



JUSTICIA

EUROPEAN RIGHTS NETWORK

KNOW YOUR RIGHTS ON THE VICTIMS' DIRECTIVE

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1 KEYWORDS

ADOPTION

When a Directive becomes law.

ANNEX

Attachment to the main document.

APPEAL

A challenge in a higher court against a decision of a lower court.

APPELLATE COURT

The higher court to which a challenge to a decision by a lower court can be made.

CASE

A legal dispute between two parties (individuals or organisations) that is resolved by a court or by some other legal process.

CHILD

A person who is under eighteen years of age.

COMMON POSITION

Outline of the EU's approach to specific subjects, or certain issues of geographical character. Member States must amend their national policies to reflect the common positions.

COMPETENT AUTHORITY

The competent authority is the organisation to which a victim first makes a criminal complaint. It will usually be the police.

CONCILIATION

A final decision-making procedure which begins if the Council of the European Union fails to approve all the amendments adopted by the European Parliament. Its purpose is to reach a joint text or compromise on amendments which can then be approved by the Council and the Parliament. See also 'Council of the European Union' and 'European Parliament'.

CONSULAR AUTHORITIES

The officials appointed by a Government to live and work in a foreign country representing their own country and assisting their fellow citizens in that foreign country.

COUNCIL OF THE EUROPEAN UNION

The EU institution where the Member States' government representatives sit, i.e. the ministers of each Member State with responsibility for a given area. It is a key decision-maker in the legislative process along with the European Parliament. See also 'Member State' and 'European Parliament'.

COURT OF JUSTICE OF THE EUROPEAN UNION

The Court of Justice hears cases between European Union Member States and European Union institutions. Individuals, companies or organisations can also bring a case to the court if they feel that their rights have been violated by an EU institution. The Court ensures that EU law is being applied in the same way in all European Union Member States. See also 'Member State'.

CRIME

A crime is an action that is forbidden by the criminal law.

CRIMINAL OFFENCE

An act or omission provided for by the criminal laws of a country, breach of which can result in a conviction.

CRIMINAL PROCEDURAL LAW

The law governing a criminal case from the moment of investigation until the completion of court proceedings.

CRIMINAL PROCEEDINGS

Legal action occurring following the suspected commission of a criminal offence.

CROSS-BORDER CRIMINALITY

Where crime occurs in more than one country; or where the criminal offence is committed in one country, but the accused person or suspected person is no longer in that country; or where the effects of the criminal offence occur beyond the country where the criminal offence was committed. See also ‘Criminal Offence’.

DIRECTIVE

A European Union law that binds Member States. A Directive may grant rights to EU citizens that can be enforced by the courts in EU Member States. The European Commission can also take infringement proceedings against an EU Member State for failure to implement a Directive. See also ‘Infringement Proceedings’, ‘Member State’ and ‘European Commission’.

DOMESTIC LAW

The national law of a country.

EXPENSES

Costs which are incurred by a victim as a result of their role in criminal proceedings such as travel costs and a minimum daily amount for loss of earning. It does not include victims’ legal expenses.

EUROPEAN COMMISSION

The body of the European Union that represents the interests of the European Union. It puts forward new legislation to the European Parliament and to the European Council, and it ensures that Member States are correctly applying EU law.

EUROPEAN PARLIAMENT

The Parliament of the European Union. It works with the Council of the European Union and the European Commission to exercise its legislative function.

FAMILY MEMBERS

A Family Member is:

- i. the husband or wife of the victim;
- ii. the person who is living with the victim in an intimate relationship in the same house on a constant and continuous basis;
- iii. any relatives in direct line of the victim;
- iv. the brothers and sisters of the victim;
- v. the children of the victim.

FRAMEWORK DECISION

Guidance by the European Union to Member States. Framework Decisions do not grant rights to citizens of the European Union and are only used in certain criminal justice matters within the European Union. The European Commission can take infringement proceedings against a Member State for failure to implement a Framework Decision. Please see also ‘European Commission’, ‘Infringement Proceedings’ and ‘Member State’.

GENDER BASED VIOLENCE

Is violence that is directed against a person because of their gender, gender identity or gender expression. It is a form of discrimination and it includes sexual violence, harassment, rape, sexual assault, trafficking in human beings, slavery, and different forms of harmful practices, such as forced marriages and ‘honour crimes’.

IMPLEMENTATION

To make law effective.

INDIVIDUAL ASSESSMENT

Victims are evaluated individually under the Directive in order to ascertain whether they need any special protection measures in order to meet their needs.

INFRINGEMENT PROCEEDINGS

The legal proceedings that the European Commission can start against a Member State if the Commission considers that the Member State has not fulfilled its obligations under European Union Law. Please see also ‘Member State’ and ‘European Commission’.

JUDICIAL AUTHORITY

A legal authority appointed by the State which interprets and applies the law in a binding way.

LEGAL AID

The provision of a State funded lawyer to a victim who is unable to pay for their own lawyer.

