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PROPOSAL

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
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Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA

Delegations will find attached document COM(2023) 424 final.

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2023/0250 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA

{SEC(2023) 270 final} - {SWD(2023) 246 final} - {SWD(2023) 247 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

This proposal provides for a set of targeted measures to improve victims' ability to rely on their rights under Directive 2012/29/EU[1] (the Victims' Rights Directive or VRD). The VRD is the main horizontal instrument for victims' rights. It lays down rights for all victims of all crimes, including the right to information, the right to support and protection based on victims' individual needs, procedural rights, and the right to receive a decision on compensation from the offender at the end of criminal proceedings. The VRD has been applicable since November 2015 in all EU Member States, except Denmark, which is not bound by the Directive.

In June 2020, the European Commission adopted the **EU strategy on victims' rights (2020-2025)**[2] to step up its efforts to ensure access to justice for all victims of crime no matter where the crime took place in the EU or under what circumstances. The strategy identifies five key priorities: (i) effective communication with victims and a safe environment for them to report crime; (ii) improving support and protection for the most vulnerable victims; (iii) facilitating victims' access to compensation; (iv) strengthening cooperation and coordination among all relevant actors; and (v) strengthening the international dimension of victims' rights. The strategy sets out non-legislative action for the Commission, Member States and other stakeholders to achieve these objectives. The strategy also tasked the Commission with assessing if a revision of the Victims' Rights Directive was necessary and, if so, to propose the necessary amendments.

The adoption of the VRD in 2012 was a crucial development in strengthening victims' rights and victim-centred justice in the EU. It has played a major role in creating a European area of freedom, security, and justice. Nonetheless, several shortcomings in its practical application have been identified. These are addressed through this targeted revision of the Directive.

The shortcomings were identified in the VRD evaluation report, adopted by the **Commission on 28 June 2022**[3]. The evaluation shows that, although the Directive has **broadly delivered the expected benefits** and positively affected victims' rights, specific problems related to victims' rights under the Directive persist.

Victims' treatment by the competent authorities and the victims' ability to participate in criminal proceedings have improved overall. The evaluation has shown that the VRD is satisfactorily coherent and consistent with other legislation. The VRD has had a positive impact on victims' rights to access information and improved their access to support services, notably to general support services that are now available to all victims of all crime. Overall, the VRD has improved victims' safety.

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1 Directive 2012/29/EU of the European Parliament and the European Council establishing minimum standards on the rights, support and protection of victims of crime, OJ L 315, 14.11.2012, p. 57, replacing Council Framework Decision 2001/220/JHA.

2 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on EU Strategy on victims' rights (2020-2025), COM/2020/258 final.

3 Commission Staff Working Document, Evaluation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 (SWD/2022/0179 final).

However, despite these positive developments, **the evaluation highlights specific problems with each of the rights in the VRD that require targeted improvement**. The problems are linked to the lack of clarity and precision with which certain rights are formulated in the Directive and to the large margin of manoeuvre for Member States to transpose them. This has led, in some cases, to limitations on the practical application of victims' rights and differences in how Member States have transposed the Directive. For example, in relation to the right to individual assessment of victims' needs and the right to specialised support services, the essential elements are left to the national procedures. Similarly, in relation to right to receive a decision on compensation from the offender, too large margin of manoeuvre is left to the Member States. These have been damaging for the practical application of victims' rights.

These problems hamper victims' ability to rely on their rights under the Directive and undermine the trust in national justice schemes and those in other Member States. This low level of trust results in an underreporting of crime as victims simply prefer not to report it. They do not have confidence that the competent authorities will take the necessary action once the crime has been reported. This harms the smooth functioning of the European area of freedom, security and justice. Tackling these problems requires an amendment to the VRD, which can only be achieved at the EU level.

There are five main problems, which are described below.

1. Victims do not always receive information about their rights, or they receive inadequate information that makes it more difficult or impossible for them to exercise those rights. For instance, victims who do not report crime are, in practice, deprived of their right to receive information about their rights at the first contact with the competent authorities. Moreover, as confirmed in the Vociare report[4], according to professionals, only 30% of children, 26% of persons with intellectual disabilities and 26% of illiterate persons living in the EU receive information in a way that is adapted to their needs.
2. Vulnerable victims (such as children, older people, persons with disabilities, victims of hate crime and victims in detention) do not always benefit from a timely assessment of their needs for protection and are deprived of effective protection measures, such as protection orders.
3. Vulnerable victims often cannot rely on specialist support, such as extended psychological treatment, and child victims often cannot rely on a targeted approach based on multi-agency cooperation.
4. Victims' participation in criminal proceedings is often difficult due to a lack of legal advice and guidance and differences in rules on victims' status in these procedures.
5. Victims' access to compensation in domestic and cross-border cases is difficult due to the lack of state support when enforcing the ordered compensation from the offender, leading to a risk of secondary victimisation.

Moreover, the minimum standards on what constitutes child-friendly[5] and victim-centred justice[6] have risen in the past 10 years. Therefore, to ensure that victims can fully rely on their

[4] Vociare Synthesis Report, published in 2019 by Victim Support Europe and Portuguese Association of Victims' Rights (APAV). The report assesses the practical application of the Victims' Rights Directive in 26 EU Member States.

[5] See, for instance, the rapid growth of the Barnahus model (children houses) in Member States.

rights based on their current needs and recent developments in justice and in technology, this revision proposes more far-reaching minimum rules than those adopted in 2012. These are based on best practices from Member States.

This revision aims to respond to the above-mentioned specific problems by targeting a set of general and specific objectives (with one specific objective for each specific problem).

The general objective of this revision is to contribute to a well-functioning area of freedom, security and justice based on:

- an efficient recognition of judgments and judicial decisions in criminal matters;
- a high level of security due to improved crime reporting[7];
- victim-centred justice, where victims are recognised and can rely on their rights.

The specific objectives of this revision include:

(i) a significant improvement in victims' access to information;

(ii) a better alignment of protection measures with victims' needs to ensure the safety of vulnerable victims;

(iii) an improved access to specialist support for vulnerable victims;

(iv) more effective participation in criminal proceedings for victims; and

(v) facilitated access to compensation from the offender in all cases, including national and cross-border cases.

The specific objectives and their outcomes have been carefully assessed in the impact assessment. A more detailed explanation of the objectives and corresponding amendments to the Victims' Rights Directive is presented in Section 3 on the impact assessment.

- **Consistency with existing policy provisions in the policy area**

The VRD was adopted on 25 October 2012. It has not been amended or revised since then. In addition to the VRD, the EU legislation on victims' rights includes the 2004 Compensation Directive[8] and EU rules on protection orders[9]. These instruments are also **horizontal** and are applicable to all victims of crime.

Furthermore, the EU legislation on victims' rights includes **sectorial legislation** composed of several instruments addressing the specific needs of victims of certain categories of crimes. These include the Directive on preventing and combating trafficking in human beings and

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6 See, for instance, Re-just project 'Action plan for developing victim centred and trauma informed criminal justice systems', published in 2021, that presents the recent standards on victims' access to information, including helplines, coordinated approach to support, victims' protection and participation in justice.

7 As a result of the proposed amendments, 10-20% of victims who indicated not reporting crime due to fears of reprisal would do so as explained in the impact assessment.

8 Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, OJ L 261, 6.8.2004, p. 15 - 18.

9 Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order (OJ L338, 21.12.2011, p. 2) and Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters (OJ L181, 29.6.2013, p. 4).

protecting its victims[10], the Directive against sexual abuse and sexual exploitation of children and child pornography[11], the Counter-terrorism Directive[12], and the Directive on combating fraud and counterfeiting of non-cash means of payment[13]. On 8 March 2022, the Commission adopted a proposal for a Directive on combating violence against women and domestic violence (the VAW proposal)[14]. On 19 December 2022, the Commission presented a proposal to amend Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims[15].

The sectorial legislation **criminalises certain acts and provides for additional rights to victims of those crimes that respond more directly to their specific needs**. **The sectorial legislation does not replace the VRD's rules**. The provisions of the sectorial legislation build on the VRD and are applicable in addition to those of the VRD. **The sectorial legislation supplements the VRD by providing additional rights to victims of specific categories of crimes under the sectorial legislation**. Following the revision of the VRD, all victims, including those covered by the sectorial legislation, will benefit from strengthened rules on victims' rights. The revision of the VRD is fully consistent with the sectorial legislation. It will not require any revisions of adopted or proposed sectoral legislation.

In the impact assessment, the Commission has carefully assessed the consistency of this proposal with all sectorial legislation. In particular, the consistency of the proposed measures on victim helplines, improved individual assessments and targeted and integrated measures have been checked against the sectorial legislation. This includes existing legislation on victims of terrorism and child victims of sexual abuse and proposed measures on victims of violence against women or domestic violence and victims of trafficking in human beings. The assessment showed that the proposed measures complement and strengthen the sectorial legislation.

The level of protection envisaged in the sectorial legislation does not serve as a benchmark for raising standards for all victims of all crime under this revision. As the sectorial legislation measures are devised with a focus on the specific needs of victims of particular categories of crimes, they may not be relevant or proportionate for all victims of all crimes. Nonetheless, some of the measures proposed under this revision may contain elements already covered by the sectorial legislation. This is inevitable given the common subject matter of victims' rights and the fact that the **VRD is applicable to all victims, which include non-vulnerable and vulnerable victims**. Vulnerable victims under the VRD are those who are in need of specialist support and protection measures, including but going beyond victims covered by the existing and proposed sectorial legislation, such as victims of terrorism or victims of violence against women and domestic violence. For instance, ensuring free psychological support for vulnerable victims for as long as necessary is proposed under

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10 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 (OJ L101, 15.4.2011, p. 1).

11 Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (OJ L335, 17.12.2011, p. 1).

12 Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA. OJ.

