



EUROPEAN COMMISSION

Brussels, 18.5.2011
SEC(2011) 580 final

COMMISSION STAFF WORKING PAPER

IMPACT ASSESSMENT

Accompanying the document

Communication from the Commission to the European Parliament, the Council, the European economic and social Committee and the Committee of the Regions

**Proposal for a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
establishing minimum standards on the rights, support and protection of victims of
crime**

**Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on mutual recognition of protection measures in civil matters**

{COM(2011) 274 final}
{SEC(2011) 581 final}

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This report commits only the Commission's services involved in its preparation and does not prejudge the final form of any decision to be taken by the Commission.

INTRODUCTION

This impact assessment is for an initiative that aims at developing a set of measures for the recognition, protection and support of victims of crime that will ensure that victims receive a minimum level of assistance (legal, psychological and other), access to justice and restoration in all Member States of the EU. The initiative will benefit citizens across all Member States and will make sure that protection of victims is not lost when they travel or move to another Member State.

In the Stockholm Programme (2010-2014)¹, the European Council called for further action to place the needs of victims of crime at the centre of our justice systems. This was reaffirmed in the Commission's action plan to implement the Stockholm Programme. The Commission Work Programme 2011 (Annex I)² lists the rights of and support to victims of crime as a strategic initiative. The European Parliament has also called upon the Council to adopt a comprehensive legal framework offering victims of crime the widest protection.³

The Commission's "Citizenship Report" of 27 October 2010⁴ seeks to dismantle the obstacles to citizens' rights by adding substance to individual rights granted at EU level. Strengthening victims' rights, together with the strengthening of procedural rights of suspects or accused persons in criminal proceedings reflects this approach.

This impact assessment evaluates the options for these measures.

1. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1.1. Organisation and timing

Identification: Lead DG: DG JUSTICE; Commission Work Programme 2011, Annex I (Agenda Planning 2009/006).

Detailed work on the impact assessment started in 2009. Four expert meetings (17 November 2008, 18 February 2010, 14 April 2010 and 25 May 2010), as well as a range of bilateral contacts with Member States and NGOs have been held. Moreover, the Commission contracted an external study (hereinafter "the external study")⁵ to support the preparation of the Impact Assessment, which presented its report in November 2010. The Commission also held a public consultation from 15 July to 30 September 2010 (see Section 1.3 below).

¹ Multi-annual programme 2010-2014 regarding the area of freedom, security and justice (Stockholm programme) European Parliament resolution of 25 November 2009 on the Communication from the Commission to the European Parliament and the Council – An area of freedom, security and justice serving the citizen – Stockholm programme.

² COM(2010) 623 final.

³ Resolution of 7 May 2009 of the European Parliament on the development of an European Union criminal justice area (INI/2009/2012).

⁴ COM/2010/0603 final.

⁵ Matrix Report: A Study for an Impact Assessment on Ways of Improving the Support, Protection and Rights of Victims across Europe, November 2010 (the "Matrix Report").

The Inter-Service Steering Group met on 5 November 2010 and 19 January 2011 at which representatives of Directorates-Generals Translation (DG DGT), Enlargement (DG ELARG), Home Affairs (DG HOME) and the Secretariat General (SG) participated.

1.2. Consultation of the impact assessment board (IAB)

The Commission's IAB was consulted on 23 February 2011 and delivered its Opinion on 25 February 2011. The IAB delivered a positive opinion subject to improvements on certain issues. In particular, the IAB recommended that: the intervention logic is strengthened; the expected benefits and the distribution of corresponding costs are better assessed; the methodology used to generate key estimates is better explained; the preferred option is clearly presented and its proportionality explained; and aspects of procedure and presentation are reinforced. The recommendations for improvements have been accommodated in this revised version of the report.

1.3. Consultation and expertise

The Commission's minimum standards on consultations were followed. Experts from different backgrounds including governments, law enforcement agencies, non-governmental organisations (NGOs), international organisations and universities took part in detailed discussions on the legislative plans well before the conclusion of this impact assessment. Further details can be found at [Annex 1](#).

The Commission contracted the external study to support the preparation of the impact assessment and a further study was contracted to examine options in relation to the specific objective of ensuring that the protection gained through a protection order is not lost when a protected person travels or moves to another Member States.⁶ Results from two surveys have also been used: the external study consulted 384 representatives from government and non-government sectors, receiving 119 replies, and the Victims in Europe Project⁷ received 97 replies to its legal implementation questionnaire and 218 to its organisational questionnaire.

During the preparation process of the impact assessment, the Commission held a public consultation, open to all members of the public and to non-governmental and governmental organisations, asking their views on what action the EU should take to improve the situation of victims of crime. The Commission received 77 replies by the deadline for responses. In brief, the consultation process highlighted the importance of action in the following non-exhaustive list of areas: identification of vulnerable victims; need to ensure the right to remedy to victims; need to ensure access to restorative justice and minimum standards; need to establish and promote victim support organisations; need to provide translation and interpretation for victims; and need to change practitioners' attitudes and culture through training on rights of victims of crime. A summary of the responses can be found at [Annex 2](#).

The results of the various consultations have been used extensively for the problem definition and the identification and analysis of policy options.

⁶ Hess, Burkhard, "Feasibility Study: The European Protection Order and the European Law of Civil Procedure".

⁷ APAV/Victim Support Europe, the Project "Victims in Europe", 2009 (the "APAV Report").

2. PROBLEM DEFINITION

Crime can affect us all, and every year many millions of people in the EU do in fact fall victim to crime. According to Eurostat data⁸, around 30 million serious offences, excluding minor crimes, were recorded in 2007, and most crimes are never reported. Many of these offences involve more than one victim and those close to the victim also suffer indirectly from the crimes. This leads to a qualified estimate that there is likely to be about 75 million direct victims every year, with more than 225 million close family members also affected.⁹

These figures show that the problem of victimisation in Europe is considerable – roughly 15% of the EU's population suffer directly from serious crimes (excluding minor offences) every year. This is a serious situation, but the problems identified in this impact assessment go beyond the sheer numbers of victims of crime in Europe. We want to address the quality of treatment that victims receive in the aftermath of crime and during the criminal proceedings that follow. Victims should receive the same minimum standard of treatment, including non-discriminatory access to justice, in all EU Member States, irrespective of their nationality or country of residence.

This non-discriminatory right of equal treatment of individuals who fall victim of crime while travelling to another Member State was established by the European Court of Justice in the case *Cowan v Trésor public* as early as 1989.¹⁰ Since this judgment, there has been an increased focus in the Member States and at EU-level on the rights of victims of crime. With the entry into force of the Lisbon Treaty, new provisions on criminal justice provide a clear legal base for the EU to establish minimum rules on victims' rights to facilitate mutual recognition of judgments and decisions and police and judicial co-operation in criminal matters having a cross-border dimension.

For mutual recognition and judicial co-operation to fully work there must be mutual trust between EU Member States and between criminal justice systems. This means that justice systems should have faith in each others' standards of fairness and justice, and EU citizens should have confidence that the same level of minimum rules will be applied should they travel or live abroad. This notion also applies to matters relating to the accused and the victim, the rights of whom are intertwined. Thus, action related to one inevitably affects the other and standards cannot be raised for one side alone. To do so would create an imbalance in the justice process and could limit advances in mutual trust.

Today, most Member States have some level of protection and support of victims of crime but the role and needs of victims in criminal proceedings are still generally not sufficiently addressed in national judicial systems. People who fall victim to crime across Europe are not guaranteed to be treated with respect or to receive appropriate support, protection or access to basic elements of justice. To address this problem, Member States need to raise the standards

⁸ Eurostat, Crime and Criminal Justice Statistics, Statistics in focus, 36/2009

⁹ Analysis carried out in "The Burden of Crime in the EU", p. 70, of results from the EU International Crime Survey (EUICS) 2005 (www.europeansafetyobservatory.eu). The study indicates that around 50% of five types of crime are reported to the police but does not take into account sexual assault reporting rates which are generally very low – between 15 and 28% in the EUICS. A slightly higher figure for non-reporting has therefore been assumed of 60%. Close family members is not a specific term but for the purposes of an estimate we have assumed that victims have on average 3 close family members resulting in a figure of 225 million.

¹⁰ Case 186/87 - *Ian William Cowan v Trésor public*, judgment of the Court of 2 February 1989.

on victims' rights in accordance with standards already established through international instruments and caselaw of the European Court of Human Rights (ECtHR).

However, this problem is also a problem of the EU since victims in different Member States are not subject to a level playing field. The standards on victims' rights must thus be put at the same minimum level throughout the EU. Since this cannot be done at the national level alone, there is a clear added value of EU action on victims' rights to increase mutual confidence between Member States' judicial systems which is a primary condition for the effective functioning of the European Area of Freedom, Security and Justice. Replies during the consultation made clear that the way victims are treated is a strong indicator of the quality of justice systems in general since the establishment of victims' rights and their proper treatment tends to be of a lower priority compared to the rights of the accused. Working on minimum standards of victims' rights is therefore a powerful means to generally increase faith in foreign judicial systems.

The EU has already addressed the rights of victims in criminal proceedings in existing legislation. However, although the objectives and the scope of such legislation are still relevant, society's views on victims have evolved and new objectives have appeared which need to be addressed. In addition, the implementation of the legislation has been ineffective. The results of both an extensive study on the legislative and practical implementation of the Framework Decision¹¹ combined with the Commission's own implementation reports and a range of consultations with stakeholders have revealed a wide range of problems with the current Framework Decision and the achievement of its objectives. The issues identified are covered by the two problems detailed below:

Problem A: Existing **EU legislation is inadequate** to improve the situation of victims – it is vague, does not contain concrete obligations and is not enforceable, and has therefore been poorly implemented by the Member States and does not contribute to providing a sufficient level of mutual trust required to enable the effective application of mutual recognition.

Problem B: The **needs of victims** of crime are not sufficiently addressed in the Member States – victims do not get (1) recognition and respect, (2) protection, (3) support, (4) effective access to justice, and (5) effective access to compensation and restoration.

The **consequences** of crime and not meeting the needs of victims also have **significant hidden costs**, including important financial and health costs.

2.1. Problem A – EU Legislation is inadequate to improve the situation of victims

International and EU instruments largely established minimum standards for victims of crime from the 1980s onwards. Such instruments has been established by the UN (e.g. Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters) and the Council of Europe (e.g. Recommendation (2006) 8 on Assistance to Crime Victims). The EU subsequently reflected these standards through the adoption of the 2001 Council Framework Decision on the standing of victims in criminal proceedings (the "Framework Decision")¹² and the 2004 Directive on the Compensation of crime victims.¹³

11 APAV Report

12 Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings.

13 Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims

The level of implementation by the Member States of these two pieces of legislation has been mixed. The Commission's 2009 implementation report on the Compensation Directive found that at the time transposition had been carried out in all Member States except Greece. Greece has subsequently notified the Commission of its transposing legislation. However, further research is required to establish to what extent implementation by Member States' has been effective.¹⁴

The implementation of the Framework Decision, on the other hand, is not satisfactory.¹⁵ In addition whilst its scope covers most of the rights of victims of all types of crime and is overall still relevant, the scope of any new action needs to be wider given the growing awareness and changing judicial culture. Therefore the scope of EU legislation on victims needs to be updated in light of new research and findings on victims, in particular as regards their rights and needs, mutual recognition of protection measures, and access to justice (right to review).

EU legislation has not been effective in meeting, or moving towards the desired outcomes of addressing the needs of victims and achieving minimum standards for victims across the EU. No Member State can claim to have fully implemented the Framework Decision. Some States consider that they have already complied with parts of this Framework Decision through existing national legislation or have only partly adapted existing legislation to respond to basic needs of victims. Although there has been an improvement in the situation of victims in some Member States, recent studies show that victims are not prioritised in most judicial systems in the EU, and that Member States generally do not ensure that victims are treated in a manner equivalent to that of a party to proceedings.¹⁶ The ineffectiveness of this legislation is due to:

- **Ambiguous drafting.** The Framework Decision suffers from ambiguous drafting which has either made it difficult for Member States to know how best to implement legislation or has left them such wide discretion in implementation that no action has resulted.¹⁷ Evidence of the problems Member States have experienced is demonstrated through ECJ caselaw.¹⁸
- **Lack of concrete obligations.** A number of articles in the Framework Decision do not impose concrete obligations. In effect, Member States could carry out no action and remain in compliance with the Decision.
- **Lack of infringement possibilities.** It is not possible in relation to the Framework Decision for the Commission or individuals to bring infringement proceedings against Member States, so it is inevitable that compliance is lower in these circumstances.

¹⁴ See Report from the Commission on the basis of Article 19 of the Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims, COM(2009) 170 final

¹⁵ Reports from the Commission on the basis of Article 18 of the Council Framework Decision on the standing of victims in criminal proceedings, COM(2004) 54 final and COM(2009) 166 final.

¹⁶ APAV Report, p. 127-135; Matrix Report, p. 104.

¹⁷ For example, Article 2 of the Framework decision requires that vulnerable victims can benefit from specific treatment but provides no definition of such victims nor does it stipulate what types of services should be provided for them. The result is a wide variety of practices as seen in the problem definition.

¹⁸ See, inter alia, C-404/07, Katz (Judgment of 9 October 2008) where the ECJ ruled that Articles 2 and 3 of the Framework Decision leave to "the national authorities a large measure of discretion with regard to the specific means by which they implement those objectives...".

The proposed measures will thus respond to this basic problem by strengthening the legal framework in the EU through a set of legal instruments that are directly binding on Member States and that can be effectively enforced by the Commission. This legal framework will establish minimum standards on the rights, support and protection of victims of crime and will also introduce a new mechanism of mutual recognition to ensure that victims or potential victims benefitting from a protection measures in their Member States of residence will not lose this protection when crossing borders.

2.2. Problem B – Victims' needs are not sufficiently addressed in the Member States

The fact that the needs of victims, and the corresponding rights, are generally not sufficiently or adequately met in the Member States is the key problem that the proposed measures will address. Addressing victims' needs helps to ensure that some of their fundamental rights are respected. The needs of victims can be brought under five categories: the need to be **recognised** and treated with **respect and dignity**; the need to be **protected**; the need to be **supported**; the need to **access justice**; and the need for **restoration**.

These categories are broad summaries of the rights and standards that are already in the scope of the Framework Decision and established through international instruments and ECtHR caselaw. The focus on these categories of need has also been confirmed in detailed consultations with stakeholders (see Annexes 1 and 2).

2.2.1. Issue 1 – Victims are not sufficiently recognised and treated with dignity and respect

Human dignity is a fundamental right and treating victims properly is a fundamental aspect of procedural and distributive justice. It is widely agreed that victims need to be recognised as victims and for their suffering to be acknowledged. Victims also need to be treated with dignity and respect in all communications with police, legal professionals, judicial staff and other involved in the judicial process. Treating a victim with respect is particularly important for vulnerable victims¹⁹ (e.g. children, victims of sexual violence, elderly and disabled persons). Moreover, indirect victims²⁰ (e.g. family members) also need to be recognised as the consequences of the crime suffered by the direct victim very often affect them too.

To ensure that victims will be recognised and respected, all professionals in regular contact with victims should receive training on victims' rights and be given the appropriate tools to carry out needs assessments to determine the status of individual victims.

The victim had a seven-hour wait between calling the police and officers attending, during which time she could not go to the toilet. There was a further three-hour wait before attending a Sexual Assault Referral Centre with police officers from the specialist Metropolitan Police Sapphire team. The response team, when it did arrive, consisted of

¹⁹ "Vulnerable victims" are those who, due to personal characteristics (e.g. age, disability) and/or to the circumstance of the crime, can be considered particularly vulnerable to the crime they have suffered and its consequences (e.g. children, disabled, victims of violent and sexual crime). A person's vulnerability may also be determined by looking at the probability of that person being at risk of becoming (re)victimised, for reasons other than mentioned above (e.g. considering socioeconomic factors or whether or not the person has been victimised previously), see Matrix Report, p. 17.