LEGISLATION

Law passed by a national parliament.

LEGISLATIVE PROPOSAL

The early draft of a piece of legislation that is voted upon and amended by the institutions of the European Union. After passing through the decision-making process of ordinary legislative procedure and being adopted, the legislative proposal becomes a Directive. Please see also ‘Ordinary Legislative Procedure’ and ‘Directive’.

MEPs

MEPs or Members of European Parliament are the directly-elected representatives of EU Member States. Please see also ‘Member State’.

MEMBER STATE

A country that is a member of the European Union.

OFFICIAL JOURNAL OF THE EUROPEAN UNION

Published every working day in all of the official languages of the European Union. It notifies Member States of newly published EU legislation, EU information and notices. A Directive is not binding until it is published in the Official Journal of the European Union. Please see also ‘Directive’ and ‘Member State’.

ORDINARY LEGISLATIVE PROCEDURE

The main legislative procedure of the EU's decision-making process. It refers to the process by which a Directive moves through the EU institutions, is voted upon, amended and is eventually signed into law. Please see also 'Directive'.

PERPETRATOR

The person responsible for causing harm to a victim.

PLENARY SESSION

Large monthly meetings of the European Parliament which bring together all the MEPs, Committees and political groups of the Parliament to present the results of their work on a legislative proposal. MEPs debate the legislative proposal and vote on amendments. Please see also 'MEPs' and 'Legislative Proposal'.

PRESUMPTION OF INNOCENCE

A principle of law which provides that someone is innocent until they are proven guilty.

RECITALS

Opening statements introducing a Directive. Please see also 'Directive'.

RESTORATIVE JUSTICE SERVICES

A process where a victim and an offender consent freely, with the help of an independent third party, to discuss the resolution of matters between the parties arising from a criminal offence. All restorative justice services should be confidential unless both parties agree otherwise. Examples of restorative justice services are family group conferencing, sentencing circles and victim-offender mediation.

ROLE OF VICTIMS IN CRIMINAL PROCEEDINGS

The role of a victim in criminal proceedings will vary depending on the Member State. A victim's role depends on the national law of the Member State and whether that Member State:

- a. provides that a victim is a party to criminal proceedings
- b. legally requires or asks victims to participate in criminal proceedings as witnesses

TRANSLATION

A document which is converted into another language.

TRANSPOSITION

When Member States modify their domestic law to give effect to a European legislative Act in their country. Please see also 'Member State'.

TREATY

An international legal agreement between countries.

VICTIM

A person who has suffered physical harm, mental harm, emotional harm or economic loss as a result of a criminal offence.

A family member of a person who has died due to a criminal offence, such as murder, manslaughter or drink driving causing death, is also a victim.

A person is a victim regardless of whether an offender has been identified, prosecuted or convicted. The relationship between the victim and the perpetrator is irrelevant in ascertaining whether a person is a victim.

VICTIM SUPPORT SERVICES

All victims must have access to support services, free of charge, before, during and for a period after criminal proceedings. The services can be set up by the public or private organisations and they can be voluntary or professional. These services will be provided even where there are no criminal proceedings underway. This ensures that victims who choose not to report a crime to the police can still access support services.

These support services include the provision of information, support and advice in relation to the victims' role, if any, in criminal proceedings including preparation for attendance at the trial. Advice and information should also be provided on specialist support services available, emotional and psychological support, and financial and other issues.

VIOLENCE IN CLOSE RELATIONSHIPS

Violence, which is committed by a spouse, former spouse, partner, family member or a person who was or is living with the victim, against a victim. It includes all types of violence including, physical, psychological, sexual and economic violence which can result in emotional, physical, mental or economic harm.

2 GENERAL INFORMATION

Currently the rights of victims vary from one Member State to another. It is important that these rights become the same across the European Union not only because of the movement of European citizens within the EU to live, work, study or holiday, but also due to the increase in cross border criminality between Member States. Under the Stockholm programme the European Commission and Member States were asked to improve their laws for the support and protection of victims of crime. It was decided that the best way to lay down minimum standards for the protection of such rights, was in a series of steps through the implementation of the “Budapest Roadmap”.

This pack describes *the Directive 2012/29/EU of the European Parliament and of the Council establishing of minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA*, hereafter the “Victims’ Directive”. This pack explains the rights, support and protection that a victim is entitled to receive before, during and for a period after criminal proceedings.

This booklet is the second of a new **JUSTICIA** Know Your Rights Guide series on the area of EU criminal justice. The **JUSTICIA** European Rights Network is a pan European Network consisting of 19 Network Member organisations based in 18 European Union States: Associazione Antigone Onlus (Italy), Association for the Defence of Human Rights in Romania – the Helsinki Committee, Bulgarian Helsinki Committee, Civil Rights Defenders (Sweden), Croatian Legal Centre, Estonian Human Rights Centre, Greek Helsinki Monitor, Helsinki Foundation for Human Rights (Poland), Human Rights Monitoring Institute (Lithuania), Hungarian Civil Liberties Union, Irish Council for Civil Liberties, KISA - Action for Equality, Support, Antiracism (Cyprus), Latvian Centre for Human Rights, League of Human Rights (Czech Republic), Ludwig Boltzmann Institute of Human Rights (Austria), Open Society Justice Initiative (Hungary), Rights International Spain, Statewatch (UK), and The Peace Institute (Slovenia).

