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NOTE

From:	Presidency
To:	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 draft

Delegations will find attached a revised version of the above proposal, following the discussions held at the COPEN (Victims) meeting on 15 April 2024. It contains some Presidency suggestions in relation Articles 3(a), 5(a), 9, 9(a), 10(a), 10(b), 17, 21 and 22. Changes with respect to 8655/24 are highlighted with track-changes.

Article 1

Directive 2012/29/EU is amended as follows:

- (1) the following Article is inserted:

Article 3a

Victims' helpline

[...]

The Presidency believes there is enough support for this article as it stands. It proposes some adjustments to Recital 3, to take into account the latest comments made by Member States.

- (3) In order to provide victims with seamless and modern means of exercising their rights, the Member States should make it possible for victims to communicate electronically with national competent authorities. Victims should enjoy the possibility of using electronic tools to receive information about their rights and about their case, report crimes and to otherwise communicate with competent authorities and with support services through communication and information technologies. Victims should be able to choose between the methods of communication made available, and the Member States should provide for such communication and information technologies as an alternative to the standard methods of communication, without however replacing them completely. **The in-person method of communication, including those with the competent authorities and with support services, should still be remain available to victims, if they wish so.**

(4) In order to ensure comprehensive channels of communication taking into account the complexity of victims' needs in relation to their right to access information, all victims, independently of where in the EU and in what circumstances the crime took place, should be able to access victims' helplines by using the EU-wide 116 006 telephone number or by connecting to the dedicated websites. Under such helplines, victims should be able to receive the information about their rights, emotional support and be referred to the police or other services, including other specialised helplines – if needed. **The helplines can be operated by trained volunteers capable of providing emotional support which can be understood as being an empathetic approach towards victims to make them feel accepted, safe and enable them to express themselves freely.** Such helplines should also refer victims to other specialised helplines, referred to in Commission Decision 2007/116/EC¹, such as the harmonised number related to child helpline “116 111”, missing children “116 000” and gender-based violence “116 116”. **The helplines should be available in ~~one or more~~ the official language or languages ~~most used~~ of the Member State. Member States are however encouraged to provide this services also in at least one other language most used in the Member State which should be determined by each Member State on the basis of objective criteria. To facilitate offering this service in an additional language, Member States should consider using modern technologies, such as the translation and interpretation applications, as well as telephone interpreting. The helplines should operate under the general rules for victim support services and should be confidential, free of charge, in the interest of victims.**

(2) the following Article 5a is inserted:

¹ Commission Decision 2007/116/EC of 15 February 2007 on reserving the national numbering range beginning with 116 for harmonised numbers for harmonised services of social value (OJ L 049 17.2.2007, p. 30).

Reporting of crime

The Presidency suggests a change in paragraph 3, with the caveat that it will check whether this suggestion is in line with the newly adopted Migration Pact.

1. Member States shall ensure that victims can report criminal offences to the competent authorities, **where appropriate and in addition to already existing methods of crime reporting**, through easily accessible, user friendly information and communication technologies. Such possibility shall include submission of evidence where feasible. **Such possibilities shall be without prejudice to national procedural rules regarding formalisation of online reporting and submission of evidence.**
2. ~~Member States shall take the necessary measures to encourage any person who knows about or suspects, in good faith, that criminal offences have been committed, or that further acts of violence are to be expected, to report this to the competent authorities.~~
3. Member States shall ensure that victims can effectively report crimes committed in detention facilities. Detention facilities shall include in addition to jails, detention centres and holding cells for suspects and accused, specialised detention facilities for applicants of international protection and pre-removal centres~~;~~. **and It may shall also include** accommodation centres where applicants and beneficiaries of international protection are located.
4. Where children **contact competent authorities to** report criminal offences, Member States shall ensure that the reporting procedures are safe, **are carried out in a confidential manner in accordance with national law**, are designed and accessible in a child-friendly manner and use language in accordance with their age and maturity.
5. ~~Member States shall ensure that the competent authorities coming in contact with a victim reporting crimes are prohibited from transferring personal data pertaining to the residence status of the victim to competent migration authorities, at least until completion of the first individual assessment referred to in Article 22.²;~~

