

A JOURNEY FROM CRIME TO COMPENSATION

AN ANALYSIS OF VICTIMS' ACCESS TO
COMPENSATION IN THE EU.



Victim Support
Europe

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INTRODUCTION

'Compensation does not bring back who was killed. A father, a son, a husband. He is irreplaceable. But it would make everything less heavy and make it simpler, help us make better choices for the future for those who remain, who suddenly find themselves mourning, with unforeseen expenses to be incurred and with everyday life that continues to flow.'

– Interview with wife of homicide victim.

Every EU Member State is obliged to protect its citizens from crime: in acknowledging that crime is an inevitable consequence of life within any given society, EU States must also protect citizens from the adverse effects of crimes committed against them. Appropriate and fair compensation for victims of crime is a way to fulfil this obligation.

This report will analyse European Member States' abilities to provide victim-centric compensation schemes that are fair and appropriate. Victim support organisations and other stakeholders have provided essential evidence of the inner workings of national compensation schemes, their good practices, recommendations for future action, and the current impact on victims. Thanks are given to the pan-European victims of crime who participated in the surveys and interviews carried out between early 2018 and February, 2019.

On 11th March 2019, Joëlle Milquet, Jean-Claude Juncker's Special Adviser on victims of crime compensation, published a report on how to improve victims' access to compensation in the European Union. As a main research and development contributor to the report, Victim Support Europe conducted over 200 victim interviews and engaged with numerous stakeholders in the field of compensation. The recommendations of *Strengthening Victims' Rights: from compensation to reparation*, are currently being reviewed by the European Commission, and it is hoped that concrete improvements to compensation systems will be enacted soon. Victim Support Europe continues to support Ms. Milquet by putting the report's recommendations into practice. In building upon the Special Adviser's work, this report supports many of those recommendations, whilst aiming to take a more victim-centric approach to the obstacles that blight the road to compensation.

For the victims, compensation alone is not enough to recover from the effects of crime, but it is an essential first step. Compensation is more than a financial payment, it offers official acknowledgment and recognition for the victim's suffering, and it seeks to hold the author of the crime responsible. Where a State has failed to prevent a crime from happening, compensation may renew one's faith in the justice system.

Societies have adopted forms of compensation as early as the Assyrian Code (ca. 1067 B.C.)¹. In the European Union, victims' rights are enshrined in the 2012 Directive establishing minimum standards on the rights, support and protection of victims of crime² (herein referred to as the 'Victims' Rights Directive'), and the 2004 Directive relating to compensation to crime victims³ (herein referred to as the '2004 Compensation Directive').

A timeline of the most relevant legislation in the field of victims' rights in Europe can be found on the following page:

TIMELINE:

Key legislation on compensation for victims of crime

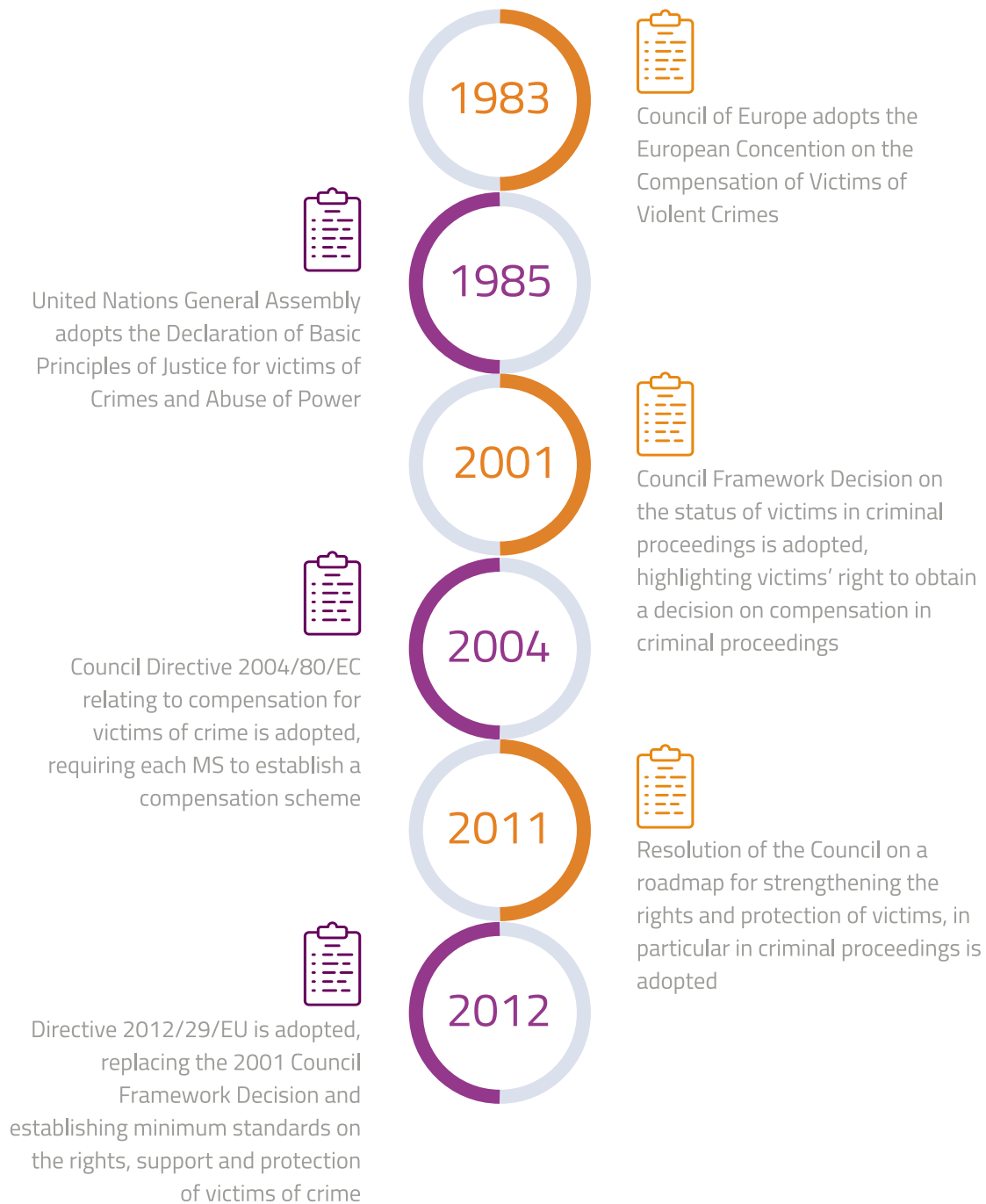


Figure 1: legislation roadmap⁴

THE OBJECTIVE OF COMPENSATION

Any person subjected to a violation of their fundamental rights is entitled to a remedy. State compensation is one such remedy.

Financial compensation is one tool that governments can use to promote a victim's recovery and to provide access to justice. In theory, compensation can be used to cover all crime-related costs, including pecuniary losses, such as loss of earnings or medical costs, and non-pecuniary losses, such as emotional and psychological trauma.

However, for victims, compensation is not just a financial payment – it provides a necessary resource to manage the everyday effects of crime, and help to bring a sense of closure. Compensation schemes must consider the complexity and individuality of victims' needs. While financial remuneration is often the only form of compensation available from the criminal justice system, money alone cannot satisfy the psychological, social, and medical needs of victims and their families. Ensuring that Member States understand this notion and implement efficient compensation schemes in practice is crucial for the continuous protection and advancement of victims' rights.

Victim Support Europe emphasises the existence of five broad categories of needs demonstrated by victims of crime:

1. **Respect and recognition**
2. **Victim support**
3. **Access to justice**
4. **Protection**
5. **Compensation and restoration**

While the above needs may apply to all victims of crime, many will have different additional, individual needs based on the type of crime, vulnerability of the victim, and factors such as gender, ethnicity, financial situation, etc.

It can therefore be argued that the objective of compensation is to address the needs of victims – not just the need for financial recompense, but for **respect and recognition** as well as **access to justice**.

Victims and Member States may see compensation as a form of recognition and solidarity by the state with the victim. As one victim testified: *'I felt like the state could not protect me from the offender, therefore it should compensate me.'*⁵

For the purpose of this report, 'compensation' refers to the financial payment awarded to a victim of a crime, as a single part of greater reparation.

When addressing the challenges victims face when seeking and accessing compensation, the focus is placed upon accessing **State Compensation**. Nevertheless, this report will also touch upon common obstacles victims encounter when seeking Offender Compensation, or compensation from other sources, such as insurance companies.

APPROACH







Once a crime has been committed, the road to compensation is riddled with obstacles, challenges and hurdles, which victims of crime must overcome to access the recompense they deserve.

To fully comprehend the complexities victims face, the reader is invited on a victims' journey to compensation. This journey contains **seven main stages**: the crime; reporting the crime to a law enforcement agency; support services; applying for compensation; the compensation procedure; the enforcement of an award; and receiving compensation. A timeline will be present at the top of each page, with icons⁶ appearing at each stage as we progress through the victims' experience. The completed journey appears as so:



Using this method, the reader follows the progress of a victim of crime along the road to compensation. At each stage we will describe the main challenges victims face, as well as highlighting existing good practices.

Six characters have been created: all experienced different crimes in different settings, and as such, experience a variety of obstacles. While these characters are fictitious, their stories are inspired by victims' testimonies:

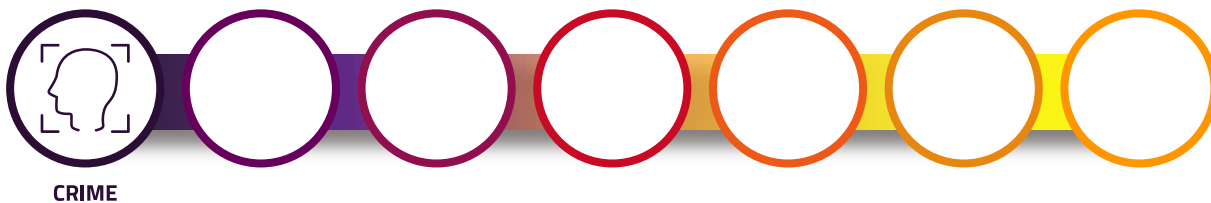
<div style="background-color: #009682; color: white; padding: 5px; margin-bottom: 5px;">Ali</div> <p>victim of:</p> <p>Violent physical assault and mugging whilst on holiday in Europe as a tourist.</p> 	<div style="background-color: #e67e22; color: white; padding: 5px; margin-bottom: 5px;">Maria</div> <p>victim of:</p> <p>Trafficking and forced labour. I am an EU citizen and was trafficked from and to EU Member States.</p> 	<div style="background-color: #6d4c41; color: white; padding: 5px; margin-bottom: 5px;">Jakub</div> <p>victim of:</p> <p>Violent physical assault. My assailants remain unidentified.</p> 	<div style="background-color: #009682; color: white; padding: 5px; margin-bottom: 5px;">Mehmet</div> <p>victim of:</p> <p>Sexual assault and robbery. I am an undocumented migrant.</p> 	<div style="background-color: #5d6d8e; color: white; padding: 5px; margin-bottom: 5px;">Sunita</div> <p>victim of:</p> <p>Stalking, and online hate speech.</p> 	<div style="background-color: #009682; color: white; padding: 5px; margin-bottom: 5px;">Chloé</div> <p>victim of:</p> <p>Domestic violence of a financial and psychological nature.</p> 
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SCOPE OF THIS REPORT

This report aims to achieve a user-friendly introduction to the **main** challenges victims encounter in accessing fair and appropriate compensation across Europe. We realise that this approach does not describe all possible challenges, nor does it explore specific challenges at national levels. We also acknowledge that this report is limited, and regret that not *all* the experiences of victims of crime can be expressed and shared with our readers.

Our journey towards compensation takes a 'traditional route'; commencing with the crime being committed, then reporting the crime to the police, leading to the victim being referred to an organisation who then supports an eventual application. This method has been used for the sake of narrative flow and to avoid the repetition of challenges encountered. It must however be acknowledged that many victims do not take this path, and never report the crime at all. Victims who do report crimes may later, for a variety of reasons, drop the charges against the perpetrator. Furthermore, victims who do apply for compensation may become so disillusioned with the system that they abandon their claim altogether. None of these victims should be overlooked. By analysing the challenges present at each stage, we encourage Member States to examine *why* and *how* these victims do not access compensation.

For the more avid reader, suggestions for a more in-depth analysis of this topic can be found in the bibliography.



CRIME

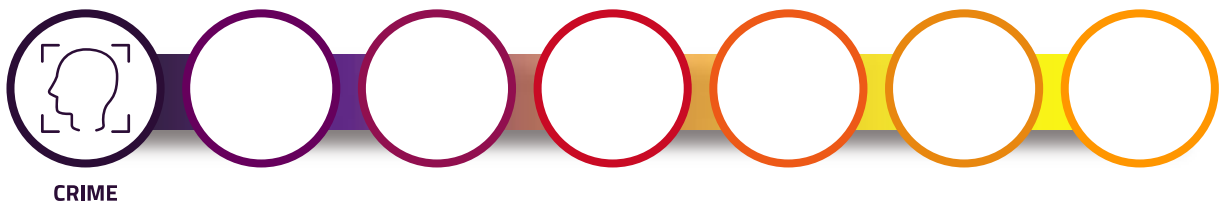
Whether as a result of directly or indirectly experiencing a crime, those involved may suffer serious physical and psychological consequences. Victims of crime express feelings of anxiety, fear, shame, guilt, anger and depression, and have difficulties concentrating, sleeping, working, caring for loved ones and sharing their experience.

The [2012 Victims' Rights Directive](#) establishes a set of rights for all victims of crime in Europe, including:

1. The right to **information**
2. The right to **complain**
3. The right to **translation**
4. The right to **access victim support services**
5. The right to **participate in criminal proceedings**
6. The right to **restorative justice**
7. The right to **not charge the defendant**
8. The right to **legal aid**
9. The right to **compensation from the offender**
10. The right to **recuperate lost property**
11. The right to **protection**
12. The right to **avoid contact between the victim and offender**

The [2004 Compensation Directive](#) establishes certain rights for victims, and obligations on Member States, including:

1. Right to **submit an application** in the Member State of residence
2. Right to **information** on applying for compensation
3. Member State should designate an **Assisting Authority** and **Deciding Authority**
4. The right to **assistance**
5. Member States should keep **administrative formalities to a minimum**



While the effects of crime can hamper a victim's ability to access the above rights, many European citizens are generally not aware such rights exist. As Věra Jourová, Commissioner for Justice, Consumers and Gender Equality, responsible for EU citizenship rights, said: *'87% of Europeans are aware of their EU citizenship, which is more than ever before, but they are not always aware of the rights that come with EU citizenship.'*

Promoting the rights of victims of crime by **raising awareness** ensures that victims of crime do not feel abandoned and left to deal with the aftermath of crime alone. Raising awareness is a priority at both European and international levels: the Canadian Government promotes victims' rights and services through an annual 'Victims and Survivors of Crime Week'⁸; closer to home, the 22nd of February each year marks the European Day for Victims of Crime⁹.

GOOD PRACTICES: AWARENESS RAISING

- In the Netherlands, Slachtofferhulp run awareness raising and information campaigns through social media and have had great success with an online chat service via their website.
- In Germany, Weisser Ring produce television adverts, raising awareness of crime amongst general and specific victim groups.
- Victim Support Finland (RIKU) promote their services and inform the general public about via radio adverts.
- Victim Support Northern Ireland promoted their service and hotline through an advertising campaign where posters were placed inside and outside public buses, and in popular bars and restaurants' washrooms.
- In Portugal, APAV undertake regular and varied awareness raising campaigns which target both general and specific victims of crime. A 2019 poster campaign shed light upon support for victims of childhood abuse, with the tagline "marks of violence in childhood never pass". Posters were distributed throughout APAV's network CARE - Network of specialised support to children and youngsters victims of sexual violence.



However, allocating one week, or one day, to raising awareness of victims' rights and services is a limited response and must be accompanied by activities at national and local levels to influence a broader public. Displaying information on victims' rights in high-traffic public areas is an effective method in 'spreading the word'.

Another option is the promotion of the European **helpline for victims of crime**¹⁰. The European Commission has reserved five phone numbers as helplines that should be accessible throughout Europe. The number **116 006** is the helpline for all victims of crime.

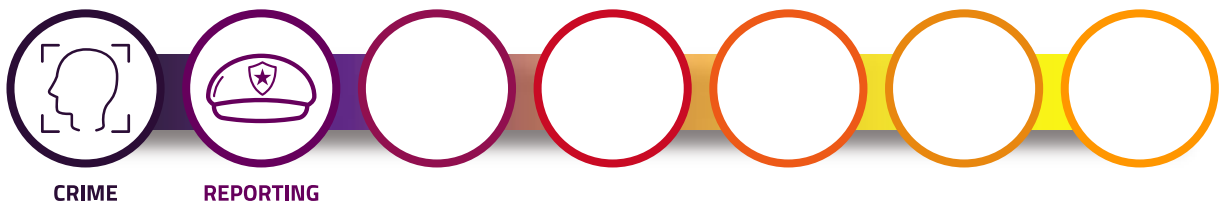
There is conflicting information on the number of countries currently using the 116006 helpline: 7 EU Member States, according to the European Commission's website¹¹, while further research indicates that there are at least 3 others¹². The Fundamental Rights Agency confirms that the 116 006 helpline is operational in only 10 Member States¹³, which points to a dismal use of available infrastructure and systems of supporting and advising victims of crime.

The 116 006 helpline is a free, anonymous, and quick means for victims to talk about their experience, to receive information about their rights and available support services, and to ask any questions they may have. It is a fundamental step in accessing victims' rights and must be implemented and promoted by all Member States.

Maria



It took me years to come forward as a victim of trafficking. I had to build up so much courage to walk through the doors of the police station the first time. If I had known I could have simply called a free, anonymous number, I would have done that years ago. I really regret this. I wish I'd known.



REPORTING

Reporting a crime is the first step to receiving support, justice, and rights for victims of crime.

While many crimes go unreported thus denying the victims their rights, in most Member States a police report is a prerequisite to receiving compensation. Current data obtained from 23 Member States indicates that victims, in 22 of these countries, must report a crime to the police before compensation may be assessed. The Netherlands is the only Member State where this is not a precondition to eligibility¹⁴.

WHY DO VICTIMS NOT REPORT CRIME, AND WHY IS THIS A PROBLEM?

As submitting a police report is a requirement on the journey to compensation, it is crucial that this process is accessible to all victims, and incorporates mechanisms to encourage the most vulnerable victims to come forward. Apart from obtaining justice and accessing compensation, it's at the reporting stage when victims are often made aware of any available support services. Victims who do not submit a report to the police potentially miss out on a range of medical, psychological and social assistance.

Mehmet

If I go to the police, I'll be arrested for being 'illegal', I will be sent to a detention centre and deported. How can I report this crime? The risk is too great.



Victims least likely to report a crime to the police are usually those in most need of protection: children, migrants, trafficked persons, the disabled, etc. The most common underlying factor preventing these groups from coming forward is an abusive relation of power held by the perpetrator(s) over the victim, as well as the personal nature of certain crimes¹⁵. Underreporting can also be due to macro social factors such as perception of the police, socioeconomic status and fear of victim blaming¹⁶.



