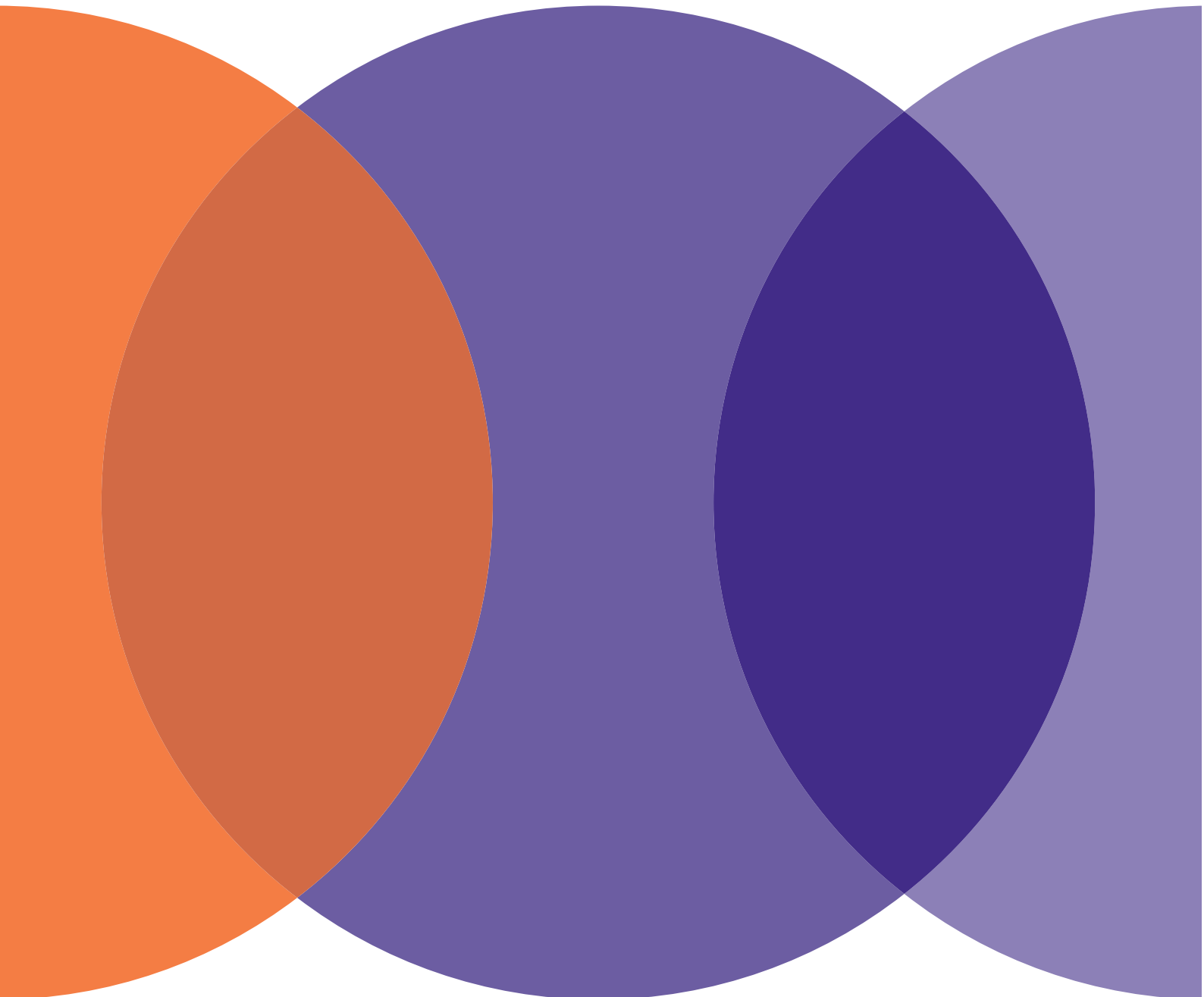


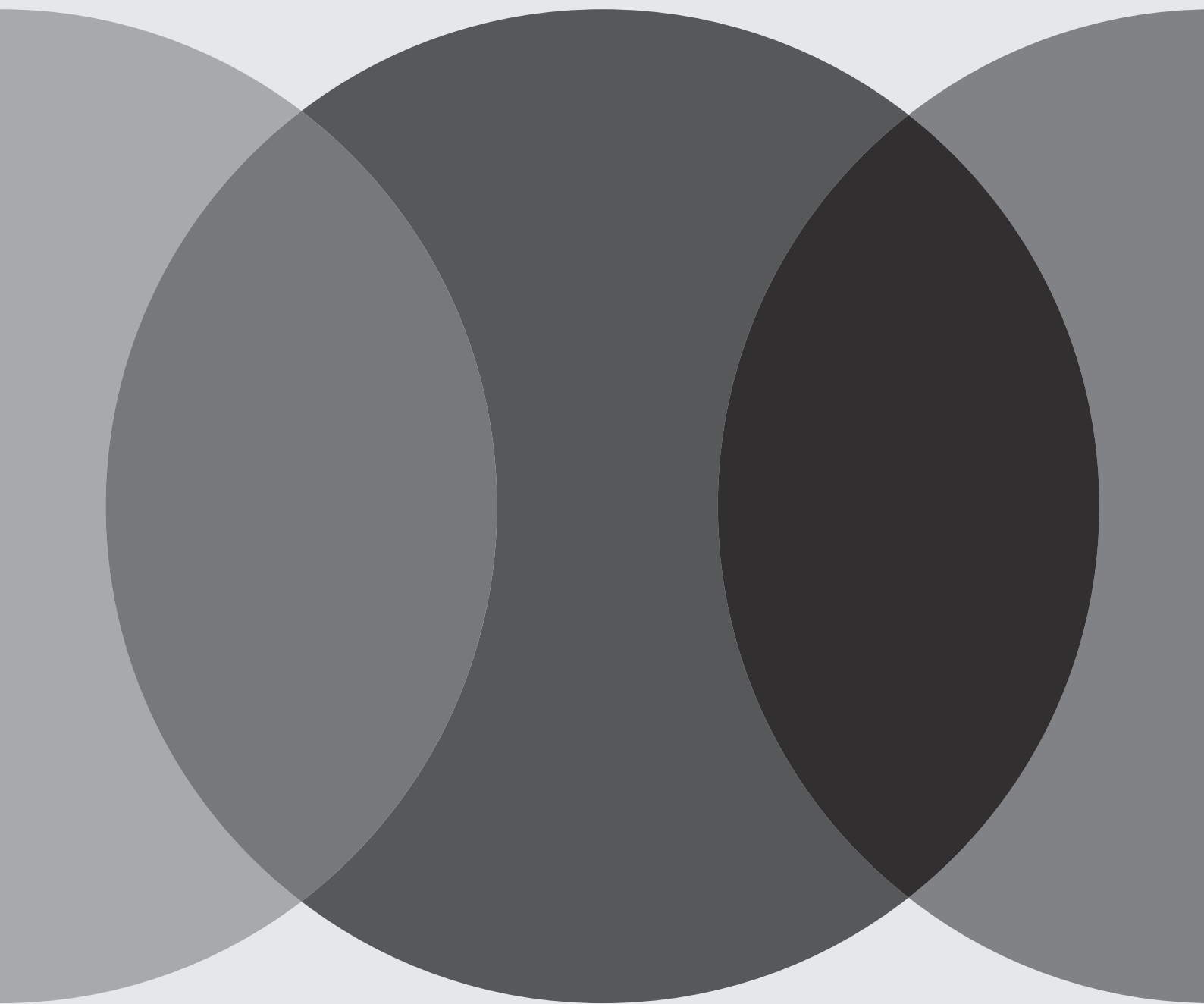
HANDBOOK
FOR IMPLEMENTATION OF
LEGISLATION AND BEST PRACTICE
FOR VICTIMS OF CRIME IN EUROPE



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Victim Support
Europe



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Handbook for Implementation of Legislation and
Best Practice for Victims of Crime in Europe

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1. Introduction

Crime is recognised as a wrong against society as well as a violation of the individual rights of victims¹. There is a range of legal frameworks providing rights, services and calling on fair treatment for victims of crime. In 1985, the United Nations adopted the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*², which provides a global basis for the development of victims' rights. The *2001 Council Framework Decision on the standing of victims in criminal proceedings*³ was the first time victims of crime in Europe were given generic, legally binding rights in all EU Member States. However, the implementation of the Framework Decision was in many areas unsuccessful. The EU Commission's implementation reports⁴ as well as Victim Support Europe's project *Victims in Europe*⁵ found that no EU Member State successfully implemented the Framework Decision and gave victims access to all rights. The *2012 EU Directive establishing minimum standards on the rights, support and protection of victims of crime*⁶ aims to strengthen the rights in the Framework Decision, but it also includes new rights not previously included in European legislation. These new rights include the right to an individual assessment, facilitation of referrals from the Police to victim support services and the right to review a decision not to prosecute. The Directive provides legally binding minimum standards that all EU Member States must fulfil to ensure that victims of crime receive the best possible care and support in the aftermath of crime. The Directive aims to ensure that, in all EU Member States:

- A person is acknowledged as a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted⁷
- Victims are treated in a respectful, sensitive and professional manner⁸
- Victims get information about their rights and their case in a way they understand⁹
- Victim support services exist and are accessible to all (direct and indirect) victims in every Member State¹⁰
- Victims can participate in proceedings if they want and are helped to attend the trial¹¹
- Victims are protected from secondary and repeat victimisation, intimidation and retaliation (including both physical, emotional and psychological harm) during all stages of police investigation and criminal justice proceedings¹²
- The needs of every victim are assessed and victims identified as particularly vulnerable are offered specific protection measures¹³
- Victims receive support and assistance accessing justice in cross-border cases¹⁴
- Police, Prosecutors, judges and other professionals are trained to deal with victims in a sensitive and appropriate manner¹⁵

All EU Member States are required to adopt the necessary laws, regulations and administra-

tive provisions to provide State-wide effective, comprehensive and coordinated access to the rights and services contained in the *EU Directive establishing minimum standards on the rights, support and protection of victims of crime*¹⁶. This includes allocation of appropriate financial and human resources to implement policies, measures and programmes to prevent and address all kinds of victimisation covered by the scope of this Directive. In addition to formal legislation, Victim Support Europe believes a change in behaviour and attitude is required to ensure that victims and witnesses of crime receive the best possible care and support in the aftermath of crime. All agencies and organisations working with victims have a responsibility to assist them throughout their journey through the criminal justice system. European States should recognise, encourage and support the work of relevant non-governmental organisations and civil society in offering a holistic response and meeting the needs of victims of crime.

This document provides practical suggestions how the rights and needs of victims of crime can be met in practice, including implementation of the *EU Directive establishing minimum standards on the rights, support and protection of victims of crime*. As such, this document covers legislative requirements but it also portrays established best practice in service delivery to victims and witnesses of crime. Finally, it provides a generic overview of Victim Support Europe's input into the development, negotiation and implementation of the *EU Directive establishing minimum standards on the rights, support and protection of victims of crime*. It should be noted that the practical options in this document serve as suggestions; Member State have judicial discretion to decide how they wish to implement victims' rights legislation in accordance with their national circumstances and requirements. It should also be highlighted that the document does not cover details of all situations where victims may require assistance in the aftermath of crime, but it encompasses the main areas and can hopefully provide ideas and inspiration in the practical fulfilment of victims' rights.

The content of this document has been structured in accordance with the criminal justice process, so that professionals and service users alike can turn quickly to the part of the process applicable to them. Although certain rights are specific to certain parts of the process, the generic behaviours included in chapter 2 are applicable throughout the criminal justice process.

2. Generic behaviours

This chapter provides an overview over attitudes and general behaviour that are applicable to all professionals working with victims of crime. Please note that the list is not exhaustive, but provides an indication over the range of behaviours to be expected from professionals working with victims of crime.

2.1 NO HIERARCHY OF VICTIMS

The founding ethos of Victim Support Europe is that *all* victims of crime should receive rights, support and protection in the aftermath of crime. As such, we do not wish to establish a hierarchy of victims or a hierarchy of grief, but instead provide rights and services for all victims, regardless of the nature of the crime or personal characteristics of the victim.

2.2 VICTIMS HAVE A VITAL ROLE AND INVESTED INTEREST IN THEIR CASE

Criminal justice systems across Europe are constantly changing and the systems vary between different countries. However, one overarching concern is that many victims and witnesses still feel that the justice system is not able to support their needs. Formal criminal justice systems are not designed nor equipped to address the trauma suffered by victim as a result of crime; they are primarily set up to consider the guilt of the accused and protect the public.

Without the involvement and participation of the victim, for instance by reporting the crime to the police and giving evidence in court, the vast majority of crime would go unreported and without repercussions. Similarly, without the testimonies given by witnesses, victims would often not be able to access justice. Crime is based on an injustice committed against the victim. As such, the victim is present from the onset and without the victim, there would often be no crime. Nonetheless, following the initial interaction with the victim, many criminal justice systems function based on the assumption that justice can be delivered without including the victim. The needs and considerations of the victim are lost somewhere in the process and the final disposal of a case is often concluded without any regard for the victim. In some cases, victims are not even informed of the final outcome of a case. Victim Support Europe believes that a change in mindset is required to recognise the importance and the role of the victim/witness and to ensure that their contact and participation in the system is as smooth and effi-

cient as possible, without risk of re-victimisation or intimidation. In the 21st century, we should expect criminal justice systems to be adopted around the needs of the individuals involved, not the other way around.