(6) Crime reporting in the Union should be improved to fight impunity, avoid repeated victimisation and ensure safer societies. It is necessary to fight public insensitivity towards crime, by ~~encouraging people who witness the crime to report crimes and~~ assisting victims and by creating safer environments for victims to report crime. ~~For victims who are irregular migrants in the Union, safe environment to report crime means reducing fear of return procedures being launched as a result of contacts with law enforcement authorities. The personal data of victims who are irregular migrants in the Union should not be transferred to the competent migration authorities at least until the completion of the first individual assessment as referred to in Article 22 of Directive 2012/29/EU. Reporting the crime and participating in criminal proceeding under Directive 2012/29/EU do not create any rights regarding the residence status of the victim, neither have any suspensive effect when determining their residence status.~~ It is important that Member states ensure that victims ~~which~~ **who** are third-country nationals, irrespective of their residence status, are not discouraged from reporting and are treated in a non-discriminatory manner as regards their residence status in accordance with the objectives of this Directive. To protect all victims from repeated **secondary** violence, it is important to apply a victim-centred approach. In particular, it should be ensured that the enforcement of the return procedure under Directive 2008/115/EC of the European Parliament and of the Council² does not prevent victims from exercising their right to be heard under Directive 2012/29/EU. Member States can, in accordance with Directive 2008/115/EC, decide to grant an autonomous residence permit or other authorisation offering a right to stay for compassionate, humanitarian or other reasons to a third-country national staying illegally on their territory and are to comply with the obligation under that Directive to take into account as far as possible the special needs of vulnerable persons during the period for voluntary departure, where such a period was granted pursuant to that Directive. All vulnerable victims, such as child victims or victims in detention, who are in a situation of intimidation, or are otherwise dependent from the offender or whose mobility is limited should be able to report crime in conditions that take into account their particular situation and in line with **any relevant** protocols specifically set up for this purpose. **It is important that Member States encourage any person who knows about or suspects, in good faith, that criminal offences have been committed, or that further acts of violence are to be expected, to report this to the competent authorities.**

² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (*OJ L 348, 24.12.2008, p. 98*).

Article 9

Support from victim support services

The Presidency proposes some small suggestions in this article, and will reflect on the “additional psychological support”.

(4) Article 9 is amended as follows:

(a) in paragraph 1, point (c) is replaced by the following:

‘(c) emotional and, where available, psychological support ~~once they become aware of a status of a person as a victim~~. If the special need for **additional** psychological support has been demonstrated by individual assessment referred to in Article 22, **victims shall be referred to services able to provide additional** psychological support ~~shall be available to victims in need of such support for as long as necessary~~, as determined by Member States in the protocols or guidelines ~~procedures~~ referred to in Article 26a(1),

(b) in paragraph 3, point (b) is replaced by the following:

‘(b) 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, including violence against women and domestic violence covered by Directive (EU) .../... of the European Parliament and of the Council³ [*on combating violence against women and domestic violence*], victims of trafficking in human beings, victims of organised crimes, victims with disabilities, victims of exploitation, victims of hate crime, victims of terrorism, victims of ~~core international crimes~~ crimes falling within the jurisdiction of the International Criminal Court.’;

(c) the following paragraph is added:

‘4. Member States shall provide the protection and specialist support services necessary to ~~comprehensively~~ adequately address the multiple needs of victims with specific needs in line with the protocols **or guidelines** referred to in Article 26a(1), point (c).’

³ Directive (EU) .../... of the European Parliament and of the Council on combating violence against women and domestic violence (OJ ...).’;

Corresponding recital:

(X) If a special need for additional psychological support has been demonstrated by an individual assessment, ~~support services~~ victims in need of such additional support should be referred ~~victims in need of such additional support~~ to the services able to that provide such ~~additional psychological support~~, taking into account the availability of resources and of these services.

'Article 9a

Targeted and integrated support services for children

1. Member States shall take the necessary measures to ensure the availability of child-friendly targeted and integrated support specialist services for children to provide for age-appropriate support and protection necessary to comprehensively address the multitude of needs of child victims.
2. Targeted and integrated support services for child victims shall, in accordance with paragraph 4, provide for a coordinated multi-agency mechanism that includes the following services:
 - (a) the provision of information as referred to in Article 4;
 - (b) medical examination;
 - (c) emotional and psychological support;
 - (d) possibility of crime reporting;
 - (e) individual assessment of protection and support needs referred to in Article 22;
 - (f) video recording of testimonies referred to in Article 24(1)(a).
3. ~~Some or all of t~~The services referred to in paragraph 2 ~~shall~~ **may** be provided within the same premises.';
4. **The services referred to in paragraph 1-2 shall be provided in accordance with victims' individual needs. Particular attention shall be paid to the seriousness of harm suffered by child victims, including especially harm from sexual offences ~~against children~~.**
- (6) the following Articles 10a and 10b are inserted:

'Article 10a

Right to receive assistance information and emotional support at the court premises

~~Member States shall take the necessary measures to ensure that court staff or volunteers are enabled to give victims organise establish assistance at the court premises to provide general information on regarding organisational aspects of criminal court proceedings and as well as providing emotional support to victims, when needed, during the criminal proceedings.~~

Member States shall take the necessary measures to **ensure that victims organise establish assistance receive at the court premises to provide general information on regarding organisational aspects of criminal court proceedings and and emotional support . Such information and support shall be provided if needed in accordance with victims' individual needs.**

New recital:

(XX) Participating in a trial can be an emotionally difficult and challenging experience for the victims. For this reason, all victims who need information and emotional support assistance at the court premises where criminal proceedings are held, should be provided with the appropriate ~~assistance and~~ information related regarding organisational aspect of criminal court proceedings to the functioning of the court and its proceedings, as well as emotional support. This can be offered, for instance, by the court staff or by trained volunteers. Such assistance does not necessarily require the provision of additional facilities or the permanent presence of victims support services to in these court premises.

