



EUROPEAN COMMISSION

Brussels, 18.5.2011  
COM(2011) 275 final

2011/0129 (COD)

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing minimum standards on the rights, support and protection of victims of  
crime**

{COM(2011) 274}

{COM(2011) 276}

{SEC(2011) 580}

{SEC(2011) 581}

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

This proposal is part of a legislative package which aims at strengthening the rights of victims in the EU and which also includes the following two other elements: a communication on strengthening victims' rights in the EU and a proposal for a Regulation on mutual recognition of protection measures in civil matters.

The European Commission has identified as a strategic priority<sup>1</sup> the protection of victims of crimes and the establishment of minimum standards, based on the Stockholm Programme and its Action Plan<sup>2</sup>. These documents place victims high on the EU agenda and firmly establish the need and intention to create an integrated and co-ordinated approach to victims, in line with the October 2009 JHA Council Conclusions<sup>3</sup>.

The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice, the cornerstone of which is the principle of mutual recognition of judgments and other decisions of judicial authorities taken in civil and criminal matters within the Union. The Commission's "Citizenship Report" of 27 October 2010<sup>4</sup> seeks to dismantle the obstacles to citizens' rights by adding substance to individual rights granted at EU level. Strengthening victims' rights, together with the strengthening of procedural rights of suspects or accused persons in criminal proceedings reflects this approach.

The European Union has already acted on the rights of victims in criminal proceedings through Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings. Whilst improvements have been achieved in this area, the objectives of the Council Framework Decision have not been fully realised.

The European Parliament has also called upon the Council to adopt a comprehensive legal framework offering victims of crime the widest protection<sup>5</sup>. In its resolution of 26 November 2009<sup>6</sup> on the elimination of violence against women, the Parliament called on the Member States to improve their national laws and policies to combat all forms of violence against women and to act in order to tackle the causes of violence against women, not least by employing preventive measures and called on the Union to guarantee the right to assistance, protection and support for all victims of violence. Declaration 19 of the protocols to the Treaty on the Functioning of the European Union also calls on Member States to take all necessary measures to prevent and punish acts of domestic violence and to support and protect the victims of such violence.

Judicial cooperation in criminal matters in the Union is based on the principle of mutual recognition of judgments and judicial decisions. Mutual recognition can only operate effectively in a spirit of confidence, whereby not only judicial authorities but all those

---

<sup>1</sup> COM(2010) 623.

<sup>2</sup> OJ C 115, 4.5.2010, p. 1; COM(2010) 171.

<sup>3</sup> 2969th JAI Council meeting, 23/10/2009, 14936/09 (Presse 306).

<sup>4</sup> EU Citizenship Report 2010 - Dismantling the obstacles to EU citizens' rights - COM(2010) 603.

<sup>5</sup> Resolution of 7 May 2009 of the European Parliament on the development of a European Union criminal justice area (INI/2009/2012).

<sup>6</sup> P\_TA(2009)0098.

involved in the criminal justice process and others who have a legitimate interest in it can trust in the adequacy of the rules of each Member State and trust that those rules are correctly applied. Where victims of crime are not subject to the same minimum standards throughout the EU, such trust can be reduced due to concerns over the treatment of victims or due to differences in procedural rules.

Common minimum rules should thus lead to increased confidence in the criminal justice systems of all Member States, which in turn should lead to more efficient judicial cooperation in a climate of mutual trust as well as to the promotion of a fundamental rights culture in the European Union. They should also contribute to reducing obstacles to free movement of citizens since such common minimum rules should apply to all victims of crime.

### **Consistency with other policies and objectives of the Union**

This proposal aims to ensure that the wide ranging needs of victims of crime, which cut across a number of other EU policies, are respected and met. In particular, the protection of victims' rights is an essential part of a range of EU policies and/or instruments relating to human trafficking, sexual abuse and sexual exploitation of children, violence against women, terrorism, organised crime, and enforcement of road traffic offences.

The proposal will build on and complement existing instruments, in particular Council Directive 2011/36/EU on preventing and combating trafficking in human beings, and protecting victims<sup>7</sup>, in Council Directive on combating the sexual abuse, sexual exploitation of children and child pornography<sup>8</sup> presently under negotiation or in Council Framework Decision of 2002/475/JHA on combating terrorism<sup>9</sup> as modified by Council Framework Decision 2008/919/JHA of 28 November 2008<sup>10</sup>. It will establish minimum standards on victims' rights which will improve the general environment for protecting victims in EU law and policy. While the specific instruments on, for example, acts of terrorism, trafficking and sexual abuse and sexual exploitation of children and child pornography address the particular needs of certain groups of victims of identified types of crimes, this proposal will set out the horizontal framework for addressing the needs of all victims of crime, irrespective of the type of crime or the circumstances or place in which it was committed. The provisions of this proposal are consistent with the approach taken in the above policy areas.

This Directive will not affect provisions contained in other EU acts which address the specific needs of particularly vulnerable victims in a more targeted manner. In particular, adult victims of trafficking in human beings shall benefit from the measures established in Council Directive 2011/36/EU which correspond to the measures established in Articles 12, 20(b), 21(3)(a, c, d) of this Directive; child victims of trafficking in human beings shall benefit from the measures established in Council Directive 2011/36/EU which correspond to the measures established in Articles 12, 20, 21(2)(a, b, c), 21(3) and 22 of this Directive; child victims of sexual abuse, sexual exploitation and child pornography shall benefit from the measures established in Council Directive [...]/[...]/EU [*on combating the sexual abuse, sexual exploitation of children and child pornography*] which correspond to the measures established in Articles 12, 20, 21(2)(a, b, c), 21(3) and 22 of this Directive.

---

<sup>7</sup> OJ L 101/1 .

<sup>8</sup> OJ L [...].

<sup>9</sup> OJ L164, 22.6.2002, p. 3.

<sup>10</sup> OJ L 330, 9.12.2008, p. 21-23.

Victims of terrorism will benefit from improved mechanisms for identifying their needs, keeping them informed of proceedings and providing adequate protection during proceedings. Likewise, for road traffic victims, though this action does not specifically cater for all the detailed needs of such victims, greater awareness and improved cultural attitudes of legal practitioners combined with appropriate assessments will help ensure their needs are met, in particular their treatment before a specific crime has been identified.