Chloé

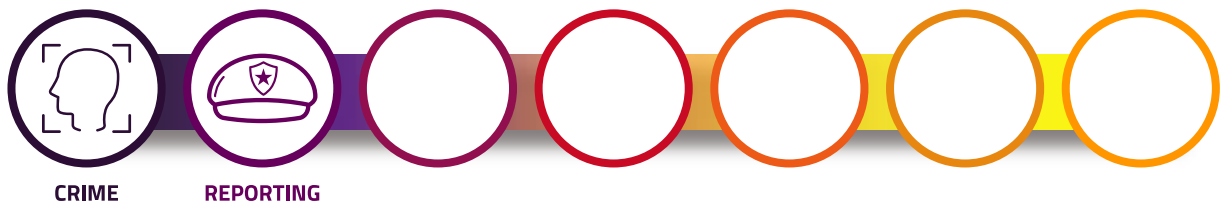


You have to understand, we live in a small town. Everyone knows everyone. The local police station is right in the middle of the town centre, with all the cafes opposite. The women who go into town to do their shopping sit in those cafes and can see exactly who goes in and out of that station. If I go inside in the morning, it will be known to the whole town by the afternoon. And what do I say exactly? My husband doesn't hit me or the children, we don't have any bruises, he's not physically violent. My life isn't at risk if I go home. What do you think the police officer will say? The same police officer who plays football with my husband every Saturday...This isn't a film, this is real life in a small, suburban town.

However, these common factors only go so far in explaining the high rates of under-reporting¹⁷. There exists an indeterminate number of individual challenges, which prevent or hinder victims from reporting crime. Disabled victims, for example, may not report abuse at the hands of their carer because they rely on that person for everyday assistance¹⁸. Research indicates that victims with physical or mental challenges are further hindered from reporting crime due to the inaccessibility of police services and the absence, or unsatisfactory standard, of adapted communication tools and support¹⁹. Undocumented migrants are unlikely to report a crime²⁰ due to the fear of deportation²¹ and police violence²². Black and minority ethnic victims may not report crime because of language difficulties or past negative experiences with the police²³. Victims of domestic violence and intimate partner abuse are often prevented from reporting by the very nature of the crime itself, as a common controlling tactic of a domestic abuse perpetrator is to isolate the victim, removing their autonomy as well as their access to sources of support and protection²⁴.

'Less than 40% of the women who experience violence seek help of any sort. Among women who do, most look to family and friends, very few look to formal institutions and mechanisms, such as police and health services. Less than 10% of the women seeking help for domestic violence went to the police.'

– United Nations Economic and Social Affairs (2015). [The World's Women 2015, Trends and Statistics](#), p. 159.



GOOD PRACTICES: ENCOURAGING REPORTING

- In the **UK**, as an alternative to reporting to a local police station, victims can report a crime online, or by text message.
- In **Sweden**, victims can report a crime via a national call-line, with trained staff who then make the official police report on the victims' behalf.
- In **Belgium**, every police station houses a Social Work department to support vulnerable victims at the time of submitting a report.
- In **France**, many police stations also have Social Workers and psychologists, offering support to vulnerable victims.

To improve reporting mechanisms, it is necessary to reflect upon wider issues which require changes at a societal, judicial level, while looking into what law enforcement agencies can do to guarantee alternative, anonymous reporting methods, in addition to providing safe reporting environments for victims. Existing good practices for some of these issues are presented in the adjacent box.



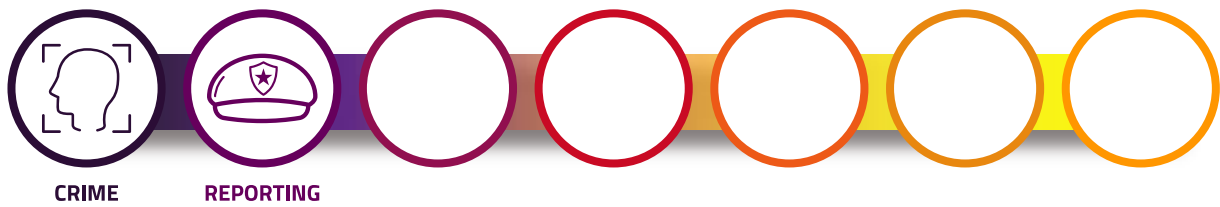
WHEN VICTIMS DO REPORT, WHAT CHALLENGES DO THEY FACE?

According to the 2012 Victims' Rights Directive:

In order to encourage and facilitate reporting of crimes and to allow victims to break the cycle of repeat victimisation, it is essential that reliable support services are available to victims and that competent authorities are prepared to respond to victims' reports in a respectful, sensitive, professional and non-discriminatory manner. This could increase victims' confidence in the criminal justice systems of Member States and reduce the number of unreported crimes. Practitioners who are likely to receive complaints from victims with regard to criminal offences should be appropriately trained to facilitate reporting of crimes, and measures should be put in place to enable third-party reporting, including by civil society organisations. It should be possible to make use of communication technology, such as e-mail, video recordings or online electronic forms for making complaints.

Seven years later, there is still considerable progress to be made to achieve the aims established in the Directive. Structural, institutional and administrative obstacles create barriers within the reporting mechanisms of certain Member States. Further criteria, which link reporting criteria with qualifying for compensation, add additional complexities – leaving many victims, who do report crimes, ineligible for compensation, simply due to procedural rules.

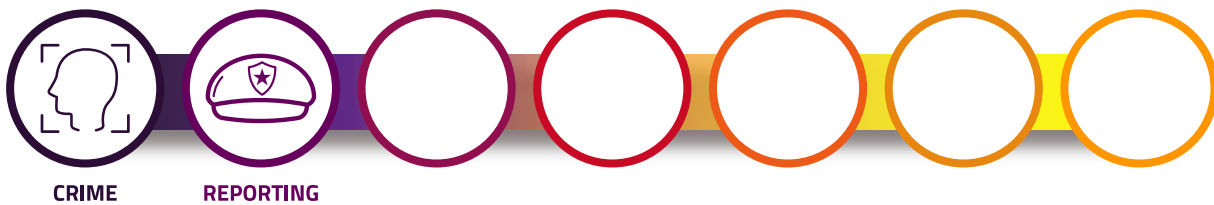
The reporting stage, in relation to compensation, has two separate functions; not only is it crucial that victims report the crime, but exactly *when* they report the crime will have significance in the compensation process. Deadlines for reporting a crime, as an eligibility criterion for compensation, exist across Europe, but their application, in rigour and distinction, across Member States presents problems for cross border victims. Additional challenges, in impartiality and relevance, are found when time-sensitive deadlines are applied to the reporting process.



1. Reporting deadlines


The following table illustrates how Member States place time limits on victims in reporting the crime and its relation to accessing compensation:

Country	Time limit for reporting crime
Czech Republic	'without undue delay' ²⁵
Denmark	72 hours after the crime ²⁶
Germany	3 months – 30 years, depending on the crime ²⁷
Estonia	15 days ²⁸
Ireland	'as soon as possible' ²⁹
Hungary	Within 6 months (after 3 years, compensation applications may not be submitted) ³⁰
Cyprus	5 days ³¹
Malta	No later than 1 year ³²
Romania	60 days, unless a minor then no time limit applied. ³³
UK	'without undue delay' ³⁴



Imposing deadlines for crimes to be reported does not reflect the reality faced by victims. Those victims who do submit a report may not do so at the time the crime occurred for various reasons. Many victims suffer from PTSD or other psychological trauma, and may not make a report because of feelings of humiliation, denial, shame, or a fear of consequences³⁵, etc. According to the National Association for People Abused in Childhood, survivors of childhood sexual abuse take, on average, 22 years to report their experience³⁶. Furthermore, deadlines create difficulties for cross border victims of crime, and the national compensation authorities, which assist in cross border applications.

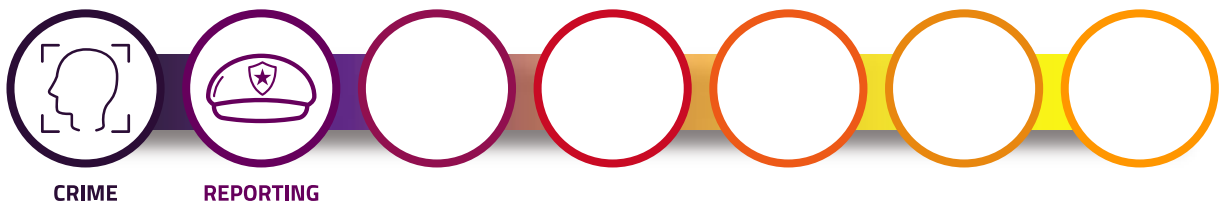
Ali



After I was attacked whilst travelling across central Europe, I had to spend 5 days in hospital. They stole all my money, my passport, my phone, everything. I made sure I got the police report and medical records, and then my friends supported me to finish the trip with them. When I got home, I had to pay the hospital bill and pay for all the stolen items. I also had to have further medical treatment because my injuries didn't heal completely. That's when I applied for compensation – but by then I was too late. It had only been 3 months, but my country told me it was too late and there was nothing they could do.

Looking to the future, and possible improvements in this area, it is necessary to ensure that the need for deadlines within criminal proceedings is balanced with the need to guarantee victims genuine access to justice. Deadlines should be flexible and provide for exceptional circumstances that may create a significant barrier to reporting a crime in a time sensitive manner. Member States already apply this approach with respect to child sexual offences; deadlines have specific exceptions built-in for these cases³⁷.

Member States, whose reporting deadlines are short, should review whether such limits are appropriate for all crimes, and should consider allowing victims more flexibility under specific circumstances. Similarly, deadlines should be clearly defined: using linguistically subjective language such as 'without undue delay' or 'as soon as possible' creates a risk of haphazard and arbitrary application of deadlines that will cause further stress to the victim.



2. Information

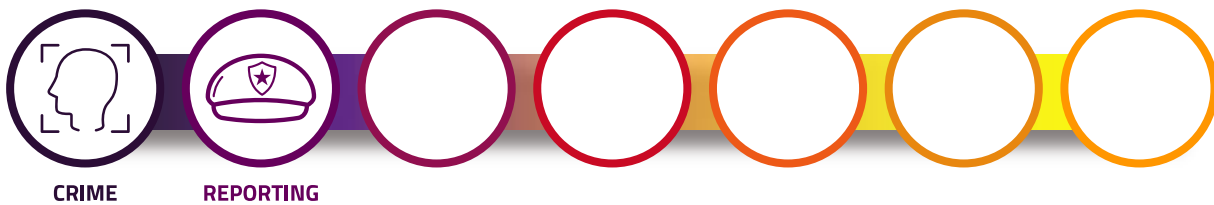
Reporting a crime may be the first – and sometimes only – stage during which victims receive information concerning compensation and the availability of support services. The Victim's Rights Directive establishes the victim's right to receive information from the first contact with a competent authority – an obligation all Member States must address. Stakeholders, from several countries, reported to VSE that there is a widespread, structural **absence of efficient monitoring mechanisms** in place to ensure police officers inform victims of their rights, despite this legislative requirement:

“Even though it might be obliged in our country, police will not inform victims of their right to compensation. It is something we will take up once they reach victim support services.”

– Interview with a Victim Support Lawyer

To ensure victims of crime are able to achieve their goals of a full recovery, support and compensation, information provided to victims at the first point of contact should include:

- Support service availability (medical/psychological/specialised/accommodation) with contact details, detailed maps and opening hours;
- Details of the crime reporting process, and guide to next steps;
- Guidance on compensation;
- How and when to claim
 - Details on available legal advice
 - Information on offender and state compensation
- Services available for **cross border/non-national** victims: such as translation and interpretation, cultural mediation, embassy and consular details, guidance on how to seek assistance and report the crime in the victims' country of origin.



Provision of the above information is crucial; only victims who are aware of their rights can exercise them, and only victims who are aware of support services can access them.

Cross border victims, who have experienced a crime in a country where they may not understand the national language or comprehend the national criminal justice system, are in particular need of being informed of support services immediately on reporting a crime, as they have specific needs and challenges that require specialised and immediate support and assistance.

GOOD PRACTICES: INFORMATION

- 'In the **Netherlands** there is an agreement that all communication should be offered to victims at B1 level. We aim to offer all communication in a way that all victims can understand it, and to do so we need to bring it to a B1 level – and that is exactly what you see on the websites for victims.'

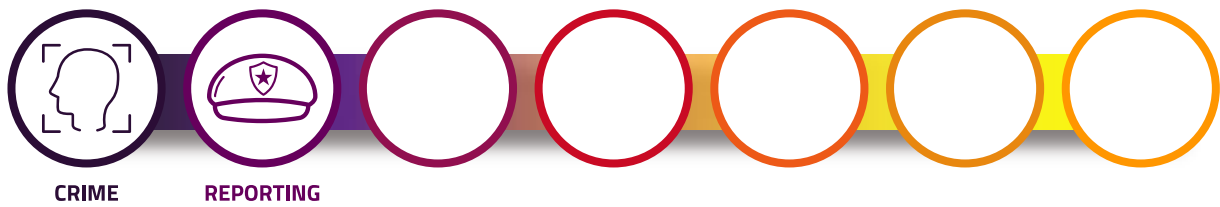
- Interview with Victim Support Netherlands

- The **Croatian** Ministry of Justice, Service for Victim and Witness Support, which provides expert and administrative support to the National Compensation Authority, provides training to police officers on victim support and compensation.

Lectures were held for Police Administrations in all counties of Croatia, and regular training is provided in certain administrations as a part of additional professional training.

- Interview with Ministry of Justice, Croatia

However, exactly *how* that information is given is a consideration all agencies³⁸, who come into first contact with victims, should take into consideration. The unfavourable relationship between information assimilation and post-traumatic stress disorder has been widely commented on³⁹, and emphasises the need for victims (who are often highly traumatised immediately after a crime) to have access to **simple, accessible information, which is repeated at different stages**. In simple terms, a person who has experienced a traumatic event, such as a crime, may have difficulty understanding, absorbing and acting on this information.



‘Simple and accessible information’ refers to clear and appropriate guidance, which can be understood by all, regardless of any individual difficulties. Victim Support Organisations, and victims themselves, have said that information on compensation is especially problematic due to its complex nature as well as inconsistencies between different sources of information. Article 3.2 of the Victim’s Rights Directive stipulates that:

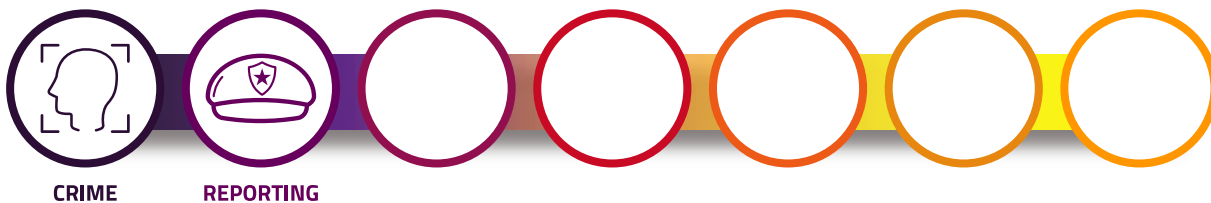
‘Member States shall ensure that communications with victims are given in simple and accessible language, orally or in writing. Such communications shall take into account the personal characteristics of the victim including any disability which may affect the ability to understand or to be understood.’

As information on legal proceedings, including compensation, is complex and victims find information provided by National Compensation Authorities incomprehensible and of little practical use due to its legal language, we believe the above provisions should go further. In addition, online national compensation scheme information often contradicts other sources, and adds to the general confusion on how to access appropriate support. As one victim suggests:

‘Victims require personalised information, and not only through emails or online. Information must be provided on cases by case, in person, with enough time for explanations and respectful treatment. A single contact person in order to avoid the need to re-explain several times, and someone who coordinates.’


– Interview with a victim

When a crime is reported, police officers should introduce the topic of compensation and inform victims of their right to apply for compensation at the same time as providing information on the availability of local support services. It is unusual for law enforcement agencies to provide continued support to victims, thus the need for **effective referral** is essential. Victims require the provision of repeated continual support and information, needs that can be fulfilled by Victim Support Organisations.



A February 2019 survey of Swedish victims of crime, found that only 54.5% of victims claimed to receive information on their rights as a victim at the time of reporting a crime. 27.3% stated they never received this information, and the remaining 18.2% said they received the information at a later point in time. Furthermore, 63.6% of respondents reported that information on compensation was excluded from the information they received at the time of reporting a crime.

Jakub

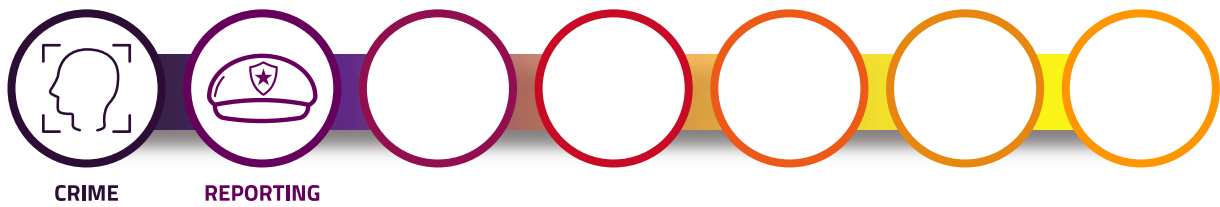


After the attack, the police took me to the hospital and took my statement there. I don't know if I received information on compensation. I was in shock: I was bleeding, I was being stitched, there were police there. It was all so unusual to me. I have no clear memories of those hours.

3. Referral

Victims of crime are often only truly aware of their right to apply for compensation after speaking with a victim support organisation, which is why an effective referral mechanism between the police, or other agency of first contact, and the victim support services is so important. However, not all victims receive initial information on these services, highlighting major gaps in the referral mechanisms. Victim Support Organisations unite in denouncing law enforcement agencies that systematically fail to inform victims of, *and* refer victims to, appropriate support services.

Without the on-going services provided by support organisations, many victims either do not complete the compensation claims process, or feel too intimidated by the bureaucracy, lack of information, and the need to face authorities alone:



'I wouldn't have managed alone — for sure, because letters from the authority were intimidating... The application itself was already difficult; I couldn't have filled in the form alone... Without the support of Weisser Ring and my lawyer, I would already have given up.'

– Interview with a victim

By using the term **effective referral**, it is recognised that merely telling people about available services does not guarantee that the victim reaches out for support. In Sweden, an example of 'good practice', where a referral opt-in approach is adopted by the police, is a potential solution to this problem.

The lack of generic and specialist support may also prevent a victim from approaching the support services. This challenge will be addressed under the following chapter 'Support'.

The obligation to refer victims to support services is enshrined in the Victims' Rights Directive. However, research results in the upcoming VOciare report indicate that, in many Member States, the Victims' Rights Directive has not been fully applied, and that issues with its implementation have been identified. In its report, the European Parliament deplores those complications preventing the full implementation of the Victims' Rights Directive and mentions in particular *'the complexity of procedures for accessing support services and shortcomings in the victim support system, including insufficient access to legal aid and compensation, lack of financial support and coordination between support services, and inconsistent referral mechanisms'*⁴⁰.

4. Respectful treatment

The Victim's Rights Directive repeatedly refers to the necessity for the respectful treatment of a victim, at all stages of interaction. In terms of reporting a crime and receiving information, the Directive states:



Sunita

When I went to the police to report the abuse and harassment I was receiving online, I felt they did not treat this as a 'crime'. I was not treated like a victim of a crime, I didn't receive information about the services who helped me until months later. I did not pursue my complaint because I was made to feel like it was an illegitimate one.

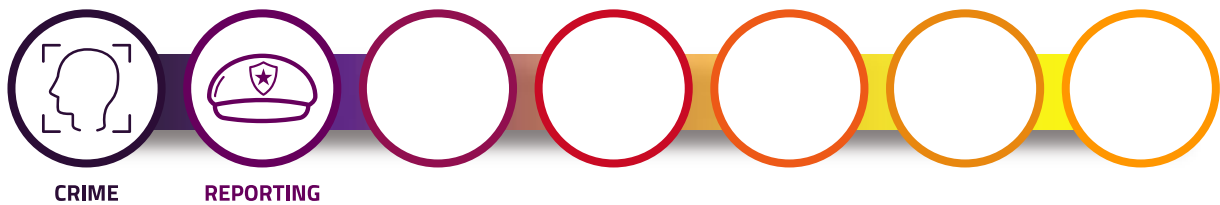


'(26) When providing information, sufficient detail should be given to ensure that victims are treated in a respectful manner and to enable them to make informed decisions about their participation in proceedings. In this respect, information allowing the victim to know about the current status of any proceedings is particularly important. This is equally relevant for information to enable a victim to decide whether to request a review of a decision not to prosecute.'

