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**Opinion of the European Economic and Social Committee on Revision of the victims' rights directive**

(COM(2023) 424 final — 2023/0250 (COD))

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Rapporteur: **Dovilė JUODKAITĖ**

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| Referral                  | European Commission, 18.8.2023                                     |
| Legal basis               | Article 304 of the Treaty on the Functioning of the European Union |
| Section responsible       | Employment, Social Affairs and Citizenship                         |
| Adopted in section        | 21.11.2023                                                         |
| Adopted at plenary        | 14.12.2023                                                         |
| Plenary session No        | 583                                                                |
| Outcome of vote           |                                                                    |
| (for/against/abstentions) | 206/1/3                                                            |

**1. Conclusions and recommendations**

1.1. The European Economic and Social Committee (EESC) welcomes the proposed revision of the Victims' Rights Directive. This proposal can contribute to improving victims' rights and make judicial institutions more efficient and cost-effective in the long term.

1.2. The EESC stresses the importance of the amendments to improve the individual assessment of victims and their support throughout the judicial process. While there should be no hierarchy among victims and types of crimes, some victims may require additional support and protection measures. The EESC recommends that the Commission develop detailed guidelines with the Member States on the different authorities that are to conduct the assessment.

1.3. The EESC recommends providing stronger obligations on the training of professionals on victims' rights and calls on the Commission to develop guidance and quality standards for support. The exchange of best practices on the provision of quality support, including on the training of psychologists and professionals, should be encouraged among the Member States.

1.4. The EESC also recommends the creation of a comprehensive communication framework in each Member State with the aim of improving access to information.

1.5. The EESC regrets the inclusion of mental health issues in the list of crimes and dangerous behaviour when it comes to assessing the risk emanating from the offender in the context of the individual assessment. This reference should be removed from the text.

1.6. The EESC welcomes the right to a review of decisions taken during court proceedings, including decisions on interpretation during court hearings, and calls on the Member States to ensure that victims are duly informed on this right and to take measures to ensure that such reviews are taken without delay.

1.7. The EESC welcomes the intention to improve access to compensation for victims. The EESC recommends that the Member States share their good practices in developing strong schemes of compensation, taking into consideration the financial impacts of such schemes.

1.8. The EESC calls on the Member States to allocate sufficient funding for the transposition and implementation of the directive and for the Commission to guarantee that EU funding is strengthened and used to implement it.

1.9. To monitor the implementation, the Commission should support the Member States in gathering data, including by drawing up common standards, disaggregation and reporting formats.

## 2. Background to the opinion

2.1. The Victims' Rights Directive <sup>(1)</sup> was adopted in 2012 to establish minimum standards on the rights, support and protection of victims of crime across the European Union <sup>(2)</sup>. The legal basis for setting minimum standards on the rights of both individuals in criminal proceedings and victims of crime is enshrined in Article 82(2) point (c) of the Treaty on the Functioning of the European Union (TFEU).

2.2. In 2020, the European Commission performed an assessment of the implementation of the Victims' Rights Directive, adopting the evaluation report on 11 May 2020 <sup>(3)</sup>. The report revealed that many Member States had not completely transposed the directive by the transposition deadline of 16 November 2015. There was a total of 26 infringement proceedings initiated by the Commission for incomplete transposition <sup>(4)</sup>, the majority of which have now been closed. Issues ranged from the absence or lack of compliance with the definition; difficulties in transposing and implementing the access to information; issues regarding procedural rights <sup>(5)</sup>, and the prevention of secondary victimisation during the criminal investigation; the individual assessment of the victims; and specific protection for victims with special needs; to data collection.

2.3. To improve the implementation of the directive and provide better protection to victims of all crimes in the EU, the Commission adopted its first ever EU strategy on victims' rights (2020-2025) on 24 June 2020. In the strategy, the Commission committed to assessing the EU instruments and their possible shortcomings, 'and, where necessary, come forward with legislative proposals by 2022 to further strengthen victims' rights'.

2.4. The revision of the directive involved a thorough consultation process, including a public consultation and a targeted consultation with stakeholders of the Victims Rights' Platform. The EESC welcomes this process, noting that the publication of the proposal was called for by victims' rights and civil society organisations <sup>(6)</sup>.