Moreover, in line with the approach taken for victims of human trafficking and sexual abuse and sexual exploitation of children and child pornography, the proposal will be consistent in addressing the particular needs of vulnerable victims.

Looking to the future, action in relation to specific categories of victims such as victims of terrorism and organised crime is also envisaged. In particular analysis of the existing gaps in the protection of victims of terrorism is due to take place with a view to improving the situation of victims of terrorism in Europe.

## Existing provisions in the area of the proposal

- Trafficking in human beings, where protection of victims' rights has been introduced in Council Directive 2011/36/EU, including specific focus on children who are particularly vulnerable to trafficking<sup>11</sup>;
- Sexual abuse, sexual exploitation of children and child pornography, where a proposed new directive addresses the specific needs of child victims of those crimes<sup>12</sup>;
- An EU Agenda for the Rights of the Child, which sets a key objective of making the justice systems more child-friendly. Negative experiences of child victims who are involved in criminal proceedings should be reduced and child victims should be given the opportunity to play an active part in criminal proceedings<sup>13</sup>;
- Council Directive 2004/80/EC relating to compensation for crime victims which aims at facilitating access to compensation in cross-border situations<sup>14</sup>;
- Combating violence against women, being a strategic priority in the 2010-2015 Strategy on Gender Equality, and the focus of the Daphne III Programme<sup>15</sup>;
- Protection of the rights of terrorist victims<sup>16</sup>.

## 2. RESULTS OF CONSULTATIONS WITH INTERESTED PARTIES AND IMPACT ASSESSMENTS

The Commission's standards on consultations were followed. Experts from different backgrounds including governments, law enforcement agencies, NGOs, international organisations and universities took part in detailed discussions on the legislative plans as part of the preparation of the impact assessment accompanying this proposal.

The Commission contracted an external study to support the preparation of the impact assessment and a further study was contracted to examine options in relation to the specific objective of ensuring that the protection gained through a protection order is not lost when a protected person travels or moves to another Member State<sup>17</sup>. Results from two surveys have

---

<sup>11</sup> 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.

<sup>12</sup> Proposal for a directive on combating the sexual abuse, sexual exploitation of children and child pornography, repealing FD 2004/68/JHA.

<sup>13</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, An EU Agenda for the Rights of the Child - COM(2011) 60, 15.2.2011.

<sup>14</sup> Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims (OJ L 261, 6.8.2004, p. 15).

<sup>15</sup> Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Strategy for equality between women and men (2010-2015) - COM(2010) 491.

<sup>16</sup> Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism as modified by modified by Council Framework Decision 2008/919/JHA of 28 November 2008 (OJ L 330, 9.12.2008, p. 21-23).

<sup>17</sup> Hess Burkhard, "Feasibility Study: The European Protection Order and the European Law of Civil Procedure", soon available at: [http://ec.europa.eu/justice/index\\_en.htm](http://ec.europa.eu/justice/index_en.htm).

also been used: the external study consulted 384 representatives from government and non-government sectors, receiving 119 replies, and the Victims in Europe Project<sup>18</sup> received 97 replies to its legal implementation questionnaire and 218 to its organisational questionnaire.

During the preparation of the Impact Assessment, the Commission held a public consultation, open to all members of the public, as well as to non-governmental and governmental organisations, seeking their views on what action the EU should take to improve the situation of victims of crime. The Commission received 77 replies by the deadline for responses.

A meeting of academic experts, NGOs and Member States was held on 18-19 February 2010 and was followed by a further Justice Forum on 14 April 2010.

In addition to direct consultation, the Commission has drawn on a number of studies and publications<sup>19</sup>.

The impact assessment concluded that it was necessary to replace the 2001 Framework Decision with a new Directive containing concrete obligations on the rights of victims. Legislation should be followed with practical measures to facilitate implementation. It would also be a first step in this field with further studies and action envisaged, in particular in relation to compensation of victims and legal aid for victims.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

A number of provisions of Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings have been maintained in their original form or have been amended only to the extent necessary for clarity of drafting. For instance, Articles 9, 12, 14, 15, 16 and 25 of the proposed Directive correspond to Articles 3, 6, 9, 11 and 12 of the Framework Decision. The following comments concentrate on those articles which introduce substantive changes to the Framework Decision.

#### **Article 2 - Definitions**

The purpose of this Directive is to ensure that all victims of crime benefit from minimum standards throughout the EU. In particular, this Directive makes provision for support and protection to be given to family members of victims since such persons are often also harmed by the crime and may themselves be at risk of secondary victimisation as well as victimisation or intimidation by the offender or his associates. All provisions in this Directive are also applicable to family members of a victim whose death has been caused by a criminal offence since such persons have specific and legitimate interests in the proceedings beyond those of family members of surviving victims and are often recognised as representatives of the victim.

---

<sup>18</sup> APAV/Victim Support Europe, the Project "Victims in Europe", 2009 (hereinafter referred to as the "APAV Report").

<sup>19</sup> See e.g. APAV Report, The Implementation of the EU Framework Decision on the standing of victims in the criminal proceedings in the Member States of the European Union, Lisbon 2009; Bulgarian Centre for the Study of Democracy, Project ONE: Member States' legislation, national policies, practices and approaches concerning the victims of crime, Sofia 2009.

### **Articles 3, 4, 5 and 6 – Information rights and right to understand and to be understood**

The purpose of these Articles is to ensure that victims receive sufficient information in a form they can understand to enable them to fully access their rights and to ensure they feel treated in a respectful manner. Such information should be available from the moment a victim makes a complaint of a criminal offence as well as on a regular basis throughout criminal proceedings and in relation to the progress of the case. Sufficient detail should be provided to enable victims to make informed decisions about their participation in proceedings and how to access their rights, in particular when deciding whether to request a review of the decision not to prosecute.

For a number of reasons victims may have difficulties in understanding information provided in a standard, written form. In particular, the victim may not understand the language of the information or there may be other factors such as the victim's age, maturity, intellectual and emotional capacities, literacy levels and any disabilities for instance related to sight or hearing which may hinder or completely prevent a victim from understanding the information. Information should therefore and as much as possible be provided in a variety of formats to take account of these factors.