The concept of respectful treatment is wide-reaching, and includes an array of considerations and practices to be put in place to ensure that victims' needs and rights are met. First and foremost, 'respectful treatment' implies the full implementation of rights in the Victims' Directive. In the context of State Compensation, respectful treatment stretches to an expedient management of applications, with high quality of examination and punctual decision taking; with this process as transparent as possible wherein victims can play an active part and are informed of their cases' progression intermittently.

Respect and recognition are fundamental needs of all victims of crime. Victims report a lack appropriate treatment throughout the journey from crime to compensation: specifically, at the reporting stage, victims and stakeholders comment on how a lack of respect by police officers dissuades victims from pursuing criminal proceedings and seeking support services, thus obstructing any potential claim for compensation and its ensuing reparative effects. During interviews with crime victims, disrespectful and insensitive treatment by police officers was often cited. One victim suggests that police officers, across Europe, should undergo obligatory training, which should incorporate interview techniques promoting sensitive and appropriate communication with victims, as well as empathetic listening skills.

Such training measures should be anchored in national strategies, and not implemented in an ad-hoc, or experimental, fashion. Initial training should be aimed at the treatment of victims in general, with specific training focused on vulnerable groups. There is a European-wide



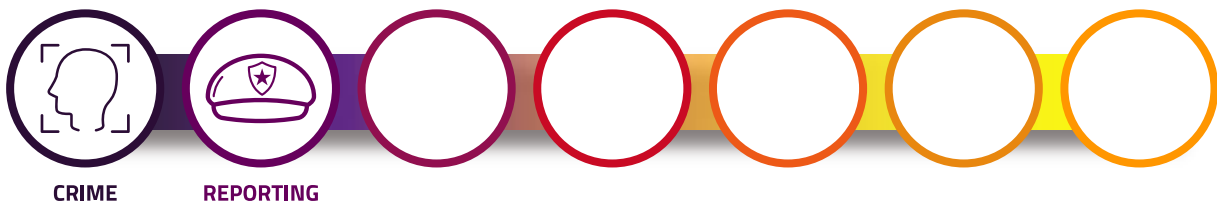
requirement for regular training on state compensation and the criteria associated with submitting a claim. Training should be provided specifically for law enforcement agencies, as well as for victim support organisations and lawyers. However, it is recognised that training alone is insufficient and should be accompanied by a range of complimentary measures: protocols; toolkits for practitioners; verification mechanisms; and consequences for failing to comply.

GOOD PRACTICES: RESPECTFUL TREATMENT

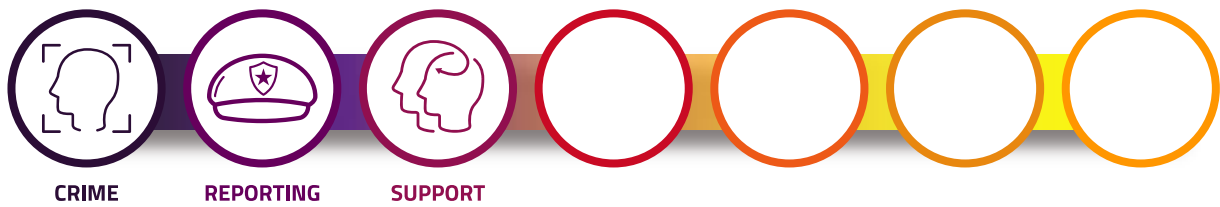
In the UK, the Greater Manchester Police implemented a 'justice training experiment' which focused on:

- **Empathy:** using a three-step empathy model to recognise and acknowledge a victim's emotional state, then explain how the officer can help.
- **Rapport:** use of body language techniques and non-verbal communication to build rapport.
- **Positive acknowledgements:** using supportive language, acknowledging the victim's feelings, making clear that the victim is being listened to, e.g. "I understand", "I can help you".
- **Signposting:** explaining available options, raising awareness and reducing unrealistic expectations.
- **Using names:** explaining the power of exchanging names for building rapport and trust.
- **Saying 'No' positively:** learning phrases that empower victims and focus on what we can do for them, e.g. "what I can do is...", "what I recommend is..."
- **Words/phrases to reconsider:** removing negative language that does not create confidence in the person or organisation, e.g. unfortunately, hopefully.

<http://library.college.police.uk/docs/college-of-policing/Technical-Report.pdf>



Above is an example of a good practice in training, highlighting respectful treatment towards victims, whilst also serving to illustrate the shortcomings of superficial training programmes. The justice training experiment, conducted by the Greater Manchester Police, sought to establish whether training on respectful victim-oriented communication skills could improve the victim experience, as well as heightening the victim's sense of procedural justice. Such experimental programmes are conducted across Europe, and although they offer pioneering techniques and expert training modules, they fail to endure the test of time; often training only a select number of officers, with little to no follow-up, and little to no dissemination across police officers nationally.



SUPPORT

Support is a key need for all victims of crime but is especially crucial during the process of claim for compensation. This is because, in terms of a victim's ability to claim and obtain compensation, the effects of a crime can alter an individual's ability to understand and remember information, can affect the ability to cope with administrative tasks, and can diminish the ability to recall the event during criminal proceedings⁴¹.

Victims may require a range of support structures: emergency accommodation (i.e. Women's Shelters); protection; medical services; legal advice; emotional support; and 24-hour hotlines. Services – such as financial, administrative, legal and practical assistance – may also be needed on a case by case basis.

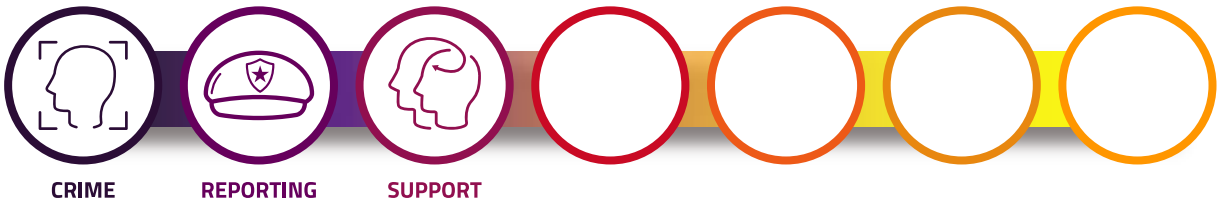
THE ROLE OF VICTIM SUPPORT ORGANISATIONS

Victim support organisations, having the means and expertise to offer **adapted support**, provide indispensable assistance to **meet each victim's individual needs**.

Victims claiming compensation may do so immediately after the crime, when the effects of the event are at their most acute. Access to, and provision of, support during this process is not only essential for its success, but also crucial for a victim's wellbeing. However, support is equally important long after the crime has been committed as the compensation procedure itself can cause revictimisation, leaving many victims needing care during, and after, the process.

Victim support organisations offer **information** on the compensation application procedures in a clear, concise, individual-centric manner and **work with** the victim throughout the process. In addition to offering **psychological and legal assistance**, victim support organisations help with the **completion of essential paperwork**, ensuring that all details for a successful claim have been included and then **following the claim** till a final decision has been reached.

Failure to provide adequate support to victims of crime can have a long-lasting impact on the individual's health, employment, and much more.



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SUPPORT

Ali



When I got back to my home country, my head was all over the place. I struggled to do the most simple things. For instance, on my first day back to work I could no longer understand the public transport network, and I ended up changing at the wrong stop, then getting lost. On the same route I have taken for the past 3 years! When the little things become difficult, the big things are impossible. Victim Support helped me make sense of things. They helped me with things that I just couldn't face at that time.

Victim support helped me translate medical records and police reports. At that time my head was all over the place, so they filled in forms and explained everything to me, for free. Before I went there, the national compensation authority said I had to pay for the forms to be translated, and by a sworn translator. Another €100 to pay for being attacked and robbed.

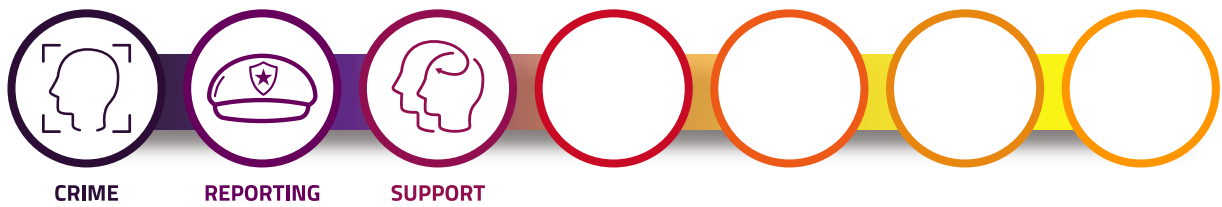
The importance of support services cannot be overstated:

'Before being addressed thanks to the Daphne Network for psychological support, I have been for about 9 months at the mercy of myself, the vortex of things to do, without being able to process what happened. When it arrived, that support saved my life.'

– Interview with a victim

GOOD PRACTICES: SUPPORT

Victim Support Northern Ireland has advice workers who have access to the Criminal Injuries portal- a case management system operated by the national compensation authority.

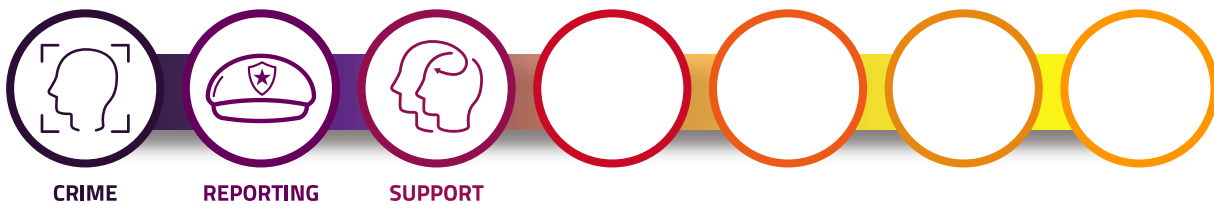


Most respondents, to our 2019 victims of crime survey, highlight the importance of practical support: completing forms, requesting documents, etc. 10 out of 11 of those surveyed believed that informational and advisory websites for victims of crime were essential, while 9 out of 11 participants noted the value of administrative advice on the compensation procedure, such as its duration and format.

Given the evident importance support organisations play in ensuring that victims are aware of their right to claim compensation as well as in victims having the necessary information and assistance to do so, consideration should be given to a) the challenges faced by services to provide quality support and b) the challenges faced by victims accessing this support.



Figure 2: Challenges faced by support services and victims in providing and accessing support



Challenges in providing support services⁴²

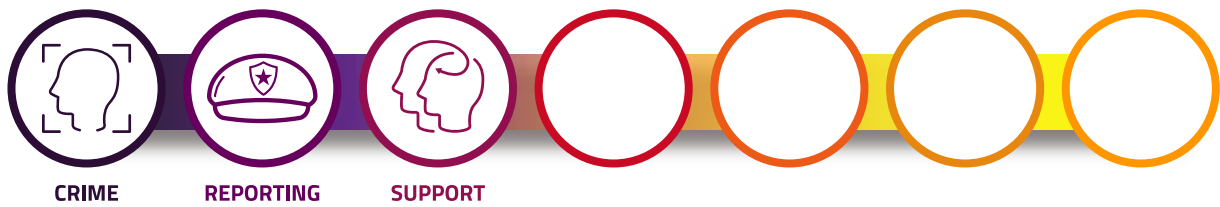
Recently, the European Agency for Fundamental Rights (FRA) reported on the challenges facing civil society organisations involved in human rights throughout the EU⁴³. These concerns have been widely echoed at national levels⁴⁴.

In Europe, most victim support organisations are registered NGOs, and are affected by increasing restrictions on both their funding and their activities. In certain Member States, support services are part of the wider public services, often integrated with social services or court services. Therefore, the challenges below may apply only, in certain cases, to state-run/public services.

Decreasing funding and access to funding

Sudden reductions in funding from national and local authorities, which directly impact the services an NGO can offer, means that financial stability is a constant concern for NGOs. The City of Split, Croatia suddenly stopped financing a Victim Support project, which had previously been funded without interruption for many years. Similarly, victim support services in Denmark commented on difficulties maintaining support from both the state and private sector as new innovative projects win funding applications, making it more and more challenging to source funding for day-to-day operational costs.

Many NGOs retort that, when funding is decreased or cut, they are expected to do 'more with less', placing staff under increasing pressure to deliver the same quality of service with fewer financial and human resources. This practice reflects the trend of the State adding support objectives without providing for additional staff or funding. Ultimately, it is the service-users who suffer from the eventual reduction in quality of services, even more so when the services shut down completely⁴⁵. It must be underlined that victims of crimes have legal rights, therefore their right to support is an obligation not an act of kindness.



Restrictions on activities

‘Victim Support is an NGO and, in theory, makes its own decisions on how it is organised and managed. However, its dependence on government funding means that it has evolved according to central government dictates. In England and Wales, for example, the move to a national structure was government-led, while ongoing shifts to local funding will have significant implications for the structure of and services offered by Victim Support.’

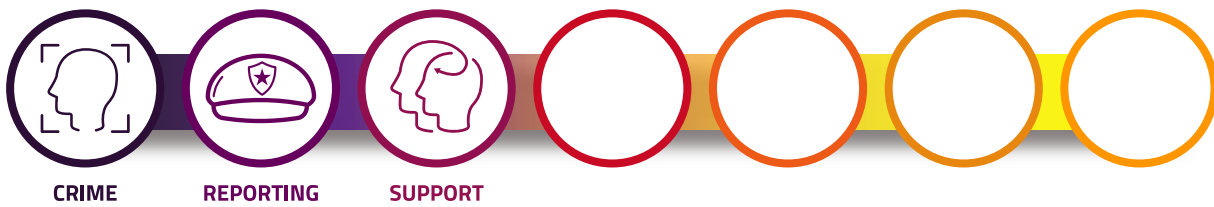
– FRANET, *Victim Support Services in the EU: An overview and assessment of victims’ rights in practice:*

United Kingdom, 2014⁴⁶

Changing political agendas play a restrictive role in an NGOs’ activities and scope of intervention. In 2018, VSE conducted interviews with various NGOs, who identified that close ties with political parties were a key element to receiving funding in some countries. Therefore, NGOs can find themselves having to make political alignments in order to receive government funding.

In extreme cases, NGOs, whose very mission opposes those of political leaders, see their services threatened. For example, Hungary’s ‘Stop Soros Bill’ threatens to jail NGOs and individuals working with undocumented migrants⁴⁷. Similarly, NGOs aiding migrants in the Mediterranean Sea were blocked from sending rescue boats by the Maltese and Italian governments as part of their national anti-immigration policies⁴⁸.

Restricting the activities of victim support services reduces the scope of victim support outside of governmental actors. Participation by civil society organisations is not only a reflection of healthy democratic societies but often leads to better results for lower costs – particularly where this is achieved in partnership with government bodies.



Increasing bureaucracy

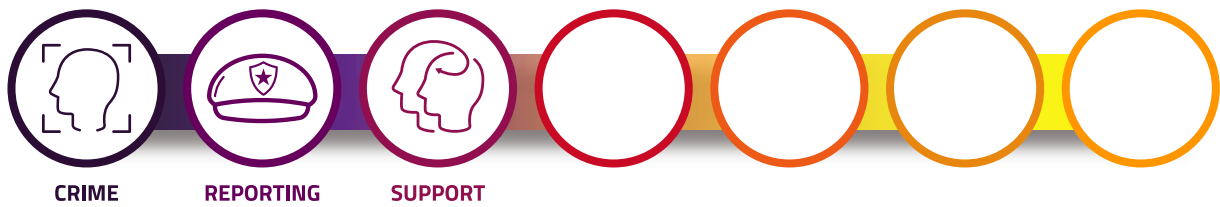
Increasing levels of bureaucracy are expressed by ever more **onerous administrative tasks**, draining both human resources and time, lack of which impacts the quality of support offered to victims. Victim support organisations report arduous requirements to justify expenses and project methodology. Whilst good governance and oversight are essential in the management of government resources, such oversight mechanisms should not be used to pressure NGOs or to negatively impact their delivery of services. There is an evident need for evaluating the minimum level of support which the State offers to NGOs.

Audits and controls

Taking the Czech Republic as an example: state-imposed audits and controls are so frequent that daily operations are focussed on these rather than on providing quality services. To enable personnel controls, support workers have been unable to carry out hospital or home visits as this prevents the authorities from physically auditing the number of staff working at a given time. Again, this has a direct effect upon the quality of services provided and impacts on the service-users.

Lack of effective referral mechanism


As mentioned earlier, some victims do not reach victim support organisations simply because there are no formal referral systems between State actors and NGOs. Additionally, there is a lack of coordination between NGOs, with effective referral relying largely on the competence of individuals rather than systematic practices.



Challenges accessing support services

As victim services provide an essential link to victims' seeking justice and redress through compensation, understanding barriers which hinder access to this support is essential.

Sunita



When the stalking got really bad, I was not safe staying at home, with him outside my house. I went to a safe house but when I arrived it was closed, boarded-up. The one in the next town was full, and in any case the lady on the phone told me that unless I was beaten and in immediate danger of physical harm, they wouldn't take me because there was already a waiting list of women much worse.

Absence of services / inaccessibility of services

Victims may face difficulties obtaining support because the services simply do not exist. As mentioned above, funding cuts and governmental policies can lead to the closure of victim services⁴⁹.

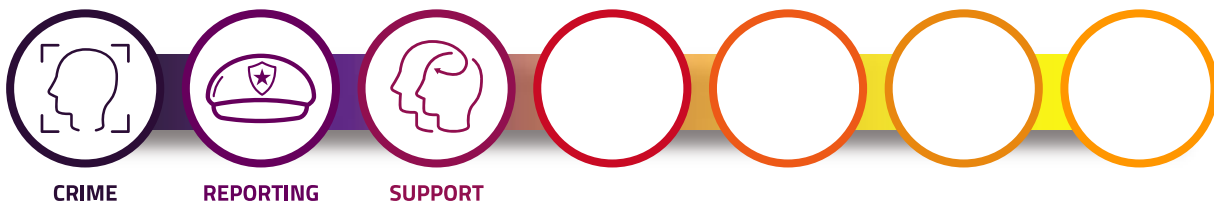
Victims can also find certain facilities inaccessible due to individual circumstances. For example, buildings or functions, which are not tailored to the needs of disabled victims may render the service inaccessible⁵⁰.

Geographical issues

Even where services are available, they may not be distributed across the country, but are located primarily in capital cities or large metropolitan areas. This effectively marginalises victims from rural and/or remote areas.

Fragmented service approach

Some Member States lack a broad range of support organisations. For example, some local services may focus on supporting victims of certain crimes (e.g. domestic violence or child abuse)



but provide little support for other victim groups. However, even when services are available to all victim groups, a fragmented approach to providing victim services leads to a fractured distribution of information. Such is the case where multiple independent organisations, with varied approaches and different access conditions, deliver support services without any cross-organisational coordination.

As compensation is such a complex topic, it is crucial that information provided to victims is succinct and coherent. The provision of contradictory information, leading to confusion and uncertainty for the claimant, may be the result of different victim services operating in an uncoordinated manner. For example, during contact with two organisations who work directly with victims seeking compensation, we identified variations in interpreting the requirements of a single national compensation scheme.

