standards

2011/0129(COD) - 12/09/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 611 votes to 9, with 13 abstentions, a legislative resolution on the proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime.

Parliament adopted its position in first reading following the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between Parliament and Council.

Purpose: the preferred approach is that of strengthening the rights accorded to victims in seeking to provide them with support from the moment at which the crime took place. Victims of crime must be treated with respect and dignity at all stages of the legal proceedings and, from a practical point of view, in a language that they understand.

Recalling that the main purpose of the directive is to ensure that victims of crime receive appropriate support and protection and are able to participate in criminal proceedings, irrespective of where the crime has taken place, Members stipulate that Member States shall ensure that victims are recognised and treated in a respectful, sensitive , individual, professional and non-discriminatory manner in all contacts with victim support or restorative justice service or any competent authority, operating within the context of criminal proceedings. In this regard, victims shall not be submitted to **any form of discriminatory treatment** based on their race, colour, ethnic or social origin, genetic characteristics, language, sexual orientation or residence status. It is also stipulated that the rights set out in this Directive are not made conditional on the **victim's residence status** in their territory or on the victim's citizenship or nationality.

Specific characteristics of certain categories of victims: it is stipulated that:

- If the victim is a **child**, the best interest must be a primary consideration. Child victims should be considered and treated as the full bearers of rights set out in this Directive and should be entitled to exercise those rights in a manner that takes into account their capacity to form their own views;
- The same process is to be applied to **victims with disabilities**;
- **Victims of terrorism** may need special attention, support and protection due to the particular nature of the crime that has been committed against them. Victims of terrorism can be under significant public scrutiny and often need social recognition and respectful treatment by society.
- **Gender-based violence** is understood to be a form of discrimination and a violation of the fundamental freedoms of the victim and includes violence in close relationships, sexual violence (including rape, sexual assault and harassment), trafficking in human beings, slavery, and different forms of harmful practices, such as forced marriages, female genital mutilation and so-called 'honour crimes'. Victims of violence in close relationships may therefore be in need of special protection measures.

Definition of a 'victim' within the meaning of the Directive: the statute of the victim is clarified: a person should be considered to be a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between them.

Given that **family members of a victim** could be harmed as a result of the crime, such family members, who are indirect victims of the crime, should therefore also benefit from protection under this Directive. Member States should, however, be able to establish procedures to limit the number of family members who can benefit from the rights set out in this Directive.

Information and support: this Chapter has been revised with a view to strengthening and clarifying the rights conferred by the Directive:

- **Right to understand and to be understood:** the information and advice provided by the competent authorities, the victim support services and the justice services should, as much as possible, take different forms in order to be able to be understood by the victim. In this context, Member States shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any necessary interaction they have with any competent authorities in the context of criminal proceedings, including where information is provided by such authorities. Communications with victims must be offered in a simple and accessible language, either orally or in writing and such communications shall take into account personal characteristics of the victim including any disability which may affect their ability to understand or to communicate. Unless this would be contrary to the interests of the victim or 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 competent authorities, where the victim requires assistance to understand and to be understood due to the impact of the crime.
- **Right to receive information from first contact with a competent authority:** provisions were added to the range of information that the victim can be offered. These include 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. It is stipulated that the extent or detail of that information may be varied based 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 its relevance at each stage of proceedings.
- **Right of victims when making a complaint:** new provisions are introduced to improve the complaints procedure. Member States shall ensure that victims receive written acknowledgement stating the basic elements relating to the crime of any formal complaint of a criminal offence made by them to their competent authority. If the victim does not understand the language, he can receive the necessary linguistic assistance or a translation, if necessary. This acknowledgement should include a file number and the time and place for reporting of the crime in order to serve as evidence that the crime has been reported, for example in relation to insurance claims.
- **Right to receive information about their case:** important new provisions are added to the victim's right to receive information about their case. These include the time and place of the trial, or hearing related to an appeal of a judgment in the case. The victim should also be given to victims regarding the release or the escape of the offender where they have so requested, at least in cases where there might be danger or identified risk of harm to the victims, 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, the competent authority should take into account all risks when determining an appropriate action. Victims should receive information on any right to appeal of a decision to release the offender, if such a right exists in national law.
- **Right to interpretation and translation:** provisions regarding the right to interpretation and translation have been revised in order to clarify the framework in which this right shall be applied. In particular, there shall be no requirement to translate passages of essential documents which are not relevant for the purposes of enabling victims to actively participate in the criminal proceedings. In certain cases, an oral translation or oral summary of essential documents may be provided instead of a written translation on condition that such oral translation or oral summary does not prejudice the fairness of the proceedings. Member States shall ensure that the competent authority assesses whether victims need translation and assistance of an interpreter. Translation and interpretation, as well as any consideration of a challenge of a decision not to provide translation or interpretation, shall not unreasonably prolong the criminal proceedings.
- **Right to access victim support services:** it is specified that 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 crime committed against the victim**. These services should be free of charge and confidential, as well as specialised, in some cases.
- **Support available from victim support services:** besides the support already envisaged in the Commission's proposal, it is stipulated that victims should be able to receive advice relating to the risk of retaliation, intimidation and repeat or further victimisation and how to prevent or avoid it. **Specific needs of victims should at least include**: i) shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of retaliation, intimidation or repeat or further victimisation; ii) targeted and integrated support for victims with specific needs, **such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling**. In any event, all possible efforts shall be made to avoid any risk of secondary and repeat victimisation by the offender. To that end, Member States should be encouraged to introduce, especially in relation to court buildings and police stations, feasible and practical measures enabling the facilities to include amenities such as separate entrances and waiting areas for victims.