### **Article 7 – Right to access victim support services**

The purpose of this Article is to ensure that victims have access to support services which provide information and advice, emotional and psychological support and practical assistance which are often crucial to the recovery of victims and help them cope with the aftermath of the crime and with the strain of any criminal proceedings.

Support should be available from the earliest possible moment after the commission of a crime irrespective of whether it has been reported. Such services can prove particularly important in regard to a victim's decision to ultimately report a crime. Equally, victims may require support both during the period of any proceedings and in the long term. Support services may be provided by governmental or non-governmental organisations and should not involve excessive procedures and formalities which might reduce effective access to such services. Support may be provided in a variety of ways such as face-to-face meetings, by telephone or other remote means in order to maximise the geographical distribution and availability of services. Certain groups of victims including victims of sexual violence, bias crime such as gender based violence and race hate crime, and victims of terrorism often require specialist support services due to the particular characteristics of the crime they have fallen victim to. As far as possible, such services should be made available.

Although the provision of support should not be dependent on a victim making a complaint of an offence to the police or other competent authorities, such authorities are often best placed to inform victims of the possibility of support. Member States are therefore encouraged to establish appropriate conditions to enable the referral of victims to victim support services, including by ensuring that data protection requirements can be adhered to.

### **Article 8 – Right of victims to have their complaint acknowledged**

The purpose of this Article is to ensure that when a person makes a complaint of a crime, the victim is provided with an official acknowledgment which they can refer back to in any future communications.

## **Article 9 – Right to be heard**

The purpose of this Article is to ensure that the victim has an opportunity to provide initial and further information, views or evidence during criminal proceedings. The exact extent of this right is left to national law and may range from basic rights to communicate with and supply evidence to a competent authority through to more extensive rights such as a right to have evidence taken into account, the right to ensure that certain evidence is taken or the right to make interventions during the trial.

## **Article 10 – Rights in the event of a decision not to prosecute**

The purpose of this Article is to enable the victim to verify that established procedures and rules have been complied with and that a correct decision has been made to end a prosecution in relation to a specific person. Precise mechanisms for a review are left to national law. However, such a review should as a minimum be carried out by a person or authority different to the one that took the original decision not to prosecute.

## **Article 11 – Right to safeguards in the context of mediation and other restorative justice services**

Restorative justice services encompass a range of services whether attached to, running prior to, in parallel with or after criminal proceedings. They may be available in relation to certain types of crime or only in relation to adult or child offenders and include for example victim-offender mediation, family group conferencing and sentencing circles.

The purpose of this Article is to ensure that where such services are provided, safeguards are in place to ensure the victim is not further victimised as a result of the process. Such services should therefore have as a primary consideration the interests and needs of the victim, repairing the harm to the victim and avoiding further harm. Participation of the victim should be voluntary which also implies that the victim has sufficient knowledge of the risks and benefits to make an informed choice. It also means that factors such as power imbalances, and the age, maturity or intellectual capacity of the victim which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim should be taken into consideration in referring a case to and in conducting a restorative process. Whilst private proceedings should in general be confidential, unless agreed otherwise by the parties, factors such as threats made during the process may be considered as requiring disclosure in the public interest. Ultimately any agreement between the parties should be reached voluntarily.

## **Article 13 – Right to reimbursement of expenses**

This provision is consistent with the 2001 Framework Decision in providing to victims who participate in criminal proceedings the right to reimbursement of expenses. It also provides for reimbursement where the victim attends the trial without participating in the proceedings as such. The purpose is to ensure that victims are not prevented from attending the trial and seeing justice done, due to their own financial limitations.

## **Article 18 – Identification of vulnerable victims**

The purpose of this Article is to ensure that victims are treated in an individual manner and that a consistent mechanism is established to identify vulnerable victims who may require special measures during criminal proceedings.



All victims of crime are per se vulnerable and accordingly require sensitive and careful treatment. However, some victims are particularly vulnerable to further victimisation or intimidation by the accused or suspected person or his associates. In addition, some victims are particularly at risk of being further distressed or harmed by their involvement in criminal proceedings whether through the giving of evidence or through other forms of participation. Such victims require special measures in order to minimise the likelihood of further harm occurring.

This Article provides that the vulnerability of victims to such harm be determined by the personal characteristics of the victim and by the nature or type of crime a victim has suffered. The majority of children and persons with disabilities are at particular risk of harm due to their personal characteristics. As a group they can immediately be identified as vulnerable and in the majority of cases in need of special measures. Victims within other categories based on the nature or type of crime, such as victims of sexual violence, including exploitation, and victims of human trafficking are also in most cases vulnerable to further victimisation during proceedings.

At the same time, this article recognises that victims are individuals who react in different ways to a crime and have different needs and vulnerabilities. Thus a victim may be vulnerable despite not falling into a specific vulnerable victim category. An individual assessment mechanism is therefore to be established to ensure that all vulnerable victims are identified and properly protected. Such an approach can be crucial in facilitating a victim's recovery and ensuring they are provided with the right assistance and protection during proceedings and afterwards. It maximises the ability to prevent secondary and repeat victimisation and intimidation and to enable the victim to effectively access justice. Nevertheless, such an approach must be carried out to an extent proportionate to the likelihood that criminal proceedings will be instituted and that specific measures will be required by the victim. In particular the severity of the crime and the degree of apparent harm suffered by the victim provides a useful indication of the extent of any particular individual assessment.

The individual assessment should determine a victim's needs during proceedings and any requirements for referral to victim support services. Those public officials who first come into contact with a victim when a crime is reported should be trained and should have access to appropriate guidance, tools or protocols to enable them to carry out assessments of the needs of victims in a consistent manner.

Individual assessments should consider any factors which may increase the likelihood of a victim suffering further victimisation or intimidation during proceedings. In particular, the following factors should be taken into account: age, gender and gender identity, ethnicity, race, religion, sexual orientation, state of health, disability, communication difficulties, relationship to or dependence on the suspected or accused person, previous experience of crime and the type or nature of the crime such as bias crime, organised crime or terrorism. Victims of terrorism require particular attention in any assessment given the varying nature of such acts ranging from acts of mass terrorism to targeted terrorism against individuals.