2.3 RESPECT AND DIGNITY

Victims have the right to be treated in a respectful, sensitive, tailored and professional manner in all contact with criminal justice agencies and victim support services¹⁷. In practice, there are many factors that professionals should bear in mind that will demonstrate respect to the victim, for instance:

- Set aside sufficient amount of time when engaging with a victim, do not rush or make the victim feel that he/she is an inconvenience
- Clearly inform the victim who you are (preferably by wearing identification badge) and what your role is. Set clear expectations for the victim what you can and cannot do for them
- Fulfil promises, if you agree to phone/provide information on a certain day, you should do your utmost to do so. Explanations should be given for any delays
- Do not have pre-set expectations of how a victim 'should' react in the aftermath of crime. Crime impacts differently on every victim and their needs will change throughout their recovery process. As such, accept the manner in which the victim reacts and aim to provide the information and assistance the individual victim needs at that particular time

2.4 BELIEVE THE VICTIM

Many victims feel that the criminal justice agencies doubt the validity of the victim's statements. For instance, the agency representative may imply that the victim is somehow to be blamed for the crime or that their account of the crime is over exaggerated. To make the victim feel at ease and to demonstrate that the criminal justice system takes the crime against the victim seriously, it is very important that all professionals listen to the victim, provides a suitable response and do not question the validity of their account. Professionals, such as the Police investigating the crime, are naturally obligated to ask questions, however the questions should be sincere and not come across as doubting the victim's experiences.

2.5 DEFINITION OF VICTIM

Victims have an independent right to their status, to be acknowledged as a victim of crime and to access appropriate rights and services regardless of the status of the accused/offender. “A person should be considered to be a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted”¹⁸. To recognise the status of the victim is not a violation of the suspect’s right to be seen as innocent until proven guilty¹⁹. Terminology such as ‘accused’ or ‘suspect’ clarifies that the person is innocent until proven guilty. In the same way, victims are entitled to be recognised as victims. The purpose of the trial is to assess whether or not the prosecution has been able to present sufficient evidence to prove beyond reasonable doubt that the accused committed the offence. Even if the case against a particular suspect fails, it does not necessarily mean that the victim has not suffered the crime but rather that there wasn’t enough evidence to reach a conviction against the suspect, which is often a very distressing experience for victims of crime.

The definition of ‘victim’ should also, where appropriate, include family members of a person whose death was caused by a criminal offence²⁰.

2.6 PROACTIVE INFORMATION PROVISION

In order to participate in the criminal justice process or access any other rights, victims need information on what their rights are and what services they can access. Victims’ right to information²¹ is therefore one of the most important rights in the aftermath of crime. Having involuntarily fallen victim to crime, the person is often unaware of what information is available. It is therefore important that the onus is not put on the victim to request a certain piece of information. Instead, the State and applicable criminal justice agencies should take all possible steps to alleviate any additional burden of dealing with the legal ramifications of the crime and strive to make the victim’s contact with the criminal justice system as smooth and simple as possible. Victim Support Europe therefore strongly believes the responsibility should be on the State to provide the information or as a minimum tell the victim what information is available and ask whether he/she wishes to obtain it; it is the right of the victim to *receive* information, not to be made responsible for the practicalities surrounding its delivery.

2.7 RIGHT TO UNDERSTAND AND TO BE UNDERSTOOD

Victims of crime have the right to understand and to be understood in all their interactions with criminal justice agencies²². Information should therefore be delivered in a language and manner that the victim can understand. Consideration should be given to the victim's communication skills and any language requirements. For instance, vital documents should be translated into a language spoken by the victim. If required, the victim should also be able to access interpreters, free of charge, during other interactions such as Police interview, questioning in court and when receiving support services. It is the responsibility of the criminal justice agency delivering the information or arranging the interaction to ensure that the victim can understand the information given.

2.8 RIGHT TO KNOW WHO TO CONTACT

Throughout the victim's interaction with the criminal justice system, he/she should be given contact details to all the agencies involved in the case²³. This will ensure that the victim knows who to contact to receive more information or ask any further questions regarding a specific part of the case or the process.

2.9 TRAINING OF PROFESSIONALS

Appropriate training is one of the most vital resources for professionals working with victims of crime. Without adequate training, there is an increased risk that the victim may suffer re-victimisation due to unsuitable questions and behaviours from people they meet. The *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* includes a call on EU Member States to ensure that professionals that come into contact with victims receive both generic and specialist training to help them deal with victims in an impartial, respectful, professional and non-discriminatory manner²⁴. The level of training should depend on the level of contact; professionals who have daily contact with victims should receive more in-depth training. As such, States should ensure that training is given to Police, Prosecutors, Judges and court staff to sensitise them to the needs of victims and to ensure that they can provide victims with a professional and sensitive service. Training should as a minimum include matters relating to the impact of crime on victims, different coping strategies, the risks and how to avoid intimidation, repeat and secondary victimisation as well as the availability and relevance of victim support services.

2.10 NON-DISCRIMINATION

Crime is a violation of a victim's fundamental rights. To address the harm caused, victims should be recognised and treated in a respectful, sensitive and professional manner without discrimination of any kind²⁵. Non-discrimination includes avoidance of discriminatory treatment and behaviour based on grounds such as race, colour, ethnic or social origin, genetic features, language, religion or belief, political association, membership of a national minority, property, birth, disability, age, gender or gender identity, sexual orientation, residence status, state of health or any other personal characteristic of the victim. All victims of crime shall fully enjoy rights on an equal basis, in particular rights such as:

- Equal recognition before the law
- Equal access to justice
- Equal access to protection and support services
- Equal access to compensation and restitution
- Equal access to information and accessibility to premises
- Freedom from inhumane or degrading treatment
- Freedom from threat and intimidation
- Freedom from violence and abuse

2.11 COLLECTION OF DATA AND STATISTICS

To measure the impact and fulfilment of victim legislation, it is important to assess how many victims are able to access their rights, for instance by looking at how many victims come into contact with relevant criminal justice agencies and what services they are able to access²⁶. At the moment, data recording in the victim field is patchy; all agencies are for instance not able to disclose how many separate victims they work with each year and what kind of services they deliver to those victims. Victim Support Europe therefore believes that minimum standards should be adopted for recording data in relation to victimisation and victims' ability to access their rights and services in the aftermath of crime. Relevant agencies in every European country should, as part of the standards, be required to record anonymised information regarding the number of victims and witnesses they work with and what services they deliver to those individuals. Ideally, data should also be recorded regarding any gaps in service delivery, where victims and witnesses are not able to access services, including specialised support services. Systematic and adequate data collection for all agencies working with people affected

by crime will assist in measuring whether or not criminal justice agencies meet the needs of victims and help to calculate the number of victims/witnesses going through the criminal justice system each year.

3. Prevention

3.1 PROMOTE BEHAVIOURAL CHANGE

European countries should take the necessary steps to promote changes in the social and cultural patterns of behaviour, aimed at eradicating prejudice, violence, inequality and other factors leading to victimisation. Victims of crime, in particular victims of sexual crimes, are still often met with suspicion and their behaviour is scrutinised to determine whether they are (at least partly) responsible for their own victimisation. Preventative, educational and awareness raising campaigns should therefore be conducted on a regular basis to increase awareness and understanding among the general public of the impact of crime and the need to prevent victimisation.

3.2 PREVENTATIVE PROTECTION MEASURES

One of the European Union's fundamental principles is freedom of movement. Built into this right is a requirement to ensure that all individuals are kept safe and secure while exercising their freedom of movement. As such, States have a responsibility to look after their residents and protect them from harm. To fulfil this responsibility, States should develop a range of preventative measures, available in cases where a person feels at risk of falling victim to crime. For instance, people who are threatened with violence by their partner or ex-partner should be able to access restraining orders or other suitable protective measures whereby restrictions are being placed on the person causing the threat to increase the safety and security of the person at threat. Where appropriate, protection measures should also include family members²⁷. European Protection Orders should be used to ensure victims of crime who move to another EU Member State are able to maintain their protection in their new country of residence²⁸.

3.3 STREAMLINE CRIME PREVENTION

The layout of buildings, parks and communities in general has a big impact on criminal behaviours and the formation of crime 'hot-spot'. Areas without adequate lighting and limited public access are at risk of suffering higher levels of crime. Similar to victimisation, the need to prevent crime and address risk factors are not just relevant in the justice arena, but also impacts on many other areas such as health, education and social planning. Crime prevention strategies and indicators should therefore be a routine consideration during the planning

process for new buildings, schools and in overall city planning, as they can have a big impact on crime levels and the wellbeing of communities as a whole. There is a range of crime prevention agencies and authorities across Europe that can provide suggestions and information regarding methods and factors to bear in mind. For instance, the European Union Crime Prevention Network (EUCPN) was set up in May 2001 to promote crime prevention activities in Member States across the EU, and to share good practice in preventing crime²⁹.

3.4 BELIEVE THE PERSON AT RISK

A key aspect of crime prevention is to believe the person at risk of falling victim to crime. This person is often the only one who can provide an insight into ongoing threats, which should be taken seriously by the criminal justice agencies approached.

It is of vital importance to pay attention to the course of conduct of the person causing the threat and not see each separate threat as an isolated incident, as the overall conduct can give an indication regarding escalation of threats. For instance, in relation to stalking and anti-social behaviour, threatening or disturbing behaviours are not necessarily criminal but the course of conduct may give rise for concern. In such situations, people at risk should be supported in keeping records of all events, risk assessments should be conducted and safety plans put into place if appropriate.

3.5 AVAILABLE SERVICES

Services should be available to provide information regarding preventative measures and assistance how to access them. Support services should also be available to give comfort to people who feel at risk of falling victim to crime, as fear of crime can have a big impact on individuals and communities as a whole.

4. A crime has been committed

4.1 LEGISLATIVE REQUIREMENTS

It is the responsibility of all European countries to ensure that their national legislation provides adequate recognition, support, protection, assistance and legal remedies for victims of crime. As such, intentional acts of violence, threat, intimidation, deceit or any other activities aimed at impairing a person's physical or psychological integrity should be criminalised and victims given access to support and rights to aid their recovery and restitution. National criminal justice systems should be easily accessible and able to provide fair and speedy access to justice for victims of crime, where they should be recognised and treated as a central part of the process. Established crimes and offences should be punishable by effective and proportionate sanctions.

4.2 EFFECTIVE RESPONSE

All European States shall take the necessary legislative or other measures to ensure that there are appropriate mechanisms to provide an effective response to crime. This includes efficient coordination between all relevant State agencies, including the Police, Prosecutor, Judiciary, local/regional authorities and non-governmental organisations in protecting and supporting victims and witnesses of crime.

4.3 RIGHT TO INFORMATION

When a crime has been committed, victims should immediately be provided with access to information regarding³⁰:

- Where and how to report the crime
- Where and how to access support services
- The applicable criminal justice system, including the rights and the role of the victim in the system
- Protection measures
- Legal aid and assistance
- Criminal injuries compensation
- Interpretation and translation
- Applicable cross-border arrangements

-
- Restorative justice services
 - Reimbursement of expenses
 - Contact details to agencies dealing with their case
 - Where and how to submit a complaint if their rights are not respected

The onus should be on the State to provide the information without the victim proactively having to ask for it. The victim is often unaware of the kind of information available, so it is therefore more suitable for the State to provide the information unless the victim has specifically said he/she does not want to receive it.

4.3.1 INFORMATION TO VICTIMS OF UNREPORTED CRIME

To ensure that victims of unreported crime can access the necessary information, the information listed under section 4.3 must be available in other formats and through other means apart from the Police. It should be the responsibility of the State to organise awareness campaigns for the general public regarding the rights of victims of crime, including the above mentioned information. Websites and leaflets should be developed and placed in areas where victims are likely to be present as a result of crime regardless if they have reported it to the Police, for instance Accident & Emergency Departments, victim support organisations, Housing Association, drug/alcohol clinic, social welfare office and other applicable agencies. Information should also be provided in schools and available in embassies and consulates for victims of cross-border crime.

4.4 CROSS-BORDER CRIME

Criminal justice authorities involved in cross-border cases shall do their best to minimise the difficulties faced by victims living in a country other than that where the offence occurred³¹. International cooperation, respect and recognition lay the foundation of the European Union. In the criminal justice field, there is a range of practical suggestions how to ease the burden on victims in cross-border cases. One of the most basic rights for victims in cross-border cases is the right to report the crime in the victim's country of residence, or in the country where the crime took place³². To assist the criminal justice process in cross-border cases, the Police in every State should be able to³³:

- Register a complaint that a crime has taken place, regardless in which Member State the crime happened. Victims should be able to report the crime in a lan-

guage he/she understands

- Take initial statement from victim in a language spoken by the victim
- Cooperate with Police in country where crime took place
- Interview witnesses as and when required
- Refer victim to access victim support services
- Provide access to audio/visual conferencing facilities

People who fall victim to crime in a country other than their own may not be able to speak the native language of the country where the crime took place. The Police must therefore be able to access interpreters to ensure that victims who wish to report a crime are able to express themselves and understand what is being said. Leaflets and general information about the criminal justice process and the rights of victims of crime should be available in a range of languages at the Police station.

Audio/visual conferencing facilities should be established in all European States to assist resident victims who were victimised in another country, for instance when giving evidence.

To facilitate cooperation and communication between Police forces in different European States, national Police forces should actively be encouraged to take part in established networks and cooperation arrangements with other law enforcement partners across Europe through for instance Europol, Interpol and CEPOL.

Victims of cross-border crime should, as a minimum, receive the following information:

- How to report a crime, either in the country where the crime took place or in country of residence
- Applicable criminal justice system and the rights and role of victim in the criminal proceeding
- Eligibility criteria and how to access interpretation and translation
- Any special arrangements available to protect the victim's interest
- Available support services in the victim's country of residence
- Information and how to apply for criminal injuries compensation

Regarding provision of assistance in cross-border cases, the *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* states that "if the victim has left the territory of the Member State where the criminal offence was committed, that Member State

should no longer be obliged to provide assistance, support and protection except for what is directly related to any criminal proceedings it is conducting regarding the criminal offence concerned, such as special protection measures during court proceedings. The Member State of the victim's residence should provide assistance, support and protection required for the victim's need to recover"³⁴.

