

Victim Support Europe Contribution

ROADMAP FOR THE STRATEGY ON THE RIGHTS OF PERSONS
WITH DISABILITIES



About Victim Support Europe

Victim Support Europe (VSE) is the leading European umbrella organisation advocating on behalf of all victims of crime, no matter what the crime, no matter who the victim is. VSE represents 61 national member organisations, providing support and information services to more than 2 million people affected by crime every year in over 30 countries.

Founded in 1990, VSE has been working for 30 years for a Europe, and a world, where all victims have strong victims' rights and services, whether they report the crime or not. We work towards this mission through advocacy to improve European and international laws, through research and knowledge development and through capacity building at the national and local level.

I. Introduction

The EU Victims' Rights Directive lays down a set of binding rights for victims and clear obligations on EU Member States to ensure these rights in practice. The aim is that all victims of crime and their family members are recognised and treated in a respectful and non-discriminatory manner based on an individual approach tailored to the victim's needs. While the EU Victims' Rights Directive aims to ensure rights for all victims of all crimes, it recognises the necessity to provide particular attention to victims with disabilities. The Directive, therefore, creates a legal environment in which it is of utmost importance that victims with disabilities are not only provided with the support they need, but also with protection, recognition, access to justice and compensation. At the same time, the Directive insists that all actors across the board – including the governmental services, civil society and businesses – work in a collaborative manner, putting the disabled victim in the centre of their work.

Of course, the best form of protection from crime is prevention. However, when a disabled person is victimised, these actors need to ensure that disabled victims' needs are fully met and that they are supported in their full recovery as a matter of priority.

Member States and civil society should be supported by the EU to implement EU laws and the EU should act to ensure States follow minimum standards of implementation of the Directive. In particular, this requires a culture change – a change in thinking about victims of crime in general, and victims with disabilities in particular – amongst those who work with victims, better coordination across different institutions and sectors to maximise impacts, and fully established generic and specialist victim support services across the entire territory of a country, following a national framework for victim support.

II. Victims with disabilities

Around 15 % of adults worldwide have a disability. People with disabilities have an increased risk of interpersonal violence because of several factors: “exclusion from education and employment, the need for personal assistance with daily living, reduced physical and emotional defences, communication barriers that hamper the reporting of violence, societal stigma, and discrimination”.¹ Therefore, protecting the rights of persons with disabilities has become a major global priority, as has been acknowledged by the UN Convention on the Rights of Persons with Disabilities.²

¹ Hughes, K., Bellis, M.A., Jones, L., Wood, S., Bates, G., Eckley, L., McCoy, E., Mikton, C., Shakespeare, T. & Officer, A. (2012). Prevalence and risk of violence against adults with disabilities: A systematic review and meta-analysis of observational studies. In: *The Lancet*, vol. 380(9845), pp. 899-907.

² Hughes, K., Bellis, M.A., Jones, L., Wood, S., Bates, G., Eckley, L., McCoy, E., Mikton, C., Shakespeare, T. & Officer, A. (2012). Prevalence and risk of violence against adults with disabilities: A systematic review and meta-analysis of observational studies. In: *The Lancet*, vol. 380(9845), pp. 899-907.

Persons with disabilities are more at risk of being victims of violent crimes than others. The frequency, extent and nature of violence increase when gender and disability intersect.³ Women and girls with disabilities are also facing gender-based and domestic violence, such as:

- Harassment;
- Forced abortion, forced sterilisation, or forced contraception;
- Physical or sexual abuse;
- Neglect;
- Overdosing or withholding medication;
- Stealing money or financial abuse;
- Immobilisation;
- Denying necessary equipment or care;
- Forced psychiatric interventions;
- Violations of privacy;
- Forced isolation;
- Deprivation of liberty.^{4,5,6}

Data shows that “women with disabilities are two to five times more likely to face violence than other women, and 34 % of women with a health problem or a disability have experienced physical or sexual violence by a partner in their lifetime”.⁷ People with disabilities are more likely to depend on their abusers for food, personal care services, health care support and other vital roles. For this reason, many victims feel like they have no one else to go to for support.⁸ Additionally, victims living in isolated institutions are generally unaware on how to put an end to their abuse, since services, information and awareness concerning abuse tend to be scarcer in such locations.⁹

Victims with disabilities face several obstacles when trying to get support. For example, women’s refuges are often not able to meet special needs and offer proper care to disabled victims. On top of that, because of a lack of available (specialised) support, victims with disabilities are likely to endure abuse for much longer than others.¹⁰

³ Inclusion Europe (2015). *Women with disabilities at higher risk to be confronted with domestic violence*. Retrieved from: <https://www.inclusion-europe.eu/women-with-disabilities-at-higher-risk-to-be-confronted-with-domestic-violence/>