²⁰ "Indirect victims" have been defined by the UN as '*the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization*', see the 1985 UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

two male officers. She felt there was a general air of disbelief. For example, the officers repeatedly questioned her as to whether she was certain the attacker was a black cab driver, despite the availability of CCTV footage. ‘I was the criminal, being interrogated,’ she said. Later, when she read in the media about the arrest of Worboys in 2008, she ‘was devastated’ that no one had informed her of this or followed it up with her. *One of the Worboys rape victim, Stern Review*²¹

Evidence of a lack of recognition and treatment (see also [Annex 3](#)):

From studies and surveys throughout Europe, it appears that victims are often ignored or are not sufficiently provided with information about the judicial process. For this basic need to be met, the prerequisite is that a victim's needs are clearly identified and catered for. A recent study²² reveals that only 20% of questioned national experts believe that victims in their country are adequately recognised. Even where needs are identified, 42% of victims of serious crime did not receive the specific assistance they requested, compared to only 7% who did receive the specific assistance they requested.²³

Furthermore not all Member States recognise the full range of indirect victims and vulnerable victims. For example, Denmark, Malta, Romania, Slovenia and Slovakia do not recognise parents, children, other family members, civil partners, or first responders as indirect victims. Only 13 States recognise civil partners as indirect victims.²⁴ Vulnerable victims (such as children, disable persons, victims of specific types of crime) are not necessarily identified as being vulnerable and where they are, appropriate protection and support mechanisms are not necessarily available. For instance, seven Member States (Cyprus, Hungary, Lithuania, Luxembourg, Slovenia, Spain and Sweden) do not recognise disabled persons as being vulnerable.²⁵

2.2.2. Issue 2 – Victims are not sufficiently protected

Victims have a range of protection needs. They need to be protected from further criminal acts by the offender, supporters of the offender or from new crimes. Such protection may be required to prevent further violence occurring or it may be linked to the prevention of intimidation. For victims of chronic violence, like violence in the family, security is both their primary need in reporting a crime, but also their primary concern. Due to an increased mobility of people within the EU, victims who move or travel abroad risk losing a protection measures issued in their home country since such measures are not automatically recognised in other Member States.

The victim also needs to be protected from secondary victimisation during proceedings, i.e. distress a second time due to poor treatment in connection with and during the criminal proceedings. To avoid harm caused by, for instance, repeated and insensitive interviewing or having to face the offender in the same waiting area before trial in court, it is important to ensure protection of victims throughout criminal investigations and court proceedings. This protection is essential for particularly vulnerable victims such as children.

21 Home Office (2009) ‘The Stern Review’ p. 47.

22 A^{PAV} Report, p. 38.

23 Van Dijk, Jan et al. (2007). The Burden of Crime in the EU. Research Report: A Comparative Analysis of the European Crime and Safety Survey (EU ICS) 2005.

24 A^{PAV} Report, p. 36.

25 A^{PAV} Report, p. 40.

Lindsay, 17 was 'torn to shreds' by a defence lawyer and made to hold up the underwear she had been wearing at the time of the attack, despite having worn jeans when the attack happened. The defendant was also allowed to cross examine her personally. Talking of her treatment in court, her parents explained that "Lindsay was mortified after giving evidence," "She was horrified and crying, "She was mentally scarred by what happened and never got over it". Three weeks after the conviction of the defendant, Lindsay committed suicide. Her mother commented: "They say that there is no proof that Lindsay's suicide is linked to the rape or the court because she didn't leave a note. But I know that is why she killed herself."
*Based on memorial to Lindsay A*²⁶

Evidence of a lack of effective victim protection (see also [Annex 4](#)):

Not all Member States have a minimum level of appropriate or sufficient measures in place to protect victims. In addition, there is currently no mechanism to maintain this protection if a person travels or moves to another Member State²⁷.

Victims' need for protection is not met where the offender carries out further criminal offences against the same victim or where the offender is able to intimidate the victim whether outside proceedings or within proceedings. In the UK, a survey shows that 8% of victims have been subjected to some form of harassment and 15% of victims were identified as at potential risk. Victims of certain types of crime are particularly exposed to intimidation; the survey showed that 36% of women and 31% of men who had fallen victim to domestic violence reported being intimidated.²⁸ Importantly, intimidation was a factor in not reporting a crime in a 3rd of cases.

It is of course recognised that due to the complex challenges of achieving protection combined with the need to balance the needs and rights of all interested parties, absolute protection is not possible. Nevertheless, improvements are achievable and necessary given the considerable scale of repeat victimisation²⁹ in particular for specific types of offences such as domestic violence.³⁰ By individually assessing a victim's needs for protection when reporting the crime, further harm by the offender can be avoided if contact with the victim is prevented by restraining orders or other protection measures.

Contact between the victim and the accused should also as far as possible be avoided in court premises, such as the waiting areas. However, in 24 Member States there is no obligation to provide separate waiting areas in the courts.³¹

2.2.3. Issue 3 – Victims are not sufficiently supported

In the immediate aftermath of a crime, victims need support mainly through emergency assistance³² together with psychological first aid.³³ Subsequently, if the crime is reported, the

²⁶ <http://www.suicide.org/memorials/lindsay-armstrong.html>

²⁷ See impact assessment of the Member State initiative on the European Protection Order.

²⁸ 2001 British Crime Survey.

²⁹ Based on the 2000 International Crime Victims' Survey (ICVS) an estimated 40% of crimes are repeats against the same target within a year.

³⁰ Guidance on Investigating Domestic Abuse 2008, available at: <http://www.mankind.org.uk/pdfs/ACPO%20final2.pdf>.

³¹ APAV Report, p. 98.

³² See Maslow, A (1948) "Some theoretical consequences of basic need gratification", Journal of Personality. 16(4), 402-416.

victim will need to negotiate their way through the complexities of the legal system. Support during this process, whether legal, emotional or practical, is often needed by and crucial to victims. Such support is even more important for vulnerable victims. Victim support, through psychological or medical assistance, may also be required for prolonged periods or for life as a consequence of the crime.

"Francesca was living alone in her small 1 bedroom apartment the night a man broke in and raped her in her own bed. The ordeal had a devastating impact on her and she was lucky to receive some counselling. But the counselling helped little with her feelings of fear, disgust and shame every night she went back to the bed she was raped in. She couldn't afford to move or to buy a new bed. In the end she slept on the floor." *Based on testimony from Victim Support Organisation representative at expert meeting*

Evidence of a lack of effective victim support (see also [Annex 5](#)):

The most widely recognised problem of victims support organisations is the lack of enough resources for staff, professional training and financial assistance to run the services.³⁴ Moreover, the official recognition of the work of these organisations by national governments is perceived as crucial.³⁵

According to the 2000 International Crime Victims' Survey (ICVS), coverage rates for victim support (for certain identified types of crime) is most developed in the UK (20%), the Netherlands (14%), Austria (13%), Belgium (12%), Denmark and Sweden (9%), while the least support seems to be available in Hungary (0.4%), Bulgaria (1%), Finland (2%), Germany (2%), Greece (2%), Italy (3%) and Spain (3%).³⁶

The analysis on the ICVS also indicates that the level of demand for victim support is highest in Portugal, Spain, Greece and Poland, but in all those countries such help is not readily available. The need of victim support seems relatively limited among victims in Bulgaria and Austria.

Percentages of victims whose expressed needs are actually met by the agencies vary across countries. The highest take up rates in the EU are achieved by victim support in the UK (36%), in Austria (38%), the Netherlands (35%), Belgium (28%) and Denmark (27%). Take

33 See e.g. Litz, B., Bryant, R. and Adler, A. (2002). "Early Intervention for trauma: current statues and future directions". *Clinical Psychology: Science and Practice*. 9(2), 112-134

34 Responses to the European Commission's public consultation #06, #08, #10, #15, #17, #18, #19, #22, #23, #25, #26, #28, #30, #34, #37, #43, #52, #53, #55, #66, #67, #68, #69, #72.

35 Response #03, #06, #25, #70.

36 The percentages refer to victims having received support after reporting a crime. See Van Dijk, Jan; Van Kesteren, John; Smit, Paul. "Criminal Victimization in International Perspective: Key findings from the 2004-2005 ICVS and EU ICS". Den Haag: WODC, 2007, p. 119. As referred in ICVS Report (2004/2005 surveys), victims who had reported to the police any of four types of crime with the most serious consequences for victims – burglary with entry; robbery; sexual incidents; and threats & assaults – were asked whether they had received support from a specialised agency. The percentage of victims receiving such help is called the coverage rate of victim support. Those who had not received any help were asked whether they would have appreciated help in getting such information or practical or emotional support. Using this information estimates are made of the proportion of victims wanting specialised help that actually receive it (called 'take up rate' of specialised victim support agencies). The percentage in victim support from a specialised agency relates to these four crimes and was made considering a period of five years. See Van Dijk, Jan; Van Kesteren, John; Smit, Paul. "Criminal Victimization in International Perspective: Key findings from the 2004-2005 ICVS and EU ICS". Den Haag: WODC, 2007, p. 119.

up rates in the range of 10% to 25% are achieved in Sweden, Ireland, France and Luxembourg. In other States in the survey, less than 10% of the respondents who indicated that victim support would have been useful, actually receive it. The group of countries where victim support reaches only a small part of victims in need of help includes Greece, Spain, Portugal, Finland, Italy and Germany.³⁷

2.2.4. Issue 4 – Victims do not have effective access to justice

Victims' need for access to justice can be summarised as wanting to see justice is done (outcome focus/distributive justice) and wanting to be confident about how it is achieved (procedural justice). It can cover a wide variety of issues, such as accessibility of court processes, availability of adequate legal representation in criminal trials, access to more informal legal processes (such as penal mediation)³⁸ and the right to review a decision on whether or not to prosecute the offender.

Victims need to get full access to and participation in the justice system, which encompasses the right to be heard and necessitates at a minimum that they are made aware of crucial decisions and key dates.³⁹ Victims must also be able to understand the information received and the proceedings, so it is important to make available translators and interpreters, as well as information in a variety of languages. Victims should also be able to attend the trial.

"I'm pretty disappointed by the way the police handled it really, I got the impression it wasn't serious enough for them and I had to do all the chasing. If it wasn't for my efforts I would probably still be waiting for something to be done." *Male, 25-64, Victim of crime – pre-case – Audit Commission - Experiences of the Criminal Justice System - Victims and Witnesses of Crime*

Evidence of a lack of victims' effective access to justice (see also [Annex 6](#)):

A recent study⁴⁰ shows that only in a few Member States do victims have easy access to a range of information regarding available support, legal advice and aid and essential issues concerning the criminal proceedings (including the decision to prosecute, the court date and positive or negative court decisions).

On the other hand, translators and interpreters are available in all Member States for victims, free of charge, and in some states information is already available in different languages. In a number of Member States, however, eligibility for such communication safeguards is restricted to victims as witnesses. Only in 15 Member States is it available to all victims. Even where such safeguards are available, they are not always effective, available outside of the context of reporting the crime or of good quality. Moreover, victims are not always able to attend the trial because the availability of reimbursement of victims' expenses to get there is in most Member States inadequate or victims are not informed about such a right.

Although a majority of Member States have an institutionalised right to review of the decision not to prosecute in place, in six Member States the victim has no right to such review. At the same time, in three Member States no information is provided to victims concerning the

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ibid

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Parker, C., *Just Lawyers: Regulations and Access to Justice*, Oxford University Press, 1999, p. 30

39

APAV Report, p. 41.

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References in this section were extracted from the APAV Report.

decision to prosecute and in seven Member States only information on negative decisions is provided.

2.2.5. Issue 5 – Victims do not have effective access to compensation and restoration

Insufficient data was available to fully consider state compensation and offender restitution. Further study will therefore be carried out in this respect. As such, this impact assessment focuses only on issues related to restoration and restorative justice. Restorative justice aims to restore the victim to the position they were in before the crime. In this sense it has similar objectives to financial compensation, and an outcome of restorative justice can be such compensation. However, it is of much greater benefit since it has wider objectives by giving victims an opportunity to confront their offenders face to face. Victims will thus get a chance to tell offenders the real impact of their crime, get answers to their questions and to receive an apology, or at least an acknowledgement of responsibility by the offender.⁴¹ Restorative justice also gives the offenders the chance to understand the real impact of what they have done and to do something to repair the harm. Restorative justice holds offenders to account for what they have done, personally and directly, and helps victims to get on with their lives.

"After being brutally mugged my 15-year-old brother was happy to hear his attacker was behind bars. [...] It was then with some trepidation that Gary, and the rest of the family, decided to meet the offender face to face at a Restorative Justice Conference (RJC). [...] Towards the end of the conference, my brother and I, who hadn't expected to sympathise with the offender and his family, were. We were not the only ones it seemed; it felt like the offender too was putting himself in Gary's and his own family's shoes. [...] The great thing about the conference is that the offender glimpsed what is like for Gary and was more than contrite. We, too, glimpsed into his life and had a better understanding of him and perhaps, the factors that drove him to it. What he did was wrong and no matter how much his friends egged him on he had a choice and he now has to take responsibility for the consequences. For us, the integral aspect of the conference was that it allowed the victim and the offender to identify with each other. It is harder to hurt someone that you see as your own." *'Michelle's story', Why me? Victims for Restorative Justice*

41 For further details, see Sherman L.W. & Strang H., "Restorative Justice: The Evidence", London, The Smith Institute, 2007 (www.esmeefairbairn.org.uk/docs/RJ_full_report.pdf); Vanfraechem, I., Aertsen, I. & Willemsens, J. (eds.), "Restorative Justice Realities. Empirical research in a European context", The Hague, Eleven International Publishers, 2010.

Evidence of a lack of effective victim access to compensation and restoration (see also Annex 7):

Divergent national policies mean that restorative justice services are not equally accessible, and are not available at all to victims of crime in six Member States.⁴² Although basic standards and principles have been established by the UN in 2002⁴³ and by the Council of Europe in 2006⁴⁴, there is widely expressed concern that such principles are not fully adhered to and that restorative justice processes are prone to losing an appropriate focus on the victim. Commentators are concerned that restorative justice services are becoming too identified with one particular party, whether victims, offenders or communities.^{45 46 47}

2.3. Hidden costs linked to victimisation

Every crime inevitably affects those individuals directly or indirectly victimised by it, as well as society at large. Crime has significant economic and health related impacts, and such "hidden" costs can be reduced by meeting the needs of victims.

The total costs of crime to the individual and to society are considerable. These include tangible costs, mainly in the economic sector, the health sector and the criminal justice system, and intangible costs, such as pain, suffering, and reduction of quality of life.

A 2003 UK Home office survey has estimated that the total cost of crime amounts to £32.6 billion. Based on a combination of UK and Eurostat statistics this can be extrapolated to an EU cost of around €233 billion. The emotional and physical impact of crime costs victims in the UK around £18.1 billion per year.⁴⁸

A cost estimate on domestic violence against women alone shows that such violence costs the EU Member States between €10 and 20 billion annually, some 22% of which is calculated as human and emotional costs.⁴⁹ This research also suggests that every additional euro spent on prevention work, protection and assistance to victims would give society savings of €87 on the total cost of domestic violence.

42 Willemsens, J. "Restorative Justice: An Agenda For Europe: The Role of the European Union in the Further Development of Restorative Justice", 2008.

43 Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters

44 Recommendation (2006)8 on Assistance to Crime Victims

45 Statement on the position of the victim within the process of mediation, which was adopted by the European Forum for Victim Services (now: Victim Support Europe) in 2003

46 Hudson, B., 'Balancing the ethical and the political: normative reflections on the institutionalization of restorative justice', in Aertsen, I., Daems, T. and Robert L. (eds.), *Institutionalizing Restorative Justice*, Cullompton, Willian Publishing, 2006, p. 274.

47 Aertsen, I., 'Restorative justice through networking: a report from Europe', in Van Der Spuy, E., Parmentier, S. and Dissel, A. (eds.), *Restorative Justice: Politics, Policies and Prospects*, Cape Town, Juta & Co Ltd., 2007, p. 95.

48 Home Office Online Report 30/05. The economic and social costs of crime against individuals and households 2003/04, p. 15, available at: <http://rds.homeoffice.gov.uk/rds/pdfs05/rdsolr3005.pdf>; Eurostat, Crime and Criminal Justice Statistics, Statistics in focus, 36/2009. Full methodology for the development of costs are contained in the report. The EU cost of crime is derived at by dividing the total cost of crime in the UK (£32.6 billion) with the number of crimes considered in the UK report (12 168 000), and then multiplying this figure with total estimated EU reported and unreported crimes referred to above (75 000 000). Arriving at a total estimated cost of £201 billion or 233 billion euros based on EU official rates as in February 2011.

49 Daphne project "Estimation du coût des violences conjugales en Europe", Psytel, 2009, available at: <http://www.psytel.eu/violences.php>. Fully methodology is described in the report. In brief, however, medical, justice and police, social and economic costs are included.

