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**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**

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**1. WHY DO VICTIMS MATTER?**

Crime can affect us all, and every year many millions of people in the European Union do in fact fall victim to crime. According to Eurostat data, around **30 million crimes** against persons or property are recorded annually and many crimes are never reported. Crime often affects more than one victim and those close to the victims also suffer indirectly. This leads to a qualified estimate that there is likely to be up to 75 million direct victims of crime every year.<sup>1</sup>

And each year many people become victims of road accidents. More than **1 million road accidents** across the European Union cost as many as 30 700 lives in 2010. Around 31 000 people are killed each year on the roads, including 850 children under the age of 14, while 250 000 get serious injuries and 1.2 million suffer minor injuries<sup>2</sup>.

People in Europe are constantly **travelling and moving across borders**, and the risk of becoming a victim is just as great when abroad. Of an estimated 1.4 billion journeys made by Europeans in 2008, about 90% were within the Union<sup>3</sup>. In addition, around 11.3 million Europeans reside permanently outside their home country, 10% of Europeans have lived and worked abroad during a period of their lives and 13% have gone abroad for education or training<sup>4</sup>.

These numbers show the importance of ensuring proper, effective action on the rights of those who fall victim to crime or to road accidents, in their own country or while travelling or living abroad. **This is both a cross-border and a domestic problem that calls for EU action.**

There is also a gender dimension to victims' rights. Women are particularly exposed to hidden and unreported forms of violence. The Council of Europe estimates that **20-25% of European women experience physical acts of violence** at least once during their adult lives, 12-15% find themselves in a relationship of domestic abuse, and more than 10% suffer sexual violence<sup>5</sup>.

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<sup>1</sup> Eurostat, Statistics in focus, 36/2009; estimates based on analysis of the EU International Crime Survey in 'The Burden of Crime in the EU' ([www.europeansafetyobservatory.eu](http://www.europeansafetyobservatory.eu)) and assuming the rate of unreported crime being 60%, and victims having on average 3 close family members. These statistics do not include minor offences.

<sup>2</sup> European Commission CARE database.

<sup>3</sup> COM(2010) 352, based on Eurostat, Tourism Statistics 2008.

<sup>4</sup> Eurostat, Statistics in Focus 94/2009; Eurobarometer 337/2010.

<sup>5</sup> Council of Europe, Stocktaking study on violence against women, 2006.

Seeking to consolidate the area of freedom, security and justice, the Commission has identified as a strategic priority<sup>6</sup> based on the Stockholm Programme and its Action Plan<sup>7</sup> the need for action to strengthen the rights of victims of crime and to ensure that their need for protection, support and access to justice is met.

The EU has already acted on the rights of victims in criminal proceedings<sup>8</sup> and most of the Member States have some level of victim protection and support in place. However, the role and needs of victims in criminal proceedings are still generally not sufficiently addressed and the level of victims' rights continues to differ significantly across the EU.

That is why the Commission is presenting a package of proposals to reinforce existing national measures, ensuring that victims of crime are given non-discriminatory minimum rights across the EU, irrespective of their nationality or country of residence. This package also includes a new mutual recognition mechanism to ensure that victims, or potential victims, who benefit from a protection measure in their Member State of residence, do not lose this protection when crossing borders. With this package, the EU will contribute to making crime victims' needs a central part of the justice systems, alongside catching and punishing the offenders.

Compensation is one of the basic needs of victims. However, people in road traffic accidents in another Member State may face administrative and procedural difficulties when they seek compensation because of different limitation and prescription periods. The Commission will address this problem by proposing to harmonise the rules on limitation periods so that victims do not risk losing their right to compensation for procedural reasons.

Finally, there is a clear link between victims' rights and crime prevention. The Commission has for many years been taking action aimed at prevention of crime and violence and promotion of road safety<sup>9</sup>. Prevention work is crucial not only for cutting crime and accidents in the short and medium term, but also for changing attitudes towards criminal or reckless conduct that can give positive, long-term and lasting results.

## **2. WHY DO WE NEED NEW MEASURES FOR VICTIMS AT EU LEVEL?**

- *We have come a long way in recognising victims, but more needs to be done*

The notion that victims' rights should be accessible on an equal and non-discriminatory basis is nothing new. In 1989, the Court of Justice confirmed that the provision of compensation, a key need of victims, could not be limited on grounds of nationality<sup>10</sup>. Since then, the EU has acted to establish general minimum standards for victims, notably through the 2001 Council Framework Decision<sup>11</sup>, as well as targeting specific groups of victims – victims of trafficking,

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<sup>6</sup> COM(2010) 623.

