



Ministry of Security and Justice

Protection of Victims of Crime

Needs, measures and the
individual assessment

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Introduction

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Workshop goal

- Share information on the Dutch policy approach of protection
- Theoretical framework
 - protective needs of victims of crime and
 - government responsibility
- Protection in practice
 - Implementation of the individual assessment



Schedule

I. Context:

- Dutch policy goals
- European Directive Minimumstandards

II. Protective needs of victims of crime

III. Government responsibility: safe trial and safe victim

IV. A new instrument: Risk assessment and individual assessment

V. Closing remarks





I Context

Victims' needs, Dutch policy approach





I Context

Aim to protect

Long term policy goal: Victims of crime “are protected when and where necessary”

Questions:

- What are the protection needs of victims of crime, and where are these needs in danger?
- How can government meet these protection needs?
- What are the measures in place for protecting victims of crime at this moment?
- Is there room for improvement, and if so, what measures can be considered?



II Need for protection

Essential interests of victims of crime

Four 'essential interests' of victims of crime

1. Privacy (identity, private life, personal characteristics, images)
2. Physical integrity (body)
3. Mental integrity (spirit/mind)
4. Personal belongings (belongings)



II Need for protection

Causes of violation

Two main causes of violation of the safety of victims of crime:

1. Secondary victimisation:

'worsening of harm/damage to essential interests of victims of crime due to the criminal legal proceedings'

Can result in: worsening of initial trauma, loss of trust in institutions, slow recovery

2. Repeat victimisation:

'a victim of crime has again become a victim of the same or a different crime committed by the same or a different perpetrator/criminal'

- Examples: domestic violence, robbery (jeweller), burglary



III Government responsibility

Protection of the essential interests of victims against secondary and repeat victimisation provides the framework for two government responsibilities:

1. Safe trial: prevention of secondary victimisation
2. Safe victim: prevention of repeat victimisation.



III Government responsibility safe trial

What makes a safe trial?

Research provides four criteria/guidelines for government organisations in their communication with victims of crime

- a) Control
- b) Predictable
- c) Safety
- d) Fair/proportion



III Government responsibility safe trial

Safe trial criteria applied to protection of privacy

- a) Control: a victim of crime keeps control of the use of his personal data
- b) Predictability: a victim should be informed about the necessity of the processing of personal data and should also be informed where his personal data is being stored, and which organisations the personal data is shared with and on what grounds
- c) Safety: the personal data of a victim should be protected against use by unauthorized third parties (offender, media)
- d) Proportionality: no unnecessary personal data will be required of the victim



III Government responsibility safe victim

Safe victim: victim that is protected against repeat victimisation

Two perspectives:

- a) Measures aimed at victim
 1. Prevention of same criminal offence
 2. Prevention of same criminal offence by same offender

- b) Measures aimed at offender
 1. Criminal-law protective measures
 2. Civil law protective measures
 3. Public law protective measures



III Government responsibility current practice in the Netherlands

1. Safe trial

- Specific victims, safe trial measures are state of the art, for example: victims of human trafficking. Other victims, equally vulnerable a different perspective has been chosen.
- Application of safe trial criteria can be helpful in forming a more general policy

2. Safe victim

- Wide range of protective measures: however, victims not always informed about the possibilities, and for some measures effectiveness is unclear



IV A new instrument individual assessment

- New instrument proscribed in EU-Directive minimum standards for victims
- Can serve as a gateway where victims' protective needs can be assessed
- Protective measures (safe trial and safe victim) can be developed and put in place on behalf of the victim



IV A new instrument Preliminary design

The next slides contain a draft of our ideas to implement the individual assessment.

The assessment is under construction and might change in the course of the implementation process.





IV A new instrument

Article 22

Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures,
to identify specific protection needs and
to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings, as provided for under Articles 23 and 24,
due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.



IV A new instrument

Boundary conditions

The individual assessment:

- a. Matches the criteria of the EU directive
- b. Fits into the current procedures in the criminal justice system
- c. Does not cause additional costs and is effective
- d. Has no overlap with existing instruments
- e. Will be carried out as soon as possible during or after the first contact of the victim with the police
- f. Is an instrument of the whole criminal justice system and should be updated during the process



IV A new instrument

Risk factors repeat victimisation

Research by the Erasmus University of Rotterdam (2013) shows:

- Relevant risk factors vary for different types of crime
- There are numerous factors that have an influence on the risk
- To rank the most important risk factors proved impossible

Remarkable:

Relevant risk factors do not always meet the criteria mentioned in the Directive, for instance men and young people are at higher risk for victimization in case of property crime and violent crime



IV A new instrument Individual assessment - procedure





Step 0 - Who is a victim?

Article 2 Directive

'victim' means:

- (i) a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;
- (ii) family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death;

'family members' means the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim;



Dutch criminal code of procedure

Article 51a

A person who has incurred financial loss or another loss as a direct result of a criminal offence shall be deemed a victim.

The legal person, which has suffered financial loss or another loss as a direct result of a criminal offence shall be considered as equivalent to the victim.

Two main differences:

- Different definition of surviving relatives / family members of a deceased victim
- Legal persons can be considered a victim



Who gets an individual assessment?

	Information	Support	Recovery	Position in law	Protection
Manager					
Visitor 1					
Visitor 2					
Owner					



Step 1 – assessment

Personal characteristics

Children

mentally handicapped
/communication limitation

Nature of the crime

trafficking human beings

Seksual offences

Murder / menslaughter

Violence in close relationships

Stalking

Terrorism

Genderbased violence/
hatecrime

Other High Impact Crime

Circumstances

victim dependant on suspect

higher risk perception victim

earlier victimization within one
year from the same offence

crime committed in organized
context

exceptional circumstances



Step 2 - Measures

If victim is considered vulnerable because of the outcome of step 1:

2 questions:

1. Additional protection measures necessary?
- consider also the wishes of the victim -

If the answer is yes:

2. Which protection measures are necessary to protect the victim?

(Digital) manual will be developed to help the police officer to choose the right protection measures.



Step 3 - update

If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings. (art. 22 par. 7)

Update by

- Police
- Public prosecutors office

Role of victim support needs further discussion because of privacy aspects.



Difficulties

- Registration of outcome of the individual assessment (privacy)
- Organising an incentive for the update



V Closing remarks

Our goal for the future

- Our goal: victims' needs for protection are met by government that acts from a responsibility for a safe trial and safe victim and does so effectively and efficiently
- The individual assessment serves as a gateway through which individual needs are assessed and can be met by protective measures which focus on the protection of essential interests of victims of crime



V Closing remarks

Questions and debate

- Best practices: examples of effective protective measures in other countries
- Experiences with implementing EU guideline minimum standards
- How far can protection of victims go? Anonymity as a standard solution?
- The limits of government responsibility for the safety of victims: where to draw the line?



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THANK YOU FOR YOUR ATTENTION!