Access conditions

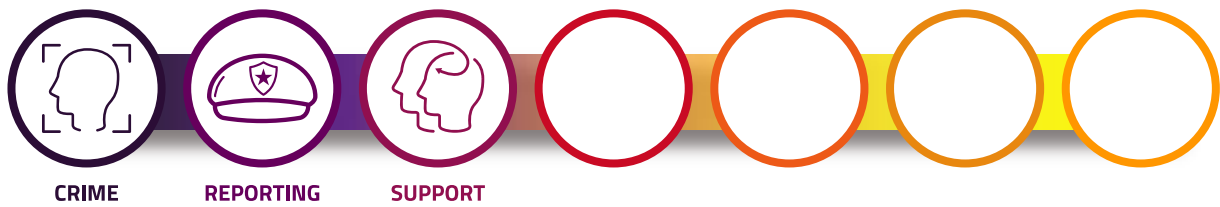
Some victims may not have access to support services because of their residency status, age, or living situation. For example, public services may exclude non-residents of the Member State, or

GOOD PRACTICES: ACCESSING LEGAL AID

In France, victims of serious crimes may access legal aid free of any charges, regardless of income.

- Source: *Legal Aid in France, Open Society justice initiative, 2015.*

services that support trafficking victims may only be accessible to individuals who have submitted a report to the police. Additional obstacles exist for cross border victims, who, on returning to their country of residence, may not have access to national victim organisations. Once more, the importance of *effective referral* can be highlighted; two separate Member State victim support services may coordinate and communicate with each other to enable cross border victims to receive continued support and to apply for compensation in their home state.



For many victims, free legal advice is an essential factor in their ability to claim compensation. However, in some Member States, legal aid is only available to victims through a strict means test and is based on the victim having a low financial income; therefore, only a small minority of the population may be eligible for legal aid. The responses to our 2019 survey indicate legal aid is an important factor for victims claiming compensation (7 out of 11 respondents rated it as important; while another three thought it essential).

Waiting times

For some victims, addressing the immediate consequences of victimisation is more important than seeking justice and exercising their right to compensation. However, delays in accessing appropriate psychological help, because of national waiting times and the saturation of mental health services, causes victims to put off their claim for compensation⁵¹.



APPLICATION

2004 Compensation Directive

Article 3

Responsible authorities and administrative procedures

3. *Member States shall endeavour to keep to a minimum the administrative formalities required of an applicant for compensation.*

Victims and victim support organisations testify to the exaggerated and onerous administrative tasks required to complete a compensation application; in addition to the administrative obligations of the formal proceedings. National systems place the onus on the victim to complete various, complex legal forms, collect and provide evidence of the crime and its ensuing damages, and even undertake additional medical examinations. Victims who have endured the application process speak of revictimisation and trauma as side effects to the process.

HOW DO I APPLY FOR COMPENSATION?

2004 Compensation Directive

Article 4

Information to potential applicants

Member States shall ensure that potential applicants for compensation have access to essential information on the possibilities to apply for compensation, by any means Member States deem appropriate.

The probability of a victim applying for compensation, and of succeeding with their claim, is largely dependent on the **quality of information** they receive regarding the application process. In simple terms, a victim must know *how* to apply in order to do so.



Understanding the eligibility criteria, the application process and the availability of support services are all crucial components to a victim’s ability to exercise his/her rights. The previous chapter reaffirms that the authorities who come into first contact with victims, usually the police, are obliged to inform them about their rights.

GOOD PRACTICES: INFORMATION

- The Dutch Compensation Authority’s website (<https://www.schadefonds.nl/english-information>) provides information on eligibility conditions in simple language. Potential applicants can download the application form from the homepage.
- The Swedish Crime Victim Compensation and Support Authority’s website contains video explanations (http://www.rattegangsskolan.se/Sve/Kurs/Flash/start_eng.html) about court proceedings for victims of crime, the application form and procedure.
- Infovictims.com provides information for victims of crime in six Member States. Information is multi-formatted and user friendly.

Our 2019 survey of victims (above graph) revealed that information on compensation was commonly received from victim support organisations, legal services, social services, or other online sources. However, only 22.7% of respondents claimed that they received information, on the right to claim compensation, from law enforcement agents. Information, while widely available from a variety of sources, should be uniform, coherent, simple, and easy to find.

The graph below presents responses from Swedish victims of crime in correlation to the quality of information they received during the application process:

These findings are in line with a previous survey, of 59 victim support organisations, conducted in 2018: 52% of respondents stated that victims do not receive enough information to seek and



Sources of information

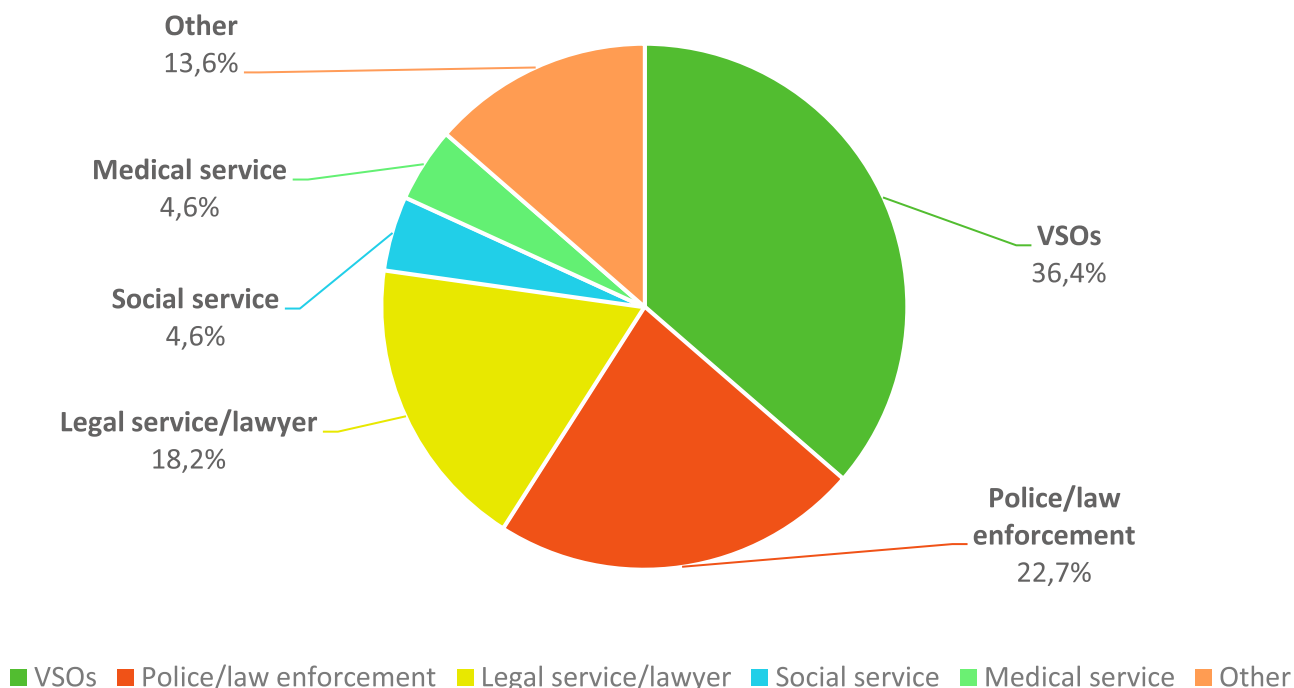


Figure 3: Findings from victim survey, 2019

obtain compensation. A further 52.5% stated that information provided on the compensation procedure is not easy for victims to understand.

Victim support organisations responded in favour of more training for those providing information to victims, with 32 (54%) respondents claiming it's 'absolutely essential' and a further 20 (34%) respondents grading it as 'very important'.

The lack of information on victims' rights in general, and on compensation in particular, is a problem that has been identified in several studies⁵². The paucity of victim-oriented information is notable at all stages throughout the victim's journey to compensation: reporting a crime; applying for compensation; during the claims procedure; and surrounding the decision making process, which is why this topic is repeated throughout this report.



As obtaining information on the compensation process is problematic, strong measures must be enacted both at a national and European level, commencing with in-depth research on how victims across Europe perceive information. Practically, much more needs to be done in the field of information and training; however, any training programmes should be anchored in national and European strategies, in order to avoid ad hoc and 'experimental' projects.

DO I QUALIFY FOR COMPENSATION?

To apply for compensation, a victim must prove eligibility. Whether or not an individual qualifies for compensation depends upon national eligibility requirements, which differ from one Member State to another. This has led to a disjointed application of victims' rights across Europe, and points to further problems, concerning judicial cohesion and the universal application of the Victim's Rights Directive and 2004 Compensation Directive, in all Member States.



Figure 5: Summary of limitations placed on compensation eligibility as present in at least one EU Member State



Victims, in all Member States, must meet certain eligibility conditions before claiming compensation. A victim must first satisfy general conditions, meet deadlines for reporting the crime and applying for compensation, only then will the extent and type of damage be examined, which will determine the amount of compensation awarded accordingly.

The above graphic illustrates the questions related to a victim’s ability to apply for, and obtain, compensation. The first category covers the nature of the crime itself and the victim applicant. The second column presents criteria relating to the specific type of damage to be compensated. The last ‘payment’ column presents factors which are likely to impact the amount of compensation awarded.

2004 Compensation Directive, Art.12(2):

*‘All Member States shall ensure that their national rules provide for the existence of a scheme on compensation to **victims of violent intentional crimes** committed in their respective territories, which guarantees fair and appropriate compensation to victims.’*

Across Europe, there is a disparity as to the **definition** of *who* qualifies as a ‘victim’, and what crimes are considered ‘violent and intentional’. This inequality has a direct impact on who has the right to claim compensation, and under what conditions.

Many individuals, including indirect victims, first responders, family members and the broader community, can suffer from victimisation. However, because of the varying definitions of ‘victim’ across Europe, few victims are treated equally. For example, indirect victims are ineligible for compensation in the Czech Republic, Denmark, Latvia, Luxembourg, Portugal and Slovakia⁵³. In most cases, unintentional crimes are not part of the compensation scheme. Victims of unintentional crimes can only apply for compensation in the UK, Sweden, Slovakia, France, Spain and the Czech Republic. In Finland, relatives and parents of minors are eligible for compensations in certain situations. For example, relatives are eligible for compensations in homicide crimes, and parents are eligible for compensations concerning salary loss or travel costs in they need to take care of their child’s crime issues.

The absence of a pan-European definition of ‘violence’ also leads to some victims being excluded from compensation altogether. Most Member States interpret a ‘violent crime’ as one which results in physical violence. In 2001, the European Economic and Social Committee (EESC herein) expressed:



*'The EESC feels that the directive should include the following elements: [...] a definition of crimes that comprises not only crimes against the victim's life, health or physical integrity, but also those against the victim's psychological health and integrity.'*⁵⁴

Compensation eligibility criteria and the amount of compensation awarded, determined by the **type of damage** involved, are factors in victims missing out on the benefits of compensation. In certain Member States, psychological damage is not compensated⁵⁵, in others this is loss of earnings⁵⁶, while moral damage⁵⁷ and material damage⁵⁸ may also be excluded from compensation awards.

The 2019 survey results highlight victims' complete dissatisfaction with the fact that compensation usually applies only to victims of violent, intentional crime, and that in many cases, only victims with physical damages are eligible to claim compensation. As one respondent declared:

"...one can be mentally injured by the incident. This is not visible to a person, but it is psychological damage to the inside of the person"

Chloé



When I first met my husband, everything was perfect. After we married I started to notice some signs: we opened a joint bank account where I transferred my salary and my savings. Soon afterwards he took away my bank card, and my access to the account. He never wanted me to work, he didn't like me having my own money. Eventually I lost my job because of him. He wouldn't let me look for another job. So now I have no money of my own. Even the family allowance is paid into the joint account so I don't see any of that. I have to ask him for money, and prove every expense with receipts. If I question this or ask for 'too much' he screams at me and threatens to leave me and take away the kids. What can I do? I can't even support myself never mind the kids. Yes, he abuses me. But no, it's not 'physically violent', so can I apply for compensation for the years of salary I lost to him? And for all my savings he spent? And for the psychological damage?

Another respondent pointed out that compensation was not paid because no physical damage had been inflicted. In some cases, the damage incurred does not meet a certain threshold and, thus, the victim may not be eligible for compensation.



Clearly there are two opposing objectives in play; on the one hand, all victims who have suffered harm from a crime, should in principle be eligible for compensation, if compensation is based on the State's responsibility towards its citizens. On the other hand, compensation schemes need to function within state budgets, therefore, issues such as level of harm and quantifiable need incurred must be taken into consideration. Unfortunately, it appears that budgetary concerns across the EU are a primary driver for decisions on how compensation schemes operate.

The idea of 'opening the floodgates' to endless applications is a widespread preoccupation. Compensation Authorities, who see their budgets decreasing annually, are understandably cautious as to how to cope with a potential increase in application numbers:

'To be honest the reason we haven't done any awareness raising campaigns for foreign victims up till now is in part budgetary. If more victims of crime know about the possibility to claim compensation when they were victimised in our country, it would have direct implications on our budget.'

– Interview with a National Compensation Authority

Yet, excluding certain forms of crime, certain forms of violence and certain forms of damage, leaves many victims living with the consequences of the crimes they have suffered without any recourse to compensation. Budgets allocated on a per capita, or average pay-out, basis differ across compensation schemes and do not reflect well on the objectives of recognising and supporting the recovery of victims involved in 'violent' crime.

Budgetary constraints must be reasonable and balanced by the detrimental consequences of excluding a series of victims from the restorative affects that compensation can offer. Victims of trafficking, gender-based and domestic violence, cybercrime and stalking are amongst many other groups effectively excluded from claiming compensation. Victim support organisations collectively call for a broader approach (80% of organisations surveyed), which includes compensating victims of non-physically violent crimes.



As previously mentioned, compensation provides financial restitution and is a means of recognition. As one victim testified:

'Victims who are psychologically damaged are in great need of recognition and are often misunderstood.'

– Interview with a victim

Aside from definitions causing obstacles to victims' ineligibility for compensation, most **victims must first seek compensation from the offender** before accessing state compensation. Research indicates that of the 24 Member States with data available, 22 countries impose this pre-condition⁵⁹. The individual needs of the victim are not recognised if a victim must seek compensation from the offender before requesting state compensation.

Where the offender has exercised a form of control over the victim (i.e. in cases of child abuse, trafficking, forced labour, domestic violence), this requirement to seek compensation from the offender actively strengthens the control held by the offender over the victim and revictimisation is highly likely to occur. As the victim may still be experiencing acute trauma, consideration should be given to all encounters between offender and victim during the compensation application process.

The police officers were very clear when they told us: because the offender is unknown [violent assault by unknown offenders] the financial problem is all yours. As long as we don't know who did it nobody will step in to pay your costs'

– Interview with a victim

Unfortunately, in some cases the offender cannot be identified by the victim. The Victim's Rights Directive stipulates that: *'[a] person should be considered to be a victim regardless of whether an*



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APPLICATION

offender is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between them' (Preamble (19)), some victims face challenges when not being able to identify the assailant: In some Member States, where an offender is unknown the victim must first seek compensation from an insurance company before having access to state compensation schemes⁶⁰.

The eligibility criteria imposed by some Member States may exclude those without an EU residency permit. Furthermore, in almost half of all Member States, victims with a past criminal conviction may not be eligible for compensation – or may see their amount reduced – even where the conviction has no correlation with the crime⁶¹. This raises questions of impartiality and relevance in applying a rule that actively excludes certain groups from accessing their rights. One could argue that consequences of a criminal conviction can be deemed ‘fair and appropriate’ where there is a direct causal link between the conviction and the collateral consequences. For example, someone who is convicted of multiple cases of driving under the influence of alcohol, as a collateral consequence may not be able to apply for a new driving license. Likewise, an individual convicted of sexual offences may not have access to certain categories of employment in later life. In these examples there is a direct link between the conviction and the consequence. It is, however, more difficult to defend the relevance of excluding an individual from claiming compensation for a violent assault because 20 years prior he was convicted of e.g. fiscal fraud.

Jakub



It's not about the money, it's about justice. I just wanted what happened to me to be recognised, I wanted an official sign of acknowledgment from the State. After all, they are meant to protect us from being attacked on the streets. I don't understand why my salary has anything to do with applying for compensation. I had broken ribs, a broken jaw, I was in hospital for weeks. And now I'm too 'rich' to do anything about it?



Rules concerning income limits (a victim's eligibility to compensation being means-tested) prevents certain victims from obtaining compensation. In 9 out of 25 Member States, based on available data, victims may not claim compensation based on their financial situation⁶². For example, in France compensation for material loss is only paid to victims whose annual income is less than €18,300⁶³ (based on a source from 2017). This means that *only* victims earning under the minimum wage are eligible for compensation of material loss (minimum wage in France in 2017 = €9.79/hour. Annual salary based on 40 hour working week = €18,739).

In Hungary, except for victims of terrorism, only victims 'with social needs' are eligible for compensation⁶⁴, undoubtedly excluding a vast number of victims.

APPLICATION DEADLINES

Compensation application deadlines vary across Member States, and in many cases result in injustice due to their stringent requirements and short lead-in time. In Bulgaria, for example, the application deadline is only 2 months, whereas in Estonia the deadline is 3 years⁶⁵. Because of the variations in application deadlines across Member States, cross border victims and the authorities dealing with their compensation requests find it increasingly difficult to submit claims in time.

In addition, according to national rules, the start date for the deadline is calculated differently in each Member State. For some, the application period starts on the day the crime occurred, for others when the victim reported the crime, and for others on the date of the offender's conviction.

Member States, who implement deadlines of 6 months or shorter (Bulgaria, Ireland, Hungary, Croatia, Austria, Slovenia and Slovakia⁶⁶), must consider whether these deadlines are **fair, feasible and respectful**. Victims must report the crime, receive and understand the information on compensation, seek support, gather evidence and relevant documents, all before completing the formal application within the prescribed time limit. Thus, one must question what benefits there are to imposing such short-term deadlines, beyond the arbitrary exclusion of the victims themselves.

Again, cross border victims do not always receive the justice they deserve because of the variation in national rules related to application deadlines, which leads to misunderstandings – and missed deadlines – by both the victims and the authorities involved in the compensation process.



PROCEDURE

'It is very often that re-traumatisation happens during court proceedings. We must remember that people are there to judge you, it's a heavy toll for someone's mental processing.'

– Interview with European expert on crisis intervention

Victims and victim support workers highlight procedural complications with the way compensation schemes are applied across Europe. Complex administrative requirements, invasive evidence gathering methods, deadlines, delays and a lack of transparency, are amongst some of the most often-cited issues.

There is evidence that the administrative and emotional burden of the procedure leads to revictimisation, with many victims dropping out before completing the process. Other victims are dissuaded from submitting a claim once they understand it will be a complicated, lengthy and costly procedure.

Cross border victims face particular difficulties in the aftermath of a crime. When returning to their country of residence, victims may need access to documents and testimonies from the country where the crime took place. To address this issue, a pan-EU electronic referral system would allow for a simple and effective transfer of relevant information to the appropriate authorities in the victim's country of residence. Such a system would be highly beneficial to all victims of crime, as it would negate the need to provide the same document multiple times, and serve as a centralised reference for all procedural material concerning the application.



EVIDENCE GATHERING

For most victims of crime, compensation will not be awarded unless there is sufficient proof of harm. Therefore, victims must gather and submit evidence to the appropriate authority who will then evaluate whether the damage incurred merits compensation, and if so, the degree of harm will determine the amount to be awarded.

Results from the 2019 survey show that it is often difficult for victims to provide the evidence required to support their claim. 36.4% of respondents said it was very difficult or impossible to provide evidence of safety and security (proof of moving to a safe location, installing locks, etc.).