<sup>7</sup> OJ C 115, 4.5.2010, p. 1; COM(2010) 171.

<sup>8</sup> Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings; Council Directive 2004/80/EC relating to compensation to crime victims.

<sup>9</sup> E.g. programmes Daphne III; Prevention, Preparedness and Consequence management of Terrorism and other Security-related risks; Prevention of and the fight against Crime; European Road Safety Action Programme 2011–2020.

<sup>10</sup> Case 186/87 - *Ian William Cowan v Trésor public*, judgment of 2 February 1989.

<sup>11</sup> See footnote 8.

child sexual exploitation and abuse, and terrorism<sup>12</sup>. The Commission has also financially supported the work of public agencies and NGOs working with and for victims, many of which are run by volunteers<sup>13</sup>.

However, the implementation of the standards laid down in the 2001 Council Framework Decision is not satisfactory.<sup>14</sup> The Lisbon Treaty now provides a clear legal base for the EU to establish minimum rules on the rights of victims of crime to facilitate mutual recognition of judgments and judicial decisions. In addition, both the European Parliament and the European Council have called for action in this area<sup>15</sup>. While building on and complementing existing instruments, the Commission's proposals aim to strengthen the legal framework by introducing directly binding and properly enforceable legal instruments.

- *Enhancing trust in the justice system and improving the quality of justice*

One of the European Union's objectives is to offer its citizens an area of freedom, security and justice in which their freedom of movement is ensured. However, without effective EU-wide application of a minimum level of rights for victims, mutual trust is not possible. This means that judicial systems should have full faith in each other's standards of fairness and justice, and citizens should have confidence that the same level of minimum rules will be applied when they travel or live abroad.

- *Minimum standards must apply in all Member States*

Today, most Member States provide some level of protection and support for victims of crime. However, the role and needs of victims in criminal proceedings are still not fully addressed in national judicial systems. Equally, while all Member States have procedures for claiming compensation following a road traffic accident, the rules vary as to the limitation periods applicable for making such claims. To address this problem, Member States need to raise standards on victims' rights and the EU must ensure that victims benefit from a level playing field. A certain minimum level of safeguards and standards that are applied in all Member States will facilitate judicial cooperation and increase the quality of justice and also improve people's confidence in the very notion of 'justice'.

- *Fundamental rights must be respected*

The proper treatment of victims corresponds to a range of fundamental rights as recognised in the Charter of Fundamental Rights of the European Union (the EU Charter) and the European Convention on Human Rights (ECHR)<sup>16</sup>. The effective recognition of, and respect for,

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<sup>12</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA; proposal for a Directive on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA; Framework Decision 2002/475/JHA on combating terrorism.

<sup>13</sup> Over 20 000 volunteers work for victim support organisations in Europe (Victim Support Europe 2010).  
<sup>14</sup> Commission's implementation report - COM(2009) 166.

<sup>15</sup> EP Resolution of 7 May 2009 on the development of an EU criminal justice area (INI/2009/2012); Stockholm Programme (OJ C 115, 4.5.2010, p. 1).

<sup>16</sup> Key rights are: human dignity, the right to life, integrity of the person, liberty and security, respect for private and family life, protection of personal data, right to property, freedom of movement and residence, equality before the law, the rights of the child and of the elderly, integration of persons with disabilities and right to an effective remedy.

victims' rights, in particular their human dignity, private and family life and property, must thus be safeguarded whilst also assuring the fundamental rights of others, such as the accused. The EU's action will raise the standards of fundamental rights for everyone affected by criminal proceedings – whether victim, accused or detainee, whilst ensuring that any limitation of these rights occurs only where necessary and proportionate.

- *Meeting victims' needs contributes to reducing the total cost of crime*

Strengthening the rights of victims has a positive impact on individual victims and on society as a whole. Meeting victims' needs before, during and after criminal proceedings can considerably reduce the overall cost of crime.<sup>17</sup> This includes tangible costs in the economic and health sector as well as in the criminal justice system, and intangible costs, such as the victim's pain, suffering and reduction of quality of life. Victims who are respected, supported and protected will recover sooner, both physically and emotionally, enabling them to get back to their normal lives more quickly. This will limit loss of earnings, absenteeism from work as well as the need for further health care. Well treated victims are also likely to become more actively involved in the proceedings, which increases the likelihood of successful prosecution and sentencing, which in turn reduces repeat offending and impunity.