Please further note that when the booklet refers to ‘in your Member State’ this can be interpreted as meaning ‘in the Member State where the crime was committed’ or ‘in the Member State where you live’ (depending on the section of the booklet).

3 HOW ARE EU DIRECTIVES MADE?

A Directive is a piece of European law that sets out legal obligations for EU Member States. A Directive begins its life as a legislative proposal or a proposal for a Directive which is voted upon and amended in a European Union decision-making procedure called “Ordinary Legislative Procedure”. In this procedure, the directly elected European Parliament together with the Council of the European Union (representing governments of the 27¹ EU Member States) is asked to approve a draft law. “Ordinary Legislative Procedure” refers to the process by which a Directive moves through the EU institutions, is voted upon or amended and is eventually signed into law. The steps of this process are set out below:

1 PROPOSAL

Usually, it is the European Commission which puts forward a legislative proposal. This often takes place after a consultation process with experts in the area. However, the European Parliament may also propose legislation and, in the case of the area of Freedom, Security and Justice, the proposal may come from either the Commission or from a quarter of the Member States. The proposal is published in the Official Journal of the European Union and is sent to the European Parliament, the Council of the European Union and to national parliaments.

2 FIRST READING IN PARLIAMENT

When the legislative proposal is sent to the European Parliament, the Parliament adopts an initial position. The proposal is then assigned to a Committee of the Parliament in the relevant area (e.g., in the case of the Directive on the Right to information in criminal proceedings, the file was assigned to the Committee on Civil Liberties, Justice and Home Affairs). A Rapporteur is assigned to prepare a draft report for discussion within the political groups of Parliament. The Directive is then discussed at a plenary session of the European Parliament. Plenary sessions bring together all the MEPs, Committees and political groups to present the results of their work on the legislative proposal. MEPs debate the piece of legislation and vote on amendments. At the plenary session, the Parliament adopts its position on

¹ 28 Member States including Croatia which is expected to join on 1 July 2013.

the legislative proposal by a simple majority. This may contain amendments to the original legislative proposal.

If the Parliament's position does not contain any amendments, and if the Council has also accepted the original proposal, the legislative proposal can be adopted at this stage.

3 AMENDED PROPOSAL BY THE EUROPEAN COMMISSION

At this stage the Commission can alter its legislative proposal to incorporate amendments of the European Parliament which they believe would improve the proposal and allow it to reach an agreement as swiftly as possible.

4 COUNCIL FIRST READING

The Council reading and its preparatory work runs at the same time as the discussions in the Parliament. The Council may only adopt a position after the European Parliament has acted. When they have considered the European Parliament's proposal (amended or un-amended) the Council may either choose to adopt the legislative proposal or to adopt a "common position". This happens when the Council does not share the views expressed by Parliament. This "common position" is forwarded to the European Parliament together with a statement of reasons. At this stage, the Commission also informs Parliament of its opinion on the Council's common position.

Wherever possible, informal meetings of representatives from all the three institutions called "trilogues" are held before the Council gives the final notification of its common position. These are held in order to try speed up the process and to reach an agreement on a package of amendments. Any agreement must then be approved through the formal procedures.

5 EUROPEAN PARLIAMENT SECOND READING

At the second reading, the Parliament examines the Council's common position. It can approve or reject the Council's common position, in which case the proposal is either adopted or closed definitively. It can also propose amendments to the Council's common position. This position then goes back to the Council and the Commission. If the Council approves all of Parliament's amendments, the legislative proposal can be adopted.

If the Parliament does not accept all of Parliament's amendments, Parliament is informed and a procedure called "conciliation" is launched.

6 CONCILIATION AND THIRD READING

If the legislative proposal could not be adopted in the first two readings, "conciliation" begins. A Committee of Representatives of the 27² Member States and an equal number of Members of the European Parliament (MEPs) come together to consider the Council position and Parliament's amendments from the second reading. Negotiations are conducted during informal trilogues involving small teams of negotiators from each institution, with the Commission playing a mediating role. It then has six weeks to find a compromise and to draw up a joint text. If it does not agree on a joint text then the Act is deemed not to have been adopted. If the Conciliation Committee does approve a joint text, it is given to the Council and the Parliament for their approval. After both institutions have approved the text, the legislative proposal is signed, published and becomes a Directive.

² 28 Member States including Croatia which is expected to join on 1 July 2013.

