

Victim Support Europe Contribution

EU STRATEGY ON THE RIGHTS OF THE CHILD (2021-2024)

About Victim Support Europe

Victim Support Europe (VSE) is the leading European umbrella organisation advocating on behalf of all victims of crime, no matter what the crime, no matter who the victim is. VSE represents 58 national member organisations, providing support and information services to more than 2 million people affected by crime every year in 30 countries.

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

I. Introduction

Child victimisation is an issue that is at the forefront of VSE's work. While the exact scope of the problem of child victimisation remains unknown due to a number of factors, some research indicates that up to 60% of children are exposed to violence in some way, every year – either by directly being a victim or a witness to a violent act, or by hearing of violence from their family or friends.¹

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

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

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

In this contribution, we will use the four key points as described by the survey to navigate the approach of child victims' rights, namely: participation in the EU political and democratic life, digital information and society, violence against children, and justice and migration. Afterwards, we will give general recommendations for children's rights in the EU.

II. Participation in the EU political and democratic life

Children's voices are often not heard or listened to when it comes to decisions on affecting them directly – this includes victimisation. Child participation is important, because it gives children an opportunity to have a say about issues and decisions that affect them and develop a closer connection to their community. As a result, programmes and services created for children, which empower children and

¹ Children's Exposure to Violence: A Comprehensive National Survey David Finkelhor, Heather Turner, Richard Ormrod, Sherry Hamby, and Kristen Kracke, available at: <https://www.ncjrs.gov/pdffiles1/ojdp/227744.pdf>

support them in sharing their experiences and expressing their will and preferences, will better reflect their needs for support and ensure they recover sooner and more completely from their exposure to the crime.

The involvement of children, as part of the community and users of services, can make sure agencies and organisations are relevant to them. Their participation ensures what is provided is what is needed, and children are more likely to support the outcome if they have been involved in developing it. We therefore call on the EU to **investigate how to facilitate ways in which children can effectively participate** in criminal proceedings that concern them.

III. Digital information and society

The development of new technologies has gone hand in hand with the rise in the online victimisation of children, such as child sexual abuse, cyberbullying or stalking. This development requires a novel approach to prevent online child victimisation from happening in the first place, but also to prevent repeat victimisation and secondary victimisation of vulnerable children.

New technologies, such as artificial intelligence or virtual and augmented reality, can be used to detect, identify and prevent potential abusive behaviours such as grooming, but also to prevent and intercept the dissemination of child sexual abuse material before it reaches a broader audience.² Such technologies could also play a role in preventing repeat or secondary victimisation, as victims will not be at risk of being exposed to online material of their traumatic experience. Removing child sexual abuse material is, therefore, a key component of this work. While hotlines receive and act on reports of illegal material from members of the public, the tech industry also has an important part to play a proactive role in restricting access to child sexual abuse material. Additionally, internet and tech companies should incorporate ‘safety by design’ in their mechanisms to ensure that their products are safe for children and can help prevent child sexual abuse. Social media and the internet can therefore also be used for good: they can provide child victims with different forms of online support. As children are oftentimes reluctant to come forward after being victimised, online support offers them a great way to seek help anonymously.³

The EU is well placed to have a high level perspective on new and emerging crimes, risks and problems. Often such issues will start to be addressed by a limited number of States early on, with others playing catch up. The EU must gather pan-European and global knowledge on key risks and best practices to develop solutions faster and better than Member States acting alone. In doing so, it must actively consider which issues require European solutions through minimum standards, potentially harmonising legislation.

IV. Violence against children

Child victimisation can be categorised into three groups: (1) conventional crimes in which children are victims (e.g. rape, robbery, assault), (2) acts that violate child welfare statuses, including some of the most serious and dangerous acts committed against children, such as abuse and neglect, but also some less frequently discussed topics such as the exploitation of child labour, and (3) acts that would clearly be crimes if committed by adults against adults but which by convention are not generally of concern to the criminal justice system when they occur among or against children, such as sibling violence and

² These technologies could also recognise and prevent abusive behavioural patterns, both on the side of the perpetrator and in general, to prevent online contact between the (potential) victim and the perpetrator who is after them.

³ An example of online peer support is JUUUPORT (<https://www.juuuport.de/beratung>). This website allows children to seek online support through WhatsApp, Telegram or their own website.

assaults between pre-adolescent peers.⁴ We would also like to mention (cyber)bullying in this instance, as it may turn into (cyber)stalking at a later stage.

