

EU Handbook for Policy and Best Practice
in relation to Victims of Crime

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1. Introduction

There is a range of legal frameworks providing rights and calling on fair treatment for victims of crime. In 1985 the United Nations adopted the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which provides a global basis for the development of victims' rights. The 2001 EU Framework Decision was the first time that victims of crime in Europe were given generic, legally binding rights in all EU Member States. However, the implementation of the Framework Decision was in many areas unsuccessful and the EU Commission's implementation reportsⁱ found that no EU Member State successfully implemented the Framework Decision and gave victim access to all the contained rights. The EU Directive establishing minimum standards on the rights, support and protection of victims of crime aims to strengthen the rights in the Framework Decision, but it also includes new rights not previously included in European legislation such as the right to an individual assessment, facilitation of referrals from the Police to victim support services and the right to review a decision not to prosecute. In addition to generic treaties, victims have been given rights through specific legislation, for instance in relation to compensation, protection measures when moving between Member States etc. Victims' rights legislation provides legally binding minimum standards that all EU Member States must fulfil to ensure that victims and witnesses of crime receive the best possible care and support in the aftermath of crime.

Victim Support organisations provide a range of services to victims and witnesses of crime. The first Victim Support organisation in Europe was established in 1974 in Bristol, UK. Other groups and organisations soon followed, giving victim services around Europe substantial experience, knowledge and best practices how to identify and meet the needs of victims and witnesses of crime. In many areas, service provision and best practice goes further and provides a wider range of support and assistance than proscribed by current legislation.

Victim Support Europe believes a change in behaviour and attitude is required to ensure that victims and witnesses of crime receive the best possible care and support in the aftermath of crime. All agencies and organisations working with victims/witnesses have a responsibility to assist the victim/witness in anyway possible throughout their journey through the criminal justice system. This document provides practical suggestions how the needs of victims of crime can be met and fulfilled in practice. It provides practical suggestions regarding the implementation of the EU Directive establishing minimum standards on the rights, support and protection of victims of crime. As such, this document covers fulfilment of legislative requirements as well as established best practice in service delivery to victims and witnesses of crime. It also provides a generic overview of Victim Support Europe's input into the development and negotiation of the

EU Directive establishing minimum standards on the rights, support and protection of victims of crime. It should be noted that these are just suggestions; it is up to every Member State how they wish to implement victims' rights legislation in accordance with their national circumstances and requirements. This document can hopefully give some ideas and provide inspiration in the practical fulfilment of victims' rights.

The content of this document has been structured in accordance with the criminal justice process, so that professionals and service users alike can quickly turn to the part of their process applicable to them. Although certain rights are specific to certain parts of the process, there are certain generic behaviours that are applicable throughout the criminal justice process. Some of these behaviours are included in chapter 2.ⁱⁱ

2. Generic behaviours

This chapter provides an overview over attitudes and general behaviours that are applicable to all professionals working with victims/witnesses of crime.

2.1 No hierarchy of victims

The founding ethos of Victim Support Europe is that all victims of crime should receive rights, support and protection in the aftermath of crime. As such, we do not wish to establish a hierarchy of victims or a hierarchy of grief, but instead provide rights and services for all victims, regardless of the nature of the crime or personal characteristics of the victim.

2.2 Victims have a vital role and invested interest in their case

Criminal justice systems across Europe are constantly changing and the systems vary between different EU Member States. However, one overarching concern is that many victims and witnesses still feel that the justice system is not designed to support their needs. Formal criminal justice systems are not designed nor equipped to address the trauma suffered by victim as a result of crime; they are set up to consider the guilt of the accused and protect the public.

Without the involvement and participation of the victim, for instance by reporting the crime to the police and giving evidence in court, the vast majority of crime would go unreported and without repercussions. Similarly, without the testimonies given by witnesses, victims would often not be able to access justice. Crime is based on an injustice committed against the victim. As such, the victim is present from the onset and without the victim, there would often be no crime. Nonetheless, following the initial

interaction with the victim, many criminal justice systems function based on the assumption that justice can be delivered without including the victim. The needs and considerations of the victim are lost somewhere in the process and the final disposal of a case is often concluded without any regard for the victim. In some cases, victims are not even informed of the final outcome of a case. Victim Support Europe believes that a change in mindset is required to recognise the importance and the role of the victim/witness and to ensure that their contact and participation in the system is as smooth and efficient as possible, without risk of re-victimisation or intimidation. In the 21st century, we should expect the criminal justice system to be adopted around the needs of the individuals involved, not the other way around.

2.3 Respect and dignity

Victims have the right to be treated in an impartial, respectful, and professional manner in all contact with criminal justice agencies and victim support services.ⁱⁱⁱ In practice, there are many factors that professionals should bear in mind that will demonstrate respect to the victim, for instance:

- ❖ Set aside sufficient amount of time when engaging with a victim, do not rush or make the victim feel that he/she is a nuisance or has to leave
- ❖ Clearly inform the victim who you are (preferably by wearing identification badge) and what your role is. Set clear expectations for the victim what you can and cannot do for them
- ❖ Fulfil promises, if you promise to phone/provide information on a certain day, you should do your utmost to do so
- ❖ Do not have pre-set expectations of how a victim “should” react in the aftermath of crime. Crime impacts differently on every victim and their needs will change throughout their recovery process. As such, accept the manner in which the victim reacts and aim to provide the information and assistance the individual victim needs at that particular time

2.4 Believe the victim

Many victims feel that the criminal justice agencies doubt the validity of the victim’s story. For instance, the agency representative may imply that the victim is somehow to be blamed for the crime or that their account of the crime is over exaggerated. To make the victim feel at ease and to demonstrate that the criminal justice system takes the crime against the victim seriously, it is very important that all professionals listen to the victim, take what they say seriously and do not question the validity of their account.

Professionals such as the Police investigating the crime is of course obligated to ask questions, however ensure that they are sincere and do not come across as if you are doubting the victims' experiences.

2.5 Right to independent status/definition of victim

Victims have an independent right to their status, to be acknowledged as a victim of crime and to access appropriate rights and services regardless of the status of the accused/offender. "A person should be considered to be a victim regardless of whether an offender is identified, apprehended, prosecuted or convicted".^{iv} To recognise the status of the victim is not a violation of the suspect's right to be seen as innocent until proven guilty.^v Terminology such as "accused" or "suspect" clarifies that the person is innocent until proven guilty. In the same way, victims are entitled to be recognised as victims. Even if the case against a particular suspect fails, it does not necessarily mean that the victim has not suffered the crime. It merely means there wasn't enough evidence to reach a conviction against the suspect, which is often a very distressing experience for victim of crime.

The definition of 'victim' should also, where appropriate, include family members of a person whose death was caused by a criminal offence.^{vi}

2.6 Proactive information provision

In order to participate in the criminal justice process or access any other rights, victims need information on what their rights are and what services they can access. Victims' right to information^{vii} is therefore one of the most important rights in the aftermath of crime. Having involuntarily become a victim of crime, he/she is often unaware of what information is available. It is therefore important that the onus is not put on the victim to request a certain piece of information. Instead, the State and applicable criminal justice agencies should take all possible steps to alleviate any additional burden of dealing with the legal ramifications of the crime and strive to make the victim's contact with the criminal justice system as smooth and simple as possible. Victim Support Europe therefore strongly believes the responsibility should be on the State to provide the information or at least offer it to the victim; it is the right of the victim to receive information, not to be made responsible for the practicalities surrounding its delivery.

2.7 Right to understand and to be understood

Victims of crime have the right to understand and to be understood in all their interactions with criminal justice agencies.^{viii} Information should therefore be delivered in a language and manner that the victim can understand. For instance, vital documents should be translated into a language spoken by the victim. If required, the victim should

also be able to access interpreters, free of charge, during other interactions such as Police interview, questioning in court and when receiving support services. It is the responsibility of the criminal justice agency delivering the information to ensure that the victim can understand the information.

2.8 Right to know who to contact

Throughout the victims' interaction with the criminal justice system, the victim should be given contact details to all the agencies involved in the case.^{ix} This will ensure that the victim knows who to contact to receive more information regarding the case and if he/she would like to ask any further questions regarding a specific part of the process.

2.9 Training of professionals/practitioners

Appropriate training is one of the most vital resources for professionals working with victims of crime. Without adequate training, there is an increased risk that the victim may suffer re-victimisation due to unsuitable questions and behaviours from people they meet. The EU Directive establishing minimum standards on the rights, support and protection of victims of crime includes a call on Member States to ensure that professionals that come into contact with victims receive both generic and specialist training to help them deal with victims in an impartial, respectful and professional manner.^x The level of training should depend on the level of contact; professionals who have daily contact with victims should receive more in-depth training. As such, Member States should ensure that training is given to Police, prosecutors, judges and court staff to sensitise them to the needs of victims and to ensure that they can provide them with a professional, impartial and sensitive service. Training shall as a minimum include matters relating to the impact of crime on victims, different coping strategies, the risks and how to avoid intimidation, repeat and secondary victimisation as well as the availability and relevance of support services to victims.

2.10 Non-discrimination

Crime is a violation of a victim's fundamental rights. To address the harm caused, victims should be recognised and treated in a respectful, sensitive and professional manner without discrimination of any kind.^{xi} Non-discrimination includes avoidance of discriminatory treatment and behaviour based on grounds such as race, ethnicity or social origin, language, religion or belief, political association, membership of a national minority, property, birth, disability, age, gender or gender identity, sexual orientation, residence status, state of health or any other personal characteristic of the victim. All victims of crime shall fully enjoy all rights on an equal basis, and in particular rights such as:

- ❖ equal recognition before the law
- ❖ equal access to justice
- ❖ equal access to protection and support services
- ❖ equal access to compensation and restitution
- ❖ equal access to information and accessibility to premises
- ❖ freedom from inhumane or degrading treatment
- ❖ freedom from threat and intimidation
- ❖ freedom from violence and abuse

2.11 Collection of data and statistics

To measure the impact and fulfilment of the victim legislation, it is important to assess how many victims are able to access their rights, for instance by looking at how many victims come in contact with relevant criminal justice agencies and what services they are able to access.^{xii} At the moment, data recording in the victim field is patchy; all agencies are for instance not able to disclose how many separate victims they work with each year and what kind of services they deliver to those victims. Victim Support Europe therefore believes that minimum standards should be adopted for recording data in relation to victimisation and victims' ability to access their rights and services in the aftermath of crime. Relevant agencies in every European country should, as part of the standards, be required to record anonymised information regarding the number of victims and witnesses they work with and what services they deliver to those individuals. Ideally, data should also be recorded regarding any gaps in service delivery, where victims and witnesses are not able to access services, including specialised support services. Systematic and adequate data collection for all agencies working with people affected by crime will assist in measuring whether or not criminal justice agencies meet the needs of victims and witnesses, and help to calculate how many victims/witnesses come through the criminal justice system each year.

