

Victim Support Europe Contribution

2021 EU Justice Scoreboard



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 62 member organisations, providing support and information to more than 2 million people affected by crime every year in 30 countries.

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

Introduction

In the past years, the European Union has taken important steps to promote the rights and protection of victims of crime. Despite some progress, recent reports show that victims of crime still cannot fully rely on their rights in the EU. Throughout the European Union, victims' rights are not foreseen nor are they applied in the same way between the different Member States. Whilst different cultures and legal structures inevitably lead to different approaches, a range of research including VSE's [Vociare project](#) indicates that inconsistencies are also mainly due to the incomplete or incorrect transposition of the Victims' Rights Directive into the different national legal systems.

Access to justice is one of the core rights recognised in the Victims' Rights Directive; however, many obstacles still exist for victims to fully rely on their rights:

- Firstly, a large proportion of victims never report the crime or never reach the services they need because they are not identified as victims or because of barriers to coming forward; victims may not understand they are victims, they may not know their rights, and they may not know how to report a crime.
- for those who report the crime or seek help, many are subject to secondary victimisation by a wide variety of actors both inside and outside the justice system, and by society itself – due to lack of knowledge and understanding, lack of protection, poor treatment, and lack of co-ordinated efforts.
- for those who report the crime or seek help many do not benefit from rights established in EU law either because the right is not implemented or it is implemented poorly, or they are never informed of their right.

To achieve a substantial improvement in the operation of European justice systems for the benefit of victims, rights need to exist in law and be fully implemented in practice. However, there is **crucial need of data to know whether these rights are actually implemented, where the gaps are and whether the actions taken are effective or not and that they meet victims' needs**. There is a **significant lack of victim relevant statistics within the justice sector** in particular. For too long the absence of data has been used to argue that no action is necessary. Data collection and data analysis are therefore crucial to improve the access to efficient, effective and safe justice for victims.

Victim Support Europe welcomes the Commission's initiative to gather information from civil society on this important issue. While we recognise the importance of measuring the efficiency, quality and

independence of justice systems in the EU Member States for the good functioning of the EU and the respect of the Rule of Law, we deplore that certain aspects of justice systems are missing from the reports, in particular:

- The significant lack of focus on criminal justice and victims of crime: the scoreboards mainly focus on civil, commercial, and administrative cases;
- The lack of focus on safe justice for users: whilst efficiency of justice and successful convictions have to be general priorities for justice, a key issue for victims is that they are able to fully and safely participate in the process: VSE recommends to include criteria on safe justice within its concept of the efficiency and effectiveness of justice;
- The lack of collection of data within the criminal justice system.

We therefore call on the European Commission, in its review, to develop new EU Justice scoreboards to address these gaps

1. Focus on criminal justice and victims of crime

While the Justice Scoreboards focus mainly on litigious civil and commercial cases as well as administrative cases, the expansion of the Scoreboard to include criminal cases should now be considered as a priority in the EU's actions to improve European justice systems.

It is a well-established principle of evidence-based policy making – a cornerstone of European action – that the policy cycle of developing laws, policies and practical measures is dependent on accurate data to determine what action is required, to determine if those actions have been taken, whether they are effective and what adjustments are subsequently needed to improve failing situations.

Despite this, the accurate, consistent, repeated collection of data across the European Union on issues relevant to victims' rights is wholly inadequate. The situation drastically reduces the ability of justice authorities, service providers, NGOs, Governments and the European Institutions to accurately respond to the needs of victims and develop justice systems which not only bring swift and fair justice but also minimise the harm experienced by victims within those proceedings.

Data of course is collected by the Member States as well as through sporadic or project based EU actions such as the highly valuable research carried out by the EU Fundamental Rights Agency and the European Institute for Gender Equality.

Moreover, since 2017, the Scoreboard started to include an overview of the functioning of national justice systems when applying EU anti-money laundering legislation in criminal justice. Indeed, in 2017 a pilot questionnaire was developed, which collected data on the functioning of various national bodies, including criminal courts dealing with money laundering offences¹. The Scoreboard also looks into the availability of training in communication for judges with victims of gender-based violence (including domestic violence) but this is the only mention of victims of crime in the report.