#### **Article 19 – Right to avoidance of contact between victim and offender**

This Article mirrors the approach taken in Article 8 of the 2001 Framework Decision with a view to ensuring that where a victim must attend a venue as a result of their participation in criminal proceedings, appropriate steps should be taken to ensure the victim does not have to come into contact with accused or suspected persons. This could be achieved by various

means such as establishing separate waiting areas, and controlling the arrival of victims and the accused. Best practice and guidance offered to public officials can also act as an important source of information on how to assist in avoiding contact.

#### **Article 20 – Right to protection of victims during questioning in criminal investigations**

The purpose of this Article is to prevent secondary victimisation by ensuring that the victim is interviewed as early as possible and that interaction with authorities should be as easy as possible whilst limiting the number of unnecessary interactions the victim has with them. Decisions on when to carry out any interviews should as far as possible take account of the victim's needs as well as any urgency in relation to the gathering of evidence. Victims may be accompanied by a trusted person of their choice. Only in exceptional circumstances should this possibility be limited and then only in relation to a specific person. The victim should then be permitted to be accompanied by another person of their choice.

#### **Articles 21 and 22 – Right of protection of vulnerable victims including children during criminal proceedings**

The purpose of this Article is to ensure that when victims have been identified as being vulnerable to further victimisation or intimidation, appropriate measures are taken to help prevent such harm. Such measures should be available throughout criminal proceedings whether during the initial investigative or prosecutorial phase or during the trial itself. The measures necessary will vary according to the stage of proceedings.

During criminal investigation, minimum levels of protection are required in relation to any interviews with the victim. These should be carried out in a sensitive manner and officials should have received appropriate training to this end. Such training should ensure that officials know appropriate methods of interviewing which will take account of a victim's particular situation, minimise distress and maximise the collection of high-quality evidence. To this end, it may be necessary, according to the vulnerability of the victim, that interviews are only carried out in appropriate premises. This may mean premises which allow for video interviews or simply where furniture for example is adapted for children or persons with disabilities.

Vulnerable victims can find the interview process highly distressing, particularly where the crime is of a very personal nature. Establishing trust with the interviewer can be important and may only happen over a period of time. For this reason, this article requires that in most cases a vulnerable victim is to be interviewed by the same person. Exceptions are permitted for reasons of good administration, such as an urgent need to interview someone else or the unavailability of the usual interviewer. For similar reasons, in cases of sexual violence, victims should have the right to be interviewed by a person of the same gender.

During the trial itself, protection from intimidation, whether intentional or not, is also a relevant factor when determining appropriate protection measures. This article establishes minimum measures for this purpose as well as to minimise the distress of, in particular, testifying. Measures to enable the victim to avoid visual contact with the defendant are established as well as measures to exclude members of the public and press. In particular, in order to ensure that the fundamental rights of an accused or suspected person are respected, the decision on whether such measures are to be taken is left to judicial discretion. However, the fact that a victim is a child, a person with a disability, a victim of sexual violence or of

human trafficking combined with the individual assessment should provide a strong indication of the need for a protection measure.

Given the particular vulnerabilities of children, additional measures should also be made available and utilised in normal circumstances. Article 22 provides that interviews may be videotaped and used as evidence in court and that in appropriate cases, where a child does not have a representative, the judicial authority should appoint one.

#### **Article 24 – Training of practitioners**

The purpose of this Article is to establish training requirements for public officials who come into contact with victims. The level, type and frequency of training including any specialist training should be determined in accordance with the extent and nature of the officials' contact with victims as well as, in particular, whether they are in contact with specific groups of victims.

Training should cover issues which will assist officials to treat victims in a respectful manner, to identify protection needs and to provide them with appropriate information to help them cope with proceedings and access their rights. Such training should cover issues such as awareness of the negative effects of crime on victims and the risk of causing secondary victimisation, skills and knowledge, including special measures and techniques, required to assist victims and minimise any trauma to the victim in particular from secondary victimisation, recognising and preventing intimidation, threats and harm to victims, the availability of services providing information and support specific to the needs of victims and the means of accessing these services.

Additionally, this article ensures that those providing victim support or restorative justice services should also be trained to an appropriate level such that they treat victims in a respectful and impartial manner and provide their services to professional standards.

#### **4. SUBSIDIARITY PRINCIPLE**

The objective of the proposal cannot be sufficiently achieved by Member States alone, since the aim of the proposal is to promote trust between them and it is therefore important to agree on common minimum standards that apply throughout the whole of the European Union. The proposal will approximate Member States' substantive rules on rights, support and protection of victims of crime in order to build mutual trust.

In addition, there is a large cross-border element of victimisation with significant numbers of EU citizens living, working and travelling around the EU and falling victim to crime whilst abroad. Persons in such situations can find accessing their rights particularly difficult and criminal proceedings can impose an additional burden on them. Citizens should be able to rely on having access to a minimum level of rights across the EU.

The proposal therefore complies with the subsidiarity principle.

## **5. PROPORTIONALITY PRINCIPLE**

The proposal complies with the proportionality principle in that it does not go beyond the minimum required in order to achieve the stated objective at European level and what is necessary for that purpose.

Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**establishing minimum standards on the rights, support and protection of victims of crime**

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) 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<sup>20</sup>,

Having regard to the opinion of the Committee of the Regions<sup>21</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice, the cornerstone of which is the mutual recognition of judicial decisions in civil and criminal matters.
- (2) The Union is committed to the protection of victims of crimes and to the establishment of minimum standards and has adopted Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings. Under the Stockholm programme, adopted by the European Council at its meeting on 10 and 11 December 2009, the Commission and the Member States have been asked to examine how to improve legislation and practical support measures for the protection of victims.
- (3) The Resolution of the European Parliament of 26 November 2009 on the elimination of violence against women called on the Member States to improve their national laws and policies to combat all forms of violence against women and to act in order to tackle the causes of violence against women, not least by employing preventive measures, and called on the Union to guarantee the right to assistance and support for all victims of violence.

---

<sup>20</sup> OJ C [...], [...], p. [...].

<sup>21</sup> OJ C [...], [...], p. [...].

