

Next Steps in Progressing Victims' rights – Future plans

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Ladies and Gentlemen, colleagues and friends,

- I am honoured to give the first statement on the second day of this impressive conference. Before sharing with you the European Commission's future plans on victims' rights, let me **just thank Victim Support Europe and Victim Support Scotland**, in particular, for inviting me and organising such an important event. I am happy that the Commission has been able to provide some funding to make it possible.
- We heard yesterday strong support for the EU's actions on victims' rights. It makes me very proud to represent that effort on this panel together with **Ms Parvanova** who was the European Parliament rapporteur for both the Victims Directive and the EPO civil regulation.
- This initiative has greatly benefitted from the **input from the civil society organisations and academics** also present here today. As Vice President Reding said in her statement yesterday, your contribution has been invaluable and we count on your continued help to getting all actions on victims properly implemented now when we have good legislation in place.
- But I also welcome your **critical views and suggestions** on what to do more and better at the EU level. This is why this conference at this particular time is very important for us – we have achieved a great deal already but it does not stop here.
- I think that we are at a **crucial stage of policy development at the EU level**. There is a strong political momentum to strengthen rights of victims – despite the difficult financial and budgetary reality in most of our countries.
- The fact that the Victims Directive - with its 32 Articles and a range of complex and costly obligations on the States – was negotiated and agreed in only 18 months shows that European governments do share the common objective to better address the needs of victims and the important role they should play in criminal proceedings.

What has been achieved?

- We have just completed the legislative processes of the measures proposed in the **Victims Package** presented by the Commission almost exactly two years ago – the Victims' Directive was adopted in October last year and the regulation on the mutual recognition of protection measures in civil matters has just been agreed between the Council and the European Parliament and will be adopted soon.
- Together with the 2011 Directive of the European Protection Order – and the 2011 Directives on Human Trafficking and Child Sexual Exploitation – we now have a comprehensive legislative basis at the EU level to ensure that victims of all types of crimes get proper procedural rights, support and protection in the criminal justice systems of the EU Member States.
- But it is now time to turn our attention from paper to practice. So the first element of the Commission's future plans on victims is **proper implementation of the EU legislation into national laws and policies**.

Implementation of the Victims Directive:

- According to **Article 288** of the EU Treaty: "A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods."
- So the **role of the Commission** in this process – as the "guardian of the EU Treaties" – is to make sure that the **result is achieved**: that Member States **adequately transpose** the directive into national law by the deadline on 16 November 2015.
- Making sure that the Directive is properly transposed and implemented into national legal frameworks is **absolutely crucial** to ensure that we improve victims' situation across Europe. Beautiful principles on paper won't help people who need real rights if they fall victims of crime.
- We have deliberately aimed at **raising the standards on victims' rights** to recognise and address victims' **individual needs** in criminal proceedings. Member States will not be allowed to go below these standards.
- Our common efforts during this implementation period will therefore be very important. In DG Justice, we have decided to take **more proactive part** in this process than before to assist Member States.
- To **kick off the implementation phase** of this comprehensive and far-reaching Directive we organised a two day expert meeting in Brussels a

couple of weeks ago. We invited representatives from **national governments** and a few other **stakeholders involved**, including Victim Support Europe.

- To help Member States, we have prepared a **draft Explanatory Working Paper** that was discussed at the expert meeting. In this paper, we have explained the most important, complicated or unclear provisions in the Directive to help government officials and all relevant practitioners to understand their meaning and how to implement them.
- In the paper, we have also included **recommendations** to Member States on what we think could be good ways to transpose and implement the Articles in practice. We invited the experts to give us their comments about these recommendations – are they relevant and feasible, do they go too far, did we miss something?
- Based on input from experts and stakeholders, we will now finalise the document and publish it – probably just after the summer break.
- We will also follow up on this meeting with both **bilateral contacts and implementation workshops**, either on specific topics or by regions. The aim is to help Member States as much as possible to understand what is required of them to set up the best possible services, assistance and protection to victims.
- We know that the **implementation process will be complex and sometimes challenging for many Member States**. All countries have their own criminal justice systems and legal traditions and the objectives of the Directive can be achieved by various means – combining legislative, administrative and soft law measures. Implementation should also take into account best practices in the field of victims' assistance and protection.
- We have therefore recognised that there will be **different approaches in different countries on how the provisions will be implemented**. However, the Commission will require when checking compliance that Member States have put in place a **specific legal framework on victims' rights that enable individuals to recognise clearly their rights and obligations under EU law**. This is required under the case law of the European Court of Justice.
- We will use the same approach for the implementation of the **European Protection Order Directive** which must be transposed by January 2015. On the same date, the EPO civil regulation must be applied by the Member States so we will address the implementation of both EPO measures in our explanatory paper and meetings with the Member States.