Participation in criminal proceedings: noting that the role of victims in the criminal justice system and their possibility of actively participating in criminal proceedings may vary from one Member State to another, a series of criteria have been introduced to strengthen this right. **Member States should determine** which of those criteria will be applicable to determine the scope of rights provided for under Articles, where there are references to the role of the victim in the relevant criminal justice system. Generally speaking, thee following rights were strengthened in the framework: the right to be heard, rights in the event of a decision not to prosecute, to safeguards in the context of restorative justice services, to legal aid, **to reimbursement of expenses and to the return of property**.

Strengthening of the protection of victims and recognition of victims with specific protection needs: the framework for the protection of victims was strengthened to ensure that the protection does not only benefit the victims themselves, but also members of their family if necessary.

Provision has been made for the following:

- **A right to protection:** 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 dignity of victims during questioning and when testifying;
- **Right to avoidance of contact between victim and offender:** Member States should, to the extent possible, plan the criminal proceedings so that contacts between the offender and the victims and their family members are avoided, such as by summoning the victim and the offender to hearings at different times;
- **Right to protection of victims during criminal investigations:** Member States shall ensure that during criminal investigations that the number of interviews with the victim is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of criminal investigations;
- **Right to protection of privacy:** protecting the privacy of the victim can be an important means of preventing further victimisation and can be achieved through a range of measures including non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of the victim;
- **Right to the individual assessment of victims to identify specific protection needs:** this is a major innovation of the Directive and provides for an individual assessment, undertaken as soon as possible, to minimise the risks to which victims are exposed. Such assessments should be carried out for all victims to determine whether they are at risk of further .victimisation and what specific protection measures they require. Individual assessments should take into account the personal characteristics of the victim such as age, gender and gender identity or expression, ethnicity, race, religion, sexual orientation, health, disability, residence status, communication difficulties, relationship to or dependence on the offender, etc. Child victims shall always be presumed to have specific protection needs due to them being vulnerable to secondary and repeat victimisation or to intimidation. The individual assessment shall be carried out with close involvement of the victims and take into account their wishes including where they do not wish to benefit from special measures. If the elements for the individual assessment have changed significantly, Member States shall ensure that the individual assessment is updated throughout the criminal proceedings;
- **Right to protection of victims with specific protection needs:** if an assessment determines that specific needs are required for a victim, special provisions should be made, particularly with respect to hearings and contacts with the alleged offender (s). Procedures would be strengthened if the victim is a child (e.g. audiovisual recording of hearing, etc.).