Article 10b

Right to request a review of 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 decisions taken in court proceedings that affect them directly and have the right to request a the review of such decisions. Such decisions shall include ~~at least~~ decisions pursuant to ~~the following provisions:~~ Article 23 (3)

~~(a) — Article 7(1) in relation to decisions on interpretation during court hearings;~~

~~(b) — Article 23(3).~~

2. The procedural rules under which victims may request a review of decisions referred to in paragraph 1 shall be determined by national law.

Member States shall ensure that the judicial decisions on the request of such a review are taken within reasonable time.’;

Corresponding recital:

- (9) For victims to sense that justice is done and to be able to defend their interest, it is important that they are present and able to actively participate in the criminal proceedings. That is why all victims in the Union, ~~independently of~~ **in accordance with** their status in the criminal proceeding, which is established by the national law, should have a right to an effective remedy under national law in the event of a breach of their rights under this Directive. In addition, all victims in the Union, ~~independently of~~ **in accordance with** their status in the criminal proceeding, should have a right to request a review of decisions that were taken during court proceedings and affect them directly. Such decisions should include ~~at least decisions on interpretation during court hearings and~~ decisions on special protection measures available to victims with special protection needs. The procedural rules under which victims may request a review of such decisions taken during court proceedings should be determined by national law which should provide for the necessary guarantees that such a possibility of revision would not disproportionately prolong the criminal proceeding, including any decision on granting suspensive effect to such requests.

Article 16

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

- (7) ~~Article 16 is amended as follows:~~

~~(a) — paragraph 1 is replaced by the following:~~

‘1. Member States shall ensure that, in the course of the criminal proceedings, where provided for under national law, victims are entitled to obtain a decision on compensation by the offender, within a reasonable time.’;

(b) paragraph 2 is replaced by the following:

~~‘2. Member States shall ensure that their competent authorities pay directly to the victim the adjudicated compensation without undue delay. The competent authorities shall be subrogated to the right of the victim in relation to the offender for the amount of the adjudicated compensation.’;~~

Article 17

Rights of victims resident in another Member State

(8) Article 17 is amended as follows:

(a) in paragraph 1, point (b) is replaced by the following:

~~‘(b) to have recourse to the extent possible in accordance with European Union and national law to the provisions on video conferencing and telephone conference calls to facilitate participation for the purpose of hearing in criminal proceedings of victims who are resident abroad in criminal proceedings.’~~

‘(b) to have recourse to the extent possible in accordance with European Union and national law to the provisions on video conferencing to facilitate participation in criminal proceedings of victims who are resident abroad, in accordance with the status granted to them by the relevant justice system in criminal proceedings.’

(b) the following paragraph is added:

‘4. In accordance with Regulation (EU) 2018/1727,⁴ Member States shall ensure that the competent authorities may request assistance from Eurojust ~~in accordance with its mandate~~ and transmit to Eurojust the information aimed at facilitating cooperation with the competent authorities of other Member States in cross-border cases ~~in accordance with Regulation (EU) 2018/1727.~~’;

New recital:

(XX) Member States are encouraged to provide for the use of videoconferencing or other distance communication technology in criminal matters to facilitate participation in criminal proceedings of victims residing abroad.

⁴

Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA, OJ L 295, 21.11.2018, p. 138.

Article 21

Right to protection of privacy

(9) in Article 21, the following paragraph is added:

‘3. Member States shall **take the necessary measures to ensure that, at the request of the victim or as a minimum if the competent authorities assess that there ~~is~~ could be a risk that the victim or a third person may be exposed to threats or violence, personal data concerning a victim allowing the offender to identify the victim’s place of residence or to otherwise other equivalent contact details the victim in any way ~~is~~ are not provided to the offender either directly or indirectly unless the information is necessary for the judicial competent authorities to establish the truth or not disclosing the information would otherwise prejudice the rights of defence.**’;

Corresponding recital:

(XX) Protecting the privacy of the victim can be an important means of preventing secondary and repeat victimisation, intimidation and retaliation. If the competent authorities, as determined by national law, assess that there could be a risk that the victim or a third person may be exposed to threats or violence, personal data concerning the victim’s place of residence or other equivalent contact details should not to be provided to the offender unless the information is necessary for the competent authorities to establish the truth or not disclosing the information would otherwise prejudice the rights of defence.