As mentioned previously, many victims do not report the crime until days, weeks, months or even years after the event, thus physical evidence may not have been recorded at the time and may no longer be available: either lost, degraded or undetectable. As one national expert explained, the consequences of not having physical evidence can directly impact a victim's ability to receive state compensation:

'In Germany a person who is victim of an intentional act of violence and who has consequential damage can claim victim's compensation. The victim must prove that the crime was intentional and that it caused health damages. So in cases of sexual abuse it is sometimes difficult to prove that the person has been abused, if they see the examiner after a certain time there is no physical proof or abuse so they don't have any access to crime compensation.'

– Interview with German Compensation Authority

Where a medical examination is an essential part of the victim's evidence, the victim may be required to undergo additional examinations by insurance company or state doctors.



'You can use the hospital's documents, but if the Deciding Authority requires more information that victim will have to go to the doctor again, and that is sometimes very, very hard.'

– Interview with German Compensation Authority

Victims, who must first apply for compensation from an insurance company, express the trauma (re)created by undergoing medical examinations with doctors employed by the insurance companies, whilst questioning the neutrality of their findings:

'Who can judge the impartiality of doctors and inspectors who are responsible for estimating an objective and fair amount? [...] Reliance on counter-experts is not financially possible for those without access to legal aid. The urgency of decisions is crucial, especially for victims of who are self-employed.'

– Victim's written testimony, 2018

A 2018 survey of over 200 victims, many of whom had submit a claim to an insurance company before accessing state compensation, reveal that reliving the event and undergoing further examinations was an experience in revictimisation. 76% of respondents claimed that revictimisation discouraged or prevented them from seeking and obtaining compensation. Likewise, 60% of respondents cited the 'duration and complexity of procedure' as a discouraging and/or preventative factor.

Gathering and completing all necessary paperwork is an arduous administrative step for victims, who must face the consequences of a complex and often inefficient system. Cross border victims of crime face additional obstacles providing evidence and completing forms, as most Member States require that the evidence is translated into their national language, at the expense of the victim:



'Documents should be sent in their original format, if they are not original, the public notary should stamp them. We check if the document is original through online e-citizen. All documents must be sent in Croatian, if translation is needed it must be done by a sworn translator.[...] The problem is when victims do not provide all the information, then the procedure is very long because there is nothing we can do before the form is completed correctly, and that is the victim who must do so.'

– Interview with Croatian expert on compensation to victims of crime

LENGTH OF PROCEDURE

European Convention on Human Rights

Article 6 - Right to a fair trial


§1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.⁶⁷

Article 6 §1 of the Convention emphasises the need for a prompt administration of justice. The European Court of Human Rights and the Commission have both published decisions and opinions on a definition for 'reasonable time', as is evident through copious case-law examples. Article 47 (2) of the EU Charter of Fundamental Rights echoes this principle, stating, *'Everyone is entitled to a fair and public hearing within a reasonable time.'*




In Victim Support UK’s 2017 report on the experience, interests and rights of victims of crime in the criminal justice process⁶⁸, the **waiting time for cases to reach trial** was presented as a major issue for many victims. In the UK, the average waiting time for a case to be heard in court stands at almost five months. Data for waiting times in other EU countries is incomplete, highlighting the need for research in this area to define the scope of this problem faced by all victims of crime across Europe.

Case Law
 Jurica v. Croatia (no. 30376/13)



Mrs Jurica was embroiled in a medical negligence trial for over 14 years. The court prolonged proceedings by requesting reports from experts (a request lasting more than 3 years) and through long periods of procedural inactivity. Eventually, Mrs Jurica relied on Art.6§1 of the European Convention (right to a fair hearing within a reasonable time), and was awarded €3,500 euros (non-pecuniary damage) and € 2,000 (costs and expenses) due to the excessive length of the proceedings.

Case Law
 Satakunnan Markkinapörssi Oy and Satamedia Oy v. FINLAND
 No. 931/13 27/06/2017




Even though the length of this case stood at 6 years and 6 months, the view of the Court was that the legal complexity of the case justified the entire length of the proceedings.

Delays at the other end of the decision-making process can also be problematic for many victims, who are dependent on both a financial payment and official recognition before being able to achieve full rehabilitation from the effects of victimisation. According to the 2018 Report of the European Commission for the Efficiency of Justice (CEPEJ) ⁶⁹, the excessive length of proceedings remains the main factor cited in applications to the European Court of Human Rights under ECHR Article 6.

Varying procedure lengths are a source of **inequality between victims** and a source of **injustice**. Those who have the financial means and psychological resilience to support a trial lasting several years are able await the outcome of the case. For others, financial and psychological costs of a lengthy procedure lead to victims abandoning their claim before a decision is reached.



ECJ Case-law has established certain conditions which may justify an excessive length of proceedings, such as the applicant’s conduct, or the legal complexity of a certain case. Nevertheless, when dealing with victims of crime, the Court requires **proceedings to be expedited** which concern a violation of articles 2 (right to life), 3 (prohibition of torture) and 4 (prohibition of slavery and forced labour). In speaking specifically about victims of trafficking, the judgment passed in the case of L.E. v. Greece no 71545/12 outlines the need for authorities to act with haste when it comes to affairs concerning vulnerable victims of crime: *“[...] once the matter has been brought to their attention, the authorities must act. [...] A requirement of promptness and due diligence is implicit in all cases, but where it is possible to remove the individual concerned from a harmful situation, the investigation must be conducted as a matter of urgency. The victim or relative must be involved in the proceedings to the fullest extent necessary to protect their legitimate interests”* - L.E. v. Greece judgment of 21 January 2016.



 Maria

It took me many years to escape my situation and come forward as a victim of trafficking. When I finally started the procedure, I had no idea how long it would take, how much longer I would have to wait before having justice. I had to relive all those events 2 years ago at court, in front of a room of strangers, and now 2 years later...nothing, I’m still waiting for the judgment – to know if I was believed, and if I will be protected. It has prolonged the feeling of helplessness and not being in control of my own life.



CRIME

REPORTING

SUPPORT

APPLICATION

PROCEDURE

OFFENDER COMPENSATION

2012 Victims' Rights Directive

Article 19

Right to avoid contact between victim and offender

1. Member States shall establish the necessary conditions to enable avoidance of contact between victims and their family members, where necessary, and the offender within premises where criminal proceedings are conducted, unless the criminal proceedings require such contact.
2. Member States shall ensure that new court premises have separate waiting areas for victims.

As discussed above, at least 22 Member States require the victim to seek compensation from the offender before having access to state compensation. Most victims must, therefore, seek offender compensation after an initial verdict in a criminal court, then moving the case into a civil court. For many victims, prolonging contact (albeit only administrative contact) with the offender can cause continued stress and anxiety.

'[...] civil proceedings in cases of crimes have particularly high emotional risks. As was mentioned by respondents, the confrontation with the perpetrator, the emotional burden of it and fear of reprisals are considered as serious barriers. These emotional risks are certainly experienced differently from the emotional risks involved in cases regarding accidents, which mostly result in proceedings against a liability insurance company. In conclusion, it is subject to serious doubt whether the potential immaterial benefits of a civil action for victims of crime outweigh the disadvantages and (emotional) risks of such proceedings.'

– Hebly, M., van Dongen, Jo., Lindenbergh, S., *Crime Victims' Experiences with Seeking Compensation: A Qualitative Exploration*, *Utrecht Law Review*, Volume 10, Issue 3 (June) 2014



Although some Member States adopt more progressive, victim-orientated approaches to criminal proceedings, **unwanted contact** between the victim and the offender remains a reality of the judicial process in most Member States:

'During court hearings, in a normal court procedure the victim can ask to give their testimony when the offender has left the room, or from another court if you feel threatened, or via video testimonies. But the courts are quite old-fashioned and judges prefer that people are physically present to give statements. It's difficult to persuade them to change a practice they have been doing for many, many years.'

– Interview with Victim Support Professional, Sweden

Delays with offender compensation

In terms of the **length of the procedure** and final provision of a compensation award, the duration of a criminal trial will determine when the victim will subsequently receive compensation. Fair procedures require that an offender has the right to appeal a conviction and an order for compensation, thus creating an additional delay for the victim.

In some Member States, a guilty verdict is necessary before a victim can apply for state compensation⁷⁰. Even in Member States, which do not require a guilty verdict, a finding of not guilty may dictate whether a victim is entitled to obtain state compensation or not⁷¹. In both instances, victims will have to await the outcome of a criminal trial to obtain both offender and/or state compensation. As aforementioned, delays in a decision on compensation may be in breach of article 6 ECHR⁷².



Countries, which intentionally permit a victim to apply for state compensation even if the offender is not identified or apprehended⁷³, offer victims access to justice and restitution, which is extremely important to their rehabilitation.

Overall, the judicial procedure for claiming compensation is lengthy, complex, traumatic and littered with administrative delays. These procedural challenges undermine victims' faith in the justice system as a mechanism for restitution and protection. Victims' testimonies express their dissatisfaction with long delays in decision making, being kept uninformed on the progress of their case, not receiving explanations for excessive delays – all raising questions about procedural transparency. Member States, who either do not establish domestic deadlines on claim decisions, or who regularly miss them, underline the problems of respect for the rule of law and an overall lack of respect for the victim.

GOOD PRACTICES: ACCESSING LEGAL AID

In France, victims of serious crimes may access legal aid free of any charges, regardless of income.

- Source: *Legal Aid in France*, Open Society justice initiative, 2015.



ENFORCEMENT

Even after a compensation award decision has been made, victims may still face a range of obstacles in accessing the payment from the offender. Sometimes the offender cannot be found, or may not be able – or refuse – to pay compensation to the victim. In other cases, amounts are changed and adapted by National Compensation Authorities, with victims expecting one amount, but receiving another, usually smaller, amount. Many of these problems are resolved by enforcement of the awards, but mounting evidence points to the detrimental effect this can have on victims of crime.

Opinion of the European Economic and Social Committee on the 'Proposal for a Council Directive on compensation to crime victims' (COM(2002) 562 final — 2002/0247 (CNS)) (2003/C 95/11)

4.1.1.6.: It is clear that, in any event, the payment of final compensation by the state will have to be guaranteed in cases where: — despite all efforts it has not been possible to track down the offender, or — the offender has been identified, but has insufficient means to adequately compensate the victim.

When an offender cannot, or will not, respect a court compensation order, the remedies available in most Member States place the onus on the victim to recover the award. Enforcement methods are varied and depend upon the national preferences of individual Member States, as well as the individual circumstances of each case. Methods of enforcement may include recuperation of earnings or benefits, orders for sale, warrants of control, bailiff actions, and even prison time⁷⁴.

For victims, enforcing an order indicates undertaking additional tasks. Quite simply, enforcing a compensation order effectively requires the victim to enter into a new procedure, bringing its own complexities, deadlines, delays, uncertainties and costs.


In terms of the **financial cost of enforcing a compensation order**, victims may not only be liable for the court proceedings' fees, but also for any enforcement method applied. For example, in England and Wales the price of applying for an attachment of earnings from the offender is £110, and requesting a bailiff service costs another £110⁷⁵. The majority of Member States also require



the victim to appoint a lawyer in order to enforce an order⁷⁶, once again at the cost of the victim.

Financial expenses do not take into consideration the **psychological cost** to the victims when enforcing an order. Member States must acknowledge that the ordeal of enforcing a court-ordered compensation award may be detrimental to the wellbeing of a victim, as it effectively prolongs the contact between victim and offender, and may even accentuate the relationship of power and control the latter holds over the former.

Chloé



After going through the whole process, to then have the moment of acknowledgment when he was declared guilty of the abuse he has put me through... and then have to depend on instalments of €8 a week. What can I do with €8 a week? This is exactly what he used to do to me. The court has actually ordered him to continue with this behaviour. He probably still enjoys that control he retains over me, financially. It's hard to move on when I have a weekly reminder of what happened.

Where offenders cannot pay the full amount, the court may order the award to be paid in instalments, which can be very small amounts each week⁷⁷. Not only do these instalments have little financial benefit for the victim, they serve as a weekly reminder of the trauma and abuse they have suffered.



NON-ASSISTANCE OF VICTIMS

Q: If I am awarded damages by the court, is there any special assistance available to me as a crime victim for the enforcement of the judgment against the offender? A: There is a wide range of measures that the courts can take where an offender fails to pay. For example, the courts may order attachment of the penalty to the offender's wages or social security benefits. In the last resort, the courts can commit an offender to prison if he or she defaults on payment. After that, the financial penalty effectively lapses since there is no further effective sanction the courts can apply.'

– Interview Compensation to crime victims - England and Wales, E-Justice Portal⁷⁸

One of the main issues surrounding enforcement is the absence of assistance offered to victims. As the above citation highlights, once all legal paths have been exhausted, compensation orders are left unpaid with no further effort on the state's side.

In the UK alone, compensation orders valued at £14 million went unpaid in 2013. Sadiq Khan, then shadow Justice Secretary, commented; *'Victims of crime will be shocked at the scale of unpaid fines written off by the Government.[...]The fact that the Ministry of Justice is so incompetent at collecting the money owed shows their skewed priorities.'*⁷⁹ According to a 2000 study into victims of crime in 22 European criminal justice systems, officials in the UK have *'given up trying to recover the court-ordered penalties because of long delays in payment or because they have lost contact with the offender.'*⁸⁰ According to Victim Support UK, as of quarter two 2016, £706 million worth of financial impositions remained unpaid⁸¹.

Problems with enforcing an order are not limited to a few Member States; across Europe and even beyond, victims often fail to receive the payments awarded by a national court, and have



no way of enforcing the award. In France, victims receive no help from the authorities when they try to enforce a compensation order and if bailiffs must be employed, this is at the cost of the victim⁸². In Greece, compensation granted by a criminal court is viewed, in practice, as 'purely symbolic'⁸³, as the court will not implement enforcement measures – unless the award is substantial, in which case a victim will also need the services of a lawyer. As is the case in other Member States, the lawyer's fee will either be paid in full by the victim or will be a percentage of the compensation payment. Victims in Germany are entirely responsible for enforcing any payments, and most cover the costs of the enforcement measures⁸⁴.

Internationally, enforcing court compensation orders is a constant problem. According to a 2018 report from the U.S. Government Accountability Office, offenders owe \$110 billion in criminal restitution to their victims, with most of that amount being 'uncollectible'⁸⁵.

In some Member States, very little is known about the practice of enforcing compensation orders, or what assistance is offered to victims at this stage. Statistical data is absent, and research into the issue at a national level is non-existent⁸⁶. The 2018 CEPEJ report suggests that, unless cases are very complex, authorities should take no longer than 2 years to enforce an order. Yet, States do not have data concerning the average time-lapse between a court order and the victim receiving payment. These shortcomings emphasise the need for widespread research into the experience victims have in enforcing compensation orders, as well as the need for statistical evidence of how much compensation is *effectively* received by victims following court orders issued by each Member State.



GOOD PRACTICES: ENFORCING OFFENDER COMPENSATION

- In the **Netherlands**, if the offender does not pay compensation to the victim within 8 months of the order, the state pays the victim the full amount, and then recuperates the compensation from the offender directly.
- In practice, bailiffs are very rarely called upon to enforce compensation procedures in **France**. Instead, to minimise the detrimental effect this could cause to victims, two mechanisms were created: the CIVI - Commission for the compensation of victims of crimes (Commission d'Indemnisation des Victimes d'Infractions), and the SARVI – Recovery assistance service for victims of crimes (Service d'Aide au Recouvrement des Victimes d'Infractions). These mechanisms can cover in full or in part the victim's compensation, and then they recuperate the compensation from the offender (the SARVI allows one month for the offender to pay the compensation to the victim. If the offender fails to do so, the SARVI pays the victim and then recuperates the amount of the compensation from the offender).



COMPENSATION

DELAYS IN RECEIVING PAYMENT

Having, above, addressed the issues on receiving compensation from an offender, victims and stakeholders also express challenges regarding **delays in the payment** of state compensation. Here the issue is twofold; **victims do not receive compensation when they need it most**, and **victims receive compensation long after the crime was committed** and compensation was applied for.

Access to emergency payment

Often, victims have expenses to cover immediately after a crime; medical costs, loss of earnings, childcare, etc., to which procedural legal costs, when applying for compensation, must be added. All these expenses occur as a direct result of the crime and must be paid before any potential award is received. While immediate costs may be covered by emergency payment schemes, few victims, even in Member States that provide such funds, are able to access them.

63% of victims surveyed in 2019 indicated that they did not have access to an emergency payment scheme, with one victim admitting that she had to take a loan from her bank to cover immediate financial expenses. In a 2018 survey of victim support services, 100% of professionals working directly with victims claimed that the existence of an emergency payment scheme is 'important to essential'.

'If I could have received compensation shortly after the assault, I would probably have spent the money traveling far away for a while, because in the days following the assault I felt threatened.'

– Interview with victim, translated from original language.



In member states, where emergency payment schemes are not offered as a standard part of the compensation package, victims *may* be referred to local social welfare services for financial assistance, whilst awaiting a decision on their compensation claim. However, access to social welfare services and their financial assistance plans are, generally, means-tested; therefore, victims in employment at the time of the crime, or victims who have relatives who are earning (partner/parent/child), are often excluded from such services.

Delays in receiving state compensation

Delays in receiving payment are, partly, a direct consequence of procedural delays, discussed under the chapter 'Procedure', and partly due to the requirement to first seek compensation from the offender before applying for state compensation.

Victims who have already endured the long compensation process must endure further delays before receiving compensation from the state. In the UK, for example, the reported average delay, in 2017, in receiving a compensation payment from the Criminal Injuries Compensation Authority, was 20 months after the decision was made⁸⁷.

IF YOU HAVE RECEIVED THE TOTAL COMPENSATION, HOW LONG DID IT TAKE FROM THE CLAIM UNTIL THE FINAL PAYMENT?

- less than 3 months ■ less than 1 year ■ less than 3 years
- 3-5 years ■ more than 5 years

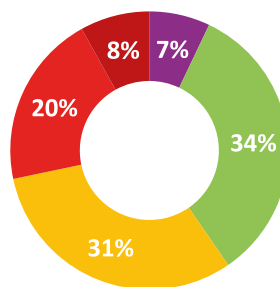


Figure 4: Delays in receiving payment



Results from our victim survey show that for most victims, it takes longer than one year to receive compensation, with 28% of victims having to wait more than three years.

AMOUNT OF PAYMENT

The amount of compensation awarded varies greatly depending on each Member State. Whilst this can be explained by differences in the cost of living across Europe, stark differences in awards raise questions of fairness and discrimination between victims from a pan-European perspective.