Training of practitioners: provisions have been added regarding the enhancement of the training of practitioners, **in particular for officials likely to come into contact with victims** (police officers and court staff but also lawyers) to sensitise them to the needs of victims and to deal with them in an impartial, respectful and professional manner.

Co-operation and co-ordination of services: for victims of crime to receive the proper degree of attention, support and protection, public services should work in a coordinated manner and be involved at all administrative levels. Such co-operation shall be aimed at least at: i) exchange of best practices; ii) consultation in individual cases; and iii) assistance to European networks working on matters directly relevant to victims' rights. Measures are also recommended to sensitise the public to the rights included in this directive by means of information and awareness raising campaigns, research and education programmes, where appropriate in co-operation with relevant civil society organisations and other stakeholders.

Data collection: in order to facilitate evaluation of the application of this Directive, Member States should communicate to the Commission relevant data related to the application of national procedures on victims of crime, including at least the number, type or nature of the reported crimes and, as far as such data is known and available, the number of the victims, their age and gender. Judicial data can include information on reported crime, number of cases that are investigated, prosecuted and sentenced.

Reporting: the Commission shall submit a report to the European Parliament and the Council, assessing the extent to which the Member States have taken the necessary measures in order to comply with this Directive, including a description of action taken concerning the establishment of victim support services and the identification of victims' specific needs, accompanied, if necessary, by legislative proposals.

Non-extraterritorial nature of the measure: it is stipulated that this Directive applies in relation to criminal offences committed in the Union and to criminal proceedings that take place in the Union. It confers rights on victims of extra-territorial offences only in relation to criminal proceedings that take place in the Union. Complaints made to competent authorities outside the Union, such as embassies, do not trigger the obligations set out in this Directive.

Rights, support and protection of victims of crime: minimum standards

2011/0129(COD) - 18/05/2011 - Legislative proposal

PURPOSE: establish minimum standards on the rights, support and protection of victims of crime.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: this proposal is part of a legislative package which aims at strengthening the rights of victims in the EU and which also includes the following two other elements: a communication on strengthening victims' rights in the EU and a proposal for a Regulation on mutual recognition of protection measures in civil matters.

The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice, the cornerstone of which is the principle of mutual recognition of judgments and other decisions of judicial authorities taken in civil and criminal matters within the Union. It has already acted on the rights of victims in criminal proceedings through Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings. Whilst improvements have been achieved in this area, the objectives of the Council Framework Decision have not been fully realised.

The European Parliament has also called upon the Council to adopt a comprehensive legal framework offering victims of crime the widest protection5. In its resolution of 26 November 2009 on the elimination of violence against women, the Parliament **called on the Member States to improve their national laws and policies to combat all forms of violence against women and to act in order to tackle the causes of violence against women**, not least by employing preventive measures and called on the Union to guarantee the right to assistance, protection and support for all victims of violence. Declaration 19 of the protocols to the Treaty on the Functioning of the European Union also calls on Member States to take all necessary measures to prevent and punish acts of domestic violence and to support and protect the victims of such violence.

Judicial cooperation in criminal matters in the Union is based on the principle of mutual recognition of judgments and judicial decisions. Mutual recognition can only operate effectively in a spirit of confidence, whereby not only judicial authorities but all those involved in the criminal justice process and others who have a legitimate interest in it can trust in the adequacy of the rules of each Member State and trust that those rules are correctly applied. Where victims of crime are not subject to the same minimum standards throughout the EU, such trust can be reduced due to concerns over the treatment of victims or due to differences in procedural rules.

Common minimum rules should thus lead to increased confidence in the criminal justice systems of all Member States, which in turn should lead to more efficient judicial cooperation in a climate of mutual trust as well as to the promotion of a fundamental rights culture in the European Union.

It is for this reason that the Commission is now proposing this legislative framework.

IMPACT ASSESSMENT: the European Commission considered **five options**: retention of the status quo (option 1) and four other policy options (options 2, 3a, 3b and 4).