## 3. General comments

3.1. The EESC welcomes the proposal for a revision of the directive, which includes amendments to enhance the rights of victims of crime in various areas and various provisions of the legislation, which will contribute to more resilient societies and better functioning of the judicial institutions.

3.2. The revision of the directive is consistent with other EU legislation and policies, including with the strategy to strengthen the application of the Charter of Fundamental Rights of the EU <sup>(7)</sup>, and with efforts to make EU rights and values more tangible in areas such as victims' rights and access to justice, as noted by the EESC in the opinion on implementation of the Charter of Fundamental Rights <sup>(8)</sup>.

3.3. The EESC commends the Commission for taking into consideration digitalisation and the development of new technologies in the proposal. The use of electronic means of communication under Article 26b can help bring victims closer to justice, and is in line with the Commission's digitalisation policy, including the digitalisation of justice.

3.4. Notwithstanding these positive aspects, the EESC points out that the use of digital tools and technologies should always be optional for victims. Some victims, including persons with no or limited digital literacy, may not be in a position to use these communication tools and technologies. Non-digital options should always be available to victims of crime.

3.5. While the directive is horizontal and applies to all victims of crime, it is important to bear in mind that marginalised groups are at a higher risk of becoming victims — including of violent and of hate crime, and that they are less likely to report crimes, access justice and receive adequate support. The EESC stresses the importance of providing comprehensive victims' rights, support and services that address the diversity of victims and the diversity of crimes, including through targeted actions.

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<sup>(1)</sup> 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).

<sup>(2)</sup> The Directive applies to all EU Member States, except Denmark which opted out.

<sup>(3)</sup> COM(2020)188 final (<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:188:FIN>).

<sup>(4)</sup> [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_23\\_3724](https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3724)

<sup>(5)</sup> In particular, shortcomings in implementing Article 17(3) on ensuring that the complaint is transmitted without delay to the State in which the criminal offence was committed.

<sup>(6)</sup> <https://victim-support.eu/news/joint-statement-for-european-day-for-victims-of-crime/>

<sup>(7)</sup> OJ C 326, 26.10.2012, p. 391.

<sup>(8)</sup> OJ C 341, 24.8.2021, p. 50.

3.6. The EESC supports the decision of the Commission to put more emphasis on vulnerable victims, including by strengthening the individual assessment on specific needs, providing free psychological help, and adding specific measures and requirements for child victims and victims with disabilities. The EESC also welcomes the decision to make crime-reporting easier for irregular migrants, prohibiting the transfer of personal data on the victim's residence status to migration authorities if this data has been collected as a result of crime-reporting.

3.7. The EESC notes that while the proposal requires authorities to ensure that individual assessments take into account the personal characteristics of the victims, including sex and gender, it fails to include a comprehensive gender perspective and provide a gender-based approach to support, beyond victims of gender-based violence. Women in all their diversity are victims of crime beyond gender-based and domestic violence, thus services and the training of professionals should include a gender dimension to cater to their rights and needs.

3.8. The EESC highly welcomes Article 26d on remedies, which will oblige Member States to ensure that victims have an effective remedy under national law in the event of a breach of their rights under the directive. The EESC calls on Member States to take measures to inform victims of their right to a remedy, and to ensure that decisions and the granting of remedies are done swiftly.

#### 4. Specific comments on the five main categories of victims' rights

4.1. The EESC welcomes the fact that the revision of the directive follows specific objectives aiming to improve the five categories of rights of victims of crime, namely 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. These rights are fundamental in ensuring that the rights of victims are protected from the moment that a crime takes place, until the end of a legal proceeding.

4.2. The right to information is enhanced through several provisions. The Article on 'protocols through national coordination and cooperation' specifies that specific protocols should be aimed at ensuring the right to information for victims, including victims in detention. Information must be adapted to the changing individual needs of victims, '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'. The proposal also provides for new obligations regarding the use of electronic means of communication and the creation of helplines and websites to improve access to information. In addition, it provides for an obligation to ensure that victims can report crimes using 'easily accessible, user friendly information and communication technologies', yet lacks the guarantee of 'safe, confidential reporting procedures' as foreseen in Article 5a(4). Article 10a refers to assistance at court premises to provide information to victims.

