



VICTIMS' RIGHTS

Strengthening child victims' rights in the European Union

10 April 2013

Justice



EU Actions on Victims' Rights

EU legislation

- 2001 Framework Decision on the Standing of Victims in Criminal Proceedings
- 2004 Directive on Compensation to crime victims
- 2011 Directive on Trafficking in Human Beings
- 2011 Directive on Child Sexual Exploitation
- 2011 Directive on the European Protection Order
- 2012 Directive on minimum standards on victims' rights

Commission's funding programmes

- Criminal Justice programme
- Daphne III programme (violence)



Victims Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime

- **Replacing Council Framework Decision 2001/220/JHA** on the standing of victims in criminal proceedings
- Proposal: 18 May 2011
- Adoption: 25 October 2012
- Entry into force: 15 November 2012
- **Transposition deadline: 16 November 2015**
- Commission Report deadline: 16 November 2017

Victims Directive - Content

- **32 Articles (Art. 1-26 operational)**
- **Comprehensive scope of victims' rights throughout criminal proceedings:**
 - Information
 - Interpretation and translation
 - Support
 - Protection
 - Participation in criminal proceedings
 - Training of practitioners
 - Coordination



Victims Directive - Content

- **Art. 1 – Objectives**

- Victims to receive appropriate **information, support and protection** and be able to **participate** in criminal proceedings.
- Victims to be **recognised** and treated in a **respectful, sensitive, tailored, professional and non-discriminatory** manner.
- **Best interest of the child** primary consideration, to be assessed on an individual basis. **Child sensitive approach** to prevail (consider age, maturity, views, needs and concerns).

Victims Directive - Content

- **Art. 2 – Definitions** (selection)
 - “Victim” is a natural person who has suffered harm directly caused by a criminal offence, and family members of deceased victim, who have suffered harm as a result
 - “Family members” include also non-married partners
 - Right to limit the number of and prioritise among family members

Victims Directive - Content

- **PROCEDURAL RIGHTS**

- **Right to information**
- **Right to interpretation and translation**
- **Right to participate in criminal proceedings**

-- However, some of these rights benefit victims depending on the "**role of the victim in the relevant criminal justice system**" (e.g. an injured party, a witness, a civil party, a private prosecutor). Normally only victims who **actively** participate. **Depends on national legislation!**

Victims Directive - Content

- **Art. 3-7 - Right to information**
 - Right to understand and be understood
 - Right to get written (translated) acknowledgement of complaint
 - Right to receive a range of information from first contact with competent authorities
 - Right to receive information about victim's case throughout criminal proceedings
 - Right to interpretation and translation



Victims Directive - Content

- **Art. 10-17 - Participation in criminal proceedings**
 - Right to be heard, reimbursement, legal aid, recovery of property, compensation
 - Rights of victims residents in another MS
 - Safeguards for restorative justice processes
 - Right to review a decision not to prosecute

Victims Directive - Content

- **VICTIM SUPPORT AND PROTECTION**
 - **Right to access general and specialist support services**
 - **Right to protection during criminal proceedings**

Important:

- Individual needs-based approach
- Support and protection also for family members
- Consider specific needs (vulnerability)

Victims Directive - Content

- **Art. 8-9 - Victim support**
 - Right to access victim support services (general and specialised support) in accordance with victims' and family members' needs. Confidential and free of charge services.
 - VSO may be public or NGO, professional or voluntary. Specialist support provided by separate entity or by general VSO (or VSO "may call on existing specialised entities").
 - MS must facilitate referrals to VSOs.
 - Support not dependent on formal complaint.
 - Minimum services, incl. procedural and practical information & advice and emotional support. Specialist support to provide shelters and targeted & integrated support for victims with specific needs.

Victims Directive - Content

- **Art. 18-24 - Protection and recognition of victims with specific protection needs**
 - Range of protection measures, including avoiding contact with offender, safeguards when interviewing victim, protection of privacy
 - Individual assessment to determine specific protection needs due to vulnerability to secondary and repeat victimisation, intimidation or retaliation.
 - Criteria: personal characteristics, type or nature of the crime and circumstances of the crime.
 - Children always presumed to be vulnerable.
 - Particular attention given some categories of victims.
 - Range of special measures to protect such victims during criminal proceedings.



Victims Directive - Content

- **Art. 25 - Training**

- Training compulsory for police and court staff
- Training to be available for judges, prosecutors and lawyers
- Training to be encouraged for victim support and restorative justice services

- **Art. 26 - Cooperation**

- MS should cooperate with each other
- Awareness raising actions, information, education



Focus on Child Victims

- Children as **direct and indirect victims** (family members)
- **Specific objective:** best interest of the child and child-sensitive approach throughout criminal proceedings.
- **Child-friendly communication** – to ensure children understand and can be understood during interaction with authorities.
- Right to access **victim support services**, as direct or indirect victim. Both **general** and **specialist support** (e.g. shelters, trauma support and counselling).
- **Right to be heard** – due account to be taken to child's age and level of maturity.

Focus on Child Victims

- **Protection measures** during criminal proceedings
 - Interviews without delay and kept to a minimum
 - Victim may be accompanied
 - Medical examinations only where strictly necessary
 - Interviews in premises adapted for children
 - Interviews carried out by trained professionals, by same persons and by same sex if victim so wishes
 - Avoid visual contact with offender, trial in camera
 - Interviews with child can be audiovisually recorded, hearing CCTV outside court room
 - Avoid unnecessary court questioning
 - Child right to special representative and lawyer in his/her own name where conflict of interest with parent or no parent
 - Presumption of age if uncertain, in favour of child



Focus on Child Victims

- **Protection of privacy** and images of victim and family. No public dissemination of **child's identity** (unless in interest of child).
- **Training** of practitioners, including specialist training on children's needs.
- **Cooperation** between MS. Awareness raising, research and education targeting groups at risk of victimisation, such as children.



Contact / Info:

European Commission
DG Justice, Procedural Criminal Law unit

Ingrid Bellander Todino
Team Leader 'Victims' Rights'

Tel.: +32-2 298 7539
E-mail: ingrid.bellander-todino@ec.europa.eu

Website:

http://ec.europa.eu/justice/criminal/victims/index_en.htm