3. Prevention

3.1 Preventative protection measures

One of the European Union's fundamental principles is freedom of movement. Built into this right is a requirement to ensure that all individuals are kept safe and secure while exercising their freedom of movement. As such, States have a responsibility to look after their citizens and protect them from harm. To fulfil this responsibility, States should develop a range of preventative measures, available in cases where a person feels at threat of becoming a victim of crime. For instance, people who are threatened with violence by their partners or ex-partners should be able to access restraining orders or

other suitable protective measures whereby restrictions are being placed on the person causing the threat to increase the safety and security of the person at threat.^{xiii} European Protection Orders should be used to ensure victims of crime who move to another EU country are able to maintain their protection in their new country of residence.^{xiv}

3.2 Keep crime prevention in mind

The layout of buildings, parks and communities in general has a big impact on criminal behaviours and the creation of particular crime “hot-spot”. Areas without adequate lighting and limited public access are at risk of suffering higher levels of crime. Crime prevention strategies and indicators should therefore always be considered during the planning process for new buildings, schools or in overall city planning, as they can have a big impact on crime levels. There is a range of crime prevention agencies and authorities across Europe that can provide suggestions and information regarding methods and factors to bear in mind. For instance, the European Crime Prevention Network (EUCPN) was set up in May 2001 to promote crime prevention activity in Member States across the EU, and to share good practice in preventing crime.^{xv}

3.3 Believe the person at risk

A key aspect of crime prevention is to believe the person at risk of falling victim to crime. This person is often the only one who can provide an insight into ongoing threats, which should be taken seriously by the criminal justice agencies approached.

It is of vital importance to pay attention to the course of conduct of the person causing the threat, and not see each separate threat as an isolated incident, as the overall conduct can give an indication regarding escalation of threats. For instance, in relation to stalking and anti-social behaviour, threatening or disturbing behaviours are not necessarily criminal but the course of conduct may give rise for concern. In such situations, people at risk should be supported in keeping record of all events, risk assessments should be conducted and safety plans put into place, if appropriate.

3.4 Available services

Services should be available to provide information regarding preventative measures and assistance how to access them. Support services should also be available to give comfort to people who feel at risk of falling victim to crime, as the fear of crime can have a big impact both on individuals and communities as a whole.

4. A crime has been committed

4.1 Right to information

When a crime has been committed, victims should immediately be provided with access to information regarding:^{xvi}

- ❖ where and how to report the crime
- ❖ where and how to access support services
- ❖ the applicable criminal justice system, including the rights and the role of the victim in the system
- ❖ protection measures and how to access such measures
- ❖ eligibility criteria regarding legal aid, and if applicable assistance to access legal aid
- ❖ how and under what conditions they can access criminal injuries compensation
- ❖ particular cross-border arrangements, if applicable
- ❖ where and how to submit a complaint where their rights are not respected
- ❖ contact details to agencies dealing with their case

The onus should be on the State to provide the information without the victim proactively having to ask for it. The victim is often unaware of the kind of information available, so it is therefore more suitable for the State to provide the information unless the victim has specifically said he/she does not want to receive it.

4.1.1 Information to victims of unreported crime

To ensure that victims of unreported crime can access the necessary information, the above mentioned information must be available in other formats and through other means apart from the Police. It should therefore be the responsibility of the State to develop awareness campaigns for the general public regarding the rights of victims of crime, including the above mentioned information. Websites and leaflets should be developed and placed in areas where victims are likely to be present as a result of crime regardless if they have reported it to the Police, for instance Accident & Emergency Departments, victim support organisations, Housing Association, drug/alcohol clinic, social welfare office etc. Information should also be provided in schools and available in embassies to victims of cross-border crime.

4.2 Cross-border cases

Criminal justice authorities involved in cross-border cases shall do their best to minimise the difficulties faced by victim living in a country another other than that where the

offence occurred.^{xvii} International cooperation, respect and recognition lay the foundation of the European Union. In the criminal justice field, there is a range of practical suggestions how to ease the burdens on victims in cross-border cases. One of the most basic rights for cross-border victims is the right to report the crime in the victim's country of residence, or in the country where the crime took place. To assist the process of cross-border cases, the Police in every Member State should be able to:

- ❖ register a complaint that a crime has taken place, regardless in which Member State the crime happened
- ❖ victims should be able to report the crime in a language he/she understands
- ❖ take initial statement from victim in a language spoken by the victim
- ❖ cooperate with Police in country where crime took place
- ❖ interview witnesses as and when required
- ❖ refer victim to access victim support services, as required
- ❖ provide access to video conferencing and telephone conference as highlighted in the Convention on Mutual Assistance in Criminal Matters between European Member States of the European Union of 29 May 2000 for the purpose of hearing victims resident abroad.

People who fall victims to crime in a country other than their own may not be able to speak the native language of the country where the crime took place. The Police must therefore be able to access interpreters to ensure that victims who wish to report a crime are able to express themselves and understand what is being said (as highlighted above). Preferably, leaflets and general information about the criminal justice process and the rights of victims of crime should be available in a range of languages at the Police station.

Video conferencing and telephone conference facilities should be established by all Member States to assist resident victims who were victimised in another Member State.

To facilitate cooperation and communication between Police forces in different Member States, the national Police forces should actively be encouraged to take part in established networks and cooperation arrangements with other law enforcement partners across Europe through for instance Europol, Interpol and CEPOL.

Victims of cross-border crime should, as a minimum, receive the following information:

- ❖ How to report a crime in the country where the crime took place
- ❖ Any special arrangements available to protect the victim's interest
- ❖ Available support services in the victim's country of residence

Regarding provision of assistance in cross-border cases, the EU Directive establishing minimum standards on the rights, support and protection of victims of crime states that “if the victim has left the territory of the Member State where the criminal offence was committed, that Member State should no longer be obliged to provide assistance, support and protection except for what is directly related to any criminal proceedings it is conducting regarding the criminal offence concerned, such as special protection measures during court proceedings. The Member State of the victim’s residence should provide assistance, support and protection required for the victim’s need to recover”.^{xviii}

Example

François Dupont was assaulted on a night out while on holiday abroad. He was too afraid to go to the Police in the country where the crime occurred, so he waited until he came home before he reported the crime. The Police in his country of residence recorded the crime and immediately contacted the Police in the country where the crime occurred, who initiated an investigation. The suspect was identified and when the case went to trial, François was able to give evidence from his home country, using videoconferencing.

4.3 Right to access support services

Falling victim to crime is often a traumatic experience. In addition to the emotional strain and suffering, victims may have to face the legal ramifications of the criminal justice process. All victims of crime, and their families, should therefore be able to access support services in the aftermath of crime.^{xix} With every person reacting differently to crime, support services must be able to meet these varying needs. Clearly, one size does not fit all. As such, support services should, as a minimum, be able to offer:^{xx}

- ❖ information regarding the criminal justice system
- ❖ information regarding the rights of victims and how to access such rights
- ❖ information regarding criminal injuries compensation and assistance to apply for such compensation
- ❖ information regarding the criminal justice trial and preparation to attend trial
- ❖ emotional support
- ❖ advice relating to financial issues following the crime
- ❖ discuss coping strategies
- ❖ information relating to risk and prevention of secondary and repeat victimisation, intimidation and retaliation

- ❖ assistance with practical challenges following the crime, i.e. who to contact regarding insurance, repairs, compensation, financial matters, housing concerns, employment support, social welfare queries etc.
- ❖ victim support services should be fully aware of any specialised services and offer the victim access to appropriate services specifically targeting the needs of the individual victim

All victim support services should be:^{xxi}

- ❖ free of charge
- ❖ confidential
- ❖ victim-centred; i.e. their main aim must be the wellbeing and interest of the victim
- ❖ independent
- ❖ accessible throughout Europe
- ❖ tailored to meet the individual needs of the victim
- ❖ delivered by trained, qualified and monitored staff/volunteers
- ❖ available regardless of whether or not the victim has reported the crime to the Police
- ❖ available irrespective of crime type or personal characteristics of the victim

4.3.1 Specialist support services

The EU Directive establishing minimum standards on the rights, support and protection of victims of crime calls on Member States to establish specialised victim support services, either as an integrated part of, or in addition to, generic victim support services. Specialised support services can offer a range of services to particular groups of victims, for instance families bereaved by murder, child victims, victims of childhood sexual abuse, victims of domestic violence, rape or sexual offences etc. The specialised services highlighted in the EU Directive shall as a minimum provide:^{xxii}

- ❖ shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of retaliation, intimidation or repeat/further victimisation
- ❖ targeted or integrated support, including trauma support and counselling, offered to victims with specific needs, such as victims of sexual violence, victims of gender-based violence and violence in close relationships

4.3.2 Who can access victim support services?

It may not merely be direct victims of crime who suffer an impact from crime. For instance, family members, friends or witnesses of crime may also feel an emotional

impact or need assistance with practical implications and assistance following the crime. Support services should therefore be able to offer support to any person affected by crime, in particular:

- ❖ ‘Victims of crime’ should be seen as persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or violations of their fundamental rights, directly caused by a criminal offence. A person is a victim regardless of whether the crime is reported to the Police, regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted and regardless of familiar relationships between the perpetrator and the victim. The term ‘victim’ also includes family members or dependents of the direct victim.
- ❖ Witnesses or persons who suffered harm in intervening to assist victims in distress or to prevent victimisation. Without the testimonies given by witnesses, victims will not be able to access justice. As such, it is important to secure the rights of witnesses of crime and to ensure that they can participate in the criminal justice process without risk of threat and intimidation.
- ❖ Victims of antisocial behaviour or threatening behaviour. Although not always criminal behaviour, many actions relating to antisocial and threatening behaviour can have a big impact on the targeted individual. As such, victim support services should consider extending their services to include this group of victims.

4.3.3 Referrals – how do victims access support services?

To limit the impact of crime, it is important that support services are available and accessible immediately following the crime. Lack of referrals is the single greatest barrier to victims’ ability to access support services in the aftermath of crime.^{xxiii} The EU Directive establishing minimum standards on the rights, support and protection of victims of crime calls on all Member States to “facilitate” referrals from the Police and any other relevant entities to victim support services, to ensure that all victims are given access to victim support services.^{xxiv}

In Europe today, there is a range of referral systems in place with the Police playing the biggest role in referring victims to access support services. Current referral schemes usually falls into either an “opt-in” system (victims have to actively consent to their details being referred to victim support) or an “opt-out” system (victims are referred automatically but can decline offer of support at any time). Practical experience across Europe has indicated that an opt-out system has many benefits compared to an opt-in system in relation to referrals and victims’ ability to access support.

In an *opt-in* system:

- ❖ In addition to taking the report of the crime, the Police will also be required to ask the victim whether or not she/he would like to access support services, which adds a further burden on the Police
- ❖ There is a risk that the individual Police officer will make a subjective assessment whether or not to ask the victim if she/he would like to access support services based on any visible signs of distress. As all victims react differently in the aftermath of crime, the external composure and the way in which the victim appears to feel may not always be a reliable way to assess the impact of the crime
- ❖ The initial Police report may for instance be done at the crime scene and may therefore be difficult for the Police to determine whether or not the victim would benefit from support services. Time constraints, background disturbances or presence of the suspect may also decrease the chance of the Police offering to refer the victim to victim support services
- ❖ The Police may not be fully informed regarding the range of services on offer and the benefit such services could bring for the victim
- ❖ The manner in which the Police asks the question may deter the victim from taking up an offer of support services, for instance wordings like “are you not coping?” or “you don’t need any support services, do you?” is likely to decrease the number of victims accepting an offer of support.
- ❖ Victims of crime may not feel the full impact of the crime until days, weeks, months or even years after the event. It is therefore not always possible to determine the impact of the crime on the victim through an initial assessment of the victim’s level of distress at the scene of the crime
- ❖ If the decision whether or not to referral the victim to support services is taken by individual Police officers, referring practices will differ across different parts of EU Member States or indeed between different Police forces within Member States, whereby victims in certain parts of Europe will be more likely to be referred to access victim support services. This leads to variations in victims’ ability to access support in the aftermath of crime, which is not in line with the horizontal right for all victims to access support, as highlighted in the new EU Directive.