### 3. A SPECIFIC FOCUS ON VICTIMS OF CRIME – WHAT DO THEY NEED?

Many people fall victim to crime in the EU every year. These victims have a whole range of needs that should be addressed to help them recover: the need to be **recognised** and treated with **respect** and dignity; to be **protected and supported**; to have **access to justice**; and to get **compensation and restoration**.

The core objective of the Commission's legislative package is to deal with victims' needs in a comprehensive manner. Indeed, the Commission's proposals address the needs of both direct victims of crime and indirect victims, such as the family members who also suffer from the consequences of the crime. Immediate family or dependents of direct victims will therefore, where appropriate, benefit from the support and protection proposed in this package.

The example below illustrates the poor treatment a victim can receive, and how it can affect his life, if his individual needs are not properly addressed during and after reporting of a crime. In the following sections, we will show how this *same story* would unfold – under each category of needs – if the victim and his family received proper treatment, as a result of implementation of the Commission's proposals.

*Alex was renting a holiday flat abroad with his family when one night there was a break-in. When he tried to stop the attackers, they physically assaulted him in front of his family. He reported the crime to the local police but since he could not make himself understood, he could not give all the details about the assault. During the weeks that followed, he didn't receive much information about the case, and he felt growing frustration as they were routinely questioned several times by different police officers. Even his children were repeatedly questioned, which was very upsetting for them.*

*When Alex came back home, he needed several operations for his injuries and could not work for several weeks. He did not hear anything from the police until one day he was told to appear and testify at the trial, taking place abroad, of two suspects. The trial was difficult because nobody explained the foreign court proceedings and he felt intimidated by having to face the accused outside the court room.*

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<sup>17</sup> See Commission Staff Working Paper, SEC(2011)580, p. 14.

*After the trial was over, Alex didn't hear anything more about the case or what happened to the accused. But for many years after the attack, he and his family lived with the emotional, physical and financial consequences of the crime. Despite it happening in another place and in another country, they never felt safe any more, even in their own home<sup>18</sup>.*

### **3.1. Recognition and respectful treatment**

Human dignity of individuals is a fundamental right at the heart of our notion of a just society and the foundation for proper treatment of victims. Individuals who have suffered from crime therefore expect to be recognised as victims, to have their suffering acknowledged and to be treated in a sensitive and professional manner. It should be understood that victims are individuals and their needs should be recognised. However, professionals around Europe who are in regular contact with crime victims often lack training on these needs or how to identify them through an individual needs assessment.

*Alex was attacked in front of his family while on holiday abroad. When he reported the crime, the police arranged an interpreter so he could explain what had happened in detail. The police put him in touch with a victim support organisation and informed him about his rights and entitlement to compensation. In the weeks that followed, a contact person from the police kept him up to date with the investigation.*

### **3.2. Protection**

Victims can suffer during criminal proceedings due to the way the system operates. To avoid harm caused by inadequate proceedings, such as repeated and insensitive interviewing, it is important to ensure protection of victims throughout criminal investigations and court proceedings. This protection is essential for particularly vulnerable victims, such as children.

Even after a crime, victims are vulnerable to further harm, intimidation or reprisals from the offender. Around 40% of reported crimes are repeat crimes against the same victim within a year<sup>19</sup>. Ensuring that protection measures are available can be crucial for preventing further incidents. In addition, due to increased mobility in the EU, more victims are moving or travelling abroad. However, any protection they enjoy may be lost when they cross borders. To protect people who exercise their right to free movement, the Commission is proposing for the first time the mutual recognition of protection measures.

*When Alex reported the assault, the police asked him about any possible needs for protection or assistance during proceedings. During the criminal investigation that followed, the questioning of Alex and his wife was kept to a minimum and was always conducted by the same police officer, and his children were only interviewed once by a specialised officer to avoid any risk of harm. When the case went to court, Alex was called to give evidence. He felt reassured when he entered the court as he could wait in a separate room for victims to avoid facing the perpetrators outside the court room.*

### **3.3. Support**

Crime can have a devastating and debilitating effect on victims, who may be traumatised or unable to cope with practical issues as a consequence of the crime. If the crime is reported, the victim will need to negotiate their way through the complexities of the legal system. Appropriate and timely support is therefore essential to help victims overcome emotional, practical, administrative and legal obstacles and to recover. Despite the work done by existing victim support services, such assistance is currently not always easily accessible.

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<sup>18</sup> Fictitious story based on real problems.