The tangible **economic costs** of victimisation – that directly affect both the individual and the society as a whole – revolve around loss of productivity for paid workdays and incapacity benefits for the long-term affected, including out-of-pocket expenses to cover property damages/loss and the cost of medical care, costly lifestyle changes to regain a sense of security, and lost wages and productivity.⁵⁰ Longer periods of sickness absences, spells of unemployment and even permanent disability leave or premature retirement may cause victims a severe loss of earnings. There is evidence to show that in the long-run those victimised before the age of 18 have lower average hourly wages and annual personal income than non-victims.⁵¹ These costs are also borne by companies and the economy as a whole. Apart from public costs for the health sector to deal with the consequences of crime, society also bears important costs for dealing with the crime itself, including work by the police and throughout the criminal justice process.

Crime incurs significant costs in terms of the victim's **health**. A victim's health can be severely compromised and their life expectancy can ultimately be shortened – on average one year of life expectancy is lost to violence.⁵² In the short and long term, victims can suffer high levels of physical and psychological problems, including fear and anxiety ranging up to major depression, Post Traumatic Stress Disorder (PTSD) and suicide attempts. They can also turn to alcohol or drug abuse and their social and occupational functioning may be impaired. Health problems also have a direct link with economic costs in that crime can affect a person's ability to work, and can result in lower incomes.

In addition to economic costs linked to health care, there are important **intangible costs** for victims stemming from pain, suffering, and reduced quality of life. As shown by the cost estimates quoted above, the cost of the human and emotional suffering represents an important part of the total cost of crime. Again, not only does the victim bear such costs but the impact on our health services can be high in terms of cost and capacity. This burden can relate to short term and long term physical care through to emotional and psychological counselling. For instance, it has been found that 25% of all crime victims experienced related PTSD, including nervous breakdowns, suicide ideation, and suicide attempts⁵³ and that almost 50% of all victims of sexual assault and approximately 5% of victims of assault and robbery incur costs for mental health services.⁵⁴

Meeting victims' needs before, during and after criminal proceedings may considerably mitigate these negative consequences and can also prevent them worsening due to bad treatment during the process. If victims receive appropriate support and protection, they will recover more quickly both physically and emotionally from the crime, and will thus for example limit their loss of earnings and uptake of benefits, or reduce the need for further health treatments. Ensuring that the victims' needs are met will thus considerably contribute to reducing the total costs of crime.

⁵⁰ Matrix Report, p. 49.

⁵¹ Macmillan, Ross (2000), 'Adolescent Victimization and Income Deficits in Adulthood: Rethinking the Costs of Criminal Violence From a Life-Course Perspective', *Criminology*. 38, 2, p. 555.

⁵² Matrix Report, p. 51; Soares, Rodrigo R., 'The welfare cost of violence across countries', 2005.

⁵³ Kilpatrick, D. et al (1987). *Criminal Victimization: Lifetime Prevalence, reporting to police, and psychological impact*. *Crime and Delinquency* 33:479-489.

⁵⁴ Miller, Ted, Cohen Mark, and Brian Wiersema (1996). *Victim Costs and Consequences: A New Look*. Washington D.C.: National Institute of Justice.

2.4. The underlying drivers of the problems

As described above, across the European Union, the needs of victims of crime are not being fully met since national legislation and practice within States and across the EU are patchy. The primary drivers for this are: insufficient or incoherent attention paid to victims and a lack of knowledge about their needs; a lack of self-enforcing mechanisms for victims' rights; and a lack of practitioner knowledge of victims' issues.

- **Insufficient attention paid to victims and a lack of knowledge about their needs, rooted in historical and cultural attitudes.** Although victims' rights have increasingly become recognised by Member States in recent years, they have historically not been considered as an important element of judicial proceedings and States' focus has largely been to punish those who have committed crimes against society as a whole. As a result, the needs of victims and the need to take them into account are often not in the minds of practitioners and policy makers.
- **A lack of enforcement mechanisms for victims' rights.** One of the difficulties that victims face in their national systems is that their rights are generally not enforceable or that the repercussions for a failure to implement a right are weak; thus legal practitioners have less incentive to apply victims measures. Applications to national courts take a considerable amount of time, effort and money which is likely to reduce the benefit of any judgment. Weaknesses in enforcement also apply equally at the international level, where the current EU legal framework does not foresee any procedure for individuals' redress concerning victims' rights. Moreover, although a number of articles of the ECHR apply to victims, including the right to a fair trial, there are very few cases brought to the court by victims themselves (and these relate primarily to inadequate investigation of the crime).⁵⁵ In part this may be as a result of a lack of awareness that the ECHR applies to victims, but it may also result from the fact that a primary objective of victims is to recover and get over the crime.
- **Lack of knowledge and training on victims' needs.** The lack of focus on victims' rights and needs is equally reflected in the lack of knowledge that legal practitioners have about the needs of victims. A primary driver for this is insufficient training and insufficient specialist training. This was a key issue raised during consultations and was considered to be highly relevant by stakeholders in the external study.

2.5. Baseline Scenario⁵⁶

Data suggests that the number of people falling victim to crime annually **is unlikely to decrease** by any significant amount in the coming years. At the same time whilst a range of **international standards on victims' rights have been established in the past years** (see [Annex 8](#)), these were primarily taken in the 1980s. At the EU level, only one general instrument on victims has been agreed since 2001. These instruments have, however, neither resulted in any major change in the legislation and practice of Member States, nor in a significant or visible improvement in the situation of victims.⁵⁷

⁵⁵ Matrix Report^{p. 46}; Comments^{based on analysis of ECHR Annual Report 2009}.

⁵⁶ Where not otherwise indicated, the data source of this section is the Matrix Report

⁵⁷ COM⁽²⁰⁰⁴⁾⁵⁴ final and COM(2009)166 final.

Analysis suggests that without further action, there is unlikely to be a sufficient development in national legislation and action that ensure that victims receive non-discriminatory treatment, no matter where in the EU they find themselves, in particular when receiving services and accessing justice. This may in turn affect mutual trust in judicial systems in the European Union and undermine the effective application of the Treaty-endorsed principle of mutual recognition.

As has already been mentioned, the Framework Decision resulted in minimal national changes. Given the weaknesses in its drafting combined with a lack of enforcement possibilities, it is unlikely that the Framework Decision itself will result in new changes.

All Member States have national legal provisions related to victims of crime, but they have met the needs of victims and safeguards their interests to a varying extent. Nevertheless, the victims' agenda has been gaining in profile over the years. Some Member States continue to develop their own national agenda on victims based on internal priorities. Thus new legislation has been adopted by some States or is planned. The Commission is aware of nine Member States having legislation foreseen (LU, IE, NL, MT, RO, FI, SE, DK, CZ, see [Annex 9](#)). Some States, for instance, DE and NL, have already implemented new legislation in recent years.

It can therefore be assumed that to some extent the situation of victims will improve in some Member States where they have either a generally high level of protection of victims or ongoing reform. However, it should be noted that the developments in the countries listed above for the most part appear fairly restricted in their scope or are in very early stages, and improvements in a number of other Member States are not currently envisaged. Thus, the effect will be to further increase standards in some States with others remaining at the same level, further widening gaps in standards between States.

It must also be considered that even where developments do occur at a national level, these will occur largely on an ad hoc basis. The only area where this is less likely to be the case is in relation to supporting victims of human trafficking and child sexual exploitation, and this as a result of EU action since two Directives are currently under negotiation.⁵⁸ **There is no indication that without further EU intervention, action will be developed on a co-ordinated basis or following existing EU and international guidelines. It can therefore be assumed that victims will not be able to rely on receiving the same minimum level of rights, support, protection, access to justice and restoration across the EU.**

Notably, the external study revealed that 75% or more of respondents felt that maintaining the status quo would result in the situation for victims either staying the same with the remaining respondents considering there would be a very negative impact. No respondents felt there would be a positive impact

2.6. The need for action at EU level

There are many reasons why EU action in this area is necessary. Firstly, the cross-border implications of the problems and problem drivers make EU intervention necessary. Secondly,

⁵⁸ Proposal for a Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA; Proposal for a directive on combating the sexual abuse, sexual exploitation of children and child pornography, repealing FD 2004/68/JHA.

considering the substantial tangible and intangible costs of victimisation borne by the individuals as well as society as a whole and that ultimately public confidence in the criminal justice system suffers if crime victims are not respected, there is a need for EU-level policy interventions that lead to improvements in victims' well-being across Europe. Finally, the Lisbon Treaty provides a clear legal basis for EU for establishing minimum rules on the rights of victims of crime. In addition, EU action in this field will raise standards in relation to the fundamental rights of victims of crime, which is a strong priority for the EU.

Solving the identified problems requires action beyond that at the EU-level and would also require action initiated by Member States themselves. In our options and solutions, we are concentrating only on actions that bring EU added value and that are necessary to the well-functioning of mutual recognition and for increasing trust in the judicial systems of the Member States.

2.6.1. *European dimension and added value*

The Lisbon Treaty provides a clear legal basis to facilitate judicial co-operation and mutual recognition having a cross-border dimension through minimum standards on the rights of victims of crime.

The cross-border dimension of judicial co-operation is wide and can result from a range of situations, most obviously where a person is victimised in a foreign EU state. In this respect, around 11.3 million EU citizens live in a foreign EU State⁵⁹ and a large majority of EU citizens that travel abroad on holidays chose another European country – of an estimated 1.4 billion journeys made by Europeans in 2008, about 90 % were within the EU.⁶⁰ Crime statistics by nationality are not available generally but assuming they suffer crime at the same rate as nationals, this means that around 1.7 million citizens living abroad (15% of the total) fall victim to crime every year. For tourists, the figure will be highly variable and often dependent on the length of stay but even a 1% crime rate will result in many millions of EU tourists falling victim to crime every year.

Moreover, there is also a cross-border dimension for crimes against people in their country of residence where cases are ultimately transferred, the victim moves during the course of proceedings, or witnesses or assets are abroad. It is evident therefore that the cross-border dimension of victimisation is significant.

Given the right to free movement in the EU, there is a clear added value of EU action over and above that of national action. Such EU added value can be seen from several perspectives.

Firstly, victims may not be subject to the same rights in their country of residence compared to their home country, or in a country where they temporarily travel or visit. This risks impeding the free movement of people and services, which is one of the fundamental requirements for the good functioning of the internal market. Moreover, judicial co-operation can also be hampered where there are concerns over the treatment of victims or where certain procedures are required to be followed in a Member State, for example video recording of a child's evidence.

⁵⁹ Eurostat, Statistics in Focus 94/2009.

⁶⁰ COM(2010)352, based on Eurostat, Tourism Statistics 2008. However, this figure does not show how many *individuals* have made these journeys (many go on several journeys per year).

Secondly, a lack of EU-level minimum standards on victims' rights puts the quality of justice in the EU at a lower level than standards identified in international instruments and through ECtHR case law. In a common area of freedom, security and justice, this is difficult to accept. Weaknesses in existing EU legislation and a lack of enforceability of international instruments make a coherent, EU wide application of such standards unlikely. EU action is therefore the most likely means to achieve a level playing field across the Member States.

Finally, a lack of common standards reduces confidence in the judicial systems of the Member States, which in turn impedes the effective operation and application of EU instruments based on the Treaty-endorsed principle of mutual recognition of judicial decisions and consequently the strengthening of the European area of freedom, security and justice.

Additionally, whilst the establishment of these minimum standards relates to victims of crime, such standards facilitate police and judicial co-operation in general and not just in relation to victims. This reflects the fact that the treatment of the victim and accused are linked in many ways and many general cross-border judicial co-operation or mutual recognition initiatives can impact on victims. As such, improvements in the treatment and protection of victims can improve such co-operation.

EU action will thus make sure that all EU Member States respect common minimum standards for all persons falling victim to crime on their territory, whether national citizens or not.

2.6.2. *Legal basis*

The power to act and, where necessary, propose EU legislation in the area of civil and criminal law is conferred, inter alia, by two articles of the Treaty on the Functioning of the European Union (TFEU). **Article 82** TFEU provides a more specific legal base for criminal matters and establishes that to the extent necessary to facilitate mutual recognition and police and judicial co-operation in criminal matters having a cross border dimension, minimum rules may be established concerning the rights of victims of crime. As regards civil aspects, **Article 81** TFEU provides the legal base to take measures aimed at ensuring the mutual recognition and enforcement between Member States of judgments and of decisions in extrajudicial cases and effective access to justice. Moreover, Article 81 foresees the adoption of measures for the approximation of the laws and regulations of the Member States.

2.6.3. *Subsidiarity*

It is considered that there is a need for EU action based on the following factors:

- **Transnational aspects of the issue being addressed which cannot be dealt with satisfactorily by action by Member States**
 - (1) People can become a victim of a crime outside their own Member State, and the needs of those victims need to be respected, too. Free movement can be impeded where discriminatory treatment of victims occurs.
 - (2) New EU action will enable a co-ordinated approach to be taken ensuring minimum standards across the EU and avoiding problems raised with ad hoc national action, for instance where improvements in a State are focussed on one area or one type of victim creating large differences in treatment between States.

(3) Member States acting individually cannot ensure a continuous maintenance of protection in the whole EU that is already afforded to victims nationally.

• **Action at EU level would produce clear benefits (compared to Member States' action) in terms of scale of the action**

(4) Given the ambiguity of existing legislation coupled with Member State action being based primarily on internal priorities, which vary widely, it is unlikely that Member States acting individually would be able to establish sufficiently consistent standards of rights and services for victims (see Section 2.5 above).

(5) EU action will ensure that all needs of victims are addressed. This cannot be guaranteed by Member State action, as can be seen by some of the proposed developments in national legislation.

(6) In particular, EU action to assist Member States through practical measures will enable economies of scale to be achieved, for instance in relation to the development of training programmes, development and dissemination of information programmes (see for instance the Commission's e-justice portal which provides victims factsheets for all Member States).

• **Action at EU level would produce clear benefits (compared to Member States' action) in terms of effectiveness of the action**

(7) Though some improvements on victims' rights have occurred over the 10 years since the 2001 Framework Decision was adopted, these appear to be based on national priorities and not greatly influenced by current EU legislation. For instance, the Commission's implementation reports on the Framework Decision noted that in many cases, Member States had informed the Commission that their existing measures were sufficient to implement the Decision, and had not actually introduced new measures, but studies show that such national measures are not enough to properly address victims' needs.

(8) New EU legislation will be combined with effective practical measures to assist Member States and practitioners to effectively meet the needs of victims.

(9) New EU action, under the Lisbon Treaty, will enable the deficits of previous legislation to be rectified, thus assisting Member States in their implementation.

(10) New EU action will have greater enforcement mechanisms to ensure that legislation is in fact implemented.

3. OBJECTIVES

3.1. General, specific and operational objectives

| <p>The General Objectives are to facilitate the establishment of a European area of freedom, security and justice and the development of mutual trust between criminal justice authorities, by ensuring that the rights of victims are fully respected throughout the EU, whilst also respecting the rights of the defence, and that citizens can circulate freely without being treated differently should they fall victim to crime.</p> | |
|---|--|
| Specific Objective | Operational Objective |
| <p>A. To ensure that victims are recognised and treated with respect and dignity</p> | A.1 Ensure the needs of indirect (immediate family) victims are met. |
| | A.2 Ensure all police, prosecutors, judges and court staff who come into contact with victims receive appropriate victims training. |
| | A.3 Establish needs assessment mechanisms for all victims to identify the needs of victims and vulnerable victims and their needs. |
| <p>B. To ensure that victims are protected</p> | B.1 Ensure victims do not lose the protection they have been given when they travel or move abroad. |
| | B.2 Ensure contact between the offender and victim is avoided during proceedings. |
| <p>C To ensure that victims are supported.</p> | C.1 Ensure effective victims support services are available based on international standards. |
| <p>D. To ensure that victims have effective access to justice</p> | D.1 Ensure all victims are able to attend trial |
| | D.2 Ensure all victims are assisted in understanding their rights, obligations and the proceedings from both a linguistic and wider perspective. |
| | D.3 Ensure all victims have a right to have prosecution decisions reviewed. |
| <p>E. To ensure victims have access to restoration</p> | E.1 Ensure victims have access to effective Restorative Justice Services. |

3.2. Consistency of the objectives with other EU policies

The specific objectives of this proposal to ensure that the needs of victims of crime are respected and met are wide ranging and cut across a number of other EU policies. In particular, the protection of victims' rights is an essential part of a range of EU policies and/or instruments relating to human trafficking, sexual abuse and exploitation of children, violence against women, terrorism and enforcement of road traffic offences (see Annex 8 for further details).