Example

Kurt Wagner was assaulted on a night out while on holiday abroad. He was too afraid to go to the Police in the country where the crime occurred, so he waited until he came home before he reported the crime. The Police in his country of residence recorded the crime and immediately contacted the Police in the country where the crime occurred, who initiated an investigation. The suspect was identified and when the case went to trial, Kurt was able to give evidence from his home country, using videoconferencing facilities.

4.5 RIGHT TO VICTIM SUPPORT SERVICES

Falling victim to crime is often a traumatic experience. In addition to the emotional strain and suffering, victims may have to face the legal ramifications of the criminal justice process. All victims of crime, and their families, should therefore be able to access support services in the aftermath of crime³⁵. With every person reacting differently to crime, support services must be able to meet these varying needs. Clearly, one size does not fit all. Support services should, as a minimum, be able to offer³⁶:

- Information regarding the criminal justice system
- Information regarding the rights of victims and how to access such rights
- Information and assistance applying for criminal injuries compensation
- Information regarding the criminal justice trial and preparation to attend trial
- Emotional and, where available, psychological support
- Advice relating to financial and practical challenges following the crime, i.e. who to contact regarding insurance, repairs, compensation, financial matters, housing concerns, employment support, social welfare queries etc.
- Information relating to risk and prevention of secondary and repeat victimisation, intimidation and retaliation

-
- Victim support services should be fully aware of any specialised services and offer the victim access to appropriate services specifically targeting the needs of the individual victim

All victim support services should be³⁷:

- Free of charge
- Confidential
- Victim-centred; i.e. their main aim must be the wellbeing and interest of the victim
- Independent
- Accessible throughout Europe
- Tailored to meet the individual needs of the victim
- Delivered by trained, qualified and monitored staff/volunteers
- Available regardless of whether or not the victim has reported the crime to the Police
- Available irrespective of crime type or personal characteristics of the victim

4.5.1 SPECIALIST SUPPORT SERVICES

The EU Directive establishing minimum standards on the rights, support and protection of victims of crime calls on Member States to establish specialised victim support services, either as an integrated part of, or in addition to, generic victim support services. Specialised support services can offer a range of services to particular groups of victims, for instance families bereaved by murder, child victims, victims of childhood sexual abuse, victims of domestic abuse, rape or sexual offences. The specialised services highlighted in the EU Directive shall as a minimum provide³⁸:

- Shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of retaliation, intimidation or secondary/repeat victimisation
- Targeted or integrated support, including trauma support and counselling, offered to victims with specific needs, such as victims of sexual violence, victims of gender-based violence and violence in close relationships

4.5.2 WHO CAN ACCESS VICTIM SUPPORT SERVICES?

It may not merely be direct victims of crime who suffer an impact from crime. For instance, family members, friends or witnesses of crime may also feel an emotional impact or need assistance following the crime. Support services should therefore be able to offer support to any

person affected by crime, in particular:

- ‘Victims of crime’, meaning persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or violations of their fundamental rights, directly caused by a criminal offence. A person should be acknowledged as a victim regardless of whether the crime is reported to the Police, regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted and regardless of familiar relationships between the perpetrator and the victim. The term ‘victim’ also includes family members or dependents of the direct victim.
- Witnesses or persons who suffered harm in intervening to assist victims in distress or to prevent victimisation. Without the testimonies given by witnesses, victims will not be able to access justice. As such, it is important to secure the rights of witnesses of crime and to ensure that they can participate in the criminal justice process without risk of threat and intimidation.
- Victims of antisocial or threatening behaviour. Although not always criminal, many actions relating to antisocial and threatening behaviour can have a big impact on the targeted individual. As such, victim support services should consider extending their services to include this group of victims.

4.5.3 REFERRALS – HOW DO VICTIMS ACCESS SUPPORT SERVICES?

To limit the impact of crime, it is important that support services are available and accessible immediately following the crime. Lack of referrals is the single greatest barrier to victims’ ability to access support services in the aftermath of crime³⁹. The *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* calls on all Member States to ‘facilitate’ referrals from the Police and any other relevant entities to victim support services, to ensure that all victims are given equal access to victim support services⁴⁰.

In Europe today, there is a range of referral systems in place with the Police playing the most prominent role in referring victims to access support services. Current referral schemes usually falls into either an ‘*opt-in*’ system (victims have to actively request to access victim support services) or an ‘*opt-out*’ system (victims are referred automatically to access victim support

services but can decline offer of support at any time). Research suggests that the vast majority of victims would like to proactively receive an offer of support without the having to formally request it⁴¹. Practical experience across Europe also indicates that an *opt-out* system has many benefits compared to an *opt-in* system in relation to referrals and victims' ability to access support. In the countries where the largest number of victims are able to access support services, best practice supports the development of automated national referral mechanisms, ensuring that all victims are offered equal access to victim support services regardless of where they live or where the crime took place. More details and practical experiences relating to referral systems are listed in the endnotes⁴².

4.5.4 UNREPORTED CRIME

Many victims choose not to report the crime to the Police for a variety of reasons. These victims are still entitled to some of the same basic rights as other victims, for instance right to information, support and protection. Victims of unreported crime are arguably particularly vulnerable, as they do not come into contact with the criminal justice system and as a result, are not referred to victim support services. The facilitation of referrals, highlighted in the *EU Directive establishing minimum standards on the rights, support and protection of victims of crime*, includes a requirement not only on the Police but also on 'other relevant agencies' to refer victims to victim support services⁴³. To ensure that all victims are offered access to victim support services, including individuals who choose not to report the crime to the Police, all agencies who come into contact with victims as a result of victimisation should refer the person to victim support services to limit the impact of crime. This could include for instance hospitals, embassies, consular agencies, schools, social housing and other social welfare agencies.

4.5.5 INDIVIDUAL ASSESSMENT – DELIVER RIGHTS AND SERVICES BASED ON NEED

Everyone reacts differently to crime; while one person may be able to move on in life fairly unaffected, another person may be severely traumatised by the event. Factors such as personal characteristics, crime type, available support networks, age, maturity, resilience, relationship/dependency between the victim and the offender, use of weapon, previous experience of crime and a range of other indicators will determine the impact of the crime on the victim.

Rather than identifying certain groups as 'vulnerable' and thus potentially creating a hier-

archy of victims and a hierarchy of grief, Victim Support Europe advocates for all victims of crime to have access to rights and services, in relation to their needs. An individual assessment should therefore be conducted to identify the particular needs of each victim, after which support services can be tailored to meet this need. For instance, while some victims may require substantial emotional support after the crime, others may only desire assistance applying for criminal injuries compensation. Individual assessments can also ensure that other needs are highlighted and addressed, such as for instance communication and protection needs. For more information regarding individual assessments, please see chapter 5.6. Conducting individual assessments and tailoring services to meet identified needs is crucial in facilitating a victim's recovery and ensuring they are provided with the right assistance, support and protection before, during and after criminal justice proceedings.

5. The Police investigation

5.1 THE CHOICE TO REPORT A CRIME

Choosing to report a crime to the Police comes natural for some victims, whereas others find it a difficult decision to make. Research demonstrates that the frequency with which victims report crime to the Police is strongly related to the type of crime committed. For instance, car and motorcycle thefts have very high report rates. This can potentially be explained by insurance companies requiring the theft to be reported to the Police in order to pay insurance claims. Violent crimes, such as assaults are less likely to be reported; the European Crime and Safety Survey (EU ICS) 2005 found that only about a third of all assaults and threats were reported to the Police. Sexual offences were least likely to be reported, with a reporting rate of around 15%⁴⁴.

There are many reasons why victims choose not to report a crime to the Police, for instance⁴⁵:

- Victim perceived that the incident was not serious enough
- Victim solved it him/herself
- Victim perceived that the police could/would do nothing
- Fear of reprisals
- Fear/dislike of the Police
- Victim reported the crime to other authorities
- No insurance

For victims who do report the crime, it is often for a variety of the following reasons⁴⁶:

- Victim felt it was the right thing to do/crime should be reported
- Retribution/offender should be brought to justice
- To recover property/value of property
- To stop it happening again
- Insurance reasons
- To get help
- Compensation

5.2 IMMEDIATE RESPONSE

Necessary legislative and practical measures should be put in place to ensure that the Police respond promptly and appropriately to all forms of victimisation, by offering immediate assist-

ance and protection to victims of crime, recognising fundamental principles of victims' human rights. The reasons why victims choose not to report a crime, detailed in chapter 5.1, should be addressed through national development of appropriate operative Police responses to crime.

5.3 ACKNOWLEDGEMENT OF POLICE REPORT

Every victim who reports a crime to the Police should receive written acknowledgement of the report⁴⁷. This will ensure that the victim receives confirmation that the Police has accurately recorded the crime and acknowledged the accounts given by the victim. A case number and a particular case file should be set up where the victim's case and personal information should be recorded. This should ensure that the victim can refer back to their case file and does therefore not have to repeat their story several times to different investigative officers, unless required as part of the investigation.

In cases of for instance stalking consisting of a series of events, every report should be added to the victim's file and not constitute separate reports. This will ensure that the incidents are recognised as part of a course of conduct where escalation of threats can be identified and addressed.

5.4 RIGHT TO AN IMPARTIAL, INDEPENDENT AND TIMELY INVESTIGATION

In the immediate aftermath of crime, victims have the right to expect an impartial and independent investigation, whereby the Police will conduct an objective investigation into the committed offence⁴⁸. The investigation should cover all aspects of the crime, follow up all lines of inquiry and all possible suspects. The timing of the investigation is also important; to secure as much evidence as possible the investigation should take place immediately following a crime. The victim should be kept informed throughout the investigation on any progress made in the case, for instance the identification or arrest of a suspect.⁴⁹

5.5 RIGHT TO ONGOING, CASE SPECIFIC INFORMATION

Once a victim has reported the crime to the Police, it is important that the victim is kept informed of what actions are taken in the case. Without regular updates, victims may get the im-

pression that nothing has happened and that the victim's report is not taken seriously. For many victims, it is quite a traumatic experience reporting a crime to the Police and going through investigative questioning, so it is important to recognise that victims have a need to see progression in their case. Up-to-date information should therefore regularly be provided, for instance when an accused has been identified and apprehended⁵⁰. Even if no concrete advancements have been made, many victims still find comfort in knowing that the investigation is ongoing.

Victims should be proactively informed of the range of information available and able to choose what information they wish to receive, for instance the date of the trial, final outcome of a case and the date for release of an offender. As victims may not be aware of what information they may access, it is not suitable to wait for victims to request the information themselves. Victims have a right to receive information, not to be made responsible for its delivery.

Information should be provided as soon as possible, by the relevant criminal justice authority. Victim Support Europe has been in contact with many victims who were not informed by the criminal justice authorities and had to read about the latest developments in their case through the media, which severely impacts on the victim's faith in the criminal justice process. If possible, the victim should be able to discuss and agree with the Police the timings and manner in which information will be given, to suit the victim's needs.

At the end of the Police investigation, the victim should be informed of the outcome, for instance that the investigation has been closed or that the case has been sent to the Prosecutor for prosecution in court. The victim should also be informed of the reasons behind the decision, for instance why the Police investigation was closed⁵¹. Although the victim may not agree with the decision taken, he/she should be able to understand how the decision was reached.

Some victims may prefer not to receive information, for instance in relation to the release of the offender. As highlighted above, victims should therefore be proactively informed of the range of information they can access and asked whether or not they want to receive particular pieces of information. This could for instance be done by the Police when registering the initial report. The victim's preference in relation to information provision should be communicated to other applicable criminal justice agencies or ideally noted on a shared data base/case file of the individual victim. In practice, it is likely to be a very small number of victims who do not want to receive information, but the desire of each individual victim should be respected and acted upon.

5.5.1 CASE SPECIFIC INFORMATION – WHO PROVIDES WHAT INFORMATION?

EU Member States must develop processes to fulfil victims' right to receive information about their case⁵². In many European countries, the agency making the decision is given the responsibility to inform the victim. For instance, if the Police decide to close an ongoing investigation following a report from a victim, they should be required to inform the victim of their decision and the reasons behind it. Similarly, if the Prosecution decides not to prosecute a suspect, to drop a case before it reaches a final outcome or to conclude the case without court proceedings, they should be required to inform the victim of their decision and their reasoning behind it. Once a decision has been reached by a court, the Judiciary should provide the victim with the outcome and a full explanation how the decision was reached. Finally, the Prison Service or any other institution administrating the release of an offender is often best placed to provide the victim with information regarding the release date. If this approach is chosen, whereby different agencies are responsible for informing the victim regarding their individual decisions, minimum standards should be developed detailing the manner and timeframes within which the victim should be informed.

Another option is to develop a one-stop-shop, whereby one agency is responsible for providing all the above mentioned information to the victim of crime. Overall, such a setup will have many benefits, since the victim will always know where to turn for information. One single point of contact enables the victim to receive an appointed case worker and to build trust and a good working relationship with that person. This also ensures that the victim does not have to repeat their story to a different contact person in each agency. The drawback of a one-stop-shop may be that the agency may not have all the background information that the victim may want, for instance the reasons why a Prosecutor decided not to prosecute a suspect. There may also be a time delay between the decision being made by the appropriate authority and the agency informing the victim. All these factors should be considered when developing national processes to fulfil victims' right to receive information.