In an *opt-out* system:

- ❖ All (or identified groups of) victims are referred from the Police to victim support services and are therefore given equal access to support regardless of where they live or where the crime took place
- ❖ Automatic referrals are the best way to ensure quick access to support services – offers should ideally be sent to victims as soon as possible following the crime

- ❖ Once referred, the victim can take an informed decision whether or not to accept the offer of support. The decision is then taken by the affected individual and not by the Police officer recording the crime report

In the countries where the largest number of victims are able to access support services, best practice supports the development of automated national referral mechanisms, whereby the Police will automatically send the victim's contact details and basic information relating to the crime to a victim support service immediately following the reporting of the crime. The victim is informed of the referral and can at any time decline the referral or offer of support. Upon receiving the referral, the support organisation should extend an offer of support to the victim as soon as possible. If the victim chooses to decline the offer of support, all personal data relating to the victim must immediately be deleted by the victim support service.

4.3.4 Unreported crime

Many victims choose not to report the crime to the Police for a variety of reasons. These victims are still entitled to the some of the same basic rights as other victims, such as for instance right to support and protection. Victims of unreported crime are arguably particularly vulnerable, as they do not come into contact with the criminal justice system and as a result, are not referred to victim support services. The facilitation of referrals, highlighted in the EU Directive establishing minimum standards on the rights, support and protection of victims of crime, includes a requirement, not only on the Police but also on "other relevant agency", to refer victims to victim support services.^{xxv} To ensure all victims are offered access to victim support services, including victims who choose not to report a crime to the Police, all agencies who come into contact with the victim of crime as a result of victimisation should refer the victim to victim support services to limit the impact of crime. This will include for instance hospitals, embassies, consular agencies, schools, social housing and other social welfare agencies.

4.3.5 Individual assessment – deliver rights and services based on need

Everybody reacts differently to crime; while one victim may be able to move on in life fairly unaffected, another victim of the same crime may be severely traumatised by the event. Factors such as personal characteristics, crime type, available support networks, age, relationship/dependency between the victim and the offender, use of weapon, previous experience of crime and a range of other indicators will determine the impact of the crime on the victim.

Rather than identifying certain groups as "vulnerable" and thus potentially creating a hierarchy of victims and a hierarchy of grief, all victims of crime should have access to rights and services in relation to their needs. An individual assessment should therefore

be conducted to identify the particular needs of each victim, after which support services can be tailored to meet this need. For instance, while some victims may require substantial emotional support after the crime, others may for instance only desire assistance applying for criminal injuries compensation. Individual assessments can also ensure that victims with specific protection needs are identified and properly protected (for more information regarding protection measures in court, please see chapter 6). Such an approach can be crucial in facilitating a victim's recovery and ensuring they are provided with the right assistance and protection before, during and after criminal justice proceedings.

Member States are required to conduct an individual assessment to identify any specific protection needs that the victim might have.^{xxvi} This individual assessment should be "timely"; to ensure that any specific needs are identified and protection measures established, the assessment should be done as soon as possible, preferably during the victim's first contact with the criminal justice system. Victim Support Europe believes that this assessment should also address any support needs to ensure that the victim is offered access to appropriate support services immediately following the crime.

In practice, every EU Member State must specify which agency/organisation should conduct the assessment; it could be for instance the Police or a victim support organisation. The individual assessment should consider any factors that may increase the likelihood of a victim suffering further victimisation or intimidation during proceedings. In particular, the following factors should be taken into account:^{xxvii}

- the personal characteristics of the victim
- the type or nature of the crime
- the circumstances of the crime

Other factors that will assist the assessment and should be taken into account are age, maturity, communication needs, language skills, gender and gender identity, ethnicity, race, religion, sexual orientation, state of health, disability, communication difficulties, relationship to or dependence on the suspected or accused person, drug/alcohol dependencies, previous experience of crime, external life circumstances (divorce, bereavement, being made redundant from work etc.) and social supporting structures.

Member States should develop a tool/method for this assessment. Current needs assessments are available that could be replicated in each Member State. Although vulnerabilities cannot be seen from the outside, it is likely that victims of more serious crime or with specific personal characteristics will have greater protection and support needs. As such, the agency conducting the assessment should take these factors into account in order to determine the level of scrutiny needed during the assessment.

The person doing the assessment should be fully trained and have access to appropriate guidance, tools or protocols to enable them to carry out assessments of the needs of victims in a consistent manner across each Member State. If the individual assessment characterises a victim as having specific protection and support needs, specific measures and services should be provided during the victim's interaction with the criminal justice system (for more information, please see chapter 6).

5. The Police investigation

5.1 Right to an impartial, independent and timely investigation

In the immediate aftermath of crime, victims have the right to expect an impartial and independent investigation, whereby the Police will conduct an objective investigation into the committed offence.^{xxviii} The investigation should cover all aspects of the crime, following up on all lines of investigation and all possible suspects. The timing of the investigation is also important to secure as much evidence as possible the investigation should take place as soon as possible after an event. The victim should be kept informed throughout the investigation on any progress made in the case, for instance the identification or arrest of a suspect.^{xxix}

5.2 Limit number of Police interviews

The choice to report a crime to the Police comes natural for some victims, whereas for other it is quite a difficult decision to make. Research demonstrates that the frequency with which victims report crime to the Police is strongly related to the type of crime committed. For instance, car and motorcycle thefts have very high report rates. This can potentially be explained by insurance companies requiring the theft to be reported to the Police in order to pay insurance claims. Violent crimes, such as assaults are less likely to be reported; the European Crime and Safety Survey (EU ICS) 2005 found that only about a third of all assaults and threats were reported to the Police. Sexual offences were least likely to be reported, with a reporting rate of around 15%.^{xxx}

There are many reasons why victims may choose not to report a crime to the Police, for instance:^{xxxi}

- ❖ the incident was not serious enough
- ❖ victim solved it him/herself
- ❖ Police could/would do nothing
- ❖ fear of reprisals
- ❖ fear/dislike of the Police

- ❖ reported the crime to other authorities
- ❖ no insurance

For victims who do report the crime, it is often for a variety of the following reasons:^{xxxii}

- ❖ it was the right thing to do/crime should be reported
- ❖ retribution/offender should be brought to justice
- ❖ to recover property/value of property
- ❖ to stop it happening again
- ❖ insurance reasons
- ❖ to get help
- ❖ compensation

As demonstrated above, victims choose whether or not to report a crime based on a variety of reasons. For the victims who do report a crime, the experience of going through the Police interview can be extremely traumatising, in particular in personal, violent and sexual cases where many of the questions may be very personal and intimate. To limit the distress caused to the victim, it is important to keep the number of Police interviews to an absolute minimum. Interviews should therefore only be conducted when it is strictly necessary for the purpose of the criminal proceedings. Information relating to the case should be recorded to ensure that the victim does not have to tell their story more times than necessary, which many victims find distressing.

5.3 Limit psychological and emotional harm during Police questioning

Criminal justice agencies should make every possible effort to limit the psychological and emotional harm to victims. This includes modifying their behaviour in accordance with the needs of the victim. Below follows a range of measures that are aimed at limiting the harm and impact of questioning on the victim.^{xxxiii}

5.3.1 Person accompanying victim during interview

Victims should be allowed to have a person accompanying them during the Police interview, for moral support and comfort. The victim should be able to choose this person.

5.3.2 Preferred gender of investigative officer

Victims of particular crimes, such as sexual offences and rape, often find it very traumatising having to relate personal, intimate details to a Police officer. In sexual cases, where the crime has so gravely intruded on the victim's personal integrity, the gender of the investigative officer may be the same gender as the offender, which may

aggravate the impact on the victim having to relate their account of the event. Wherever possible, to limit the inconvenience and distress of the victim, he/she should therefore be able to choose the gender of the investigative office.^{xxxiv} This may help the victim feel calmer and provide better quality evidence.

5.3.3 Place of interviews – protect security and dignity

Victims often feel intruded upon when having to answer questions from the Police. Although intrusive questions may be required as part of the investigation, the security and dignity of the victim can be protected by for instance paying attention to the area and surroundings where these questions are being asked. The area in which the interviews with the victim are conducted should be specifically set up for that purpose.^{xxxv} For instance, every Police station should have a separate area, away from the main reception, where the victim can feel safe and report what has happened without the risk of being overheard or intimidated by other people or activities taking place in the Police station. It may sometimes be required to interview the victim as soon as possible after the event, which may for instance require interviews to take place at the crime scene or in the Police car. However, if a victim chooses to report a crime at the Police station a safe and calm environment should be made available for the interview. This is particularly important in domestic violence and sexual abuse cases, where the integrity of the victim is particularly violated as a result of the crime and a safe surrounding is of vital importance.

5.3.4 Interviews carried out by trained professionals

To ensure that the victim does not suffer revictimisation during the Police interview due to unsuitable behaviours and questions, all interviews with the victim should be carried out by professionals trained for that purpose.^{xxxvi} Specific victim awareness training should be a requirement for all Police officers working directly with victims of crime, and particularly for Police offices conducting interviews.

5.3.5 Interviews carried out by the same person

To ensure that the victim has the ability to develop trust and relate to the investigative officer, all interviews with the victim should ideally be conducted by the same person(s), unless this is contrary to the good administration of justice.^{xxxvii} By having the same person carrying out all interviews, it will limit the need for the victim to repeat their story to several different people, which many victims find distressing.

5.4 Acknowledgement of Police report

Every victim who reports a crime to the Police should receive written acknowledgement of the report.^{xxxviii} This will ensure that the victim receives confirmation that the Police has accurately recorded the complaint and acknowledged the accounts given by the victim. A case number and a particular case file should be set up where the victim's case and personal information should be recorded. This should ensure that the victim can refer back to their case file and does therefore not have to retell their story several different times to different investigative officers, unless required as part of the investigation.

In cases of for instance stalking consisting of a series of events, every report should be added to the victim's file and not constitute separate reports. This will ensure that the incidents are recognised as part of a course of conduct and not treated as individual incidents.

5.5 Right to ongoing, case specific information

Once a victim has reported the crime to the Police, it is important that the victim is kept up-to-date with what actions are taken in the case. Without regular updates, victims may get the impression that nothing has happened and that the victim's report is not taken seriously. For many victims, it is quite a traumatic experience reporting a crime to the Police and going through investigative questioning, so it is important to recognise that victims have a need to see that something is happening in their case. Information should therefore regularly be provided, for instance when an accused has been identified and apprehended.^{xxxix}

Information should be provided as soon as possible, by the relevant criminal justice authority. Victim Support Europe has been in contact with many victims who were not informed by the criminal justice authorities and had to read about the latest developments in their case through the media, which severely impacts on the victim's faith in the criminal justice process. Some victims may prefer not to receive information, for instance in relation to the release of the offender. Victims should therefore be asked whether or not they want to receive particular pieces of information. This could for instance be done by the Police when registering the initial report and this information should be communicated to other criminal justice agencies or ideally noted on a shared data base/case file of the individual victim. In practice, it is likely to be a very small number of victims who do not want to receive information, but the desire of each individual victim should be respected and acted upon.