- ***Option 1 – Status Quo***: retention of the status quo. No action at EU level.
- ***Option 2 – Low level of obligation***: least prescriptive option. Imposes minimum obligations on Member States to establish systems or services with minimum detail on what standards should be achieved. When necessary to take legal measures, this option requires the least changes in national procedural laws.
- ***Option 3a – Medium level obligation***: medium prescriptive option. Imposes medium level of obligation on Member States for all measures to establish services and rights and imposes provisions on what such services should be while defining minimum details on what standards to be applied. The level of obligations on Member States is low and does not require Member States to establish Restorative Justice Services (RJS) but only to ensure that safeguards and minimum quality standards are applied where RJS are used.
- ***Option 3b – Medium/High level obligation***: medium prescriptive option. Imposes medium level of obligation on Member States for all measures to establish services and rights and imposes provisions on what such services should be while defining minimum details on what standards to be applied.
- ***Option 4 – Highest level of obligation***: the most prescriptive option. Imposes a range of obligations on Member States to establish services and rights. It also imposes more detailed provisions on what such services should be and the exact standards that should be applied.

The impact assessment concluded that it was necessary to replace the 2001 Framework Decision with a new Directive containing concrete obligations on the rights of victims. **Option 3a** was the preferred option of the Commission. Legislation should be followed with practical measures to facilitate implementation. It would also be a first step in this field with further studies and action envisaged, in particular in relation to compensation of victims and legal aid for victims.

LEGAL BASIS: Article 82(2) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the Directive intends to replace the 2001 Framework Decision with a new Directive containing concrete obligations on the rights of victims. A number of provisions of Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings have been maintained in their original form or have been amended only to the extent necessary for clarity of drafting.

The following comments concentrate on those areas which introduce substantive changes to the Framework Decision:

Definitions: the purpose of this Directive is to ensure that **all victims of crime benefit from minimum standards throughout the EU**. In particular, this Directive makes provision for support and protection to be given to family members of victims since such persons are often also harmed by the crime and may themselves be at risk of secondary victimisation as well as victimisation or intimidation by the offender or his associates. All provisions in this Directive are also applicable to family members of a victim whose death has been caused by a criminal offence since such persons have specific and legitimate interests in the proceedings beyond those of family members of surviving victims and are often recognised as representatives of the victim.

Information rights and right to understand and to be understood:a series of provisions are provided in order to ensure that victims receive sufficient information in a form they can understand to enable them to fully access their rights and to ensure they feel treated in a respectful manner. Such information should be available from the moment a victim makes a complaint of a criminal offence as well as on a regular basis throughout criminal proceedings and in relation to the progress of the case. Sufficient detail should be provided to enable victims to make informed decisions about their participation in proceedings and how to access their rights, in particular when deciding whether to request a review of the decision not to prosecute. The victim may not understand the language of the information or there may be other factors such as the victim's age, maturity, intellectual and emotional capacities, literacy levels and any disabilities.

Right to access victim support services: victims should have access to support services which provide information and advice, emotional and psychological support and practical assistance which are often crucial to the recovery of victims and help them cope with the aftermath of the crime and with the strain of any criminal proceedings. S**upport should be available from the earliest possible moment after the commission of a crime** irrespective of whether it has been reported. Such services can prove particularly important in regard to a victim's decision to ultimately report a crime. Equally, victims may require support both during the period of any proceedings and in the long term. Support services may be provided by governmental or non-governmental organisations and should not involve excessive procedures and formalities which might reduce effective access to such services. Support may be provided in a variety of ways such as face-to-face meetings, by telephone or other remote means in order to maximise the geographical distribution and availability of services. Certain groups of victims including victims of sexual violence, bias crime such as gender based violence and race hate crime, and victims of terrorism often require specialist support services due to the particular characteristics of the crime they have fallen victim to.

Although the provision of support should not be dependent on a victim making a complaint of an offence to the police or other competent authorities, such authorities are often best placed to inform victims of the possibility of support. **Member States are therefore encouraged to establish appropriate conditions to enable the referral of victims to victim support services**, including by ensuring that data protection requirements can be adhered to.