5.5.2 UNIFIED DATA MANAGEMENT SYSTEMS – INDIVIDUAL CASE FILE

In order to provide information throughout the processing of a case, European countries should consider establishing suitable recording/data management systems whereby the vic-

tim's contact details are recorded and the victim is assigned a specific case number. This case number should ideally be the same for all criminal justice agencies involved in a case; i.e. Police, Prosecutor, Judiciary, victim support organisation etc. which will improve identification of cases and communication between criminal justice agencies. Subsequently, that would lead to a smoother and more coordinated service and provision of information to the victim throughout the criminal justice system. One practical suggestion how this can be achieved is through the development of a national 'information hub'; a computer hub where all criminal justice agencies insert information relating to their cases. That way, information inserted by the Police or the Court can be accessed by the Prosecutor without the need for complicated disclosure practices. The one-stop-shop can access this information and provide ongoing updates to victims about the processing of their case. Individual victims can also be given an individual log-in to ensure that he/she can access information such as date of police report, if case has been given to Prosecutor, time and date of trial and final outcome in the case. If many agencies share the same data management system, care should be taken in the design of the system to ensure information can be inserted and shared in accordance with data protection requirements. If required, there can for instance be limitations on what information certain agencies can see, insert and amend.

5.6 INDIVIDUAL ASSESSMENTS

The *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* requires EU Member States to conduct an individual assessment to identify any specific protection needs that the victim might have⁵³. This individual assessment should be 'timely'. To ensure that any specific needs are identified and protection measures established, the assessment should be conducted as soon as possible, preferably during the victim's first contact with the criminal justice system. Victim Support Europe believes that this assessment should also address any other needs the victim might have, such as communication or support needs to ensure that the victim is offered access to appropriate services immediately following the crime.

In practice, every State must specify which agency/organisation should conduct the assessment; it could be for instance the Police or a victim support organisation. The individual assessment should consider all factors impacting on the victim's recovery and that may increase the likelihood of a victim suffering further victimisation or intimidation during the criminal justice proceedings. In particular, the following factors should be taken into account⁵⁴:

-
- The personal characteristics of the victim
 - The type or nature of the crime
 - The circumstances of the crime

Other factors that will assist the assessment and should be taken into account are age, maturity, communication needs, language skills, gender and gender identity, ethnicity, race, religion, sexual orientation, state of health, disability, communication difficulties, relationship to or dependence on the suspected/accused person, drug/alcohol dependencies, previous experience of crime, external life circumstances (divorce, bereavement, unemployment etc.) and social supporting structures.

European States should develop a tool/method for conducting the individual assessment. Although vulnerabilities cannot be seen from the outside, it is likely that victims of more serious crime or with specific personal characteristics will have greater protection and support needs. As such, the agency conducting the assessment should take these factors into account in order to determine the level of scrutiny needed during the assessment.

The person doing the assessment should be fully trained and have access to appropriate guidance, tools or protocols to enable assessments to be carried out in a consistent manner across each country. If the individual assessment characterises a victim as having specific protection and support needs, targeted measures and services should be provided during the victim's interaction with the criminal justice system⁵⁵.

5.7 RIGHT TO UNDERSTAND AND TO BE UNDERSTOOD

All criminal justice agencies must acknowledge that every victim is different and that the contact and interaction with each victim depends on their personal characteristics and circumstances of each case.

There are many factors that impact on a person's ability to understand and communicate information, such as for instance the victim's age, maturity, intellectual and emotional capacities, literacy levels, language skills and any disabilities related to sight or hearing. In addition, going through a criminal justice process is often a very stressful experience for victims. Many victims have never interacted with the criminal justice system before and may find the language and the system confusing and disengaging. Any such stress may add additional dif-

difficulties for the victim to understand and to be understood. The agencies working with the victim must therefore be able to assist the person and provide information in a manner suitable to the situation and to the victim.^{xiii} For instance, victims who are unable to read must be given information orally. Victims who are unable to fully understand the information given to them over the phone should be given a written copy of what was said. An agency may have to inform the victim several times or appoint a specific member of staff with particular communication skills suitable to the individual victim. The victim may also be asked to appoint a special advisor/assistant who should be present during all formal interactions, to assist the victim in understanding any information given. To ensure any communication challenges are identified and recorded as soon as possible, they should form part of the individual assessment conducted during the victim's initial contact with the criminal justice system, as highlighted in chapter 5.6. Any identified communication difficulties should be highlighted to other criminal justice agencies or ideally noted on a shared data system/case file of the individual victim. Any factor influencing the victim's ability to understand and to be understood should be taken into account and accommodated.

5.8 RIGHT TO INTERPRETATION AND TRANSLATION

In order for victims to be able to interact and understand the criminal justice proceedings, interpreters must be made available, free of charge, as and when required⁵⁷. States are therefore recommended to establish a pool of qualified interpreters in as many languages as possible. In smaller communities, where the victim's language is only spoken by a limited number of people, there is a risk that the interpreter will know the victim, witnesses called to give evidence or anyone else involved in the case. To the largest extent possible, consideration should therefore be given to ensure that the interpreter is neutral and does not know the victim, the accused or has any interest in the case at hand. If the victim does not feel comfortable with the interpreter or feels that the interpreter has an interest in the case, the victim may not be able to fully participate in the proceedings due to for instance shame or fear of reprisals. There may also be a risk that the interpreter will amend the information delivered. If required, key documents should be translated to enable the victim's participation and to ensure that he/she understands what is happening in the investigation of their case.

Any need for interpreter and translations should form part of the individual assessment, conducted at the victim's first contact with the criminal justice system (please chapter 5.6 for more information). In practice, this can often be carried out by the Police in relation to initial

interview/questioning or by a victim support organisation. Although a victim may have basic knowledge of the language used during the criminal justice proceedings, the emotional stress relating to the process may make it more difficult for the victim to fully understand what is happening and what people/agencies are saying. This should be taken into account when assessing the communication need and language skills of the victim.

5.9 RIGHT TO PROTECTION

There is a positive obligation on all EU Member States to protect their residents, including victims of crime on their territory⁵⁸. European countries must therefore adopt necessary legislative or other measures to protect the rights and interests of victims at all stages of the Police investigation and throughout the judicial proceedings. Following a victim's report of a crime, the Police should conduct a risk assessment to determine whether or not the victim is at risk of further threat, intimidation or victimisation and protective measures should be established accordingly.

If a suspect is identified, the Police or any other authority identified by the State should assess whether or not the suspect poses a risk of retaliation, intimidation, repeat or further victimisation to the victim. If so, the competent authorities should be granted the power to order and enforce suitable protection measures. For instance, emergency barring orders, restraining orders or protection orders may be required during the Police investigation and should be available immediately without any undue financial or bureaucratic burdens being placed on the victim. Consideration could also be given to keep the suspect on remand until the trial. If the suspect is released on bail, but there is still a risk that he/she might threaten, intimidate or injure the victim or any associated witness, strict bail conditions should be set, for instance stating that the suspect/accused must not contact the victim or come within a certain distance from the victim's work or home. The victim should be informed of any such conditions and how to report a breach. Below follows a range of specific areas that should be addressed to fulfil victims' right to protection during the Police investigation.

5.9.1 RIGHT TO AVOIDANCE OF CONTACT BETWEEN VICTIM AND ACCUSED

To protect the victim from risk of further victimisation, threat or intimidation, conditions

should be established to enable avoidance of contact between victims and accused persons in any venue where victims may be present as the result of victimisation⁵⁹. For instance, all venues where a victim may have face-to-face contact with a public authority as a result of falling victim to crime, measures should be in place to avoid contact with the accused. This includes the Police station, Accident & Emergency Departments, Housing Association, Drug/Alcohol clinic, social welfare office and any other applicable agency.

To protect the victim during the initial contact, Police stations should have particular facilities for victims coming to report crimes. That should be a calm and safe environment, away from the general public and reception area, where the victim feels secure and able to give their account of the crime. Ideally, any examination required for evidence purposes should be carried out during this initial meeting, so facilities should enable such examination to take place.

Hospitals and Accident & Emergency Departments should also have the facilities to separate victims from the accused or the general public. Victims should quickly be taken to separate waiting areas and seen by professionals. Health professionals should aim to speak to the victim about the incident, give information about available victim support services and if deemed appropriate, refer the victim to such services⁶⁰. Health professionals should also be encouraged to give general information relating to the location of ‘crime hot spots’ to the Police, as this information may help them establish preventative actions and prioritise their resources in accordance with risk of crime.

5.9.2 LIMIT NUMBER OF POLICE INTERVIEWS

As demonstrated in chapter 5.1, victims choose whether or not to report a crime based on a variety of factors. For victims who do report a crime, the experience of going through the Police interview can be extremely traumatising, in particular in personal, violent and sexual cases where many of the questions may be very personal and intimate. To limit the distress caused to the victim, it is important to keep the number of Police interviews to an absolute minimum. Interviews should only be conducted when it is strictly necessary for the purpose of the criminal proceedings. Information relating to the case should be recorded to ensure that the victim does not have to repeat their story more times than necessary, which many victims experience as particularly distressing⁶¹.

5.9.3 LIMIT PSYCHOLOGICAL AND EMOTIONAL HARM DURING POLICE QUESTIONING

Criminal justice agencies should make every possible effort to limit the psychological and emotional harm to victims. This includes modifying their behaviour in accordance with the needs of the victim. Below follows a range of measures that are aimed at limiting the harm and impact of questioning on the victim⁶².

Person accompanying victim during interview

Victims should be allowed to have a person accompanying them during the Police interview, for moral support and comfort. The victim should be able to choose this person.

Preferred gender of investigative officer

Victims of particular crimes, such as sexual offences and rape, often find it very traumatising having to relate personal, intimate details to a Police officer. In sexual cases, where the crime has so gravely intruded on the victim's personal integrity, having to relate their account of the event to an investigative officer of the same gender as the offender may aggravate the impact on the victim. Wherever possible, to limit the inconvenience and distress of the victim, he/she should therefore be able to choose the gender of the investigative officer⁶³. This may help the victim feel calmer and provide better quality evidence.

Place of interviews – protect dignity and limit risk of re-victimisation

Victims often feel intruded upon when having to answer questions from the Police. Although intrusive questions may be required as part of the investigation, the dignity of the victim can be protected and risk of re-victimisation decreased by paying attention to the area and surroundings where these questions are being asked. The area in which the interviews with the victim are conducted should be specifically set up for that purpose⁶⁴. For instance, every Police station should have a separate area, away from the main reception, where the victim can feel safe and report what has happened without the risk of being overheard or intimidated by other people or activities taking place in the Police station. It may sometimes be required to interview the victim as soon as possible after the event, which may for instance require interviews to take place at the crime scene or in a Police vehicle. However, if a victim chooses to report a crime at the Police station, a safe and calm environment should be made available for the interview. This is particularly important in domes-

tic abuse and sexual offence cases, where the integrity of the victim is particularly violated as a result of the crime and a safe surrounding is of vital importance.

Interviews carried out by trained professionals

To ensure that the victim does not suffer re-victimisation during the Police interview due to unsuitable behaviours and questions, all interviews with the victim should be carried out by professionals trained for that purpose⁶⁵. Specific victim awareness training should be a requirement for all Police officers working directly with victims of crime, in particular for Police officers conducting interviews. Training should include interview techniques, impact of crime on victims and how to identify and avoid risk of re-victimisation.

Interviews carried out by the same person

To ensure that the victim has the ability to develop trust and relate to the investigative officer, all interviews with the victim should ideally be conducted by the same person(s), unless this is contrary to the good administration of justice⁶⁶. Having the same person carrying out all interviews limits the need for the victim to repeat their story to several different people, which many victims find distressing.

Interviews with child victims

In line with its ‘child-sensitive approach’⁶⁷, the *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* highlights that all children under the age of 18 shall be presumed to have specific protection needs due to their age⁶⁸. Specific care should therefore be given when conducting Police interviews with children under the age of 18. It is recommended that European States develop specific guidance and training for Police officers conducting interviews with young victims of crime to limit the risk of secondary and repeat victimisation.

5.9.4 RIGHT TO PROTECTION OF PRIVACY

The *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* requires Member States to adopt measures protecting the privacy and photographic images of victims and their family members, before, during and after the court proceedings⁶⁹.

Victim Support Europe recognises the important role played by the media in supporting victims’ rights and recognition, for instance by highlighting victims’ rights violations and calling

for changes in legislation and strengthening of victims' rights. However, in some cases, the media are themselves violating victims' rights to privacy by publishing detailed accounts of the crime and of the actions and behaviours of the people involved. Guaranteeing integrity, respect and human rights for victims, witnesses and their families when at their most vulnerable is essential⁷⁰. In line with the victim's right to privacy, the victim should be able to determine what information should be disclosed to the media. Although generic information about the crime falls under the remit of freedom of the press and freedom of speech, the media should not print detailed accounts of the crime, personal details or images of the victim or their family without consent. For instance, victims' last words, pictures of crime scenes or details about victims' personal life should not be published without consent from the victim. Victims may be in a very vulnerable situation after the crime and it may be difficult to take a decision with such big repercussions, but they should be given support and assistance to be able to make an informed decision about what information they agree to have publicised. Victim Support Europe acknowledges that this may be seen to limit the media's freedom of speech, but these regulations are vital to ensure that the victim's right to privacy and protection are not infringed. Intrusive media coverage is also likely to deter other victims from reporting a crime and engage with the criminal justice authorities, which will have a negative impact on the criminal justice system and society as a whole.

5.10 RIGHT TO VICTIM SUPPORT SERVICES – IMPORTANCE OF SUPPORT

Victims often find it helpful to speak to someone about the crime and how it is impacting on their lives. Many victims rely on family members and friends for support in the aftermath of crime. This may be important in overcoming feelings of isolation, which is a common immediate response to victimisation. Family members and those in close relationships with the victims may, even if they are not directly involved in the crime, experience their own sense of distress about what has happened. Sometimes it may therefore be very difficult for the victim to tell, and for those close to the victim to hear, details of the crime. Some victims do not have support available from close family members and friends, or would prefer not to turn to them for help. It is therefore important that support is available elsewhere; victim support services may substitute as well as complement support provided by family and friends.