13 Directive 2019/713 (OJ L123, 10.5.2019, p. 18).

14 COM (2022) 105 final, 8.3.2022.

15 COM (2022) 732 final, 19.12.2023.

this revision as an amendment to Article 9(1)(c). This is already a right for victims of terrorism under Article 24(2) of the Counter-terrorism Directive. The consistency of the VRD with the sectorial legislation is fully ensured in this case because victims of crimes covered by the sectorial legislation continue to benefit from their rights under both. Following the entry into application of the revised VRD, victims of terrorism will continue to benefit from their right to free psychological support alongside other categories of vulnerable victims.

Further clarification is necessary in relation to targeted and integrated specialist support service for victims with specific needs. Article 9(3)(b) of the VRD refers to such support in particular for victims of sexual violence, victims of gender-based violence and victims of violence in close relationships. It does not refer explicitly, however, to other groups of victims with specific needs. Therefore, the amendment proposed to the VRD clarifies that targeted and integrated support services should be available to other victims with specific needs such as victims of trafficking in human beings, victims of organised crimes, victims with disabilities, victims of exploitation, victims of hate crime, victims of terrorism or victims of core international crimes. This does not affect the obligations for Member States, under the VAW proposal to ensure access to targeted and integrated services to victims of crimes covered by the VAW proposal and notably to victims of rape (the rape centres under Article 28 of the VAW proposal) or victims of female genital mutilation (under Article 29 of the VAW proposal).

Moreover, in response to the shortcomings identified in the evaluation, this proposal also requires Member States to set up specific protocols that will organise the actions of specialist support services to comprehensively address the multiple needs of victims with specific needs (see the newly added paragraph 4 of Article 9 of the VRD).

In order to ensure that there is no misunderstanding as to the scope of Member States' obligations under the VAW proposal and this proposal on the revision of the VRD, it is proposed to introduce in the VRD an explicit provision requiring Member States to ensure that they transpose their obligations under this proposal without affecting their obligations under the VAW proposal. In addition, to align the VRD with the terminology used in the VAW proposal, this proposal clarifies that where the VRD refers to victims of gender-based violence, such notion should include victims of violence against women and victims of domestic violence.

This revision is also fully consistent with the **EU strategy on victims' rights** as demonstrated in the impact assessment.

- **Consistency with other EU policies**

This revision is also consistent with other EU policies, including digitalisation. Notably, the proposed provision on the use of electronic means of communication responds to developments in technology in line with the **Commission's digitalisation policy**, including the digitalisation of justice[16]. To address the identified shortcomings, Member States will be obliged to provide for a possibility for victims to exercise their rights to information and access justice using electronic communication. The proposed measures also facilitate access to justice for victims in cross-border cases by requesting Member States to facilitate participation in criminal proceeding for victims who are resident abroad via video

[16] Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

conferencing and telephone conference calls. Such requirement overcomes the current limitation under Directive 2012/29/EU which provides for such a possibility but only for the purpose of hearing victims in line with the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000[17].

The revision focuses on ensuring the use of electronic communication. By facilitating equal access to information, protection, support, justice and compensation, the revision of the Victims' Rights Directive will enable all victims to exercise their rights in a more equal manner. This will significantly contribute to the **UN Sustainable Development Goal (SDG) 10** aiming to **reduce inequalities**.

With its overall goal to increase trust in the institutions and services supporting victims of crime, the initiative will contribute to promoting the rule of law and ensure equal access to justice addressed by **SDG 16 on peace, justice and strong institutions**.

Improvements would also be expected in the longer term **on good health and well-being (SDG 3)**. This will be achieved by better protecting victims and reducing secondary victimisation. Some indirect effects that help discourage crime will also contribute to progress in this SDG, e.g. higher levels of crime reporting, legal pursuits and more largely enforced judgments.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for this action is **Article 82(2)(c) of the Treaty on the Functioning of the European Union (TFEU)**. This allows the EU to lay down minimum rules on victims' rights: (i) to the extent that it is necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters with a cross-border dimension; and (ii) provided that differences between the legal traditions and systems of the Member States are taken into account. Minimum rules on the rights of victims of crime is not limited to cross-border situations. Similar to minimum standards for suspects and accused persons, the EU can lay down minimum standards for national rules to increase mutual trust in the judicial systems of other Member States. This can improve the functioning of the mutual recognition of judgments and decisions in criminal matters with a cross-border dimension.

- **Subsidiarity**

For mutual recognition and judicial cooperation to be fully effective, **there must be mutual trust in other Member States' criminal justice systems**. There should be mutual confidence in justice systems' standards of fairness and justice, and the public should have confidence that the same minimum rules will be applied if they travel or live abroad. As acknowledged in the Treaty, setting up minimum standards on the rights of suspects and accused persons and on the rights of victims is key to facilitating mutual recognition. The Treaty requires the EU to act in these areas in advance (that is before the trust in other Member States' justice schemes is broken) to strengthen this trust.

The VRD and the sectorial legislation have already harmonised victims' rights significantly and therefore contributed to raising trust in other Member States' judicial systems. However, as described in the evaluation and confirmed in the consultations, despite progress in setting

[17] OJ C 197,12.7,2000, p. 3

minimum standards on victims' rights, some **Member States have not been able to safeguard these rights effectively within the scope permitted by the VRD**.

Furthermore, minimum standards have changed in the past 10 years since the adoption of the VRD. This is linked to developments in justice (child-friendly and victim-centred justice), society (such as a bigger need for a coordinated approach to ensure that victim support services are always available in a crisis[18]) and technology (digitalisation, the rise in online crime and new technologies for victim support, protection and access to justice). More far-reaching minimum standards must be set to ensure the effectiveness of the VRD and maintain mutual trust among national authorities.

The EU added value should mainly come from facilitating judicial cooperation in criminal matters and ensuring the smooth functioning of the European area of freedom, security and justice. For this to happen, **trust in equal access to victims' rights independent of where in the EU the crime has occurred is essential**. One example where a high level of trust in victims' rights is required is the decision of judicial authorities on a transfer of proceedings to another Member State. Under Framework Decision[19] 2009/948/JHA, competent national authorities may contact each other when they have reasonable grounds to believe that parallel proceedings are being conducted in another Member State, which could lead to a transfer of proceedings to another Member State. When deciding on the transfer, the national authorities take into account the extent to which the victims in the proceedings can rely on their rights in the Member State of transfer. To take decisions on transfers, it is crucial for judicial authorities to have a high level of trust that victims will benefit from an equivalent level of access to support, protection, the possibility of participating in criminal proceedings, and access to offender's compensation in the Member State to which the proceedings are transferred. This is particularly important given that the Commission has recently proposed a Regulation on the transfer of proceedings in criminal matters[20] to facilitate ensuring that the best-placed Member State investigates or prosecutes a criminal offence[21].

The EU added value also lies in tackling the scale and nature of the problems that cannot be dealt with by Member States alone.

- **Proportionality**

The measures proposed in this revision has been carefully assessed in the impact assessment. Proportionality has been reflected in the level of action in national legal systems. This action is set out in three alternative solutions for each of the five specific objectives (from the least

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18 Upholding fundamental rights in times of crisis | European Union Agency for Fundamental Rights (europa.eu), 13 October 2022.

19 Framework Decision 2009/948/JHA.

20 The Commission proposal for a Regulation on transfer of proceedings in criminal matters COM (2023) 185 final 2023/0093 (COD) was adopted on 5 April 2023.

21 Another example where trust is required is when competent national authorities join a joint investigation team (JIT). A JIT is a form of close cooperation between competent judicial and law enforcement authorities of two or more Member States to deal with complex and often large-scale cross-border cases (based on Council Framework Decision of 13 June 2002). These cases often involve vulnerable victims from several Member States, such as victims of trafficking, victims of child sexual exploitation or victims of core international crimes. This requires a high level of trust that victims involved in the investigations will be adequately treated by all partners and that their rights will be respected in all countries concerned. The JIT on alleged core international crimes committed in Ukraine (with seven Member States participating) is a recent example involving Ukrainian victims of war crime who have fled the country to different EU Member States.

onerous to the most for Member States). The proportionality of each of the proposed measures has been also carefully assessed and tested with stakeholders in the consultations.

- **Choice of the instrument**

As specified in Article 82(2) of TFEU, the EU legislator can act by means of directives. A directive is binding on each Member State as to the result to be achieved but leaves the choice of form and methods to the national authorities.

3. RESULTS OF *EX POST* EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

In preparing **the evaluation and impact assessment of the Victims' Rights Directive**, the Commission consulted a wide range of stakeholders.

In December 2020, the Commission published the **evaluation roadmap** for this initiative on the Have your say website[22]. That consultation received 56 responses. On 28 June 2022, the Commission adopted its **evaluation of the Victims' Rights Directive**[23]. A support study and data collection that included a **public consultation**[24] fed into the evaluation. In the public consultation, the Commission received 95 contributions, including 20 position papers.

As part of **the impact assessment on the revision of the victims' rights legislation**, the Commission carried out the following consultations: a **call for evidence**[25] (53 responses received); a **public consultation** (72 replies were received, including 15 position papers of which one was later revised); **targeted consultations** with **Member State experts**, **the Victims' Rights Platform** and a **group of criminal law experts**; and broad consultations as part of the **external contractor's study** to support the impact assessment on the cost and benefits of the policy options.

The following stakeholder categories were consulted: (i) **professionals working with victims**, including judicial authorities in Member States, central authorities and law enforcement authorities; (ii) **members of civil society organisations working with victims**, namely EU and national victim support organisations and support services; (iii) **EU agencies and networks**, including the EU Agency for Criminal Justice Cooperation (Eurojust), the EU Agency for Law Enforcement Cooperation (Europol), the EU Agency for Law Enforcement Training (CEPOL), the European Network for Victims' Rights, the EU network of national contact points on compensation, the single contact points for victims of terrorism in Member States, the European Judicial Network in criminal matters, and the Fundamental Rights' Agency (FRA), the European External Action Service; (iv) **international organisations**, such as the Council of Europe; (v) **research and academic organisations**; and (vi) **the public**, **including victims**.

