



Ministerie van Veiligheid en Justitie

Procedural rights for victims

Improvements as a result of the EU Directive in the Netherlands

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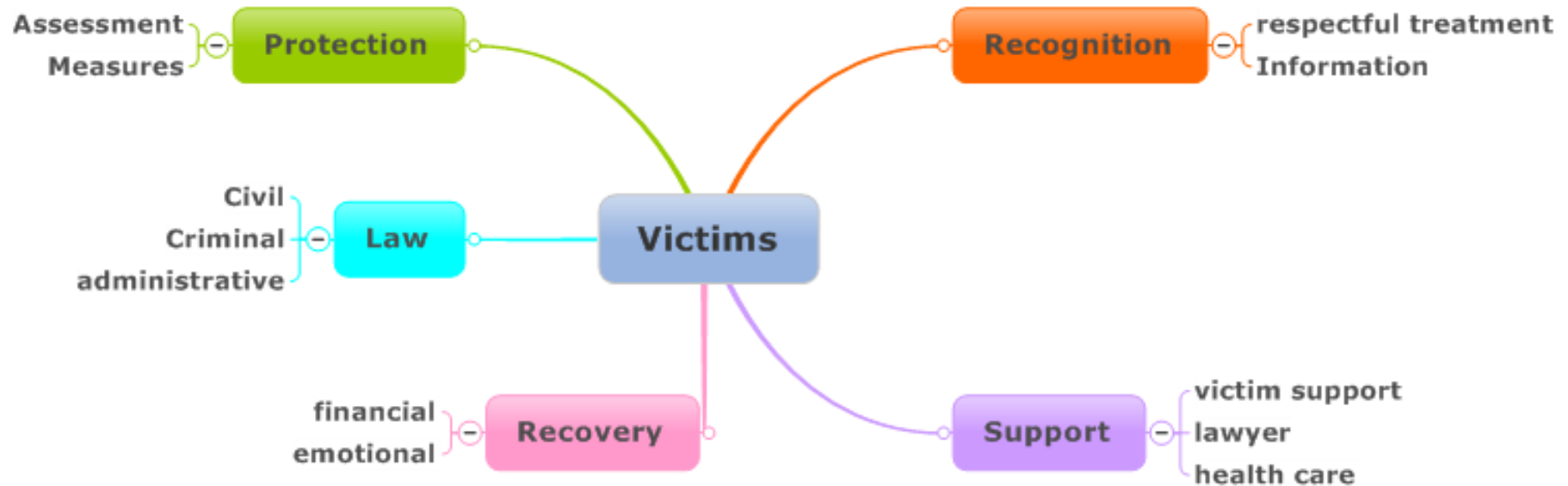
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Victims needs





The law

- I. Code of Criminal Procedure
- II. Law Violent Offences Compensation Fund (including Degree and Regulations)
- III. Quidelines Public Prosecutors Office

Enhancement because of EU directive minimum standards:

- 3 Degree's
- 7 Ministerial Regulations



Who is a victim?

Article 2

'victim' means:

- (i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;
- (ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death;

'family members' means the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim;



Dutch criminal code of procedure

Article 51a

A person who has incurred financial loss or another loss as a direct result of a criminal offence shall be deemed a victim.

The legal person, which has suffered financial loss or another loss as a direct result of a criminal offence shall be considered as equivalent to the victim.

Two main differences:

- Different definition of surviving relatives / familymembers of a deceased victim
- Legal persons can be considered a victim



Information

Existing:

- Right to information
- Right to inspect the case file (under conditions)

Expansion:

- Right to interpretation
- Right to information about release of the offender

New:

- Right to translation



Support

Existing:

- Right to legal aid
- Right to assistance during the trial

Expansion:

- Right to assistance during investigation and trial

New:

- Police and public prosecutor obliged to refer victims to victim support



Recovery - mediation

Existing:

Section 51h

1. The Public Prosecution Service shall see to it that the police inform the victim and the suspect of the option of mediation at the earliest possible stage.
2. If mediation between the victim and the suspect has resulted in an agreement, the court shall, if it imposes a punishment or measure, take this agreement into account.
3. The Public Prosecution Service shall encourage mediation between the victim and the convicted offender, after it has made certain that the victim agrees to such mediation.
4. Further rules pertaining to mediation between the victim and the suspect or between the victim and the convicted offender may be set by Governmental Decree.



Recovery – mediation (2)

New:

- Definition
- Restorative justice

Current developments:

- Five pilot projects
- New policy framework



Recovery - financial

Nothing new compared to Frameworkdecision of 2001.

Existing:

- Injured party can claim compensation in criminal procedure
- State collects the money on behalf of the victim
- State pays in advance if offender does not pay in time
- Confiscation of assets of offenders

Developments:

- New policy framework



Law

Directive minimum standards

- Change of Code of Criminal Procedure
- 3 Degree's
- 7 ministerial regulations

European protection order

- Change of Code of Criminal Procedure

Other changes:

- Right to speak expanded
- Obligated payment by every convicted person to a victim fund
- Compensation for loss as a result of dead or severe injury to someone who had an affectioned bond with the victim



Protection

Existing:

- When reporting take up domicile elsewhere
- Restraining order

New:

- Individual assessment
- Policy framework



Individual assessment

Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.



Individual assessment - procedure





Step 1 – assessment

Personal characteristics

Children

mentally handicapped
/communication limitation

Nature of the crime

trafficking human beings

Seksual offences

Murder / menslaughter

Violence in close relationships

Stalking

Terrorism

Genderbased violence/
hatecrime

Other High Impact Crime

Circumstances

victim dependant on suspect

higher risk perception victim

earlier victimization within one
year from the same offence

crime committed in organized
context

exceptional circumstances



Step 2 - Measures

If victim is considered vulnerable because of the outcome of step 1:

2 questions:

1. Additional protection measures necessary?
- consider also the wishes of the victim -

If the answer is yes:

2. Which protection measures are necessary to protect the victim?

(Digital) manual will be developed to help the police officer to choose the right protection measures.



Step 3 - update

If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings. (art. 22 par. 7)

Update by

- Police
- Public prosecutors office

Role of victim support needs further discussion because of privacy aspects.



Protection measures

- ✓ Safe criminal justice proces
- ✓ Safe victim



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THANK YOU FOR YOUR ATTENTION!