In addition to emotional support, victimisation may give rise to both practical and financial concerns for victims. Victims may find it difficult to know what steps to take following the crime and which agency to contact regarding issues such as insurance, criminal inju-

ries compensation, cleaning of crime scenes, housing queries and the legal ramifications of the crime. Furthermore, many victims of for instance burglary may spend large sums of money to increase their sense of security, for instance by installing new windows, alarms and outdoor lighting. Victim support services can assist victims with information about the criminal justice system, the rights of the victim and how to access rights and services in the aftermath of crime.

The *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* clarifies that all victims of crime, as well as their family members, shall be offered access to victim support services⁷¹. It is vital that these services are free, to enable all victims to use the services regardless of their economic circumstances. It is also important that the services are confidential, so that the victim can freely speak about their experiences and how they are feeling⁷². If victims are afraid that their statements will for instance be used as evidence, they may be reluctant to accept the offer of support.

5.10.1 REFERRALS FROM POLICE TO VICTIM SUPPORT SERVICES

For people who have had the unfortunate experience of falling victim to crime, early intervention can have a substantial effect on their recovery. Victims who wish to access support services, but are unable to receive appropriate help, are likely to experience a more severe impact in the aftermath of crime.

To offer effective and timely support and information services to victims and witnesses of crime, victim support organisations are dependent on receiving referrals from the Police and any other relevant agencies. The EU Directive calls on Member States to facilitate referrals to victim support services⁷³ (for more details on different referral set-ups, please see chapter 4.5.3). Victim Support Europe encourages all European countries to establish a national referral agreement whereby identified cases are automatically referred from the Police to a victim support service, who will offer support and information. This set up will ensure that victims are offered equal access to support services as soon as possible following crime, irrespective of where in Europe the victim lives or where the crime took place. It will also assist in estimating number of victims likely to require support, which will ensure that the victim support service can develop operational capacity to offer the highest level of quality support.

5.10.2 RANGE OF VICTIM SUPPORT SERVICES

The *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* highlights that victim support services should, as a minimum, be able to offer⁷⁴:

- Information regarding the criminal justice system
- Information regarding the rights of victims and how to access such rights
- Information and assistance applying for criminal injuries compensation
- Information regarding the criminal justice trial and preparation to attend trial
- Emotional and, where available, psychological support
- Advice relating to financial and practical challenges following the crime, i.e. who to contact regarding insurance, repairs, compensation, financial matters, housing concerns, employment support, social welfare queries etc.
- Information relating to risk and prevention of secondary and repeat victimisation, intimidation and retaliation
- Victim support services should be fully aware of any specialised services and offer the victim access to appropriate services specifically targeting the needs of the individual victim

In addition to these generic minimum standards, victim support services could offer a range of additional specialised services such as for instance:

- Shelter/protected housing⁷⁵
- Trauma support⁷⁶
- Medical examination
- Direct financial support
- Emergency assistance, such as hotel vouchers, food coupons etc.
- Legal advice
- Psychotherapy and counselling
- Targeted support for particular groups of victims
- Representing the victim in relation to legal matters and compensation claims

Victim support services and any specialist services can be set up as a non-governmental organisation or a public body and may be organised on a professional or voluntary basis⁷⁷. Member States will decide the most appropriate set up in their State to ensure efficient support to all victims. The main aim is that support services should be *independent*; in the same sense as the

prosecution service, the court service and the criminal defence agents operate independently in the best interest of their client or the public interest, the victim support service should focus on the interest and needs of the victim.

5.10.3 SUPPORT SERVICES - TAILORED TO MEET THE NEEDS OF THE VICTIM

The *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* highlights that “support should be provided through a variety of means, without excessive formalities and through a sufficient geographical distribution across the Member State to allow all victims the opportunity to access such services”⁷⁸. The methods for offering victim support services will therefore differ depending on the service and the victim’s needs. Common initial contact methods are telephone or letter, but emails and text messages are becoming increasingly widespread. Methods for ongoing support will also depend on the victim’s needs and preferences, but can for instance involve face-to-face contact, telephone, letters, email, text message and other online methods.

Part of the objective of the EU Directive is to ensure that victims are treated in a tailored and professional manner⁷⁹. In order to ensure that the victim support service provides an appropriate response to the individual needs of the victim, best practice suggests that an individual assessment should be conducted regarding the needs of the victim. Factors such as personal characteristics, crime type, age, previous experience of crime, relationship between victim and the offender, social conditions, ethnicity, external circumstances, available support networks and a range of other factors should be taken into account during the victim support service’s first contact with the victim. For more information in relation to individual assessments, please see chapter 5.6. The victim should also be able to express what they would like to get out of their engagement with the victim support service, for instance some victims may only require assistance to fill in a criminal injuries compensation claim, while others may require extensive emotional and practical support. By discussing the victim’s preferences and reaching a conclusion together on what the victim wants and expects from the victim support service, he/she will find the service more beneficial and more suitable to his/her particular circumstances. To meet the needs of a range of different groups of victims, it is essential that the victim support service is able to offer a range of services – one size does not fit all. It is the responsibility of the State to ensure that sufficient funding is made available to provide consistent, quality victim support services that meet the needs of individual victims throughout the State.

5.10.4 DATA PROTECTION REQUIREMENTS FOR POLICE AND SUPPORT SERVICES

Data protection is of vital importance to protect the privacy, health and security of victims of crime. It aims to ensure that contact details, information relating to the crime and the personal information regarding the victim is not shared with anyone who is not authorised to receive it. For instance, it is crucial for victims of stalking, domestic abuse or victims who have protected identities that their name and address is not accessible to the offender. Appropriate data protection and information security processes are needed to ensure that this protection requirement is fulfilled.

The *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* calls for victim support services to be confidential⁸⁰, which means that all information collected by victim support staff and volunteers across Europe must be dealt with in a secure and sensitive manner. This includes a commitment to ensure that all personal information is handled fairly and lawfully with due regard to confidentiality and in accordance with the principles of data protection.

Following the introduction of data protection legislation, many Police forces across Europe became increasingly concerned that their referral practices might not be in accordance with data protection principles. This led to a significant decrease in the number of Police referrals to victim support services, limiting the number of victims gaining access to vital support services. It should be stressed that the aim of data protection legislation is not to prevent victims from accessing support; it is merely to ensure that all referrals are handled lawfully and securely, in the best interest of the victim. Referrals between the Police and victim support services can be conducted in compliance with data protection legislation, without violating the privacy of the victim and should not be automatically prohibited due to data protection legislation. In fact, the *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* highlights that “Member States shall facilitate the referral of victims, by the competent authority that received the complaints and by any other relevant entity, to victim support services”⁸¹.

A suggested way of fulfilling the Directive’s call to facilitate referrals is for Police forces to always inform the victim about the services offered by victim support and that the victim will be referred to access such services, offering the victim a chance to express a wish not to be referred. Letters/leaflets given from the Police in relation to the crime should also include this

information. An acknowledgement whether or not a victim would like to *opt out* of the referral practice should be a mandatory part for the Police to fill in when they report a crime, to show that they have discussed access to victim support services and what the victim responded. The Police should accordingly have effective mechanisms in place to ensure that such wishes are respected. Victim support services should also ensure that their arrangements for processing any data passed on to them are fully compliant with data protection principles; appropriate information security facilities and procedures may for instance be a prerequisite for receiving Police referrals.

Regarding what information is disclosed from the Police to victim support, the disclosure may be limited to only include vital information, such as for instance name, contact details, age and crime type. This information is needed to ensure that the offer of support is given in the most suitable manner to the victim.

5.11 RIGHT TO REVIEW A DECISION NOT TO PROSECUTE

The *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* has introduced a new right in relation to the decision not to prosecute⁸². Victims now have a right to verify that established procedures and rules have been complied with when the Prosecutor takes a decision to not prosecute a suspect. To guarantee this right, victims must be given information and a full explanation why the decision was taken not to prosecute. This information can be given in written or oral form, depending on the needs of the victim.

Regarding the review of a decision not to prosecute, such a review should be carried out by a person/authority different, and ideally more senior, to that which took the original decision not to prosecute.

6. The case goes to trial

6.1 RIGHT TO AN EFFECTIVE REMEDY AND A FAIR, TIMELY TRIAL

All victims of crime within the European Union, whose rights and freedoms have been violated, have a right to an effective remedy. Similar to the accused, the *Charter of Fundamental Rights of the European Union* provides victims with the right to a “fair and public hearing within a reasonable time by an independent and impartial tribunal”⁸³. The *European Convention of Human Rights and Fundamental Freedoms* also includes a range of fundamental rights for victims of crime and the European Court of Human Rights has repeatedly stated that victims have a right to thorough, effective and timely criminal investigation and prosecution. However, in practice these rights are not as clear and they have not been used to the same extent in relation to victims as they have in relation to the accused.

Regarding the timing of the trial, there are many time restrictions regarding how long an accused person should have to wait before having the allegation against him/her tried in court, in particular when the accused is on remand. There are few, if any, corresponding rights regarding the victim’s right to a trial within a certain timeframe. Many victims have to wait years until their case is dealt with in court, which in some ways prevents the victim from putting the event behind them and moving on. Victims suffer many of the same effects from the delay as accused persons do, such as insecurity, anxiety, stress and apprehension. In addition, before the case is heard in court, the victim and any associated witnesses are at an increased risk of threat and intimidation. Victim Support Europe encourages all European States to acknowledge victims’ right to a fair trial within a reasonable time and aim to limit the time between the crime being committed and the case being heard in court.

6.2 INDIVIDUAL ASSESSMENT – ADOPT MEASURES BASED ON NEED

All victims of crime should be treated in a professional and sensitive manner⁸⁴. However, some victims are particularly vulnerable to further victimisation or intimidation by the accused or associates, friends or family members. 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 protection measures in order to minimise the likelihood of further harm.

In the *EU Directive establishing minimum standards on the rights, support and protection of victims of crime*, children under the age of 18 is the only group presumed to have specific protection needs. Their age makes them particularly vulnerable to secondary and repeat victimisation or intimidation. For all other victims, an individual assessment must be conducted to identify any specific protection needs and determine if the victim would benefit from specific protection measures⁸⁵. The individual assessment should take all factors into account that may impact on the victim, such as personality criteria, nature of the crime and circumstances around the crime⁸⁶. However, the assessment should also take account of external social factors that may impact on the risk of secondary victimisation and distress when giving evidence in court. The severity of the crime and the degree of apparent harm suffered by the victim provides useful indications of the extent of any particular individual assessment. For more information regarding individual assessments, please see chapter 5.6.

Victim Support Europe strongly supports the introduction of an individual assessment to ensure that the individual circumstances of each victim is acknowledged and the best possible support and protection is put in place to assist victims on their journey through the criminal justice system. It maximises the ability to tailor any measures in accordance with the needs of the victim, which will help to prevent secondary and repeat victimisation, intimidation and emotional harm. It will also give the victim more effective access to justice.

6.3 RIGHT TO PROTECTION IN COURT

EU Member States are required to adopt measures to protect all victims of crime, and their family members, from retaliation, threat or intimidation, and secondary or repeat victimisation⁸⁷. This includes emotional and psychological harm as well as protection of dignity. Right to protection also includes protection of the victim's and their family members' privacy. To fulfil the right to protection, below follows a range of measures that should be considered⁸⁸.

6.3.1 PROTECTION MEASURES WHEN GIVING EVIDENCE

There is a range of measures that can be put in place to protect the victim from psychological or emotional harm during questioning or when testifying in court. Victim Support Europe believes all victims who are asked to give evidence in court should be informed of the range of measures on offer and given access to any special measures of his/her choice. Such protective measures could for instance entail⁸⁹:

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- Giving the victim a support person present when giving evidence, for moral support and comfort
 - Avoiding visual contact between victims and defendants before, during and after the giving of evidence, by appropriate means including the use of communication technologies
 - Ensuring that the victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies
 - Allowing a hearing to take place without the presence of the public (or the media)
 - Avoiding unnecessary questioning concerning the victim's private life not related to the criminal offence. Through enforceable measures, only information that is relevant to the case at hand should be disclosed to the court, to the defence and raised during cross-examination. Personal details such as the victim's medical records and previous private activities and circumstances, unrelated to the crime, should never be disclosed
 - Evidence may be recorded before the trial and used in court
 - Evidence may be given in a more relaxed environment than the formal court room
 - The use of communication aids, such as mediator
 - Victims should not have to disclose their address in open court

6.3.2 CHILD VICTIMS – PROTECTION MEASURES WHEN GIVING EVIDENCE

In addition to the rights listed above, child victims have additional rights to protection, for instance⁹⁰:

- All efforts should be made to spare children from having to give evidence in open courts
- Interviews with child victims may be audio/visually recorded and used as evidence in court proceedings
- In countries where the child victim has a right to legal counsel, the child should be given speedy access to his/her own legal counsel. An opportunity should be given for the child to meet the representative before the court proceeding, giving the representative a chance to introduce him/herself and to answer questions
- In criminal investigations and court proceedings, judicial authorities may appoint a special representative for the victim in cases where the parents are prevented from representing the child, or where the child is unaccompanied or separated from the family
- A right to not have their personal details, photographs, or any other details which may identify them published
- Child witnesses involved in cases concerning sexual offences, whether as a victim or as a witness, have the right to have their identity protected in media

- The child's best interest should be considered a priority, in accordance with the *Charter of Fundamental Rights of the European Union and the 1989 United Nations Convention on the Rights of the Child*

6.3.3 AVOIDANCE OF CONTACT BETWEEN VICTIM AND ACCUSED – SEPARATE FACILITIES

One of the most important ways to protect the victim from retaliation, intimidation, repeat or further victimisation is to limit the contact between the victim and the accused. The *European Directive establishing minimum standards on the rights, support and protection of victims of crime* clarifies that all EU Member States shall establish the necessary conditions to enable avoidance of contact between victims, their families and the accused⁹¹. The right to avoid contact between the victim and the accused is particularly important in venues where criminal proceedings are being held, i.e. court buildings, since that may give rise to an increased risk of confrontation and intimidation. European court specifications should be developed to ensure that the layout of the court building takes into account the need to separate the victim from the accused. For instance, the layout of the court building should ensure that the victim/witness can move freely to and from the waiting room into the court room and back without any risk of intimidation or risk of meeting the accused. The court premises should give victims separate entrances, waiting rooms, toilets, eating facilities etc. to avoid any contact with the accused or associated family and friends. The layout of the court room should be designed to ensure that the victim/witness does not have to walk past the accused on the way to the witness box, as this could be seen as a particularly intimidating experience.