- **Collection and use of expertise**

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22 Supporting crime victims – evaluation of the Victims' Rights Directive (europa.eu).

23 Commission Staff Working Document, Evaluation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 (SWD(2022) 180 final).

24 Supporting crime victims – evaluation of the Victims' Rights Directive (europa.eu).

25 https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13096-Criminal-justice-EU-rules-on-victims-rights-update-_en

This proposal builds upon evidence gathered as part of the evaluation and impact assessment of the Victims' Rights Directive.

Many **reports and studies** on victims' rights and the implementation of the VRD in Member States have also fed into this revision. These include several reports from EU-funded projects[26]. The Commission has also launched a **cost-benefit analysis**, carried out by an external contractor, to assess the financial feasibility of the main options.

In addition, the Commission took into account **previous work carried out by the European Parliament**. This included a study on the implementation of the Victims' Rights Directive, conducted by the Research Service of the European Parliament in 2017[27], a study requested by the Committee on Civil Liberties, Justice and Home Affairs (LIBE) on criminal procedural laws across the EU[28], and Parliament's Resolution on minimum standards on the rights, support and protection of victims[29].

- **Impact assessment**

The impact assessment accompanying this proposal draws on the findings of the evaluation conducted by the Commission.

The Commission considered several legislative policy options in the impact assessment. Non-legislative options were excluded given that the EU strategy on victims' rights (2020-2025) already includes non-legislative measures to be implemented in the coming years, but their expected impact is included in the baseline.

The amendments proposed in the preferred package of policy options in the impact assessment will achieve the following:

- **More effective access to information**, particularly through to the obligation to set up victim helplines that provide all victims who contact them, including those who do not report a crime, with information about their rights.
- **Protection measures that are better aligned with victims' needs**, particularly due to the improved individual assessment of victims' protection needs and the enlarged list of protection measures that will be available for victims following the assessment, including protection orders.
- **Better support**, particularly through the right to free **psychological support** for as long as necessary, the **right to targeted, multi-agency support for child victims and rights of persons with disabilities.**
- More effective **participation for victims in criminal proceedings** through the **right to administrative assistance at court** and the **right to remedy.**

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26 See Vociare Report or Artemis Report. To see the examples of projects, look in Annex 1 of the impact assessment.

27 Victims' Rights Directive 2012/29/EU – European Implementation Assessment. PE 611.022, December 2017, https://www.europarl.europa.eu/RegData/etudes/STUD/2017/611022/EPRS_STU(2017)611022_EN.pdf.

28 Criminal procedural laws across the European Union – a comparative analysis of selected main differences and the impact they have over the development of EU legislation. PE 604.977, August 2018, https://www.europarl.europa.eu/RegData/etudes/STUD/2018/604977/IPOL_STU(2018)604977_EN.pdf

29 European Parliament resolution of 30 May 2018 on the implementation of Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime (2016/2328 (INI)).

- Better **access to compensation** by (i) strengthening victims' rights to receive a decision on compensation from the offender during the criminal proceeding; and (ii) making it binding for the state to pay the offender's compensation to victims in due time following the judgment on offender's compensation, with a possibility for the state to recuperate it later from the offender.

As demonstrated in the impact assessment, in each Member State **the benefits expected from the amendments proposed in this revision outweigh the expected costs**.

The ratio varies across Member States with some having higher cost-benefit ratios (higher positive impact per euro spent) and some lower (lower positive impact per euro spent). The main reason for such differences comes from the different starting positions of the Member States. This includes notably the level of effort (costs) that Member States must undertake to achieve the results of the proposed amendments, differences in costs related to the transposition of certain measures (ex. psychological support) and different numbers of victims across Member States.

The impact assessment clearly shows that although the Member States will have to undertake certain initial investments, the proposed amendments will lead to better functioning economies, more resilient societies, and stronger public institutions. Victims of crime who receive timely support and protection integrate more easily into societies, return to work more quickly and are less dependent on health care schemes. Such victims are also more eager to report crime and to cooperate with the competent authorities. Therefore, as a result of the proposed amendments, the Member States will benefit from the improved economies, more integrated societies and stronger justice schemes.

The **draft impact assessment** was submitted to the Regulatory Scrutiny Board on 3 November and discussed on 30 November 2022. The impact assessment was slightly revised after the hearing to reflect more precisely the implementation costs and the methodology for assessing the options. On 1 December, the Board issued a positive opinion on the draft without reservations.

- **Regulatory fitness and simplification**

The analysis in the impact assessment suggests that the package of preferred options should reduce the burden on Member States in a long-term, even if some costs will rise in short-term. This rise should be more than compensated by the expected benefits brought by the options package.

Some simplification for national authorities will come from different measures, which will increase cooperation and coordination among those dealing with victims, including support services. This will result in a more efficient organisation of justice schemes. In particular, the current burden on police, caused by the obligation to provide complete information on victims' rights in line with each victim's specific needs, will be shared with others (including non-governmental organisations and volunteers).

Further benefits have been identified for the functioning of Member States justice systems. In particular, services dealing with state compensation are expected to be helped significantly by fully implementing the preferred option for ordered compensation. More simplification should come by dealing with all compensation issues in the criminal proceedings, rather than in both criminal and civil proceedings. This will reduce the number of civil cases and make the court system more efficient.

On 5 December 2022, the **Fit for Future Platform** adopted its opinion on the revision of the victims' rights *acquis*[30]. Its suggestions are in line with the ongoing work in the area of victims' rights and the preferred policy options in the impact assessment.

- **Fundamental rights**

The proposal respects the fundamental rights and observes the principles recognised in Article 6 of the Treaty on European Union and in the Charter of Fundamental Rights of the European Union. All policy options sought to reduce discrimination by providing equal **access to information, protection, support, justice and compensation** and ensuring adequate minimum standards for all victims of crime without differentiation, while taking due account of victims' specific needs.

Concretely, on equal **access to information** on victims' rights, how to ensure better access to **victims in closed institutions** was considered. The website (which is an integral part of the victim helpline) will improve access to information for victims who do not speak the official language of the Member State. By improving **individual needs' assessments**, victims' individual needs can be better assessed, which will result in **more equal and effective protection** of the most vulnerable victims. On victims' support, the initiative envisages, amongst other things, **extending free psychological support** to a wider group of victims (it is currently reserved for victims of terrorism). In addition, the revision plans to grant all victims of crime **more rights throughout criminal proceedings regardless of their formal status** as a party. Therefore, the possibility to be accompanied during proceedings is likely to encourage all victims to claim their rights. A provision on the rights of persons with disabilities that makes the rights in this proposal accessible to their specific needs has been added. This will enable persons with disabilities to benefit from victims' rights on an equal basis with others. All these changes aim to reduce inequality and are expected to have a positive impact on fundamental rights.

Interference with the right to respect for private and family life (Article 7) and the protection of personal data (Article 8) of the victim and the offender is necessary and proportionate to ensure that victims can effectively rely on their rights to support and protection. In addition, the proposal provides for a specific obligation to not share victim's personal data with migration authorities. This safeguard ensures that information about the victim is only processed for the purposes of the VRD. Collecting personal data for statistical purposes is necessary to ensure the effectiveness of the measures in this revision and to shape victims' rights policy. The respect to privacy and family life of the victims is further strengthened by ensuring that adequate protection measures against offenders are taken following individual assessments.

The fundamental rights, as set out in the Charter of Fundamental Rights of the European Union, that benefit include the right to life (Article 2), the right to the integrity of the person (Article 3), the right for private and family life (Article 7), the protection of personal data (Article 8), the right to equality before the law (Article 20), the right to non-discrimination (Article 21), the rights of the child (Article 24), the integration of persons with disabilities (Article 26), the right to social assistance and healthcare (Article 35), the right to good administration (Article 41), and the right to an effective remedy and to a fair trial (Article 47).

[30] https://commission.europa.eu/system/files/2022-12/Final%20opinion%202022_SBGR3_07%20Revision%20of%20the%20victims%20rights%20acquis_rev.pdf.

The proposal has also been assessed **in light of the rights of offenders,** suspects and accused persons. These include the right to access justice (Article 47), the presumption of innocence (Article 48), the right to defence and principles of legality and proportionality of criminal proceedings (Article 49), the right not to be tried or punished twice in criminal proceedings for the same criminal offence (Article 50), and EU rules on procedural rights of suspects and accused persons. It was found that the options did not affect the fundamental rights of offenders, suspects and accused persons.

In addition, this proposal considers the rights of persons with disabilities and obligations enshrined in the UN Convention on the Rights of Persons with Disabilities to which the EU and all Member States are party to.

The proposal is expected to strengthen the fundamental rights of victims. Nevertheless, for some options, the direct effect on fundamental rights will be more pronounced than for others. Since it is impossible to quantify the impact, a qualitative analysis has been chosen as a methodology. This is done by assessing the degree to which each option can improve on the baseline.

4. BUDGETARY IMPLICATIONS

The proposal has no impact on the EU budget.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

In accordance with Article 2 of this proposal, Member States are required to bring into force the laws, regulations and administrative provisions necessary for compliance at the latest by [*two years after the entry into force of the Directive*]. There is an exception for introducing the provisions necessary to comply with Article 26b (about the use of electronic means of communication) which should be adopted and published by [*four years after the entry into force of the Directive*]. Member States must communicate the text of their provisions to the Commission.

The Commission will monitor and evaluate the impact of this proposal using existing mechanisms under the current Directive. In addition, in accordance with Article 28 (Provision of statistics), Member States must take the necessary measures to set up a system for collecting, producing and disseminating statistics on victims of crime. They must send this data to the Commission (Eurostat) every three years.

The Commission will continue to hold meetings of the EU Victims' Rights Platform on topics related to victims' rights. These exchanges will also contribute to the monitoring and evaluation.