At the end of the Police investigation, the victim should be informed of the outcome, for instance that the investigation has been closed or that the case has been sent to the

prosecutor for prosecution in court. The victim should also be informed of the reasons behind the decision, for instance why the Police investigation was ended.^{xi} Although the victim may not agree with the decision taken, he/she should be able to understand how the decision was reached.

5.5.1 Provision of case specific information – who provides what information?

In many European countries, it is the responsibility of the agency making the decision to inform the victim. For instance, if the Police decide to close an ongoing investigation following a report from a victim, they should be required to inform the victim of their decision and the reasons behind it. Similarly, if the Prosecution decides not to prosecute a suspect, to drop a case before it reaches a final outcome or to conclude the case without court proceedings, they should be required to inform the victim of their decision and their reasoning behind it. Once a decision has been reached by a court, the Judiciary should provide the outcome and a full explanation how the decision was reached to the victim. Finally, the Prison Service or any other institution administrating the release of an offender is often best placed to provide the victim with information regarding the date of release. If this system is chosen, whereby different agencies are responsible for informing the victim, minimum standards should be developed regarding the manner and timeframes within which the victim should be informed.

However, some countries may choose to develop a one-stop-shop, whereby one agency is responsible for providing all the above mentioned information to the victim of crime. Overall, such a setup will have many benefits, since the victim will always know where to turn for information. That enables the victim to receive their individual case worker and build up trust and a good working relationship with that person, which ensures that the victim must not constantly repeat their story to a different worker. The drawback of a one-stop-shop may be that the agency may not have all the background information that the victim may want, for instance the reasons why a prosecutor decided not to prosecute a suspect. There may also be a time delay between the decision being made by the appropriate authority and the agency informing the victim. All these factors should be considered by Member States when developing their processes to fulfil victims' right to information.

5.5.2 Unified data management systems/case file

In order to provide information throughout the processing of a case, European countries should consider establishing suitable recording/data management systems whereby the victim's contact details are recorded and the victim is assigned a specific case number. This case number should ideally be the same for all criminal justice agencies involved in a case; i.e. Police, Prosecutor, Judiciary, victim support organisation etc. which will improve identification of cases and communication between criminal justice agencies.

Subsequently, that would lead to a smoother and more coordinated service and provision of information to the victim throughout the criminal justice system. One practical suggestion how this can be achieved is through the development of a national “information hub”; a computer hub where all criminal justice agencies insert information relating to their cases. That way, information inserted by the Police or the Court can for accessed by the Prosecutor without the need for complicated disclosure practices. The one-stop-shop can access this information and provide ongoing updates to victims about the processing of their case. Individual victims can also be given an individual log-in to ensure that he/she can access information such as date of police report, if case has been given to prosecutor, time and date of trial etc. If many agencies share the same data management system, care should be taken in the design of the system to ensure information can be inserted and shared in accordance with data protection requirement. If required, there can for instance be limitations on what information certain agencies can see, access and amend.

5.6 Right to understand and to be understood

All Criminal Justice Agencies must acknowledge that every victim is different and that the service and interaction with each victim depends on the personal characteristics of the victim and circumstances of each case.

There are many factors that impact on a person’s ability to understand and communicate information, such as for instance the victim’s age, maturity, intellectual and emotional capacities, literacy levels, language skills and any disabilities related to for instance sight or hearing. In addition, going through a criminal justice process is often a very stressful experience for victims. Many victims have never interacted with the criminal justice system before and may find the language and the system very confusing and disengaged. Any such stress may add additional difficulties for the victim to understand and to be understood. The agencies working with the victim must therefore be able to assist the person and provide information in a manner suitable to the situation and to the victim.^{xli} For instance, victims who are unable to read must be given information orally. Victims who are unable to fully understand the information given to them over the phone should be given a written copy of what was said. An agency may have to inform the victim several times or appoint a specific member of staff with particular communication skills suitable to the individual victim. The victim may also be asked to appoint a special advisor/assistant who should be present when the agency provides information to the victim, to assist the victim in understanding the information given. To ensure any communication challenges is identified and recorded as soon as possible, they should form part of the initial assessment conducted in the victim’s initial contact with the criminal justice system. This information should be communicated to other criminal justice agencies or ideally noted on a shared data

system/case file of the individual victim. Any factor influencing the victim's ability understand and be understood should be taken into account and accommodated.

5.7 Right to interpretation and translation

In order for victims to be able to interact and understand the criminal justice proceedings, interpreters should be made available, free of charge, as and when required.^{xliii} Member States should therefore set up a list of interpreters available in preparation. In smaller communities, where the victim's language is only spoken by a limited number of people, there is a risk that the interpreter will know the victim, witnesses called to give evidence or anyone else involved in the case. To the largest extent possible, consideration should therefore be given to ensure that the interpreter is neutral and does not know the victim, the accused or has any interest in the case at hand. If the victim does not feel comfortable with the interpreter or feels that the interpreter has an interest in the case, the victim may not be able to fully participate in the proceedings due to for instance shame or fear of reprisals. There may also be a risk that the interpreter will amend the information delivered. If required, key documents should be translated to enable the victim's participation and to ensure that he/she understands what is happening in the investigation of their case.

Any need for interpreter and translations should form part of the initial assessment, conducted at the victim's initial contact with the criminal justice system. In practice, this can often be carried out by the Police in relation to initial interview/questioning or by a victim support organisation. Although a victim may have basic knowledge of the language of the criminal justice proceedings, in a stressful situation it is important for the victim to fully understand what is happening and what people/agencies are saying. This should be taken into account when assessing the language skills of the victim.

5.8 Right to access victim support services – importance of support

Victims often find it helpful to speak to someone about the crime and how it is impacting on their lives. Many victims rely on family members and friends for support in the aftermath of crime, which is important in overcoming feelings of isolation that is a common immediate response to victimisation. Family members and those in close relationships with the victims may, even if they are not directly involved in the crime, experience their own sense of distress about what has happened. Sometimes it may therefore be very difficult for the victim to tell, and for those close to the victim to hear, details of the crime. Some victims do not have support available from close family members and friends, or would prefer not to turn to them for help. It is therefore important that support is available elsewhere; victim support services may substitute as well as complement support provided by family and friends. In addition to emotional support, victimisation may give rise to both practical and financial concerns for victims.

For instance, victims may find it difficult to know what steps to take following the crime and which agency to contact regarding insurance, criminal injuries compensation, cleaning of crime scenes, housing queries and the progressing of the case through the criminal justice system. In addition, many victims of for instance burglary may spend large sums of money to increase their sense of security, for instance by installing new windows, alarms and outdoor lighting. Victim support services can assist victims with information about the criminal justice system, the rights of the victim and how to access these rights and services.

The EU Directive establishing minimum standards on the rights, support and protection of victims of crime clarifies that all victims of crime, as well as their family members, shall be offered access to victim support services.^{xiii} It is vital that these services are free, to enable all victims to use the services regardless of their economic circumstances. It is also important that the services are confidential, to ensure that the victim can freely speak about their experiences and how they are feeling.^{xiv} If victims are afraid that their statements will for instance be used as evidence, they may be reluctant to accept the offer of support.

5.8.1 Referrals from Police to victim support services

For the people who have had the unfortunate experience of falling victim to crime, early intervention can have a substantial effect on their recovery. Victims who wish to access support services, but are unable to receive appropriate help, are likely to experience a more severe impact in the aftermath of crime.

In order to be able to offer effective and timely support and information services to victims and witnesses of crime, victim support organisations are dependent on receiving referrals from the Police and any other relevant agency. The EU Directive calls on Member States to facilitate referrals from the Police to victim support services^{xiv} (for more details on different referral set-ups, please see chapters 4.3.3 and 4.3.4). Victim Support Europe encourages all European countries to establish a national referral agreement whereby identified cases are automatically referred from the Police to a victim support service, who will offer support and information. This set up will ensure that victims are offered access to support services as soon as possible following crime. It will also assist in estimating number of victims likely to require support, which will ensure that the victim support service can develop operational capacity to offer the highest level of quality support. It will also ensure that all victims are offered access to information and support regardless of where in Europe the victim lives or where the crime took place.

5.8.2 Range of victim support services

The EU Directive establishing minimum standards on the right, support and protection of victims of crime highlight that victim Support Services should, as a minimum, be able to offer:^{xlvi}

- ❖ information regarding the criminal justice system
- ❖ information regarding the rights of victims and how to access such rights
- ❖ information regarding criminal injuries compensation and assistance to apply for such compensation
- ❖ information regarding the criminal justice trial and preparation to attend trial
- ❖ emotional support
- ❖ advice relating to financial issues following the crime
- ❖ discuss coping strategies
- ❖ information relating to risk and prevention of secondary and repeat victimisation, intimidation and retaliation
- ❖ assistance with practical challenges following the crime, i.e. who to contact regarding insurance, repairs, compensation, financial matters, housing concerns, employment support, social welfare queries etc.
- ❖ victim support services should be fully aware of any specialised services and offer the victim access to appropriate services specifically targeting the needs of the individual victim

In addition to these generic minimum standards, victim support services could offer a range of additional specialised services such as for instance:

- ❖ shelter/protected housing
- ❖ direct financial support
- ❖ emergency assistance, such as hotel vouchers, food coupons
- ❖ legal advice
- ❖ psychotherapy and counselling
- ❖ targeted support for particular groups of victims
- ❖ medical examination and trauma support
- ❖ representing the victim in relation to legal matters and compensation claims

Victim support services and any specialist services can be set up as a non-governmental organisation or a public body and may be organised on a professional or voluntary basis.^{xlvii} Member States will decide what would be the most appropriate set up in their State to ensure efficient support to all victims. The main aim is that support services should be independent; in the same sense as the prosecution service, the court service

and the criminal defence agents operate independently in the best interest of their client or the public interest, the victim support service should focus on the interest and needs of the victim.

5.8.3 Victim support services - tailored to meet the needs of the victim

The EU Directive highlights that “support should be provided through a variety of means, without excessive formalities and through a sufficient geographical distribution across the Member State to allow all victims the opportunity to access such services”.^{xlviii} The methods for offering victim support services will therefore differ depending on the service and the victims’ needs. Common initial contact methods are telephone call or letter, but emails and text messages are becoming increasingly common. Methods for ongoing support will also depend on the victim’s needs, but can for instance involve face-to-face contact, telephone, letters, email, text message and other online methods.