A specific form of violence is children's exposure to crime suffered not directly by themselves, but by their loved ones in the context of domestic abuse. Namely, numerous studies have shown that even witnessing domestic violence can have traumatising effects on children. Children who witness violence in the home and children who are abused may display many similar psychologic effects. These children are at greater risk for internalised behaviours such as anxiety and depression, and for externalised behaviours such as fighting, bullying, lying, or cheating. They are also more disobedient at home and at school, and are more likely to have social competence problems, such as poor school performance and difficulty in relationships with others. Child witnesses display inappropriate attitudes about violence as a means of resolving conflict and indicate a greater willingness to use violence themselves.⁵ It is, therefore, of utmost importance to recognise the consequences of domestic violence on children as its direct and indirect victims and to ensure that their needs are responded to.

A critical factor in the harm that victims experience is disempowerment – the loss of control over their lives. That disempowerment is felt not only as a direct result of the crime (primary victimisation), but also through other negative experiences that are secondary to the incident and that occur during contact with the criminal justice system and other associated systems (secondary victimisation). While increasing resilience is an important preparatory step, it is still important to put into place necessary support services for child victims and ensure that every child victim has access to all the services they need to achieve full recovery.

Support and protection of a victim of any crime is of paramount importance for their recovery. As recognised in the EU Victims' Rights Directive, victims of crime should be protected from secondary and repeat victimisation, from intimidation and retaliation, should receive appropriate support to facilitate their recovery and should be provided with sufficient access to justice. The Directive imposes an obligation on Member States for ensuring nation-wide victim support services, both generalist and specialist in nature, which are capable of fully responding to victims' needs. In our experience, both these types of services are necessary to cater to the needs of child victims. Support services for child victims need to be available to all victims – regardless of whether they reported the crime, be accessible and provide quality services to any victim who needs them, for as long as it is needed.

While there are some forms of support for child victims throughout Member States, it is alarming to note that a number of EU Member States is still failing to ensure nation-wide generalist support services, which should exist for the benefit of all victims, including child victims and their families. There is little information about the availability and sufficiency of specialist services for vulnerable child victims and there is no concerted effort to establish the need for such specialist services. At the same time, in a number of Member States there is a lack of sustainable and stable funding for victim support services, leaving vulnerable victims, including child victims, to receive support from time-limited initiatives, such as projects, hence risking end of support with the end of the project.

V. Justice & migration

When dealing with child victims in the criminal justice system, it is important to ensure the proceedings are child-friendly. According to the Council of Europe⁶, child-friendly justice refers to justice systems that guarantee the respect and the effective implementation of all children's rights at the highest

⁴ Finkelhor, D. (2008). *Childhood victimisation: Violence, crime, and abuse in the lives of young people*. Oxford University Press: 23-24.

⁵ Stiles, M. M. (2002). Witnessing domestic violence: The effect on children. In: *American Family Physician*, 66(11): 2052-2067.

⁶ Council of Europe (2010). *Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice*. Retrieved from: <https://rm.coe.int/16804b2cf3>

attainable level, giving due consideration to the child's level of maturity and understanding and the circumstances of the case. It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity.

Regarding specific priority areas to tackle in respect of child victimisation, there are some specific recommendations that VSE would suggest:

1. Understanding the issues surrounding **unreported crime**, and working towards increasing the reporting rates.
2. Closely related to underreporting is the **lack of respect and recognition** of victims in general and in particular of child victims. In this regard, it is particularly important to identify manifestations of victim blaming 'culture' and address it throughout society – through education for justice initiatives, awareness raising, cultural changes, victimisation mainstreaming and action.
3. It is particularly important to ensure that child victims also receive **restoration and compensation**. Legal systems need to make sure that where there is no state compensation available, victims do not have to go personally after the perpetrator to seek compensation. Offender compensation should be ensured through criminal proceedings. Exceptionally, when this is not possible, compensation claims need to be dealt with in the least traumatising and revictimising manner.

To ensure effective investigation and prosecution, it is important that the right measures are in place so that child victims feel safe to tell their story. Law enforcement and justice practitioners need to work with children in a respectful way, making the information they receive understandable, enabling them to be heard, and recognising that all children are different and need to be treated in an individual way. Article 22 of the Victims' Rights Directive imposes an obligation for individual assessments of each victim; this is especially important for child victims. There needs to be an **individual assessment of each child⁷ and a multi-agency approach⁸**, aiming to reduce the trauma that children face through the legal proceedings. This assessment needs to be child-focused and ensure, in particular, elimination of secondary victimisation.