4 BACKGROUND TO THE “VICTIMS’ DIRECTIVE”

BACKGROUND

Until recently, the protection and the establishment of minimum standards for victims of crime in the European Union was based on a *Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings*. The Framework Decision provided for minimum rights for victims of crime during criminal proceedings but it did not go far enough to protect victims’ rights.

The Stockholm Programme was adopted by the European Council in December 2009. The European Commission and Member States were asked under the Stockholm Programme to consider how to improve measures for the protection, support and recognition for all victims of crime. Member States were asked to consider victims of terrorism in particular.

In June 2011 the Council of the European Union passed a Resolution of the Council on a roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings. It is known as the “Budapest Roadmap”. The Annex to the Budapest Roadmap set out a list of actions which should be taken to develop and protect victims’ rights in the European Union. The Roadmap stated that the Framework Decision needed to be supplemented and revised as it was out of date and that new legislation needed to be implemented to protect victims’ rights. This resulted in the development of the Victims’ Directive, which replaced the Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings.

After a Member State has signed up to a Directive, what are its obligations?

After the adoption of the Directive, a Member State is obliged to transpose the Directive into its domestic law within a deadline (e.g. three years from the date of the Directive’s publication in the Official Journal of the European Union). Once the transposition date has passed, the Member State must have implemented at least the minimum standards as laid down by the Directive. However, Member States are afforded some discretion on how to interpret and implement certain provisions of a Directive. Member States are free to extend the rights beyond the minimum standards provided for in the Directive.

How does the European Union ensure a Member State's compliance?

Once the transposition date has passed, the European Commission assesses the extent to which each Member State has put in place measures or, if necessary, legislative proposals in order to comply with the Directive. Each Member State sends its officially adopted texts, which implement the Directive in its country to the European Commission, which examines this to ensure that the Member State is complying with the Directive.

What happens if my Member State has not fulfilled its obligations once the transposition date has passed, and what can I do?

The European Commission decides, after the evaluation, whether or not to begin infringement proceedings against a Member State. This could lead to proceedings in the Court of Justice of the European Union.

Alternatively, you can lodge a complaint with the European Commission against your Member State, requesting that the European Commission begin infringement proceedings against it. Your own rights do not need to be violated for this action to be taken.

Please see the website link to direct you to the necessary webpage.
http://ec.europa.eu/eu_law/your_rights/your_rights_forms_en.htm

5 YOUR GUIDE TO THE VICTIMS' DIRECTIVE

What is the Victims' Directive, when does the Victim's Directive apply, and what are Member States' obligations under the Directive?

The Directive is a European Union law that all European Union Member States (except Denmark), have signed. This Directive applies where a criminal offence occurs in the European Union. It also applies to any criminal proceedings that take place in the European Union.

This Directive entered into force on 15 November 2012. The Directive requires every Member State to implement legislation to give all victims of crime minimum rights, support, and protection. A victim will be entitled to the same rights regardless of where the crime was committed in the European Union, where the victim resides in the EU or the victim's nationality or citizenship. The Directive aims to ensure that all victims within the Member States of the EU receive the same information, support and protection. Member States are obliged to implement this Directive in their country by 16 November 2015.

For a copy of the Directive please see: www.eujusticia.net

What is the 'right to information' and what types of rights does the Directive protect?

Currently the type of information which a victim receives about their rights differs from Member State to Member State. The Victims' Directive requires all Member States to ensure that victims receive standardised information across the EU on the following rights:

- Right to understand and to be understood
- Right to receive information from the first contact with a competent authority
- Right of victims when making a complaint
- Right to receive information about their case
- Right to interpretation and translation

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- Right to access victim support services
 - Right to support from victim support services
 - Right to be heard
 - Rights in the event of a decision not to prosecute
 - Right to safeguards in the context of restorative justice services
 - Right to legal aid
 - Right to reimbursement of expenses
 - Right to decision on compensation from the offender in the course of criminal proceedings
 - Rights of victims resident in another Member State
 - Right to protection
 - Right to avoid contact between victim and offender
 - Right to protection of victims during criminal investigations
 - Right to protection of privacy
 - Individual assessment of victims to identify specific protection needs
 - Right to protection of victims with specific protection needs during criminal proceedings
 - Right to protection of child victims during criminal proceedings
 - Training of practitioners

Does the Directive create new rights in my Member State?

It depends on your Member State. The Directive lays down minimum rights, supports and protections for victims to make sure that the law is the same for victims across European Union Member States.

Certain rights contained in the Directive may already be part of your Member State's domestic law. In this case, this Directive will strengthen these rights by obliging Member States to keep these rights in place. Please see the back of the booklet for the contact details of an organisation in your Member State that will be able to give you guidance on how this Directive will affect the domestic law in your own country.

When is the final date for Member State transposition?

Member States have until 16 November 2015 to modify their domestic law to give effect to the Directive in their country.

What Member States must participate in the adoption and application of this Directive?

Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom³.

Only Denmark did not sign up to this Directive, as Denmark does not sign up to any justice and home affairs issues. Therefore Denmark is not obliged to participate in the application of the 'Victims' Directive'.