Part of the objective of the EU Directive is to ensure that victims are treated in a *tailored* and professional manner.^{xlix} In order to ensure that the victim support service provides an appropriate response to the individual needs of the victim, best practice suggests that an assessment should be done regarding the needs and circumstances of the victim. Factors such as personal characteristics, crime type, age, previous experience of crime, relationship between victim and the offender, social conditions, ethnicity, external circumstances, available support networks and a range of other factors should be taken into account during the victim support services’ first contact with the victim. The victim should also be able to express what they would like to get out of their engagement with the victim support service, for instance some victims may only require assistance to fill in a criminal injuries compensation claim, while some may require extensive emotional and practical support. By discussing the victim’s needs and reaching a conclusion together on what the victim wants and expects from the victim support service, he/she will find the service more beneficial and more suitable to his/her particular circumstances. To meet the needs of a range of different groups of victims, it is essential that the victim support service is able to offer a range of services – one size does not fit all. It is the responsibility of the Member State to ensure that sufficient funding is made available to provide consistent, quality victim support services that meet the needs of individual victims.

5.8.4 Data protection requirements for Police and victim support services

Data protection is of vital importance to protect the privacy, health and security of victims of crime, as it aims to ensure that contact details, information relating to the crime and the personal information regarding the victim is not shared with anyone who are not authorised to receive it. For instance, it is crucial for victims of stalking, domestic abuse or victims who have protected identities that their name and address is not

accessible to their ex-partner. Appropriate data protection and information security processes are needed to ensure that this protection requirement is fulfilled.

The EU Directive establishing minimum standards on the rights, support and protection of victims of crime calls for victim support services to be confidential,¹ which means that all information gathered by staff and volunteers across Europe must be dealt with in a secure and sensitive manner. This includes a commitment to ensure that all personal information is handled fairly and lawfully with due regard to confidentiality and in accordance with the principles of data protection.

Following the introduction of data protection legislation, many Police forces across Europe became concerned that their victim referral practices might not be in accordance with data protection principles and the number of referrals to victim support services fell substantially, limiting the number of victims gaining access to vital support services. However, the aim of data protection legislation is not to prevent victims from accessing to support, it is merely to ensure that all referrals are handled lawfully and securely, in the best interest of the victim. As such, referrals between the Police and victim support services can be conducted in compliance with data protection legislation, without violating the privacy of the victim and should not be automatically prohibited due to data protection legislation. In fact, the EU Directive establishing minimum standards on the rights, support and protection of victims of crime highlights that “Member States shall facilitate the referral of victims, by the competent authority that received the complaints and by any other relevant entity, to victim support services”.¹ⁱ

A suggested way of fulfilling the Directive’s call to facilitate referrals is for Police forces to always inform the victim about the services offered by victim support services and that the victims’ contact details will be passed to victim support, offering the victim a change to express a wish not to be referred. Letters/leaflets given from the Police about victim support should also include this information. Information about victim support and an acknowledgement that the victim does not want to opt out of the referral practice should be a mandatory part for the Police to fill in when they record a crime, to show that they have informed the victim of the possibility to opt out of the referral scheme and what the victim responded. This is to ensure that victims have a genuine opportunity to say if they do not want their details passed on to victim support. The Police should accordingly have effective mechanisms in place to ensure that such wishes are respected. Victim support should themselves ensure that their arrangements for processing any data passed on to them are fully compliant with data protection principles. For instance, sensitive personal information should only be recorded in a secure data case management system which fulfils data protection and processing requirement, never on individual computers or laptops.

Regarding what information is disclosed from the Police to victim support, the disclosure should be limited to only include vital information, such as name, contact details, age and crime type. This information is needed to ensure that the most suitable person in victim support will contact the victim to offer services and support in the most suitable manner.

5.9 Right to protection

There is a positive obligation on all Member State to protect their residents and as a result, any victim of crime on their territory, at all times.^{lii} Following a victim's report of a crime, the Police should conduct a risk assessment to determine whether or not the victim is at risk of further victimisation and protective measures should be established accordingly.

If a suspect is identified, the Police or any other authority identified by the Member State should assess whether or not the suspect poses a risk of retaliation, intimidation, repeat or further victimisation to the victim. If so, consideration should be given to keep the suspect on remand until the trial. If the suspect is released, but there is still a risk that he/she might threaten, intimidate or injure the victim or any associated witness, strict bail conditions should be set, for instance stating that the suspect/accused must not contact the victim or come within a certain distance from the victim's work or home. Below follows particular information regarding two aspects of victims' right to protection during the Police investigation.

5.9.1 Right to avoidance of contact between victim and offender

To protect the victim from risk of further victimisation, threat or intimidation, conditions should be established to enable avoidance of contact between victims and accused persons in any venue where victims may be as a result of being a victim of crime.^{liiii} For instance, all venues where a victim may have face-to-face contact with a public authority as a result of being a victim of crime, measures should be in place to avoid contact with the accused. This includes the Police station, Accident & Emergency Departments, Housing Association, Drug/Alcohol clinic, social welfare office etc.

To protect the victim and avoid contact between offenders and victims, Police stations should have particular facilities for victims coming to report crimes. That should be a calm and safe environment, away from the general public and reception area, where the victim feels secure and able to give their account of the crime. Ideally, any examination required for evidence purposes should be carried out during this initial meeting, so facilities should enable such examination to take place.

Hospitals and Accident & Emergency Departments should also have the facilities to separate victims from the accused or the general public. Victims should quickly be taken to separate waiting areas and seen by professionals. Health professionals should aim to speak to the victim about the incident and if deemed appropriate, give information and refer the victim to victim support services. Health professionals should also be encouraged to give general information relating to the location of crime hot spots to the Police, as this information may help them to prioritise their resources in accordance with the risk.

5.9.2 Right to protection of privacy

Measures should be adopted to protect the privacy and photographic images of victims and their family members, before, during and after the court proceedings.^{liv}

In line with the victim's right to privacy, the victim should be able to determine what information should be disclosed to the media. Although generic information about the crime falls under the remit of freedom of the press and freedom of speech, the media should not be allowed to print detailed accounts of the crime, personal details or images of the victim or their family without his/her consent. For instance, victims' last words should not be printed without consent from the victim's family and pictures of any soiled crime scene should not be published. Victims may be in a very vulnerable situation after the crime and it may be difficult to take a decision with such big repercussions, but they should be given support and assistance to be able to make an informed decision about what information they agree to have publicised. Victim Support Europe acknowledges that this may be seen to limit the media's freedom of speech, but these regulations are vital to ensure that the victim's right to privacy and protection are not infringed. Intrusive media coverage is also likely to deter other victims from reporting a crime and engage with the criminal justice authorities, which will have a negative impact on the criminal justice system and society as a whole.

5.10 Rights to review a decision not to prosecute

The EU Directive establishing minimum standards on the rights, support and protection of victims of crime has introduced a new right in relation to the decision not to prosecute.^{lv} Victims now have a right to verify that established procedures and rules have been complied with when the prosecutor takes a decision to not prosecute a suspect. To guarantee this right, victims must be given information, preferably from the prosecutor taking the decision not to prosecute, along with a full explanation why the decision was taken not to prosecute. This information can be given in written or oral form, depending on the needs of the victim.

Regarding the review of a decision not to prosecute, such a review should be carried out by a person or authority different, and ideally more senior, to the one that took the original decision not to prosecute.

6. The case goes to trial

6.1 Right to an effective remedy and a fair, timely trial

All victims of crime within the European Union, whose rights and freedoms have been violated, have a right to an effective remedy. Similar to the accused, the Charter of Fundamental Rights of the European Union provides victims with the right to a “fair and public hearing within a reasonable time by an independent and impartial tribunal.” The European Convention of Human Rights also includes a range of fundamental rights for victims of crime and the European Court of Human Rights has repeatedly stated that victims have a right to thorough, effective and timely criminal investigation and prosecution. However, in practice these rights are not as clear and they have not been used to the same extent in relation to victims as they have in relation to the accused.

There are many time restrictions regarding how long an accused person should have to wait before having the allegation against him/her tried in court, in particular when the accused is on remand. There are few, if any, corresponding rights regarding the victim’s right to a trial within a certain time period. Many victims have to wait years until their case is dealt with in court, which in some ways prevents the victim from completely putting the event behind them and moving on. Victims suffer many of the same effects from the delay as accused persons do; such as insecurity, anxiety, stress and apprehension. In addition, before the case is heard in court, the victim and any associated witnesses are at an increased risk of threat and intimidation. Victim Support Europe would encourage all EU Member States to acknowledge victims’ right to a fair trial within a reasonable time and aim to limit the time between the crime and the case being heard in court.

6.2 Right to individual assessment – protection measures in relation to need

All victims of crime require sensitive and careful treatment. However, some victims are particularly vulnerable to further victimisation or intimidation by the accused or associates, friends or family members. In addition, some victims are particularly at risk of being further distressed or harmed by their involvement in criminal proceedings whether through the giving of evidence or through other forms of participation. Such victims require special measures in order to minimise the likelihood of further harm occurring.

In the EU Directive establishing minimum standards on the rights, support and protection of victims of crime, children is the only group presumed to have specific protection needs due to them being vulnerable to secondary and repeat victimisation or intimidation based on their age. For all other victims, an individual assessment must be conducted to identify any specific protection needs and determine if the victim would benefit from specific protection measures.^{lvi} The Individual assessment should take all factors into account that may impact on the victim, such as personality criteria, nature of the crime and circumstances around the crime.^{lvii} However, the assessment should also take account of external social factors that may impact on the risk of secondary victimisation and distress when giving evidence in court. The severity of the crime and the degree of apparent harm suffered by the victim provides a useful indication of the extent of any particular individual assessment.

Victim Support Europe strongly supports the introduction of an individual assessment to ensure that the individual circumstances of each victim is acknowledged and the best possible support is put in place to assist the victim on their journey through the criminal justice system. It maximises the ability to tailor any measures in accordance to the needs of the victim, which will help to prevent secondary and repeat victimisation and intimidation to enable the victim to effectively access justice.

6.3 Right to protection in court

Victims have the right to have the safety of themselves and their family members protected from retaliation, threat or intimidation, and repeat or further victimisation.^{lviii} This includes emotional and psychological harm or secondary victimisation. Criminal justice authorities must therefore adopt measures that protect the victim's and their family members' privacy. Below follows a range of measures that should be developed.^{lix}

6.3.1 Protection measures when giving evidence

There is a range of measures that can be put in place to protect the victim from psychological or emotional harm during questioning or when testifying in court. Victim Support Europe believes all victims who are asked to give evidence in court should be informed of the range of measures on offer and given access to any special measures of his/her choice. Such protective measures could for instance entail:^{lx}

- ❖ giving the victim a support person present when giving evidence
- ❖ avoiding visual contact between victims and defendants including during the giving of evidence, by appropriate means including the use of communication technologies

- ❖ ensuring that the victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies
- ❖ allowing a hearing to take place without the presence of the public
- ❖ avoiding unnecessary questioning concerning the victim's private life not related to the criminal offence. Through enforceable measures, only information that is relevant to the case at hand should be disclosed to the court and to the defence to enable cross-examination. Personal details such as the victim's medical records and previous private activities, unrelated to the crime, should never be disclosed
- ❖ evidence may be recorded and used as evidence in court, sparing the victim/witness the need to give evidence
- ❖ right to communication aids, such as mediator
- ❖ right to give evidence without the judges wearing gowns and wigs
- ❖ victims should not have to disclose their address in open court

6.3.2 Child witnesses

In addition to the rights listed above, child witnesses have additional rights to protection, for instance:^{lxi}

- ❖ all interviews with child victims may be audio/visually recorded and used as evidence in court proceedings. This will spare the child from having to attend the court to give evidence
- ❖ in countries where the child victim has a right to legal counsel, the child should get his/her own legal counsel and representation
- ❖ In criminal investigations and court proceedings, judicial authorities may appoint a special representative for the victim in cases where the holders of parental responsibility are precluded from representing the child as a result of a conflict of interest between them and the victim, or where the child is unaccompanied or separated from the family
- ❖ a right to not have their personal details, photographs, or any other details which may identify them published
- ❖ child witnesses involved in cases concerning sexual offences, whether as a victim or as a witness, have the right to have their identity protected in media
- ❖ the child's best interest should be considered a priority, in accordance with the Charter of Fundamental Rights of the European Union and the 1989 United Nations Convention on the Rights of the Child.

