

Victim Support Europe Contribution

COMBATING GENDER-BASED VIOLENCE –
PROTECTING VICTIMS AND PUNISHING OFFENDERS



About Victim Support Europe

Victim Support Europe (VSE) is the leading European umbrella organization advocating on behalf of all victims of crime, no matter what the crime, no matter who the victim is. VSE represents 61 national member organisations, providing support and information services to more than 2 million people affected by crime every year in 31 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 EU and international laws, through research and knowledge development and through capacity building at the national and local level.

Introduction

As recognised by the European Commission in the ongoing public consultation, violence against women persists across Europe and worldwide, in its many forms. In the current tense political context, between the COVID-19 pandemic and the recent political tension around the Istanbul Convention, the EU must more than ever affirm its commitment to protect and support victims of gender-based violence (GBV) and take further steps in improving their situation. VSE continues to support the Istanbul Convention's by the EU. However, and considering that this is a highly political process, we believe that the upcoming legislative initiative must achieve the same results than the Istanbul Convention.

What follows will seek to provide an overview of the situation in the EU Member States, regarding the gaps identified and the priorities to tackle regarding the support and protection of victims of gender-based violence.

Not all recommendations that follow can be address through the upcoming legislative initiative, and we therefore encourage the European Commission to adopt a comprehensive approach in its work regarding victims of GBV, organising and supporting other forms of cooperation with and between the Member States, the exchange of knowledge, the establishment of cooperation mechanisms and funding to support the Member States' initiatives.

VSE particularly makes the following recommendations:

- Ensure the effective implementation and enforcement of existing laws and mechanisms (e.g. protection mechanisms);
- Increase prevention by developing innovative education and raising-awareness programmes for both children and adults, and supporting the development and funding of technological tools that can be used to the benefit of victims;
- Increase funding opportunities for the development of technological tools that can be used to prevent GBV or protect its victims;
- Oblige the Member States to criminalise all forms of GBV, e.g. stalking and intimate partner violence and ensure that harmonised and common definitions are used these offences;

- Encourage victims to come forward by developing multiple and innovative channels to report crime and reach victim support services (e.g. online, anonymous) and ensuring regular and effective training for police officers and employers;
- Create a specific EU funding programme for the establishment and funding of 116 006 helplines in EU Member States;
- Improve the protection of GBV victims by adopting minimum standards on protection orders and ensuring that existing protection measures and mechanisms are enforced;
- Improve the collection of disaggregated data related to GBV, focusing on the implementation of victims' rights in practice.

I. Context and trends overview

In the recent years, some **forms of GBV such as stalking and intimate partner violence** have been gradually recognised as such at the European level, following the lead of most advanced countries – such as Scotland in the case of stalking. However, these forms of violence are not enough taken into account neither within the EU's policies on GBV nor within the Member States' legislation.

Despite many efforts, the **lack of recognition of and respect for victims of GBV** persists in the EU Member States, revealing the need to still achieve a mental shift and culture change in our society. As demonstrated in recent FRA report, women from minority groups still continue to be more likely to suffer from any form of GBV.

Moreover, while GBV disproportionately affects women and girls, it should be borne in mind that **gender is a spectrum, rather than a binary notion** and that many forms of GBV affect genders other than female. As a matter of fact, any behaviour or gender expression that does not fit within the framework of society's expectations from a role assigned to their (perceived) gender can potentially be grounds for violence.

Finally, we welcome the focus of the European Commission on forms of GBV related to other serious crimes, such as cybercrime (and gender-based cyberviolence) and human trafficking. Any effort to prevent and counter GBV must address these issues as well and we therefore encourage the European Commission to adopt a comprehensive approach in the upcoming legislation on combating GBV.

Any response to these forms of violence needs to address these realities and define these phenomena with enough breadth and understanding that GBV need to be inclusive categories, which protect all victims from victimisation based on their identification as belonging to or association with a specific gender.