³ Including Croatia, which is expected to join the EU on 1 July 2013.

6 RIGHTS CONTAINED IN THE VICTIMS' DIRECTIVE

A. RIGHT TO RECEIVE INFORMATION FROM FIRST CONTACT WITH A COMPETENT AUTHORITY

In what circumstances must I be given information about my rights?

The Directive provides that certain information must be offered to you by a 'competent authority' (usually the police) on your first contact with them. You should receive the following information:

- a. Information on medical and other specialist support services, including shelters and psychological support;
- b. How to make a complaint about a criminal offence and your role in any criminal proceedings;
- c. When and how you can obtain protection from a perpetrator and other protection measures;
- d. When you can access legal aid and access advice on legal issues;
- e. How and when you can obtain compensation from the perpetrator;
- f. How and when you can obtain interpretation or translation;
- g. If you are not resident in the Member State where the crime was committed then you should be informed of any special measures, procedures or arrangements which are available to protect your interests in the Member State where you made first made contact/reported the offence;
- h. The procedures for making a complaint when your rights were not respected by the competent authority (police) in criminal proceedings;
- i. Contact details for communication about your case;
- j. Any restorative justice services which are available to you;
- k. The Directive provides that, victims should also be informed on how their expenses, such as travel and loss of wages incurred as a result of their role in criminal proceedings, can be reimbursed.

When must I be given this information about my rights?

You must be given all of the above information when you first come in contact with the competent authority, which is often the police.

Who must give me this information?

The first competent authority you come into contact with must give you this information about your rights. When reporting a crime, this is often the police.

How must this information be given to me?

The information should be given to you either orally or in writing in a simple and easily understandable language. If you are a vulnerable person, then your particular needs should be taken into consideration. In some Member States the police will give a letter or a booklet to you to inform you of your rights.

What if I do not understand the language that this information is given to me in?

If necessary, your Member State must provide you with an interpretation or a translation of this information in a language you do understand.

B. MAKING A COMPLAINT – YOUR RIGHTS

What happens when I make a complaint to the competent authority?

You should receive an acknowledgement when you make a complaint to the competent authority. It should be in writing and should set out the type of crime, the time and place and the damage caused to you. If you do not speak the language then it should be translated so you can understand it.

I was on holiday in the European Union when I was attacked but I reside in another Member State, where can I make a complaint?

Where a criminal offence is committed in a Member State, other than that where you are resident, then a statement should be taken immediately from you

once you have made a complaint. If you are unable to make a complaint in the Member State where the crime was committed then you can make a complaint to the competent authority, in the Member State where you are resident. The complaint should then be given, without delay, to the competent authority in the Member State where the crime was committed.

Are there any measures available to help me to understand and be understood by the police?

All communications to you should be in a simple language, orally or in writing. Any communication will consider your personal characteristics and any disability or issue which you have which makes it difficult for you to understand or be understood.

When can I get interpretation and translation?

If you cannot speak the language then you should receive interpretation or translation free of charge if you are interviewed or asked questions by the police or by a judge.

Am I allowed to bring anyone with me when I make a complaint to the police?

You will be allowed to bring a person of your choice with you when you first make contact with the competent authority (i.e. often the police) if you need assistance to be understood or to understand due to the crime. However, there is an exception to this. You will not be allowed to bring someone with you if it is contrary to your interests or if criminal proceedings would be prejudiced.

C. RIGHT TO RECEIVE INFORMATION ABOUT YOUR CASE

How can I receive information about any criminal proceedings which arise as a result of my complaint to the police?

You must be contacted, without unreasonable delay, and told that you have a right to receive certain information about your case, on request. You can ask to be informed about any of the following information:-

- Ongoing information on the stage of the criminal proceedings (subject to your role in the criminal proceedings). In exceptional cases you might not be given this information if the criminal case could be affected by giving it to you.
- Any decision not to proceed with or end an investigation or not to prosecute the perpetrator. Information should also include reasons or a brief summary of reasons for the decision concerned. You can then appeal a decision not to prosecute. This does not apply to any jury decisions.
- The place and time of the trial, and the charge against the perpetrator.
- Any final judgment of the trial, including reasons or a brief summary of reasons for the decision.
- On request, you can be informed when a perpetrator is released or has escaped from prison. You should also be told of any measures that have been put in place to protect you on the offenders escape or release. This information should be provided, at least where there is a risk of harm to you from the perpetrator.

Do I have to receive this information?

You do not have to receive information about your case if you do not want to. You should tell the competent authority if you do not want to be contacted with information about your case.

Are there any circumstances where I might be contacted even if I have asked not to receive information about the case?

You will be contacted about a case if you are participating in the criminal proceedings i.e. if you are a witness.

D. YOUR RIGHTS DURING CRIMINAL INVESTIGATIONS AND CRIMINAL PROCEEDINGS

I'm afraid that I might see the perpetrator in court, are there any facilities to help me avoid him/her?

