

FIT FOR FUTURE Platform Opinion

Topic title	Revision of the victims' rights acquis AWP 2022 Directive 2012/29/EU <i>Legal reference</i>
Date of adoption	05 December 2022
Opinion reference	2022/SBGR3/07
Policy cycle reference	<input checked="" type="checkbox"/> Contribution to ongoing legislative process CWP 2022, Annex II <i>Commission work programme reference</i> In line with its commitment under the EU Strategy on victims' rights , the Commission is envisaging to revise the EU legislation on victims' rights to ensure that all victims of crime can fully rely on their rights. Indicative adoption: Q4 2022
	<input checked="" type="checkbox"/> Contribution to the (ongoing) evaluation process Evaluation of the Victims' Rights Directive <i>Title of the (ongoing) evaluation</i> The review will build on the results of the evaluation of the existing rules that is due by Q1 2022. As part of the EU Strategy on victims' rights, this evaluation will assess to what extent the directive has achieved its objectives in terms of its implementation and practical application in EU Member States. (to be updated when the evaluation is published).
	<input type="checkbox"/> Included in Annex VI of the Task force for subsidiarity and proportionality No
	<input type="checkbox"/> Other No
Have your say: Simplify!	EU citizen, S27733465 (17/01/2022)

**Commission
follow up**

REFIT Scoreboard:

[Revision of the victims' rights acquis](#)

Have your say portal:

[EU rules on victims' rights](#)

Annual Burden Survey:

[The EU's efforts to simplify legislation
\(2022\)](#)

SUGGESTIONS SUMMARY

Suggestion 1: More efficient mechanisms need to be explored or put in place to monitor regularly the measures taken by Member States to ensure the systematic and continuous education of all stakeholders in the victim support system, including police officers and members of the judiciary

Suggestion 2: It would be advisable at EU level to explore more ways to involve a wide range of actors in the assessment of victims' needs - police officers, prosecutors, judges, expert assistants at courts but also non-governmental organizations specialized in supporting victims, especially certain categories of vulnerable victims. Involving expert assistance could ensure a greater level of awareness of all stakeholders who come into contact with victims during criminal proceedings, but also before and outside of criminal proceedings.

SHORT DESCRIPTION OF THE LEGISLATION ANALYSED

The [Victims' Rights Directive](#) is the main EU instrument applicable to all victims of all crime. It lays down a set of rights for victims of crime and corresponding obligations on Member States. The Victims' Rights Directive was adopted in 2012 and entered into application in the Member States in 2015. In 2013, the European Commission issued a [guidance document](#) to assist EU countries in this process. The Commission launched infringement proceedings against several Member States for incomplete transposition of the Directive and in May 2020 adopted an implementation Report on the Directive. The Commission has continued to work closely with Member States to overcome the difficulties in the implementation of the directive. As of today, the Commission has managed to close almost all of the infringement proceedings for incomplete transposition.

The Victims' Rights Directive establishes minimum standards on the rights, support and protection of victims of crime and ensures that persons who have fallen victim to crime are recognised and treated with respect. They must also receive proper protection, support and access to justice. The directive considerably strengthens the rights of victims and their family members to information, support and protection. It further strengthens the victims' procedural rights in criminal proceedings. The directive also requires that EU countries ensure appropriate training on victims' needs for those officials who are likely to come into contact with victims.

Further sources of evidence:

[Have your say entry page](#) (evaluation)

[Have your say entry page](#) (impact assessment)

[Public consultation](#)

[Legislation framework webpage](#)

Commission report on the implementation of the Victims' Rights Directive [COM\(2020\) 188 final](#)

PROBLEM DESCRIPTION

Existing Commission evidence suggests the following issues:

The EU Strategy on victims' rights highlighted that victims of crime cannot fully rely on their rights in the EU. Beyond under-reporting of crime, victims continue to face difficulties in the following areas:

- *access to justice* - victims' difficulties in accessing justice are mainly due to a lack of information, and insufficient support and protection. In particular, victims lack sufficient information about their rights, which should be provided from their first contact with competent authorities. All communications should take place in a simple language and with a consideration of personal characteristics of the victim, including any disability;
- *access to in person and online support services* - victims still do not have effective access to in person and online support services, including psychological aid and social services. National measures are insufficient and victims are not safe even when covered by protection orders;
- *secondary victimisation*;
- *access to compensation* - victims' access to compensation is particularly challenging. They can claim state compensation only at the end of a long, often expensive and time-consuming process, which starts with criminal proceedings and is followed by attempts to receive compensation from the offender. Those who become victims of crime when travelling abroad find it even more difficult to access justice and compensation.