- (4) Article 82(2) of the Treaty provides for the establishment of minimum rules applicable in the Member States to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension. Point (c) of Article 82(2) refers to 'the rights of victims of crime' as one of the areas where minimum rules may be established.
- (5) Crime is as an offence against society as well as a violation of the individual rights of victims. As such, victims should be recognised and treated in a respectful, sensitive and professional manner in all contacts with any public authority, victim support service or restorative justice service taking into account their personal situation and immediate needs, age, gender, disability and level of maturity and fully respecting their physical, mental and moral integrity. They should be protected from secondary and repeat victimisation and intimidation, should receive appropriate support to facilitate their recovery and should be provided with sufficient access to justice.
- (6) This Directive aims to amend and expand the provisions of Framework Decision 2001/220/JHA. Since the amendments to be made are substantial in number and nature, the Framework Decision should in the interests of clarity be replaced in its entirety.
- (7) This Directive respects fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular it seeks to promote the right to dignity, life, physical and mental integrity, private and family life, right to property, and the rights of the child, the elderly and persons with disabilities, and the right to a fair trial.
- (8) This Directive lays down minimum rules. Member States may extend the rights set out in this Directive in order to provide a higher level of protection.
- (9) A person should be considered a victim regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. Family members of victims are also harmed as a result of the crime, in particular the family of a deceased victim, who have a legitimate interest in criminal proceedings. Such indirect victims should therefore also benefit from protection under this Directive. Victims need appropriate support and assistance even before reporting a crime. Such support can be crucial both for the recovery of the victim and in any decision to ultimately report the crime.
- (10) When providing information, sufficient detail should be given to ensure that victims are treated in a respectful manner and to enable them to make informed decisions about their participation in proceedings and how to access their rights. In this respect, information allowing the victim to know about the current status of any proceedings and their progress is particularly important. This is equally relevant for information to enable a victim to decide whether to request a review of a decision not to prosecute.
- (11) Information and advice provided by public authorities, victim support services and restorative justice services should as far as possible be given through a range of media in a manner which can be understood by the victim. It should also be ensured that the victim can be understood during proceedings. In this respect, the victim's knowledge of the language used to provide information, their age, maturity, intellectual and emotional capacities, literacy levels and any mental or physical impairment such as

those related to sight or hearing, should be taken into account. Equally, limitations on a victim's ability to communicate information should be taken into account during criminal proceedings.

- (12) Justice cannot be effectively achieved unless the victim can properly explain the circumstances of the crime they have suffered and provide their evidence in a manner understandable to the competent authorities. It is equally important to ensure the respectful treatment of the victim and to ensure they are able to access their rights. Free of charge interpretation should therefore always be available during questioning of the victim and for their participation in court hearings. For other aspects of criminal proceedings, the need of interpretation and translation can vary depending on specific issues, the status of the victim and their involvement in proceedings and any specific rights they have. As such interpretation and translation for these other cases need only be provided to the extent necessary for victims to exercise their rights.
- (13) Support, whether provided by governmental or non-governmental organisations, should be made available from the moment a crime takes place as well as throughout criminal proceedings and after such proceedings in accordance with the needs of the victim. Support should be provided through a variety of means, without excessive formalities and through a sufficient geographical distribution to allow all victims the opportunity to access such services. Certain groups of victims such as victims of sexual violence, gender, race hate or other bias crimes or victims of terrorism may require specialist support services due to the particular characteristics of the crime they have fallen victim to.
- (14) Although the provision of support should not be dependent on a victim making a complaint of an offence to a competent authority such as the police, such authorities are often best placed to inform victims of the possibility of support. Member States are therefore encouraged to establish appropriate conditions to enable the referral of victims to victim support services, including by ensuring that data protection requirements can be adhered to.
- (15) Any review of a decision not to prosecute should be carried out by a different person or authority to that which made the original decision. The mechanisms or procedures for such a review should be applied in accordance with national law.
- (16) Restorative justice services, including for example victim-offender mediation, family group conferencing and sentencing circles, can be of great benefit to the victim, but require safeguards to prevent any further victimisation. Such services should therefore have as a primary consideration the interests and needs of the victim, repairing the harm done to the victim and avoiding further harm. Factors such as power imbalances, and the age, maturity or intellectual capacity of the victim, which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim, should be taken into consideration in referring a case to and in conducting a restorative process. Whilst private proceedings should in general be confidential, unless agreed otherwise by the parties, factors such as threats made during the process may be considered as requiring disclosure in the public interest.
- (17) Some victims are particularly vulnerable during criminal proceedings to secondary and repeat victimisation and to intimidation by the offender or his associates. Such vulnerability can broadly be identified from the personal characteristics of the victim

and the type or nature of the crime. On this basis some victims such as children, persons with disabilities, victims of sexual violence and victims of human trafficking are in most cases vulnerable to further victimisation and in need of special protection measures. Only in exceptional circumstances, such as balancing the fundamental rights of the accused or suspected person, or where the victim so wishes, should access to such protection measures be limited. In the case of victims of human trafficking and victims of child sexual abuse, sexual exploitation and child pornography, where specific and more detailed provisions are already included in separate instruments adopted or in course of negotiation this Directive does not deal with those same matters.

- (18) Beyond these categories, but again based on personal characteristics and the crime, any person could be vulnerable. Only through individual assessments, carried out at the earliest opportunity by those in a position to make recommendations on protection measures, can such vulnerabilities be effectively identified. The assessment should in particular take into account age, gender and gender identity, ethnicity, race, religion, sexual orientation, state of health, disability, communication difficulties, relationship to or dependence on the suspected or accused person, previous experience of crime, the type or nature of the crime such as organised crime, terrorism, or bias crimes and whether the victim is a foreign victim. Victims of terrorism require particular attention in any assessment given the varying nature of such acts ranging from mass acts of terrorism to targeted terrorism against individuals.
- (19) Victims who have been identified as vulnerable should be offered appropriate measures to protect them during criminal proceedings. The exact nature and extent of any such measures should be determined through the individual assessment, in discussions with the victim and in accordance with rules of judicial discretion. The victim's concerns and fears in relation to proceedings should be a key factor in determining whether they need any particular measure.
- (20) In applying the provisions of this Directive, children's best interests must be a primary consideration, in accordance with the Charter of Fundamental Rights of the European Union and the 1989 United Nations Convention on the Rights of the Child.
- (21) In applying the provisions of this Directive, Member States should ensure that persons with disabilities fully enjoy the rights under the Directive on an equal basis with others, in accordance with the UN Convention on the Rights of Persons with Disabilities, particularly the Convention's provisions on the right to equal recognition before the law, equal access to justice, the right to have access to information and accessibility to premises as well as the freedom from inhuman or degrading treatment and freedom from violence and abuse.
- (22) The risk of further victimisation either by the offender or as a result of participation in criminal proceedings should be limited by carrying out proceedings in a co-ordinated manner which treats victims with respect and enables them to establish trust in authorities. Interaction with authorities should be as easy as possible whilst limiting the number of unnecessary interactions the victim has with them through for example video recording of interviews and allowing its use in court proceedings. As wide a range of measures as possible should be made available to practitioners to prevent distress to the victim during court proceedings in particular as a result of visual contact with the offender, his family, associates or members of the public. To that end,