Yes, you have a right to avoid contact with the perpetrator; however, this right is not absolute. The Directive requires that any new courthouses should be built with separate waiting areas for victims. The Directive requires that Member States must implement measures to avoid contact between a victim or family member and a perpetrator. Also, you may not be able to avoid contact with the perpetrator due to your role in the criminal proceedings.

I don't want everyone to know that I am a victim of a crime. Do I have any right to protection of privacy?

The Directive requires that Member States should adopt measures to protect you including your personal circumstances. This includes images of you and your family members, where you have special protection needs (discussed below). If you are a child victim then you should never be identified. The Directive tries to achieve these measures by encouraging self-regulation by the media.

Do I have a right to be heard in criminal proceedings?

Yes, you can be heard during criminal proceedings, but it will be subject to rules provided for under national law.

Do I have a right to legal aid?

You can only have access to legal aid where you are a party to criminal proceedings.

Do I have a right to interpretation and translation in court proceedings?

You are entitled to interpretation free of charge depending on your role in criminal proceedings and you will be provided with interpretation and translation on your active involvement in any court proceedings for example, if you are a witness.

Can I get any documents translated?

On request, translation of information should be provided to you, free of charge, where the information is essential and relevant to your role in the criminal proceedings.

How and when am I entitled to a reimbursement of expenses?

You should be informed on how expenses, such as travel and loss of wages, incurred as a result of your active role in criminal proceedings, can be reimbursed. Member States will have their own national laws on how to apply for expenses.

When can I get my property returned?

If your property was taken from you then it should be returned without delay except where there is an issue in relation to its ownership or if it is needed as evidence in criminal proceedings.

E. VICTIM SUPPORT SERVICES

How and when can I access victim support services?

You will have access to support services, free of charge, according to your particular needs before, during and for a period after criminal proceedings. These services will be provided to you even if you have not reported the crime to the police. Family members can also access these services.

Who provides the victim support services?

Victim support services can be set up by the public or private organisations and they can be delivered on a voluntary or professional basis.

What are victim support services?

Victim support services provide information on your rights and your role in the criminal justice proceedings, which should include preparation for attending court. Victim support services can also offer emotional and psychological support, advice relating to financial and practical issues arising from the crime, advice on risk and how to prevent secondary and repeat victimisation as well as give you information or refer you to specialist support services.

Are there any specialist victim support services?

Yes, the Directive requires that at a minimum, shelters and accommodation are available for you if you are at imminent risk of repeat victimisation. Targeted support services such as trauma and counselling support should be provided to you if you are a victim of sexual and domestic violence.

F. RIGHT TO PROTECTION

What is a right to protection?

Member States will ensure that you and your family members will not be subjected to secondary and repeat victimisation, intimidation and retaliation. It includes protection from any risk of physical and emotional harm.

When can I be protected?

Member States must ensure that measures are available to protect you and your family members from secondary and repeat victimisation, from intimidation and from retaliation. This includes protecting you from the risk of emotional or psychological harm. Member States must also protect your dignity when you are testifying or being asked questions by criminal justice agencies. If you are at risk of physical harm, Member States will be required, if necessary, to implement measures for your physical protection and for the protection of your family members.

Member States shall establish conditions to avoid contact between you and the perpetrator, unless the proceedings require it.

You have also the right to be protected during the criminal investigation.

Member States should ensure that:

- a. The number of interviews and medical examinations should be kept to a minimum and only done when necessary.
- b. Any interviews should be done without unjustified delay after you make a complaint relating to a criminal offence.
- c. You can bring a legal representative and a person of your choice with you except where there is a good and reasonable decision preventing it.

G. SPECIAL PROTECTION MEASURES

What are specific protection needs and who is entitled to them?

Not every victim deals with the trauma of a crime in the same way. Some victims need more help than others and they may need access to specialist support services to get them through the trauma of the crime. The Directive provides for the individual assessment of all victims of crime in order to identify those victims which need extra protection and who have specific protection needs.

How does a Member State decide who needs extra protection?

All child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, intimidation and to retaliation.

Member States are required to do an individual assessment of all victims of crime in a timely manner. In deciding whether a person has specific protection needs three criteria will be considered:

- a. The characteristics of the victim,
- b. The nature or type of crime involved and the
- c. Circumstances surrounding the crime.

The individual assessment should also take into account:

- a. The severity of the crime (for instance in relation to victims of terrorism, organised crime and human trafficking)
- b. The motivation for the crime including discrimination or bias due to the victim's personal characteristics (for instance hate crime or victims with disabilities)
- c. Any relationship between the victim and the offender which would make the victim particularly vulnerable (with a particular focus on gender-based violence, violence in a close-relationship and sexual violence)

What extra rights are given to victims who have specific protection needs?

