

Victim Support Europe Contribution

INCEPTION IMPACT ASSESSMENT

COMBATING GENDER-BASED VIOLENCE – PROTECTING
VICTIMS AND PUNISHING OFFENDERS

Victim Support Europe

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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 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.

VSE's position regarding the Commission's initiative

Victim Support Europe is of the position that not one approach offers the best solution to the problem. The EU has already done a significant amount of work to address some issues of victims of crimes through specific legislative action, and in 2020 a significant amount of work has been done on strategic planning particularly relevant for victims of gender-based violence (GBV) and domestic violence (DV). However, to provide a holistic approach to responding to the issues of GBV and DV, it will be necessary to combine the three approaches suggested in the Commission's announcement of the impact assessment.

In detailing out this approach, it will be of utmost importance to keep in mind the following:

1. Legislative instruments

The EU is committed to ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), which is the best international instrument providing solutions for issues of GBV and DV. VSE believes that the ratification and full implementation of this treaty by the EU and all Member States is an important step forward in ensuring protection and support to victims of these types of crimes.

In the absence of the ratification of the Istanbul Convention, and if there would be no political agreement to ensure that this happens during the mandate of the current Commission, alternatively the EU should develop their own legislative instrument to the similar effect.

Should a new instrument be developed, VSE invites the Commission to avoid making concessions to render any prospective legislation ineffective. In the potential development of new legislation, the Commission should make sure that any departures from the standards set by the Istanbul Convention are made to advance rather than to weaken the protections already in place through the Convention.

2. Victim-centric implementation of existing EU legislation

A wide set of rights have been in place for victims for many years. Recent EU legislation has clarified these rights and the obligations on Member States. Despite this, many of these rights are not operational or are far from accessible and well-functioning. Member States and civil

society should be supported by the EU to implement laws and the EU should act to ensure States follow minimum standards of implementation.

In particular, this requires a culture change – a change in thinking about victims of crimes in general, and GBV and DV in particular – amongst those who work with victims, better co-ordination across different institutions and sectors to maximise impacts, and full established generic and specialist victim support services across the entire territory of a country following a national framework for victim support.

This is particularly true for the **European protection order**. Practice has shown that the protection order is working poorly for European victims, mostly due to the lack of consistent approach between national systems in the types of measures, their availability and the procedure to have them determined and implemented.

The EU Victims' Rights Directive already foresees an obligation of the Member States to ensure that all victims have at their disposal the **generalist and specialist services** they might need and for as long as they might need them – regardless of whether they filed a criminal complaint or take part in criminal proceedings. There are many commendable service providers and in general a lot of effort put in ensuring that some services are functioning and supporting victims, but this is far from enough.

A significant number of EU Member States is still lagging behind in their obligations under the EU Victims' Rights Directive to ensure national generalist services, and there is a serious shortage also of specialist services, including shelters for victims of DV and sexual violence. The implementation of individual assessments is patchy and referral protocols are falling victims short of accessing all the services they need.

Strict interpretation of GDPR is standing in the way of referrals, even when there are valid legal grounds for data processing and sharing. Additionally, support organisations are too often opting out of reaching out to victims, in fear from potential debilitating sanctions from their data protection authorities.

3. Addressing needs of victims in response to GBV and DV

While gender based-violence (GBV) and domestic violence (DV) 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 and DV 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.

Against this background, a response to GBV and DV needs to be based on the reality of many Europeans who are victims of crime exactly because they do not fit within a binary approach to gender. Namely, in respect of GBV – many forms of hate crime and other types of criminal behaviour affect members of the LGBTQ+ community at a disproportionate scale. Looking into the realities of DV – parents disavow their children when they come out as gay and impose violent and harmful 'conversion therapies', force children into heteronormative behavior and beat up their sons if they cry or otherwise show empathy or other 'signs of weakness'; and force their children, regardless of their gender, into early marriages.

Any response to these forms of violence needs to address these realities and define these phenomena with enough breadth and understanding that GBV and DV need to be inclusive categories, which protect all victims from victimisation based on their identification as belonging to or association with a specific gender (for example, assaulting men who ‘appear’ homosexual, even if they are not).

In responding to GBV and DV, VSE supports a comprehensive approach that addresses two main issues: **victims’ needs** and **intersectionality**.

On the one hand, any legislative response to these forms of violence should broadly link to the five needs of victims (recognition, protection, support, justice, compensation and restoration) as well as EU co-operation, and should be developed having in mind all victims of crime as well as the specific needs and actions of victims of gender-based violence.

In addition, whilst recognising that the term ‘vulnerable victim’ can be widely construed, the reality is that the term is generally used in a limiting way. We believe that intersectionality affecting vulnerable victims is an important element to reflect in priorities. Nonetheless, this vulnerability needs to be taken broadly. Vulnerabilities of victims of GBV and DV are already identified in the Victims’ Rights Directive and other EU instruments. However, intersecting these vulnerabilities with some other obvious ones – disability, race, religion or migration status as well as some less obvious ones – language proficiency, property, family or employment status, should capture the sensibilities and vulnerabilities of all victims of these types of violence in responding to their needs.

Regarding specific priority areas to tackle in respect of gender and 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 victims of GBV and DV. In this regard, it is particularly important to identify manifestations of gender stereotyping and victim blaming ‘culture’ and address it appropriately.
3. It is particularly important to ensure that victims of gender-based violence 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. 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 with in 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.

4. Conclusion

In conclusion, VSE supports the Commission’s recognition of the importance of standing up for victims of all crimes in general, and victims of GBV and DV in particular.

In their future response, we invite the EU to:

- Ensure the full and effective implementation of the existing EU legislation and policy instruments, in particular the Victims' Rights Directive, the Victims' Rights Strategy and the Gender Equality Strategy;
- Take necessary steps to ensure ratification of the Istanbul Convention by the EU and encourage Member States that have not done so already to ratify this important instrument;
- Potentially adopt specific EU legislation in lieu of Istanbul Convention, which will provide at least the level of guarantees that the Convention itself provides, if not to advance this level further;
- Adopt a victim-centric approach in all its policies and instruments which ensures that victims' needs are recognised and provided for.

Victim Support Europe, together with our members, remains a committed partner of the EU and Member States in the development and delivery of high quality services for victims.

This document was prepared by **Victim Support Europe**. For more information, you can contact

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