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WORKING DOCUMENT

From: To:	Presidency Delegations
Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA - Presidency note

Delegations will find below a Presidency note regarding the abovementioned file, in view of the JHA Counsellors meeting on 30 April.

ANNEX

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At the JHA Counsellors meeting on 30 April, the Presidency would invite delegations to continue the examination of the text, on the basis of the tentative amended text below, on articles 18a, 21, 9a, 16, 10b, 26d, 26a 25, 25a, 28 and 28a.

Regarding article 18a 21, 9a, 16, 10b and 26d, the amendments took into account the discussions that took place at the JHA Counsellors meeting on 15 April.

The document also includes tentative compromise proposals for Articles 26a, 25, 25a, 28, 28a which will be the subject of technical discussions with the Parliament on 30 April. In order to prepare best for this meeting, the Presidency suggests starting the discussions with these articles, before turning to Articles 18a 21, 9a, 16, 10b and 26d.

Delegations will be kindly asked to indicate whether, in view of reaching a global compromise, they could support these proposals.

Proposals for articles 18a, 21(3), 9a, 16, 10b, 26d, 26a, 25, 25a, 28 and 28a

Article 18a - Additional right to protection

Member States shall ensure that access to support and protection measures under this Directive may be granted to a victim who suffered additional harm from the glorification of serious ~~crimes~~ **offences**, ~~as defined under national law~~, **including, at least, terrorism offences as defined under Article 3 of Directive 2017/541**, or paying tribute to offenders of such crimes.

Recital: Glorification of serious criminal offences as defined under national law, **including of terrorism offences or paying tribute to the offender of a serious criminal offence,** can result in deprivation of victims' dignity and cause additional suffering for victims. Such acts can render victims particularly vulnerable to secondary victimisation, repeat victimisation, intimidation and retaliation. In this context, it should be recalled that **public provocation to commit a terrorist offence comprises, inter alia, the** glorification of terrorism**,** constitutes a criminal offence under Directive 2017/541 on Combatting terrorism, whereas public incitement to any acts of racism or xenophobia or publicly condoning, denying or grossly trivialising crimes of genocide, crimes against humanity and war crimes constitute criminal offences under Framework Decision 2008/913 on Combatting Racism and Xenophobia. ~~Particular attention should be paid to victims who suffered because of glorification of terrorism and from public~~

~~incitement to racism, and xenophobia as well as other crimes committed in the context of the Framework Decision on Combatting racism and xenophobia.~~ **This Directive does not require Member States to criminalise glorification of serious criminal offences nor the criminalisation of hate speech or hate crime. For the purposes of the provision concerning the glorification of crimes, the notion of "victim" should be understood in accordance with the definition laid down in Article 2 of this Directive.**

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Article 21(3) - Right to protection of privacy

Without prejudice to the rights of the defence, Member States shall ensure that, **upon assessment by the competent authority ex officio or based on a request of the victim**, ~~once their competent authorities have assessed whether disclosure of victims' personal data is a necessary element of the case or non-disclosure would otherwise prejudice the rights of defence including the rights enshrined in Article 7 paragraph 4 of Directive 2012/13, such~~ personal data ~~shall not be disclosed~~. ~~The victim's personal data subject to non-disclosure under this paragraph shall be limited to data~~ concerning the victims' place of residence or other equivalent contact details are not provided to the offender.

Recital: In determining whether the victim's place of residence or other equivalent contact details such as telephone number or e-mail address, should be provided to the offender or not, the competent authority should, in its assessment of the needs to reveal the data to ensure the exercise of the right of the defence, assess the risk of threat, damage or harm that the victim or a third person might be exposed to.

Option 2:

Without prejudice to the rights of the defence, Member States shall ensure that personal data concerning the victim's place of residence or other equivalent contact details are not provided to the offender, unless a competent authority assesses that there is no risk of harm to the victim or a third person.

Article 9a - Barnhaus

4. Member States shall aim to ensure the provision of the services referred to in paragraph 2 within the same premises. Particular attention should be paid to the interest of the child **victims**, **including** ~~or~~ the seriousness of harm suffered by child victims **as a result of the crime**.