⁴ European Disability Forum (2020). *Ensuring the rights of victims with disabilities*. Retrieved from: <http://www.edf-feph.org/newsroom/news/ensuring-rights-victims-disabilities#:~:text=Any%20person%20with%20disabilities%20can%20be%20a%20victim%20of%20crime.&ext=For%20instance%2C%20data%20shows%20that,a%20partner%20in%20their%20lifetime>

⁵ Inclusion Europe (2012). *Domestic violence and disability*. Retrieved from: <https://www.inclusion-europe.eu/domestic-violence-and-disability/>

⁶ Inclusion Europe (2015). *Women with disabilities at higher risk to be confronted with domestic violence*. Retrieved from: <https://www.inclusion-europe.eu/women-with-disabilities-at-higher-risk-to-be-confronted-with-domestic-violence/>

⁷ European Disability Forum (2020). *Ensuring the rights of victims with disabilities*. Retrieved from: <http://www.edf-feph.org/newsroom/news/ensuring-rights-victims-disabilities#:~:text=Any%20person%20with%20disabilities%20can%20be%20a%20victim%20of%20crime.&ext=For%20instance%2C%20data%20shows%20that,a%20partner%20in%20their%20lifetime>

⁸ Inclusion Europe (2012). *Domestic violence and disability*. Retrieved from: <https://www.inclusion-europe.eu/domestic-violence-and-disability/>

⁹ Inclusion Europe (2015). *Women with disabilities at higher risk to be confronted with domestic violence*. Retrieved from: <https://www.inclusion-europe.eu/women-with-disabilities-at-higher-risk-to-be-confronted-with-domestic-violence/>

¹⁰ Inclusion Europe (2012). *Domestic violence and disability*. Retrieved from: <https://www.inclusion-europe.eu/domestic-violence-and-disability/>

III. Recommendations

1. Full and effective implementation of EU legislation

Crime has a significant impact on millions of people in Europe, including people with disabilities. The European Union has acknowledged this and has adopted a number of EU laws related to victims' rights that can benefit people with disabilities. Despite wide ranging legislation, many of these rights are not operational or are far from accessible and well-functioning. It is therefore critical that the **existing laws are fully and effectively implemented**.

While the EU Victims' Rights Directive aims to ensure rights for all victims of all crimes, it recognises the **necessity to provide particular protection to vulnerable groups of people, including people with disabilities**. The Directive, therefore, creates a legal environment in which it is of utmost importance to insist that victims with disabilities are not only provided with the support they need, but also with protection, recognition, access to justice, and compensation.

This is critical to ensure victims with disabilities access to their rights under EU law. We encourage the European Commission to **follow up on infringement procedures** against Member States reluctant to abide by their obligations under the different EU legislations. To be successful, this also requires setting out best practices and determining where legislation is not sufficiently clear to achieve objectives and how such legislation needs to be amended.

The European Commission should also continue to actively work towards the adoption of the **horizontal anti-discrimination directive** and assess alternative initiatives to ensure that there is no longer a hierarchy in legal protection against discrimination within the EU. People with disabilities and organisations representing them should be directly consulted and involved in the preparation, implementation and monitoring of EU policies and programmes that concern them.

2. Support and protection of victims with disabilities

Crime affects millions of people every year in Europe. People with disabilities face a greater risk of falling victim of crime and facing secondary victimisation. On top of that, in many countries people with intellectual disabilities do not have any legal capacity, and this group is particularly affected by institutionalisation.¹¹ The European Commission should focus on the following challenges: access to victim support services, tackling the issue of underreporting, countering hate crime and hate speech, ensuring effective and safe participation of victims in justice, and ensuring the physical protection of victims with disabilities.

Access to victim support services

For those who are identified as victims and require support, **generic and specialist victim support services do not exist or are insufficient, are not accessible or are not of a high quality** in many EU countries. The consequence being that many victims are not able to cope and recover from the trauma.

The European Commission should ensure that victim support services exist and are accessible in all EU Member States. All victims of crime should have access to free, confidential and professional support services. Every victim will react differently to a crime and their needs might be different, therefore the support offered should be tailored to each victim's specific needs. Generic and specialist services should be in place to offer tailored support to victims. Victim support services need to be accessible to all victims of crime, in particular people with disabilities who often face difficulties in accessing and receiving support. Generic victim support needs to be available and accessible, and a sufficient, well-developed and well-funded network of specialist services needs to be set up in all Member States.