6.3.4 LIMIT DISCLOSURES

As part of a formal criminal justice process, there is often a legal requirement on the Prosecutor to disclose information that is of relevance to the defence. However, information that is not relevant to the case at hand should never be disclosed⁹². Such information could for instance include medical records, previous actions and experiences, photographs and other personal details regarding the victim unrelated to the case. In sexual cases, although the defence should have access to all disclosed material, photographs and detailed descriptions of the sexual abuse should not be left in the accused's possession. The material should instead be kept by the defence agent and the accused should only be given access to this information by the defence agent when preparing the defence or attendance at the trial.

6.4 RIGHT TO SUPPORT SERVICES IN CONNECTION WITH THE TRIAL

The trial itself can be a very stressful and traumatic experience for victims and witnesses called to give evidence. It is therefore important that support services are available before, during and after the proceedings⁹³. Support services offered in connection with the trial could for instance consist of:

Before the trial:

- Familiarisation visit – the victim/witness is invited to see the court house, waiting room and court room before the day of the trial. This offer should be optional (some victims/witnesses may feel pressured having to visit the court twice) and gives the victim/witness the opportunity to see the court house to set realistic expectations regarding the trial
- Information regarding the trial process and the criminal justice agencies involved
- Information regarding the role of the victim/witness and the range of questions that may be asked – clarify that questions may be intrusive but this is nothing personal against the victim/witness
- Meet the criminal justice professionals involved in the case, in particular the Prosecutor who will lead the questioning of the accused and the victim/witness

Morning/day of the trial:

- If the victim/witness feels frightened, a support person should meet the victim/witness at the door and escort him/her to a designated waiting area – preferably separate from the accused
- If required, a support person should stay with the victim/witness until he/she is called to give evidence or is allowed to enter the court room

During the trial:

- Criminal justice agencies should introduce themselves to each victim/witness before asking questions
- A support person should be allowed to sit close to the victim/witness during the giving of evidence to provide moral support and comfort

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- For victims not giving evidence, a support person should be allowed to sit next to the victim in court as moral support and comfort

After the trial:

- Some victims/witnesses may feel traumatised by the experience of giving evidence or being present during the trial. Some victims may also feel disappointed with the outcome of the trial and the criminal justice process as a whole. Emotional support services should therefore be offered after the trial. In some European countries, support services present in court are legally restrained from discussing any details of the case. In these situations, the court-based support service should refer the victim/witness to a victim support service who can discuss the details of the case and the victim's/witness's overall experience of attending the trial and/or giving evidence

6.5 RIGHT TO BE HEARD

Victims of crime should be given the opportunity to provide initial and further information, views or evidence during criminal proceedings⁹⁴. Examples of victims' right to be heard during court proceedings include:

- Right to provide the Police with an initial report of the crime and its impact on the victim
- Right to (and given the opportunity to) comment on any evidence put forward by the defence
- Right to provide further comments/evidence to the Prosecutor regarding the crime and its impact on the victim
- Right to be called as a witness in court
- Right to provide the court with a victim impact statement regarding the emotional, practical and financial impact the crime has had on the victim
- Right to make interventions during the court proceedings and deliver questions for cross-examination of a suspect
- Right to have their evidence and statements taken into account by the authority deciding the outcome of the case

6.6 RIGHT TO INFORMATION – TRIAL

As highlighted throughout this document, right to information is one of the most important rights for victims of crime, in every stage of the criminal justice process⁹⁵. The victim should be kept updated on any actions and developments in their case. In relation to the trial, the victim should in particular be provided with the following information⁹⁶:

- Current status of the case – when will the Prosecutor formally charge a suspect in court
- The choice of charge – ideally, the victim should be informed and given a chance to comment on the Prosecutor’s choice of charge
- In States whose criminal justice system allows discussions between the prosecution and the defence agent, if the Prosecutor decides to amend the charge or accept a guilty plea of a lesser charge following discussions with the defence, the victim should be informed and ideally given a chance to comment before the plea is accepted
- If, for any reason, the case will not go to trial or a decision is taken to end the trial or conclude the case outwith the court room, the victim should be informed and ideally given a chance to comment. The victim should also receive any reasons for the decision
- Date of trial
- Final verdict in the trial and reasons why that particular verdict was given
- If requested, the victim should be provided with a transcript of the trial proceedings

Many victims have never been in contact with the criminal justice system before and as such, they are unfamiliar with the criminal justice process and the agencies involved. To prepare the victim for trial, the Prosecutor should ideally meet with the victim before the day of the trial. This is an opportunity for the Prosecutor to inform the victim how he/she plans to lead the case in court, the range of overall questions likely to be asked and answer any questions the victim might have. This conversation is vital for the victim to set realistic expectations of what the trial will be like and help prepare the victim’s attendance in court.

6.7 RIGHT TO UNDERSTAND AND TO BE UNDERSTOOD

Justice cannot be effectively achieved unless the victim can properly explain the circumstances of the crime and interact with the competent authorities⁹⁷. To facilitate participation, victims have the right to understand and to be understood during any interaction with criminal justice agencies in relation to their case⁹⁸. As such, victims have the right to receive information

in a manner which they can understand. Any factor influencing the victim's ability to be understood should be taken into account and accommodated for throughout the criminal justice proceedings, for instance by using communication aids and mediators, as appropriate.

6.8 RIGHT TO INTERPRETATION AND TRANSLATION

Any victim/witness unable to speak the language used during the criminal justice proceedings should be provided with interpretation, free of charge, during any interview or court hearing. Translations should be given of key documents and decisions to ensure that the victim can fully participate in their case, understand what actions are taken and the reasons behind such actions⁹⁹. The victim should have the right to challenge a decision from the State to not provide interpretation or translation¹⁰⁰.

In smaller communities, where the victim's language is only spoken by a limited number of people, there is a risk that the victim will know the interpreter. To the largest extent possible, consideration should therefore be given to ensure that the interpreter is neutral and does not know the victim, the accused or have any interest in the case at hand. If the victim does not feel comfortable with the interpreter or feels that the interpreter has an interest in the case, the victim may not be able to fully participate in the proceedings due to, for instance, shame or fear of reprisals. The court should also be aware that in situations where the victim and offender speaks a different language from the court, there is an increased risk of intimidation as the court may not necessarily understand everything said to the victim by the accused or associated family and friends. The fact that a victim speaks a language which is not widely spoken should not in itself be ground to decide that interpretation or translation would unreasonably prolong the criminal proceedings¹⁰¹.

6.9 RIGHT TO LEGAL AID

The *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* clarifies that victims, who have the status of parties in criminal proceedings, should be able to access legal aid¹⁰². European States should be encouraged to clarify the role of victims in their national legislation and where the victim is seen as a party in the proceedings, they should be given speedy and efficient access to legal aid without excessively bureaucratic restraints. This will ensure that victims are able to pay for legal representative to safeguard and represent their interests in the case.

6.10 RIGHT TO REIMBURSEMENT OF EXPENSES

Although the EU Directive only requires expenses to be paid for victims participating in criminal proceedings¹⁰³, Victim Support Europe strongly believes that all victims of crime should be entitled to reimbursement of expenses, regardless of whether or not the victim takes part in the trial as a party, witness or as a spectator. The purpose is to ensure that victims are not prevented from attending the trial and seeing justice done, due to their own financial limitations.

In practice, this right ensures that the State pays for the victim's travel and subsistence expenses, loss of earnings if applicable and any other cost arising for the victim as a result of having to attend the trial, such as for instance child care costs.

6.11 RIGHT TO THE RETURN OF PROPERTY

When seized property is no longer needed for the criminal investigation or any subsequent proceedings, the agency holding the property should contact the victim without delay to arrange the return of the property¹⁰⁴. European States should make arrangements for property to be returned as soon as possible, since items such as for instance mobile phones or computers may be of vital importance to victims and may be difficult to replace. If possible, the needed information could be copied and saved by the investigative agency in order for the property to be immediately returned to the victim. All costs for such return should be covered by the State. The property should be returned in the same condition as when it was collected, or if the victim prefers the property can be cleaned or repaired to the victim's specification.

6.12 RIGHT TO COMPENSATION FROM THE OFFENDER

Compensation is provided for victims of crime in a variety of ways. In some European countries, compensation can be awarded from the offender as part of criminal proceedings. In countries where the national legislation provides for the possibility during the course of the criminal proceedings of ordering the offender to pay compensation to the victim, such a decision should be taken within a reasonable time¹⁰⁵, preferably as part of the court sentence.

There are a variety of ways in which the State can encourage offenders to pay the awarded

compensation to the victim. If the offender is unable to pay a large lump sum at once, payment plans can be established, whereby the offender pays a set amount every week/month until the full compensation is paid. It should be acknowledged that this prolonged process can be quite frustrating for the victim, who in addition to the delay of receiving full payment is reminded of the crime every time a new payment arrives. Consideration should therefore be given to providing an upfront payment of the whole amount to the victim by the State.

If offenders, who are ordered to pay compensation to victims as part of the criminal proceedings, are unwilling to pay or to establish suitable payment plans, enforcement possibilities should be made available. European States could for instance set up automated direct debits whereby money is withdrawn from the offender's salary or social welfare payments before he/she receives the money, which means offenders do not actively have to pay themselves. There should also be a possibility of taking money straight from the offender's bank account to cover the cost of victim compensation, in cases where the offender refuses to pay the awarded compensation within set time limits. In cases where there is a risk that the suspect might sell or otherwise disperse of assets before the trial to limit their ability and requirement to pay compensation, European States should adopt measures whereby the accused's assets can be frozen during the trial. This will ensure that if convicted, the offender has remaining assets that can be used to pay compensation to the victim. If the accused is cleared of all charges, the money will immediately be released to the person's disposal.

For victims, compensation following a crime is often of deeper significance than simply receiving a financial award. Of central importance is the formal acknowledgement and recognition of the suffering of the victim¹⁰⁶, as well as a validation that what the victim says is true. As such, compensation is an important part in the victim's recovery process¹⁰⁷. Victim support organisations across Europe regularly come into contact with victims in cases where the offender has not paid compensation and problems occur in enforcement. Having been awarded the compensation by a representative of the State (the criminal court), victims should have the right to receive the award promptly. It should not be the responsibility of the victim to pursue fulfilment of court ordered compensation, as this is very aggravating and often experienced as further victimisation for the victim¹⁰⁸. It forces the victim to maintain contact with the offender, either directly or through the criminal justice process. This further enables the offender to maintain their perceived power or sense of control over the victim. In several European countries, legislation enables victims to receive upfront payment for the full amount directly from the State. It is then the responsibility of the State to seek reimbursement of the money from the offender, for instance by using the enforcement mechanisms mentioned above. This ensures that the victim receives the compensation immediately following the court's decision and the

need to engage with the offender is eliminated. Victim Support Europe strongly supports this arrangement and encourages all European States to consider developing similar procedures.

6.13 CROSS-BORDER ASSISTANCE

EU Member States shall cooperate to facilitate more effective protection of victims' rights, interests and the ability for victims to access their rights throughout the criminal proceedings¹⁰⁹. Through the application of relevant international and regional instruments in relation to civil and criminal matters, cross-border agreements or any other arrangements, cooperation should aim to¹¹⁰:

- Prevent, combat and prosecute all forms of criminal behaviour
- Protect and provide assistance to victims of crime
- Conduct investigations and proceedings
- Enforce relevant civil and criminal judgements, including protection orders, issued by the judicial authorities of other EU Member States

To reach these aims, cooperation is required in a range of areas, such as:

- Police cooperation – ensuring that the victim can report the crime in their own language to the Police in their own country of residence, who will cooperate with the Police investigating the crime in the country where the crime took place
- Cross-border evidence – European States should cooperate to ensure that evidence collected in one country can be used during criminal procedures in another country. There is a range of legislative frameworks aimed to improve the speed and efficiency of judicial cross-border cooperation, such as for instance European Arrest Warrant¹¹¹, European Evidence Warrant¹¹², European Investigation Order¹¹³ and Mutual Legal Assistance (MLA)¹¹⁴
- Cross-border witness statements – European States should cooperate to ensure that victims/witnesses are able to give evidence from their own country of residence, for instance by using videoconference facilities
- Support services – Police and national victim support services should be able to inform and, where appropriate, refer victims to access victim support services in their country of residence

Victim Support Europe aims to assist any criminal justice agency or individual victim, looking to access support services in Europe.

6.14 VICTIM STATEMENTS BEFORE SENTENCING

In many European countries, victims of crime have the right to submit a ‘victim statement’, providing information to the court how the crime has impacted on their life emotionally, practically and financially. Victim support services can assist the victim in preparing the victim statement. Victim Support Europe supports the introduction of victim statements and encourages European States to consider how they could be implemented more effectively in their national criminal justice system.