<sup>19</sup> 2000 International Crime Victims Survey.

*The police put Alex in touch with a victim support organisation. They gave him and his family emotional support on how to cope with the crime. They also gave him practical help, such as getting medical treatment and sorting out paperwork. The victim support organisation told him about the criminal proceedings and his rights and role during the process. He was given the contact details of a victim support organisation in his home country, which he contacted regularly even after the case was closed. Their support allowed him and his family to turn the corner and get on with their lives.*

### **3.4. Access to justice**

Victims have a legitimate interest in seeing that justice is done. They should be given effective access to justice, which can be an important element in their recovery. Information for victims on their rights and on key dates and decisions is an essential aspect of participating in the proceedings, and it should be given in a way that victims understand. Victims should also be able to attend the trial and follow their case through. As a matter of fact, victims across the EU do not always get access to these basic elements of justice.

*The police eventually contacted Alex to say that two men had been arrested and charged with the crime. He was also informed about the time and place of the trial and was told he would need to give evidence in court. During the trial, he was helped by an interpreter to understand the questions and other parts of the proceedings.*

### **3.5. Compensation and restoration**

Persons who have suffered harm because of the acts of others often expect to get some form of financial compensation, whether from the State or the offender. Compensation aims at repairing immediate and longer-term financial damage. It may also act as a form of acknowledgement through a symbolic payment.

Restorative justice, which is a relatively new concept in criminal proceedings, goes beyond purely financial compensation to focus on the recovery of the victim. As an alternative to, or in combination with formal justice, it aims to restore victims to the position they had before the crime by giving them, if they so wish, an opportunity to confront their offenders face to face and for the offenders to take responsibility for their acts.

*Alex was able to contact a compensation authority in his home country and fill in the necessary documents in his own language before sending them to the country where the attack took place. The money helped him pay for the extra costs incurred following the attack, including surgery.*

## **4. SPECIFIC CATEGORIES OF VICTIMS**

- *Victims of terrorism*

Victims of terrorism, perhaps uniquely amongst victims, have suffered attacks that are intended ultimately to harm society. They largely have the same needs for protection and assistance as victims of any other serious violent criminal acts. Such needs must be met and those victims, and their families, must be supported in similar ways.<sup>20</sup> Due to the nature of the attack, however, terrorism victims can be under much greater public scrutiny and often have a much greater need for social recognition and respectful treatment by everyone, whether practitioners, the media or individuals. These victims will benefit from the emphasis on recognition and respectful treatment in the Commission's proposals.

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<sup>20</sup> As recognised in Art. 10 of Framework Decision 2002/475/JHA on combating terrorism.

- *Victims of road traffic accidents*

Victims of road traffic accidents often do not feel that their status as a victim is sufficiently recognised by society. Road accident investigations by their nature seek initially to **determine the causes and circumstances of an accident** rather than focusing on victims' needs. However, the victims of such events naturally want to see that the incident is properly investigated and, where a crime has been committed, see that justice is done. Those involved in such cases clearly need to be trained to understand and recognise these needs.

Victims of road accidents may have the right to claim compensation for damages. In the case of cross-border road accidents, one problem that victims often face is that the time limits for applying for compensation vary widely across the EU and victims may not know which country's rules should apply. This can result in victims receiving no compensation at all due to particularly short limitation or prescription periods in the Member State where the accident occurred. Such victims will benefit from a revision of existing EU legislation on conflict of laws<sup>21</sup>, allowing them to rely on the limitation periods of their home country.

- *Particularly vulnerable victims*

Some victims are more vulnerable than others to the risk of suffering further harm during criminal proceedings, and their special need for protection and support must be met. In line with existing international and national approaches, the Commission is therefore for the first time identifying both categories of vulnerable victims and mechanisms to identify other people at risk, based on individual needs assessments.

The categories of vulnerable victims are children, persons with disabilities and victims of sexual violence and human trafficking. In addition, victims can be vulnerable for other reasons related to their **personal characteristics** (e.g. high level of fear and distress, risk of intimidation or repeated violence, or being in a personal, social or economic situation that makes it difficult for the victim to cope with the consequences of the crime or to understand the judicial proceedings) and/or the **type and nature of the crime** (e.g. terrorism, organised crime, bias crime or gender-based violence). For instance, victims of organised crime are particularly vulnerable to intimidation and repeated violence by the perpetrators and may need special measures for protection.