The most vulnerable victims include child victims, victims with disabilities, elder victims, victims of gender-based violence, victims of hate crime and hate speech, victims of terrorism and victims of trafficking in human beings. For these victims, it is particularly challenging to go through criminal proceedings and deal with the aftermath of a crime.

(Source: [Call for evidence](#), [Commission implementation report](#))

The Fit for Future Platform has acknowledged the issues raised by the legislation concerned as follows:

Regarding: modernisation and future proofing of existing laws, including via digitalisation, the efficient labelling, authorisation and reporting obligations, the simplification of EU legislation:

1. There are significant deficiencies related to informing victims of their rights and of existing support services, not only at earlier, but also at later stages of criminal proceedings. It led to the conclusion that there is an obvious lack of basic training on victims' rights and support services, and that there is a strong need for basic training, as well as for continuous and advanced training, not only of police officers, but of all those

who are responsible for providing information and support to victims (pursuant to Article 25 of the Victims' Directive).

2. The "individual victim assessment" mechanism of Article 22 of the Victims' Directive is extremely effective not only in detecting the needs of individual victims for specific protection needs, but also in adapting overall treatment to the needs of each victim. Involvement of a wider range of stakeholders in conducting individual assessments (police officers, prosecutors, judges), and especially their cooperation with those who provide professional assistance to victims of crime (NGOs, victim support bodies, etc.), contributes to raising awareness of victims' rights. It is precisely the awareness of victims' rights that is extremely important for the system of victims' rights and support, built on the implementation of the Victims' Directive, to really work.

SUGGESTIONS

Suggestion 1: More efficient mechanisms need to be explored or put in place to monitor regularly the measures taken by Member States to ensure the systematic and continuous education of all stakeholders in the victim support system, including police officers and members of the judiciary

Description: The need of systematic and continuous education of all stakeholders in the victim support system came as conclusion of empirical studies conducted by Croatian Law Centre – “Targeted Early Victim Needs Assessment and Support” (TEVNAS), “Victim-centered approach to improving support services” (VICATIS) and “Advancing Access to Rights under Victims' Rights Directive for Persons with Disabilities” (ARVID). One of conclusions in VICATIS was that police officers, prosecutors and judges, who inform victims about their rights, but also provide support to them, need more professional training. A more professional approach by the prosecuting authority would encourage victims to report criminal offences (in cases of domestic violence). The training would enable police officers, prosecutors and judges to identify the special needs of victims for support (VICATIS – Unapređenje sustava podrške iz perspektive žrtava kaznenih djela, Istraživačko izvješće – Hrvatska, p. 30, accessible at: <https://www.hpc.hr/wp-content/uploads/2018/02/Istra%C5%BEiva%C4%8Dko-izvje%C5%A1%C4%87e-1.pdf>).

Similar conclusions were drawn in the project TEVNAS (Burić, Zoran; Lučić Branka, Projekt “Pravni i institucionalni aspekti položaja žrtve kaznenog djela u RH”, p. 59, accessible at: <http://www.hpc.hr/wp-content/uploads/2017/12/TEVNAS-1PravniinstitucionalniaspektipolozajzrtvekaznenihdjelaRH.pdf>).

Regarding persons with disabilities who are victims of criminal offences, the research conducted in project ARVID showed that “among police officers and criminal and misdemeanour justice officials, there is no sufficiently developed awareness of how to approach PWDs and to what extent it is necessary and desirable to adapt to the needs of PWDs”, which led to conclusion that “it is important to systematically conduct training among the officers of

the competent bodies on the specific needs of PWDs and on treatment adjusted to them” (Compendium of Project Materials, ARVID - Advancing Access to Rights under Victims’ Rights Directive for Persons with Disabilities, September 2021, p. 100, accessible at: https://www.hpc.hr/wp-content/uploads/2021/10/Compendium-of-Project-Materials_ARVID.pdf).