II. Prevention

As of today, a culture change is still needed in order to improve the situation of victims of GBV. This culture change must be seen as a need not only to prevent GBV from happening but also to help victims come forward, report crime and seek support (please see part III).

An important aspect of prevention is **education programmes and awareness-raising activities**, both for children and adults. In schools, it is indeed fundamental that the EU supports the further development of education programme sensitising children on gender issues, dignity and more generally, on risks of victimisation, its impact and where and how to get help and support, to help them build resilience. These programmes must also integrate education on social behaviour, sexual behaviour and educate all children on notions such as the notion of consent. They must adopt a gender sensitive approach and a non-binary approach. It is fundamental that teachers research on innovative ways, methods and tools to engage with children, or even to develop the lessons in cooperation with the children themselves, in order to develop interesting and age-appropriate lessons and materials.

The introduction of awareness-raising on the risks linked to internet and communication and online platforms must be introduced as early as possible. Online GBV is indeed developing really fast, especially since the beginning of the COVID-19 pandemic and must be treated as priority in preventing GBV as well.

At **university**, both staff and students must be introduced to understanding the victims' needs, the impact of trauma on the victims and on recognising signs of victimisation. Such topics can be incorporated in existing university classes and modules, especially in Law, Social Sciences and Medical studies faculties, or addressed through specific modules, debates with experts, raising-awareness campaigns (e.g. posters) and dedicated websites or webpages.

In addition to education and awareness-raising, the European Commission should prioritise the development of **technological tools** that can be used for prevention and protection of victims of GBV. Many technologies and connected services are being developed to the benefit of victims of crime, with an increasing number of them dedicated to victims of GBV. Emergency smartphones (e.g. 'Téléphone Grand Danger' in France¹), online platforms or applications (e.g. 'Mémo de Vie' developed by France Victimes and partners²), or even connected watches (e.g. watch developed by Korean National Police Agency for victims of GBV³). However, their development and use in practice is still limited due to the lack of funding. For this reason, the Commission must offer additional funding opportunities under the next legislation and encourage the partnerships between the public and private sectors to develop technologies for the benefit of victims of crime.

III. Access to justice, compensation and protection from further violence

Criminalising all forms of violence

Since the 2010s, crimes such as **stalking, intimate partner violence (IPV) and harassment** have been gradually recognised as forms of violence against women at the European level, acknowledging the scale

¹ 'Le téléphone grave danger, un dispositif en plein essor', Ministère de la Justice, France, 2020. Available online at : <http://www.justice.gouv.fr/le-ministere-de-la-justice-10017/le-telephone-grave-danger-un-dispositif-en-plein-essor-33525.html#:~:text=Qu'est%20que%20le,situation%20de%20tr%C3%A8s%20grave%20danger.&text=Ce%20t%C3%A9%20t%C3%A9%20leur%20permettre,t%C3%A9%20assistance%20en%20cas%20de%20danger.>

² Mémo de Vie, online platform available at <https://memo-de-vie.org/>

³ 'Victim Protection Smart Watch', Young-Suk Oh, Korean National Police Agency, video available online at: <https://2020.vse-conference.eu/videos/>

they have reached and the important psychological and physical impact they have on their victims. In the case of stalking, the intrusiveness of the stalker's behaviour and the fear it creates for its victims is so important that it leads victims to change their normal habits – e.g. changing their itinerary to work, changing their phone number or email address. While it is encouraging to see that a growing number of Member States have recently adopted specific legislation to criminalise these crimes⁴, an important gap remains in the legislation of a number of Member States.

Where these crimes are recognised as criminal offences in the national legislations, different definitions of the offences are still used across Member States, with some legislations offering a higher degree of protection and a more comprehensive approach to the crime. These differences in law create inequalities between victims across the EU in the protection they can obtain from their Member State, depending on the State they are in.