Recital: To avoid serious consequences of victimisation at an early age, that may negatively affect victims' entire life, it is crucial to ensure that all child victims receive the highest standard of support and protection. All competent authorities should adopt a child friendly approach. Moreover, it is important that most vulnerable child victims, in accordance with their individual needs, benefit from the targeted and integrated support and protection services that include coordinated and cooperative approach of judicial authorities and social services. Without prejudice to existing national support systems, Member States are encouraged, where appropriate, to provide such support and protection services within the same premises, where this may improve accessibility, coordination, and the overall well-being of the child.

Article 16 - Compensation

1. Member States shall ensure that, in the course of criminal proceedings, **[where appropriate]** OR [unless other proceedings are ~~easily~~ available to victims], victims are entitled ~~to claim compensation and~~ to obtain a decision on **[a right to]** compensation by the offender within a reasonable time.

2. Member States shall take the necessary measures to ensure**, at the request of the victim**, that the ~~adjudicated~~ **awarded** compensation is paid **by the offender** without undue delay ~~in order not to create disproportionate burden on the victim as regards the execution of the adjudicated compensation~~.

3. **Where the offender fails to fulfil his obligation to pay the ~~adjudicated~~ awarded compensation to the victim within a reasonable time, or** ~~when~~ **if** the execution of the ~~adjudicated~~ **awarded** compensation is not possible within a reasonable time, Member States shall ensure that **victims have access to** compensation mechanisms ~~are available to victims~~, at least as regards victims of ~~serious and violent crimes~~ **violent intentional crimes in accordance with Article 12(2) of Directive 2004/80/EC on compensation to crime victims**. The maximum amounts payable by the compensation mechanism may be limited ~~proportionate to~~

~~the adjudicated compensation, taking into account the financial situation of the victim~~. Such mechanisms shall not substitute the obligation o**f** the offender to pay the adjudicated compensation.

Recital:

(XX) While adjudicating compensation might occur within various types of criminal proceedings, Member States should strive to ensure that claiming and receiving compensation is organized in a way that does not create a burden that unnecessarily limits access to justice. Against this background, possibility to claim compensation in the course of criminal proceedings should be promoted, mindful of the fact that such right to compensation might be further specified, for instance as regards specific amount of money to be paid, in the context of separate proceedings, such as those before civil law courts.

In order not to create disproportionate burden on the victim as regards the execution of the adjudicated compensation, Member States should facilitate the payment of the compensation by the offender by taking necessary measures, including effective execution mechanisms. Attention should be paid to the use of freezing and confiscation measures provided under Article 18 of Directive 2024/1260.

Regarding Article 10b and Article 26d – option 1

Article 10b - Right to information on decisions taken during court proceedings

1. Member States shall ensure that victims, in accordance with their status in the criminal proceedings as defined under national law, are informed without delay of a decision taken in court proceedings that affect them directly. Member States may provide the possibility for victims to request a review of decisions pursuant to Article 23(3).

2. Where victims may request a review of a decision under Article 23 (3), the procedural rules for such a review shall be determined by national law.

Decisions under Article 23(3) and any consideration of a review of such a decision shall not unreasonably prolong the criminal proceedings.

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Article 26d – Remedies

In accordance with the national rules ~~concerning the status of the victim in the criminal proceedings~~, Member States shall ensure that victims have an effective remedy under national law in the event of a breach of their procedural rights under this Directive**, at least regarding the rights contained in Article 4 and 6.**

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Regarding Article 10b and Article 26d – option 2

~~**Article 10b - Right to review**~~

~~1. Member States shall ensure that victims, in accordance with their status in the criminal proceedings as defined under national law, are informed without delay of a decision taken in court proceedings that affect them directly. Member States may provide the possibility for victims to request a review of decisions pursuant to Article 23(3).~~
~~2. Where victims may request a review of a decision under Article 23 (3), the procedural rules for such a review shall be determined by national law.~~
~~Decisions under Article 23(3) and any consideration of a review of such a decision shall not unreasonably prolong the criminal proceedings.~~

Articles 26d – Remedies

Member States shall ensure that victims have an effective remedy under national law in the event of a breach of their rights under this Directive.