Victims should have the right to submit their statements at any time before sentencing and the information provided should be taken into account by the agency choosing a sentence and disposal. Since a significant amount of time can pass between the crime being committed and the case being heard in court, victims should have the right to update their statements if they feel their initial statement is no longer accurate. Victims should be given the option of providing the statement in writing or reading it verbally in court.

7. Appeal process

If a case is appealed, the same rights apply for victims of crime, as detailed in chapter 6. These include:

- Right to information – victims should be kept fully informed of what is happening in the case, including time and place of new trial, decisions taken in the case, final outcome and reasons behind choice of sentence/disposal. Information should be given in a manner they can understand and interpretation/translation should be provided, if required
- Right to protection – measures should be taken to protect the victim and any associated family members from threat, intimidation, repeat and secondary victimisation as well as emotional and psychological harm. Contact between the victim and the accused should be avoided and only details relevant to the case should be disclosed
- Right to individual assessment – victims should receive a timely individual assessment to identify any specific needs, as they may have changed since the previous trial
- Right to special measures when giving evidence – victims called to give evidence should be offered access to special measures, in accordance with their needs
- Right to privacy – no intrusive details regarding the case and no picture of the victim should be published without the consent of the victim/victim's family
- Cross-border assistance – similar to the previous trial, any cross-border assistance should be given as required, to ensure the victim can participate in the appeal process
- Right to support services – victim should receive assistance and support before, during and after the appeal process. Support services should also be available to offer assistance and information on the day of appeal hearing

8. Beyond the trial

8.1 RIGHT TO PROTECTION

Once the trial process is concluded, there may be a need to protect the victim, witnesses or any related family members. For instance, any person giving evidence in court may be at risk of threat or intimidation from the accused/offender or any associated friends or family members. Any concerns from the victim or victim's family should be taken seriously and the Police should conduct a risk assessment to determine whether or not any protective measures should be put in place to protect the victim or anyone else at risk.

8.1.1 UNWANTED CONTACT FROM THE OFFENDER

Victim Support Europe has come across many cases, where the offender continues to contact the victim while serving the sentence. For instance, the offender may send text messages, phone or use social networking sites to contact the victim from prison, which victims often find very distressing. In stalking cases, maintaining contact is a way for the offender to continue his/her behaviour of intimidating and controlling the victim. European countries should develop procedures whereby unwanted contact can be addressed and communication between the prisoner and external recipients can be scrutinised, to ensure all contacts with the victim is eliminated. For instance, if a victim notifies the prison that the offender has been in contact, the prison should add the victim's number to a list of 'banned numbers' that are not accessible from any phone within the prison. Letters addressed to the victim should be confiscated. Mobile phone usage and access to the internet should also be monitored to eliminate any unwanted contact. If requested by the victim, it would also be helpful if the Judiciary, when choosing a sentence/disposal, would include a requirement for the offender to refrain from contacting the victim. The victim should be informed how to report breaches to such conditions.

8.2 RIGHT TO INFORMATION AND PARTICIPATION

Victims' right to information continues beyond the trial. There is also a need to ensure that the victim can continue to participate in the criminal justice process relating to their case once the trial has been concluded. Below follows two concrete areas that European States should take into account to fulfil victims' right to information and participation.

8.2.1 INFORMATION - OUTCOME OF TRIAL

The victim should be informed of the outcome of the trial, including the sentence. The victim should also receive an explanation why that particular sentence was given¹¹⁵. Even if the victim does not agree with the sentence given, he/she should be able to understand how it was reached.

The victim should be informed of any conditions and requirements attached to the sentence. For instance, if part of the sentence includes a restriction on the offender's mobility and ability to contact the victim or attend a certain area at a certain time, the victim should be informed of these conditions and who to contact in case the offender breaches any of the conditions. This is important for two reasons. Firstly, the victim is often in a good position to report any breaches of conditions. Secondly, it will reassure the victim that any unlawful behaviour from the offender is monitored, acknowledged and acted upon.

In addition to information regarding the parameters of the sentence, the victim should be informed how the sentence will be spent in practice. For instance, if the offender is sentenced to prison, the victim should be informed whether or not there is a possibility of the offender being released early and/or spend part of the sentence on licence. This will help to ensure that the victim sets realistic expectations what the given sentence will mean in practice.

8.2.2 INFORMATION AND PARTICIPATION – RELEASE OF OFFENDER

If the offender has requested early release or a formal process has been initiated to scrutinise the possibility of releasing the offender for instance on parole, the victim should be informed¹¹⁶. The victim should also be given an opportunity to provide input to the agency making the decision on release, such as a Parole Board or Prison Service. During this interaction, the victim should be able to raise concerns relating to their safety and security, for instance if they are nervous about meeting the offender in the community, that the offender will contact and threaten them or any other concern they might have. These concerns should be taken into account by the deciding agency and appropriate measures should, if applicable, be put in place. For instance, if the offender is released on parole despite fears raised by the victim, particular requirements or restrictions should be attached to the release conditions, for instance the offender should be restricted from contacting the victim or attending a certain area where the victim lives or works.

Once a decision has been taken to release an offender from prison, the victim should be informed. Many European countries have various forms of notification arrangements in place, whereby certain victims are offered the chance to receive this information. Victim Support Europe believes that, unless they have expressed a wish not to receive it, all victims should receive information regarding the release of the offender, not merely victims in cases where there is an identified risk or where the offender has served a long prison sentence. Consideration should also be given to the manner in which information is delivered. A formal letter informing the victim of the release of the offender may be very confusing and distressing to the victim, so the letter could for instance be followed up with a phone call and/or an offer of victim support services, where the victim can discuss practical measures to increase their sense of security.

8.3 RIGHT TO VICTIM SUPPORT SERVICES

All victims have the right to access support services whenever they are in need of such services; before, during and after criminal proceedings¹¹⁷. Having to participate in the criminal justice proceedings, for instance by giving evidence, may be very traumatic and the victim/witness may feel a need for support to deal with any secondary victimisation or feelings of distress suffered as a result. In some cases, victims are disappointed with the outcome of the trial and may need assistance to deal with any feelings of injustice and re-victimisation.

The release of the offender is another time in the criminal justice process where victims might feel particularly vulnerable and at risk of intimidation and further victimisation. Victim support services can help reassure the victim and can often offer assistance regarding how to identify risk and prevent repeat and further victimisation, threat and intimidation.

To ensure access to support services for victims/witnesses in need, criminal justice agencies in contact with victims during the course of the trial process should pay attention to the victims' reactions and if necessary, refer them to suitable victim support services. Referral arrangements can for instance be developed between the Prosecution, Court Service and victim support services to ensure that anyone feeling distressed or upset by the trial process is offered timely and efficient access to support services.

9. State Compensation

9.1 NATIONAL COMPENSATION FUND

As mentioned in chapter 6.12, European countries have different arrangements in relation to compensation in the aftermath of crime. Compensation to victims of crime can for instance be paid by the offender, insurance companies or by a public compensation fund. Several European treaties have been developed to formalise victims' right to compensation. The *1983 Council of Europe Convention on the Compensation of Victims of Violent Crime* declared that where compensation is not fully available from other sources, the State on whose territory the crime was committed shall compensate¹¹⁸:

- a) Those who have sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence
- b) The dependants of persons who have died as a result of such crimes

The Convention clarifies that compensation shall as a minimum cover loss of earning, medical and hospitalisation expenses, funeral expenses and, as regards dependants, loss of maintenance¹¹⁹. To avoid doubling compensation, the State may deduct from the compensation awarded any amount of money received from the offender, insurance, social security or any other source¹²⁰.

In 2004, the European Union adopted the *Directive 2004/08/EC relating to Compensation to Crime Victims*. The Directive deals specifically with compensation to cross-border victims, where a resident of an EU Member State has been victimised in another Member State. It replicates the call from the 1983 Convention that the Member State on whose territory the crime was committed shall pay the compensation¹²¹. Victims of crime can apply for compensation either in their own country of residence or in the country where the crime took place¹²². All Member States are required to establish one or more authorities responsible for receiving, processing and deciding upon applications for compensation¹²³.

The *Directive 2004/08/EC relating to Compensation to Crime Victims* demands that all EU Member States establishes a scheme on compensation to victims of violent intentional crimes committed in their respective territories. The scheme shall *guarantee fair and appropriate compensation* to victims¹²⁴. The rules on access to compensation in cross-border cases shall operate on the same basis as Member States' schemes on compensation to victims of violent intentional crimes committed in their respective territories. There are no set clarifications on what constitutes 'fair' and 'appropriate' compensation. Drawing references from other international

treaties, restitution should, whenever possible, restore the victim to the original situation before the crime occurred and compensation should be appropriate and proportionate to the gravity of the violation and the circumstances in each case. The calculation of what is appropriate and proportionate should, as a minimum, consider¹²⁵:

- Physical and mental harm
- Lost opportunities, including employment, education and social benefits
- Material damage and loss of earnings, including loss of earning potentials
- Moral damage
- Costs required for legal or expert assistance, medicine and medical services, and psychological and social services

Victim Support Europe urges all European States to ensure that their national compensation schemes are efficient and effective in compensating victims in the aftermath of crime, regardless of the nationality of the offender and the State on whose territory the crime occurred. The application process should be transparent and not place undue financial or administrative burdens on the victim. Decisions on compensation applications should be reached and communicated to the victim in a timely fashion, without delay.

9.2 RIGHT TO INFORMATION – COMPENSATION

European countries have different compensation schemes that cover a range of costs; while some national compensation schemes are limited to compensating physical injuries from intentional, violent crime, other compensation schemes also cover loss of earning, emotional pain and suffering, and other additional costs incurred as a result of the crime such as for instance replacing clothes, glasses etc. Furthermore, some compensation schemes also cover necessary adaptations to the home environment in cases where the victim has suffered severe physical impairment as a result of the crime.

For victims to receive compensation following a crime, a basic requirement is often that they must report the crime to the Police. In their first contact with the criminal justice system, they should therefore be informed of any available compensation scheme, how to apply and where they can find more detailed information¹²⁶. Any basic requirements that must be fulfilled in order to apply for compensation should be fully explained to them in a language and manner they can understand¹²⁷.

9.3 ASSISTANCE APPLYING FOR CRIMINAL INJURIES COMPENSATION

All European countries should ensure that they have an agency/organisation able to assist victims wanting to apply for criminal injuries compensation¹²⁸. Victims should be able to access assistance, free of charge, in determining their eligibility and filling in the application form for the applicable compensation scheme(s). In many European countries, victim support services can also provide further information and assistance in applying for criminal injuries compensation¹²⁹.

10. Restorative Justice

Restorative justice, or restorative practices, encompasses a range of services. They could include a range of different measures and be attached to or run prior to, in parallel with or after formal criminal justice proceedings. Restorative justice measures can be very rewarding to the victim, who may for instance receive a greater understanding of the reasons why the offender committed the crime. It may also allow the offender to apologise and take responsibility for the crime, which may relieve the victim from feelings of guilt, shame and anger that may have arisen as a result of the crime. Participation can also avoid feelings of alienation, which are common in the formal criminal justice setting. The victim may obtain an opportunity to seek information from the offender which would not otherwise be available and also the opportunity to seek redress. In addition, some victims value the opportunity to communicate their experiences of the crime and to help achieve a constructive outcome from their negative experience. However, it is important to remember that restorative measures are not suitable for all victims. Some victims may feel burdened by unwanted responsibility of decision making, it may enhance fear and expose them to secondary victimisation. Other victims may feel uneasy about seeing the offender, disappointment with the inadequate outcome or feel that they were treated disrespectfully and further victimised by the process. It is therefore very important to fully explain the restorative justice process to the victim and ensure that he/she has realistic expectations before making an informed decision whether or not to take part.

10.1 HOW COULD RESTORATIVE JUSTICE WORK IN PRACTICE?

A restorative justice process can be initiated by either the offender or the victim. If the offender has expressed a desire to participate in a restorative measure such as for instance victim-offender mediation, the victim should be informed of such an interest by for instance a victim support organisation or the mediation service offering to deliver the service. A victim should also be able to express their interest in taking part in a restorative justice measure to for instance a mediation service or the penal institution working with the offender.

Participation of the victim in any restorative measure must be voluntary which also implies that the victim must have sufficient knowledge of the risks and benefits to make an informed decision whether or not to participate. It also means that factors such as power imbalance, 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 before offering a restorative justice measure. If a victim

chooses not to take part, that should not serve as an aggravating factor when choosing a sentence for the offender, as this could potentially make some victims feel guilty and add to their burden of responsibility.

10.2 MINIMUM STANDARDS FOR RESTORATIVE JUSTICE MEASURES

Certain minimum standards and considerations should be applied whenever any restorative services are provided, to ensure that the victim is not further victimised as a result of the process. The *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* calls on Member States to “take measures to safeguard the victim from secondary and repeat victimisation, from intimidation and from retaliation”¹³⁰, which should be applied when providing restorative justice services.

All victims react differently to crime and have different needs and wishes in relation to what services they would like to receive. Thus any model must be flexible, developed with the victim at its centre and delivered in conjunction with victim support services¹³¹. The victim should be offered access to support before, during and after the restorative practice procedure to deal with the implications of victimisation, not merely to prepare the victim to take part in the restorative measure¹³². Below follows a summary of the standards Victim Support Europe believes should be in place when offering a restorative justice measure.