For this reason, the upcoming legislative initiative must, firstly, **oblige Member States to criminalise all forms of GBV, in particular stalking and IPV**. Attention should be paid not only to these newly-recognised forms of violence but also to all forms, including domestic violence, rape, forced/child marriage, female genital mutilation etc. Secondly, the EU must make sure that a **harmonised and common definition for these crimes** and related notions (e.g. the notion of consent) is used across the Member States in order to prevent the disparities and inequalities between victims. Such harmonisation would also improve cross-border cooperation between Member States by enabling an easier mutual recognition of judicial decisions and orders that are based on the same definitions of these crimes.

For the EU to achieve these two objectives, we support the inclusion of GBV to the list of Eurocrimes – article 83(1) of the Treaty of the European Union.

Identifying victims, reporting crime and helping victims to come forward

Despite alarming statistics, GBV and especially domestic violence and IPV **remain largely unreported across Europe** and a small number of victims come forward. For instance, while an estimated number of 74% of people within the EU are aware that there are support services available for women victims of all forms of domestic violence⁵, less than 40% of women who experience violence of any kind seek for help. Within these 40%, only a small proportion of them seek help with institutions such as the police and health sector⁶, while most of them turn to relatives or friends for support.

Different barriers can explain the lack of reporting, including-g the fear of suffering from consequences from the perpetrator, and the fear of not being taken seriously by the authorities, due to the current lack of recognition of and respect towards victims of GBV. Addressing underreporting of GBV goes through **ensuring a comprehensive response system**: ensuring that all relevant services (support services, health and medical care, shelters etc) are connected to the reporting authorities and between them, that protection measures/orders are available and effectively enforced, that victims are explained and can decide what the best option is for them (e.g. to report crime, to escape etc). When addressing the barriers to reporting, the Commission and national authorities must take into account the fact that different

⁴ For stalking, the number of States that criminalised stalking grew from 10 to 21 between 2010 and 2017. Source: <https://link.springer.com/article/10.1007/s10610-017-9359-9>

⁵ Facts and Figures: Ending Violence Against Women, UN Women, <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>

⁶ Ibid.

barriers will exist in different communities and that, in all situations of GBV, the moment when the victim comes forward puts the victim in dangerous position vis-à-vis the perpetrator.

As addressed in our part on prevention (II), a cultural change and mental shift is still necessary regarding violence against women, while many authorities themselves still don't consider certain forms of violence as such and as punishable crimes. In order to address this and in addition to education measures suggested above (part II, prevention), we encourage the organisation of **regular training programmes for law enforcement officers** and any other authorities that might be in contact with victims of gender-based violence (health sector, private sector etc).

Police officers particularly need to be continuously and regularly trained on how to identify victims of gender-based violence and how to address their needs. These trainings should include **core skills equally applicable to all victims of crime**, that is to say enable them to recognise signs of victimisation, understand victims' needs, the impact of crime and trauma and learn basic empathy skills and victim sensitive communication skills. In addition, a **specialist training focusing on victims of gender-based violence** should be provided to these professionals, focusing on understanding the vulnerability and specific needs of these victims and children, understanding the different forms of violence and the means and methods used by offenders, as well as specific gender-sensitive and children-sensitive communication skills.

A similar training must be organised in the workplace, targeting both employers and employees. The emphasis should be put on recognising signs of victimisation and violence, understanding the victims' needs and where to get help and support.

In order for these trainings to be efficient and in order to achieve real mentality and attitude change, these trainings must not be isolated events but rather be organised on a regular and mandatory basis and integrated in the existing structure and protocols. The trainings' results must be examined by specific follow-up mechanisms and the trainings complemented by tools and protocols to be implemented⁷. Particular attention should also be paid to implementing special measures to help creating a safe environment, such as assigning female police officers to women victims of gender-based violence coming forward to report crime and provide information.

Finally, the Member States must make sure that **follow up actions, complaint mechanisms and opportunities for redress are available to victims**, in the case of a police officer/employer not complying with the obligations arising from both the national legislation and the Victims' Rights Directive.