By [*six years after adoption*], the Commission must submit a report on the application of Directive 2012/29/EU as amended by this Directive to the European Parliament and the Council. The report must assess the extent to which the Member States have taken the necessary measures to comply with this Directive, including the technical implementation.

- **Explanatory documents (for directives)**

To ensure the proper implementation of this Directive, an explanatory document (e.g., in the form of correlation tables) is necessary as required by the judgment of the European Court of

Justice in Case C-543/17[31]. The legislation transposing the Victims' Rights Directive is rarely limited to one single legal text as the provisions are often incorporated in different national instruments. For this reason, Member States must provide an explanatory document to the Commission with the text of the provisions adopted that transpose this Directive.

- **Detailed explanation of the specific provisions of the proposal**

The amendments to the Victims' Rights Directive target provisions aiming to: improve victims' access to information and crime reporting, facilitate access to specialist support for vulnerable victims, including children and improved access to justice for victims with disabilities, more effective victims' participation in criminal proceeding, improved access to compensation for victims, better aligning victims' protection measures with victims' needs, use of electronic means of communication and specific obligations on victims of violence against women and domestic violence.

(a) Provisions aiming to improve victims' access to information and crime reporting (Articles 3a, 5a and 26a).

Under Article 4 of the VRD, victims have the right to receive information about their rights **from the first contact with the competent authorities**, usually the police. Nonetheless, not all victims contact the competent authorities. As highlighted in a 2021 Fundamental Rights Agency Report[32], **victims do not report the crime in most cases**. **These victims are deprived of access to information**, including information about their rights to support and protection, independently of whether they report a crime or not.

Although the VRD requires that information to victims is provided in accordance with the right to understand and be understood (Article 3 of the VRD), the evaluation found that in practice the competent authorities often use language that is not adapted to victims' needs[33]. This is the case for persons with disabilities, persons who do not speak the national language, children and older people. In addition, since the first contact with the competent authorities often takes place at a crime scene, people who are in shock immediately after the crime are not able to understand the information they receive.

Under Article 6 of the VRD, victims should also receive **follow-up information from the competent authorities** about the different stages of the criminal procedure, their role and the situation of the offender (e.g., a release from detention). However, a great share of stakeholders consulted as part of the evaluation considered that victims do not fully enjoy their rights to information from the first contact with a competent authority under the VRD, and this should be improved.

A more comprehensive means of communication with victims that takes into account the complexity of victims' needs in relation to their right to access information is still not available in all Member States. Many **victims still cannot rely on victim helplines using the 116 006 telephone number**[34]. These helplines should give victims the information they need

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31 Judgment of the Court of Justice 5Grand Chamber) of 8 July 2019 in Case C-534/17 European Commission v Kingdom of Belgium.

32 FRA Survey on Crime, Safety and Victims' Rights, February 2021.

33 For example, in several Member States (including Bulgaria, Portugal, Romania and Slovakia), the written information provided by authorities is a copy of the national provisions on victims' rights.

34 Set up under Commission Decision of 30 November 2009 amending Decision 2007/116/EC as regards the introduction of additional reserved numbers beginning with '116'. The application of reserved numbers is not mandatory but recommended. Certain conditions must be fulfilled to use the numbers.

at any time. They should be able to speak freely about their experience and be referred to the police or other services if needed. Even fewer victims benefit from more advanced helplines that feature a comprehensive website and allow for contact to be made by chat and email in addition to phone calls[35].

To overcome the identified problems on victims' access to information, this revision proposes a set of measures, in particular an obligation for the Member States to provide **victim helplines** (Article 3a). It will **use the EU 116 006 telephone number** and a website with **state-of-the-art technology** to give optimal access in most spoken languages and to persons with disabilities. The helpline will be a first contact point for all victims of all crimes, provide emotional support and refer victims to specialised support services if needed.

The proposed revision is in line with other helplines using the reserved EU numbers starting with 116 such as missing children (116 000) and victims of gender-based violence (116 116). The proposal is also in line with the Commission's Better Internet for Kids strategy[36]. It supports the network of safer internet centres (SICs), which includes helplines for children, parents and carers on online issues (such as online violence and cyberbullying) and hotlines to report child-abuse material online. The proposal is also in line with the Commission's policy aimed ensuring that the 116 111 number addresses cyberbullying.

To ensure that victims receive information that is comprehensive and inclusive, the proposal obliges Member States to set up specific procedures in a form or **protocols**. Article 26a) requires that such protocols are set up in cooperation with law enforcement, judicial authorities (prosecutors and judges) and support organisations. They will provide instructions to the different partners on how to ensure that victims receive information that is adapted to their individual needs and that is relevant to the specific part of the procedure.

The revision also provides for an obligation to ensure that victims can **report crime** using **information and communication technologies** (Article 5(a)1). Crime reporting will also be made easier for people in detention (the details will be provided in the protocols set up in coordination and cooperation among law enforcement, judicial authorities (prosecutors and judges) and support organisations (Article 26a)).

Crime reporting will be also easier for irregular migrants. Article 5(a)5 of the proposal requires that the competent authorities coming into contact with a victim reporting a criminal offence **will not be allowed to transfer personal data with the victim's residence status to migration authorities if this data has been collected as a result of crime reporting at least until the completion of the first individual assessment** as referred to in Article 22 of the VRD. In this context it should be recalled that reporting the crime and participating in criminal proceeding under Directive 2012/29/EU do not create any rights regarding the residence status of the victim, neither have any suspensive effect when determining their residence status. In addition, in the case of irregular migrants who are victims of trafficking in human beings or have been the subject of an action to facilitate illegal immigration and are cooperating with the competent authorities, relevant authorities have the obligation to inform them of their rights and possibilities under the Residence Permit Directive. These possibilities

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For victims, the 116 006 helpline must provide information about victims' rights, refer callers to police and other services (if needed) and provide counselling.

35 The best examples include: the Irish helpline, the Estonian helpline, the Croatian helpline, the Latvian helpline, the Swedish helpline.

36 COM/2022/212 final, 11.5.2022.

notably include the granting of a reflection period to decide whether to cooperate with the investigation, and the issuance of the residence permit.

(b) Provisions to facilitate access to specialist support for vulnerable victims, including children (Articles 9(1), 9a and 24)

Articles 8 and 9 of the VRD provide for the right to free specialised, targeted and integrated support for victims with specific needs, including psychological support where available. However, the evaluation has demonstrated that vulnerable victims, including children, often cannot benefit from effective support[37].

The lack of a child-sensitive approach is still an issue in many Member States[38]. The evaluation has demonstrated that there is lack of common understanding on what targeted and integrated support is required for vulnerable victims, especially children. As a result, not all children in the EU can benefit from high-quality specialist support. The EU Comprehensive Strategy on the Rights of the Child (2021-2024)[39] stipulates that judicial proceedings ought to be adapted to a child's age and needs and must respect all their rights, in consideration of the best interest of the child. The Barnahus model is currently the most advanced example of a child-friendly approach to justice[40]. Although this revision does not require Member States to follow the Barnahus model, it builds on its principles. To solve the problem, the revision requires in a new Article 9a that Member States **provide for a targeted, multi-agency approach to support and protect child victims**. It should be based on providing services in an integrated and coordinated manner on the same premises. This is the main addition to the child-friendly measures already in the VRD (such as video recording of testimonies, avoidance of eye contact, child-friendly interviews by the same person). Under this revision, Member States are also required to make such a targeted and integrated multi-agency approach available to all child victims who need it.

The evaluation has also highlighted **that free psychological support for victims is not always available in almost half the Member States**[41]. Victims are often asked to pay for psychological support after the first sessions. This is particularly problematic for vulnerable victims who usually cannot afford to pay for support. The effects of crime can be long-lasting, and there are several factors that aggravate these effects, such as the gravity of the crime, the victim's personal situation and any previous victimisation[42]. Therefore, as underlined in a 2019 FRA report (p. II), victims of violent crime will be unable to play any significant role in criminal proceedings unless they **receive professional and empowering psychological support**.

To solve the problem, the revision proposes in Article 9(1) that the specialist support services include **free psychological support for as long as necessary** for all vulnerable victims in

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37 About half the stakeholders consider that victims with specific needs do not receive enough support.

38 During the consultations, many problems related to video recordings of children for evidence, child-friendly participation in trials, individual approaches for the most vulnerable children were reported in several Member States, including BE, BG, DE, EL, LT and PT.

39 COM/2021/142 final, 24.3.2021.

40 About Barnahus - Barnahus -as a child-friendly office, under one roof, where law enforcement, criminal justice, child protective services, and medical and mental health workers cooperate and assess together the situation of the child and decide upon ;the follow-up.

41 AT, CY, CZ, DE, EE, IE, LT, LV, MT, NL, PT, SI.

42 The psychological consequences of crime can include anxiety, depression, guilt, shame, self-destructive behaviour and the inability to act or think rationally, see Psychological Reactions of Victims of Violent Crime, Cambridge University Press, 2018.

need of such support – i.e., where the individual assessment shows a need for it. All victims will continue to benefit from emotional and psychological support that is often available to them in a short-term after crime, but victims with specific needs will have facilitated access to such psychological support that should be available to them not only in a short-term after crime, but also in a long-term (for as long as necessary).

Both of the proposed measures require national coordination among support services, law enforcement and judicial authorities specified in protocols (Article 26a).

Victims' access to support services will be strengthened by the requirement that victim support services will remain operational in a crisis – in line with lessons learnt during COVID-19. This will be achieved by adding a paragraph to Article 8 of the VRD. Victims will also be able to benefit from facilitated referrals to victim support services (amendments to Article 8).

The proposed measures bring clarity to the scope of support for the most vulnerable victims, including children. Furthermore, they improve trust in national and other Member States' justice schemes.