If you are deemed to need special protection measures then you are entitled to extra rights when being interviewed:-

- Interviews should be carried out in premises adapted and designed for the carrying out of interviews with you.
- Interviews should be carried out by a professional person trained for that purpose.
- Interviews should also be conducted by the same person, unless it goes against the good administration of justice.
- If you are a victim of sexual violence, gender-based violence or violence in a close relationship then the interview should be conducted by a person of the same sex as you. However, this does not apply to the prosecutor or a judge.
- You have the right to avoid visual contact with the perpetrator during the criminal proceedings. Measures should be implemented so that you can avoid visual contact with the perpetrator during the course of giving evidence. If necessary you can give evidence via communication technology and other measures can be used to ensure that you can be heard in a courtroom, without actually being present.
- You have the right not to be questioned about your private life. Member States will be required to implement measures to avoid any unnecessary questioning relating to your private life if it is not related to the criminal offence during the criminal proceedings.
- You have the right for the hearing to take place in private. Measures should be implemented in order to enable you to have a hearing held without the presence of the public.

Are there any measures in place to protect me from excess questioning and examinations?

The number of interviews and medical examinations should be kept to a minimum and will only be done where strictly necessary. Also, during criminal investigations you can, in certain circumstances, be accompanied by a person of your choice and a legal representative.

H. CHILD VICTIMS

What rights do victims who are children have under the Directive?

There is a presumption that all child victims need special protection measures.

What special protection measures does a child victim have?

All interviews with a child victim during the course of a criminal investigation can be audio visually recorded and they can then be used in evidence in a criminal proceeding.

The competent authorities should appoint a special representative for child victims under national law where the child's guardian or parents are prevented from representing the child due to a conflict of interest, or where the child has been separated from his/her family or where the child is unaccompanied. A child also has a right to a lawyer where there is a conflict of interest between the parents or guardian and the child.

I. OTHER QUESTIONS

What rights or redress do I have if there is a decision not to prosecute?

You have a right to request a review of any decision not to prosecute depending on your role in the proceedings.

How do I make a complaint that my rights under the Directive have been breached?

The Directive provides that Member States shall offer victims information on what procedures are available for making a complaint for a breach of their rights by the competent authorities during the context of criminal proceedings. It will be up to each individual Member State to decide the set up and implementation of these complaint procedures.

When can I use restorative justice services?

Restorative justice services are not suitable in all cases. It is only available where the perpetrator has accepted the basic elements and facts of the case made against him/her, where the measure would be in your interest and any involvement would be based on your free and informed consent. The Directive provides minimum standards that must be fulfilled in the delivery of any restorative justice measure.

I am concerned that the police and other organisations do not have the necessary training to deal with my needs.

The Directive requires that all professionals working with victims receive training to increase their awareness of the needs of victims to enable them to deal with victims in an impartial, respectful and professional manner. The level of training should be determined by their level of contact with victims of crime. The Directive highlights that the police and court staff should receive generic and specialist training. It is recommended that lawyers and people working within support services for victims should also receive specialist training. Also, judges and prosecutors should be trained in the needs of victims.

7 USEFUL CONTACTS

For more information about the **JUSTICIA** European Rights Network, please see www.eujusticia.net. The website addresses of the **JUSTICIA** European Rights Network member organisations are listed below:

Country	Organisation	Description
Austria	Ludwig Boltzmann Institute of Human Rights (1992) http://bim.lbg.ac.at/en/the-institute	The Ludwig Boltzmann Institute of Human Rights (BIM) was established as an independent research centre with the aim of contributing to the scientific discourse of human rights at the national, European and global level. Their research is based on a holistic approach covering civil, political, economic, social, cultural and collective human rights with a multidimensional and interdisciplinary research approach.
Bulgaria	Bulgarian Helsinki Committee (1992) www.bghelsinki.org	Bulgarian Helsinki Committee is an independent, non-governmental organisation dedicated to strategic litigation and legal protection of human rights in Bulgaria. Its work is focused on selected areas, such as discrimination, freedom of assembly and of association, freedom of expression, right to privacy, torture and ill treatment by law enforcement officers.
Croatia	Croatian Law Centre (HRC) www.hpc.hr	The Croatian Law Centre promotes and affirms the rule of law, political accountability of public authorities, efficiency and effectiveness of the public sector, and participation of civil society in making all relevant decisions for the development and future of Croatia. The organisation focuses on the protection of human rights, modernisation of public administration, and legal education.