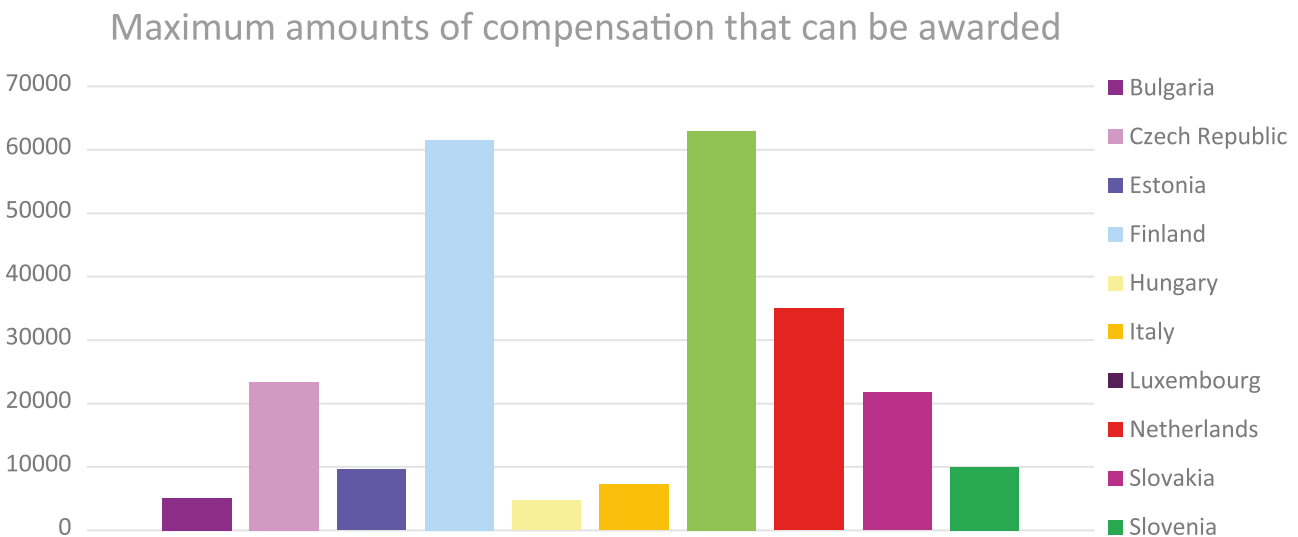


Figure 5: Maximum amounts of compensation⁸⁸

Despite these differences, victims are united in their general dissatisfaction with the amount of compensation received: 93.8% of respondents from our 2018 victims' survey were unhappy with the amount of their awards, claiming they was insufficient to meet their needs. Of the 223 victims of terrorism surveyed in 2018, only 19.5% of victims, who received compensation, were satisfied with the amount they received.



'I lost money in several ways, and even if I was not compensated to the full extent of the money I lost, I got some of it back, so that was better than nothing. Still, I got nothing for emotional damage... that was like the state saying 'it's your fault you invited a robber to your home.'

– Interview with a victim

In some Member States, there is a difference between the amount of compensation authorised and the amount *actually* paid, which can cause difficulties when managing victims' expectations and raises questions concerning the transparency and fairness of the decision making/award process.

For example, in Sweden, the Crime Victim Compensation Authority may alter the amount of an award after the court has published the compensation award. Before 2014, the Swedish Compensation authority could lower the amounts awarded by the court, which had detrimental effects on victims:

'Most people have a hard problem understanding why the Compensation Authority do not give the same amount as the court state. The Compensation Authority may go as far as halving the amount of money the court states. This is because the court allocates a certain amount of money and the Compensation Authority adjusts the amount to make is fair. This decision may not be appealed, there is no review of the amount possible. Victims may complain, but not appeal the amount awarded.'

– Interview with Victim Support Professional, Sweden



However, in 2014, after it was decided by the Swedish Government that the existing compensation system was arbitrary and unjust towards victims, a new criminal injuries act took effect and the Compensation Authorities could no longer *reduce* the amount of court ordered compensation, but could *increase* the amount, if they believed this was a fairer reward for the damages endured⁸⁹.

The Swedish example is a lesson in hindsight and adaptability; more Member States should look at their compensation schemes from the victims' perspective and ask themselves if their systems are fair and just.

CONCLUSION

At the beginning of this journey, the objectives of compensation and needs of victims of crime were outlined, as were the rights and protections guaranteed for victims of crime through the 2004 Compensation Directive and the 2012 Victims' Rights Directive. Having only skimmed the surface of the multiple challenges victims face in accessing and obtaining compensation, can it be truly considered that these rights and protections are effective in practice? Do national compensation schemes offer fair and appropriate compensation to victims? Or, is it not more accurate to suggest that the procedure of compensation itself adds further distress to victims?

An initial major obstacle is a general **lack of knowledge** about the right to apply for compensation; European citizens are generally unaware of the rights held by a victim of crime, and professionals of first contact are inefficient in **informing victims** of these rights. When official information is provided, it is **not easy to understand, incomplete** and may be in **contradiction** with other sources.

When reporting a crime, victims may encounter **disrespectful treatment** from police officers, and failure by the latter to provide information and **refer victims to support services**. Certain national practices actively prevent many victims, such as those without valid residence status, from making a report. Furthermore, **reporting deadlines** do not reflect the reality of victimisation; **time limits remain restrictively short** despite the plethora of resources that explain why certain victims may take a significant time to report a crime.

Considering the effects of victimisation, coupled with the complexity of the compensation process, the importance of support cannot be exaggerated. Here, **victim support organisations offer essential support mechanisms**, and effectively fulfil a Member State's obligations to inform, assist, protect, respect, provide legal aid and translation services. A Member State's reliance on non-governmental organisations to uphold national compensation schemes masks deeper **institutional and systematic shortcomings**. If Member States continue to implement **funding cuts and restrictions on NGOs' activities**, these shortcomings will be further unveiled.

With adequate support in place, victims can navigate through the **intricate process of applying** for compensation. At present, there is an unquestionable failure on the part of Member States to meet the 2004 Compensation Directive's demand for **minimal administrative requirements**. Many victims contest that this induces **revictimisation**, as they struggle to complete the **mass of necessary paperwork**, and provide sufficient, **repeated evidence** in order to enter a valid claim.

Eligibility criteria permitting only victims of 'violent and intentional crime' dates to the 1980s⁹⁰, and shows its age through its disregard of three decades of progress in understanding the realities of victimisation. Definitions also fail to evolve by including victims of new and emerging forms of criminality, such as cybercrime.

Variations in application procedures, eligibility criteria and deadlines across Europe create difficulties for **cross border victims** and the authorities processing their claims, whilst illustrating the **fragmented approach to applying victims' rights** across all Member States.

The **length, cost, complexity and emotional consequences of the compensation** procedure results in victims abandoning proceedings, and even acts as a dissuasive factor for potential applicants.

Other procedural issues, such as the necessity to first seek **compensation from the offender** before having access to state compensation schemes, incurs undesirable consequences for victims; prolonged **unwanted contact** between the victim and the offender, **elongation of the procedure**, and often leaves victims with **little or no financial restitution**.

Towards the end of the journey, we examined what happens when an offender cannot pay the compensation award. In theory, national authorities must **enforce** the order. However, victims often find themselves abandoned by both state actors and support mechanisms; and become responsible for getting the payments enforced at their own, financial and emotional, expense.

If, and when, compensation is received, victims often feel that it is 'too little, too late'. Victims have a need for financial restitution for the immediate consequences of the crime, and to cover expenses linked with the proceedings. However, the unavailability and inaccessibility of **emergency payment schemes**, as well as difficulties accessing **legal aid** in most Member States, leave victims once more incurring additional expenses.

In conclusion, European nations currently operate a system where state compensation is regarded as a **'last resort'**, accessible only after all other sources of compensation have been exhausted. Member States show no enthusiasm to change this approach, perhaps fearful of opening the floodgates to a potential onslaught of claims. This report does not question this method, it does, however, seek to remind Member States of the difference between 'last resort' and 'worst case scenario'. To avoid the latter, national compensation schemes must act as beacons for the rights and protections enshrined in the 2004 Compensation Directive and the 2012 Victims' Rights Directive, not as instruments of revictimisation, nor as a reflection of unbridled bureaucracy.

AN IDEAL COMPENSATION MODEL & RECOMMENDATIONS

Following the victims' journey from the committal of the crime until the victim receives compensation has allowed for the identification of major obstacles. Action at both a national and European level is necessary to minimise these obstacles, with a long-term aim to eradicate these barriers altogether. The most efficient method to achieving a fair compensation system is by determining an ideal model, with the creation of a unilateral strategic plan intended to advance Member States towards this model system.

The following section presents this ideal compensation model, and paired with ensuing recommendations, offers Member States a strategy to accomplish national compensation systems which are victim-oriented, offering fair and appropriate reparation to all victims of crime.

AN IDEAL COMPENSATION MODEL

Introduction

Having underlined the major issues victims face when seeking compensation, the following section envisages an ideal compensation model, free of the obstacles many victims currently face across Europe. This ideal model comprises of four fundamental elements, ensuring that a compensation system is:

- 1) Strategic and interconnected;**
- 2) Inclusive;**
- 3) Easily understood** by victims and professionals alike;
- 4) Accessible;** and
- 5) victim-centric, fair and appropriate.**

We believe it is essential to begin any examination of compensation policy from the ideal model – the ultimate objective. Having established such a model, States are then able to carry out an evaluation of their existing schemes to understand how closely they conform with the model and what actions are necessary to improve.

Taking this approach means that a compensation system will first be designed around victims

and secondly be adjusted according to existing and future resources. This contrasts with many current systems, which are designed to pay as little compensation as possible due to extremely limited funds, and are having to operate in a highly process-oriented way – at the expense of a human and humane system.

Whilst cost and processing of applications are clearly critical issues, systems should not be wholly designed around such factors but rather fine-tuned to take them into account.

The following section will describe the leading elements of a model compensation system, leading on to recommendations for Member States and the EU, which seek to bridge the gap between the current situation and an ideal compensation model.

1) A model compensation system is...strategic and interconnected with wider social systems, integrated into the national framework for comprehensive victim support.

A model compensation system is developed in a comprehensive and strategic manner, based on rights, driven by needs and established within the framework of the broader victim response system. It is interconnected with wider social systems, signifying that first agencies of contact within this wider system (education, consulates, medical facilities and social services) make up part of a comprehensive national victim support framework.

It means that objectives, procedures, technological solutions etc., are all developed having in mind the entire system being deployed to support victims and aide their recovery. This implies not only recognising the breadth of compensation services but also its limitations, particularly where other support systems are better suited to responding to victims' needs.

Only through such a system can we aim to maximise restitution and recovery, whilst balancing often competing objectives of the needs of victims versus decisions to limit budget and resources.

With compensation, restitution, restoration, recovery, support, justice and more being interlinked, available in a range of legal settings and delivered through a range of different actors, the ideal compensation model is developed as an integral part of the system. It is able to reflect that not all solutions will or should be derived through State compensation but that core principles of responses including respectful treatment, minimisation of secondary victimisation, administrative burdens and costs should flow equally through the entire restorative framework.

CORE ELEMENTS OF STRATEGIC AND INTERCONNECTED SYSTEMS:

- 1) Comprehensive, rights based, needs driven.
- 2) Interconnected with the wider victim response framework
- 3) Monitoring, review and improvement mechanisms incorporating the victims voice.

A clear system for developing the compensation system, regular and repeated monitoring of its functioning, reviewing and improving it should be established and form part of wider evaluation mechanisms. Such review should incorporate reflections on wider issues or drivers of problems such as weaknesses in criminal or civil proceedings which can impede on a victims' access to compensation. Review should ensure that victims' voices are heard and taken into account and a wide consultation ensuring the most accurate picture of what works and doesn't work.

2) A model compensation system is...inclusive.

An ideal compensation system should be designed around maximising the number of eligible victims who receive fair and appropriate compensation each year. Eligibility criteria, when applied, evaluates the damage suffered rather than judging the nature of the crime as an exclusory factor.

Compensation as a form of compensatory justice serves two aims; first, it fulfils a victim's need for recognition; acting as a symbol of the State's acknowledgment of not only the occurrence of a crime, but also of its effect upon its victim, and the failure of the State to protect its citizens.

Secondly, compensation plays a reparative and restitutive role; redressing the wrong which has been done and placing the victim in a situation which resembles (as closely as possible) that which they were in before the crime.

This reparative function includes financially compensating the victim for damages caused by the crime, such as loss of earnings and any other expenses caused by the crime and its ensuing consequences. With this in mind, an ideal compensation model will not limit itself to this narrow interpretation of pecuniary compensation alone, but extend to other forms of reparative justice which satisfy the various needs of victims.

Taking this into account, compensation schemes should be as inclusive as possible to cover the maximum number of victims in need of financial reparation, whilst recognising necessary budgetary limitations, such as the need to take into account the wealth of Member States and their ability to cover all forms of crime.

For Member States who face financial challenges in making such reforms, a clear process should be established in the short term for prioritising the eligibility of victims, aiming at including the most vulnerable victims automatically. However, incorporated into a compensation strategy should be actions to increase funding to meet wider victim population needs.

Currently, compensation schemes across Europe operate eligibility criteria which actively excludes certain victims in need of compensation. As described throughout the victims' journey, victims may find themselves excluded due to factors such as their income level, country of residence, previous criminal history or any judged complicity or culpability linked to the crime itself.

Systems of exclusion and eligibility should not operate to the detriment of victims' needs. Rather, an ideal compensation system will design any eligibility criteria around victims' needs, ensuring that eligibility criteria do not hinder a victims' ability to access the reparative effects of compensation; namely the act of a State recognising a victims' right to this remedy. Issues such as how deserving victims are, their financial need to compensation, or prior criminal convictions which are unrelated to the crime for which they were victimised, should not act as exclusory factors to seeking a legal remedy. As the European Agency for Fundamental Rights stated in 2019;

'The state is no longer in the comfortable and patronising position of a more or less generous Good Samaritan, but a duty bearer indebted to the individuals living under its jurisdiction as rights holders.'¹

In an ideal system, the damage suffered by the victim is the primary consideration of a compensation claim, rather than the nature of the crime. This signifies that victims who have suffered damage from crimes which are not necessarily 'violent and intentional' may also have recourse to compensatory justice. An ideal system would compensate for a wide range of damages, extending to moral, physical, emotional, financial and material damages, also covering costs which arise as an indirect consequence of the crime (i.e. long-term effects of crime, such as loss of wages, psychological costs).

In doing so, payments from other sources (i.e. insurance) may be taken into account, but the system for doing so should not add greater burden or hardship on victims, and should not act in way to reduce victim compensation below the totality of the harm suffered. In other words, if a compensation scheme is limited in its approach to the extent that victims will not be fully compensated, such compensation should not be further reduced where other payments are received. This should only be the case to avoid 'over' compensation.

CORE ELEMENTS OF INCLUSIVENESS:

- 4) Widest possible range of victims should be covered by the compensation scheme
- 5) Grounds for exclusion should be very limited
- 6) Compensation and payments focused around the harm suffered, covering the widest range of harm.
- 7) Payments from other sources should not reduce compensation payments unless the total harm suffered by the victim has been covered.

¹ *Victims' rights as standards of criminal justice, Justice for victims of violent crime Part I. European Union Agency for Fundamental Rights, 2019. Available online via: https://fra.europa.eu/sites/default/files/fra_uploads/fra-2019-justice-for-victims-of-violent-crime-part-1-standards_en.pdf (link accessed: 05/08/19)*

3) A model compensation system is... easily understood by victims and professionals alike.

In an ideal model, information about the compensation system is easily understandable and available to victims, first agencies of contact and support services, taking into account the range of communication needs of victims, and communicated in a victim sensitive way.

In an ideal compensation scheme, extensive and regular awareness raising activities provide information on the existence of the scheme, as well as available support services, among the general public, signifying that even before an individual is victimised they have prior knowledge of the general availability of compensations schemes for victims of crime.

In the same manner, the general public know where to turn to in the event of a crime, and can direct friends and families to victim support services. Such awareness raising activities include regular campaigns as part of a broader strategic approach to raising awareness. This approach incorporates repeating campaign over an extended period of time at both a national and local level, as well as providing multi-formatted, accessible information.

In an ideal model, agencies of first contact are trained to provide information on victims' rights (including that of compensation) and support services in a simple and accessible manner. These agencies will also be equipped with the necessary tools to adapt the provision of information to meet an individual's communication needs, whilst information provision is incorporated into service provision and staff/ officer objectives. More broadly, any organisation regularly in contact with victims should also be able to provide information to victims on compensation and wider rights. Such information will be victim sensitive avoiding such issues as victim blaming, victim myths and stereo types whilst taking into account the impact of the crime and victim sensibilities.

Information is provided in a variety of ways. Personnel may inform victims directly both verbally and through written materials (both short, summary documentation and longer more detailed information). Other visual materials such as videos, animations, explainer films, infographics etc. will be used and online communications will also be utilised including through websites, social media and mobile apps. This approach takes into account the different ways that people access information and the different learning preferences of individuals. Account should be taken

of learning difficulties and disabilities which will limit the ability to understand information, or require information is provided in different ways. This includes information in e.g. braille, easy to read, sign language, interpretation. Information should be provided in a way that respects diversity of populations, including gender diversity.

Mechanisms are put in place to guarantee that essential information can be translated or interpreted into the victim's language, at no cost to the victim themselves. These mechanisms also ensure that information is maintained up-to-date, and any changes in victims' rights or service provision is communicated across the national victim support network.

Verification mechanisms are also installed to ensure that victims receive information repeatedly, over a length of time, as their ability to digest and understand information will likely evolve during the different stages of victimisation, where trauma can play a debilitating role in understanding complex information.

In summary, all information directed towards victims must take into consideration individual needs, acknowledging that one format of information may not be suitable to all victims of crime. An individual approach to the provision of information, and successfully training providers and providing them with tools in order to adapt the information, is a key component of an ideal model of a compensation system.

CORE ELEMENTS OF EASILY UNDERSTOOD SYSTEMS:

- 1) Repeated, regular long term information campaigns to inform wider society about compensation are needed;
- 2) Those in contact with victims should have the training and tools necessary to properly inform victims about compensation schemes;
- 3) Information should be provided in a simple non-technical manner, in a language understood by the victim, through multiple formats taking into account the different ways that individuals will take in information;
- 4) Guidance and explanations on information should be available to support further understanding of compensation systems and implementation of rights.
- 5) Information content should be coordinated such that the same information is provided and there are not discrepancies in information that cause confusion;
- 6) Information to victims should be provided and/or made available repeatedly over a prolonged period of time.

4) A model compensation system is...accessible.

The ideal compensation system will ensure that a maximum number and range of victims are able to access the compensation scheme. The model will ensure that applying for and obtaining compensation is fast, free and simple, and as pain free as possible.

In an ideal compensation model, barriers which prevent victims accessing the system are eradicated, or reduced to a minimum. Rudimentary processes, such as **reporting a crime**, are engineered to reduce the rate of underreporting, and **deadlines** for reporting are kept as flexible as possible and take into consideration individual circumstances. The **application process** itself is designed to be simple enough for all victims to complete autonomously.

Victims who require assistance in completing the application are supported in doing so, and this **support** continues for as long as they need it. Where victims have immediate financial needs, access to **emergency compensation** is available and easy to apply for.

Ideally, victims will be able to receive full compensation through a single process rather than going through several different proceedings including civil proceedings, insurance claims and state compensation.

Cross border victims could apply for compensation in their own language, and any translation/interpretation costs would be covered by the national authority.

Commencing with **reporting mechanisms**, an ideal compensation model will continually review barriers to reporting crime. This model system will incorporate various reporting mechanisms in an effort to mitigate these barriers, providing victims with the choice of reporting a crime online, by phone, text message or through third party reporting, thus creating an alternative to requiring a victims' physical presence in a police station.

In addition, where **deadlines for reporting a crime** exist, they should recognise a range of factors which may inhibit a victim from reporting. Such factors should not be limited to certain groups of crime (i.e. historical child abuse), but be extended to include factors which prevent victims of any crime from coming forward.

As mentioned previously, when victims do report a crime, they should receive **victim-tailored information** concerning compensation schemes and be referred to a local **support** service. Those who come into contact with victims should be fully aware and able to inform victims of the compensation system and available support structures in a **respectful and victim-sensitive manner**.

Once the victim has passed the reporting stage, any barriers which would prevent the victim from subsequently applying for compensation should be minimised. There are three key areas where barriers are likely to occur: 1) the application process, 2) seeking offender compensation, 3) a series of particular difficulties for cross border victims.

The very first step in ensuring an easy system in applying for compensation is guaranteeing that the application process itself is fair and appropriate. In an ideal situation, basic deadlines applicable to all victims should be developed based on an understanding of the difficulties victims face when participating in administrative processes, the trauma that they can undergo and how this inhibits their abilities to seek their rights and access services.