Article 22

Individual assessment of victims to identify specific protection needs

(10) Article 22 is amended as follows:

(a) the title is replaced by the following:

‘Individual assessment of victims to identify specific support and protection needs’;

(b) paragraph 1 is replaced by the following:

‘1. Member States shall ensure that victims receive a timely and individual assessment, **in accordance with national procedures**, to identify **specific** support and protection needs and to determine whether and to what extent they would benefit from **special** measures provided for under Article ~~9(1), point (e)~~ **9 (1) point (c) in relation to additional psychological support, and 9a** and Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.’;

(c) the following paragraph 1a is inserted:

‘1a. The individual assessment shall be initiated **at the earliest stage possible such as at** the first contact of the victim with the competent authorities, and shall last as long as necessary depending on the specific needs of each victim. Where the result of the initial stage of the individual assessment by the first contact authorities demonstrates the need to continue the assessment, such assessment shall be undertaken **where appropriate** in **coordination collaboration** with the institutions and bodies depending on the stage of the procedure and victims’ individual needs in accordance with the protocols **or and procedures guidelines** referred to in Article 26a.’;

(d) paragraphs 2 and 3 are replaced by the following:

‘2. The individual assessment shall take into account:

- (a) the personal characteristics of the victim, including relevant experiences of discrimination, also when based on a combination of several grounds such as **sex**, gender, age, disability, religion or belief, language, racial, social or ethnic origin, sexual orientation;
- (b) the type or nature of the crime;
- (c) the circumstances of the crime;
- (d) the relationship to and the **characteristics risks emanating from of** the offender.

3. In the context of the individual assessment, particular attention shall be paid to:

- (a) victims who have suffered considerable harm due to the severity of the crime;
- (b) victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics;
- (c) victims whose relationship to and dependence on the offender make them particularly vulnerable.

In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, including violence against women and domestic violence, sexual violence, exploitation or hate crime, victims of **crimes falling within the jurisdiction of the International Criminal Court** ~~core international crime~~ and victims with disabilities shall be duly considered. Particular attention shall be paid to victims who fall under more than one of those categories.’;

- (e) the following paragraph 3a is inserted:

‘3a. In the context of the individual assessment, particular attention shall be paid to the risk emanating from the offender **as referred to in 2, d)**, including the risk of violent behaviour and of bodily harm, the use of weapons, involvement in a group of organised crime, drug or alcohol abuse, child abuse, mental health issues, behaviour of stalking, expression of threats or hate speech.’;

- (f) paragraph 4 is replaced by the following:

‘4. For the purposes of this Directive, child victims shall be presumed to have specific support and protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article. The individual assessment of child victims shall be organised within the framework of targeted and integrated support services referred to in Article 9a.’;

- (g) paragraph 6 is replaced by the following:

‘6. Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 8, 9 ,9a, 23 and 24.’;

- (h) paragraph 7 is replaced by the following

‘7. ~~Competent authorities shall update review~~ The individual assessment shall be reviewed according to the individual needs of the victim at regular intervals to ensure the support and protection measures relate to the victim’s changing ~~situation~~ individual needs situation. 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.’;

Corresponding recital:

- (10) All victims should be assessed in a timely, adequate, efficient and proportionate manner. It is essential to ensure that victims receive the support and protection that correspond to their individual needs. The individual assessment of victims’ needs of support and protection should **last for as long as necessary, depending on victims’ individual needs. It means that it should** be done in stages, **some victims will only have a contact with a police service, other victims will go through additional stages. Victims needs for support and protection may change in the course of the criminal proceedings.** Within the first stage, all victims should be assessed **at the earliest stage possible such as from** the first contact with the competent authorities, **for instance law enforcement and prosecution authorities** to ensure that the most vulnerable victims are identified at the very early stages of the proceeding. **The contact with helplines should not be considered as the first contact with competent authorities.** As of the next stages, victims who need such enhanced assessment should be assessed by victim support services and where possible by psychologists. Such services are best placed to assess the state of victims’ well-being. The individual assessment should also take into account, on the basis of the available information, the situation of the perpetrator, who may have a history of violence, be in a possession of arms or abusing drugs and as such pose higher risks for victims. The individual assessment of victims’ needs should also include the assessment of victims’ needs of support, not only of protection. It is essential to identify victims who are in need of special support, so a targeted support such as psychological aid is provided to those who need it. **Member States should determine the practical organisation of the individual assessment via the protocols or guidelines as provided for in this Directive. Member States should ensure that any sensitive personal data is dealt with in accordance with the Union law on data protection, which may include provision of legislative measures if necessary.**