Member States are encouraged to introduce, where appropriate, feasible and practical measures enabling court facilities to include separate waiting areas for victims. Protecting the privacy of the victim can be an important means of preventing further victimisation and can be achieved through a range of measures including non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of the victim. Such protection is particularly important for child victims, including non-disclosure of the name of the child.

- (23) When, in accordance with this Directive, a guardian and/or a representative is to be appointed for a child, those roles may be performed by the same person or by a legal person, an institution or an authority.
- (24) Any officials in criminal proceedings likely to come into contact with victims should be trained to identify and meet the needs of victims both through initial and ongoing training and to a level appropriate to their contact with victims. This should include specialist training as appropriate.
- (25) Member States should encourage and work closely with civil society organisations, including recognised and active non-governmental organisations working with victims of crime, in particular in policy-making initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures to support and protect victims of crime.
- (26) Since the aim of establishing common minimum standards cannot be sufficiently achieved by Member States acting unilaterally, either at national, regional or local level, and could instead, due to the scale and potential effects be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as referred to in Article 5 of the Treaty on European Union. In 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 that objective.
- (27) Personal data processed when implementing this Directive should be protected in accordance with Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters<sup>22</sup> and in accordance with the principles laid down in the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data, which all Member States have ratified.
- (28) This Directive shall not affect more far reaching provisions contained in other EU acts which address the specific needs of particularly vulnerable victims in a more targeted manner.
- (29) [In accordance with Articles 1, 2, 3 and 4 of the Protocol 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, the United Kingdom and Ireland have notified their wish to participate in the

---

<sup>22</sup> OJ L 350, 30.12.2008, p. 60.

adoption and application of this Directive] OR [Without prejudice to Article 4 of the Protocol 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, the United Kingdom and Ireland will not participate in the adoption of this Directive and will not be bound by or be subject to its application]<sup>23</sup>.

- (30) In accordance with Articles 1 and 2 of the Protocol 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 therefore not bound by it or subject to its application.

HAVE ADOPTED THIS DIRECTIVE:

## **Chapter 1**

### **INTRODUCTORY PROVISIONS**

#### *Article 1*

#### **Objectives**

The purpose of this Directive is to ensure that all victims of crime receive appropriate protection and support and are able to participate in criminal proceedings and are recognised and treated in a respectful, sensitive and professional manner, without discrimination of any kind, in all contacts with any public authority, victim support or restorative justice service.

#### *Article 2*

#### **Definitions**

For the purposes of this Directive:

- (a) 'victim' means
- (i) a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss directly caused by a criminal offence;
  - (ii) the family members of a person whose death has been caused by a criminal offence;
- (b) 'family members' means the spouse, non-marital cohabitee, registered partner, the relatives in direct line, the brothers and sisters, and the dependants of the victim;
- (c) 'non-marital cohabitee' means a person who is living with the victim on a stable and continuous basis without that relationship being registered with an authority;

---

<sup>23</sup> The final wording of this recital in the Directive will depend on the actual position of the United Kingdom and Ireland taken in accordance with the provisions of protocol (No 21).

- (d) 'registered partner' means the partner with whom the victim has entered into a registered partnership, on the basis of the legislation of a Member State;
- (e) 'restorative justice services' means services which have as their objective to bring together the victim and the accused with a view to reaching a voluntary agreement between them on how the harm arising from the offence can be addressed;
- (f) 'child' means any person below 18 years of age;
- (g) 'a person with disability' means a person who has a physical, mental, intellectual or sensory impairment which, in interaction with various barriers, may hinder the full and effective participation in society on an equal basis with others.

## **Chapter 2**

### **PROVISION OF INFORMATION AND SUPPORT**

#### *Article 3*

#### **Right to receive information from first contact with a competent authority**

Member States shall ensure that victims are provided with the following information, without unnecessary delay, from their first contact with the authority competent to receive a complaint concerning a criminal offence:

- (a) where and how they can make a complaint of a criminal offence;
- (b) details of the services or organisations to which they can turn for support;
- (c) the type of support they can obtain;
- (d) procedures following the making of a complaint of an offence and their role in connection with such procedures;
- (e) how and under what conditions they can obtain protection;
- (f) to what extent and on what terms they are entitled to receive legal advice, legal aid or any other sort of advice;
- (g) to what extent and on what terms they are entitled to compensation, including time limits for making any application;
- (h) if they are resident in another Member State, any special arrangements available to them in order to protect their interests;
- (i) any procedures for making complaints where their rights are not respected;
- (j) contact details for communications about their case.

#### *Article 4*

#### **Right to receive information about their case**

1. Member States shall ensure that victims are notified of their right to receive the following information on their case and that they receive this information where they have expressed such a wish:
  - (a) any decision, including reasons for that decision, ending the criminal proceedings instituted as a result of the complaint of a criminal offence made by the victim, such as a decision not to proceed with or to end an investigation or prosecution, or a final judgment in a trial, including any sentence;
  - (b) information enabling the victim to know about the state of affairs of the criminal proceedings instituted as a result of the complaint of a criminal offence made by the victim, unless in exceptional cases the proper handling of the case may be adversely affected;
  - (c) the time and place of the trial.
2. Member States shall ensure that victims are offered the opportunity to be notified when the person prosecuted or sentenced for offences concerning them is released from detention. Victims shall receive this information where they have expressed such a wish.
3. Member States shall ensure that victims who state that they do not wish to receive the information referred to in paragraphs 1 and 2 do not receive that information.