(c) Provisions to ensure that victims have more effective access to justice (Articles 10a and 10b)

Under the VRD, the main rights that facilitate victims' participation in criminal proceedings include the right to be heard (Article 10 of the VRD), rights in the event of a decision not to prosecute (Article 11 of the VRD), the right to legal aid (Article 13 of the VRD) and a set of rights aimed at protecting victims from secondary and repeated victimisation during the proceedings (Articles 18 to 24 of the VRD). The evaluation and consultations highlighted that victims' participation in criminal proceedings is difficult or even impossible unless they are **correctly accompanied and advised**. **Advice from a lawyer** who represents the victim in court responds to most issues, notably legal aspects. Nonetheless, not all victims have a right to a lawyer. Legal aid can be granted to those with insufficient means, which is determined by a means test that is particularly stringent in some Member States. In addition, legal aid may be granted to those who have suffered from certain types of crime, but only if they are party to a criminal proceeding (Article 13 of the VRD). Therefore, it is crucial for victims to also have the right to be **accompanied by a person other than a lawyer** who could at least advise on the victims' role and rights during the proceedings and offer emotional support. Article 20 of the VRD provides for such a right but is limited to the investigation stage (before the trial).

In this context, it is essential to ensure that all victims in the EU have at least **a right to be assisted** during the trial and receive adequate information from the court's staff[43].

The evaluation shows that another major problem with victims' participation in criminal proceeding is that, in some Member States, **victims do not have a legal status as a party to the criminal proceeding**[44]. The VRD leaves it to national law, so the victims' standing differs from one Member State to another (such as a party, an assisting prosecutor, a civil party or a witness with a right to be heard). Moreover, victims often **lack legal remedies to**

[43] Good practices exist. For instance, in Ireland, V-Sac provides victim support at court by trained volunteers to over a thousand victims every year.

[44] At least in eight Member States – CY, EE, EL, FR, IE, MT, NL, RO.

challenge decisions that concern them directly[45]. This results in a de facto violation of the victims' right to access justice.

To ensure more effective participation in criminal proceedings by victims, this revision proposes to establish **in a new Article 10a a right to assistance in court.**

This revision also proposes to establish a right for victims to **challenge the decisions taken during court proceedings which concern certain victims' rights under this directive,** as the right to special protection measures for victims with specific needs, the right to translation during the court hearing. Member States would have to ensure that victims can challenge those decisions independently of their status in the criminal proceedings and in line with the principle of judicial review (Article 10b).

As a result, victims' experiences with and trust in the criminal justice system will be improved. This will help make their voices be heard, improve their testimonies, and improve their participation, which increases judicial effectiveness.

(d) Provisions to ensure that victims have more effective access to compensation

As highlighted in the EU strategy on victims' rights, in many Member States, victims' access to compensation from the offender and from the state remains difficult. The problem concerns both domestic cases and cross-border cases. Under Article 16 of the VRD, all victims have the right to receive a **decision on compensation from the offender** during criminal proceedings unless national law provides for such a decision to be made in other legal proceedings. As shown in the Milquet report and confirmed in the evaluation, this right is often ineffective[46] since, in some Member States, there is often no decision on compensation in the criminal proceedings[47]. Moreover, even after a criminal proceeding leading to the judgment imposing an obligation on the perpetrator to compensate, the victim is often not compensated because it is difficult to get the offender to pay. The lack of effective access to compensation from the offender in the criminal proceeding leads to victims having to engage in cumbersome and lengthy civil proceedings. They may also have to apply for state compensation under national rules on state compensation[48]. The problem concerns domestic cases and cross-border cases alike.

To facilitate victims' access to compensation from the offender, this revision proposes to give victims **the right to receive a decision on compensation from the offender only in the course of the criminal proceeding**. As a result, the current exception under Article 16 of the VRD, where national law provides for such a decision to be made in other legal proceedings, should be deleted. In addition, the Commission proposes to make it **mandatory for Member States to pay the compensation due from the offender upfront** to the victim immediately after the judgment and then seek the reimbursement of the compensation from the offender (**new Article 16, paragraph 2**).

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45 In 13 Member States, victims do not have adequate legal remedies to challenge decisions that concern them directly (BE, DE, FR, HU, IE, LT, LU, LV, MT, NL, RO, SE, SK). This is mostly related to the lack of legal standing as a party to the proceeding.

46 Most stakeholders consulted believe that victims' right to get compensation from the offender is ineffective and should be strengthened.

47 See, in particular, the practice of judges in CZ, SK, and AU.

48 Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims requires that Member States provide access to compensation to victims of violent and intentional crime, including in cross-border cases. The conditions for such access to compensation are left to national procedures.

These proposals are expected to bring a considerable improvement to victims' standards on compensation from the offender in domestic and cross-border cases. By facilitating this, they will limit – to a great extent – the situations where victims request state compensation. This is because state compensation, in most cases, is only granted if victims have not received the compensation from the offender.

(e) Provisions on better aligning victim protection measures with victims' needs to ensure the safety of vulnerable victims (Articles 22 and 23)

Article 22 of the VRD provides for a victim's right to a timely and individual assessment of their protection needs. Its purpose is to determine whether a victim is in any way particularly vulnerable to secondary victimisation (harm from the criminal proceeding) and repeat victimisation, intimidation and/or retaliation (harm from the offender) so that adequate protection measures can be applied. These protection measures are laid down in Article 23 of the VRD. **The conditions for individual assessments are left to national law**. According to the evaluation, the right to an individual assessment is one of the most significant achievements of the VRD. However, in practice, its quality is often hampered by these three identified shortcomings:

- the assessment comes too late in the procedure;
- it **does not involve psychologists and victim support services** who have the expertise to assess the psychological situation of each victim;
- it **neglects the risks posed by the offender** who may possess arms and abuse drugs or alcohol.

Individual assessments of victims' needs must be carried out correctly to ensure victims are adequately protected. Without these assessments, victims cannot benefit from the special protection measures laid down in Article 23 of the VRD. These measures include special interviewing techniques, not having eye contact with the offender, and not having to be in the courtroom. However, they do not include physical protection measures from the offender (such as protection orders), even though victims' rights to protection under the VRD includes protection from both secondary victimisation and repeated victimisation. The evaluation and consultations indicate that this gap in the VRD has not been filled by national law and practice. Many stakeholders consulted as part of the evaluation found that **the victims' right to protection is not widely available and should be strengthened.**

This revision provides for targeted amendments to the victims' individual needs assessment (via punctual amendments to the current Article 22) by adding the following elements:

- carrying out the assessment at the first contact with the competent authorities;
- involving support services, law enforcement and the judiciary – protocols to be set up under new Article 26a) will provide for practical measures on how this cooperation should be set up in the Member States;
- evaluating the risks posed by the perpetrator (such as alcohol abuse or possession of weapons);
- including an assessment of individual needs for support.

Moreover, this revision will **strengthen the use of protection measures for victims' physical protection,** such as protection orders, by adding physical protection measures to the list of specialised protection measures currently laid down in Article 23 of the VRD. This proposal will contribute to raising awareness about national protection measures available, including protection orders. It also aims at simplifying how they are currently applied.

Overall, the measures proposed in this revision on more targeted individual assessments will benefit all victims as it will ensure that the need for protective measures are well assessed. It also aims to facilitate the mutual recognition of European protection orders by improving how they are applied at national level.

(f) Use of electronic communication (Article 26b)

There have been many technological developments (**digitalisation**) since the adoption of the Directive. Victims in the EU still do not benefit from the potential of new technologies as suitable digital tools are not available to improve their access to justice, such as the possibility to report crime online or receive online access to victims' files[49].

To address the identified shortcomings, the Commission proposes measures on the use of electronic communication (**new Article 26b**). In particular, Member States will be obliged to provide for a possibility for victims to exercise their rights to information and access justice using electronic communication. The proposed measures are in line with the Commission's policy on digitalisation, including its proposal on the digitalisation of justice.

(g) Rights of victims with disabilities (Article 26c)

The evaluation has shown that persons with disabilities still cannot fully benefit from their rights as victims of crime. Major developments in making products and services accessible to persons with disabilities took place in the past ten years since the adoption of the VRD. Notably in 2019, the Commission adopted Directive 2019/882/EU on the accessibility requirements for products and services[50]. With the revision of the VRD, the Commission recognises these developments and proposes to facilitate access to justice for victims with disabilities. The Commission proposes to add a specific, cross-cutting provision on the rights of victims with disabilities to ensure that services and protection measures are accessible to them and that the means of digital communication are consistent with the requirements set out in Annex I to the Directive on the accessibility requirements for products and services (new Article 26c).

(h) Victims' right to remedies (Article 26d)

Currently, the VRD does not provide for a provision on legal remedies for victims of crime whose rights under this Directive have been violated. Such a right stems from the principle of effectiveness of EU law that requires Member States to put in place adequate and effective remedies if a right conferred upon individuals under EU law is breached. The lack of such a rule and the need to introduce one has been highlighted in the FRA reports. Moreover, in March 2023, the Council of Europe adopted a Recommendation on rights, services and support for victims of crime[51] that provides for the victims' right to remedy.

To solve the problem, the Commission proposes to add a provision on legal remedies for victims for the violation of their rights under this Directive in a new Article 26d. This provision mirrors similar provisions in EU rules on rights of suspects and accused. This fulfils the current gap and brings the necessary balance between the rights of suspects and accused and the rights of victims.

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49 See the impact assessment accompanying the Commission proposal on the digitalisation of justice (SWD(2021) 392 final).

50 Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services.

51 Recommendation of the Committee of Ministers to Member States of the Council of Europe on rights, services and support for victims of crime CM/Rec(2023)2 adopted on 15 March 2023.

(i) Specific obligations on victims of violence against women and domestic violence (Article 27a)

The Commission proposes to introduce a provision that clarifies the link between the proposal on the revision of the VRD and the legislative proposal on violence against women and domestic violence. According to this provision, Member States must implement the measures under the VRD regardless of the obligations under the other proposal. The objective of this provision is to ensure that Member States make sure that they fully transpose both directives and pay particular attention to transpose more specific rules on victims of violence against women and domestic violence. The measures under both proposals will be applicable to victims of violence against women and domestic violence.