¹¹ Inclusion Europe (2018). "*Discrimination is often underreported*": Inclusion Europe sends contribution to the CRPD Committee. Retrieved from: <https://www.inclusion-europe.eu/discrimination-is-often-underreported-inclusion-europe-sends-contribution-to-the-crpd-committee/>

Victim support organisations should also be provided with all the tools to better support victims. against this background, we call on the European Commission to **ensure full access to high quality generic and specialist victim support services for all victims of crime**. Actions should focus in particular on:

- Supporting the **establishment and development of support services** in Member States to ensure such services are fully accessible. This means establishment of generic and specialist victim support services in all EU Member States but also the development of online support services, such as the 116 006 helpline, chat, email, etc. Special attention should be paid to implementing general victim support services in countries where there are none.
- Ensuring **high quality support services** guaranteed by standards and evaluation schemes. Victim support services need to be of a satisfactory level of quality, with the introduction of a system of standards and accreditation to ensure that victims are well taken care of and to reinforce the trust between the national authorities, support services and the general public. These standards should be developed by experts in the field, such as victim support organisations. Standards should not be developed in such a way as to impose undue administrative pressures on organisations, which could effectively force smaller NGOs out of the field. **The EU must encourage civil society providing support to victims**.
- Developing tools that help **connect victims to the services they need**, including through effective referral mechanisms between police and victim support services, improved coordination and networking between support organisations, awareness raising campaigns on victims' rights and services, and online support.
- Exploring **new psychosocial support techniques and therapies** and improving existing ones. Cutting-edge technologies developed in other sectors could be adapted to support victims, such as virtual and augmented reality. EU wide support for the development of state of the art therapies will ensure not only the best is available but also that it is accessible to all.

Tackle the issue of underreporting

A large proportion of victims with disabilities **never report the crime or never reach the services** they need because of barriers to coming forward.¹² “Victims may not be aware of their rights or what constitutes discrimination; they cannot access justice due to the lack of accessible procedure to lodge a complaint; they do not receive the right support to recover from their experience of discrimination”.¹³ Victims with disabilities are one of the vulnerable groups that have historically experienced hostility from law enforcement institutions. The European Commission should encourage Member States to have different sorts of reporting mechanisms available, other than police (anonymous reporting, online reporting, etc.). Victims with disabilities should be empowered and encouraged to come forward to report the crime and this can be done through training of staff receiving complaints and information campaigns about the rights of people with disabilities.

Countering hate crime and hate speech

Across Europe, people with disabilities continue to experience discrimination, hate and violence. The European Commission and Member States should **ensure that disability is recognised as a bias motivation** and that hate crimes or hate speech targeting people with disabilities are criminalised across the EU. The European Commission needs to push Member States to close the gaps in legal protection and to make specific recommendations for ways forward to address the uneven protection across the EU, including new legislative proposals.

¹² Such barriers include hostility of the police, fear of the authorities' reaction, fear of discrimination, fear of retaliation, non-accessibility of reporting mechanisms, lack of protection measures in place after reporting, etc.

¹³ Inclusion Europe (2018). “*Discrimination is often underreported*”: Inclusion Europe sends contribution to the CRPD Committee. Retrieved from: <https://www.inclusion-europe.eu/discrimination-is-often-underreported-inclusion-europe-sends-contribution-to-the-crpd-committee/>

With the increased use of new technologies and the Internet, some crimes have moved from the offline world to online platforms. IT companies play an important role in countering online hate speech targeted towards people with disabilities. The European Commission should continue and expand its existing work to ensure **commitment by IT companies to the Code of Conduct on Countering Illegal Hate Online**¹⁴, and bring different stakeholders together to share good practices. We would also like to express our concern about the lack of action from social media companies in taking down and tackling online hate speech on their platforms. Member States should be tackling hate speech in a way which protects online freedom and rights for all on the Internet and which protects the values of a democratic society.

Ensure effective and safe access and participation in justice

Overcoming barriers in the **accessibility of justice** and support services is a major priority that the EU and Member States should look into. Actions and procedures should be put in place to ensure that victims of specific groups are treated with respect, that they have access to justice according to their specific needs, and that professionals use understandable language. For those who report the crime or seek help, many are subject to secondary victimisation by a wide variety of actors both inside and outside the justice system, and by society itself – due to lack of knowledge and understanding, lack of protection, poor treatment, and lack of coordinated efforts. Additionally, victims with disabilities should have **full access to compensation**, also when they are institutionalised or placed under guardianship.

The EU needs to ensure **high quality of communication** between justice practitioners and victims through respectful treatment and accessible communication. Legal jargon can be particularly complicated to understand for some victims with disabilities, or people without previous experience with the justice system.

The EU needs to promote and develop **innovative practices to improve justice/court user experiences**, maximise access to rights and reduce secondary victimisation, such as using video recordings of victims' testimonies, having separate waiting rooms for the victim and the offender, allowing facility/therapy dogs in the courtroom, etc.

Physical protection

Protection measures should be promoted for victims with disabilities. The Victims' Rights Directive requires that victims receive an **individual assessment**. This should identify their specific protection needs, taking into account their personal characteristics, including disability. Law enforcement authorities should receive appropriate training in order to identify people with disabilities as victims, assess their specific needs, and put the relevant protection measures in place. Additionally, the EU needs to place an obligation on Member States to investigate and prosecute crimes against persons with disabilities that happen within the context of institutionalisation.