6.3.3 Right to avoidance of contact between victim and accused – separate facilities

One of the most important ways to protect the victim from retaliation, intimidation, repeat or further victimisation is to limit the contact between the victim and the accused. The European Directive establishing minimum standards on the rights, support and protection of victims of crime clarifies that all EU Member States shall establish the necessary conditions to enable avoidance of contact between victims, their families and the accused.^{lxii} The right to avoid contact with between the victim and the accused is particularly important in venues where criminal proceedings are being held, i.e. court buildings, since that may give rise to an increased risk of confrontation and intimidation. European court specifications should be developed to ensure that the layout of the court building takes into account the need to separate the victim from the accused. For instance, the lay-out of the court building should ensure that the victim/witness can move freely to and from the waiting room into the court room and back out without any risk of intimidation and risk of meeting the accused. The court premises should give victims separate waiting rooms, separate entrances, toilets, eating facilities etc. to avoid any contact with the accused or associated family and friends. The layout of the court room should be set to ensure that the victim/witness does not have to walk past the accused on the way to the witness box, as this could be seen as a particularly intimidating experience.

6.3.4 Disclosure

In many Member States, there is a legal requirement on the prosecutor to disclose information that is of relevance to the defence. However, information that is not relevant to the case at hand should not be disclosed.^{lxiii} As such, personal details, previous actions and experiences, photographs etc. regarding the victim should only be disclosed if it is relevant to the case. In sexual cases, although the defence should have access to all disclosed material, photographs and descriptions of the sexual abuse should not be left in the accused's possession. The material should instead be kept by the defence agent and the accused should only be given access to this information by the defence agent when preparing the defence.

6.4 Right to support services in connection with the trial

The trial itself can be a very stressful and traumatic experience for victims and witnesses called to give evidence. It is therefore important that support services are available before, during and after the proceedings.^{lxiv} Support services offered in connection with the trial could for instance be:

Before trial:

- ❖ Familiarisation visit – the victim/witness is invited to see the court house, waiting room and court room before the day of the trial. This offer should be optional (some victims/witnesses may feel pressured having to visit the court twice) and gives the victim/witness the opportunity to see the court house to set realistic expectations regarding the trial day
- ❖ Information regarding the trial process and the agencies that will be present
- ❖ Information regarding the role of the victim/witness and the range of questions that may be asked – clarify that questions may be intrusive but this is nothing personal against the victim/witness
- ❖ Meet the criminal justice professionals involved in the case, in particular the prosecutor since he/she will lead the questioning of the accused and the victim/witness

Morning/day of trial:

- ❖ If victim/witness feels frightened, a support service (witness service) should meet the witness at the door and escort him/her to a designated waiting area – preferably separate from the accused
- ❖ If required, a support person (witness service) should stay with the victim/witness until he/she is called to give evidence or is allowed to enter the court room

During trial:

- ❖ A Support person (witness service) should be allowed to sit close to the victim/witness during evidence. If required for legal reasons, the person may avoid eye contact with the witness, but merely serve as moral support and comfort
- ❖ For victims not giving evidence, a support person should be allowed to sit next to the victim in court as moral support and comfort
- ❖ Criminal justice agencies should introduce themselves to each victim/witness before asking questions

After trial:

- ❖ Some victims/witnesses may feel traumatised by the experience of giving evidence or being present during the trial. Emotional support services should therefore be offered after the trial has taken place. If required for legal reasons, the witness service (who in many countries is unable to discuss the trial, evidence or any details of the case) can refer the victim/witness to a victim

support service who can discuss the details of the case and the victim's/witness' experience of attending the trial and/or giving evidence

6.5 Right to be heard

Victims of crime should be given the opportunity to provide initial and further information, views or evidence during criminal proceedings.^{lxv} Examples of victims' right to be heard include:

- ❖ right to provide the Police with an initial report of the crime and its impact on the victim
- ❖ right to (and given the opportunity to) comment on any evidence put forward by the defence
- ❖ right to provide further comments/evidence to the prosecutor regarding the crime and its impact on the victim
- ❖ right to be called as a witness in court
- ❖ right to provide the court with a victim impact statement regarding the emotional, practical and financial impact the crime has had on the victim
- ❖ right to make interventions during the court proceedings and deliver questions for cross-examination of a suspect
- ❖ right to have their evidence and statements taken into account by the authority deciding the outcome of the case

6.6 Right to information – trial

Victims have the right to information relating to their role and any rights they have in criminal justice proceedings.^{lxvi} As highlighted throughout this document in every stage of the criminal justice process, right to information is one of the most important rights for victims of crime. The victim should be kept updated on any actions and developments in their case. In relation to the trial, the victim should in particular be provided with the following information:

- ❖ current status of the case – when will the prosecutor formally charge a suspect in court
- ❖ the choice of charge – ideally, the victim should be informed and given a chance to comment on the prosecutor's choice of charge
- ❖ in Member States whose criminal justice system allows discussions between the prosecution and the defence agent, if the prosecutor decides to amend the charge or accept a guilty plea of a lesser charge following discussions with the defence, the victim should be informed and ideally given a chance to comment before the plea is accepted

- ❖ if, for any reason, the case will not go to trial or a decision is taken to end the trial or conclude the case without the trial, the victim should be informed and ideally given a chance to comment. The victim should also receive any reasons for that decision
- ❖ date of trial
- ❖ final verdict in the trial and reasons why that particular verdict was given
- ❖ if requested, the victim should ideally be provided with a transcript of the trial proceedings

Many victims have never been in contact with the criminal justice system before and as such, they are unfamiliar with the criminal justice process and the agencies involved. To prepare the victim for trial, the prosecutor should ideally meet with the victim before the day of the trial to present themselves to the victim so that the victim knows who will be leading the case in court. This is also an opportunity for the prosecutor to inform the victim how he/she plans to lead the case in court, what range of overall questions are likely to be asked etc. This conversation will help to prepare the victim for the trial and is vital for the victim to have realistic expectations of what the trial will be like.

6.7 Right to understand and be understood

Victims have the right to understand and be understood during any interaction with criminal justice agencies in relation to their case.^{lxvii} As such, victims have the right to receive information in a manner which they can understand. Any factor influencing the victim's ability to be understood should be taken into account and accommodated for throughout the criminal justice proceedings.

6.8 Right to interpretation and translation

If the victim/witness does not speak the language of the criminal justice proceedings, he/she should be provided with interpretation, free of charge, during any interview or court hearing. Translations should be given of key documents and decisions to ensure the victim can fully participate in their case, understands what actions are taken and the reasons behind such actions.^{lxviii}

In smaller communities, where the victim's language is only spoken by a limited number of people, there is a risk that the victim will know the interpreter. To the largest extent possible, consideration should therefore be given to ensure that the interpreter is neutral and does not know the victim, the accused or has any interest in the case at hand. If the victim does not feel comfortable with the interpreter or feels that the interpreter has an interest in the case, the victim may not be able to fully participate in the proceedings due to for instance shame or fear of reprisals. The court should also be aware that in situations where the victim and offender speak a different language from

the court, there is an increased risk of intimidation as the court may not necessarily understand everything said to the victim by the accused or associated family and friends.

6.9 Right to legal aid

The EU Directive establishing minimum standards on the rights, support and protection on the rights of victims of crime^{lxi} clarifies that victims, who have the status of parties in criminal proceedings, should be able to access legal aid. European States should be encouraged to clarify the role of victims in their national legislation and where the victim is seen as a party in the proceedings, they should be able to access legal aid to pay for their legal representative. This will ensure that victims are able to pay for legal representative to safeguard and represent their interests in the case.

6.10 Right to reimbursement of expenses

Although the EU Directive only requires expenses to be paid for victims participating in criminal proceedings,^{lxx} Victim Support Europe strongly believes that all victims of crime should be entitled to reimbursement of expenses, regardless of whether or not the victim takes part in the trial as a party, witness or as a spectator. The purpose is to ensure that victims are not prevented from attending the trial and seeing justice done, due to their own financial limitations.

In practice, this right ensures that Member States pay for the victim's travel and subsistence expenses, loss of earnings if applicable and any other cost arising for the victim as a result of having to attend the trial such as for instance cost for child care.

6.11 Right to the return of property

When seized property is no longer needed for the criminal investigation or any subsequent proceedings, the agency holding the property should contact the victim without delay to arrange the return of the property.^{lxxi} All costs for such return should be covered by the Member State. The property should be returned in the same condition as when it was collected, or if the victim prefers the property can be cleaned or repaired to the victim's specification.

6.12 Right to compensation from the offender in the course of criminal proceedings

Compensation is provided for victims of crime in a variety of ways. In some European countries, compensation can be awarded from the offender as part of criminal proceedings. In countries where the national legislation provides for the possibility of ordering the offender to pay compensation to the victim as part of the criminal

proceedings, such a decision should be taken within a reasonable time,^{lxxii} preferably as part of the court sentence.

There are a variety of ways in which a Member State can encourage offenders to pay the awarded compensation to the victim. If the offender is unable to pay a large lump sum at once, payment plans can be established, whereby the offender pays a set amount every week/month until the full compensation is paid.

If offenders, who are ordered to pay compensation to victims as part of the criminal proceedings, are unwilling to pay or to establish suitable payment plans, enforcement possibilities should be made available. Member States could for instance set up automated direct debits whereby money is withdrawn from the offender's salary or social welfare payments before he/she receives the money, which means the offender does not actively have to pay themselves. There should also be the possibility of taking money straight from the offender's bank account to cover the cost of victim compensation, in cases where the offender refuses to pay the awarded compensation within set time limits. In cases where there is a risk that the suspect might sell or otherwise disperse of assets before the trial to limit their ability and requirement to pay compensation, Member States should adopt measure whereby the accused's assets can be frozen during the trial. This will ensure that if convicted, the offender has remaining assets that can be used to pay compensation to the victim. If the accused is found innocent, the money will immediately be released to the person's disposal.