Right to be heard: it is ensured that the victim has an opportunity to provide initial and further information, views or evidence during criminal proceedings. The exact extent of this right is left to national law and may range from basic rights to communicate with and supply evidence to a competent authority through to more extensive rights such as a right to have evidence taken into account, the right to ensure that certain evidence is taken or the right to make interventions during the trial.

Rights in the event of a decision not to prosecute: victims should be able to verify that established procedures and rules have been complied with and that a correct decision has been made to end a prosecution in relation to a specific person. Precise mechanisms for a review are left to national law. However, such a review should as a minimum be carried out by a person or authority different to the one that took the original decision not to prosecute.

Right to safeguards in the context of mediation and other restorative justice services: restorative justice services encompass a range of services whether attached to, running prior to, in parallel with or after criminal proceedings. They may be available in relation to certain types of crime or only in relation to adult or child offenders and include for example victim offender mediation, family group conferencing and sentencing circles. The proposed Directive ensures that where such services are provided, safeguards are in place to ensure the victim is not further victimised as a result of the process. Such services should therefore have as a **primary consideration the interests and needs of the victim**, repairing the harm to the victim and avoiding further harm. Participation of the victim should be voluntary which also implies that the victim has sufficient knowledge of the risks and benefits to make an informed choice. It also means that factors such as power imbalances, and the age, maturity or intellectual capacity of the victim which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim should be taken into consideration in referring a case to and in conducting a restorative process. Whilst private proceedings should in general be confidential, unless agreed otherwise by the parties, factors such as threats made during the process may be considered as requiring disclosure in the public interest. Ultimately any agreement between the parties should be reached voluntarily.

Right to reimbursement of expenses: this provision is consistent with the 2001 Framework Decision in providing to victims who participate in criminal proceedings the right to reimbursement of expenses. It also provides for reimbursement where the victim attends the trial without participating in the proceedings as such. The purpose is to ensure that victims are not prevented from attending the trial and seeing justice done, due to their own financial limitations.

Identification of vulnerable victims: victims should be treated in an individual manner and that a consistent mechanism is established to identify vulnerable victims who may require special measures during criminal proceedings. All victims of crime are per se vulnerable and accordingly require sensitive and careful treatment. However, some victims are particularly vulnerable to further victimisation or intimidation by the accused or suspected person or his associates. In addition, some victims are particularly at risk of being further distressed or harmed by their involvement in criminal proceedings whether through the giving of evidence or through other forms of participation. Such victims require special measures in order to minimise the likelihood of further harm occurring.

The proposed Directive provides that the vulnerability of victims to such harm be determined by the personal characteristics of the victim and by the nature or type of crime a victim has suffered. The majority of children and persons with disabilities are at particular risk of harm due to their personal characteristics. **As a group they can immediately be identified as vulnerable and in the majority of cases in need of special measures**. Victims within other categories based on the nature or type of crime, such as victims of sexual violence, including exploitation, and victims of human trafficking are also in most cases vulnerable to further victimisation during proceedings.

At the same time, the proposal recognises that victims are individuals who react in different ways to a crime and have different needs and vulnerabilities. Thus a victim may be vulnerable despite not falling into a specific vulnerable victim category. An individual assessment mechanism is therefore to be established to ensure that all vulnerable victims are identified and properly protected. Such an approach can be crucial in facilitating a victim's recovery and ensuring they are provided with the right assistance and protection during proceedings and afterwards. It maximises the ability to prevent secondary and repeat victimisation and intimidation and to enable the victim to effectively access justice. Nevertheless, such an approach must be carried out to an extent proportionate to the likelihood that criminal proceedings will be instituted and that specific measures will be required by the victim. In particular the severity of the crime and the degree of apparent harm suffered by the victim provides a useful indication of the extent of any particular individual assessment. The individual assessment should determine a victim's needs during proceedings and any requirements for referral to victim support services. Those public officials who first come into contact with a victim when a crime is reported should be trained and should have access to appropriate guidance, tools or protocols to enable them to carry out assessments of the needs of victims in a consistent manner.

Individual assessments should consider any factors which may increase the likelihood of a victim suffering further victimisation or intimidation during proceedings. In particular, the following factors should be taken into account: age, gender and gender identity, ethnicity, race, religion, sexual orientation, state of health, disability, relationship to or dependence on the suspected or accused person. Victims of terrorism require particular attention in any assessment given the varying nature of such acts ranging from acts of mass terrorism to targeted terrorism against individuals.