In addition to having sufficiently long, general deadlines for application, the system would incorporate some level of flexibility, which would allow for general deadlines to be extended in certain circumstances. This is particularly the case where victims have been inhibited from seeking compensation, or where the harm caused by the crime manifests at a later stage (i.e. PTSD). In summary, any deadlines in applying are fair and reasonable, taking into consideration individual factors.

Once a victim chooses to apply, the application process should be as simple as possible. In an ideal system, victims are able to apply through different formats (i.e. both electronic and papers), accommodating the needs of all victims.

Ideally, most victims would be able to fill an initial form out online, and there would be an **online case management system**, allowing the victim to manage the entire application process electronically, including the submission of evidence, as well as any questions, guidance and support as needed.

An online case management system provides for online guidance and support through various mediums, including video, image and audio explanations, specific guidance on how to fill out an application, what evidence must be provided, and information pertaining to any foreseeable deadlines or delays.

An online chat box allows for direct, live support provided by trained support staff. All information pertaining to the application is maintained in this secure system, accessible to any appropriate person/authority in order to facilitate the processing of the application, whilst respecting the victim's confidentiality and information sharing restrictions, in accordance with GDPR.

This implies that the victim's online application can be linked to other authorities implicated in the procedure (law enforcement, medical authorities, judicial institutions, etc.) in order to reduce the number of times victims are obliged to submit and repeat information, which is a common cause of revictimisation and retraumatisation. The case management system will also run automated interpretation and translation software, which may not constitute official translation but will greatly facilitate the processing of the application for both the victim and the deciding authority. This is particularly beneficial to **cross border victims** of crime.

From the outset, an ideal compensation model would **not impose additional costs on victims**. This means that the application itself is free, and that any actions necessary to achieving or submitting a claim should be cost-neutral for victims. Any actions victims take necessary to obtaining compensation will be reimbursed potentially as part of the final award.

Deadlines for submitting an application in an ideal model are flexible, taking into consideration a victims' individual circumstances.

State Compensation is currently viewed as a last resort, so victims first need to seek compensation from other sources, in particular from the offender.

Ideally, the victim would have a single compensation decision made on the total compensation amount to be awarded. This would mean that the system as a whole, incorporating state compensation, offender compensation, insurance systems, social welfare, donations etc., would be drawn upon to bring victims as close as possible to a position before the crime.

The proportion of payments by different parties would be determined in a coordinated manner, minimising the number of proceedings, separate evidence collection and administrative burdens on the victim. The State would take over the payment to the victim and collect payments from the other parties. This would reduce delay in payments and would be combined with emergency payments for those in urgent need of assistance. Similarly, decisions could be connected with social welfare systems and wider support mechanisms to provide a comprehensive financial and non-financial response.

All other proceedings would be designed to minimise barriers and any factors which can cause harm or secondary victimisation should be removed as far as possible.

To minimise harm on victims in offender compensation proceedings, these would take place as part of the criminal proceedings, with a connected case management system ensuring that duplication of evidence and hearings is minimised. Having ensured that most Offender Compensation are dealt within criminal proceeding, it is also essential that the burden on victims and the risk of secondary victimisation is reduced. In essence, this implicates full compliance in the implementation of the EU Victims' Directive.

Decisions in civil proceedings would be minimised and where they do need to be transferred, the proceedings should also benefit from pre-existing evidence collection, should minimise or remove costs to victims and should reduce administrative burdens and contact with the offender.

Recognising the wide variety of circumstances, there are likely to still be cases where the victim will need to seek compensation from the offender in civil proceedings. In these circumstances civil proceedings should have appropriate protection measures in place to safeguard victims from secondary victimisation and from further harm from the offender. In particular, procedural burdens, cost implications contact with the offender should be minimised whilst maximising the use of pre-existing evidence collection. Such measures would need to be established whilst protecting fundamental elements of civil justice principles

Throughout the **application process**, victims should have access to **support services**, both within the compensation authority and through a victim support provider. These sources of support will assist the victim in completing and processing the application. In both entities, there will be the possibility to identify particularly vulnerable victims who have difficulties completing an application, or who will have specialist support needs (e.g. victims with intellectual and communication difficulties, highly traumatised victims, children, elderly, foreign victims, etc.).

In an ideal situation, victim support services will work closely with the compensation system so they can assist victims from within the system; helping victims to apply, accompanying victims throughout the process. As an integral part of the compensation system, victim support services ensure that those who need targeted assistance will achieve it. This implies the need for an individual assessment process which determines the needs of victims, what assistance they will require whilst seeking compensation; in criminal, civil and state compensation.

An ideal compensation system would allow for an early identification of any problems or mistakes and quick resolution of those problems, whilst minimising any delays in the processing of the application. In addition, those who need more specific and targeted support are able to receive this through a combination of victim support services and support through the compensation authority – whether face to face or through remote support.

In an ideal compensation system, **evidence required** to support a claim is limited to that which is strictly necessary to the eligibility of compensation and the amount awarded.

As part of the process of facilitating the application process, the evidence that victims need to gather and submit should be as easy as possible to obtain and submit.

The process of verifying the authenticity of evidence will be simplified and cost free for victims, making use of new technologies and electronic verification systems. Equally, where victims need to obtain medical evidence, the system is arranged to minimise the number of **medical examinations** and ensures that those who carry out the examination are qualified, available within reasonable timeframes (taking into account the needs of the victims) and not in a position of a conflict of interest.

For **cross border victims** in particular, the application process may be riddled with additional or exaggerated challenges, in comparison to their native-resident counterparts. A majority of these issues have been mentioned, and solutions which benefit cross border victims have been cited, such as the ability to make an application online, access to free translation and interpretation, direct support and flexible deadlines.

However, one barrier which remains for cross border victims is difficulties in mutual recognition of documents. In an ideal model, any medical evidence submitted by a trained and qualified national practitioner in one Member State is recognised by another Member State's compensation authority. This rule would also apply to any national authorities competent to sign official documents. Moreover, deciding and assisting authorities work together, by virtue of a functioning network of compensation authorities across Europe, ensuring that administrative and evidential burdens to the victim are kept to a minimum. The network would meet on a regular basis ensuring those in the system know each other and different systems well. Training, procedures and formal protocols to facilitate cross border co-operation would be established to simplify proceedings. New technologies would be used to ease processing of claims and assistance across borders.

CORE ELEMENTS OF AN ACCESSIBLE SYSTEM ARE:

- 1) Processes for reporting a crime and applying for compensation are simplified.
- 2) Deadlines are flexible, victim-centric, and take into consideration exception circumstances.
- 3) Victims are fully supported throughout the procedure; receiving victim-tailored information, sufficient and well-resourced local support services, and respectful treatment throughout.
- 4) Digital dossiers for up-to-date and accurate information.
- 5) Cost-free administration for victims.
- 6) Mutual recognition of evidence for cross-border victims.

5) A model compensation system is...victim-centric, fair and appropriate.

Every aspect of an ideal compensation model is designed to ensure that victims' needs are satisfied, and mechanisms are installed to minimise revictimisation and retraumatisation. The effectiveness of a compensation system lies in its ability to provide fair and appropriate compensation, taking into consideration the individual needs of each victim.

As outlined in the previous sections, a model compensation system is one which remains victim-centric at every intervention, one in which victims are treated with respect, and their needs are recognised and tailored to throughout the process.

Agencies of first contact are trained to assist victims of crime in a victim-sensitive manner, respectfully and in accordance to their individual situations.

Deadlines for both reporting and applying for compensation are flexible, allowing authorities to take into consideration exception circumstances through approaching each victim in their individuality.

Furthermore, an ideal compensation scheme is designed around offering fair, timely and appropriate compensation awards, and continuously evaluates its own performance to ensure efficiency and victim satisfaction.

Another feature of an ideal compensation model is the existence of a functioning review and appeal mechanism², which provides for a decision of an administrative authority to be reviewed by an independent court, and a decision of a court to be appealed before a higher judicial instance.

Moreover, there must be genuine access to this right to review. "*For the right of access to be effective, an individual must have a clear, practical opportunity to challenge an act that is an interference with his rights*"³. Therefore, the right to review must be practicable within national procedures and procedural requirements⁴.

² In line with Article 47 of the EU Charter of Fundamental rights, recognising this right in respect of violations of EU laws.

³ See *Bellet v. France*, App. No. 23805/94, 4 December 1995, at 36

⁴ See Venice Commission of Council of Europe, Rule of Law Checklist, available at: https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Rule_of_Law_Check_List.pdf

In the ideal system, excessive formal requirements, very short limitation periods or high fees which may in practice prevent victims from accessing appeal or review of the decision on compensation will be avoided.

Furthermore, authorities against whose decision a victim appeals must give sufficient reasons for their decision⁵. A reviewing authority must be able to at least consider legal issues behind the decision i.e. allow at least a revision of the decision on compensation.

This includes verifying whether the authority whose decision is reviewed (i) made correct inferences from the evidence induced and (ii) did not step out or misuse its discretionary powers when deciding on compensation. Extraordinary forms of appeal such as *a trial de novo* should be available to victims as well. All decisions concerning compensation should contain information on available legal remedies. If such information is absent, this should affect the applicable limitation periods.

CORE ELEMENTS OF A VICTIM CENTRIC, FAIR AND APPROPRIATE SYSTEM ARE:

- 1) Effective review and appeal mechanism
- 2) Victim-sensitive process which seeks to limit re-victimisation
- 3) Fair, timely and appropriate awards.

⁵ See *Suominen v. Finland*, App. No. 27801/97. at 36-38

RECOMMENDATIONS

Having identified the core elements to ensuring a compensation system is strategic and interconnected, inclusive, easily understood, accessible, victim-centric, fair and appropriate, the following recommendations seek to guide Member States and the European Commission on how best to achieve this goal.

Recommendations for national action

For the sake of ease of transposition, national recommendations are ordered into the following sections:

- 1) Effective, responsive, fair and appropriate compensation
- 2) Inclusivity (eligibility and scope)
- 3) Knowledge and training
- 4) Simplified access to compensation
- 5) Victim support services fully accessible to victims

In order to guarantee that Member States have the necessary resources and framework to enact these recommendations, pursuing E.U. recommendations lend guidance in this field.

1. Effective, responsive, fair and appropriate compensation

- 1.1. Member States should establish a national strategy for the continuous development and improvement of compensation systems.
- 1.2. Appropriate bodies such as ombudsmen, commissioners, expert groups, coordination committees should be established to support the evaluation of compensation systems, identify challenges faced by victims, make recommendations for solutions and ensure that all actors responsible for compensation issues operate in a coordinated manner.
- 1.3. Member States should conduct frequent evaluations of their national compensation systems.
- 1.4. Every Member State should produce publicly available national statistics relevant to functioning of compensation schemes including the number of applications, the number of successful and unsuccessful applications, the total amount of compensation ordered

per year and the average amount awarded per individual, and the amount actually paid to victims.

- 1.5. Member States should examine how decisions on amounts are made and whether they are appropriate.
- 1.6. Member States should establish a victims' fund to ensure sufficient money is available to meet the compensation needs of victims.

2. Inclusivity (eligibility and scope)

2.1. Evaluate scope of compensation schemes: Member States should re-evaluate the scope of their national compensation schemes to minimise the number of victims who need compensation but are excluded. Special attention should be paid to:

- 2.2. the limitation of scope of compensation to only 'violent and intentional' crime
- 2.3. the definition of violent, to ensure this covers psychological as well as physical violence

2.4. Evaluate eligibility criteria: Evaluate the necessity and fairness of eligibility criteria that limit access to compensation

- 2.5. Limitations placed on the eligibility of the victim due to individual criteria, such as income level, past criminal history, residency status, etc.
- 2.6. Limitations placed on the eligibility of the victim due to the damage occurred, such as the type of damage (physical, psychological, material)
- 2.7. The existence of common evidential and eligibility criteria should be applied across Europe for cross border victims

3. Knowledge and training

3.1. Member States should carry out awareness raising campaigns: To increase awareness amongst the general population, regular campaigns should be conducted through a range of media at both the local and national level.

- 3.1.1. Campaigns should ideally be organised within a national strategic framework, which ensures they are consistent, and repeated over a prolonged period.
- 3.1.2. Information should be provided through a broad variety of sectors and through different mediums. Campaigns should comprise of both short-term campaigns using e.g. TV or radio advertising, as well as permanent campaigns, using e.g. posters and leaflets in relevant locations (medical establishments, police stations, insurance

companies, public transport hubs, social welfare and unemployment centres, courts, and other justice centres).

- 3.1.3. working with vulnerable groups, groups having a higher risk of victimisation or organisations working in related areas should be encouraged to incorporate knowledge on compensation into their own work and campaigns.

3.2. Victims should directly receive correct and up-to-date information about compensation:

3.2.1. Whenever victims come forward and either report a crime to the police or inform certain organisations, they should receive information about the existing compensation schemes.

3.2.2. All organisations and institutions must verify the information they provide to victims concerning compensation schemes and ensure that this information is up to date and accessible.

3.2.3. Mechanisms which allow for frequent reviews of official information should be implemented and maintained.

3.3. Information to be provided by support organisations: the obligation to inform victims should be linked to support services to ensure that more detailed information on compensation can be provided by those with specialist knowledge. This may include specialist support services with the compensation authority whose role is to help victims understand the system and to successfully apply for compensation.

3.4. All Member States should implement the **116 006 victims' helpline**: to improve victims' access to information and support on compensation, the EU support helpline number should be operational in all Member States.

3.5. Minimum information requirements: The information that victims receive should as a minimum include:

3.5.1. All available support services (medical/psychological/specialised/accommodation) with contact details, detailed maps and opening hours

3.5.2. Details concerning the process of reporting a crime, and what happens next

3.5.3. Guidance on compensation with clear links to further information and where help can be obtained to apply:

3.5.3.1. How and when to claim

3.5.3.2. Details about available legal advice

3.5.3.3. Information about offender and state compensation

3.5.3.4. Available services for cross border/non-national victims such as translation and interpretation, cultural mediation, embassy and consular details, as well as guidance on how to seek assistance and report the crime in the victim's country of origin

3.5.3.5. All procedural requirements including deadlines are made clear to victims as early as possible, and these requirements are repeated on a regular basis.

3.6. Implement minimum requirements for how information is provided. In line with the 2012 Victim's Rights Directive, information provided to victims of crime must be:

3.6.1. Simple, accessible and available in multi-formats including orally, written, electronic and visual e.g. explainer videos

3.6.2. Repeated at regular intervals and through multiple sources, whilst remaining consistent

3.6.3. Available in all EU languages, with attempts to provide information in the foreign language most spoken in a Member State

3.6.4. Translated where necessary and, as appropriate, interpreters made available to victims so they can play an active role in the compensation process, as well as accessing and understanding their rights as a victim of crime. This is especially pertinent to cross-border victims.

3.7. Professionals in contact with victims must be appropriately trained: professionals of first contact must receive training on information provision, appropriate and respectful treatment, and techniques facilitating reporting for all victims of crime.

4. Simplified access to compensation

4.1. Deadline for reporting crimes: these should be reviewed and amended to ensure that an appropriate balance is achieved between the rights of the victim and the objectives of statutes of limitations. In particular, factors which limit the ability of victims to come forward should be considered as relevant mitigating factors which would be grounds for a reasonable extension of deadlines.

4.2. Remove barriers to reporting: Member States should identify obstacles to reporting a crime in their own country and act to remove barriers to reporting, including those particular for vulnerable victims. These measures should include:

4.2.1. Simplify reporting process: The process should be simplified as far as possible with at least one reporting mechanism which does not require the victim to be physically present in a police station established (such as online/telephone/text-message/ third-party reporting)

4.2.2. Simplify reporting forms: these should be user-friendly, include guidance, and conform with simple language standards

4.2.3. Remove or mitigate risks to victims of reporting: Factors that put victims at risk having reported should be removed or mitigated: This includes instances where reporting may result in victims in precarious situations being reported to government authorities (e.g., undocumented migrants). Firewalls should be implemented at all police stations, ensuring that victims are not arrested and pursued due to their residency status upon reporting a crime, and that their information is not shared with immigration authorities. This is especially pertinent for undocumented migrants, victims of trafficking and certain cross-border victims, amongst other groups

4.2.4. Reporting safeguards for vulnerable victims: All reporting mechanisms should include specific safeguards for the most vulnerable such as disabled and child victims

4.2.5. Respectful treatment when reporting: When victims report a crime, they should be treated in a respectful and dignified way. Officers and staff receiving complaints should have received appropriate training, protocols, guidance, etc. Other tools should be used to ensure training is embedded in the professionals' work in a continuous way.

4.3. Flexible application deadlines for State and Offender compensation: Member States should establish deadlines for applying for compensation, which take into account the many difficulties victims face, the trauma they have experienced, and any exceptional circumstances which may delay an application.

4.4. Minimise burden of seeking offender compensation: Member States should establish mechanisms to minimise the burden on victims and any possible trauma of having to seek compensation from the offender.

4.4.1. Offender compensation through criminal proceedings: Victims should be able to obtain a decision on offender compensation in criminal proceedings if they seek it. Where Offender compensation must be sought, Member States should ensure that in as many cases as possible, a decision can be made in criminal proceedings. Currently, many claims are sent to civil courts, thus removing many of the protection measures that exist for victims.

4.4.2. Victim sensitive criminal proceedings: Within the proceedings, proper protection of victims must be ensured through the enforcement of the Victims' Rights Directive.

4.4.3. Minimise trauma in civil proceedings: Where victims need to seek offender compensation within civil courts/proceedings, they should be properly protected from further victimisation, and the burdens of the proceedings are minimised,

including costs, for instance, when a case is sent to the civil court. Where a decision is made in civil proceedings, sufficient measures should be put in place in line with the objectives of the Victims' Rights Directive to minimise secondary victimisation and risk of further harm. Member States should explore how this can best be achieved without unduly affecting the balance of powers between parties and the overall system of civil justice.

4.4.4. Minimise enforcement burden of offender compensation: Member States should establish mechanisms to minimise the burden on victims and any possible trauma of having enforce a compensation order. In particular:

4.4.4.1. State enforcement: enforcement of decision on offender compensation by the state to minimise burden on victim and contact with offender

4.4.4.2. State pre-payment: the State should pay victims the amount awarded and reclaim these payments from the offender

4.4.4.3. Cost coverage by State: where a victim has to enforce the order themselves, costs should be covered by the State

4.5. Enable State compensation decisions before offender compensation: victims should be able to seek state compensation before seeking offender compensation or obtaining a decision on offender compensation. Member States should establish a mechanism to decide on a compensation award without requiring the victim to first seek compensation from the offender in a secondary procedure (i.e. seeking compensation in a civil court after criminal proceedings are terminated). Member states should ensure that State Compensation can be applied for without the need to obtain a decision on offender compensation first. This doesn't necessarily remove the ability or requirement to also seek offender compensation. However, it speeds up decision on payments. Recovery can then be sought from the offender.

4.6. Reduce administrative burden of applying for State compensation: Member States should simplify the administrative requirements of applying for State compensation. Measures could include, but are not limited to:

4.6.1. Reduction and simplification of forms to be completed by the victim;

4.6.2. Use of new technology including online application and evidence submission: Member States should make use of new, secure technologies, including digital case management systems, to enable victims to submit required documents and evidence online, and to facilitate access to victims' documents by authorised authorities (where GDPR rules permit).

4.6.3. Online digital dossier: Member States should investigate how an online digital dossier can be made accessible to appropriate domestic authorities, without breaching privacy laws. The system should utilise new software which allows for intelligent automation of interpretation and translation of documents.