(j) Requirement for collection of victims' rights data every three years (Article 28)

Article 28 provides that, every 3 years, Member States must send the Commission data showing how victims have accessed the rights set out in the VRD.

The evaluation of the Directive, however, showed that there are still major gaps in the data collection. Notably the data collected by the Member States is not comprehensive and often not comparable. Therefore, the Commission proposes a requirement for Member States to create a system for collecting, producing and disseminating statistics on victims of crime through an amendment of Article 28. The statistics should include data relevant to the application of national procedures on victims of crime, including the following minimum set of indicators: the number and type of reported crimes, age and sex of the victims. The data should also include information on how victims have accessed the rights set out in the Directive as is the case today.

The Commission will support Member States in gathering data, including by drawing up common standards, disaggregation and reporting formats. Member States must transmit the data to the Commission (Eurostat) every three years. The proposal for the revision of the VRD also recognises the role that the Fundamental Rights Agency has played so for in assisting the Commission and Member States in gathering and analysing data on how victims have accessed their rights under the Directive in the past ten years since the adoption of the Directive. The objective of adding the role of the Fundamental Rights Agency to the provision on data gathering is to ensure that the Agency will be able to continue its good work and will keep up in assisting the Commission and Member States in the task.

This measure is expected to improve the completeness, consistency and comparability of data on victims of crime across different reference periods and Member States. It will also improve the data collection at EU level. In order not to burden Member States with data collection, the frequency of data collection to the Commission (Eurostat) will be required every three years.

2023/0250 (COD)

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82(2)(c) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[52],

Having regard to the opinion of the Committee of the Regions[53],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) To ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings, the Union has adopted Directive 2012/29/EU of the European Parliament and the Council[54].

(2) The Commission has assessed how victims have accessed their rights under Directive 2012/29/EU of the European Parliament and the Council and published its results in the evaluation report[55]. The evaluation shows that, although Directive 2012/29/EU has broadly delivered the expected benefits and positively affected victims' rights, specific problems related to victims' rights under this Directive persist. The identified shortcomings include insufficient ability to rely on victims' rights to access information, to support and protection in accordance with each victim's individual needs, to participate in criminal proceedings and to receive a decision on compensation from the offender during criminal proceedings. This revision of Directive 2012/29/EU of the European Parliament and the Council responds to the shortcomings demonstrated in its evaluation and in numerous consultations.

(3) In order to provide victims with seamless and modern means of exercising their rights, the Member States should make it possible for victims to communicate electronically

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52 OJ C , , p. .

53 OJ C , , p. .

54 Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA (OJ L 315, 14.11.2012, p. 57).

55 Commission Staff Working Document, Evaluation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 (SWD/2022/0179 final).

with national competent authorities. Victims should enjoy the possibility of using electronic tools to receive information about their rights and about their case, report crimes and to otherwise communicate with competent authorities and with support services through communication and information technologies. Victims should be able to choose the method of communication, and the Member States should provide for such communication and information technologies as an alternative to the standard methods of communication, without however replacing them completely.

(4) In order to ensure comprehensive channels of communication taking into account the complexity of victims' needs in relation to their right to access information, all victims, independently of where in the EU and in what circumstances the crime took place, should be able to access victims' helplines by using the EU-wide 116 006 telephone number or by connecting to the dedicated websites. Under such helplines, victims should be able to receive the information about their rights, emotional support and be referred to the police or other services, including other specialised helplines – if needed. Such helplines should also refer victims to other specialised helplines, referred to in Commission Decision 2007/116/EC[56], such as the harmonised number related to child helpline "116 111", missing children "116 000" and gender-based violence "116 116".

(5) The general helpline for victims should not affect the operation of the dedicated and specialised helplines such as child helplines and helplines for victims of violence against women and domestic violence as required under Directive (EU) …/…of the European Parliament and of the Council[57] [*on combating violence against women and domestic violence*]. The general victims' helplines should function in addition to the specialised helplines.

(6) Crime reporting in the Union should be improved to fight impunity, avoid repeated victimisation and ensure safer societies. It is necessary to fight public insensitivity towards crime, by encouraging people who witness the crime to report crimes and assist victims and by creating safer environments for victims to report crime. For victims who are irregular migrants in the Union, safe environment to report crime means reducing fear of return procedures being launched as a result of contacts with law enforcement authorities. The personal data of victims who are irregular migrants in the Union should not be transferred to the competent migration authorities at least until the completion of the first individual assessment as referred to in Article 22 of Directive 2012/29/EU. Reporting the crime and participating in criminal proceeding under Directive 2012/29/EU do not create any rights regarding the residence status of the victim, neither have any suspensive effect when determining their residence status. All vulnerable victims, such as child victims or victims in detention, who are in a situation of intimidation, or are otherwise dependent from the offender or whose mobility is limited should be able to report crime in conditions that take into account their particular situation and in line with protocols specifically set up for this purpose.

(7) Targeted and integrated support services should be available to a broad range of victims with specific needs. Such victims may include not only victims of sexual

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[56] Commission Decision 2007/116/EC of 15 February 2007 on reserving the national numbering range beginning with 116 for harmonised numbers for harmonised services of social value (OJ L 049 17.2.2007, p. 30).

[57] Directive (EU) …/… of the European Parliament and of the Council on combating violence against women and domestic violence (OJ …).

violence, victims of gender-based violence and victims of domestic violence, but also victims of trafficking in human beings, victims of organised crimes, victims with disabilities, victims of exploitation, victims of hate crime, victims of terrorism or victims of core international crimes. In response to the shortcomings identified in the evaluation, Member States should set up specific protocols that will organise the actions of specialist support services to comprehensively address the multiple needs of victims with specific needs. Such protocols should be set up in coordination and cooperation between law enforcement, prosecution authorities, judges, detention authorities, restorative justice services and victim support services.

(8) To avoid serious consequences of victimisation in early age, that may negatively affect entire victims' life, it is crucial to ensure that all child victims receive the highest standard of support and protection. Most vulnerable child victims, including child victims of sexual abuse, child victims of trafficking in human beings and child victims who have otherwise been particularly affected by the crime due to the gravity of crime or to their particular circumstances should benefit from the targeted and integrated support and protection services that includes coordinated and cooperated approach of judicial and social services within the same premises. Such services should be provided in a dedicated space. To ensure that the child victim is effectively protected in cases where a crime involves the holder of parental responsibility, or there is a conflict of interest between the child and the holder of parental responsibility, a provision has been added to ensure that in cases such as reporting of a crime, medical or forensic interviews, referral to support services or psychological support, among others, these acts should not be conditional upon the consent of the holder of parental responsibility, always taking into account the best interests of the child.

(9) For victims to sense that justice is done and to be able to defend their interest, it is important that they are present and able to actively participate in the criminal proceedings. That is why all victims in the Union, independently of their status in the criminal proceeding, which is established by the national law, should have a right to an effective remedy under national law in the event of a breach of their rights under this Directive. In addition, all victims in the Union, independently of their status in the criminal proceeding, should have a right to request a review of decisions that were taken during court proceedings and affect them directly. Such decisions should include at least decisions on interpretation during court hearings and decisions on special protection measures available to victims with special protection needs. The procedural rules under which victims may request a review of such decisions taken during court proceedings should be determined by national law which should provide for the necessary guarantees that such a possibility of revision would not disproportionally prolong the criminal proceeding.

(10) All victims should be assessed in a timely, adequate, efficient and proportionate manner. It is essential to ensure that victims receive the support and protection that correspond to their individual needs. The individual assessment of victims' needs of support and protection should be done in stages. Within the first stage, all victims should be assessed from the first contact with the competent authorities to ensure that the most vulnerable victims are identified at the very early stages of the proceeding. As of the next stages, victims who need such enhanced assessment should be assessed by victim support services including psychologists. Such services are best placed to assess the state of victims' well-being. The individual assessment should also take into account the situation of the perpetrator, who may have a history of violence, be in a possession of arms or abusing drugs and as such pose higher risks for victims. The

individual assessment of victims' needs should also include the assessment of victims' needs of support, not only of protection. It is essential to identify victims who are in need of special support, so a targeted support such as prolonged free of charge psychological aid is provided to those who need it.

(11) As a result of the enhanced assessment of victims' needs for protection, victims who are in need of physical protection should be able to receive it in a form adapted to their particular situation. Such measures should include the presence of law enforcement authorities or being kept away from the offender on the basis of national protection orders. Such measures may be of a criminal, administrative or civil law nature.

(12) All victims should be able to obtain a decision on compensation from the offender within the criminal proceedings to avoid their engagement in multiple cumbersome and lengthy proceedings in separate civil proceedings. All victims should benefit from the schemes on compensation in which, following a decision on compensation from the offender at the end of the criminal proceeding, they receive, without a delay, the compensation from the state. The state afterwards should be able to recuperate the compensation from the offender. Such approach to compensation saves victims from the risks of secondary victimisation, since victims do not have to contact offenders when receiving compensation. Such facilitated access to compensation from the offender during criminal proceeding does not affect the Member States obligations to ensure the existence of a scheme on compensation to victims of violent intentional crimes committed in their respective territories, which guarantees fair and appropriate compensation to victims under Council Directive 2004/80/EC[58].

(13) Victims cannot effectively benefit from their rights to information, to support and protection in accordance with their individual needs if they are faced with the national justice schemes that lack cooperation and coordination among those who come into contact with victims. Without close cooperation and coordination of the national law enforcement, prosecution, judiciary, restorative services, compensation services and victim support services, it is difficult for victims to effectively execute their rights under Directive 2012/29/EU. Other authorities, such as healthcare, education and social services, are encouraged to be part of this cooperation and coordination. This is particularly valid in relation to child victims.