Improving crime reporting rates also goes through the empowerment of victims themselves and the **creation of safe environments and channels** to help them come forward and report crime. The upcoming legislative should look at innovative ways to create diverse reporting mechanisms (e.g. online, via phone, anonymous mechanisms etc) in order to offer channels that will adapt to each victim's situation. Keeping in mind the unsafe situations that victims of GBV find themselves in, often living in the same house as the perpetrator, secure and ways to access these channels.

However, when looking at ways to improve the identification of victims, the European Commission should bear in mind that not all victims of GBV want to report crime and that a proportion of them only want to reach support services and information, at least at a first stage. To that end, channels such as the 116 006

⁷ 'How to identify victims' support needs? Guidelines to develop an individual needs assessment', Victim Support Europe and partners, 2020. Available online: <https://victim-support.eu/wp-content/uploads/2021/02/Guidelines-final-for-print-F.pdf>

helplines supporting victims of all crimes should be supported in all Member States, and the **establishment and funding of the 116 006 helplines** should be a priority under the next legislation. Helplines for victims act as a critical path for victims to reach assistance and report their situation, but are often unknown by victims and their access is still insufficient across EU Member States. Helplines and online services can offer the benefit of anonymity, flexibility, a broader geographical coverage and an easiest access for persons living in rural areas or not able to travel⁸. While Member States should ensure that sufficient funding is available for the establishment of the helplines, the running and the publicity of the services, the EU must create specific funding to support Member States to that end.

Referral mechanisms

In order to improve victims' access to support organisations and services, available and effective referral mechanisms must be put in place at the national level. While the establishment of referral mechanisms is a direct requirement from the Victims' Rights Directive, in many Member States, these referral mechanisms either still do not exist or exist in a very informal way in many Member States⁹.

For the referral mechanism to be as efficient as possible, we encourage the use of an **opt-out referral mechanism**: that is to say a system in which the police (or the first authority to be in contact with the victim) automatically transfers the victim's information to the relevant support services, unless the victim object¹⁰. Research has indeed showed that victims are not necessarily at the best place to understand their own needs, while such a mechanism allows support services to be in a better position to explain directly to the victim the services they can offer.

The referral mechanism and transfer of information must respect the principles of privacy, confidentiality and the GDPR requirements regarding the protection of the victims' data. Particularly, the victim should be told what data will be shared, for which purpose, with whom and under which conditions¹¹. However, the GDPR requirements represent an important barrier for the referral systems to function in an effective way, and recent research conducted by VSE showed that the recognition of victim support services as 'essential services' can facilitate the processing of personal information to that end¹². We therefore encourage the European Commission to look at **how to recognise victim services as essential services in the Member States and to support them to do so**.

While ensuring effective referral from the police to support services is fundamental, referral from education institutions, social services and other services and organisations that are likely to be in contact with victims of GBV must be established as well.

⁸ 'Establishing 116 006 helplines for victims of crime across Europe', Victim Support Europe, 2021. Available online: https://victim-support.eu/wp-content/files_mf/1614696060VSE116Positionpaper.pdf

⁹ 12 Member States as of 2018. For more information, please consult VOIARE Synthesis report, Implementation of Article 8 of the Victims' Rights Directive, Victim Support Europe and partners, available online: https://victim-support.eu/wp-content/uploads/2021/02/VOIARE_Synthesis_Report.pdf.

¹⁰ In opposition to an opt-in referral mechanism, in which the police or first-contact authority provides information about the available services and asks whether or not the victim wants to be referred to them. For more information, please check the 'Manual for effective and secure referrals of victims', VICTORIA Project, Victim Support Europe and partners, 2020, available online: <https://victim-support.eu/wp-content/uploads/2021/02/Manual-final-for-print.pdf>.

¹¹ 'Victim Support and Data Protection', Victim Support Europe, 2021. Available online: https://victim-support.eu/wp-content/files_mf/1614696318VSEDataProtectionpaper.pdf DPP

¹² *Ibid.*

Safe justice and Protection measures/orders

While the specific needs for protection of victims of gender-based violence is today widely recognised in various EU and international instruments¹³, notably since the beginning of the COVID-19 pandemic, important gaps remain in their effective protection, while women remain disproportionately exposed to secondary victimisation within the justice system. Prosecution and conviction rates remain particularly low, in particular for certain types of GBV such as rape.

