



WOMEN AGAINST VIOLENCE EUROPE

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WAVE Fact sheet

EU Victims' Directive

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The EU Victims' Directive¹ sets common standards in the European Union concerning the rights of victims in criminal proceedings and their support. The Directive was adopted in 2012, with the provisions having to be effected in national laws by 16 November 2015. The legislation contains a range of provisions aimed at guaranteeing the basic rights of victims in criminal proceedings, as well as their protection and support.

Violence against women as gender-based violence

The directive recognizes gender-based violence as a specific form of crime which requires specialized support: "Violence that is directed against a person because of that person's gender, gender identity or gender expression or that affects persons of a particular gender disproportionately, is understood as gender-based violence. It may result in physical, sexual, emotional or psychological harm, or economic loss, to the victim. 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 'honor crimes'." (Para 17)

Need for specialist support for victims of gender-based violence

The Directive recognizes the need for special support: "Women victims of gender-based violence and their children often require special support and protection because of the high risk of secondary and repeat victimization, of intimidation and of retaliation connected with such violence." (Para 17)

The legislation sets principles and standards for the provision of support to victims of gender-based violence:

- **Non-discrimination**

The Victims' Directive requires EU Member States to observe the principle of non-discrimination, covering all possible grounds such as gender, age, sexual orientation, disability, nationality, residency status, ethnicity or any other ground. Victims' rights under the Directive are not to be made conditional on having a legal residency status, and as such apply to all undocumented migrants.²

- **Child-sensitive approach**

As per Article 1, §2, Member States are required to develop a child-sensitive approach in the criminal justice system, taking into consideration the child's best interests on an individual basis, as well as taking into account the child's age, maturity, views, needs, and concerns.

- **Victim-sensitive approach**

¹ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.

² European Commission. (2013). DG Justice Guidance Document related to the transposition and implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. p.8.

Article 1, §2 further stipulates that victims of crime have the right to be treated in a respectful, sensitive and professional manner, taking the individual needs of victims into account.

▪ **Protection from secondary and repeat victimization, intimidation and retaliation**

Paragraph 52 states that victims of crime should be protected from secondary and repeat victimization, from intimidation, and from retaliation. Measures should be taken to protect the safety and dignity of victims and their family members, including protection or restraining orders. In this regard, Paragraph 53 further states that “the risk of secondary and repeat victimization, of intimidation and of retaliation by the offender or as a result of participation in criminal proceedings should be limited by carrying out proceedings in a coordinated and respectful manner, enabling victims to establish trust in authorities.”

▪ **Recognition of the gravity of partner violence, which affects women disproportionately**

Paragraph 18 recognizes the serious effects of partner violence: “Violence in close relationships is a serious and often hidden social problem which could cause systematic psychological and physical trauma with severe consequences because the offender is a person whom the victim should be able to trust. Victims of violence in close relationships may therefore be in need of special protection measures. Women are affected disproportionately by this type of violence and the situation can be worse if the woman is dependent on the offender economically, socially or as regards her right to residence.”

▪ **Avoid repeat referrals**

Paragraph 40 encourages Member States “to establish appropriate conditions to enable the referral of victims to victim support services [...]” It stresses that repeat referrals should be avoided.

EU Victims’ Directive and access to support services by survivors of violence

The Directive requires to provide access to adequate support services for women victims of violence:

Article 8 – Right to access victim support services

“Member States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings. Family members shall have access to victim support services in accordance with their needs and the degree of harm suffered as a result of the criminal offence committed against the victim.” (Para 1)

“Member States shall take measures to establish free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organizations to call on existing specialized entities providing such specialist support. Victims, in accordance with their specific needs, shall have access to such services and family members shall have access in accordance with their specific needs and the degree of harm suffered as a result of the criminal offence committed against the victim.” (Para 3)

“Victim support services and any specialist support services may be set up as public or non-governmental organizations and may be organized on a professional or voluntary basis.” (Para 4)

“Member States shall ensure that access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority.” (Para 5)

Article 9: Support from victim support services

“Victim support services [...] shall, as a minimum, provide:

- (a) information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial;
- (b) information about or direct referral to any relevant specialist support services in place;
- (c) emotional and, where available, psychological support;
- (d) advice relating to financial and practical issues arising from the crime;
- (e) unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimization, of intimidation and of retaliation “ (Para 1).

"Unless otherwise provided by other public or private services, specialist support services [...] shall, as a minimum, develop and provide:

- (a) shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of secondary and repeat victimization, of intimidation and of retaliation;
- (b) 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 counseling." (Para 3).

In order to effectively implement the Directive, it is necessary that Member States increase the level of resources available to establish or enhance the capacity of specialist women's support services to adequately assist all victims.

Evaluation Article 28 Provision of data and statistics: 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.

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