(14) National protocols are essential to ensure that victims receive information about their rights and about their case and that victims are adequately assessed to enable them to receive the support and protection that corresponds to each victims' individual needs that change in time. Protocols should be established by legislative measures in a way that corresponds best to national legal orders and the organisation of justice in the Member States. This should regulate the actions on provision of information to victims, facilitating crime reporting for the most vulnerable victims, including those in detention and the individual assessment of victims' needs. The legislative measures setting up the protocols should specify essential elements necessary for the processing of data including, the recipients of the personal data and the categories of data that will be processed in the context of operation of the protocols. The protocols should provide for general instructions on how to deal with services and actions under Directive

[58] Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (OJ L 261, 6.8.2004, p. 15).

2012/29/EU in a comprehensive manner without however dealing with individual cases.

(15) Member States should allocate sufficient human and financial resources to ensure an effective compliance with the measures set out in Directive 2012/29/EU. Special attention should be paid to the establishment of victims' helplines, ensuring smooth functioning of specialist support services and individual assessment of victims' needs for protection and for support, including where such services are provided by non-governmental organisations.

(16) The Union and the Member States are parties to the UN Convention on the Rights of Persons with Disabilities[59] and are bound by its obligations to the extent of their respective competences. Under Article 13 of that Convention the States Parties are obliged to ensure effective access to justice for persons with disabilities on an equal basis with others, hence the needs to ensure accessibility and provide reasonable accommodation so that victims with disability enjoy their rights as victims on equal basis with others. The accessibility requirements set in Annex I to Directive (EU) 2019/882 of the European Parliament and of the Council[60] can facilitate the implementation of that Convention and ensure that the victims' rights laid down by Directive 2012/29/EU are accessible for persons with disabilities.

(17) Eurojust should ensure that appropriate consideration is given to requests concerning victims' rights in accordance with its mandate under Regulation (EU) 2018/1727 of the European Parliament and of the Council[61].

(18) The collection of accurate and coherent data and the timely publication of collected data and statistics are fundamental to ensure full knowledge on the rights of victims of crime within the Union. Introducing a requirement for Member States to collect and report to the Commission data on the application of national procedures on victims of crime every three years in a harmonised way is expected to constitute a relevant step to ensure the adoption of data-informed policies and strategies. The Fundamental Rights Agency should continue to assist the European Commission and Member States in the collection, production and dissemination of statistics on victims of crime and in reporting on how victims have accessed the rights set out in this Directive.

(19) The principle of effectiveness of Union law requires that Member States put in place adequate and effective remedies in the event of a breach of a right conferred upon individuals by Union law. An effective remedy should be available where the rights under Directive 2012/29/EU are undermined or refused in full or in part.

(20) Since the objectives of this Directive cannot be sufficiently achieved by the Member States due to the need to facilitate judicial cooperation in criminal matters by ensuring trust in equal access to victims' rights no matter where in the EU the crime happened, but can rather by reason of the scale and effects of the envisaged measures, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In

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59 OJ L 23, 27.1.2010, p. 37.

60 Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70).

61 Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138).

accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

(21) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application.

(22) [In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified [by letter of …,] its wish to take part in the adoption and application of this Directive.]
OR
[In accordance with Articles 1, 2 and 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Directive and is not bound by it or subject to its application.]

(23) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council[62] and delivered an opinion on [XX XX 2023][63],

(24) Directive 2012/29/EU should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2012/29/EU is amended as follows:

(1) the following Article is inserted:

'Article 3a

Victims' helpline

1. Member States shall take the necessary measures to establish easily accessible, user friendly, free of charge and confidential victims' helplines which:

   (a) provide victims with the information referred to in Article 4(1);

   (b) offer emotional support;

   (c) refer victims to specialised support services and/or specialised helplines if needed.

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62 Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

63 [OP: Footnote once available]

2. Member States shall ensure the provision of helplines referred to in paragraph 1 through a telephone helpline connected to the EU harmonised number "116 006" and through other information and communication technologies, including websites.

3. Member States shall take appropriate measures to ensure the availability of the services referred to in paragraphs 1 and 2 in other languages, including at least the languages most used in the Member State.

4. Helplines may be set up by public or non-governmental organisations and may be organised on a professional or voluntary basis.';

(2) the following Article 5a is inserted:

'Article 5a

Reporting of crime

1. Member States shall ensure that victims can report criminal offences to the competent authorities through easily accessible, user friendly information and communication technologies. Such possibility shall include submission of evidence where feasible.

2. Member States shall take the necessary measures to encourage any person who knows about or suspects, in good faith, that criminal offences have been committed, or that further acts of violence are to be expected, to report this to the competent authorities.

3. Member States shall ensure that victims can effectively report crimes committed in detention facilities. Detention facilities shall include in addition to jails, detention centres and holding cells for suspects and accused, specialised detention facilities for applicants of international protection and pre-removal centres, and accommodation centres where applicants and beneficiaries of international protection are located.

4. Where children report criminal offences, Member States shall ensure that the reporting procedures are safe, confidential, designed and accessible in a child-friendly manner and use language in accordance with their age and maturity.

5. Member States shall ensure that the competent authorities coming in contact with a victim reporting crimes are prohibited from transferring personal data pertaining to the residence status of the victim to competent migration authorities, at least until completion of the first individual assessment referred to in Article 22.';

(3) Article 8 is amended as follows:

(a) paragraph 2 is replaced by the following:

'2. Member States shall ensure that victims are contacted by the relevant general or specialised support services if the individual assessment referred to in Article 22 demonstrates the need for support and the victim consents to be contacted by support services or if the victim requests support.';

(b) the following paragraph is added:

'6. Victim support services shall remain operational in times of crisis, such as health crises, significant migratory situations or other states of emergency.';

(4) Article 9 is amended as follows:

(a) in paragraph 1, point (c) is replaced by the following:

‘(c) emotional and, where available, psychological support once they become aware of a status of a person as a victim. If the special need for psychological support has been demonstrated by individual assessment referred to in Article 22, psychological support shall be available to victims in need of such support for as long as necessary.’;

(b) in paragraph 3, point (b) is replaced by the following:

‘(b) targeted and integrated support, including trauma support and counselling, for victims with specific needs, such as victims of sexual violence, victims of gender-based violence, including violence against women and domestic violence covered by Directive (EU) …/… of the European Parliament and of the Council[64] [*on combating violence against women and domestic violence*], victims of trafficking in human beings, victims of organised crimes, victims with disabilities, victims of exploitation, victims of hate crime, victims of terrorism, victims of core international crimes.’;

(c) the following paragraph is added:

‘4. Member States shall provide the protection and specialist support services necessary to comprehensively address the multiple needs of victims with specific needs in line with the protocols referred to in Article 26a(1), point (c).’

(5) the following Article 9a is inserted in Chapter II:

‘Article 9a

Targeted and integrated support services for children

1. Member States shall take the necessary measures to ensure the availability of child-friendly targeted and integrated specialist services for children to provide for age-appropriate support and protection necessary to comprehensively address the multitude of needs of child victims.

2. Targeted and integrated support services for child victims shall provide for a coordinated multi-agency mechanism that includes the following services:

(a) the provision of information;

(b) medical examination;

(c) emotional and psychological support;

(d) possibility of crime reporting;

(e) individual assessment of protection and support needs referred to in Article 22;

(f) video recording of testimonies referred to in Article 24(1).

3. The services referred to in paragraph 2 shall be provided within the same premises.’;

(6) the following Articles 10a and 10b are inserted:

‘Article 10a

Right to assistance at the court

[64] Directive (EU) …/… of the European Parliament and of the Council on combating violence against women and domestic violence (OJ …).’;

Member States shall take the necessary measures to establish assistance at the court premises to provide information and emotional support to victims.

Article 10b

Right to a review of decisions taken during court proceedings

1. Member States shall ensure that victims are informed without delay of decisions taken in court proceedings that affect them directly and have the right to a review of such decisions. Such decisions shall include at least decisions pursuant to the following provisions:

   (a) Article 7(1) in relation to decisions on interpretation during court hearings;

   (b) Article 23(3).

2. The procedural rules under which victims may request a review of decisions referred to in paragraph 1 shall be determined by national law.

   Member States shall ensure that the judicial decisions on the request of such a review are taken within reasonable time.';

(7) Article 16 is amended as follows:

   (a) paragraph 1 is replaced by the following:

   '1. Member States shall ensure that, in the course of the criminal proceedings, victims are entitled to obtain a decision on compensation by the offender, within a reasonable time.';

   (b) paragraph 2 is replaced by the following:

   '2. Member States shall ensure that their competent authorities pay directly to the victim the adjudicated compensation without undue delay. The competent authorities shall be subrogated to the right of the victim in relation to the offender for the amount of the adjudicated compensation.';

(8) Article 17 is amended as follows:

   (a) in paragraph 1, point (b) is replaced by the following:

   '(b) to have recourse to the extent possible to the provisions on video conferencing and telephone conference calls to facilitate participation in criminal proceedings of victims who are resident abroad.';

   (b) the following paragraph is added:

   '4. Member States shall ensure that the competent authorities may request assistance from Eurojust and transmit to Eurojust the information aimed at facilitating cooperation with the competent authorities of other Member States in cross-border cases.';

(9) in Article 21, the following paragraph is added:

   '3. Member States shall ensure that personal data concerning a victim allowing the offender to identify the victim's place of residence or to otherwise contact the victim in any way is not provided to the offender either directly or indirectly.';

(10) Article 22 is amended as follows:

   (a) the title is replaced by the following:

‘Individual assessment of victims to identify specific support and protection needs’;

(b) paragraph 1 is replaced by the following:

‘1. Member States shall ensure that victims receive a timely and individual assessment, to identify specific support and protection needs and to determine whether and to what extent they would benefit from special measures provided for under Article 9(1), point (c), and Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.’;

(c) the following paragraph 1a is inserted:

‘1a. The individual assessment shall be initiated upon the first contact of the victim with the competent authorities, and shall last as long as necessary depending on the specific needs of each victim. Where the result of the initial stage of the individual assessment by the first contact authorities demonstrates the need to continue the assessment, such assessment shall be undertaken in collaboration with the institutions and bodies depending on the stage of the procedure and victims’ individual needs in accordance with the protocols referred to in Article 26a.’;

(d) paragraphs 2 and 3 are replaced by the following:

‘2. The individual assessment shall take into account:

(a) the personal characteristics of the victim, including relevant experiences of discrimination, also when based on a combination of several grounds such as sex, gender, age, disability, religion or belief, language, racial, social or ethnic origin, sexual orientation;

(b) the type or nature of the crime;

(c) the circumstances of the crime;

(d) the relationship to and the characteristics of the offender.