We insist on child victims' participation in the proceedings being maximised to the extent they want to, utilising innovative practices to help victims safely participate in the justice system and give the best testimony they can (e.g. by allowing facility dogs⁹), whenever possible and appropriate, given the child's age and maturity as well as their own preferences.

Measures need to be taken to **review compensation mechanisms, in view of the specific situation of children**, given their lack of legal capacity to manage their own finances and the fact that frequently there is a significant historical distance between the crime and its reporting. The current deadline for reporting the crime and seeking compensation can have a particular negative impact on child victims. The EU needs to recognise that some victims will be prevented from coming forward by factors such

⁷ See also Article 56 of the Victims' Rights Directive.

⁸ One often referenced multi-agency model is Barnahus. This and similar examples of multi-agency cooperation focused around the vulnerable victim need to be encouraged and provided, whenever individual assessment of victims' needs indicates such an approach.

⁹ Facility dogs are specially bred and selected dogs that go through a special programme of training for about two years, to be able to support the most vulnerable victims in their recovery from crime. Child victims are frequent users of this important service, and many Barnahus locations also provide this service to their users. Even though there have been several isolated cases of facility dogs being placed in service to support victims, VSE is currently working with a number of partners to launch a European FYDO initiative in the near future.

as shame or incomprehension about what happened to them. This delay in reporting and seeking compensation needs to be reflected in the deadline and rules with regard to child victims.

We would also like to note that, in the light of child-friendly justice, VSE believes that it is important to note that victims should be able to access their rights, regardless of the age of the offender. This means that a child-friendly juvenile justice system needs to ensure that victims of juvenile offenders receive all the support and recognition they need, without detriment to the rights of a child offender.

VI. Conclusion & recommendations

Crime has a significant and long lasting impact on millions of people in Europe. However, not enough is being done to support victims in general, and the most vulnerable in particular. Namely, despite wide ranging EU legislation¹⁰, many of the rights laid down in this legislation are, disappointingly, far from being fully and appropriately implemented. We need to insist that Europe should and can do much better than that. We therefore call on the European Commission to insist on **full transposition** of the Victims' Rights Directive and the Child Sexual Abuse Directive and to **examine reasons for the limited success of the European legislation in the area of victims' rights**.

Practice has shown that the European Protection Order is working poorly for European victims, mostly due to a lack of consistent approaches between national systems in the types of measures, their availability and the procedure to have them determined and implemented. The EU should recommend, and the Member States implement, a set of common rules for the protection of victims, including a range of measures at disposal of the police and other agencies, which are prompt and which provide for an immediate and appropriate protection of child victims. We call for setting out a **minimum standards for protection orders** to ensure a minimum equal level of protection, no matter where in the EU the victim is, while at the same time safeguarding the high performance in some Member States.

We are also inviting the European Commission to ensure that safe and flawless child-focused **referral mechanisms** between law enforcement, victim support organisations and other actors is established, based on **individual assessment of victims' support and protection needs**. The EU should encourage and support cooperation between State authorities and civil society to deliver services in unison. While there are some needs of victims which can only be delivered by the State (e.g. justice or protection), there is a range of other needs that can be better catered to through a collaboration between different actors for the benefit of all victims. We call on the EU and Member States to develop **active partnership with the IT sector, in cooperation with victims and victim support organisations** to develop effective responses to online child sexual abuse.

To ensure that victims and their families are properly supported, support for child victims needs to be delivered through a collaboration of societal services, such as education, healthcare, social services, law enforcement and judiciary and civil society, through both generalist and specialist forms of support. We call on the European Commission to **insist that Member States ensure full access to high quality generic and specialist services for all child victims**, which are delivered in collaboration between the State authorities, societal services, civil society and the private sector. It is particularly important to ensure that civil society is recognised as an important contributor to victim support and to accept that the non-governmental sector needs to be encouraged and enabled to continue supporting vulnerable

¹⁰ In particular: Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children and child pornography; Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime; Council Directive 2004/80/EC relating to compensation to crime victims; Directive 2011/99/EU on the European Protection Order (EPO); Regulation (EU) No. 606/2013 on mutual recognition of protection measures in civil matters; Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims; Directive (EU) 2017/541 on combating terrorism; and the Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data.

victims. In this regard, we are calling for the European Commission to require the **establishment and development of national generic victim support services** in Member States where these services still do not exist, and further support and funding to such services in countries where they already do exist.