For victims, compensation following a crime is often of deeper significance than simply receiving a financial award. Of central importance is the formal acknowledgement and recognition of the suffering of the victim^{lxxiii}, as well as a validation that what the victim says is true. As such, compensation is an important part in the victim's recovery process.^{lxxiv} Victim support organisations across Europe regularly come into contact with victims in cases where the offender has not paid the compensation and problems occur in enforcement. Having been awarded the compensation by a representative of the State (the criminal court), victims should have the right to receive the award promptly. It should not be the responsibility of the victim to pursue fulfilment of court ordered compensation, as this is very aggravating and often experienced as further victimisation for the victim.^{lxxv} It forces the victim to maintain contact with the offender, either directly or through the criminal justice process. This further enables the offender to maintain their perceived power or sense of control over the victim. In several countries, legislation is progressing to enable victims to receive compensation payments directly from the State. It is then the responsibility of the State to seek reimbursement of the money from the offender, for instance by using the enforcement mechanisms mentioned above. This ensures that the victim receives the compensation immediately following the court's decision and the need to engage with the offender is eliminated.

Victim Support Europe strongly supports this arrangement and encourages all Member States to consider developing similar set ups.

6.13 Cross-border assistance

Member States shall cooperate to facilitate more effective protection of victims' rights, interests and the ability of victims' to access their rights throughout the criminal proceedings.^{lxxvi} That includes cooperation in a range of areas:

- ❖ police cooperation – ensuring that the victim can report the crime in their own language and in their own country of residence, who will cooperate with the police investigating the crime in the country where it took place
- ❖ cross-border evidence – Member States should cooperate to ensure that evidence collected in one Member State can be used as evidence in another Member State. Mutual Legal Assistance (MLA) is the formal way in which countries request and provide assistance in obtaining evidence located in one country to assist in criminal investigations or proceedings in another country. The Council of the European Union has adopted a Convention to facilitate mutual judicial assistance between the authorities of the Member States (police, customs and courts) in order to improve the speed and efficiency of judicial cooperation^{lxxvii}
- ❖ cross-border witnesses – Member States should cooperate to ensure that victims/witnesses are able to give evidence from their own country of residence, for instance using videoconference or telephone
- ❖ support services – Police and national victim support services should be able to refer victims to access support services in their country of residence

Victim Support Europe aims to assist any Member States, criminal justice agency or individual victim looking to access support services across the EU.

6.14 Victim statements before sentencing

Victims of crime should be given the have the right to submit a “victim statement”, providing information to the court how the crime has impacted on their life emotionally, practically and financially. Victim support services can assist the victim in preparing the victim statement.

Victims should have the right to submit their statements before sentencing and the information provided should be taken into account when choosing a sentence and disposal. Since a significant amount of time can pass between the crime being committed and the case being heard in court, victims should have the right to update their statements if they feel their initial statement is no longer accurate. Victims should

be given the option to provide the statement in writing or to read it out verbally in court.

7. Appeal process

If a case is appealed, the same rights apply for victims of crime as detailed in chapter 6.

This includes:

- ❖ right to information – victims should be kept fully informed of what is happening in the case, including time and place of new trial, decisions taken in the case, final outcome and reasons behind choice of sentence/disposal. Information should be given in a manner they can understand and interpretation/translation should be provided if required
- ❖ right to protection – measures should be taken to protect the victim and any associated family members from threat, intimidation, repeat and secondary victimisation as well as emotional and psychological harm. Contact between the victim and the accused should be avoided and only details relevant to the case should be disclosed
- ❖ right to individual assessment – victims should receive a timely individual assessment to identify and particular needs as they may have changed since the original trial
- ❖ right to special measures when giving evidence – victims should be offered access to special measures, in accordance with their needs
- ❖ right to privacy – no intrusive details regarding the case and no picture of the victim should be published without the consent of the victim/victims' family
- ❖ cross-border assistance – similar to the original trial, any cross-border assistance should be given to ensure the victim can participate in the trial process
- ❖ right to support services – victim should receive assistance and support before, during and after the appeal process. Witness Service should offer assistance and information on the day of trial

8. Beyond the trial

8.1 Right to protection

Once the trial is finished, there may be a need to protect the victim, witnesses or any related family members. For instance, any person giving evidence in court may be at risk of threat or intimidation from the accused/offender or any associated friends or family members. Any concerns from the victim or victim's family should be taken seriously and the Police should conduct a risk assessment looking at whether or not any protective measures should be put in place to protect the victim or anyone else at risk of threat.

8.1.1 Avoidance of contact with the offender

Victim Support Europe has come across many cases, where the offender continues to contact the victim while serving the sentence for the crime committed against the victim. For instance, the offender may write letters or phone the victim from prison, which victims often find very distressing. In stalking cases, this is a way for the offender to continue his/her behaviour of intimidating and controlling the victim. European countries should develop measures whereby prisons, if requested by the victim, are able to scrutinise any communication between prisoners and external recipients to ensure that he/she does not maintain any contact with the victim. If a victim notifies the prison that the offender has been in contact, the prison should be able to add the victim's number to a list of "banned numbers" that are not able to be reached from any phone within the prison and any letters addressed to the victim should be confiscated. When choosing sentence and disposal, it would also be helpful if the judiciary would include a requirement on the offender to refrain from contacting the victim, if requested by the victim.

8.2 Right to information and participation

8.2.1 Information - outcome of trial

The victim should be informed of the outcome of the trial, including the sentence. The victim should also receive an explanation why that particular sentence was chosen.^{lxxviii} Even if the victim does not agree with the sentence given, he/she should be able to understand how it was reached.

The victim should be informed of any conditions/requirements attached to the sentence. For instance, if part of the sentence includes a restriction on the offender's mobility and ability to contact the victim or attend a certain area at a certain time, the victim should be informed of these conditions and who to contact in case the offender

breaches these conditions. This is important for two reasons; the victim is often in a good position to report any breaches of conditions and it will also reassure the victim that any unlawful behaviour from the offender is monitored, acknowledged and acted upon.

In addition to information regarding the sentence, the victim should be given information how that sentence will be spent in practice. For instance, if the offender is sentenced to a prison sentence, the victim should be informed whether or not there is a possibility for the offender to be released early and/or spend part of the sentence on licence. This will help to ensure that the victim sets realistic expectations what the given sentence will mean in practice.

8.2.2 Information and participation – release of offender

If the offender has requested early release or a formal process has been initiated to scrutinise the possibility of releasing the offender for instance on parole, the victim should be informed^{lxxix} and given an opportunity to give information to the agency making the decision, such as a Parole Board or Prison Service. The victim should be able to raise concerns relating to their safety and security, for instance if they are nervous about meeting the offender in the community, that the offender will contact and threaten them or any other concern they might have. These concerns should be taken into account by the deciding agency and appropriate measures should, if applicable, be put in place. For instance, if the offender is released on parole despite fears raised by the victim, particular requirements or restrictions should be attached to the release conditions, for instance the offender could be restricted from contacting the victim or attending a certain area where the victim lives/works.

Once a decision has been taken to release an offender from prison, the victim should be informed. Many European countries have various forms of notification arrangements in place, whereby certain victims are offered the chance to receive this information. Victim Support Europe believes that, unless they have expressed a wish not to receive it, all victims should receive information regarding the release of the offender, not merely victims in cases where there is an identified risk or where the offender has served a long prison sentence.

8.3 Right to support

All victims have the right to access support services whenever they are in need of such services; before, during and after criminal proceedings.^{lxxx} Having to participate in a criminal justice proceedings, for instance by giving evidence, may be very traumatic and the victim/witness may feel a need for support to deal with any secondary victimisation or feelings of distress suffered as a result. In some cases, the victim is not satisfied with

the outcome of the trial and may need assistance to deal with any feelings of injustice and revictimisation.

The release of the offender is another time in the criminal justice process where victims might feel particularly vulnerable and at risk of intimidation and further victimisation. Victim support services can help reassure the victim and can often offer assistance regarding how to identify risk and prevent repeat and further victimisation, threat and intimidation.

9. State Compensation

9.1 National compensation funds

As mentioned in chapter 6.12, European countries have different arrangements in relation to compensation in the aftermath of crime; compensation can for instance be paid by the offender, insurance company or by a public compensation fund. Several European treaties have been developed in the area of compensation. The 1983 Council of Europe convention on the Compensation of Victims of Violent Crime declared that where compensation is not fully available from other sources, the State on whose territory the crime was committed shall compensate:

- a) those who have sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence
- b) the dependants of persons who have died as a result of such crimes

The Convention clarifies that compensation shall as a minimum cover loss of earning, medical and hospitalisation expenses, funeral expenses and, as regards dependants, loss of maintenance. To avoid doubling compensation, the State may deduct from the compensation awarded any amount of money received from the offender, insurance, social security or any other source.

In 2004, the European Union adopted the Directive 2004/08/EC relating to Compensation to Crime Victims. The Directive deals specifically with compensation to cross-border victims where a resident of an EU Member State has been victimised in another Member State. It replicates the call from the earlier Convention that it is the Member State on whose territory the crime was committed that shall pay the compensation. Victims of crime can apply for compensation either in their own country of residence or in the country where the crime took place. According to the Directive on Compensation, all Member States shall establish one or more authorities responsible for receiving, processing and deciding upon applications for compensation.

The 2004 EU Directive on Compensation demands that all Member States establish a scheme on compensation to victims of violent intentional crimes committed in their respective territories. The scheme shall **guarantee fair and appropriate compensation** to victims. The rules on access to compensation in cross-border cases shall operate on the same basis as Member States' schemes on compensation to victims of violent intentional crimes committed in their respective territories. There are no set clarifications on what constitutes "fair" and "appropriate" compensation. Drawing references from other international treaties, we find that restitution should, whenever possible, restore the victim to the original situation before the crime occurred and that compensation should be appropriate and proportionate to the gravity of the violation and the circumstances in each case. The calculation of what is appropriate and proportionate should consider:^{lxxxix}

- physical and mental harm
- lost opportunities, including employment, education and social benefits
- material damage and loss of earnings, including loss of earning potentials
- moral damage
- costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

Victim Support Europe urges all Member States to ensure that their national compensation scheme is efficient and effective in compensating victims in the aftermath of crime, regardless of whether or not the case refers to a domestic or a cross-border case.

9.2 Right to information – compensation

For victims to receive compensation following a crime, a basic requirement is often that they must report the crime to the Police. In their first contact with the criminal justice system, they should therefore be informed of any compensation schemes available, how to apply and where they can find more detailed information.^{lxxxix} Any basic requirements that must be fulfilled in order to apply for compensation should be fully explained to them in a language and manner they can understand.^{lxxxix}

European countries have different compensation schemes that cover a range of costs; while some compensation schemes focus on physical injuries from intentional, violent crime, other compensation schemes also cover loss of earning, emotional pain and suffering, and any other additional costs incurred as a result of the crime such as for instance replacing clothes, glasses etc. Furthermore, some compensation schemes also cover necessary adaptations to the home environment in cases where the victim has suffered severe physical impairment as a result of the crime. The victim should receive detailed information regarding the application compensation scheme, what costs they

cover, eligibility criteria and any requirements set to attain the different forms of compensation.^{lxxxiv}

9.3 Assistance applying for criminal injuries compensation

All European countries should ensure that they have an agency/organisation able to assist victims wanting to apply for criminal injuries compensation.^{lxxxv} Victims should be able to access assistance, free of charge, in determining their eligibility and filling in the application form for the applicable compensation scheme(s).