3. In the context of the individual assessment, particular attention shall be paid to:

(a) victims who have suffered considerable harm due to the severity of the crime;

(b) victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics;

(c) victims whose relationship to and dependence on the offender make them particularly vulnerable.

In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, including violence against women and domestic violence, sexual violence, exploitation or hate crime, victims of core international crime and victims with disabilities shall be duly considered. Particular attention shall be paid to victims who fall under more than one of those categories.’;

(e) the following paragraph 3a is inserted:

‘3a. In the context of the individual assessment, particular attention shall be paid to the risk emanating from the offender, including the risk of violent behaviour and of bodily harm, the use of weapons, involvement in a group of organised crime, drug or

alcohol abuse, child abuse, mental health issues, behaviour of stalking, expression of threats or hate speech.';

(f) paragraph 4 is replaced by the following:

'4. For the purposes of this Directive, child victims shall be presumed to have specific support and protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article. The individual assessment of child victims shall be organised within the framework of targeted and integrated support services referred to in Article 9a.';

(g) paragraph 6 is replaced by the following:

'6. Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 8, 9 ,9a, 23 and 24.';

(h) paragraph 7 is replaced by the following

'7. Competent authorities shall update the individual assessment at regular intervals to ensure the support and protection measures relate to the victim's changing situation. 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.';

(11) in Article 23, paragraph 2, point (d) is replaced by the following:

'(d) all interviews with victims of sexual violence, gender-based violence including victims of violence against women and domestic violence covered by Directive (EU) …/… of the European Parliament and of the Council[65] [*on combating violence against women and domestic violence*], unless conducted by a prosecutor or a judge, being conducted by a person of the same sex as the victim, if the victims so wishes, provided that the course of the criminal proceedings will not be prejudiced.';

(12) in Article 23, the following paragraph is added:

'4. The following measures to ensure victims' physical protection shall be available for victims with specific protection needs identified in accordance with Article 22(1) during criminal proceedings:

(a) continuous or temporary presence of law enforcement authorities;

(b) barring, restraining or protection orders to provide protection for victims against any acts of violence, including by prohibiting or restraining certain dangerous behaviour of the offender.';

(13) in Article 24, the following paragraph is added:

'3. Where the offence involves the holder of parental responsibility, or there could be any other conflict of interest between the child victims and the holder of parental responsibility, Member States shall take into account the best interest of the child and

[65] Directive (EU) …/… of the European Parliament and of the Council on combating violence against women and domestic violence (OJ …).'

ensure that any act requiring consent is not conditional upon the consent of the holder of parental responsibility.';

(14) the following articles are inserted in Chapter 5:

'Article 26a

Protocols through national coordination and cooperation

1. Member States shall establish and implement specific protocols on the organisation of services and actions under this Directive by the competent authorities and other persons coming in contact with victims. The protocols shall be drawn up in coordination and cooperation between law enforcement, prosecution authorities, judges, detention authorities, restorative justice services and victim support services. The specific protocols shall aim as a minimum at ensuring that:

   (a) victims receive information that is adapted to their changing individual needs; whereas such information shall be simple and easy to understand, provided in a timely manner, repeated over time, in multiple formats including orally, in writing and digitally;

   (b) victims who are in detention including jails, detention centres and holding cells for suspects and accused, as well as specialised detention facilities for applicants of international protection and pre-removal centres or in other institutions, including accommodation centers where applicants and beneficiaries of international protection are located:

      (i) receive the information about their rights;

      (ii) can rely on facilitated crime reporting;

      (iii) have access to support and protection in accordance with their individual needs;

   (c) individual assessment of victims' needs for support and protection as referred to in Article 22, and provision of support services for victims with specific needs, take into account the victims' individual needs at different stages of the criminal procedure.

2. Member States shall ensure that the protocols referred to in paragraph 1 are reviewed at regular intervals to ensure their effectiveness, and at least once every two years.

3. Member States shall take the necessary legislative measures to allow for collection and sharing of information, including information containing personal data of victims between the competent authorities and victim support services to ensure access to information and appropriate support and protection of individual victims.

Article 26b

Use of electronic means of communication

1. Member States shall ensure that victims of crime may exercise their rights provided for in Article 3a, Article 4(1), Article 5(1), Article 5a, Article 6(1), (2), (4), (5) and (6) and Article 10b using electronic means of communication.

2. Victims of crime shall not be prevented from accessing or otherwise using national systems offering the electronic means of communication referred to in paragraph 1 on the basis that they are residents of another Member State.

3. Where national systems offering electronic means of communication require the use of electronic identification, signatures and seals, Member States shall allow the use of notified electronic identification schemes, qualified electronic signatures, and qualified electronic seals of any other Member States as provided for in Regulation (EU) No 910/2014 of the European Parliament and of the Council[66].

Article 26c

Rights of victims with disabilities

1. Member States shall ensure that victims with disabilities benefit on equal basis with others from electronic means of communication as referred to in Article 26b of this Directive by complying with the accessibility requirements set out in Annex I to Directive (EU) 2019/882 of the European Parliament and of the Council[67].

2. Member States shall ensure that victims with disabilities can access on equal basis with others, any procedure as well as the support services and protection measures covered by this Directive in line with the accessibility requirements set out in Annex I to Directive (EU) 2019/882.

Member States shall ensure that reasonable accommodation is provided for victims with disabilities upon request.

Article 26d

Remedies

Member States shall ensure that victims have an effective remedy under national law in the event of a breach of their rights under this Directive.';

(15) the following Article 27a is inserted:

'Article 27a

Specific obligations in relation to victims of violence against women and domestic violence

When Member States adopt the measures to comply with this Directive, they shall ensure that it is done without affecting the obligations under Directive (EU) …/… [*on combating violence against women and domestic violence*], which are applicable in relation to such victims in addition to the obligations set out in this Directive. In particular, Member States shall ensure that

(a) the victims' helpline as referred to in Article 3a of this Directive does not affect the operation of dedicated and specialised helplines for victims of violence against women and domestic violence as required under Article 31 of Directive (EU) …/… [*on combating violence against women and domestic violence*];

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66 Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

67 Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70).

(b) the obligation to take measures pursuant to Article 5a(2) of this Directive does not affect Member States' obligation to take targeted measures to encourage the reporting of acts of violence against women or domestic violence set out in Article 16(1) of Directive (EU) …/… [*on combatting violence against women and domestic violence*];

(c) the obligation to take measures pursuant to Article 5a(3) of this Directive does not affect Member States' obligation to take specialised measures to ensure the reporting of occurrences of violence against women or domestic violence in reception and detention centres set out in Article 35(4) of Directive (EU)…/… [*on combatting violence against women and domestic violence*];

(d) the obligation to take measures pursuant to Article 5a(4) of this Directive does not affect Member States' obligation to take targeted measures under Article 16(4) of Directive (EU) …/… [*on combatting violence against women and domestic violence*];

(e) as regards victims of violence against women or domestic violence, the provisions of [Articles 18 and 19 of Directive (EU) …/… [*on combating violence against women and domestic violence*] shall apply in addition to the rules set out in Article 22 of Directive 2019/29, as amended by this Directive'

(f) the protocols on individual assessment of victims' needs for support and protection as referred to in Article 26a in conjunction with Article 22 of this Directive do not affect Member States' obligations to issue guidelines and establish dedicated mechanisms for victims of violence against women and domestic violence provided for in Article 23, point (b), and Article 40(2) of Directive (EU) …/… [*on combating violence against women and domestic violence*].';

(16) Article 28 is replaced by the following:

'*Article 28*

Provision of data and statistics

1. Each Member State shall take the necessary measures to establish a system for the collection, production and dissemination of statistics on victims of crime. The statistics shall include data relevant to the application of national procedures on victims of crime, including at least the number and type of reported crimes and the number, the age, sex of the victims and the type of the offence. They shall also include information on how victims have accessed the rights set out in this Directive.

2. Member States shall collect the statistics referred to in this Article on the basis of common disaggregation developed in cooperation with the Commission (Eurostat). They shall transmit this data to the Commission (Eurostat) every three years. The transmitted data shall not contain personal data.

3. The European Union Agency for Fundamental Rights shall support Member States and the Commission in the collection, production and dissemination of statistics on victims of crime and in reporting on how victims have accessed the rights set out in this Directive.

4. The Commission (Eurostat) shall support Member States in the data gathering referred to in paragraph 1, including by establishing common standards on counting

units, counting rules, common disaggregation, reporting formats, and on the classification of criminal offences.

5. The Member States shall make the collected statistics available to the public. The statistics shall not contain personal data.

6. The collection of data under paragraph 1 shall not affect the dedicated data collection under Article 44 of Directive (EU) …/… [*on combating violence against women and domestic violence*].';

(17) Article 29 is replaced by the following:

'Article 29

Reporting by the Commission and review

By [*six years after adoption*], the Commission shall submit a report on the application of this Directive to the European Parliament and the Council. The report shall assess the extent to which the Member States have taken the necessary measures to comply with this Directive, including the technical implementation.

The report shall be accompanied, if necessary, by a legislative proposal.';

Article 2

Transposition

1. Member States shall take the necessary measures to comply with this Directive [*by two years after the entry into force*] with the exception of the provisions necessary to comply with Article 26b which shall be adopted and published [*by four years after the entry into force*]. They shall immediately inform the Commission thereof.

   When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Directive is addressed to the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*