



Victims' rights in the EU

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

Achievements & Path for implementation, 24 September 2013

***Seminar Infovictims
The Rights of victims of crime to information, Lisbon***

Victims Directive - Achievements

- Replacing Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings
- Commission Proposal: 18 May 2011
- Adoption: 25 October 2012
- Transposition deadline: 3 years (end 2015)
- Commission Report deadline: 5 years (end 2017)

Victims Directive – Approach

- Victims are individuals and should be treated as such!
- Meet the needs of victims:
 - Respect and recognition
 - Protection
 - Support
 - Access to justice
 - Compensation and restoration

- **Scope:**
 - Natural persons (not legal persons)
 - Crimes committed in the EU and criminal proceedings taking place in the EU (for extra-territorial offences)
 - Irrespective of victims' residence status
 - Both victims and their family members
- Ensure minimum rights for all victims, all crimes
- Recognise special needs of vulnerable victims
- Ensure clear, concrete, enforceable obligations
- Directive is just one step – practical measures and further action required (Budapest Roadmap)

Victims Directive compared to 2001 Framework Decision?

- **Legally binding and enforceable !**
 - *NEW*: Applies also to victims' **family members**
 - **Child sensitive** approach
 - Accessibility of information & communications
 - Extended right to **information** (from first contact throughout criminal proceedings)
 - Stronger obligation to provide **victim support**
 - *NEW*: Right to **review** decision not to prosecute
 - **Individual assessment** to identify vulnerable victims & special protection measures
 - **Training** of practitioners
- *BUT* some key rights limited to victims with **formal role!**

Victims Directive - Content

- **32 Articles (Art. 1-26 operational)**
- **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.
 - Child sensitive approach.

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

- **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. 8-9 - Victim support**

- Right to access victim support services (general and specialised support) in accordance with victims' and family members' needs. Victim support should be confidential and free of charge.
- 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. 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

- **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

How will we implement the Directive?

- Different **levels** of victims' procedural rights in the MS
- Different **legal traditions** and **criminal justice systems**
- Different **approaches** taken on victims (hard/soft law)
 - Some victims' rights are more developed than others and MS don't have the same approach on specific rights.
 - Directive's minimum standards may already be achieved in some MS while others have a long way to go...
 - Some MS are already in the process of reforming their systems and will be in compliance with the Directive quicker than others (who may need more time and assistance).

Implementation Strategy

Aim: Assist MS to optimise implementation to avoid bad transposition

Actions:

- **Commission Draft Explanatory Working Paper** on interpretation of each Article with recommendations for transposition (considering both hard and soft law measures).
- **Expert's meeting** with MS to kick off implementation (May 2013).
- **Implementation workshops on best practices**
- **Bilateral consultations** with MS and stakeholders.
- **Project funding** through grants or contracts (e.g. exchange of best practices, training, awareness raising, studies).

Legal enforcement of victims' rights

Possible actions after 16 November 2015:

- **Complaints of citizens with the Commission**
- **Infringements proceedings – European Court of Justice jurisdiction**
- **Directives and "direct effect"**



European
Commission

Future initiatives?

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