Right to avoidance of contact between victim and offender: this provision mirrors the approach taken in the 2001 Framework Decision with a view to ensuring that where a victim must attend a venue as a result of their participation in criminal proceedings, appropriate steps should be taken to ensure the victim does not have to come into contact with accused or suspected persons. This could be achieved by various means such as establishing separate waiting areas, and controlling the arrival of victims and the accused. Best practice and guidance offered to public officials can also act as an important source of information on how to assist in avoiding contact.

Right to protection of victims during questioning in criminal investigations:the proposal aims toprevent secondary victimisation by ensuring that the victim is interviewed as early as possible and that interaction with authorities should be as easy as possible whilst limiting the number of unnecessary interactions the victim has with them. Decisions on when to carry out any interviews should as far as possible take account of the victim's needs as well as any urgency in relation to the gathering of evidence. Victims may be accompanied by a trusted person of their choice. Only in exceptional circumstances should this possibility be limited and then only in relation to a specific person. The victim should then be permitted to be accompanied by another person of their choice.

Right of protection of vulnerable victims including children during criminal proceedings: a series of measures aim to ensure that when victims have been identified as being vulnerable to further victimisation or intimidation, appropriate measures are taken to help prevent such harm. Such measures should be available throughout criminal proceedings whether during the initial investigative or prosecutorial phase or during the trial itself. The measures necessary will vary according to the stage of proceedings.

During criminal investigation, **minimum levels of protection are required in relation to any interviews with the victim**. These should be carried out in a sensitive manner and officials should have received appropriate training to this end. To this end, it may be necessary, according to the vulnerability of the victim, that interviews are only carried out in appropriate premises. This may mean premises which allow for video interviews or simply where furniture for example is adapted for children or persons with disabilities.

Vulnerable victims can find the interview process highly distressing, particularly where the crime is of a very personal nature. Establishing trust with the interviewer can be important and may only happen over a period of time. For this reason, this article requires that in most cases a **vulnerable victim is to be interviewed by the same person**. Exceptions are permitted for reasons of good administration, such as an urgent need to interview someone else or the unavailability of the usual interviewer. For similar reasons, in cases of sexual violence, victims should have the right to be interviewed by a person of the same gender.

During the trial itself, protection from intimidation, whether intentional or not, is also a relevant factor when determining appropriate protection measures. This proposal establishes minimum measures for this purpose as well as to **minimise the distress** of, in particular, testifying. Measures to enable the victim to avoid visual contact with the defendant are established as well as measures to exclude members of the public and press. In particular, in order to ensure that the fundamental rights of an accused or suspected person are respected, the decision on whether such measures are to be taken is left to judicial discretion. However, the fact that a victim is a child, a person with a disability, a victim of sexual violence or of human trafficking combined with the individual assessment should provide a strong indication of the need for a protection measure.

Given the particular vulnerabilities of children, additional measures should also be made available and utilised in normal circumstances. Interviews may be videotaped and used as evidence in court and that in appropriate cases, where a child does not have a representative, the judicial authority should appoint one.

Training of practitioners: it is provided to establish training requirements for public officials who come into contact with victims. Training should cover issues which will assist officials to treat victims in a respectful manner, to identify protection needs and to provide them with appropriate information to help them cope with proceedings and access their rights. Such training should cover issues such as awareness of the negative effects of crime on victims and the risk of causing secondary victimisation, skills and knowledge, including special measures and techniques, required to assist victims and minimise any trauma to the victim in particular from secondary victimisation, recognising and preventing intimidation, threats and harm to victims, the availability of services providing information and support specific to the needs of victims and the means of accessing these services. Additionally, it is ensured that those providing victim support or restorative justice services should also be trained to an appropriate level such that they treat victims in a respectful and impartial manner and provide their services to professional standards.

BUDGETARY IMPLICATIONS: this proposal has no implication for the EU budget.