- Free and informed consent - The offer of restorative justice measures should only be made by someone fully trained to recognise the variable impact of the offer on victims of crime. Victims should be given information about where they can access independent support and advice. Best practice suggests that victims should be given a minimum of 3 weeks to make a decision whether or not to accept the offer of taking part in the restorative measure

- Victim focused - The main aim of the restorative justice measure should be the wellbeing and interest of the victim. There is a range of restorative justice measures currently set up to inform the offender of the impact the crime has had on the victim, with the overall aim of reducing reoffending. These have the potential to focus more on the needs of the offender than the victim. Victim Support Europe believes it is important that restorative justice measures have the interests and

needs of the victim as primary considerations. Measures should look to repair the harm suffered as a result of the crime and avoid causing further harm

- **Offender accepts guilt** - Restorative justice measures should only be offered in situations where the offender has acknowledged the basic facts of the case and accepted guilt for the committed offence

- **Support and representation** - Going through a restorative justice measure often entails discussing aspects of the crime which may bring up many traumatic memories for the victim. Victims of crime should therefore be offered support before, during and after participating in any restorative measure to limit the risk of any harm and re-victimisation going through the process

- **Trained professionals** - The person facilitating the restorative justice measure should be fully trained in conflict resolution, taking into account the particular needs of victims. It is important that the training on victim awareness is provided by independent experts who have experience of working with victims of crime and no vested interests in the outcomes of the restorative justice measure

- **Choice of process** - Victims who prefer not to meet the offender should be given a choice of indirect mediation or any other suitable measure

- **Confidentiality** - Information disclosed during the course of restorative justice measures should remain confidential and not disclosed, except with the agreement of all involved parties

- **Voluntary agreements** - Any agreement between the parties should be reached voluntarily

- **Duration** - More than one meeting should ideally be offered to allow the victim time to reflect on the information received

- **Keep the victim informed** - Victims who have taken part in restorative justice measures should be kept informed of the offender's performance in meeting the terms of the agreement

- **Monitoring** - Should be designed to provide information that is beneficial to both parties and delivered in circumstances where support is made available

- **The contribution of victim services** - Should be promoted

11. Conclusion

Victims of crime have recently received increased attention on the political agenda of the European Union. Victims are specifically mentioned in the *EU Stockholm Programme (2010-2014)*¹³³ and the *Council Conclusions on a strategy to ensure fulfilment of the rights of and improve support to persons who fall victim to crime in the European Union*¹³⁴ highlights further development of victim support, training of professionals and public awareness raising regarding victim support as particularly important. Further legislative advancements include in particular the *2012 EU Directive establishing minimum standards on the rights, support and protection of victims of crime*¹³⁵ as well as the *Budapest Roadmap for the strengthening of rights and protection of victims, in particular in criminal proceedings*¹³⁶. It remains to be seen how these developments will impact on the practical delivery of rights and services to victims of crime in Europe. Victim Support Europe has played an active part in the development of the EU Directive, providing case specific information and examples regarding current gaps in victims' ability to access their rights. We have also explained practical implications of new suggestions and amendments of the contained rights. In this document, Victim Support Europe has summarised our input into the development of the Directive and given a range of examples how the new rights, and any additional best practice, can be implemented in practice. We hope the document can be used as a source of inspiration for EU Member States looking to implement the new EU Directive and for any European country looking to evaluate and improve the manner in which they engage with victims of crime. We can never remove the experience of crime, but by paying attention to the needs of victims of crime, we are able to improve their experience of justice by making their interaction with the criminal justice system as smooth and accommodating as possible. Providing effective rights and services to victims in the aftermath of crime is a cornerstone in the establishment of a European Union where freedom, security and justice is a reality for all.

Endnotes

- 1 Recital (9), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 2 Please see <http://www.unrol.org/files/BASICP~4.PDF>
- 3 Please see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001F0220:EN:NOT>
- 4 COM(2004)54 final/2 and COM(2009)166 final
- 5 *Victims in Europe – final report*, Victim Support Europe, 2009 http://victimssupporteurope.eu/activeapp/wp-content/files_mf/1366024288VinE_Final_Report_EN.pdf The project Victims in Europe (VinE) assessed the implementation of the Framework Decision, both in relation to legislative transposition and operational impact on victims' ability to access their rights in practice. The project was promoted by APAV and conducted in cooperation with INTERVICT, Tilburg University. The project contained input from a range of stakeholders, victim support organisations and criminal justice practitioners in every EU Member State
- 6 Please see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:EN:PDF>
- 7 Article 2 and recital (19) EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 8 Article 1 and recital (9), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 9 Articles 3, 4, 6, 7, recital (26) and (34), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 10 Articles 8, 9 and recital (37), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 11 Articles 10, 13, 14, recital (34) and (47), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 12 Articles 18, 19, 20, 21, recital (52), (53) and (54), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 13 Articles 22, 23, 24, recital (55), (56), (57) and (58), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 14 Articles 4, 17 and recital (51), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 15 Article 25 and recital (61), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 16 Article 27, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 17 Article 1, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 18 Recital (19), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 19 Recital (12), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 20 Article 2, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 21 Articles 4 and 6, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 22 Recital (21) and article 3, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 23 Article 4 (1)(i), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 24 Article 25, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 25 Recital (9), (15) and article 1, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 26 Recital (64), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 27 Recital (52), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 28 For more information on European Protection Orders, please see <http://www.europarl.europa.eu/news/en/pressroom/content/20111213PR33945/html/Parliament-endorses-EU-wide-protection-for-crime-victims> and <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0560+0+DOC+XML+V0//EN>
- 29 For more information on EUCPN please see <http://www.eucpn.org/index.asp> Many Member States have also set up national Crime Prevention Authorities. For instance, in Sweden, the Swedish National Council for Crime Prevention <http://www.bra.se/bra/bra-in-english/home.html> works to reduce crime and improve levels of safety in society by producing data and disseminating knowledge on crime and crime prevention.
- 30 Recital (21), (26) and article 4, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 31 Recital (10), (62) and article 26, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 32 Article 17, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 33 Article 5 and 17, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 34 Recital (51), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 35 Recital (37), (38), (39), (40) and article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 36 Article 9, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 37 Victim Support Europe Strategy 2012-2015
- 38 Article 9, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 39 This view was supported by the European Economic and Social Committee in their report on the EU Directive establishing minimum standards on the rights, support and protection of victims of crime. *Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions – Strengthening victims' rights in the EU COM(2011)274 final and 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 COM(2001)275 final – 2011/0129 (COD)*, section 4.5.5
- 40 Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 41 *Justice from a victim perspective - Results of research project into punitive attitudes, concept of justice and priorities in the aftermath of crime*, Victim Support Scotland, 2012
- 42 More details regarding benefits and drawbacks with different referral options are given below.
In an *opt-in* system (victims actively requesting to be referred):

- In addition to taking the report of the crime, the Police is also required to ask the victim whether or not she/he would like to access support services, which adds a further burden on the Police

- There is a risk that the individual Police officer will make a subjective assessment whether or not to ask the victim if she/he would like to access support services based on any visible signs of distress. As all victims react differently in the aftermath of crime, the external composure and the way in which the victim appears to feel may not always be a reliable way to assess the impact of the crime
- When the initial Police report is conducted at the crime scene, it may be difficult for the Police to determine whether or not the victim would benefit from support services. Time constraints, background disturbances or presence of the suspect may also decrease the chance of the Police offering to refer the victim to victim support services
- The Police may not be fully informed regarding the range of services on offer and the benefit such services could bring for the victim
- The manner in which the Police asks the question may deter the victim from taking up an offer of support services, for instance wordings like “are you not coping?” or “you don’t need any support services, do you?” are likely to decrease the number of victims accepting an offer of support
- Victims of crime may not feel the full impact of the crime until days, weeks, months or even years after the event. Other seemingly unrelated events such as a sudden bereavement may for instance bring back memories from previous victimisation. It is therefore not always possible to determine the impact of the crime on the victim through an initial assessment of the victim’s level of distress at the scene of the crime
- If the decision whether or not to refer the victim to support services is taken by individual Police officers, referring practices will differ across different parts of EU Member States or indeed between different Police forces within Member States, whereby victims in certain parts of Europe will be more likely to be referred to access victim support services. This leads to variations in victims’ ability to access support in the aftermath of crime, which is not in line with the horizontal right for all victims to access support, as highlighted in the 2012 EU Directive establishing minimum standards on the rights, support and protection of victims of crime

In an *opt-out* system (victims automatically referred to access support):

- All (or specified groups of) victims are referred from the Police to victim support services and are therefore given equal access to support regardless of where they live or where the crime took place
- Automatic referrals are the best way to ensure quick access to support services – offers should be sent to victims as soon as possible following the crime
- The victim is fully informed of the referral process and can at any time decline the referral
- Once referred, the victim can make an informed decision whether or not to accept the offer of support. This process ensures that the decision whether or not to access support is taken by the affected individual based on the information provided by the victim support service, not by the Police officer recording the crime

- 43 Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 44 J. van Dijk, R. Manchin, J. van Kesteren, S. Nevala & G. Hideg, *The Burden of Crime in the EU; Comparative analysis of the European Crime and Safety Survey (EU ICS) 2005* <http://www.europeansafetyobservatory.eu/downloads/EUICS%20-%20The%20Burden%20of%20Crime%20in%20the%20EU.pdf>
- 45 Ibid, p. 71-72. Please note that the reasons are given by victims themselves and are not based on crime category
- 46 Ibid
- 47 Article 5, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 48 The European Court of Human Rights has repeatedly stated that victims have a right to thorough, effective and timely criminal investigations and prosecution. This principle is well grounded in case law and the Court has used a range of article of the European Convention of Human Rights (ECHR) under which these rights of victims are subsumed. For instance, these rights have fallen under article 13 ECHR; other times they are considered to form what the Court calls a procedural limb of certain articles of the Convention. There is to date a considerable number of such procedural limbs, including articles 2 (right to life), 3 (prohibition of torture), 4 (prohibition of slavery and forced labour), 8 (right to respect for private and family life) and 14 (prohibition of discrimination).
- 49 Article 6, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 50 Ibid
- 51 Ibid
- 52 Ibid
- 53 Article 22, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 54 Ibid
- 55 Article 23 and 24, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 56 Recital (21) and article 3, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 57 Recital (34), (35) and article 7, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 58 Article 18, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 59 Article 19, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 60 As highlighted in Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 61 *Justice from a victim perspective - Results of research project into punitive attitudes, concept of justice and priorities in the aftermath of crime*, Victim Support Scotland, 2012

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- 62 Recital (52),(53) and article 18-24, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 63 Article 23, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 64 Although Article 23 only provides this right for victims who are identified as having specific protection needs, Victim Support Europe believes this right should be extended to all victims of crime
- 65 Ibid
- 66 Ibid
- 67 Article 1(2), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 68 Article 22, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 69 Recital (54) and article 21, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 70 *Opinion of the European Economic and Social Committee on the Communication to the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions – Strengthening victims’ rights in the EU COM(2011)274 final and 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 COM(2001)275 final – 2011/0129 (COD)*, section 4.3.11
- 71 Recital (37), article 8 and 9, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 72 Victim Support Europe Strategy 2012-2015
- 73 Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 74 Article 9, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 75 Minimum requirement in article 9, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 76 Ibid
- 77 Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 78 Recital (37), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 79 Article 1, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 80 Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 81 Ibid
- 82 Recital (43) and article 11, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 83 Charter of Fundamental Rights of the European Union, Article 47, http://www.europarl.europa.eu/charter/pdf/text_en.pdf
- 84 Article 1, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 85 Recital (55), (56), (57), (58) and article 22, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 86 Article 22, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 87 Article 18, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 88 Article 18-24, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 89 Some of these measures are listed in Article 23, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 90 Some of these measures are listed in Article 24, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 91 Article 19, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 92 Recital (54), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 93 Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 94 Article 10, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 95 Article 4 and 6, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 96 Some of these rights are listed in Article 6, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 97 Recital (34), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 98 Recital (21) and article 3, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 99 Recital (34), (35) and article 7, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 100 Recital (35), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 101 Recital (36), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 102 Article 13, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 103 Article 14, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 104 Article 15, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 105 Article 16, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 106 M A Young, *The Role of Victim Compensation in Rebuilding Victims’ Lives*, International Organisation for Victim Assistance
- 107 Ibid
- 108 Ibid
- 109 Article 26, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 110 Article 62, Council of Europe Convention on preventing and combating violence against women and domestic violence
- 111 For more information, please see http://europa.eu/legislation_summaries/justice_freedom_security/judicial_cooperation_in_criminal_matters/l33167_en.htm
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- 112 For more information, please see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008F0978:EN:NOT>
- 113 For more information, please see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:165:0022:01:EN:HTML>
- 114 For more information, please see European Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union http://europa.eu/legislation_summaries/justice_freedom_security/judicial_cooperation_in_criminal_matters/l33108_en.htm
- 115 Article 6, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 116 Ibid
- 117 Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 118 Article 2, Council of Europe Convention on the Compensation of Victims of Violent Crime
- 119 Article 4, Council of Europe Convention on the Compensation of Victims of Violent Crime
- 120 Article 9, Council of Europe Convention on the Compensation of Victims of Violent Crime
- 121 Article 2, Directive 2004/08/EC relating to Compensation to Crime Victims
- 122 Article 1, Directive 2004/08/EC relating to Compensation to Crime Victims
- 123 Article 3, Directive 2004/08/EC relating to Compensation to Crime Victims
- 124 Article 12, Directive 2004/08/EC relating to Compensation to Crime Victims
- 125 Basic Principles and Guidelines of the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law
- 126 Article 4, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 127 Article 3 and 7, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 128 Article 3, Directive 2004/80/EC relating to Compensation to Crime Victims
- 129 Article 9(a), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 130 Article 12, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- 131 Victim Support Scotland & SACRO, *Restorative Justice Joint Action Project (RJJAP)*, (2009)
- 132 M. Davies, *Victims and Mediation*, p. 222
- 133 Please see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:115:0001:0038:en:PDF>
- 134 Please see http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/110726.pdf
- 135 Please see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:EN:PDF>
- 136 Please see http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/122529.pdf



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