



DG JUSTICE Guidance document related to the transposition and implementation of Victims' Directive 2012/29/EU – Implementation strategy

***Victim Support Europe Annual Conference
Quality, Standards, Capacity Building
14. – 17. May 2014, Warsaw, Poland***



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Victims Directive - Achievements

- Replacing Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings
- Commission Proposal: 18 May 2011
- Adoption: 25 October 2012
- Only 18 months of negotiations!
- Transposition deadline: 3 years (November 2015)
- Commission Report deadline: 5 years (November 2017)



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Victims Directive – Scope

- Natural persons (not legal persons)
- Crimes committed in the EU and criminal proceedings taking place in the EU (for extra-territorial offences)
- All victims of all crimes on a non-discriminatory basis – e.g. irrespective of victims' residence status
- Both victims and their family members



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Victims Directive compared to 2001 Framework Decision?

- **Legally enforceable at the European Court of Justice!**
- **NEW:** Applies also to victims' **family members**
- **Individual approach to each victim**
- **Individual assessment** to identify vulnerable victims & special protection measures
- **Child sensitive** approach
- Accessibility of information & communications
- Extended right to **information** (from the first contact throughout criminal proceedings)
- Stronger obligation to provide **victim support**
- **NEW:** Right to **review** decision not to prosecute
- **Training** of practitioners



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Victims Directive - Content

- **Art. 2 – Definitions** (selection)
 - “Victim” is a natural person who has suffered harm directly caused by a criminal offence, and family members of deceased victim, who have suffered harm as a result of that person's death
 - “Family members” include also non-married partners
 - Right to limit the number of and prioritise among family members



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Victims Directive - Content

- **Art. 8-9 - Victim support services**
 - **Right to access** victim support services (**general** and **specialised support**) in accordance with victims' and family members' needs. Victim support should be **confidential** and **free of charge**.
 - **VSO** may be **public** or **NGO**, **professional** or **voluntary**. Specialist support provided by **separate entity** or by **general VSO** (or VSO "may call on existing specialised entities").
 - Member States must facilitate **referrals** to VSOs.
 - **Support not dependent on a formal complaint.**
 - Minimum services, incl. procedural and practical information & advice and emotional support, including psychological support.



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Specialist support services will develop and provide, as a minimum:

- shelters or interim accommodation for victims in need of a safe place due to an imminent risk of secondary and repeat victimisation, of intimidation and of retaliation
- targeted and integrated support including trauma support and counselling for victims with specific needs, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationship



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Victims Directive - Content

- **Art. 25 - Training**

- Training compulsory for police and court staff
- Training to be available for judges, prosecutors and lawyers
- Training to be encouraged for victim support and restorative justice services

- **Art. 26 - Cooperation**

- Member States should cooperate with each other
- Awareness raising actions, information, education



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How will we implement the Directive?

- Different **levels** of victims' procedural rights in the MS
- Different **legal traditions** and **criminal justice systems**
- Different **approaches** taken on victims (hard/soft law)
 - Some victims' rights are more developed than others and MS don't have the same approach on specific rights.
 - Directive's minimum standards may already be achieved in some MS while others have a long way to go
 - Several MS are already in the process of reforming their systems and will be in compliance with the Directive quicker than others (who may need more time and assistance).



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Implementation Strategy

Aim: Assist MS to optimise implementation to avoid bad transposition

Actions:

- **DG JUST "Guidance document"** on interpretation of each Article with suggestions for transposition
- http://ec.europa.eu/justice/criminal/files/victims/guidance_victims_rights_directive_en.pdf
- **Experts' meetings and Implementation workshops on good practices (May 2013 and March 2014)**
- **Bilateral consultations** with MS and stakeholders
- **Project funding** through grants or contracts (e.g. exchange of best practices, training, awareness raising, studies).



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DG JUST "Guidance document" on interpretation of each Article with suggestions for transposition

Released on the occasion of the European Day of Victims on 22 February 2014 on DG JUST website.

This document is intended **to assist the Member States to have a common understanding** of the provisions contained in the Directive. This document is the result of a **process of consultation of the various interested parties** (Member States' national authorities, victims' support organisations, other concerned NGOs).



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DG JUST "Guidance document" – selected suggestions for transposition

The **objectives** of this comprehensive, far-reaching Directive can be achieved by **various means, combining legislative, administrative and practical measures, and should take into account good practices in the field of assistance and protection for victims.**

Extensive national coordination among competent authorities when preparing national transposition measures can facilitate the preparation of consistent and effective transposing measures.



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DG JUST "Guidance document" - selected suggestions for transposition

This coordination should include the Ministry of Justice, Ministry of Interior, the police and public prosecution authorities, the courts, ministries and/or public bodies in charge of equality, non-discrimination, health and social welfare. Other relevant actors, such as generic and specialised victim support organisations and restorative justice services, should also be consulted.