The approach taken by the Commission corresponds to the provisions of the proposed new directive on **sexual abuse and sexual exploitation of children and child pornography** and the new directive on **trafficking in human beings**<sup>22</sup>. Both of these measures address the specific needs of those vulnerable victims.

**Children** have the fundamental right, under the EU Charter and the UN Convention on the Rights of the Child, and as recognised in the Treaty on European Union, to have their best interests taken into account in all national and international laws and policies, including the judicial process. Because of their vulnerability, the Commission is actively promoting a 'child-friendly justice' approach towards children involved in criminal proceedings<sup>23</sup>. For children, a criminal investigation is likely to be a traumatic process, especially if they have been victims of abuse, and special measures should be available to protect them.

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<sup>21</sup> Regulation (EC) No 864/2007 on the law applicable to non-contractual obligations (Rome II).

<sup>22</sup> See footnote 12.

<sup>23</sup> Commission Communication 'An EU agenda for children's rights' - COM(2011) 60.

**Victims of sexual violence** – the vast majority being women – require protection from further violence, and specialised support and assistance to overcome the multiple consequences of such violence and to rebuild their lives. Due to the shame and guilt involved in suffering such crimes, and the victim's often close relationship with the perpetrator, these victims are particularly reluctant to report the crime. Victims of sexual violence particularly need medical and psychological assistance, including an immediate forensic examination, so reporting the crime should therefore not be a condition for accessing such services.

Ensuring the safety and protection of individuals who are exposed to **repeated violence by the same perpetrator** is of utmost importance. To prevent and limit the risk of further harm, protection is crucial and should include the possibility to impose a barring, restraining or protection order on the perpetrator to avoid further contact with the victim. Such protection should be transferable to another EU Member State if the victim moves or travels there.

In addition to ensuring that victims will have access to adequate support and protection, it is important to prevent violence from happening in the first place. Women are particularly exposed to different forms of physical, sexual and psychological violence, especially within their families and in close relationships. The Commission will therefore continue to act to prevent and combat violence against women in Europe and to support and protect victims and groups at risk<sup>24</sup>.

## 5. THE COMMISSION'S RESPONSE – TIME FOR ACTION

The Commission is proposing the following package of legislative instruments to respond to the needs described above and to ensure that victims in Europe receive a minimum level of rights, protection, support, access to justice and restoration. The Commission will propose:

- **A Directive establishing minimum standards on the rights, support and protection of victims of crime**, replacing the 2001 Framework Decision. The Directive will ensure that victims are treated with respect and that the special needs of vulnerable victims are properly addressed. It will also ensure that victims receive the support they need, that they can participate in proceedings and receive and understand relevant information, and that they are protected throughout criminal investigations and court proceedings.
- **A Regulation on mutual recognition of protection measures in civil matters**, which will help preventing harm and violence and ensure that victims (of domestic violence, for example) who benefit from a protection measure taken in one Member State are provided with the same level of protection in other Member States should they move or travel there. Such protection should be awarded without the victim having to go through additional procedures. This measure complements the proposal for a Directive of the European Parliament and of the Council on the European Protection Order<sup>25</sup> initiated by a group of Member States in September 2009, which is currently being discussed in the European Parliament and Council.

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<sup>24</sup> See Declaration 19 annexed to the Final Act of the IGC which adopted the Treaty of Lisbon (OJ C 83, 30.3.2010, p. 345).

<sup>25</sup> OJ C 69, 18.3.2010, p. 5.

This legislative package is a first step towards putting victims at the heart of the criminal justice agenda of the EU. Looking to the future, for the next phase of action on victims' rights the Commission will review Directive 2004/80/EC on compensation of crime victims and Regulation "Rome II" (to address the question of the law applicable to limitation periods for cross-border traffic accidents). Further studies and action on victims will also be carried out, in particular in relation to specific categories of victims such as victims of terrorism, organised crime and gender-based violence, including female genital mutilation, with a view to improving the situation of such victims.

In addition to and in parallel with these actions, the Commission will implement a range of flanking measures that will be crucial to ensuring that victims obtain effective rights in practice, and not necessarily only when involved in criminal proceedings. This will include training and capacity building, exchange of good practices, prevention of crime and violence (such as raising awareness and providing information), data collection and research. We will also continue to give financial support under existing financing programmes to promote issues relevant to victims' rights and needs.

All these efforts will lend further substance to the achievements already made at national and EU level. They will allow the EU to make victims' rights and needs a central part of securing justice. The EU should ensure that victims are properly recognised and that their rights are respected without any form of discrimination throughout the EU.