#### *Article 5*

#### **Right to understand and to be understood**

Member States shall take measures to ensure that victims understand and can be understood during any interaction they have with public authorities in criminal proceedings, including where information is provided by such authorities.

#### *Article 6*

#### **Right to interpretation and translation**

1. Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided if they so wish with interpretation, free of charge, during any interviews or questioning of the victim during criminal proceedings before investigative and judicial authorities, including during police questioning, and interpretation for their participation in court hearings and any necessary interim hearings.
2. In order to ensure that victims can exercise their rights in criminal proceedings, Member States shall ensure that in all other cases and at the request of the victim, interpretation is available, free of charge, in accordance with the victims' needs and their role in those proceedings.

3. Where appropriate, communication technology such as videoconferencing, telephone or internet may be used, unless the physical presence of the interpreter is required in order for the victim to properly exercise their rights or understand the proceedings.
4. Member States shall ensure that a victim who does not understand or speak the language of the criminal proceedings concerned shall receive translations if they so wish, free of charge, of the following information, to the extent that such information is made available to the victim:
  - (a) the complaint of the criminal offence to the competent authority;
  - (b) any decision ending the criminal proceedings related to the criminal offence reported by the victim including at least a summary of the reasons for such a decision;
  - (c) information essential to the victim's exercise of their rights in criminal proceedings in accordance with their needs and their role in those proceedings.
5. Member States shall ensure that a procedure or mechanism is in place to ascertain whether the victim understands and speaks the language of the criminal proceedings and whether they need translation and the assistance of an interpreter.
6. Member States shall ensure that, in accordance with procedures in national law, victims have the right to challenge a decision finding that there is no need for interpretation or translation, and when they have been provided, the possibility to complain that the quality of the interpretation is not sufficient to exercise their rights or understand proceedings.

#### *Article 7*

#### **Right to access victim support services**

1. Member States shall ensure that victims and their family members, in accordance with their needs, have access to free of charge, confidential victim support services.
2. As a minimum, such services shall provide:
  - (a) information, advice and support relevant to the rights of victims including on accessing state compensation schemes for criminal injuries, and their role in criminal proceedings including preparation for attendance at the trial;
  - (b) information on or referral to, as appropriate, specialist services;
  - (c) emotional and psychological support;
  - (d) advice relating to financial and practical issues following the crime.
3. Member States shall facilitate the referral of victims, by the authority that received the complaint and other relevant agencies, to victim support services.
4. Member States shall promote the setting up or development of specialist support services, in addition to general victim support services.

## Chapter 3

### PARTICIPATION IN CRIMINAL PROCEEDINGS

#### *Article 8*

#### **Right of victims to have their complaint acknowledged**

Member States shall ensure that victims receive written acknowledgement of any complaint made by them to an appropriate authority of the Member State.

#### *Article 9*

#### **Right to be heard**

Member States shall ensure that victims may be heard during criminal proceedings and may supply evidence.

#### *Article 10*

#### **Rights in the event of a decision not to prosecute**

1. Member States shall ensure that victims have the right to have any decision not to prosecute reviewed.
2. Member States shall ensure that victims are provided with sufficient information to decide whether to request a review of any decision not to prosecute.

#### *Article 11*

#### **Right to safeguards in the context of mediation and other restorative justice services**

1. Member States shall establish standards to safeguard the victim from intimidation or further victimisation, to be applied when providing mediation or other restorative justice services. Such standards should as a minimum include the following:
  - (a) mediation or restorative justice services are used only if they are in the interest of the victim, and based on free and informed consent; this consent may be withdrawn at any time;
  - (b) before agreeing to participate in the process, the victim is provided with full and unbiased information about the process and the potential outcomes as well as information about the procedures for supervising the implementation of any agreement;
  - (c) the suspected or accused person or offender must have accepted responsibility for their act;
  - (d) any agreement should be arrived at voluntarily and should be taken into account in any further criminal proceedings;

- (e) discussions in mediation or other restorative justice processes that are not conducted in public are confidential and are not subsequently disclosed, except with the agreement of the parties or as required by national law due to an overriding public interest.
2. Member States shall facilitate the referral of cases to mediation or other restorative justice services, including through the establishment of protocols on the conditions for referral.

#### *Article 12*

#### **Right to legal aid**

Member States shall ensure that victims have access, in accordance with procedures in national law, to legal aid, where they have the status of parties to criminal proceedings.

#### *Article 13*

#### **Right to reimbursement of expenses**

Member States shall, in accordance with procedures in national law, afford victims who participate in criminal proceedings the possibility of reimbursement of expenses incurred as a result of their participation in criminal proceedings, including as a result of their attendance at the trial.

#### *Article 14*

#### **Right to the return of property**

Member States shall ensure that recoverable property belonging to victims which is seized in the course of criminal proceedings is returned to them without delay, unless required for the purpose of criminal proceedings.

#### *Article 15*

#### **Right to decision on compensation from the offender in the course of criminal proceedings**

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

The first subparagraph shall not apply where national law provides for restitution or compensation to be awarded in another manner.

2. Member States shall take measures to encourage offenders to provide adequate compensation to victims.

#### *Article 16*

### **Rights of victims resident in another Member State**

1. Member States shall ensure that their competent authorities can take appropriate measures to minimise the difficulties faced where the victim is a resident of a Member State other than that where the offence occurs, particularly with regard to the organisation of the proceedings. For this purpose, the authorities of the Member State where the crime took place shall, in particular, be in a position:
  - to take a statement from the victim immediately after the complaint of the criminal offence is made to the appropriate authority;
  - to have recourse to the extent possible to the provisions on video conferencing and telephone conference calls laid down in the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 for the purpose of hearing victims resident abroad.
2. Member States shall ensure that victims of criminal offences in Member States other than the one where they reside may make a complaint to the competent authorities of the Member State of residence if they are unable to do so in the Member State where the offence is committed or, in the event of a serious offence determined by national law, if they do not wish to do so.
3. Without prejudice to the jurisdiction of the Member State receiving the complaint, the competent authority to which the complaint is made shall transmit it without delay to the competent authority in the territory in which the criminal offence was committed.