The specific objectives of this proposal are consistent with the approach taken in the above policy areas. While the specific instruments on, for example, trafficking and sexual abuse and

sexual exploitation of children and child pornography address the particular needs of certain groups of victims of identified types of crimes, this proposal will address the needs of all victims of crime, irrespective of the type of crime or the circumstances or place in which it was committed.

The proposal will build on and complement existing instruments, and establish minimum standards on victims' rights which will improve the general environment for protecting victims in EU law and policy. Thus whilst the needs of victims of terrorism are not specifically addressed in any action, they will nevertheless benefit from improved mechanisms to identify their needs, keep them informed of proceedings and received adequate protection during proceedings. Likewise, for road traffic victims, though action does not specifically envisage the detailed needs of such victims, the improvement of awareness and cultural attitudes of legal practitioners combined with appropriate assessments will help ensure their needs are met, in particular their treatment before a specific crime has been identified.

Moreover, in line with the approach taken for victims of human trafficking and sexual abuse and exploitation of children and child pornography, the proposal will be consistent in addressing the particular needs of vulnerable victims.

3.3. Consistency of the objectives with the Fundamental Rights

Any action of the EU to ensure that the needs of victims of crime are respected and met must respect the fundamental rights recognised by the EU Charter of Fundamental Rights in the European Union ("EU Charter"). Any options envisaged in this impact assessment must be fully consistent with a range of fundamental rights. The key rights relevant to this assessment are: human dignity, the right to life, right to the integrity of the person, right to liberty and security, respect for private and family life, protection of personal data, right to property, freedom of movement and residence, equality before the law, the rights of the child, the rights of the elderly, integration of persons with disabilities, and right to an effective remedy and to a fair trial, and finally presumption of innocence and right of defence.

The protection of the fundamental rights of the individual has become an even stronger priority for the EU with the entry into force of the Lisbon Treaty: the EU Charter has become legally binding on the Union and the EU is about to accede to the European Convention of Human Rights (ECHR). In accordance with Communication from the Commission on the Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union⁶¹, this impact assessment examines the impact on the Fundamental Rights of the options proposed, in particular in the light of the 'fundamental rights check list' presented in the Communication.

Fundamental rights of all individuals must be respected in all EU actions and by Member States when they implement EU law. EU action in this field should thus at the same time raise standards in relation to the fundamental rights of victims of crime whilst ensuring that any limitation of the rights of the defence or to other fundamental rights is formulated in a clear and predictable manner and is necessary and proportionate to protect the rights and freedoms of the victim.

⁶¹ COM(2010) 573.

The European Court of Human Rights has stressed that a court cannot ignore the plight of victims and downgrade their rights, as there is a “*need to safeguard victims’ rights and their proper place in criminal proceedings*”.⁶² The Court has also recognised that in criminal proceedings certain measures may be taken for the purpose of protecting the victim, provided that such measures can be reconciled with an adequate and effective exercise of the rights of the defence.⁶³ However, it is considered that decisions in this respect must be taken at a local level and on an individual basis. The Court also ruled that Article 4 of the ECHR in certain circumstances, require a State “*to take operational measures to protect victims, or potential victims, of trafficking*” where circumstances give rise to a credible suspicion of trafficking.⁶⁴

Most measures envisaged in the options assessed do not affect the rights of the accused in criminal proceedings. In particular, the proposed measures neither affect the presumption of innocence of the accused, nor the right not to be judged twice for the same offence (*ne bis in idem*), as discretion is left to the judge who will ultimately ensure that the fundamental rights of accused are observed and respected.

4. POLICY OPTIONS

The options for addressing the problem as defined in Section 2 of this Impact Assessment, in line with the objectives established in Section 3, are set out below.

Options examined in this assessment all take a combined approach with varying levels of detail or obligation being imposed. This is based on an overwhelming response from respondents during the external study that the optimum approach was a combined one involving both new EU legislation and practical action to ensure proper implementation. Thus for all measures, practical measures will be established to assist in implementation and identification of best practice. These will range from funding of EU projects and studies, development and exchange of best practices, co-ordination with European networks and specific projects tendered by the Commission.

4.1. Discarded options

Analysis of legal measures related to legal aid and compensation of victims demonstrates that further research is still needed to precisely identify problems and possible solutions. Such research is even more important since action in these areas could have very high cost implications for the Member States. As such, legal aid and compensation are not included in the options below but will be the subject of further studies to determine appropriate EU action.

4.2. Overview of policy options

We have considered five options: retention of the *status quo* (option 1) and four other policy options (options 2, 3a, 3b and 4). The retention of the *status quo* would involve taking no action at EU level, while the four alternative policy options will improve victims' situation across Europe. These options range from Low - Medium - High level of obligation imposed on Member States and the detail of such obligations.

⁶² Perez v. France [GC], no. 47287/99, 12 February 2004.

⁶³ See for instance Cases ECtHR in SN v Sweden, Doorson v Netherlands (1996), Luca v Italy (2003).

⁶⁴ See Rantsev v Cyprus and Russia, no 25965/04, 7 January 2010.

| | |
|--|--|
| <p>Option 1 –</p> <p><i>Status Quo</i></p> | <p>Retention of the status quo. No action at EU level.</p> |
| | |
| <p>Option 2 –</p> <p>Low level of obligation</p> | <p>Least prescriptive option. Imposes minimum obligations on Member States to establish systems or services with minimum detail on what standards should be achieved. When necessary to take legal measures, this option requires the least changes in national procedural laws.</p> |
| | |
| <p>Option 3a –</p> <p>Medium level obligation</p> | <p>Medium prescriptive option. Imposes medium level of obligation on Member States, with the exception of measure 11 - Establishment of Restorative Justice Services (RJS), to establish services and rights and imposes provisions on what such services should be while defining minimum details on what standards to be applied. The level of obligations on Member States for measure 11 is low and does not require Member States to establish RJS but only to ensure that safeguards and minimum quality standards are applied where RJS are used.</p> |
| | |
| <p>Option 3b –</p> <p>Medium/High level obligation</p> | <p>Medium prescriptive option. Imposes medium level of obligation on Member States for all measures to establish services and rights and imposes provisions on what such services should be while defining minimum details on what standards to be applied.</p> |
| | |
| <p>Option 4 –</p> <p>Highest level of obligation</p> | <p>The most prescriptive option. Imposes a range of obligations on Member States to establish services and rights. It also imposes more detailed provisions on what such services should be and the exact standards that should be applied.</p> |

Each policy option has been assessed against eleven selected measures (described in Section 4.3). The selection of the eleven measures was made from a list of nearly sixty possible measures that were identified as potentially meeting the needs of victims, based on the evidence collected by the external contractor.⁶⁵ From this list, only those measures were

⁶⁵ The Matrix Report approach was based on the traditional options of no action, better implementation, legislative action and a combined approach. However, two issues arose when following this

selected that would have the most effect in reaching the objectives set out in Section 3 and respond best to the problems that could be tackled at EU level. They are also likely to have the most significant cost implications and impact.

Each of the eleven measures corresponds to an operational objective listed in Section 3.1 above. All standards required under these measures (depending on the degree of obligation under each policy option) derive from international standards and from the EU Charter and ECtHR caselaw.

methodology. Firstly, taking this approach failed to meet all the needs of victims. Secondly, there was an overwhelming response from respondents that the optimum approach was a combined one involving both new EU legislation and practical action to ensure proper implementation. Whilst for better implementation or legislation only positive impact was generally assessed as low and occasionally medium, this compares with a combined approach which received medium and high ratings for positive impact.

4.3. Detailed description of policy options concerning selected measures

Policy option 1, the *status quo*, has been presented in the baseline scenario (see Section 2.5). The other policy options described below meet to varying degrees the objectives outlined in Section 3 above. Most of the eleven measures are already in some ways covered under the Framework Decision, but these policy options go beyond the *status quo* (policy option 1). For example, while Article 13 in the Framework Decision simply provides that Member States should "encourage actions" by victims support organisations, the four policy options for measure 7 would require at a minimum (option 1) that there is easy and effective access to such services.

| <ul style="list-style-type: none"> • Measure (+ operational objective) | <ul style="list-style-type: none"> • Policy option 2 • Low prescription | <ul style="list-style-type: none"> • Policy Option 3a • Medium prescription | <ul style="list-style-type: none"> • Policy option 3b • Medium/High prescription | <ul style="list-style-type: none"> • Policy option 4 • High prescription |
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| <ul style="list-style-type: none"> • 1. Coverage of indirect victims (A1) | <ul style="list-style-type: none"> • Not covered. | <ul style="list-style-type: none"> • Co-victims of murder covered as if they were direct victims. Support services and protection available to immediate family or dependents of direct victims. | <ul style="list-style-type: none"> • Co-victims of murder covered as if they were direct victims. Support services and protection available to immediate family or dependents of direct victims. | <ul style="list-style-type: none"> • All indirect victims covered as if they were direct victims i.e. immediate family, dependants, |
| <ul style="list-style-type: none"> • 2. Provision of Training (A2) | <ul style="list-style-type: none"> • MS required to establish guidelines for practitioners on the appropriate treatment of victims. | <ul style="list-style-type: none"> • MS required to ensure that police, prosecutors and court staff are provided with appropriate training on victims from the earliest point, with particular attention on vulnerable victims. Judicial studies for judges shall be made available. • Training should cover at least rights and needs of victims, impact of victimisation on victims, support possibilities that officials can provide, risk and avoidance of secondary victimisation. | <ul style="list-style-type: none"> • MS required to ensure that police, prosecutors and court staff are provided with appropriate training on victims from the earliest point, with particular attention on vulnerable victims. Judicial studies for judges shall be made available. • Training should cover at least rights and needs of victims, impact of victimisation on victims, support possibilities that officials can provide, risk and avoidance of secondary victimisation | <ul style="list-style-type: none"> • MS required to make training on victims mandatory for police, prosecutors, judges and court staff who come into contact with victims during the course of the work. |
| <ul style="list-style-type: none"> • 3. Assessment of | <ul style="list-style-type: none"> • MS required to enhance and | <ul style="list-style-type: none"> • MS required to establish | <ul style="list-style-type: none"> • MS required to establish | <ul style="list-style-type: none"> • MS required to assess all victims |

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| victims' needs (A3) | <p>encourage exchange of information and best practices on the best ways to identify and meet the needs of victims.</p> | <p>individual needs assessments to identify vulnerable victims and needs of other victims not falling under that category. Indicators of vulnerability helping to determine the needs shall include at least: personal characteristics, type or nature of the crime; risks of repeat and secondary victimisation. Assessments not required for minor crimes.</p> | <p>individual needs assessments to identify vulnerable victims and needs of other victims not falling under that category. Indicators of vulnerability helping to determine the needs shall include at least: personal characteristics, type or nature of the crime; risks of repeat and secondary victimisation. Assessments not required for minor crimes.</p> | <p>for their needs from the moment a crime is reported and at regular intervals throughout proceedings through an EU needs assessment form.</p> |
| <ul style="list-style-type: none"> • 4. Identification of vulnerable victims and provision of specific services (A3) | <ul style="list-style-type: none"> • Definition and minimum services of vulnerable victims provided only in relation to child sexual exploitation and human trafficking. | <ul style="list-style-type: none"> • Presumption of vulnerability of identified categories of victims including at least children, persons with with disabilities, victims of sexual violence, human trafficking or interpersonal violence. • MS required to establish appropriate services to meet the needs of such victims. | <ul style="list-style-type: none"> • Presumption of vulnerability of identified categories of victims including at least children, persons with with disabilities, victims of sexual violence, human trafficking or interpersonal violence. • MS required to establish appropriate services to meet the needs of such victims. | <ul style="list-style-type: none"> • As a minimum children, those with physical and mental disabilities, victims of sexual violence, human trafficking or interpersonal violence, deemed to be vulnerable. • MS required to make available a range of specific services for vulnerable victims, as identified in the Directive. |
| <ul style="list-style-type: none"> • 5. Cross border provision of protection measures (B1) | <ul style="list-style-type: none"> • Amend existing civil law instruments (Brussels I and IIbis) which cover protection measures in order to ensure they work effectively for the mutual recognition of protection measures. | <ul style="list-style-type: none"> • Legislation establishing a mutual recognition mechanism for protection measures. | <ul style="list-style-type: none"> • Legislation establishing a mutual recognition mechanism for protection measures. | <ul style="list-style-type: none"> • Legislation requiring Member States to put in place a facilitation mechanism to assist victims who already benefit from a protection measure to apply for protection measures when in a Member State other than their own. |

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| <ul style="list-style-type: none"> • 6. Provision of separate waiting areas to avoid contact between victim and offender (B2) | <ul style="list-style-type: none"> • MS required to establish guidelines and protocols for court officials to assist them in ensuring that risk of contact between victim and offender is minimised unless required for the administration of justice. | <ul style="list-style-type: none"> • MS required to ensure that contact between victims and offenders within court premises may be avoided unless criminal proceedings require such contact. MS shall progressively adapt court premises to have separate waiting areas for victims, and ensure that new court buildings are constructed with separate waiting areas for victims and that contact with the offender is reduced throughout the court premises. | <ul style="list-style-type: none"> • MS required to ensure that contact between victims and offenders within court premises may be avoided unless criminal proceedings require such contact. MS shall progressively adapt court premises to have separate waiting areas for victims, and ensure that new court buildings are constructed with separate waiting areas for victims and that contact with the offender is reduced throughout the court premises. | <ul style="list-style-type: none"> • Same as option 3 but all courts, existing and new, must have separate waiting areas for victims. |
| <ul style="list-style-type: none"> • 7. Establishment of a minimum level of Victim Support Services, including support during proceedings (C1) | <ul style="list-style-type: none"> • MS required to ensure there is easy and effective access to victims support services without providing further detail on how this should be achieved. | <ul style="list-style-type: none"> • MS required to ensure that victims have easy access to effective victim support services. Key services to be provided are identifies and services shall be provided by persons competent to deal with the problems faced by victims. | <ul style="list-style-type: none"> • MS required to ensure that victims have easy access to effective victim support services. Key services to be provided are identifies and services shall be provided by persons competent to deal with the problems faced by victims. | <ul style="list-style-type: none"> • Same as option 3, but services shall be independent of the government and autonomous. Victim support services required also to provide legal advice or assistance. |
| <ul style="list-style-type: none"> • 8. Attendance of trial (D1) | <ul style="list-style-type: none"> • MS required to establish guidelines to better inform victims of factors which will assist their attendance of trial including trial dates, possibility of reimbursement, information on the court and proceedings etc | <ul style="list-style-type: none"> • MS required to ensure that victim are kept fully informed of the trial date and be reimbursed for the expense of attending the trial. Exclusion of a victim from trial must be assessed on an individual basis and can only happen in exceptional circumstances. | <ul style="list-style-type: none"> • MS required to ensure that victim are kept fully informed of the trial date and be reimbursed for the expense of attending the trial. Exclusion of a victim from trial must be assessed on an individual basis and can only happen in exceptional circumstances. | <ul style="list-style-type: none"> • Victim will have a right to attend trial, except in exceptional circumstances. Victim must be kept fully informed of the trial date, which will be determined taken into account the victim's availability. Victim will be reimbursed for any attendance. |
| <ul style="list-style-type: none"> • 9. Provision of interpretation and translation (D2) | <ul style="list-style-type: none"> • MS required to establish mechanisms to minimise communication difficulties for all victims and not just those who are witnesses or parties to | <ul style="list-style-type: none"> • MS required to ensure that interpretation and translation is provided to facilitate the victim's understanding of and involvement in the criminal proceedings, | <ul style="list-style-type: none"> • MS required to ensure that interpretation and translation is provided to facilitate the victim's understanding of and involvement in the criminal proceedings, | <ul style="list-style-type: none"> • MS required to provide free of charge interpretation and translation for victims with an identified language problem. |

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| | proceedings. | where proportionate in view of the circumstances of the case. | where proportionate in view of the circumstances of the case. | |
| <ul style="list-style-type: none"> • 10. Review of decisions (D3) | <ul style="list-style-type: none"> • MS required to ensure that the victim can provide their views before a decision is made not to prosecute. | <ul style="list-style-type: none"> • MS required to provide victims with a right to have a decision not to prosecute reviewed. • MS left to determine the exact review mechanism they use. | <ul style="list-style-type: none"> • MS required to provide victims with a right to have a decision not to prosecute reviewed. • MS left to determine the exact review mechanism they use. | <ul style="list-style-type: none"> • MS required to provide victims with a right to a judicial review of a decision not to prosecute. |
| <ul style="list-style-type: none"> • 11. Establishment of Restorative Justice Services (RJS) (E1) | <ul style="list-style-type: none"> • No requirement to establish RJS but MS must ensure that safeguards and minimum quality standards are applied where RJS are used. | <ul style="list-style-type: none"> • No requirement to establish RJS but MS must ensure that safeguards and minimum quality standards are applied where RJS are used. | <ul style="list-style-type: none"> • MS required to- establish or enhance RJS. Such RJS must represent equally victims' and defendants' interests and minimum standards and safeguards shall be applied (including consent and confidentiality). | <ul style="list-style-type: none"> • MS must make available RJS (including at least mediation and family group conferencing) to all victims, applying safeguards in accordance with UN Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters . |

5. ANALYSIS OF IMPACTS

5.1. Description and impact analysis of policy options

A broad impact analysis of each option has been carried out. The most relevant likely impacts of the policy options are the economic and social impacts. The greatest cost implications are expected to fall on public authorities. No environmental impacts are anticipated.