Whilst these are positive developments and a recognition of the need for criminal justice data, this intermittent and non-comprehensive approach to data collection is insufficient. Indeed, already in 2016, Sophia in 't Veld (ALDE) argued that the EU Justice Scoreboard should be incorporated into the

¹ https://ec.europa.eu/info/sites/info/files/justice_scoreboard_2017_en.pdf

EU pact on democracy, rule of law and fundamental rights; she stressed yet again that criminal justice should also be included in the Scoreboard².

The Justice Scoreboard should start including data from criminal justice systems and focus on victims' experience in the proceedings. The EU should take example from the Council of Europe CEPEJ Report which looks, for example, at whether countries conduct satisfaction surveys on trust in justice and the work of courts for all proceedings, including criminal ones³.

2. Efficient, effective and victim-centred justice

Effective justice systems are crucial for the functioning of the European Union, for the effective application of EU law, for mutual trust between national courts and between Member States, for the internal market and for an investment-friendly environment.

However, in line with commitments by the EU and Member States to put victims at the centre of their justice system, they must move from the idea that success in justice is measured solely by efficiency or prosecution rates, to the notion of safe justice – a system where victims feel secure and empowered to participate in the proceedings, and where the risk of further harm and trauma are minimised.

Once victims have entered the criminal justice system, there are exposed to secondary victimisation and further trauma. Improving victims' experience in the criminal justice system will enable their voice to be heard, improve testimonies and facilitate their participation in the process – which in turn of course improves efficiency and effectiveness

Since 2001, EU legislation on Victims' Rights has sought to achieve. Today EU victims' rights in criminal proceedings are established through multiple Directives and Regulations. Many of those rights are precisely designed to better protect victims, yet there are no consistent set of indicators to measure how well Member States justice systems implement these rights, nor do they measure the impact of these measures on justice or on victim well-being.

Under the current EU Commission and EU Parliament term, numerous of these legislation including the 2012 Victims Directive will be evaluated to determine whether they should be amended or whether further action is required. These evaluations will not benefit from data that could have been collected through EU Justice Scoreboards. Nor will the Commission's assessments of the implementation of EU laws for victims benefit from such data sets.

Whilst future EU Justice scoreboards will not benefit the current evaluation period, it is essential that for future evaluations and legislation, the scoreboards are extended to cover criminal justice and victim's issues, so they can be used as part of a suite of data collection activities including FRA and EIGE surveys, Eurostat surveys, and EU funded research which will support evidence based policy making.

The way victims of crime are treated and the respect of their rights and dignity is essential and should be one of the priorities when assessing justice systems. A high conviction rate or a speedy proceeding can be seen as indicators for an efficient justice but if the victim has not been treated with respect by not being effectively and timely heard, by having not be provided with the relevant information about

² <https://www.tandfonline.com/doi/full/10.1080/14782804.2018.1534729>

³ <https://www.coe.int/en/web/portal/-/efficiency-and-quality-of-justice-in-europe-2020-report>

their rights, or simply by not being recognised as a victim can have long term impact and lead to secondary victimisation.

Indicators need to be aligned with victims' rights as established under EU legislation: the right to be heard, right to receive information, right to interact with trained professionals, right to respect and recognition etc. These indicators on safe justice should be included within the assessment of the effectiveness of justice.

3. Collection of data and consultation process

We deplore the fact that there is a significant lack of victim relevant statistics within the justice sector in particular. For too long the absence of data has been used to argue that no action is necessary. Data are crucial to understand where the gaps are and whether the actions taken are effective or not.

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

Digitalisation of the justice system can bring an increased transparency in the justice system. Developments should be accompanied with specific solution to collect more quantitative data (types of cases heard at each Court; the time different types of cases take to be heard; what kind of outcomes result; how many cases are waiting to be heard; and how many trials fail to go ahead as planned.) which enable more evidence based to assess the justice system and victim's participation.

Civil society and courts' users should also be consulted in this process. A clear, inclusive process of consultation requires maximum buy-in and support of all stakeholders, including state actors, civil society and the private sector. It is critical that victims are contacted at an early stage in such process and that are really listened to, through meetings, focus groups, interviews, or surveys. Consultation should also factor in sufficient time for organisations to provide in-depth and well-informed responses.

Data is crucial for the European Commission, for Member States and for the public to understand how well EU laws are implemented, what and where the gaps are, and what is required to improve the situation for victims of crime within the justice system.