Country	Organisation	Description
Cyprus	KISA - Action for Equality, Support, Antiracism (1998) http://kisa.org.cy/home/	KISA is a non-governmental organisation whose action is focused on the fields of Migration, Asylum, Racism, Discrimination and Trafficking. It works through awareness-raising as well as lobbying in order to influence the legal and structural framework, policies and practices in these fields.
Czech Republic	League of Human Rights (LIGA) (2002) www.llp.cz	LIGA is an independent non-profit watchdog organisation focused on promoting respect for human rights in the Czech Republic. LIGA has been implementing projects promoting human rights of children, persons with disabilities, victims of police violence and hate crimes, and offenders.
Estonia	Estonian Human Rights Centre (EHRC) (2009) http://humanrights.ee/en/	Estonian Human Rights Centre (EHRC) is an independent human rights advocacy NGO dedicated to the advancement of protection of human rights in Estonia and abroad. EHRC is regularly consulted by stakeholders, such as government, other NGOs or the media.
Greece	Greek Helsinki Monitor (1992) www.greekhelsinki.gr	Greek Helsinki Monitor is an organisation which monitors, publishes and lobbies on human rights issues in Greece and, occasionally, in the Balkans. It has participated in, and often coordinated, the monitoring of Greek and Balkan media for stereotypes and hate speech. It has also prepared parallel reports to UN Treaty Bodies and specialised reports on ill-treatment, ethnicity issues, religious and immigrant communities.

Country	Organisation	Description
Hungary	Hungarian Civil Liberties Union (HCLU) (1994) www.tasz.hu	The HCLU is a non-profit human rights watchdog organisation dedicated to promoting law reform and legal defence of public interest in Hungary. Its goal is to build and strengthen civil society and the rule of law in Hungary and the CEE region.
Hungary: Transnational Organisation	Open Society Justice Initiative (OSJI) (1993) www.opensocietyfoundations.org	OSJI is a programme of the Open Society Foundations, which is dedicated to strengthening the rule of law and respect for human rights, minorities, and diversity of opinions. OSJI promotes human rights and builds legal capacity for open societies through litigation, advocacy, research and technical assistance.
Ireland	Irish Council for Civil Liberties (ICCL) (1976) www.iccl.ie and www.eujusticia.net	With its headquarters in Dublin, ICCL is Ireland's independent human rights watchdog, which monitors, educates and campaigns around the protection and promotion of human rights in Ireland. ICCL is the lead partner in JUSTICIA .
Italy	Associazione Antigone Onlus (1991) www.associazioneantigone.it	Antigone is an Italian NGO dealing with human rights protection in the criminal justice system, especially in relation to the penal system. Antigone campaigns, educates, researches and monitors.
Latvia	Latvian Centre for Human Rights (LCHR) (1993) www.cilvektiesibas.org.lv	LCHR is an independent non-governmental organisation which works for the elimination of discrimination and hate speech, asylum, migration and fundamental rights issues. LCHR conducts human rights monitoring, research and policy analysis, provides legal assistance on human rights issues and is actively involved in advocacy for change.

Country	Organisation	Description
Lithuania	Human Rights Monitoring Institute (HRMI) (2003) www.hrmi.lt	HRMI is a non-governmental organisation dedicated to the promotion of an open democratic society. HRMI engages in monitoring of human rights situation in Lithuania, advocating for changes in national legislation and pursuing strategic litigation in areas such as the right to a fair trial, right to privacy, equality and non-discrimination, rights of vulnerable groups.
Poland	Helsinki Foundation for Human Rights (HFHR) (1989) www.humanrightshouse.org	HFHR is an organisation dedicated to promote the development of a culture based on the respect of freedom and human rights in Poland and abroad. Its methods of activity include strategic litigation, monitoring and interventions. Since 2007, HFHR holds consultancy status with the United Nations Economic and Social Council (ECOSOC).
Romania	Association for the Defence of Human Rights in Romania – the Helsinki Committee (APADOR-CH) (1990) www.apador.org	The Association for the Defence of Human Rights in Romania – the Helsinki Committee (APADOR-CH) is a non-governmental, not-for-profit organisation which seeks to be an influential and principled actor in dialogue with state authorities and in cooperation with civil society. APADOR-CH engages and actively participates in societal and institutional change to create a more democratic culture based on the respect of human rights.

Country	Organisation	Description
Slovenia	The Peace Institute (1991) www.mirovni-institut.si	The Peace Institute is a non-profit research institution developing interdisciplinary research activities in various fields of social sciences and humanities.
Spain	Rights International Spain; Rights International Spain (2010) www.rightsinternationalspain.org	Rights International Spain is an independent, non-governmental organisation composed of lawyers specialised in international law. Its main objective is the promotion and defence of human rights and civil liberties through the effective use of international human rights law and national and international protection mechanisms.
Sweden	Civil Rights Defenders (1982) www.civilrightsdefenders.org	Civil Rights Defenders is an independent expert organisation with the aim of defending human rights, and in particular people's civil and political rights, and to support and empower human rights defenders at risk.
UK: Transnational Organisation	Statewatch (1991) www.statewatch.org.uk	Statewatch is a non-profit-making voluntary group with contributors drawn from 18 countries. The organisation is dedicated to monitoring state and civil liberties in Europe. One of Statewatch's primary purposes is to provide a service for civil society to encourage informed discussion and debate.

ADDITIONAL WEBSITES:

www.victimsupporteurope.eu

http://ec.europa.eu/justice/criminal/victims/index_en.htm

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Irish Council for
Civil Liberties

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