Rights, support and protection of victims of crime: minimum standards

2011/0129(COD) - 18/05/2011

The Commission has presented a communication seeking to **strengthen victims' rights in the EU so that victims are properly recognised and that their rights are respected without any form of discrimination throughout the EU**.

Need for new measures in favour of victims: seeking to consolidate the area of freedom, security and justice, the Commission has identified as a strategic priority based on the Stockholm Programme and its Action Plan the need for action to strengthen the rights of victims of crime and to ensure that their need for protection, support and access to justice is met.

The EU has already acted on the rights of victims in criminal proceedings (see Council Framework Decision 2001/220/JHA; Directive 2004/80/EC relating to compensation to crime victims) and most Member States have some level of victim protection and support in place. However, the needs of victims in criminal proceedings are still generally not sufficiently addressed and **the level of victims' rights continues to differ significantly across the EU** .

- According to Eurostat data, around **30 million crimes** against persons or property are recorded annually and many crimes are never reported. Crime often affects more than one victim and those close to the victims also suffer indirectly. This leads to a qualified estimate that there is likely to be up to 75 million direct victims of crime every year.
- Each year, many people are victims of road accidents. There are more than a **million road accidents** recorded in the EU and around 31 000 people are killed each year on the roads, including 850 children under the age of 14, while 250 000 get serious injuries and 1.2 million suffer minor injuries.
- People in Europe are constantly moving across borders, and the risk of becoming a victim is just as great when abroad. Of an estimated **1.4 billion journeys** made by Europeans in 2008, about 90% were within the Union.

The Commission discusses the **gender dimension**, noting that women are particularly exposed to hidden forms of violence. The Council of Europe estimates that 20-25% of European women experience physical acts of violence at least once during their adult lives, 12-15% find themselves in a relationship of domestic abuse, and more than 10% suffer sexual violence.

The Commission presents a legislative package, the core objective of which is to deal with victims' needs in a comprehensive manner. The proposals address the needs of both direct victims of crime and indirect victims, such as the family members who also suffer from the consequences of the crime. Immediate family or dependents of direct victims will therefore, where appropriate, benefit from the support and protection proposed in this package.

The main points are as follows:

- **Recognition and respectful treatment**: human dignity of individuals is a fundamental right and the foundation for proper treatment of victims. Individuals who have suffered from crime therefore expect to be recognised as victims, to have their suffering acknowledged and to be treated in a sensitive and professional manner.
- **Protection:** to avoid harm caused by inadequate procedures, such as repeated and insensitive interviewing, it is important to ensure protection of victims throughout criminal investigations and court proceedings. This protection is essential for particularly vulnerable victims, such as children. Even after a crime, victims are vulnerable to further harm, intimidation or reprisals from the offender. To protect people who exercise their right to free movement, the Commission is proposing for the first time the mutual recognition of protection measures.
- **Support:** appropriate and timely support is essential to help victims overcome emotional, practical, administrative and legal obstacles and to recover. Despite the work done by existing victim support services, such assistance is currently not always easily accessible.
- **Access to justice**: information for victims on their rights and on key dates and decisions is an essential aspect of participating in proceedings, and it should be given in a way that victims understand. Victims should also be able to attend the trial and follow their case through. Victims across the EU do not always get access to these basic elements of justice.
- **Compensation and restoration**: persons who have suffered harm because of the acts of others often expect to get some form of financial compensation, whether from the State or the offender. Restorative justice, which is a relatively new concept in criminal proceedings, goes beyond purely financial compensation to focus on the recovery of the victim. As an alternative to, or in combination with formal justice, it aims to restore victims to the position they had before the crime by giving them, if they so wish, an opportunity to confront their offenders face to face and for the offenders to take responsibility for their acts.