The difficulties in collecting evidence can be an important barrier to convicting the perpetrators. To address that, we encourage the development of best practices such as the Sexual Assaults Care Centres (SACC) and Sexual Assault Referral Centres (SARC)¹⁴ (Belgium), that provide and coordinate the services offered to victims of sexual assaults, including on collection of evidence.

When protection measures/orders are available in many Member States, not only are they sometimes never used in practice, but when they are, the level of protection and availability still strongly varies from one Member State to another, leading to inequalities between victims across the EU.

For that reason, we encourage the European Commission to consider the **adoption of minimum standards on protection orders** in order to provide an equal level of protection across all EU Member States. Moreover, we believe that a **set of common rules for providing immediate and appropriate protection** to victims of gender-based violence, to be used by police officers and other relevant agencies, should be developed and implemented at the national level.

It is fundamental that we assess whether protection orders are efficient enough for all types of GBV (e.g. stalking) and, if not, to conduct in-depth research in order to decide which additional tools to develop in the Member States. This assessment should include an examination of whether these tools are used in practice, the level of availability and of protection provided, for which types of crimes, and at what stage are they used. The process of how these decisions are made must also be examined. It is indeed crucial to **ensure protection of GBV victims as soon as they are identified and at each stage of the process, whether they decide to report the crime or not**. Particular attention should be paid to protecting victims after the trial and release or escape of the perpetrator from detention. When the perpetrator is released, months or even years after the conviction, the victim becomes finds itself in a position of vulnerability again. However, in many cases, victims are not even informed of the release of the offender, as showed in the VOIARE project and research conducted by VSE¹⁵.

On the 5th of May 2021 in France, a woman was shot and burnt alive by her husband, who had been released from prison in December 2020 after his conviction for repeated violence towards his spouse. Despite the severity of the situation and the case, no protection order was delivered to protect the victim when the perpetrator was released and no other mechanism – such as anti-reconciliation bracelet or the

¹³ European Union Strategy on Victims' Rights (2020-2025), 2020, available online <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020DC0258>

¹⁴ Establishing Sexual Assaults Care Centres in Belgium: health professionals' role in the patient-centred care for victims of sexual violence, BMC Health Serv Res., 2018, available online: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6196455/>

¹⁵ VOIARE Synthesis report, Victim Support Europe and partners, available online: https://victim-support.eu/wp-content/uploads/2021/02/VOIARE_Synthesis_Report.pdf.

transfer to an emergency accommodation centre – was put in place, leading to repeated violence and her death. It is therefore fundamental to continuously assess the victim's protection need and find appropriate ways to answer to it.

Moreover, it shows the important lack of enforcement and practical implementation of existing and available measures to protect and support victims of GBV, that remains a major problem in all Member States. To help the Commission addressing this problem, we believe that the **mandatory collection of disaggregated data** must be put in place, in cooperation with EU agencies such as EUROSTAT and focusing on the implementation of rights and assessing if victims are accessing the rights and the measures available in their Member States. In view of optimising and harmonising the collection and results, the Commission should develop a data collection methodology to be used by all Member States.

Compensation

It is fundamental to ensure that victims of GBV have access to compensation, as not accessing it can become a source of secondary victimisation. Yet, many barriers still remain in accessing it. In particular, where no State compensation is available, national legislation need to **make sure that the victim doesn't have to go personally after the perpetrator to seek compensation**. Any compensation from the perpetrator should be ensured through the criminal proceedings and when exceptionally this is not possible, victims' compensation claims need to be dealt within the least retraumatising and revictimising possible way. Compensation should certainly never be envisaged by expecting the victim to go after the perpetrator directly in civil proceedings, where the protection granted by virtue of Victims' Rights Directive or domestic legislation are not applicable.