3. Training and awareness raising

Success in the victims' field requires a **fundamental shift in attitudes** particularly amongst law enforcement authorities and justice officials but also across society as a whole. This means developing training and education at all levels from primary school up to university, vocational training and lifelong learning. Training and education should improve knowledge and understanding on **safety, impact of crime, needs of victims, how to address those needs and the soft skills** required to work with victims

¹⁴ The EU Code of conduct on countering illegal hate speech online, https://ec.europa.eu/info/policies/justice-and-fundamental-rights/combating-discrimination/racism-and-xenophobia/eu-code-conduct-countering-illegal-hate-speech-online_en

or support them in a general sense. Additionally, persons with disabilities often cannot attend mainstream schools because of discrimination, which can result in a lifetime of isolation.¹⁵

The European Commission should make sure that the content of the training does not only include legal information but also **soft skills, communication with victims, the concept of victimisation and its impact**. The European Commission should support Member States to improve the capacity of professionals working with victims of crime to engage with people with disabilities in a respectful manner. The training should include specialised subjects, such as identifying and including elements of bias motivation in reporting, investigation and prosecution, and providing sensitive healthcare and other support to victims with disabilities. Regular monitoring should be put in place to ensure that the training is delivered and used in all parts of all Member States. It is crucial that victims of crime, and people with disabilities in particular, are treated with respect and in a non-judgmental manner.

We encourage the European Commission to continue its efforts to **develop communication campaigns with several objectives**: improve the social acceptance of persons with disabilities and make societies more open and inclusive throughout Europe, combat the negative stereotypes that persons with disabilities endure and which result in discrimination, and raise awareness about the rights of persons with disabilities.

4. Cooperation and coordination

Victimisation impacts many areas of a person's life and therefore victims' issues cut across multiple fields requiring mainstreaming across all those areas, such as work, education, economy, health, etc. Unfortunately, there is a clear lack of coordination at the national and EU level on how victims' issues are pursued in these areas.

The **High Level Group on Non-discrimination, Equality and Diversity** can be a useful space for the exchange of good practices by different stakeholders, i.e. civil society, academics, lawyers, policymakers, and representatives of specific sectors, including trade union actors. The Group can be the place to work with all Member States on effective implementation of existing anti-discrimination protections on EU and national level, as well as how to close existing gaps effectively to ensure full and equal protection for all EU citizens across the EU.

The Commission needs to continue cooperating with the EU Fundamental Rights Agency and other relevant EU agencies, as well as civil society and relevant international organisations including the Council of Europe, the OSCE and the UN. The EU should encourage and support **cooperation between State authorities and civil society to deliver services in unison**. While there are some needs of victims which can only be delivered by State (e.g. justice or protection), there is a range of other needs that can be better catered to through a collaboration between different actors for the benefit of all victims. Moreover, the societal sector and the private sector need to be involved in the development of a comprehensive societal response to victimisation.

5. Ensure EU funding

VSE wants to express its concern regarding EU funding for civil society and victim support organisations. We welcome the Commission's effort to keep the Justice programme funding unaffected by the revisions of the EU funding in response to the COVID-19 pandemic. However, we continue to insist that more needs to be done to ensure full implementation of victims' rights in the EU and that this will still require more funds to be dedicated to victims' issues. Ensuring support for victims with disabilities is crucial in countries where access to national funding is already a challenge. With the shrinking space of civil society and deterioration of the rule of law in Europe, it is even more important

¹⁵ Inclusion Europe (2018). "Discrimination is often underreported": Inclusion Europe sends contribution to the CRPD Committee. Retrieved from: <https://www.inclusion-europe.eu/discrimination-is-often-underreported-inclusion-europe-sends-contribution-to-the-crpd-committee/>

for the European Commission to secure funding and support civil society. With the increase of crimes reported during COVID-19 lockdowns, in particular domestic violence, cybercrime and hate crime, victim support services are even more needed than before. The European Commission should therefore push Member States to ensure funding for victim support services in their country.

In addition, EU funding should continue to **improve the efficiency of administration to minimise the burdens on recipients**. Approaches should also minimise the cost burdens on organisations. The higher the contribution requirements on recipients, the more difficult it is for civil society organisations to participate. This runs contrary to broader EU priorities to support civil society.

6. Collection of data

The EU must work with Member States to press for the **collection of disaggregated data** on victims of crime based on age, type of crime, residency status, disability etc. Such data should focus on how rights are implemented and to what extent, whether victims are receiving and able to act on their rights, and what the outcomes and impacts of victim-centric actions are. Any disaggregation should not put at risk the rights of victims or fundamental rights to equality and non-discrimination. The EU should **promote the collection of data** at the national level.