4.3. The EESC points out that the right to information is fundamental for victims to exercise their subsequent rights. The EESC recommends the creation of a comprehensive communication framework in each Member State. Member States should take measures to raise awareness on the right to information for victims, in particular to inform victims who may face the most difficulties in identifying a crime, getting information, and exercising their rights, such as migrant workers<sup>(9)</sup> or other marginalised groups, such as persons with disabilities living in institutions, children, and people facing multiple barriers and discrimination, who are at a higher risk of exploitation, violence and abuse.

4.4. Receiving no or limited follow-up information about their case is another issue faced by victims of crimes. While the proposed text refers to information in 'multiple formats', there is no strict obligation on language and translation, and also no explicit and overarching obligation for Member States to provide victims with information on the progress of their case<sup>(10)</sup>. The EESC recommends that the EU institutions include stronger provisions to ensure that all victims can receive information in good time, throughout the process, about their rights and about their case, in a language and format that is accessible to and understandable by them.

<sup>(9)</sup> European Union Agency for Fundamental Rights (FRA), 'Underpinning victims' rights: support services, reporting and protection', (2023): The report revealed that migrant workers have little contact with people outside their workplace and no information about the help they can receive when they are victims of severe exploitation.

<sup>(10)</sup> Article 10b of the revised directive solely refers to information on decisions taken in court proceedings that affect victims 'directly'.

4.5. It is positive that the Commission requires Member States to ensure timely and individual assessments, which shall be initiated upon the first contact of the victim with the competent authorities. The proposal details elements to consider during the individual assessment, including the relationship to and the characteristics of the offender, and includes the attention to be paid to victims who fall under more than one category of vulnerability and/or crime. It is, however, not clear for the EESC how authorities should update the assessment 'at regular intervals' <sup>(11)</sup>. The EESC recommends that the Commission develop detailed guidelines with the Member States on the different authorities that are to conduct the assessment, to ensure better clarity on their obligations, as required for victims of violence and domestic violence under the proposed directive on combating violence against women and domestic violence (Article 23).

4.6. The EESC welcomes the fact that the proposal improves support and protection based on the victims' individual needs through enhanced individual assessment of victims to identify specific support and protection needs and through provisions facilitating access to specialist support for vulnerable victims. The evaluation report had shown that the previous text of the directive was not efficient in ensuring all victims were receiving effective support <sup>(12)</sup>. If victims' needs are not identified, the support may not be delivered adequately.

4.7. The EESC also welcomes the provisions on support services, in particular the proactive role to be played by the authorities to ensure victims are contacted by the relevant general and specialised support services, and the obligation to ensure that victims' support services remain operational in time of crisis. In addition, the EESC praises the inclusion of provisions to ensure better support, for example the right to free psychological support for as long as necessary when so assessed, the right to targeted, multi-agency support for child victims and the rights of persons with disabilities.

4.8. The EESC notes that protection measures are thoroughly included in the proposal. However, the EESC is concerned by the inclusion of mental health issues in the list of crimes and dangerous behaviour when it comes to assessing the risk emanating from the offender in the context of the individual assessment. Stigma and discrimination related to mental health are still prevalent and should be removed, as noted in the EESC opinion on 'Measures to improve mental health' <sup>(13)</sup>. The EESC calls for the reference to the mental health status of the offender to be removed from the text. Only factors linked to the dangerousness of a person should be included.

4.9. The EESC regrets that there is no proposal included regarding the training of professionals in contact with victims, including on assessment, on the rights of victims with specific needs, and on how to provide information and communicate with victims. The EESC recommends providing stronger obligations on the training of professionals, and calls on the Commission to develop specific guidelines on conducting individual assessments of victims of crime and quality standards for support. The EESC also notes the importance of developing the knowledge on post-traumatic stress disorder among psychologists in order to respond to the specific needs in that regard, and calls for the exchange of best practices across Europe on the provision of quality support.

4.10. The EESC recognises the importance of victims being correctly accompanied and advised throughout the proceedings. However, it notes that the text of Article 10a gives a wide margin of assessment to state authorities as to what 'assistance at the court premises' may be, which can lead to different degrees of quality in the assistance provided. Accompaniment of victims throughout the proceedings needs to be more efficient in ensuring that the victims can receive constant support until the end.

4.11. The EESC welcomes the right to a review of decisions taken during court proceedings, including decisions on interpretation during court hearings and on special protection measures. The opportunity for victims to challenge decisions concerning them independently of their legal status in a criminal proceeding is essential for their active participation in justice. The EESC encourages the Member States to ensure that victims are duly informed on their right to a review and to take measures to ensure that such reviews are taken without delay.