Member States with a **federal structure** should carry out this coordination at the appropriate state/provincial/local level.



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DG JUST "Guidance document" – major questions raised

How to ensure the **proper functioning of general and specialist victims' support services**, which form a significant and prominent part of the requirements of the Directive, at the national level?

What existing **national action plans** aimed at combating some specific crimes, such as all or certain forms of violence against women, are to be amended?

What **technical modalities on legislation** in this sphere already exist (would any be created)?

How the **system of financing and mutual coordination** among **national authorities** and **the private and non-governmental sector** would be governed?



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DG JUST "Guidance document" - selected suggestions for transposition of Art. 8 - 9



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Examples of current practice, as experienced in particular by the Victim Support Europe, in order to ensure effective implementation, such as:

26. At national level, victim support services and any specialist support services can be provided in various ways: **public bodies/entities** (including regional entities/municipalities), **private sector service providers** or **NGOs**. **The victim support services can be performed on a professional or voluntary basis.**

27. VSOs should be able to provide support and information services (including telephone services) which are **free of charge** for the victim and which provide **a sufficient geographical network** across the Member State, adequately covering also **rural** and **remote areas**.



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28. If the Member State decides to operate **victim support services through the private sector** or **through NGOs**, the State should evaluate the **allocation of sustainable financial or other required resources to these organisations, unless the organisation chooses to function without government funding and remain independent.** To this end, Member States could develop **private partnerships based on service agreements**, where financial support is provided for the provision of specifically agreed support services to victims of crime.

The **selection of providers** may be **run in different ways**, such as through **specific accreditation/certification systems, public procurement systems for victims' services providers** or **through subsidy systems**, where a VSO applies to the public entity concerned, based on **quality, reliability and transparency criteria.**



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29. In countries with more than one organisation providing general victim support services, good practice suggests that **cooperation agreements or a national network should be set up**, to ensure that the same quality of support is available across the whole Member State's territory.

30. Exploring the possibility of launching the **116 006 telephone number for helplines for victim support** at national level. Member States may also consider requesting the telephone number **116016** for providing specific, up-to-date information and assistance to victims of **gender-based violence**.

31. Establishing a **national fund for crime victims to fund non-public VSOs**. This fund could be directly State funded, funded for example by **proceeds gathered by financial penalties, surcharges or fees imposed on offenders, from confiscated assets or as a solidarity fund financed by insurance policies**.



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32. Establishing **national referral arrangements between the police and VSOs**, ensuring all victims are offered as soon as possible preferably automatic access to general/specialist victim support services, taking into account consent of the victim and data protection requirements. For example, some Member States with more than one victim support organisation have **effective referral agreements**, whereby one organisation acts as a **focal point**, directing victims to the most appropriate service, according to their needs.

It is also **important not to duplicate referrals**, to avoid victims being contacted by several victim support organisations simultaneously. Member States should make referral arrangements according to their national conditions and the availability of victim support services.

33. If several specialised victim support services are developed, focusing on particular groups of victims, there should be flexible referral arrangements among victim support organisations, ensuring that victims get the support services most suited to their needs without unnecessary delays.



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34. Arrangements could also be made to allow **other relevant agencies** that are in direct contact with victims of crime (e.g. hospitals, schools, embassies, consulates, welfare or employment services) to refer victims to VSOs, based on their needs.

35. Needs assessment tool identifying support needs, ensuring that any support services can be tailored to fit the individual needs of the victim. **This assessment could be linked to and combined with the individual assessment set out in Article 22.**



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36. A horizontal coordinated approach at national level among the authorities involved (such as the ministries responsible for justice, home affairs, equality, non-discrimination and social affairs and the police, prosecutor and probation services etc.) for **targeted** and **integrated support for victims with specific needs**.

37. A regular policy dialogue with VSOs regarding the national availability and provision of support services, any challenges met during service delivery, gap analysis to identify any victims currently not offered automated access to victim support services and how such gaps can be addressed and resolved. Any irregularities or challenges in referral arrangements should be addressed. Member States should aim to fulfil the requirement of ensuring that quality victim support services, **including as a minimum the services listed in Article 9**, are always routinely offered to all victims of crime and their families throughout their territories.



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Workshop on best practices with Member States' experts, organised by DG JUST; 28 March 2014; Brussels

Articles 8 and 9 – Referrals and provision of support services to victims – Member States' good practices examples

Individual assessment of victim's needs (under article 8, 9 and article 22) - Member States' good practices examples



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Legal enforcement of victims' rights

Possible actions after 16 November 2015:

- **Complaints of citizens to the Commission**
- **Infringement proceedings – jurisdiction of the European Court of Justice**
- **Directives and "direct effect"**



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