Article 26a - Protocols or guidelines through coordination and cooperation in the Member States

The Presidency proposes the following compromise proposal, based on the general approach, with the nature of the protocols being dealt with in the recital. In order to maintain the non-binding nature of the protocols, the Presidency proposes to render the issues tackled via protocols mandatory.

1. Member States shall establish and implement specific ~~non-binding~~ protocols or guidelines on the organisation of services and actions under this Directive by the competent authorities and other persons coming in contact with victims. The protocols or guidelines shall be **advisory in nature and** drawn up in coordination and cooperation between relevant stakeholders, such as central authorities, in accordance with the internal structure of or division of competences in the Member States, law enforcement, prosecution authorities, judicial authorities, detention authorities, in consultation with **civil society organisations and relevant professional organisations,** restorative justice services and victim support services with a view to respond to the victims' individual needs.

Member States ~~are encouraged to~~ **shall** ensure that, ~~as a minimum, through the specific protocols or guidelines~~ **they include, as a minimum, the following**:

(a) victims receive information that is adapted to their changing individual needs;

(b) victims who are in detention facilities or in accommodation centres where applicants and beneficiaries of international protection are located, as referred to in article 5, paragraph 3 can rely on facilitated crime reporting;

(c) individual assessment of victims' needs for support and protection as referred to in Article 22, and provision of support services for victims with specific needs, take into account the victims' individual needs at different stages of the criminal procedure.

(d) the protection and specialist support services necessary to adequately address the multiple needs of victims with specific needs as referred to in Article 9(4) are provided.

2. Member States shall ensure that the protocols or guidelines referred to in paragraph 1 are reviewed where necessary to ensure their effectiveness, such as in case of significant changes of national law.

Recital:

Protocols or guidelines are essential to ensure that for example victims receive information about their rights and about their case and that victims are adequately assessed to enable them to receive the support and protection that corresponds to each victims' individual needs that change in time. Protocols or guidelines of **an advisory** ~~non-binding~~ nature should be established in a way that corresponds best to national legal orders and the organisation of justice in the Member States. **At the same time, they should remain non-binding for national authorities, allowing sufficient flexibility to adapt their implementation.** These protocols or guidelines **should** ~~can~~ cover the actions on provision of information to victims, facilitating crime reporting

for the most vulnerable victims, including those in detention and the individual assessment of victims' needs. When it comes to the provision of information to victims, the protocols **or guidelines** can ensure that such information is simple and easy to understand, provided in a timely manner, repeated over time, in multiple formats including orally, in writing and digitally. With regards to victims in detention, the protocols **or guidelines** can specify victims' access to information about their rights, methods of crime reporting and access to support and protection in accordance with their needs. The protocols or guidelines **should** ~~can~~ provide for general instructions on how to deal with services and actions under this Directive in a comprehensive manner without however dealing with individual cases. In this context, it is important that Member States take, where appropriate, the necessary measures to allow for collection and sharing of information, including information containing personal data of victims between the competent authorities and victim support services to ensure access to information and appropriate support and protection of individual victims. The setting up of the protocols or guidelines should be without prejudice to the already existing methods of cooperation and coordination among the competent authorithies and other persons coming in contact with victims in the Member States.

Article 25 – Training of practitioners

No change compared to WK 3922/25 ADD 1.

1. Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to their contact with victims to increase their awareness of the needs of victims, to avoid secondary victimisation and to enable them to deal with them in an impartial, respectful, non-discriminatory, and professional manner and where relevant, also in a trauma-sensitive, gender-sensitive, disabilitysensitive and child-sensitive manner. Specialised training shall be provided in relation to victims of cybercrime.

1a. In order to ensure comprehensive support and protection to victims, Member States shall develop practical guidelines concerning victims protection and support rights covered by this Directive.

2. Without prejudice to judicial independence and differences in the organisation of the judiciary across the Union, Member States shall take the necessary measures to ensure that both general and specialist training is provided for judges and prosecutors involved in criminal

proceedings and investigations with respect to the objectives of this Directive and appropriate to the functions of those judges and prosecutors. Such training shall be human-rights based, victim centred and gender, disability and child sensitive.

3. Without prejudice to the independence of the legal profession, Member States shall recommend that those responsible for the training of lawyers make available both general and specialist training to increase the awareness of lawyers of the needs of victims and to treat victims in a trauma-, gender- and child-sensitive manner.