For the purposes of comparison, for all four options (except *status quo*), estimated costs are provided for the five measures which are likely to be the most costly and/or most sensitive (training, victim support, interpretation and translation, restorative justice and attendance of trial). In addition, some basic estimates of costs are provided concerning the provision of separate waiting areas to avoid contact between victim and offender, as well as a basic analysis of the impact of a review mechanism on the decision not to prosecute.⁶⁶ Nevertheless, numerous factors which cannot be accurately calculated will affect the real costs. In many instances, such factors are likely to present a downward pressure on costs e.g. where Member States already have measures in place. See [Annex 10](#) for further details on the cost estimates provided for the policy options below .

Specific costs are not available on the right to review. This possibility already exists in all Member States except for six (BE, CY, IE, LU, MT, SI). For option 3a and 3b, it is left to Member States to determine the exact mechanism. They could therefore implement this measure by allowing another officer to carry out the review, they could establish a specific authority or ombudsman, or establish a right of judicial review. Thus, they can choose an option which can have low cost implications. However, for option 4 there are greater cost implications since Member States are required to establish a judicial review.

All options, except *status quo*, are expected to have a positive impact on fundamental rights of victims with the options having biggest impact also improving fundamental rights the greatest. Measures such as the cross border provision of protection measures could have an impact on the fundamental rights of the offender. The key fundamental rights concerned are: human dignity, the right to life, right to the integrity of the person, right to liberty and security, respect for private and family life, protection of personal data, right to property, freedom of movement and residence, equality before the law, the rights of the child, the rights of the elderly, integration of persons with disabilities, and right to an effective remedy and to a fair trial, and finally presumption of innocence and right of defence.

With regard to the impact of the different options on the Member States, there is no detailed cost breakdown available showing which Member States would bear the majority of costs for reaching the desired EU minimum standards specified in each option. However, considering that the existing national laws and practices differ to a varying degree from these minimum standards, the impact of the proposed measures would presumably be greatest in the Member States where a right is not, or not sufficiently, addressed in the way foreseen by these standards, while the impact would be lesser in the States that already have a high level of protection and support of victims.

⁶⁶ Except where otherwise specified, the cost estimates provided are based on the Matrix Report and further explained in Annex 10.

For example, there is no national victim support organisation in nine Member States (CY, DK, EL, IT, LV, LT, PL, SI and ES), while in ten Member States such national services already exist (AT, BE, EE, FI, DE, NL, PT, SK, SE and UK).⁶⁷ Whilst the cost implications for establishing such services in the first group of Member States will be considerably higher than for the latter group, the measure will bring greater and direct benefit for victims in those countries where such services do not currently exist, thus increasing their well-being and chance of recovery. Further information on individual Member States' current standards with respect of meeting victims' needs is provided in [Annexes 3-7](#).

5.1.1. Policy option 1: Retention of the status quo – No action at EU level

| Expected Impact | |
|--|---|
| Effectiveness in meeting objectives | <p>Zero: As set out in the baseline scenario, transposition of relevant EU legislation has more or less stagnated. The situation is expected to evolve as set out in Section 2.5 above. Whilst there is a trend amongst Member States to develop their own national agenda on victims' rights, there is no indication that all Member States will follow this trend. Without further EU action, there is unlikely to be a sufficient development of national legislation and action on victims of crime such that they can be assured to receive an equal and appropriate level of treatment no matter where in the EU they find themselves.</p> <p>In addition, it is noted that with the entry into force of the Lisbon Treaty, the European Court of Justice will gain jurisdiction over existing "third pillar" <i>acquis</i> by 2014. In theory this should improve the situation slightly since enforcement powers will exist. However, as detailed in previous sections, the current drafting and obligations are vague making judicial review difficult. In addition, 75% or more of respondents in the study by the external contractor felt that without any further (EU) action, the situation for victims across Europe is expected to stay the same, with 25% considering it would deteriorate over the next five years, particularly for victims of violent crime. This means that on the whole the range of problems identified above would remain or become worse.</p> |
| Political Feasibility | High: Member States will have no new obligations. This option should therefore not experience significant objections. |
| Financial and economic impact | There are no immediate new financial burdens associated with this option. However, the total costs of crime to the individual and to society are considerable. Such costs have been detailed in Section 2.3 and based on a UK Home Office Survey an extrapolated EU cost of €233 billion has been estimated. Since adequately meeting the needs of victims can reduce those costs, no EU action can be assumed to have high cost implications on society. |
| Social impact | There are no expected positive social impacts. Rather it is expected that in many Member States victims will continue to be treated poorly and not receive support, protection or access to justice. The negative impact is likely to be greatest on vulnerable groups such as the disabled or those subjected to sexual violence. |
| Impact on fundamental rights | Under this option, fundamental rights of victims will be mostly protected on the Member States level in accordance with their international obligations. The protection of the fundamental rights of victims on the Union level will continue to be limited to the application of the Directive on the compensation of victims and the Framework Decision. The fundamental rights will continue to be protected in a different manner according to each national system. The EU Charter – and the rights applying to victims enshrined therein – will be applied only when EU law is involved. |
| Impact on MS judicial systems | No impact is expected on Member States' judicial systems except where they make changes on their own initiative. |

⁶⁷ APAV Report, p. 120.

5.1.2. Policy option 2: Low prescription

| Expected Impact | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---|---|--|---|---|---|---|------|--|------|------|--|--------|------|--|---|-----|--|-------|------|---|-------|------|--------------|-----------------|------------------|
| Effectiveness in meeting objectives | <p>Low: This option is the least prescriptive leaving a wide discretion to Member States in implementation. Only a few measures introduce obligations to change behaviours or activities. As with the Framework Decision, this is likely to result in few changes or improvements. Even where action is taken it is unlikely to establish minimum standards. Furthermore, open provisions are very difficult to be monitored.</p> <p>Synergies are unlikely to be achieved or to make any significant cost savings or added benefits due to the likely lack of uniformity of implementation. Some extended benefits may be achieved through the establishment of detailed guidelines which could form the foundations of a training programme or even a governmental change programme.</p> | | | | | | | | | | | | | | | | | | | | | | | | | |
| Political Feasibility | <p>High: Given the lack of obligations imposed on Member States, negotiation and implementation should be very feasible. Member States will be able to choose how far they wish to go with any implementation and what changes they wish to make. However, some States, in particular those who already have good victims' provisions, and the European Parliament may wish to go further.</p> | | | | | | | | | | | | | | | | | | | | | | | | | |
| Financial and economic impact | <p>Total costs are expected to be the lowest in this option (excluding <i>status quo</i>). Almost all costs will fall to public administrations on both a national and local level. Some costs could fall to the voluntary sector. Some costs may be limited to the short run such as the development of guidelines, whilst others may incur ongoing running costs such as victim support services.</p> <table border="1"> <thead> <tr> <th></th> <th>Minimum Total EU cost (Millions of euros)</th> <th>Maximum Total EU cost (Millions of euros)</th> </tr> </thead> <tbody> <tr> <td>Training (one off development cost)</td> <td>0</td> <td>1.58</td> </tr> <tr> <td>Victim Support Services (annual running costs)</td> <td>< 23</td> <td>< 23</td> </tr> <tr> <td>Interpretation/ translation (annual costs)</td> <td>< 0.03</td> <td>6.88</td> </tr> <tr> <td>Restorative Justice (annual costs - however, due to reduction in reoffending, significant savings for the criminal justice system can be expected)</td> <td>0</td> <td>878</td> </tr> <tr> <td>Attendance of trial (one off development cost)</td> <td>0.146</td> <td>1.58</td> </tr> <tr> <td>Separate waiting areas (one off development cost)</td> <td>0.146</td> <td>1.58</td> </tr> <tr> <td>TOTAL</td> <td>< 23.33 million</td> <td>< 905.74 million</td> </tr> </tbody> </table> <p>Training – development of guidelines: Total cost: Near to zero – €1.58 million for 27 Member States</p> <p>Costs are likely to be relatively low. Depending on how this option is implemented the burden could be primarily on national governments or the EU.</p> <p>Cost for developing guidelines will vary. At the lowest end, the European Network of Councils for the Judiciary recently produced basic guidelines for judges at virtually no cost. Such an approach for all practitioners could significantly reduce costs close to zero. The range of costs was further developed based on whether guidelines are produced by a government Department, are externally contracted or are drafted by the EU and adapted by Member States. In addition, some Member States e.g. FR, BE already have guidelines which would reduce this cost.</p> <p>Victim Support Services – easy, effective access: Total cost: Less than €23,500,000 for 17 States that have no or limited VSO</p> <p>This option gives Member States wide flexibility in implementation. This may result in Member</p> | | | Minimum Total EU cost (Millions of euros) | Maximum Total EU cost (Millions of euros) | Training (one off development cost) | 0 | 1.58 | Victim Support Services (annual running costs) | < 23 | < 23 | Interpretation/ translation (annual costs) | < 0.03 | 6.88 | Restorative Justice (annual costs - however, due to reduction in reoffending, significant savings for the criminal justice system can be expected) | 0 | 878 | Attendance of trial (one off development cost) | 0.146 | 1.58 | Separate waiting areas (one off development cost) | 0.146 | 1.58 | TOTAL | < 23.33 million | < 905.74 million |
| | Minimum Total EU cost (Millions of euros) | Maximum Total EU cost (Millions of euros) | | | | | | | | | | | | | | | | | | | | | | | | |
| Training (one off development cost) | 0 | 1.58 | | | | | | | | | | | | | | | | | | | | | | | | |
| Victim Support Services (annual running costs) | < 23 | < 23 | | | | | | | | | | | | | | | | | | | | | | | | |
| Interpretation/ translation (annual costs) | < 0.03 | 6.88 | | | | | | | | | | | | | | | | | | | | | | | | |
| Restorative Justice (annual costs - however, due to reduction in reoffending, significant savings for the criminal justice system can be expected) | 0 | 878 | | | | | | | | | | | | | | | | | | | | | | | | |
| Attendance of trial (one off development cost) | 0.146 | 1.58 | | | | | | | | | | | | | | | | | | | | | | | | |
| Separate waiting areas (one off development cost) | 0.146 | 1.58 | | | | | | | | | | | | | | | | | | | | | | | | |
| TOTAL | < 23.33 million | < 905.74 million | | | | | | | | | | | | | | | | | | | | | | | | |

States either carrying out few changes or not implementing to the extent described below. As such it can be assumed that costs will be lower than options 3a, 3b and 4.

Costings are based on known budgets from several national organisations adjusted based on whether there was no known victim support organisation in a Member State (CY, DK, EL, IT, LV, LT, PL, SI and ES - 9 States), whether existing VSOs achieved national coverage (AT, BE, EE, FI, DE, NL, PT, SK, SE, UK – 10 States) or did not (BG, CZ, FR, HU, IE, LU, MT, RO - 8 States).

Interpretation and Translation – minimise communication difficulties:

Total cost: Less than €30,000 – €6,880,000

This option provides a wide leeway for implementation by Member States. Costs of implementation are expected to fall on government authorities at a national and regional level. Cost for leaflets should only be borne once and for any subsequent changes to content. There are unlikely to be annual translation costs. Costs for translation of proceedings are expected to remain relatively constant.

Costs ranges are based on whether Member States choose to produce leaflets (assumed as being 4 pages) or in addition provide short summaries of the outcome of proceedings.

In relation to the leaflets LT, LU, NL, PT, ES, UK are already know to provide this information. Calculations are therefore made for 21 States. A short 4 page information leaflet for 21 States translated into 22 languages would range from **€29,933 – €6,739**. However, Member States are likely to do this based on the most common languages used in their jurisdiction rather than for all 22 EU languages. Thus costs are likely to be lower.

In relation to summaries of proceedings, AT, EE, FI, FR, DE, EL, HU, LT, LU, NL, RO, SK, ES, SE, UK (15 States) already provide translation and interpretation services for all victims. Calculations are made therefore for 12 States (BE, BG, CZ, CY, DK, IE, IT, LV, MT, PL, PT, SI). The cost of producing 1 page summaries is therefore estimated to range **from €2.91 to €6.79 million**.

Restorative Justice Services (RJS) – safeguards where RJS exists:

Total cost: €0 – €78 million (accreditation and legal advice for 21 States)

21 Member States provide some form of RJS (AT, BE, BG, CZ, EE, FI, FR, DE, EL, HU, IE, IT, LV, LU, PL, PT, RO, SI, ES, SE, UK). Calculations on safeguards will thus only be based on costs in those states.

Member States could implement this requirement ranging from no significant costs since **many safeguards do not impose financial burdens** (such as the requirement of consent to participate in RJS), to the most expensive safeguards **accreditation schemes and provision of legal advice** (in accordance with the UN guidelines on RJS safeguards). Cost estimates will thus only be given on those two safeguards.

Total cost of accreditation schemes: €413,914 – €3,420,182 (assuming implemented by 21 States).

Total cost of legal advice: €606 – €75 million (assuming implemented by 21 States). This is based on the **most likely costing scenario**, i.e. on the number of cases that currently go to court and a 50% take up rate. However, it is assumed that costs would be lower as not all 50% of victims would actually receive RJ (case not suitable, offender refusal) or would not get to a stage where legal advice was required or desired.