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<sup>(11)</sup> Amendment of Article 22 paragraph 7.

<sup>(12)</sup> Victim support organisations warned that the individual needs assessment is not always conducted. See Commission staff working document SWD(2022) 179 final (Evaluation of Directive 2012/29/EU) (<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022SC0179>); page 70; FRA noted that the police often fail to conduct the assessment systematically and routinely. FRA, 'Underpinning victims' rights: support services, reporting and protection' (2023), page 40.

<sup>(13)</sup> OJ C 349, 29.9.2023, p. 100.

4.12. The EESC welcomes the strengthening of the rights of victims who are resident in another Member State through the use of video conferencing and telephone conference calls. While the text makes it optional, the EESC would call on the Member States to make this mandatory when it is requested by victims for their own participation in the trial. This requirement would align with the EU communication on digitalisation of justice <sup>(14)</sup> and the proposed regulation on the digitalisation of cross-border judicial cooperation <sup>(15)</sup>.

4.13. The EESC welcomes the intention to improve access to compensation for victims by strengthening victims' rights to receive a decision on compensation during the criminal proceeding, and by aiming at its prompt payment to the victim following the judgement. Although part of the text, referring to 'within a reasonable time' and 'without undue delay' may create differences of treatment between victims and between Member States, however, direct compensation without undue delay will ensure effective compensation for victims, and avoid secondary victimisation. The EESC is aware that the possibility for the State to advance the compensation and recoup it later from the offender will have a financial impact, which was not sufficiently assessed in the proposal. Member States should share their good practices in developing strong schemes of compensation, taking into consideration the financial impacts of such schemes.

4.14. Member States should take measures to ensure affordable and quality legal representation to assist victims in guaranteeing their access to justice and making their claims.

## 5. Specific comments on implementation and monitoring of the directive

5.1. The EESC has noted successively the issue of lack of clarity and wide margin of discretion given to Member States in the revision of the directive. The EESC is concerned that vague language will make it difficult for them to ensure effective transposition and implementation, leaving victims with various degrees of protection of their rights across the EU.

5.2. While the current Victims' Rights Strategy ends in 2025, the EESC calls on the Commission to adopt the next term strategy and ensure the continuity of the work of the Victims' Rights Platform, as a way to guide and assist Member States in the transposition and implementation of the directive.

5.3. The EESC also calls on the Member States to adopt national strategies or programmes on victims' rights and to strengthen coordination and cooperation for cross-border cases. The EESC also calls on Member States to adopt a multi-disciplinary approach and avoid working in silos at national, regional and local level.

5.4. The EESC stresses that the creation of frameworks and coordination mechanisms at national level is necessary to ensure victims' rights and that the delivery of victim support services is efficiently guaranteed across all the territory of each Member State. The EESC welcomes the provision requiring states to establish and implement specific protocols on the organisation of services and actions under the directive. However, it will be crucial that the Commission monitors the efficiency of those protocols, and develops methods to assess the quality of services.

5.5. The evaluation report noted the issue of funding, when shortages of resources are minimal compared with the need to protect victims, especially for civil society organisations. The EESC calls on the Member States to allocate sufficient funding for the transposition and implementation of the directive and for the Commission to guarantee that EU funding is strengthened and used to implement it.

5.6. The EESC notes positively the proposal on the provision of data and statistics. To ensure the collection of comparable data, the EESC considers it important that the Commission supports Member States in gathering data, including by drawing up common standards, disaggregation and reporting formats. It is suggested that victimological surveys in Member States should be carried out as per the agreed unified methodology to reveal the real situation of victimisation, and data from surveys included in the standardised reporting formats. The EESC recommends that the Commission include victim support services and relevant civil society organisations in the development of common standards and reporting formats through the Victims' Rights Platform and by involving the European Network on Victims' Rights. In addition, the EESC recommends a wider disaggregation of data, including by disability, ethnicity and sexual orientation where this information is available and disclosed by the victims.

Brussels, 14 December 2023.

*The President*  
*of the European Economic and Social Committee*  
Oliver RÖPKE

<sup>(14)</sup> COM(2020) 710 final (<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020DC0710>).

<sup>(15)</sup> COM(2021) 759 final (<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021PC0759>).