## **Chapter 4**

### **RECOGNITION OF VULNERABILITY AND PROTECTION OF VICTIMS**

#### *Article 17*

### **Right to protection**

1. Member States shall ensure that measures are available to protect the safety of victims and their family members from retaliation, intimidation, repeat or further victimisation.
2. The measures referred to in paragraph 1, shall in particular include procedures for the physical protection of victims and their family members, measures to ensure that contact between offenders and victims may be avoided within premises where criminal proceedings are conducted, and measures to ensure that the risk of psychological or emotional harm to victims during questioning or when testifying is minimised and their safety and dignity are secured.



*Article 18*  
**Identification of vulnerable victims**

1. For the purposes of this Directive, the following categories of victims are considered to be vulnerable due to their personal characteristics:
  - (a) Children;
  - (b) Persons with disabilities.
2. For the purposes of this Directive, the following categories of victims are considered to be vulnerable due to the nature or type of crime to which they have fallen victim:
  - (a) Victims of sexual violence;
  - (b) Victims of human trafficking.
3. Member States shall ensure that all other victims receive a timely and individual assessment, in accordance with national procedures, to determine whether they are vulnerable, due to their personal characteristics or the circumstances or the type or nature of the crime, to secondary and repeat victimisation or intimidation.
4. Member States shall ensure that all vulnerable victims as identified in paragraphs 1, 2 and 3, receive a timely and individual assessment, in accordance with national procedures, to determine which special measures as provided in Articles 21 and 22 they should benefit from. Such an assessment shall take into account the wishes of the vulnerable victim including where they do not wish to benefit from special measures.
5. The extent of the assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim.

*Article 19*  
**Right to avoidance of contact between victim and offender**

Member States shall progressively establish the necessary conditions to enable avoidance of contact between victims and accused or suspected persons in any venue where victims may have personal contact with public authorities due to their being a victim and in particular venues where criminal proceedings are conducted.

*Article 20*  
**Right to protection of victims during questioning in criminal investigations**

Member States shall ensure that:

- (a) victims are interviewed without unjustified delay after the complaint of a criminal offence has been made to the competent authorities;
- (b) the number of interviews with victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of criminal proceedings;

- (c) victims may be accompanied, where appropriate by their legal representative, or a person of their choice, unless a reasoned decision has been made to the contrary in respect of that person.

#### *Article 21*

#### **Right to protection of vulnerable victims during criminal proceedings**

1. Member States shall ensure that vulnerable victims referred to in Article 18 benefit from the measures provided for in paragraphs 2 and 3 in accordance with an individual assessment as provided for in Article 18(4) and with rules of judicial discretion.
2. Vulnerable victims shall be offered the following measures during criminal investigations:
  - (a) interviews with the victim carried out in premises designed or adapted for that purpose;
  - (b) interviews with the victim carried out by or through professionals trained for that purpose;
  - (c) all interviews with the victim are conducted by the same persons unless this is contrary to the good administration of justice;
  - (d) all interviews with victims of sexual violence are conducted by a person of the same sex.
3. Vulnerable victims shall be offered the following measures during court proceedings:
  - (a) measures to avoid visual contact between victims and defendants including during the giving of evidence, by appropriate means including the use of communication technologies;
  - (b) measures to ensure that the victim may be heard in the courtroom without being present, notably through the use of appropriate communication technologies;
  - (c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; and
  - (d) measures allowing a hearing to take place without the presence of the public.

#### *Article 22*

#### **Right to protection of child victims during criminal proceedings**

In addition to the measures provided for in Article 21, Member States shall ensure that where the victim is a child:

- (a) in criminal investigations, all interviews with the victim may be video recorded and such video recorded interviews may be used, in accordance with national law, as evidence in criminal court proceedings;
- (b) in criminal investigations and court proceedings, judicial authorities appoint a special representative for the victim where, according to national law, the holders of parental responsibility are precluded from representing the child as a result of a conflict of interest between them and the victim, or where the child is unaccompanied or separated from the family.

*Article 23*

**Right to protection of privacy**

1. Member States shall ensure that judicial authorities may adopt during the court proceedings, appropriate measures to protect the privacy and photographic images of victims and their family members.
2. Member States shall encourage the media to pursue self-regulatory measures in order to protect victims' privacy, personal integrity and personal data.

## **Chapter 6**

### **GENERAL PROVISIONS**

*Article 24*

**Training of practitioners**

1. Member States shall ensure that police, prosecutors and court staff receive both general and specialist training to a level appropriate to their contact with victims to sensitise them to the needs of victims and to deal with them in an impartial, respectful and professional manner.
2. Member States shall ensure that members of the judiciary have access to both general and specialist training to sensitise them to the needs of victims and to deal with them in an impartial, respectful and professional manner.
3. Member States shall take measures to ensure that those providing victim support and restorative justice services receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful and professional manner.
4. In accordance with the duties involved, and the nature and level of contact the practitioner has with victims, training shall as a minimum include matters relating to the impact that crime has on victims, the risks of intimidation, repeat and secondary victimisation and how these can be avoided and the availability and relevance of support to victims.

#### *Article 25*

### **Co-operation and co-ordination of services**

1. Member States shall co-operate to facilitate more effective protection of victims' rights and interests in criminal proceedings, whether in the form of networks, directly linked to the judicial system or by means of links between organisations which provide support to victims, including through the support of European networks dealing with victims' matters.
2. Member States shall ensure that those authorities working with or providing support to victims work together to ensure a co-ordinated response to victims and to minimise the negative impact of the crime, the risks of secondary and repeat victimisation and the burden on the victim due to interactions between the victim and criminal justice agencies.

## **Chapter 7**

### **FINAL PROVISIONS**

#### *Article 26*

### **Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [two years after the date of adoption] at the latest.
2. Member States shall forthwith communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive, accompanied by a correlation table between those provisions and this Directive.
3. When Member States adopt those provisions they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such a reference is to be made.

#### *Article 27*

### **Provision of data and statistics**

Member States shall communicate to the European Commission data related to the application of national procedures on victims of crime by [two years after the date of adoption] at the latest.

#### *Article 28*

### **Replacement**

Framework Decision 2001/220/JHA is hereby replaced in relation to Member States participating in the adoption of this Directive, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law.

In relation to Member States participating in the adoption of this Directive, references to the Framework Decision shall be construed as references to this Directive.

*Article 29*

**Entry into force**

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

*Article 30*

**Addressees**

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*