Attendance of trial – establish guidelines:

Total cost: €146,000 - €1,580,000

This policy option involves the establishment of guidelines to better inform victims concerning trial dates and possibility of reimbursement. Based on the analysis of guidelines on training in studies, the following costs are expected:

Guidelines attending trial

Internally developed by Ministry of Justice

Externally contracted

EU Drafted, MS adaptation

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|---------------------------|--|----------------------|----------|
| | €145,616 | €970,000 - 1,580,000 | €236,201 |
| | <p>Separate waiting areas – development of guidelines and protocols: Total cost: €146,000 - €1,580,000</p> <p>This policy option involves the establishment of guidelines and protocols for court officials to assist them in ensuring that risk of contact between victims and offender is minimised. The calculation of the costs estimates are the same as for guidelines on attendance of trial (see above).</p> | | |
| Social impact | <p>This option is likely to raise awareness of the rights available among both victims and professionals with whom they are in contact (e.g. through adoption of guidelines, exchange of best practices). This would contribute to the required change in culture, increase the victim's access to justice, support and protection. However, the risk that guidelines are not made sufficiently available and are adhered only on a voluntarily bases, limits this positive impact.</p> <p>The exclusion of indirect victims and the narrow approach of vulnerable victims (limited to child sexual abuse and exploitation and human trafficking) would significantly reduce the beneficiaries of common EU standards.</p> <p>The introduction of minimum requirements as regards the availability of support services, mechanisms to minimise communication difficulties and a review mechanism would clearly strengthen the individual's right to access to justice. However, without common standards as regards the quality of these services or mechanisms, there is a serious risk that the situation of victims will not really improve in many Member States.</p> <p>This option would positively affect the right of the individuals to move freely within the EU by ensuring that a victim continues to benefit from a protection measure when crossing borders.</p> | | |
| Fundamental rights | <p>Under this option, the precise impact on fundamental rights would very much depend on how Member States implement EU legislation. For those Member States which are ambitious, the positive impact on fundamental rights of option 2 could come close to option 3. In general, it is possible to state that option 2 is likely to ensure a higher level of respect for the victim's fundamental rights than option 1. However, consisting mainly of soft-law measures and giving the overall situation as regards the lack of possibilities to enforce those rights (see Section 2.4), this positive impact remains limited.</p> <p>In any event, this option will have a impact on several fundamental rights, in particular:</p> <ul style="list-style-type: none"> • The right to human dignity and right to the integrity of the person will be strengthened due to the development of measures related to identification of the needs of victims. This right would be also enhanced by the adoption of the guidelines for practitioners on the appropriate treatment of victims and the requirement to ensure easy and effective access of victims to support services. • Right to an effective remedy and to a fair trial could be more effectively put in practice as victims could provide their views before a decision not to prosecute is made. Member States obligations to set minimum quality standards for RJS would also contribute in ensuring that right to a fair trial is guaranteed within this specific procedure. Victims would also benefit from setting minimum requirements as regards the provision of information to victims about the trial. • The rights to life, the respect for private and family life and freedom of movement and residence will be positively impacted by an efficient solution as regards the cross border provision of protection measures. • A mutual recognition instrument in this area could potentially impact the fundamental rights of the offender such as the right to liberty and security, the respect for private and family life, protection of personal data, freedom of movement an residence rights to effective remedy and to a fair trial and the principle of legality and proportionality of criminal offences. The impact on these rights and the proportionality of their limitation would depend on the concrete type of protection measures which would be defined or subject to mutual recognition. For instance, Member States can impose national protection measures which can result in anything | | |

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| | <p>from restrictions on making phone calls to an individual through to being barred from a family home. A mutual recognition instrument would result in such similar measures being applied in another Member State to which the victim moves or travels. In that case, respect for private and family life will be particularly affected. Recognition of the protection order would also require that information on the offender is exchanged between Member States' authorities which could impact the protection of personal data. The instrument will have to ensure that any such possible limitations to the rights of the offender are justified by providing the necessary safeguards to ensure that such impact would be proportionate and necessary to the aim of protection of the victim. Any limitations of the rights of the offender will have to be formulated in a clear and predictable manner. The right of the offender to challenge before a tribunal the protection measures will have to be ensured as well as presumption of innocence and right of defence..</p> <ul style="list-style-type: none"> The measures relating to this option would increase the rights of the child and several other rights affected with regard to victims of human trafficking by requiring minimum level of support services available for these two groups, this option would only have limited impact on the rights of the child in general, of the rights of the elderly and the integration of person with disabilities in general since the group of victims do not benefit from specific protection. |
| Impact on MS judicial systems | Limited since the proposal consists either of soft law measures (guidelines, exchange of practices) or of legal requirements aiming at a minimum level of ambition, thus requiring little changes in the national legal systems. |

5.1.3. Policy option 3a: Medium prescription

| Expected Impact | | | | | | | | | | | |
|--|--|---|--|---|---|--|--|---|--|----------------|----------------|
| Effectiveness in meeting objectives | <p>High: This option is predicted to be highly efficient in terms of achieving the general and specific objectives. The concrete obligations imposed on Member States and the quality standards introduced will allow monitoring and effective infringement procedures at EU level. For those measures where there is not yet a common culture among Member States (e.g. restorative justice services) this option would start by creating a common culture (through awareness raising, exchange of best practices), whilst also setting certain minimum quality standards where restorative justice systems are indeed used. A range of synergies could occur for instance where victims support organisations are strengthened they may provide training at reduced costs. Where training of practitioners is effective, their increased awareness of victim support and restorative justice will allow those organisations to plug into the criminal justice system more easily and at a lower overall cost. In the most well established victim support organisations, needs assessments are carried out by those organisations rather than government, at a much lower cost.</p> | | | | | | | | | | |
| Political Feasibility | <p>Medium High - Given the obligations imposed on Member States and the costs involved, negotiation and implementation will entail severe discussion, in particular for those Member States which have the lowest standards in place. However, this option imposes a low obligation on Member States regarding one of the most controversial and costly matters, i.e. restorative justice, which should ease the political acceptability and increase the likelihood of agreement. This option is thus more feasible than option 3b which imposes a higher obligation on Member States with regard to restorative justice services.</p> | | | | | | | | | | |
| Financial and economic impact | <p>Total costs are expected to be the in the lower middle of the four options (excluding Status quo). Almost all costs will fall to public administrations on both a national and local level.</p> <table border="1" data-bbox="379 1765 1481 2011"> <thead> <tr> <th></th> <th>Minimum Total EU cost (Millions of euros)</th> <th>Maximum Total EU cost (Millions of euros)</th> </tr> </thead> <tbody> <tr> <td>Training (1st year costs, range of cost reduction factors exist)</td> <td>4.61 (opportunity cost: 71.27)</td> <td>17.28 (opportunity cost: 72.29)</td> </tr> <tr> <td>Victim Support Services (Annual running costs)</td> <td>< 24</td> <td>< 27</td> </tr> </tbody> </table> | | | Minimum Total EU cost (Millions of euros) | Maximum Total EU cost (Millions of euros) | Training (1 st year costs, range of cost reduction factors exist) | 4.61 (opportunity cost: 71.27) | 17.28 (opportunity cost: 72.29) | Victim Support Services (Annual running costs) | < 24 | < 27 |
| | Minimum Total EU cost (Millions of euros) | Maximum Total EU cost (Millions of euros) | | | | | | | | | |
| Training (1 st year costs, range of cost reduction factors exist) | 4.61 (opportunity cost: 71.27) | 17.28 (opportunity cost: 72.29) | | | | | | | | | |
| Victim Support Services (Annual running costs) | < 24 | < 27 | | | | | | | | | |

| | | |
|--|-------------------|--------------------|
| Interpretation/ translation (Annual costs) | < 89.29 | < 205.49 |
| Restorative Justice (AS OPTION 2) (Annual costs - however, due to reduction in reoffending, significant savings for the criminal justice system can be expected) | 0 | 878 |
| Attendance of trial (Annual costs) | 240 | 242.9 |
| TOTAL | 357.9 | 1,370.67 |
| Separate waiting areas (per 50m2 new waiting area per court) | | 0.23 |

Training – legal practitioners trained, training available for judges, some detail on content:

Training of police and judiciary: €4.61 – €17.28 million (based on single training scenario for all practitioners assuming no Member State currently provides training)

Opportunity cost of attending training: €71.27 million – €72.29 million

No figures available for prosecutors or court staff.

Costs are based on estimates for a 2 hour face to face training session for police officers and judges. Costings are based on minimum-maximum ranges for hourly wages of trainers (including development of the course), number of police officers and judges and their average national salaries.

It should be noted that the above costs could be significantly reduced due to a range of factors:

- The above scenario assumes no training is currently provided. However, although exact details are not available, we know that some Member States already provide training. Respondents in the APAV interim report, felt that police officers and legal practitioners in BE, CY, FI, FR, EL, HU, IE, IT, MT, PL, PT, SK, SI and SE need more training programmes in order for them to meet the needs of most victims. It was also felt that professionals in DE and UK who deal with victims do not have enough knowledge
- Since training of judges is not mandatory in this option, it can be assumed that not all judges will be trained. Costs will therefore be lower.
- We would also anticipate that costs would be significantly lowered by providing victims training during basic training i.e. before practitioners are practicing. Further reductions could be made through online or e-learning to minimise lost work time. Costs are also much lower where provided by victim support organisations. The more such organisations are strengthened the more likely they are to carry out such tasks.
- Finally these costs are based on the first year of training provision. Subsequent training at this level would only be needed for new recruits and thus **2nd year costs onwards would be much lower.**

Victims support services – establish services or support existing ones. Minimum standard.

Total cost: Less than €4 – €7 million to establish nationwide services.

Cost for accreditation: €477,000 – €3.58 million

Cost of services: Less than €3.5 million for 17 States that have no or limited VSO

Costs are based on calculations in option 2. Additional costings are provided in relation to accreditation (based on restorative justice accreditation) since this option requires that services are provided by competent practitioners.

Interpretation and Translation – provided on basis of proportionality

Total costs: Less than €89.29 – €205.49 million

Translation: €87.42 – €203.61 million

Interpretation: €1.88 million

As with option 2, this option is difficult to cost. A proportionality test has been introduced to provide

where necessary and to a necessary extent. This should effectively reduce cost implications in particular in relation to low level crimes (where for instance a simple summary may be provided) or where the victim has indicated they do not wish to receive translations etc.

Translation: Costs are based on translating an average of **30 pages**. On this basis, the total cost for **the 9395 cases** involving foreign victims in those 12 States that don't currently provide interpretation and translation ranges **from €7.42 – €203.61 million**.

Interpretation: It has been estimated that the average cost of interpretation for the accused for 1 case is around **€200**. Based on this costing, it is estimated that interpretation for the 12 States that do not currently provide interpretation for all victims would cost around **€1.88 million** at a maximum.

However, these costings only provide a baseline. Since Member States will apply a proportionality test, it is assumed that **costs can be reduced**. In addition, interpretation costs are based on UK figures for interpretation. It has been observed that interpretation in the UK is provided to a very high level and it can therefore be assumed that **these costs are at the maximum end of the scale**.

Restorative Justice Services (RJS) – safeguards where RJS exists:
Total cost: €0 – €78 million (accreditation and legal advice for 21 Member States)

Costs are based on calculations made in option 2.

Attendance of trial – assessment on exclusion, trial date info, reimbursement
Total cost: €240 – €42.9 million
Cost of providing information: - €0 – €2.9 million
Reimbursement: €240 million

Key costs relate to informing the victim of the trial date and reimbursing the victim for attendance. Assessment of exclusion of the victim is not expected to impose significant financial costs though some additional administrative burden will be experienced.

Information on trial date: Costs are established for the 19 States that do not currently inform all victims of the trial date (CY, DK, EE, FI, FR, DE, EL, HU, IT, LU, MT, NL, PT, RO, SK, SI, ES, SE, UK) though in reality they will be lower since many victims are witnesses. Cost are based on mailing information to victims and are estimated at **€2.9 million**. These costs could be reduced to near zero by sending the official communication by E-mail.

Reimbursement for attendance: Costs are established for the 9 States which only reimburse witnesses or parties to proceedings or have no provisions on reimbursement ((BE, CY, DK, EE, IE, IT, UK, MT and ES. Based on studies, the total costs for these 9 states amounts to around **€240 million**.

Separate waiting areas: progressive adaptation of existing court premises to have separate waiting areas for victims and establishment of such area in newly constructed court premises
Maximum €200,000 - €30,000 per newly constructed waiting area

This cost is very difficult to estimate since little information is available from the Member States. We can therefore not provide an EU total cost on this measure.

To get an indication, the external study relied on information retrieved from the UK Ministry of Justice, where the design of a court with complete separation for victims (Sunderland Justice Centre) had just been completed. In the Sunderland Justice Centre, the extra witness area over and above the normal vulnerable witness suite is about 10 sq m per court; the extra circulation is about 40 sq m per court, thus totalling about 50 sq m per court. The cost for building separate waiting areas in a new court⁶⁸ is in the range of £3,500 - £4,000 (€4,000 - €4,600) per m². The cost of separate witness waiting room is therefore about £175 000 - £200 000 (€200,000 - €230,000) per courtroom.

With only one example these figures are not particularly robust. Clearly much depends upon the design of the building and any site constraints placed on the design, as well as the general construction costs in a particular Member State. Surveys on international construction costs available

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| | <p>building costs average. Therefore, while we cannot speculate on specific costs for individual Member States, we can assume that the cost for Member States to build one court room of 10 m² and of 40 m² extra circulation area are likely not to exceed €200,000 - €230,000.</p> <p>Considering that only four Member States (LT, NL, RO, UK) already have an obligation to provide separate waiting areas for victim and offender (conditional or unrestricted), the cost implication for the other 24 Member States will potentially be significant depending on the degree of ambition in providing such separate areas (e.g. whether such premises should be connected to separate entrances and corridors). As we do not have any information on the possibilities and plans in the different Member States to adapt existing court premises, or on plans for the construction of future court houses, we cannot estimate a total EU cost for this option. However, a number of factors are likely to reduce annual cost implications since we do not expect large numbers of new courts to be built every year. In addition, the size of such a waiting area is likely to be much smaller for many courts than the example of the UK court referred to above (50m² including a separate corridor).</p> |
| <p>Social impact</p> | <p>Beyond the benefits identified in option 2, enforceable common standards as regards both the availability and the quality of services would significantly improve the situation of specific categories of victims (including family members of a murdered, children, disabled, elderly etc.). This positive impact is strengthened by an obligation for Member States to carry out a needs assessment for each victim to ensure their individual needs are properly met as well as by a mandatory list of services which all victims are entitled to. This latter measure would significantly improve the situation of victims, in particular in those Member States which do not yet have a strong culture of victim support services and which might otherwise be tempted to offer only a limited range of services.</p> <p>As regards the victim's access to justice, this option goes clearly beyond option 2 since it introduces mandatory rules as regards the victim's right to be informed about the process, the right to reimbursement for attending trial, the right to have the decision not to prosecute reviewed. This positive impact is even more important in cross-border cases since the victim will be entitled to interpretation and translation of court proceedings.</p> <p>The introduction of minimum requirements where restorative justice services are already used will clearly strengthen the individual's right in the 21 Member States which use such schemes.</p> <p>The obligation to minimise direct contact between the victim and the offender in court rooms and police stations would have a positive impact on the protection of the victim. However, this obligation is to some extent put in place progressively, thus delaying the positive impact of this option in time.</p> |
| <p>Fundamental rights</p> | <p>This option would have a significant positive impact on the fundamental rights of victims. It would go beyond the impacts of policy option 2 in several respects.</p> <ul style="list-style-type: none"> • The right to human dignity and right to the integrity of the person would be strengthened by mandatory rules on training for all professionals in contact with victims and by introducing minimum standards as regards availability and quality of victim support services that would be made available also to an immediate family and dependents of the victim of murder. Assessments of victims would allow specific needs of certain victims who do not fall under a presumed category of vulnerability to be addressed. This procedure also contributes to the fact that victims are granted adequate compensation and may not need to take part in formal proceedings. Clearly obligations or standards for RJS will provide strong protection of victims in particular, in relation to their fundamental rights. • The introduction of a review mechanism against the decision not to prosecute would have a positive impact on the right to an effective remedy and to a fair trial. This impact will very much depend on the way this right is implemented since option 3s leaves much discretion to Member States. The victim would be entitled to receive information about the criminal procedure, to attend trial (unless there are exceptional circumstances), to receive interpretation and translation in the relevant steps of the criminal proceedings and where proportionate. In order to mitigate the risk that the right to a fair trial of the accused could be unproportionally limited, the option recalls that the victim could be excluded from trial in exceptional circumstances which will be defined by the Member States of the judicial authority. There is a risk that strengthening the victim's right to |

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| | <p>fair trial might impact the fair trial of the accused. Attendance of victims will have to respect the right of fair trial and defence of the offender.</p> <ul style="list-style-type: none"> • As regards protection of personal data, when implementing several of the proposed measures, such as the operation of victims support services or the needs assessment, sensitive personal data may be treated or processed. Such data shall be collected for specified, explicit and legitimate purposes and processed fairly, lawfully and in a way that is compatible with those purposes. • As regards the rights of the child, rights of the elderly and the integration of people with disabilities, option 3a clearly goes beyond option 2 by increasing the number and quality of support services for several specific groups of vulnerable victims as well as of family members. Children and people with disabilities would be also presumed to be vulnerable. Particular attention would be also paid to the training of the professionals on how to adequately address the needs of these groups. • The cross-border provision of protection measures under option 3a has the same impact on all the fundamental rights as option 2. The right to private and family life will also be strengthened by the reduction of direct contact between victims and offenders in court rooms and police stations. |
| Impact on MS judicial system | There could be a large impact on Member States judicial system, in particular in those Member States which have a low standard as regards the standing of victims in the judicial procedure. However, this option does not contain concrete measures which would have the most serious impact on Member States' judicial system (e.g. <u>judicial</u> review as regards the decision not to prosecute, restorative justice as mandatory part of the judicial procedure) and, wherever needed, would leave sufficient discretion to Member States in implementation. |