Member States are responsible to make sure such services **have sufficient funding and other resources** to successfully deliver services. These resources need to be ring fenced and stable, and where existing funding is insufficient, new funding streams need to be developed, introduced and implemented. Victim support services need to be of a satisfactory level of quality, with the introduction of a system of **standards and accreditation** to ensure that victims are well taken care of and to reinforce the trust between the national authorities, support services and the general public.

Services need to be provided in a **range of different ways**: face-to-face, helpline (a generic 116006 helpline, as well as thematic helplines for different groups of victims, including child victims), online support (through websites, different social media platforms, apps, etc.), mobile outreach teams, and any other form. Moreover, different specialisations can and should be provided to all victims as well as child victims. These specialised services should provide a certain type of service (e.g. legal aid, psychological support, peer support, etc.) to child victims of a certain type of crime (victims of sexual violence, cybercrime, domestic violence, etc.), or specific complex multi-agency services (e.g. MARACs).

The EU should support **cross-border exchange of information and cooperation on individual cases** by supporting referral and coordination of services, both at a national and international level. With an increase in mobility and the use of the internet, cross-border victimisation issues are also increasing. This requires recognition at a policy level, but also at the level of provision of services to all victims, regardless of where they were victimised or what their needs might be. We need to ensure sufficient support for cross-border child victims. Child victims in cross-border situations need to have a **guarantee of continued support when they go from one Member State to another**.

We further call for **exploring new psychosocial support techniques and therapies and improving existing ones**. Cutting edge technologies developed in other sectors could be adapted to the area of victimology, such as virtual and augmented reality. These technologies can help victims in their recovery and help them overcome PTSD. EU wide support for the development of state of the art therapies will ensure not only the best is available, but that it is accessible to all. Moreover, other novelty services should be explored and pursued, such as the development of facility dogs (FYDO) services across the EU.

We are calling on the European Commission to support **the introduction of basic resilience training for all children in the EU**. This training should enable children to recognise unacceptable behaviours and empower them to seek assistance and protection from their parents, educators and other persons in their surroundings. It should also enable them to recognise victimisation in their environment and respond to their friends' and relatives' victimisation in an understanding and compassionate manner.

In order to improve the EU's application of child-friendly justice, the EU needs to encourage and Member States need to ensure **high quality of communication** between justice practitioners and victims through respectful treatment and accessible communication. Legal jargon can be particularly complicated to understand for children. We are therefore calling for promoting and developing **innovative practices to improve justice/court user experiences**, maximise access to rights and reduce secondary victimisation, such as using video recordings of victims' testimonies, having separate waiting rooms for the victim and the offender, allowing facility dogs in the courtroom, et cetera. New technologies may also aid in anonymous reporting, helping victims come forward, and informing victims on the justice system.

The EU should encourage Member States to require their judges to prepare **child-friendly judgments, or at least summaries of judgments**, where they address the child victim and explain to them, in an

adapted language, what happened at the trial and what the consequence of the judgment is for them.¹¹ Unfortunately, while protection measures for children exist, there is often not enough funding to implement them (e.g. separate waiting areas, video conferencing, et cetera). In some Member States these facilities may exist in larger cities, but they are not sufficiently available throughout the whole country.¹²

To conclude, key objectives should be developed based on overarching thematic priorities. These priorities, which broadly link to the **five needs of victims** (recognition, protection, support, justice, compensation and restoration), as well as EU cooperation, should be developed having in mind all victims of crime as well as the specific needs and actions for child victims. The main areas of a person's life which are affected by crime, as well as sectors which can have the greatest influence on social wellbeing and recovery of victims, should also be actively engaged in victim policies (e.g. healthcare, education, justice systems, policing, workplace). Additionally, the **tools** by which these thematic priorities are to be delivered should be described, particularly where some tools may require specific EU activities, e.g. specialised focus on training. Setting out implementation tools separately from thematic priorities will avoid the repetition of issues across different themes.

¹¹ This judgment is a great example of a child-friendly judgment in the Netherlands: ECLI:NL:RBMNE:2017:1541.

¹² See also: *VOCIARE report* by VSE: <https://victimsupport.eu/about-us/our-projects/vociare/>