4.6.4. Requirements for documentation and evidence should be simplified;

4.6.4.1. Simplify validation of documentation: Mechanisms for proving the validity or authenticity of documentation should be reviewed to identify the simplest, quickest, and cheapest system which balances the objectives of fraud prevention with the needs of victims. Use of electronic verification, communications between authorities, lighter legal requirements (such as recognition by lawyers rather than notaries, appointment of in-house staff for certain actions) could be considered.

4.6.5. Avoid conflicts of interest in medical exams: Member States should ensure that the medical examinations are carried out by qualified, neutral practitioners, avoiding any potential conflict of interest or situations where decisions of medical practitioners may be unduly influenced by deciding authorities.

4.6.6. Minimise number of medical exams: Member States should ensure that protective measures are put in place to reduce the number of medical examinations conducted on the victim. The reasoning behind repeat medical examinations by state/insurance practitioners should be re-examined in order to balance the risk of possible fraud against the risk of re-traumatisation. This can be achieved through mutual recognition of domestic medical documents, where the findings of a victim's chosen practitioner are recognised and cannot be contradicted by a State or an insurance company.

4.7. Provide assistance in completing the application:

4.7.1. Victims should be provided with support by authorities when seeking to apply for compensation and during the application process. Support should be both personal as well as through toolkits, apps, guidance documents, videos etc. – should be provided by VS services or in-house assistance.

4.7.2. Establish procedures to quickly identify and resolve problems in applications without putting the whole application on hold should be implemented.

4.7.3. Remove administrative costs from victims: administrative costs of the procedure should not be placed on victims (in particular, translation, notarisation or official recognition of documentation). At the very least, the actions required from victims should be designed to minimise any potential costs they may suffer, while costs imposed by the procedure should be recognised as recoverable costs within the compensation decision.

5. Victim support services fully accessible to victims

- 5.1. In compliance with EU legislation, Member States should ensure victim support services are available to victims and they offer assistance with compensation applications.
- 5.2. Support services should provide assistance to victims with the submission of compensation claims and organisations should be funded for such services.
- 5.3. Community needs assessments which explore support needs in a region are an effective means of determining what services to establish, develop or continue to support
- 5.4. To facilitate this process, Member States should explore establishing new income sources for funding services, such as through a victims' fund. Such funding would provide operational funding to overcome stop-start practices of funding projects and ensure sufficient service provision which addresses unacceptable waiting times to access support
- 5.5. Member States should ensure that support is delivered at consistent high levels of quality, in particular through the establishment of quality standards, based on international best practices.
- 5.6. Member States should establish referral mechanisms to improve the ease with which victims can be contacted by victim support services, seeking to improve the uptake of services by victims.
- 5.7. Member States should ensure that the delivery of support across the country is organised in a strategic manner, through coordinating regional services to guarantee that there is no geographical inequality of service quality across a given country.

Recommendations for EU action

How the EU can act for victims

The above national recommendations offer Member States concrete guidance on how to implement changes which will guide them closer to the ideal model of compensation. However, bearing in mind the extraordinary gap between the current situation and the ideal model, it is clear that action at a national level alone will not suffice.

This section will analyse how the European Union can use its measures to support the development of an ideal compensation model across all Member States, ending with a series of recommendations.

Our research has shown that whilst there are some good practices in providing compensation to victims of crime, extensive problems exist across the EU. This has had a significant impact on the number of victims receiving sufficient compensation and the trauma they suffer when seeking compensation. This is a wholly unacceptable situation, which requires a comprehensive and strategic response at both the national and European level. The recommendations for Member States above are extensive but represent only priority actions. In fact, for most if not all Member States, a wide ranging review of compensation systems – both State and offender – are necessary to ensure that future compensation schemes properly serve victims.

A European strategic vision and action plan

Yet this is not a job for the Member States alone. The EU must act in its role as guardian of the EU Treaties and champion of fundamental rights. It too must develop a clear vision of how the EU should help ensure victims have genuine access to fair and appropriate compensation. This should not entail, ad hoc, uncoordinated, and stop-start action but rather be a clear strategy backed by a five-year action plan with a properly articulated vision of compensation in the EU, specific actions, targets, and deliverables with the internal resources assigned to ensure the action plan is taken forward and completed. That strategy must take into account the interconnected nature of victims' needs. It will therefore be necessary to develop, in an integrated manner, actions on State compensation, offender compensation in both criminal and civil proceedings as well as wider activity on other forms of restitution, assistance, rehabilitation and financial assistance to victims. Only through working on these areas in a coherent way can some of the most complex questions around compensation be resolved.

The EU has at its disposal a range of tools that can support the development of world class victim compensation schemes in the Member States. In this complex area, with intersecting policies including justice, health, social welfare and more, it will be necessary to use all those tools in a coordinated manner.

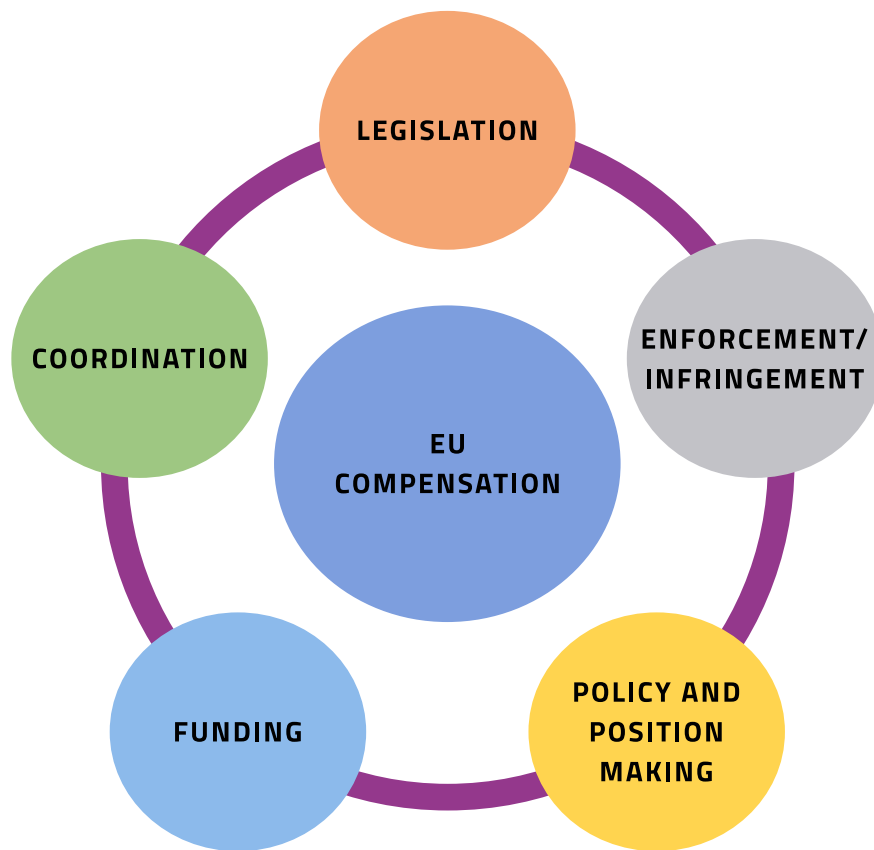


Figure 6: Five Core tools to achieving change on EU Compensation for victims of Crime

Legislation:

Whilst EU legislation (whether new or amended) is possible, it is not clear the extent to which new compensation rules can be extended under current EU powers nor the political will or appetite for such changes. In view of this and, given the significant problems faced by victims, the EU must develop a comprehensive process of analysis and consultation to determine what action requires legislation and the evidence base for such action. Consultation of specialists, establishment of committees, expert groups and wider public consultation as well as the use of existing bodies such as the compensation authority network and the ENVR should all be used to ensure a comprehensive understanding of the issues as well as full buy in at the national level. Crucially, consultation should include both governmental and non-governmental organisations as well as victims themselves.

Enforcement/Infringement:

The EU Commission retains through existing victims' legislation the power of review and infringement for non-implementation of EU rules. However, it has shown considerable reluctance in the last years to pursue Member States for their failures. That job, of course, is not helped by vague and non-binding language in legislative drafting which leaves a wide discretion to Member States to operate compensation systems without a detailed common framework. The result has negatively impacted on the lives of hundreds of thousands of individuals every year. With victims facing so many challenges, the EU must act to better position itself to use infringement procedures, in the limited situations where it is possible, to push non-confirming States to comply with their obligations, in particular through regular analysis of implementation and the development of clear interpretations of legislation, where confusion or conflicting approaches exist.

EU action must support the development of effective and responsive compensation schemes through developmental work but also by ensuring that existing EU legislation is fully and properly implemented. This means it must regularly collect information on the legal and practical implementation of compensation legislation, examining not only what rights victims have but also how compensation mechanisms operate, the number of victims applying for and receiving compensation, the amounts of compensation, whether this corresponds to notions of fair and appropriate and whether examine the effectiveness of those actions and both support Member States through capacity building work and carry out enforcement action against States which do not take action to comply with EU law. Enforcement action should equally cover violations of fundamental rights such as the right of appeal or review of administrative decisions such as those of a compensation authority.

Research and policy development:

The EU can also provide considerable support to States through the development of policies, positions and guidance. Extensive research, discussions, mutual positions on what are the best and minimum practices necessary in this field have to be carried out. This means exploring what is going wrong, why it is going wrong, the impact of this and what solutions exist or could be developed. It also means developing a common EU vision of the aims and fundamental principles of compensation systems. As is common in the field of victims' rights, a lack of research and data is repeatedly used as a reason not to act. Yet States often to collect the data themselves or do not carry out the research, thus preventing progress. The EU through own action and the funding of research and wider projects can change this so that everyone can act based on knowledge and evidence.

Funding:

Not only should the EU carry out its own research and actions, it should also financially support the work of States, NGOs and the private sector to advance this field. This means incorporating clear objectives on compensation in the funding programmes of the Commission and Parliament. It also means ensuring that both nationally focussed and multi-national projects are possible and that the procedures and administrative requirements imposed on applicants are simplified as much as possible. Whilst some EU funding programmes offer 100% financing and have highly efficient administrative systems, others such as under the justice programmes do not fund fully and are more complex to run. This greatly reduces the ability and likelihood of organisations to apply for funding. Specific objectives and references to victims' issues and compensation must also be included in larger research programmes such as H2020 to ensure that large scale, long term research can be carried out in the field.

Coordination:

Finally, the EU can play a fundamental role in bringing together the many different actors to discuss challenges and solutions and to act in a unified and coherent way. This will help national schemes to function well, and also establish strong cross border mechanisms to help EU citizens victimised abroad access the compensation they need and are entitled to. This means in particular, strengthening the existing network of compensation authorities, supporting meetings, discussions and the progress of common approaches. It means helping authorities identify key challenges and develop their own solutions – mutually agreed and to which they all agree. Such work may include the development of memorandums of understanding, toolkits, guidance documents as well as advanced technologies to support case management and cross border applications. The EU can facilitate exchanges between organisations, mutual trust building, training and much more.

Increased and efficient coordination between national compensation authorities, supported by the EU, will be especially beneficial to cross-border victims of crime, who currently suffer from practical, cultural, linguistic and time-limited barriers which make the compensation process even more difficult.

Not only must the EU support others to coordinate their work, but it must be fully coordinated itself. This means ensuring that the different institutions of the EU are working in a coherent manner, that effective internal coordination mechanisms exist specifically focused on victims' rights and compensation. As VSE has called for many years, this should include a victim coordinator operating in a similar manner to that of the EU Anti-trafficking Coordinator supported by sufficient resources and bodies to take forward an ambitious but realistic victims agenda. The European Parliament must also maximise the use of its Committees, intergroups and other mechanisms to press forward a coherent set of policies.

In 2019 a new European Commission and Parliament will have the opportunity to create a long term vision of compensation around Europe which can quite literally transform lives. To achieve success will require a comprehensive strategy – a five-year plan of action which integrates the above five key forms of action into a seamless progression of research, development and action – both legislative and non-legislative. Ideally, strategic objectives will be formed under a wider strategy covering all aspects of victims’ needs and rights – thus ensuring compensation matters are well integrated with wider issues.

Recommendations for EU action

To support the Member States and the implementation of national recommendations, the European Commission should focus its strategic actions around key themes as articulated in this report:

- 1) **Scope and objectives of Compensation**
- 2) **Knowledge of and information about compensation**
- 3) **Training**
- 4) **Accessible compensation**
- 5) **Supporting victims**
- 6) **Coordination**

1. **Scope and objectives of Compensation**

1.1. The EU must develop a better understanding of who needs compensation, for what purposes and what are the best mechanisms for maximising the number of victims able to access sufficient levels of compensation. This is no easy task; many competing policies have resulted in highly limited compensation systems that support few victims, offering insufficient financial assistance and often too late to do the most good.

1.1.1. This requires specific attention into issues such as **limitation to violent intentional crimes, the meaning of violent, restrictions on what harm** can be addressed, **eligibility and exclusion criteria**, and the meaning of **fair and appropriate**.

1.1.1.1. Examination of these issues will necessarily have to incorporate an examination of wider social systems which overlap with compensation objectives and in some countries serve objectives of compensation schemes.

1.2. As part of the Commission's work, it should support the **identification of best practices** models of compensation which incorporate fundamental principles on working with victims, help maximise the number of victims receiving compensation in the shortest time possible and with a minimum level of bureaucracy and secondary victimisation on victims.

1.2.1. This should include an examination of the situation of specific groups of victims e.g. children, victims with disabilities, victims of terrorism, whether specialist provisions are required for such groups and best practices for serving such victims.

1.2.2. The EU must also have a specific focus on the situation of cross border victims to better understand the challenges they face and determine whether specific EU rules are necessary to enable genuine access to compensation for such victims.

1.3. Ultimately the EU should support the establishment of a common vision for EU compensation identifying minimum standards and requirements such as with respect to evidence and eligibility which would facilitate cross border compensation claims.

2. Knowledge and information

2.1. The public must be better informed of compensation matters and more generally on victims' issues. Equally, victims themselves need timely information in a comprehensible manner.

2.1.1. The EU should support Member States in developing **awareness raising campaigns** and ensuring they achieve maximum impact.

2.1.2. Equally, a more structured and concrete approach is required to **information delivery**. The more the EU can help determine what information victims need and the best mechanisms and platforms to deliver that information, the more victims across the EU will have equal access to compensation whatever country they are in or victimised in.

2.1.2.1. The EU may do this by developing guidelines, toolkits and recommendations as well as by supporting the development of new technologies for information provision.

2.1.2.2. Ultimately, it may be appropriate to develop common standards for information provision on compensation (in terms of content, timing, frequency and form), ideally through EU legislation.

2.2. Supporting the national provision of information, the EU should further develop its own mechanisms for information provision. The EU **Justice portal** should be strengthened to provide more detailed and practical information to victims on compensation matters. Essential to its success – as with national information- will be a **multi-media** approach providing information through different media, in a victim friendly, accessible way.

2.3. The EU should also explore how it may support information provision in individual cross border cases – in particular through more advanced forms, evidence provision and translation of information. Technological solutions for information exchange, developed

for other EU initiatives such as the European Criminal Records Information System (ECRIS) should be explored. Equally cross border cooperation on translation services should be explored which together with technical solutions could support wider cross border victim issues. Where technological solutions are not sufficient and as part of focused coordination efforts, agreements, including through legislation, should be explored on the use of common procedures and languages, which could simplify or reduce the need for translation and interpretation.

3. Training to ensure professional and respectful interactions with victims

3.1. An essential element in developing victim oriented compensation mechanisms is the training of those working with victims. Training must cover both legal knowledge of victims' rights as well as softer skills to ensure that victims are treated with respect and dignity in all their interactions with those organising compensation. The EU should support the implementation of training programmes through the development of recommendations, guidelines, core training and the funding of projects aimed at:

3.1.1. identifying core minimum training needs across the EU;

3.1.2. identifying best practices in delivering compensation and working with victims;

3.1.3. developing and delivering specific training on compensation at the national level;

3.1.4. supporting exchanges across borders between those working in the compensation field, including civil and criminal law judges.

3.2. In addition, the EU should work directly with those bodies responsible for the development and delivery of training and with EU level bodies such as the European Judicial Training Network, to ensure that training in these fields is incorporated into the basic training and lifelong learning of officials. Solutions must be found to ensure that training of judicial practitioners and prosecutors is not prevented due to claims around independence of actors. Whilst such independence must be protected, it should not become a block to ensuring that judicial practitioners have sufficient knowledge and understanding of victims' issues and how to work with victims.

4. Accessible compensation schemes

4.1. The EU can do much to support a better understanding and analysis of what rules are necessary to ensure the effective functioning of compensation schemes whilst minimising their negative impact.

4.1.1. Specific analysis should be targeted at issues such as barriers to reporting crime, deadlines for reporting, applying and submitting evidence, mechanisms for reporting,

efficient collection and sharing of information and evidence for a claim, systems of speedy or early payment to victims should all be the subject of detailed research, discussion and identification of solutions in general and for specific or vulnerable groups such as children, victims with disabilities and migrants.

- 4.2. Through research and consultation, the EU must develop a clear picture of aspects of compensation systems that should be subject to common minimum standards to ensure smooth compensation processes across borders, support mutual trust between countries, judicial authorities and compensation bodies. This could be particularly relevant with respect to administrative obligations on victims (e.g. deadlines, evidence provision, languages, forms) which vary from State to State but which would operate better on the basis of a single set of rules. Equally, the EU should examine how administrative costs can be removed from compensation applications. As the EU has recognised that support for victims should be free of charge, so too should access to compensation.

5. Supporting victims to access compensation

- 5.1. The EU should facilitate the development of extensive support mechanisms for victims to assist their access to compensation. In part, this means ensuring that all Member States fully comply with the EU Victims Directive and have in place generic and specialist victim support services across their territories. As such the **EU Commission should carry out a comprehensive analysis of Member State's practical and legal conformity with articles 8 and 9 of the EU Victims' Rights Directive** and take appropriate measures where these articles are not correctly implemented, including pursuing the option of infringement proceedings.

- 5.1.1. Such analysis should examine measures taken by Member States that inhibit the delivery of services or deliberately seek to exclude NGOs from delivering services. Funding of NGOs delivering supporting must be a core component of any analysis since either a lack of funds or administrative burdens on funding can inhibit development of services. The EU commission should monitor closely situations where funding is decreased or cut, to determine the impact on conformity with EU victims' legislation.

- 5.2. The EU should also support Member States in identifying ways to ensure that **Victim Service providers are delivering services to a high, consistent quality** reducing risks of harm to victims and improving effective governance standards whilst not unduly overburdening organisations.

- 5.2.1. The establishment of operational **116 006 helplines** in all Member States should be a priority and the creation of new helplines should be assisted through EU funding

as other 116 helplines have been supported.

5.3. Support services should also be fully developed within compensation bodies with the coordination between those bodies and other support services encouraged. Better articulation of obligations in this field could be achieved through European legislation as well as through EU funding. The EU should also support projects to develop remote assistance services making the most of new technologies such as virtual, augmented and mixed reality as well as artificial intelligence. This work can be combined with more traditional solutions such as toolkits, apps, guidance documents, videos, etc.

5.4. In order to guarantee access to compensation, State Compensation must remain a public, state competence, not to be outsourced to non-public and/or private entities.

6. Coordination

6.1. The EU should lead a review and improvement of coordination and co-operation between national authorities in cross border cases.

6.1.1. Where substantial and repetitive issues remain concerning the coordination of national compensation authorities between Member States, the EU should examine reinstalling a European Network of Compensation Authorities.

6.2. Forms used by deciding and assisting authorities should be reviewed and improved, possibility creating a single common application form, simplify the application process for both victims and authorities.

6.2.1. The EU should explore whether a more advanced EU system is necessary and feasible which would allow for better **online management** of cross border applications between the member states – potentially with the ability to connect with national case management systems.

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