5.1.4. Policy option 3b: Medium/High prescription

| Expected Impact | | | | | | | | | | | | | | |
|--|--|--|--|---|---|--|---|--|--|------|------|------------------------------------|---------|----------|
| Effectiveness in meeting objectives | High: This option is predicted to be highly efficient in terms of achieving the general and specific objectives. The concrete obligations imposed on Member States and the quality standards introduced will allow monitoring and effective infringement procedures at EU level. For those measures where there is not yet a common culture among Member States (e.g. establishment of restorative justice services) this option would start by creating a common culture (through awareness raising, exchange of best practices), whilst also setting certain minimum quality standards. A range of synergies could occur for instance where victims support organisations are strengthened they may provide training at reduced costs. Where training of practitioners is effective, their increased awareness of victim support and restorative justice will allow those organisations to plug into the criminal justice system more easily and at a lower overall cost. In the most well established victim support organisations, needs assessments are carried out by those organisations rather than government, at a much lower cost. | | | | | | | | | | | | | |
| Political Feasibility | Medium - Given the obligations imposed on Member States and the costing involved, negotiation and implementation will entail severe discussion, in particular for those Member States which have the lowest standards in place. This option goes further than option 3a with regard to restorative justice and requires Member States to establish or enhance such services, which might be controversial. | | | | | | | | | | | | | |
| Financial and economic impact | Total costs are expected to be the in the higher middle of the four options (excluding Status quo). Almost all costs will fall to public administrations on both a national and local level. | | | | | | | | | | | | | |
| | | <table border="1"> <thead> <tr> <th></th> <th>Minimum Total EU cost (Millions of euros)</th> <th>Maximum Total EU cost (Millions of euros)</th> </tr> </thead> <tbody> <tr> <td>Training (1st year costs, range of cost reduction factors exist)</td> <td>4.61 (opportunity cost: 71.27)</td> <td>17.28 (opportunity cost: 72.29)</td> </tr> <tr> <td>Victim Support Services (Annual running costs)</td> <td>< 24</td> <td>< 27</td> </tr> <tr> <td>Interpretation/ translation</td> <td>< 89.29</td> <td>< 205.49</td> </tr> </tbody> </table> | | Minimum Total EU cost (Millions of euros) | Maximum Total EU cost (Millions of euros) | Training (1 st year costs, range of cost reduction factors exist) | 4.61 (opportunity cost: 71.27) | 17.28 (opportunity cost: 72.29) | Victim Support Services (Annual running costs) | < 24 | < 27 | Interpretation/ translation | < 89.29 | < 205.49 |
| | Minimum Total EU cost (Millions of euros) | Maximum Total EU cost (Millions of euros) | | | | | | | | | | | | |
| Training (1 st year costs, range of cost reduction factors exist) | 4.61 (opportunity cost: 71.27) | 17.28 (opportunity cost: 72.29) | | | | | | | | | | | | |
| Victim Support Services (Annual running costs) | < 24 | < 27 | | | | | | | | | | | | |
| Interpretation/ translation | < 89.29 | < 205.49 | | | | | | | | | | | | |

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| (annual costs) | | |
| Restorative Justice (Annual running costs) | 20.08 | 2,641.58 |
| Attendance of trial (Annual Costs) | 240 | 242.9 |
| TOTAL | 377.98 | 3,134.25 |
| Separate waiting areas (per 50m2 new waiting area per court) | | 0.23 |

Training – legal practitioners trained, training available for judges, some detail on content:

Training of police and judiciary: €4.61 – €17.28 million (based on single training scenario for all practitioners assuming no Member State currently provides training)

Opportunity cost of attending training: €71.27 million – €72.29 million

No figures available for prosecutors or court staff.

Costs are based on calculations made in option 3a.

Victims support services – establish services or support existing ones. Minimum standard.

Total cost: Less than €24 – €27 million to establish nationwide services.

Cost for accreditation: €477,000 – €3.58 million

Cost of services: Less than €23.5 million for 17 States that have no or limited VSO

Costs are based on calculations made in option 3a.

Interpretation and Translation – provided on basis of proportionality

Total costs: Less than €89.29 – €205.49 million

Translation: €87.42 – €203.61 million

Interpretation: €1,879,000

Costs are based on calculations made in option 3a.

Restorative Justice Services (RJS) – establish or enhance RJS based on minimum standards

Total cost of establishing RJS and apply minimum standards (including establishment costs, accreditation and legal advice:

€0.1 million to €2.6 billion

Total cost of establishing RJS (in 6 Member States):

€19.6 million (at €75 per case) to €1.7 billion (at €6570 per case).

Total cost of accreditation: €477,296 – €3.58 million (assuming implemented by all 27 States)

Total cost of legal advice: €45 – €38 million (assuming implemented by all 27 States)

Note that this cost **will only be included in the maximum costing since Member States are not obliged to carry it out.**

This option requires that restorative justice services are provided and establishes certain standards to be achieved including that practitioners are competent in restorative justice. Costings are provided for establishing RJS and for implementing the two most expensive safeguards accreditation schemes and provision of legal advice (in accordance with the UN guidelines on RJS safeguards). Further details are provided in Annex 10.

Cost of establishing and running RJS: 21 Member States have some form of RJS in place. The cost estimates are thus made on the basis of only those six States which do not have RJS (CY, DK, LT, MT, NL, SK). The cost per case can vary widely from €75 in France €6570 per case in the UK. Based on a calculation using 261,507 court cases in the six States concerned (assuming there is a 50% take up of RJS by the approximately 523.000 victims with court cases in these countries), the cost for establishing RJS could range from **€19.6 million (at €75 per case) to €1.7 billion (at €6570 per case).**

| | | | |
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| | <p>include all 27 Member States: €477,296 – €3.58 million.</p> <p>The cost of legal advice is based on the same calculations as in option 3a, except that they include all 27 Member States: €645 – €938 million.</p> <table border="1" data-bbox="384 304 1481 427"> <tr> <td> <p>Attendance of trial – assessment on exclusion, trial date info, reimbursement Total cost: €240 – €42.9 million Cost of providing information: €0 – €2.9 million Reimbursement: €240 million</p> </td> </tr> </table> <p>Costs are based on calculations made in option 3a.</p> <table border="1" data-bbox="384 495 1481 584"> <tr> <td> <p>Separate waiting areas – progressive adaptation of existing court premises to have separate waiting areas for victims and establishment of such area in newly constructed court premises Maximum €200,000 - €30,000 per newly constructed waiting area</p> </td> </tr> </table> <p>Costs are based on calculations made in option 3a.</p> | <p>Attendance of trial – assessment on exclusion, trial date info, reimbursement Total cost: €240 – €42.9 million Cost of providing information: €0 – €2.9 million Reimbursement: €240 million</p> | <p>Separate waiting areas – progressive adaptation of existing court premises to have separate waiting areas for victims and establishment of such area in newly constructed court premises Maximum €200,000 - €30,000 per newly constructed waiting area</p> |
| <p>Attendance of trial – assessment on exclusion, trial date info, reimbursement Total cost: €240 – €42.9 million Cost of providing information: €0 – €2.9 million Reimbursement: €240 million</p> | | | |
| <p>Separate waiting areas – progressive adaptation of existing court premises to have separate waiting areas for victims and establishment of such area in newly constructed court premises Maximum €200,000 - €30,000 per newly constructed waiting area</p> | | | |
| <p>Social impact</p> | <p>This option has the same social impact as option 3a with the additional consideration that restorative justice services will be strengthened. This is a service that is not yet a common practice in all Member States and the requirement to establish and apply minimum standards as regards the quality of the services provided in this area can potentially significantly increase the victims' feeling that justice is done and that the criminal justice systems cares about their feelings.</p> | | |
| <p>Fundamental rights</p> | <p>This option has the same positive impacts on fundamental rights as option 3a. The following considerations should be noted with regard to restorative justice services:</p> <ul style="list-style-type: none"> • The right to human dignity and right to the integrity of the person would be strengthened by the increased possibilities for the victim to benefit from some form of restorative justice. This does not negatively impact the corresponding rights of the offender since this technique always requires the consent of both parties involved and consent of the state authority. Indeed, it has been found to have a positive impact on offenders. This option includes the elaboration of common standards and safeguards ensuring the respect of fundamental rights during this procedure. | | |
| <p>Impact on MS judicial system</p> | <p>This option has the same or even larger impacts on Member States' judicial systems as option 3a. Under this option, Member States would in addition have the obligation to establish or enhance restorative justice services which could have a significant impact, in particular in those Member States which either do not have such services in place or have low standards for such services.</p> | | |

5.1.5. Policy option 4: High prescription

| Expected Impact | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---|--|--|--|--|--|---|--|--------------|--------------|--|--------------|---------------|--|--------------|-----------------|--|------------|--------------|--------------|-----------------|-----------------|--|--|-------------|--|--|
| Effectiveness in meeting objectives | Very high: This policy option is predicted to yield an even higher level of efficiency in terms of achieving the general and specific objectives than options 3a and 3b. Greater efficiency is expected in particular in terms of ensuring that all victims in the EU are treated with respect and dignity since the option entails detailed common quality requirements as regards training, individual need assessment and the respect of the specific needs of vulnerable and indirect victims. Equally, this option is likely to demonstrate higher efficiency in relation to achieving the specific objective of ensuring that victims are supported (broad range of services available through independent non governmental bodies), have access to justice (right to <u>judicial</u> review, full interpretation and translation of court proceedings free of charge, full reimbursement of attendance to trial etc.) and are entitled to benefit from the most important forms of restorative justice. Similar synergies to those described in option 3a and 3b will also be achieved. | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Political Feasibility | Low: Given the high level of obligations imposed on Member States and the high cost implications, this option will be difficult to negotiate and to implement. In particular, the high cost of providing legal advice may have to be borne by victim support and restorative justice organisations which may not be in a position to do so. | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Financial and economic impact | <p>Total costs are expected to be the highest of the four options (excluding Status quo). Almost all costs will fall to public administrations on both a national and local level. Depending on the Member States' implementation, victim support and restorative justice services may bear the costs of implementing any new safeguards in their sectors, such as training or accreditation.</p> <table border="1"> <thead> <tr> <th></th> <th>Minimum Total EU cost (Millions of euros)</th> <th>Maximum Total EU cost (Millions of euros)</th> </tr> </thead> <tbody> <tr> <td>Training (1st year costs, range of cost reduction factors exist)</td> <td>4.61 (opportunity cost: 71.27)</td> <td>17.28 (opportunity cost: 72.29)</td> </tr> <tr> <td>Victim Support Services (Annual running costs)</td> <td>4,074</td> <td>6,617</td> </tr> <tr> <td>Interpretation/ translation (annual costs)</td> <td>89.29</td> <td>205.49</td> </tr> <tr> <td>Restorative Justice (Annual running costs)</td> <td>20.08</td> <td>2,641.58</td> </tr> <tr> <td>Attendance of trial (Annual Costs)</td> <td>240</td> <td>242.9</td> </tr> <tr> <td>TOTAL</td> <td>4,427.98</td> <td>9,724.25</td> </tr> <tr> <td>Separate waiting areas (per 50m2 new waiting area per court)</td> <td></td> <td>0.23</td> </tr> </tbody> </table> <table border="1"> <tr> <td> <p>Training: mandatory training for police, prosecutors, judges, court staff</p> <p>Total training of police and judiciary – €4.61 – €17.28 million (based on single training scenario for all practitioners assuming no Member State currently provides training)</p> <p>Lost police and judicial time - €11.27 million – €72.29 million</p> </td> </tr> </table> <p>Costs are based on the same calculations as in option 3a and 3b. However, this option makes training for judges mandatory and is therefore expected to be more costly than that option.</p> <table border="1"> <tr> <td> <p>Victims Support Services (VSS) – establish or support independent VSS. Legal advice shall be provided.</p> <p>Total Cost – €4.07 – €6.6 billion</p> <p>Cost of services – Less than €23.5 million for 17 States that have no or limited VSO</p> </td> </tr> </table> | | Minimum Total EU cost (Millions of euros) | Maximum Total EU cost (Millions of euros) | Training (1 st year costs, range of cost reduction factors exist) | 4.61 (opportunity cost: 71.27) | 17.28 (opportunity cost: 72.29) | Victim Support Services (Annual running costs) | 4,074 | 6,617 | Interpretation/ translation (annual costs) | 89.29 | 205.49 | Restorative Justice (Annual running costs) | 20.08 | 2,641.58 | Attendance of trial (Annual Costs) | 240 | 242.9 | TOTAL | 4,427.98 | 9,724.25 | Separate waiting areas (per 50m2 new waiting area per court) | | 0.23 | <p>Training: mandatory training for police, prosecutors, judges, court staff</p> <p>Total training of police and judiciary – €4.61 – €17.28 million (based on single training scenario for all practitioners assuming no Member State currently provides training)</p> <p>Lost police and judicial time - €11.27 million – €72.29 million</p> | <p>Victims Support Services (VSS) – establish or support independent VSS. Legal advice shall be provided.</p> <p>Total Cost – €4.07 – €6.6 billion</p> <p>Cost of services – Less than €23.5 million for 17 States that have no or limited VSO</p> |
| | Minimum Total EU cost (Millions of euros) | Maximum Total EU cost (Millions of euros) | | | | | | | | | | | | | | | | | | | | | | | | | |
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Cost for accreditation: €477,000 – €3.58 million
Cost for legal aid: €4.05 – €6.59 billion

Costs are based on calculations provided in option 3a and 3b. However, in this option, VSS are required to be independent, autonomous and to provide legal advice or assistance. It can be assumed that whilst most costs should remain the same, the provision of legal advice could significantly increase costs.

It is difficult to calculate the cost of providing such advice. Some victim support organisations already do so either through in house or external lawyers. Costs can vary greatly depending on how advice is given but also on the nature of the advice. If it is basic and related to information on general rights etc this could be provided by less qualified persons. However, legal counsel could be extremely expensive.

Costs are based on national hourly wages of lawyers in Member States, 1 hour of advice being provided by an external lawyer. On this basis the total EU cost would be between €4.05 – €6.59 billion.

Interpretation and Translation – provided for all victims during proceedings

Total Costs: €89.29 – €205.49 million

Costs are based on calculations made in option 3a and 3b. However, no flexibility is provided in relation to when translation and interpretation is provided which will minimise the possibility to reduce costs.

Restorative Justice Services (RJS) – establish or enhance RJS based on minimum standards

Total cost of establishing RJS and apply minimum standards (including establishment costs, accreditation and legal advice:

€20.1 million to €2.6 billion

Total cost of establishing RJS (in 6 Member States):

€19.6 million (at €75 per case) to €1.7 billion (at €570 per case).

Total cost of accreditation: €477,296 – €3.58 million (assuming implemented by all 27 States)

Total cost of legal advice: €645 – €38 million (assuming implemented by all 27 States)

Note that this cost **will only be included in the maximum costing since Member States are not obliged to carry it out.**

Costs are based on the same calculations as in option 3b. However, this option make RJS mandatory and in accordance with certain standards and is therefore expected to be more costly than that option.

Attendance of trial – right to attend trial, informed of date and reimbursed, availability considered.

Total cost – > €240 – 242.6 million

Cost of providing information: > €0 – 2.6 million

Reimbursement: > €240 million

Costs are based on calculations made in option 3a and 3b. However, since full information should be provided to victims about the attendance of trial and also the victims availability should be taken into account when determining the date of the trial, the costs of reimbursement are likely to be higher.

There are no figures available in relation to victims attendance of any matter related to proceedings, but even if we assume as a minimum that the victim has to attend two further sessions of questioning during the investigation process this would treble reimbursement costs.

Separate waiting areas: all courts, existing and new, must have separate waiting areas for victims
Maximum €200,000 - €230,000 per newly constructed waiting area

| | |
|--------------------------------------|--|
| | would be considerably higher considering that Member States would need to establish separate waiting areas for victims in both existing and new waiting areas in all their court houses. |
| Social impact | The social impact of this option will go clearly beyond the impact of option 3a and 3b since it will introduce detailed and enforceable rights for all victims. The advantages compared to option 3a and 3b concern the respect for the need of specific categories of victims (full range of services available to vulnerable victims such as children) and access to justice (full <u>judicial</u> review of the decision not to prosecute) as well as the respect of the victim's privacy (complete separation of victim and offender in all courts). |
| Fundamental rights | The impact of option 4 would be quasi identical as for option 3a and 3b with the difference that the impact is sometimes stronger and fundamental rights of more individuals are enhanced due to its higher level of ambition. |
| Impact on MS judicial systems | There is a significant impact on Member States judicial system, including in those where the standing of victims is already a priority. All Member States would be obliged to introduce major changes to their national criminal procedure laws. |

6. COMPARING THE OPTIONS

6.1. Comparative assessment of policy options

Although highly feasible, Policy option 1 (*status quo*) does not meet the identified objectives and is therefore not considered. Policy option 2 is also poor and does not sufficiently fulfil the operational objectives that the European Commission intends to achieve with the adoption of the new measures.