IV. Victim support

Firstly, VSE highly welcomes the focus of the Commission's initiative on improving the support provided to victims of gender-based violence. However, 'supporting victims' needs to be understood in a comprehensive context, in line with the Istanbul Convention. Supporting victims does not only mean establishing victim support services and organisations, but also **integrating them to an entire victim-centred national system**. This system must ensure that all services from all sectors, such as the justice and private sectors, the societal services (social services, medical care...) and law enforcement are included in a network of victim support services and integrate victim-centred policies and priorities. Especially in the case of GBV, local communities must be included in this system as well, as all individuals have a role of prevention and as the local awareness and ability to recognise signs of abuse or violence, and the ability to provide information to the victims is fundamental in helping victims to come forward and be supported. Only when these sectors will effectively work together to provide care and support to all victims of crime, that we will achieve an efficient system supporting victims of crime. The establishment of this national framework for victims of crime is particularly important regarding victims of GBV, as the impact of some forms of GBV impacts all aspects from the victim's life: medical, financial, social etc. Therefore, a full and efficient system of victim support to GBV can only be achieved through the establishment of a national framework for victims of crime.

As mentioned above, employers and employees must be sensitised and trained on understanding and recognising signs of GBV and on how to address it by establishing effective mechanisms for reporting and referring victims to support services. We believe that the EU should support companies in addressing GBV in the workplace.

Now looking at the existence of victim support organisations and services, a worrying trend shows that **many victims do not have access to victim support services**¹⁶. Where these services do exist, they often lack of funding, accessibility (regarding either the geographical coverage or the conditions of access, among others) or personnel¹⁷. For this reason, we believe that the European Commission should directly engage with Member States that have not established either generic or specialist support services, while following-up the infringement procedures started in 2019 for incomplete transposition of the Victims' Rights Directive.

As addressed in Part III – 'Identifying victims, reporting crime and helping victims to come forward', multiple ways and channels to access information and support services must be developed, such as the 116 006 helplines. For this reason, the **establishment and funding of the 116 006 helplines** should be a priority under the next legislation. Helplines for victims act as a critical path for victims to reach assistance and report their situation, but are often unknown by victims and their access is still insufficient across EU Member States. Helplines and online services can offer the benefit of anonymity, flexibility, a broader geographical coverage and an easiest access for persons living in rural areas or not able to travel¹⁸. While Member States should ensure that sufficient funding is available for the establishment of the helplines, the running and the publicity of the services, the EU must **create specific funding to support Member States to that end**.

While special attention is paid to specialist services in the case of GBV victims, **both generic and specialist services should be prioritised and included in the system of response to GBV**. Building on the experience of VSE's members, generic support services are indeed as much involved in providing information and support to GBV victims as specialist services, especially in the many countries in which the latter are not established. When victims of GBV can be reluctant to consult specialist services, the involvement of both generic and specialist services will maximise the victims' access to support services. Attention should be paid to ensuring that any organisation working with victims of GBV have relevant skills, mechanisms and tools available to support these victims in an appropriate manner.

In addition, we encourage the EU to raise discussions about the definition and meaning of 'specialist services' under the Istanbul Convention, that is still unclear, as generic services are already specialised in providing support to all victims of all crimes, including GBV. The concept of 'gendered approach' should be defined as well in order to help the implementation of best practices in that regard.

Finally, a large proportion of victims are still not aware of the existence of support services or of the variety of means and channels they can receive support through. Therefore, awareness-raising on the existence of support services and different ways to receive support is still necessary.

¹⁶ VOciare Synthesis report, Implementation of Article 8 of the Victims' Rights Directive, Victim Support Europe and partners, available online: https://victim-support.eu/wp-content/uploads/2021/02/VOciare_Synthesis_Report.pdf.

¹⁷ *Ibid.*

¹⁸ 'Establishing 116 006 helplines for victims of crime across Europe', Victim Support Europe, 2021. Available online: https://victim-support.eu/wp-content/files_mf/1614696060VSE116Positionpaper.pdf