Expected benefits: The training of professionals (in terms of Article 25 of the Victims’ Directive) turned out to be a crucial provision, as well as general sensibilisation to victims’ rights, especially of those victims with needs for special protection measures. Even if all the victims’ rights were fully implemented on normative level, lack of initial information of victims’ rights and support services, due to lack of knowledge and sensibilisation to victim’s needs, may render the whole system inefficient. Strengthening the obligation of effective systematic education, and stronger supervision over its implementation, would improve the entire victim support system.

Suggestion 2: **It would be advisable at EU level to explore more ways to involve a wide range of actors in the assessment of victims’ needs - police officers, prosecutors, judges, expert assistants at courts but also non-governmental organizations specialized in supporting victims, especially certain categories of vulnerable victims. Involving expert assistance could ensure a greater level of awareness of all stakeholders who come into contact with victims during criminal proceedings, but also before and outside of criminal proceedings.**

Description: The involvement of a wider range of stakeholders in conducting individual assessment of victims (police officers, prosecutors, judges), and especially their cooperation with those who provide professional assistance to victims of crime (NGOs, victim support bodies, etc.), contributes to [an increased] awareness of victims’ rights and the quality of information and support provided for the victims. Individual assessment of victims is conducted by bodies of criminal procedure (police, state attorneys, judges). These bodies could be advised, when conducting an individual assessment, to take into consideration the recommendations of non-governmental organizations and other bodies that provide assistance and support to victims of crime. On one side, the research conducted in TEVNAS showed that, in order for the victim support system to be as effective as possible, it is necessary to involve not only all bodies of criminal prosecution (police officers, state attorneys), judges, but also other bodies, including civil society organizations. “Only through coordinated action of competent state bodies and civil society organizations, victims can receive timely and quality support in all phases of procedure, as a comprehensive and connected activity of all competent bodies in solving victims’ problems” (Burić, Zoran; Lučić Branka, Projekt “Pravni i institucionalni aspekti položaja žrtve kaznenog djela u RH”, p. 57). The research conducted in VICATIS showed that “victims of family violence find the support provided by NGO’s rather complete and very important. Therefore, it would be useful to strengthen the mechanisms of cooperation with publically provided victim services and to provide efficient referral mechanisms” (VICATIS – Unapređenje sustava podrške iz perspektive žrtava kaznenih djela, Istraživačko izvješće – Hrvatska, p. 31).

One of recommendations coming from the research conducted in ARVID was that associations of persons with disabilities (PWD) “can play an important role in overcoming the barriers that exist between PWDs and institutions on the one hand, and police officers and officials of the criminal and misdemeanour justice system on the other hand. From the initial contact of PWDs with these bodies, the latter can be involved in procedures of individual assessment of PWD victims of crimes and misdemeanours because they will be familiar with the needs of people with disabilities, have their trust, will be able to provide assistance and support ... and offer better risk management for the victim.” (Compendium of Project Materials, ARVID - Advancing Access to Rights under Victims’ Rights Directive for Persons with Disabilities, September 2021, p.101). In addition, “It would certainly be advisable for PWD associations to programmatically connect with civil society organizations gathered in the Network of Support and Cooperation for Victims and Witnesses of Criminal Offences as a transitional solution” (Compendium of Project Materials, ARVID - Advancing Access to Rights under Victims’ Rights Directive for Persons with Disabilities, September 2021, p.100). Of course, strengthening the cooperation with the non-governmental sector should in no way diminish the state’s obligation to continue building a victim support system, both within and outside criminal proceedings. Comprehensive implementation requires appropriate structures to provide general and specialized support services as well as protection according to the individual needs of victims. In addition, all actors in contact with victims must be trained and fully aware of the rights of victims. It is essential that all Member States fully implement and apply the agreed minimum standards.

Expected benefits: Prescribing in more detail the "individual victim assessment" of Article 22 of the Victims’ Directive, and particularly involving all relevant actors, would ensure the sensibilisation and education of all stakeholders who come into contact with victims during criminal proceedings, but also before and outside of criminal proceedings. This would render the whole system of victims’ support more efficient.

ANNEX 1 – HAVE YOUR SAY: SIMPLIFY! SUBMISSIONS



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