4. Through their public services or by funding victim support organisations, Member States shall encourage initiatives enabling those providing victim support and restorative justice services to 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, non-discriminatory, child sensitive and professional manner.

5a. Training referred to in paragraphs 1, 2, and 3 shall include specific guidance on coordinated cooperation, in accordance with Article 26a, allowing for a comprehensive, efficient and appropriate handling of referrals among the different competent authorities.

5[d]. Training activities referred to in paragraphs 1 to 5 and 8 shall be carried out regularly. Member States shall take measures to support bodies and organisations responsible for carrying out such training activities to develop, deliver and ensure the receipt of such training activities as well as its quality and availability throughout the territory of the Member States.

Recital:

Member States shall encourage the development of interdisciplinary training among the staff of the different authorities who are likely to come in contact with victims, where relevant with the cooperation of non-governmental organisations, to enhance cooperation and coordination among authorities.

Article 25a - Awareness raising and communication of victims' rights

The Presidency proposes the following compromise proposal, based on the EP's mandate.

1. Member States shall take awareness-raising measures and actions, such as awareness-raising campaigns in order to ensure that victims are aware of their rights under this Directive. These actions, including campaigns may be conducted through a variety of

channels in order to ensure the delivery of information to victims in a consistent manner across the territories of Member States.

2. Member States shall provide information to the public on reporting a crime, victims' rights, available general and specialist victim support services, functioning of the justice system as well as relevant procedures and application processes in an easily accessible manner, such as on a website. Member States shall ensure that the content of information communicated to victims is developed, where relevant, in collaboration with civil society organisations and that the content is consistent and regularly updated to ensure accuracy.

4. Member States shall aim to ensure that measures are put in place to increase the awareness of victims on where to obtain help and exercise their rights, including by signposting mechanisms promoting easy and rapid identification of places where victims may get help, or public registers of accredited support organisations.

Article 28 – Provision of data and statistics

The Presidency proposes the following compromise proposal, based on the general approach, with elements from the EP's mandate.

1. Each Member State shall take the necessary measures to establish a system for the collection, production and dissemination of statistics on victims of crime. The statistics shall include data**,** when available at central level, relevant to the application of national procedures on victims of crime, which may include the number and type of reported crimes and the number, the age, sex **and disability, if any,** of the victims **and, where possible and relevant, the relationship between the victim and the offender and type of offence**. They shall also include data available at central level showing how victims have accessed the rights set out in this Directive. For the purposes of the statistics referred to in this provision, Member States may use data collected on the basis of relevant Union instruments.

Alternative: Each Member State shall take the necessary measures to establish a system for the collection, production and dissemination of statistics on victims of crime. The statistics shall, **as a minimum**, include **the following existing** data, available at central level, **disaggregated by sex, age group (child/adult) of the victim and, where possible and relevant, relationship between the victim and the offender and type of offence.** They shall also include data available at central level showing how victims have accessed the rights set out in this Directive.

For the purposes of the statistics referred to in this provision, Member States may use data collected on the basis of relevant Union instruments.

2. Member States shall endeavour to collect the statistics referred to in this Article on the basis of common disaggregation developed in cooperation with **and in accordance with the standards developed by** the Commission (Eurostat). They shall transmit this data to the Commission (Eurostat) every three years. The transmitted data shall not contain personal data.
3. The European Union Agency for Fundamental Rights shall support Member States and the Commission in the collection, production and dissemination of available statistics on victims of crime and in reporting available data showing how victims have accessed the rights set out in this Directive.
4. The Commission (Eurostat) shall support Member States in the data gathering referred to in paragraph 1, including by establishing common standards.
5. The Member States shall make the collected statistics available to the public **in an easily accessible manner.** The statistics shall not contain personal data.

Article 28a – Coordination of the EU strategy on victims' rights

The Presidency proposes the following compromise proposal, based on the EP's mandate.

1. In order to contribute to a coordinated and consolidated Union strategy on victims' rights, Member States shall facilitate the tasks of a Victims' Rights Coordinator, established by the Commission.

2. In order to ensure a coherent and comprehensive approach, the Victims' Rights Coordinator shall ensure the implementation of the EU strategy on victims' rights.

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