- **Practical measures** to implement the Victims Directive are also very important - that's where you come in, the experts and practitioners working on the ground. The Commission can provide grants to projects through our funding programmes. For example, key actions include training and capacity building of professionals, exchange of best practices and information.
- But at the end of the day, these EU grants can only cover a small part of what is required in terms of professional, practical and financial commitment. National governments and organisations must therefore work together to ensure that the new legal framework can make a tangible difference to the lives of victims of crime.
- As David McKenna said yesterday, this is not a race towards the transposition deadline – the starting line begins at the end of 2015. This is when most of the real implementation work will start and when national governments must demonstrate that they actually are in compliance with the Directive. If they don't, there may be legal consequences.
- This leads me to the second element of our future plans - the **enforcement of victims' rights**.

Enforcement

- According to EU law, if Member States don't transpose an EU Directive or don't do it properly, the Commission may initiate **infringement proceedings** against them at the European Court of Justice. This may result in a fine and the State having to take measures to comply with the Directive.
- The Victims Directive is based on the **2001 Framework Decision on the standing of victims in criminal proceedings**. The Framework Decision has been implemented by Member States to a certain and varying degree.
- But compared to the Framework Decision – a “third pillar” instrument, the new Directive is a **legally binding** instrument for which the **Commission has full enforcement powers** under the Lisbon Treaty and the **ECJ has full jurisdiction**. The context in which we are now working is therefore **completely different** than before.
- We should also not forget that individual victims of crime will now benefit from the **direct effect** of the Directive after the transposition deadline. This means that the Directive can be **enforced directly by individuals** against Member States by bringing a case to national court. This is a significant progress towards enhancing citizens' protection through directly applicable rights in line with established European Court case-law.

- A citizen may also lodge a **complaint with the Commission** against a Member State for any measure (law, regulation or administrative action) or practice taken or applied by a Member State which they consider incompatible with a provision or a principle of EU law. This complaint may, eventually, lead to the formal opening of an **infringement procedure** by the Commission.
- So there are different ways in which EU legislation can be enforced. Of course, an infringement proceeding is not the first thing the Commission is likely to launch – there will be a dialogue with the non-compliant Member State to give them a chance to take appropriate measures before legal proceedings are launched – but it happens regularly. For example, Greece was recently fined for not having properly implemented the 2004 Directive on Compensation to crime victims and I do not exclude that we will have future cases especially on the Victims Directive given its complexity.

Future initiatives?

- The Victims Package is only a **first step** to address the rights of victims of crime across the European Union. Following the Council Budapest Roadmap, we are reviewing the legal framework for **compensation** to crime victims and are preparing further action in this area. We are looking at various options to ensure victims have proper access to fair and appropriate compensation in the future – both from the State and the offender.
- We are also in the process in DG Justice of reflecting on the **next multi-annual work programme in the area of Justice** after the end of the Stockholm Programme. Actions on victims will remain in the programme.
- So we now work hard on ensuring the proper implementation and application of current legislation and at the same time are looking at gaps to address in the future. I can assure you that the Commission is determined to make sure that that victims get real rights, practical rights, which can help them in all their dealings with the criminal justice systems in the EU Member States.
- In doing this, we invite you to provide us with input, stay in touch, ask us questions, share your experiences and your different systems with us. We welcome these contacts which make our understanding of the situation of victims in Europe more complete.

Thank you !