10. Restorative Justice

Restorative justice encompasses a range of services whether attached to, running prior to, in parallel with or after formal criminal justice proceedings. Restorative justice measures can be very rewarding to the victim, who may for instance receive a greater understanding of the reasons behind the offender's behaviour. It may also allow the offender to apologise and take responsibility for the crime, which may relieve the victim from feelings of guilt, shame and anger that may have arisen as a result of the crime. Participation can also avoid feelings of alienation which are common in the formal criminal justice setting. The victim may obtain an opportunity to seek information from the offender which would not otherwise be available and also the opportunity to seek redress. In addition, some victims value the opportunity to communicate their experiences of the crime and to help achieve a constructive outcome from their negative experience. However, it is important to remember that restorative measures are not suitable for all victims. Some victims may feel burdened with unwanted responsibility of decision making, it may enhance fear and expose them to secondary victimisation. Other victims may feel uneasy about seeing the offender, disappointment with the inadequate outcome or feel that they were treated disrespectfully and further victimised by the process. It is therefore very important to fully explain the restorative justice measure to the victim and ensure that he/she has realistic expectations before making an informed decision whether or not to take part.

10.1 How could restorative justice work in practice?

A restorative justice process can be initiated by either the offender or the victim. If the offender has expressed a desire to participate in a restorative measure such as for instance victim-offender mediation, the victim should be informed of such an interest by for instance a victim support organisation or the mediation service offering to deliver the service. A victim should also be able to express their interest to take part in a

restorative justice measure to for instance a mediation service or the penile institution working with the offender.

Participation of the victim in any restorative measure must be voluntary which also implies that the victim must have sufficient knowledge of the risks and benefits to make an informed decision whether or not to participate. It also means that factors such as power imbalances, age, maturity or intellectual capacity of the victim which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim, should be taken into consideration before offering a restorative justice measure. If a victim chooses not to take part, that should not serve as an aggravating factor when choosing a sentence for the offender, as this could potentially make some victims feel guilty and add to their burden of responsibility.

10.2 Minimum standards for restorative justice measures

Certain minimum standards and considerations should be applied whenever any restorative services are provided, to ensure that the victim is not further victimised as a result of the process. The EU Directive establishing minimum standards on the rights, support and protection of victims of crime calls on Member States to “take measures to safeguard the victim from secondary and repeat victimisation, from intimidation and from retaliation”^{lxxxvi} which should be applied when providing restorative justice services.

All victims react differently to crime and have different needs and wishes in relation to what services they would like to receive. Thus any model must be flexible, developed with the victim at its centre and delivered in conjunction with victim support services.^{lxxxvii} The victim should be offered access to support before, during and after the restorative practice procedure to deal with the implications of victimisation, not merely to prepare the victim to take part in the restorative measure.^{lxxxviii} Below follows a summary of the standards Victim Support Europe believes should be in place when offering a restorative justice measure.

- **Free and informed consent** - The offer of restorative practices should only be made by someone fully trained to recognise the variable impact of the offer on each victim of crime; victims should always be given full information about where they can get independent support and advice. Best practice suggests that victims should be given a minimum of 3 weeks to make a decision whether or not to accept the offer of taking part in the restorative measure
- **Victim focused** – the main aim of the restorative practice should be the wellbeing and interest of the victim. There is a range of restorative justice measures currently set up to inform the offender of the impact the crime has had on the victim, with the overall aim of reducing reoffending. These have the

potential to focus more on the needs of the offender than the victim. We believe it is important that any restorative justice measure must have as a primary consideration the interests and needs of the victim, repairing the harm to the victim and to avoid further harm

- **Offender accepts guilt** – Restorative practice measures should only be offered in situations where the offender has accepted guilt for the committed offence
- **Support and representation** – Going through a restorative justice measure often entails discussing aspects of the crime which may bring up many traumatic memories for the victim. Victims of crime should therefore be offered support before, during and after participating in any restorative measure to limit the risk of any harm and revictimisation going through the process
- **Trained professionals** - The person facilitating the restorative services should be fully trained in conflict resolution, taking into account the particular needs of victims. It is important that the training on victim awareness is provided by independent experts who have experience of working with victims of crime and who have no vested interests in the outcomes of the restorative justice measure
- **Choice of processes** - Victims who prefer not to meet the offender should be given a choice of indirect mediation or any other suitable measure
- **Voluntary agreements** - Whilst private proceedings should in general be confidential, unless agreed otherwise by the parties, factors such as threats made during the process may be considered important enough to disclose due to the public interest. Ultimately any agreement between the parties should be reached voluntarily
- **Duration** - More than one meeting should be offered to allow the victim time to reflect on the information they have received
- **Keep victims informed** - Victims who have taken part in restorative justice measures should always be kept informed of the offender's performance in meeting the terms of the agreement
- **Monitoring** should be designed to provide information that is beneficial to both parties and delivered in circumstances where support is made available
- **The contribution of victim services** should be promoted

11. Conclusion

In the last few years, victims of crime have received increased attention on the political agenda of the European Union. Victims are specifically mentioned in the *EU Stockholm Programme (2010-2014)* and the *Council Conclusions on a strategy to ensure fulfilment of the rights of and improve support to persons who fall victim to crime in the European Union* highlights further development of victim support, training of professionals in contact with victims of crime and further raising of public awareness of the possibilities for victims to get support as particularly important. Further legislative advancements include in particular the new *EU Directive establishing minimum standards on the rights, support and protection of victims of crime* as well as the *Budapest Roadmap on victim protection*. It remains to be seen how these developments will impact on the practical delivery of rights and services to victims and witnesses in Europe. Victim Support Europe has played an active part in the development of the EU Directive, providing case specific information and examples regarding current gaps in victims' ability to access their rights. We have also explained practical implications of new suggestions and amendments of the contained rights. In this document, Victim Support Europe has summarised our input and given a range of practical examples how the new rights, and any additional best practice, can be provided and implemented in practice. We hope the document can be used as a source of inspiration for Member States looking to implement the new EU Directive and re-assess the manner in which they deal with victims of crime. We can never remove the experience of crime, but by paying attention to the needs of victims of crime, we are able to improve their experience of justice by making their interaction with the criminal justice system as smooth as possible.

ENDNOTES

ⁱ COM(2004)54 final/2 and COM(2009) 166 final

ⁱⁱ Please note that the list is not exhaustive, but provides an indication over the range of behaviours to be expected from professionals working with victims of crime

ⁱⁱⁱ Article 1, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{iv} Recital (19), EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^v Recital (12), EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{vi} Article 2, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{vii} Articles 4 and 6, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{viii} Recital (21) and article 3, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{ix} Article 4 (i), EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^x Article 25, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xi} Recital (9), (15) and article 1, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xii} Recital (64), EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xiii} Recital (52), EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xiv} For more information on European Protection Orders, please see

<http://www.europarl.europa.eu/news/en/pressroom/content/20111213IPR33945/html/Parliament-endorses-EU-wide-protection-for-crime-victims> and

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0560+0+DOC+XML+V0//EN>

^{xv} For more information on EUCPN please see <http://www.eucpn.org/index.asp> Many Member States have also set up national Crime Prevention Authorities. For instance, in Sweden, the Swedish National Council for Crime Prevention <http://www.bra.se/bra/bra-in-english/home.html> primarily works to reduce crime and improve levels of safety in society by producing data and disseminating knowledge on crime and crime prevention work.

^{xvi} Recital (21), (26) and article 4, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xvii} Recital (10), (62) and article 26, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xviii} Recital (51), EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xix} Recital (37), (38), (39), (40), article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xx} Article 9, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xxi} Victim Support Europe Strategy 2012-2015

^{xxii} Article 9, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xxiii} This view was supported by the European Economic and Social Committee in their report on the EU Directive establishing minimum standards on the rights, support and protection of victims of crime. *Opinion of the European Economic and Social Committee on the Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions – Strengthening victims’ rights in the EU COM(2011)274 final and on the Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime COM(2001)275 final – 2011/0129 (COD)*, section 4.5.5

^{xxiv} Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xxv} *Ibid*

^{xxvi} Article 22, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xxvii} *Ibid*

^{xxviii} The European Court of Human Rights has repeatedly stated that victims have a right to thorough, effective and timely criminal investigations and prosecution. This principle is well grounded in case law and the Court has used a range of article of the European Convention of Human Rights (ECHR) under which these rights of victims are subsumed. For instance, these rights have fallen under article 13 ECHR; other times they are considered to form what the Court calls a procedural limb of certain articles of the Convention. There is to date a considerable number of such procedural limbs, including articles 2 (right to life), 3 (prohibition of torture), 4 (prohibition of slavery and forced labour), 8 (right to respect for private and family life) and 14 (prohibition of discrimination).

^{xxix} Article 6, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xxx} *The Burden of Crime in the EU; Comparative analysis of the European Crime and Safety Survey (EU ICS) 2005*

^{xxxi} *Ibid*, p. 71-72

^{xxxii} *Ibid*

^{xxxiii} Recital (52),(53) and article 18-24, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xxxiv} Article 23 of the EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xxxv} Although Article 23 only provides this right to victims who are identified as having specific protection needs, Victim Support Europe believes this right should be extended to all victims of crime

^{xxxvi} *Ibid*

^{xxxvii} *Ibid*

^{xxxviii} Article 5, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xxxix} Article 6, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xl} *Ibid*

^{xli} Recital (21) and article 3, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xlii} Recital (34), (35) and article 7, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xliii} Recital (37), article 8 and 9, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

^{xliv} Victim Support Europe Strategy 2012-2015

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- ^{xlv} Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{xlvi} Article 9, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{xlvii} Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{xlviii} Recital (37), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lix} Article 1, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^l Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{li} Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lii} Article 18, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{liii} Article 19, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{liv} Recital (54) and article 21, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lv} Recital (43) and article 11, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lvi} Recital (55), (56), (57), (58) and article 22, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lvii} Article 22, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lviii} Article 18, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lix} Article 18-24, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lx} Article 23, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxi} Article 24, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxii} Article 19, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxiii} Recital (54), EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxiv} Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxv} Article 10, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxvi} Article 4 and 6, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxvii} Recital (21) and article 3, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxviii} Recital (34), (35) and article 7, EU Directive establishing minimum standards on the rights, support and protection of victims of crime

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- ^{lxix} Article 13, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxx} Article 14, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxxi} Article 15, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxxii} Article 16, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxxiii} M A Young, *The Role of Victim Compensation in Rebuilding Victims' Lives*, International Organisation for Victim Assistance
- ^{lxxiv} Ibid
- ^{lxxv} Ibid
- ^{lxxvi} Article 26, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxxvii} For more information, please see European Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union
- ^{lxxviii} Article 6, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxxix} Ibid
- ^{lxxx} Article 8, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxxxii} Basic Principles and Guidelines of the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law
- ^{lxxxiii} Article 4, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxxxiv} Article 3 and 7, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxxxv} Article 4, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxxxvi} Article 3, Directive 2004/80/EC relating to Compensation to Crime Victims
- ^{lxxxvii} Article 12, EU Directive establishing minimum standards on the rights, support and protection of victims of crime
- ^{lxxxviii} Victim Support Scotland & SACRO, *Restorative Justice Joint Action Project (RJAP)*, (2009)
- ^{lxxxix} Davies M., *Victims and Mediation*, p. 222