The Commission is proposing the following package of legislative instruments to respond to these needs and to ensure that victims in Europe receive a minimum level of rights, protection, support, access to justice and restoration. The Commission will propose:

- **a Directive establishing minimum standards on the rights, support and protection of victims of crime**, replacing the 2001 Framework Decision. The Directive will ensure that victims are treated with respect and that the special needs of vulnerable victims are properly addressed. It will also ensure that victims receive the support they need, that they can participate in proceedings and receive and understand relevant information, and that they are protected throughout criminal investigations and court proceedings;
- a Regulation on mutual recognition of protection measures in civil matters, which will help preventing harm and violence and ensure that victims (of domestic violence, for example) who benefit from a protection measure taken in one Member State are provided with the same level of protection in other Member States should they move or travel there. Such protection should be awarded without the victim having to go through additional procedures. This measure complements the proposal for a Directive of the European Parliament and of the Council on the European Protection Order which is currently being discussed in the European Parliament and Council.

Looking to the **future**, for the next phase of action on victims' rights the Commission will:

- review Directive 2004/80/EC on compensation of crime victims and Regulation "Rome II" (to address the question of the law applicable to limitation periods for cross-border traffic accidents) ;
- carry out further studies and action on victims, in particular in relation to specific categories of victims such as victims of terrorism, organised crime and gender-based violence, including female genital mutilation, with a view to improving the situation of such victims;
- implement a range of flanking measures that will be crucial to ensuring that victims obtain effective rights in practice, and not necessarily only when involved in criminal proceedings. This will include training and capacity building, exchange of good practices, prevention of crime and violence (such as raising awareness and providing information), data collection and research ;
- continue to give financial support under existing financing programmes to promote issues relevant to victims' rights and needs.

These measures will allow the EU to make victims' rights and needs a central part of securing justice.

Rights, support and protection of victims of crime: minimum standards

2011/0129(COD) - 09/06/2011

The Council adopted a **roadmap** for strengthening the rights and protection of victims, in particular in criminal proceedings. The roadmap sets out priority actions for the protection of victims of crimes. It invites the Commission to submit proposals regarding all of the measures.

Among the overall objectives of EU action are establishing procedures to respect victims' dignity, integrity and privacy, enhancing their access to justice and designing procedures aimed at preventing repeat victimisation.

The text states that action at the level of the Union directed at strengthening the rights and protection of victims should aim at **introducing common minimum standards and at attaining, among others, the following general objectives**:

1. Establish adequate procedures and structures to respect the dignity, personal and psychological integrity as well as the privacy of the victim in criminal proceedings.

2. Enhance the access to justice by victims of crime, also by fostering the role of victim support services.

3. Design adequate procedures and structures aimed at preventing secondary and repeat victimisation.

4. Encourage the provision of interpretation and translation for the victim within criminal proceedings.

5. Where appropriate, encourage victims to participate actively in criminal proceedings.

6. Strengthen the right of victims and of their legal counsel to receive timely information about the proceedings and their outcomes.

7. Encourage the recourse to restorative justice and alternative dispute resolution methods taking into account the interest of the victim.

8. Pay special attention to children, as part of the most vulnerable group of victims, and always keep in mind the best interest of the child.

9. Ensure that Member States provide training, or encourage the provision of training, to all relevant professionals.

10. Ensure that the victim may be awarded compensation as appropriate.

The roadmap lays down the following **priority measures**:

- revising current law (Framework Decision 2001/220/JHA) on the standing of victims in criminal proceedings;
- a **regulation on mutual recognition of protection measures for victims** taken in the context of civil matters. This would complement the European protection order in criminal matters, currently under discussion in the Council after the first reading of the European Parliament.

The Commission presented proposals for these two actions on 18 May, which the Council welcomes and intends to examine as matters of priority. The **other priority measures** concern:

- guidelines on best practices among member states in the field of assistance and protection to victims of crime, once the revised legislation on the standing of victims is adopted;
- a review of the existing directive relating to compensation to crime victims;
- recommendations on how to deal with the specific needs of vulnerable victims and victims of particular types of crimes, e.g. trafficking in human beings or sexual exploitation of children.

The Council invited the Commission to also submit proposals on these priorities and undertook to deal with them as a matter of priority.

The Commission also presented to ministers the package on victims' rights it published on 18 May, which includes:

- a communication on strengthening victims' rights in the EU;
- the proposed regulation on mutual recognition of protection measures in civil matters;
- the proposed directive on minimum standards on the rights, support and protection of victims of crime.