Policy option 4 is the most likely to meet all the objectives and to meet them to the greatest extent. However, it is the most prescriptive providing Member States with the least amount of flexibility. It also imposes additional obligations on Member States. As a result costs are likely to be much higher than in the other options and it is the least feasible in terms of it being agreed. The degree of additional benefit that could be achieved is not considered to be proportionate to the additional costs.

Policy options 3a and 3b are also highly likely to meet the objectives though not to the same extent as option 4. However, with increased flexibility for States these options are both more feasible to negotiate and bear a lower financial burden than option 4. Furthermore, risks of reduced effectiveness will be mitigated through practical measures. Nevertheless, it is considered that in relation to the specific measure on restorative justice services the feasibility and cost implications are such that the mixed option 3a is preferred. Implementing option 3a will in particular considerably reduce the total cost of implementation compared to option 3b. **Policy option 3a is therefore the preferred option.**

6.2. The preferred option

Implementing the preferred **Policy option 3a** would help achieve the following results:

- **Adoption of legislation by European Parliament and Council** (operational objectives referred to in brackets):
 - Easily accessible victim support services are available in all Member States and meet specified minimum standards of service (C1).

- Police, prosecutors and court staff are trained in victims' matters in all Member States. Judicial studies are available to judges (A2).
- Mechanisms exist in all Member States to assess the individual needs of victims and to identify vulnerable victims (A3).
- Where a person is identified as vulnerable certain identified minimum services are available to them (A3).
- Interpretation and translation is available to victims during proceedings in all Member States to an extent proportionate to the circumstances of the case (D2).
- Where Restorative justice services are used, certain safeguards and minimum quality standards should be applied (E1).
- Where requested, and based on mutual recognition, protection measures are provided to persons already benefitting from a protection measure, when they travel or move abroad (B1).
- The victim has a right to request a review of the prosecution in all Member States. The exact mechanism for carrying out such a review is determined at a national level (D3).
- Exclusion of a victim from a trial is based on an individual assessment and the victim is informed of the date of trial (D1).
- Contact between the offender and victim is minimised during proceedings. Any new courts are designed with the possibility to provide separate waiting areas (B2).
- In general the legislation will relate to direct victims. However, rights will apply to the immediate family of murder victims. Support services and protection will be available to the immediate family of all victims (A1)

- **Establishment of practical measures to accompany legislative action to facilitate implementation and to consider future EU action:**

A list of appropriate practical measures shall be established to facilitate implementation, including:

- Study on state compensation and offender restitution.
- Study on legal assistance and legal aid for victims of crime.
- Support projects to develop best practice which will provide Member States with a more detailed understanding of how best to achieve the objectives in the legislation.
- The European Commission will also carry out its own projects and studies to further develop knowledge in the field. This could include for instance the establishment of interactive websites in all Member States to enable victims to better understand the criminal justice process and their role in it. Or it could

involve the development of training programmes.

Whilst costs for the preferred option could range from 358 million to around €1.4 billion, this amounts to only about €5 – 19 per victim (when considering 75 million direct victims of crime in the EU). In addition, as explained in the analysis, a range of factors are likely to result in costs being lower.

It should also be borne in mind that the action envisaged is likely to reduce the significant costs associated with crime (extrapolated to around €233 billion). In particular, effective and proper treatment of victims can help reduce the emotional and physical impact of the crime which can in turn have a positive economic impact in terms of the speed with which victims return to work, increased productivity due to faster and better recovery etc. Moreover, the action on mutual recognition of protection measures has a direct impact on crime prevention. Putting effective protection measures in place reduces repeat victimisation and the costs saved in terms of police and judiciary interventions for not having to deal with such crimes can be significant.

In terms of fundamental rights, policy option 3a will bring an overall positive impact on the fundamental rights of the victim. The measures relating to protection could have an impact on the rights of the offenders and will require to be accompanied by the necessary safeguards to ensure compliance with fundamental rights.

Action under policy option 3a has a clear EU added value. It builds on and reinforces the existing national and EU legal frameworks and will ensure that victims of crime are given non-discriminatory minimum level of rights across the EU, irrespective of their nationality or country of residence. The mutual recognition mechanism for protection measures is entirely new and will cover both criminal and civil law matters, and the EU added value in such cross border situations is considerable.

With this action the EU can contribute to make crime victims' needs a central part of the justice systems, alongside catching and punishing the offender. This action will raise the standards on victims' rights in the Member States and will ensure that victims benefit from a level playing field across the EU. These minimum safeguards and standards will facilitate judicial cooperation and increase quality of justice.

7. MONITORING AND EVALUATION

The timeframe for transposition of the EU legislation by Member States will be up to three years from its entry into force. The legislation would create a range of Member State obligations which although mirroring to a large extent existing international standards, are nevertheless in existence to varying degrees in Member States. It is expected that a three-year deadline would provide Member States with sufficient time to effect necessary changes to their respective national laws and practice. Potential risks to implementation in time will be identified in an Implementation Plan accompanying proposed legislation which set out relevant measures by the Commission aimed at countering these risks.

Providing for a robust monitoring and evaluation mechanism is crucial to ensure that the rights envisaged in the legislation are complied with in practice. The legislation will stipulate that Member States' should report on the effective implementation of legislative or non-legislative measures based on the nature of the proposed changes. [Annex 11](#) contains

indicators to evaluate the implementation of the proposal against policy objectives. Data provided by Eurostat, Eurobarometer and the Council of Europe will assist in the formation of a useful baseline for monitoring the situation. This may be coupled by a Commission funded victim survey prior to and subsequent to implementation of the Directive.

Besides quantitative data provided by Member States, other possible sources of qualitative information on legislative and practical compliance will be gathered from the Justice Forum, the ECtHR, the European Network of Councils for the Judiciary, Victim Support Europe and its members and the European Forum for Restorative Justice and its members. If the anticipated review of the mandate of the Fundamental Rights Agency extends that mandate to former third pillar areas, it could play a role in collecting data, carrying out studies and compiling reports on the rights covered in the Directive.

Member States should be encouraged to collect relevant data to assist in this process as there is reliable empirical data is currently weak.

The Commission envisages carrying out a specific empirical study with an emphasis on data collection 3-5 years into the implementation of the proposal to gain in-depth quantitative and qualitative insights into the effectiveness of the proposal. The data, combined with the Victim surveys would enable the Commission to evaluate actual compliance in Member States more robustly than using the means hitherto available as well as an evaluation on the perception of victims in term of the meeting of their needs.

ANNEX

ANNEX 1 – CONSULTATION OF PARTIES

The Commission first hosted an experts' meeting on 17 November 2008 where there was broad agreement on the need to improve the situation of victims in particular in relation to the provision of support. In 2009, the Commission pursued the preparation process of the Impact Assessment and a full consultation process therefore began in early 2010. The Commission's five minimum standards on consultations were followed. Experts from different background including governments, law enforcement agencies, NGOs, international organisations and universities took part in detailed discussions on the legislative plans well before the conclusion of this impact assessment.

A meeting of academic experts, NGOs and Member States was held on 18-19 February 2010 and was followed by a further Justice Forum on 14 April 2010. Key messages resulting from these meetings were:

- discussion on how to identify vulnerable victims (children, trafficked persons, etc);
- the need to focus on implementing and monitoring the existing legislation;
- the need to change practitioners' attitudes and culture through training on rights of victims of crime;
- the need to provide information, protection and compensation to victims;
- the need for coordination of victims support organisations;
- the importance of having minimum standards for courtrooms and the layout of the courts in Europe;
- the importance of cultural competences and qualifications of the interpreter;
- the need to ensure the right to remedy to victims;
- the idea of having a single instrument covering compensation and victims rights;
- the access to restorative justice.

On 25 May 2010, a meeting was also held with Member State's to discuss the specific issue of protection orders in both civil and criminal proceedings. Citing the efficiency of national protection measures, these experts considered that mutual recognition is not necessarily the best option to ensure effective protection of cross-border victims. Recognising that speed and flexibility matter more than the kind of procedure (criminal, civil or administrative), EU action could be useful to ensure that:

- all MS have an efficient protection measure in place;

- when issuing their national protection measure, all MS ensure adequate assistance to foreign applicants (translation, legal advice);
- the victim does not need to prove again the facts (circulation of evidence); this could be done either via rule on recognition on evidence or via exchange of information rules.

The European Commission also contracted an external Study to assist with the impact assessment in identifying the needs of victims of crime, which measures could be established to meet these needs and to examine the impacts of any possible options.⁶⁹

A further study was contracted to examine options in relation to the specific objective of ensuring that the protection gained through a protection order is not lost when a protected person travels or moves to another Member States.⁷⁰

In the middle of the preparation process of the Impact Assessment, the Commission held a public consultation from 15.07.2010 to 30.09.2010, open to all members of the public, to non-governmental and governmental organisations asking their views on what action the EU should take to improve the situation of victims of crime.

This public consultation was held to confirm developing views and initial results of the external study as well as to identify if any other needs of victims had been missed. A summary of the results of that consultation are found at Annex 3 but can be briefly listed as:

- Victims' right to privacy must be protected; all victims should be provided with some type of immediate assistance; translation and interpretation are crucial to ensure that victims fully understand their rights and the information they are given; and minimum standards should apply to Restorative Justice proceedings;
- Victim Support Organisations are indispensable for providing effective services to victims;
- Cooperation and best practice sharing between all organisations involved with victims within a Member State and the EU is crucial across a large number of issues, including victims' needs assessment, implementing EU-wide protection measures, improving the quality of practitioners' training;
- Both victims' rights and defendant's rights should be respected during criminal proceedings.

In addition to direct consultation, the Commission has drawn on a number of studies and publications. Particular reference is made to the:

- Victims in Europe (VinE) Project⁷¹, carried out by the Portuguese Victim Support Organisation APAV. This project involved a legal and organisational analysis of the implementation of the 2001 Framework Decision on the Standing of victims in criminal proceedings⁷²;

- Project ONE⁷³, carried out by the Bulgarian Centre for the Study of Democracy again analysed implementation of the 2001 Framework Decision as well as the Compensation Directive.

Moreover, the analysis of the replies to the questionnaire to delegations with a view to a possible submission by Spain and other Member States of an initiative for a Directive of the European Parliament and of the Council on the European Protection Order⁷⁴ showed the support of all Member States to legal measures for protect victims of crime.

Overall, the consultation process has revealed widespread agreement on the need to substantially improve the situation of victims. There is general agreement that the 2001 Framework Decision, whilst being comprehensive, has many vague articles with limited obligations which creates difficulties in implementation and reduces the likelihood of implementation.

The input received during the consultation has been taken into account in the Impact Assessment and has resulted in the identification of the five needs of victims, the development of the problem analysis, objectives and options.

DIRECTORATE GENERAL JUSTICE

Analysis of Public Consultation Responses: Taking Action on Rights, Support and Protection of Victims of Crime and Violence

Disclaimer

In keeping with our values of integrity and excellence, Matrix has taken reasonable professional care in the preparation of this report. Although Matrix has made reasonable efforts to obtain information from a broad spectrum of sources, we cannot guarantee absolute accuracy or completeness of information/data submitted, nor do we accept responsibility for recommendations that may have been omitted due to particular or exceptional conditions and circumstances.

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– Introduction

In 2011, the European Commission intends to adopt a package of measures to improve the rights and support available to victims of crime across Europe. To inform the Commission's work in this area, a public consultation 'Taking Action on the Rights, Support and Protection of Victims of Crime and Violence' was launched giving stakeholders the opportunity to present their views on existing difficulties and suggestions for concrete actions that could be developed at EU level. The consultation was launched by DG Justice on 15 July 2010 and closed on 30 September 2010.⁷⁵ This report summarises and analyses the responses to the public consultation. All replies received until 8 October 2010 are included in the analysis.

The consultation questionnaire is structured around the five victims' needs areas: Recognition, Protection, Support, Access to Justice and Compensation and Restoration. The questionnaire contains 17 questions in total, including 5 general questions and 12 questions dealing specifically with the aforementioned needs areas. The questionnaire was made available in three languages (English, German, and French). Replies were accepted in all official EU languages. Responses were submitted in English, German, French, Spanish, Finnish, Romanian and Slovenian. Non-English responses were translated into English by the Matrix Insight team.

In total **77 responses were submitted** and are included in this analysis. The main objective of the analysis is to highlight what issues have been raised, and the number and types of stakeholders raising each of the key issue. Where applicable, the data is broken down by country and/or stakeholder group. The analysis of the responses focuses on the following aspects:

- Detailed information is provided on respondent characteristics and broken down by country and stakeholder group (Section 2).
- Detailed information is provided on the characteristics of the replies, accounting for the frequency of replies by question and needs area. Replies are furthermore broken down by country and stakeholder group (Section 3).
- A detailed discussion is provided, outlining the main arguments put forward in favour and against the relevant policy options that are currently under consideration by the European Commission (Section 4).

A conclusion is offered in Section 5. A separate excel spreadsheet accompanying this report compiles all replies, broken down by individual questions and sub-questions. 'Key tags' for individual replies by issue area are also provided.

– Respondent Characteristics

In total 77 submissions were made in response to the public consultation. The table below illustrates the break-down of responses by country. Replies received from countries outside of the European Union or from international organisations (e.g. UNICEF) are grouped together under 'International'. Replies received from pan-European organisations are listed under 'European'. Responses that did not indicate a country of origin are categorised as 'unknown'. Replies were received from 18 EU Member States (EU12/EU15 split equals 7/11). By far the most responses were submitted by the UK, followed by Belgium and Spain.

a) **Table 1: Responses by Country**

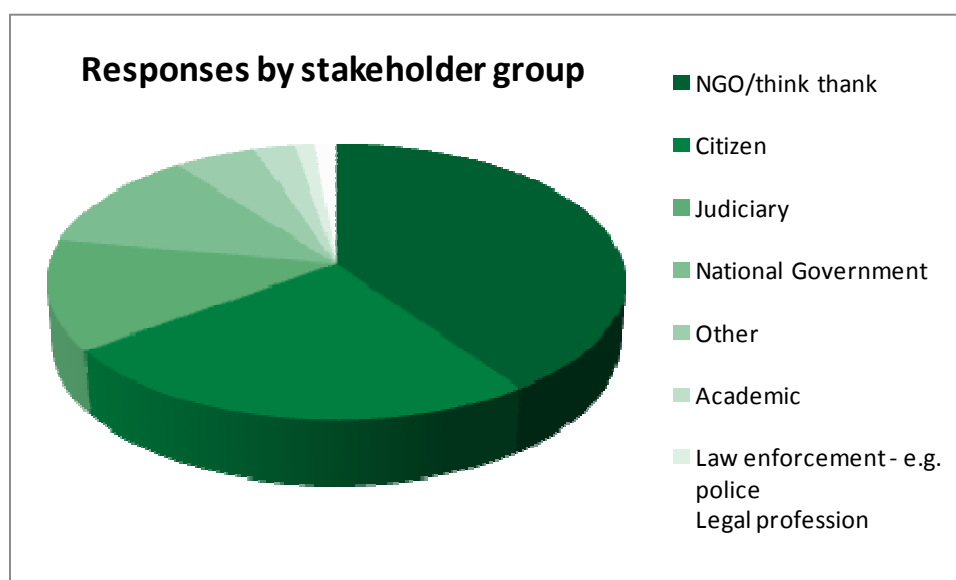
| Responses by Country | |
|----------------------|----|
| Austria | 3 |
| Belgium | 9 |
| Bulgaria | 1 |
| Czech Republic | 1 |
| Finland | 3 |
| France | 1 |
| Germany | 6 |
| Hungary | 1 |
| Ireland | 2 |
| Italy | 1 |
| Lithuania | 1 |
| Malta | 1 |
| Portugal | 3 |
| Romania | 2 |
| Slovenia | 1 |
| Spain | 8 |
| The Netherlands | 3 |
| UK | 16 |
| European | 6 |

| | |
|---------------|---|
| International | 3 |
| Unknown | 3 |

Source: Consultation Responses and Matrix Calculations

The figure below illustrates the break-down of responses by stakeholder group. Replies are categorised according to the following stakeholder groups: NGO/think tank, Citizen, Judiciary, National Government, Other, Academic, Law Enforcement (e.g. police), Legal Profession, Medical Profession). The 'Other' category contains responses from non-NGO civilian run groups and an MEP. NGOs/think tanks (including victim support organisations), citizens and the judiciary provided more than 75% of the responses. Only six responses were submitted by national governments. No responses were provided by members of the medical profession.

b) Figure 1: Responses by Stakeholder Group



Source: Consultation Responses and Matrix Calculations

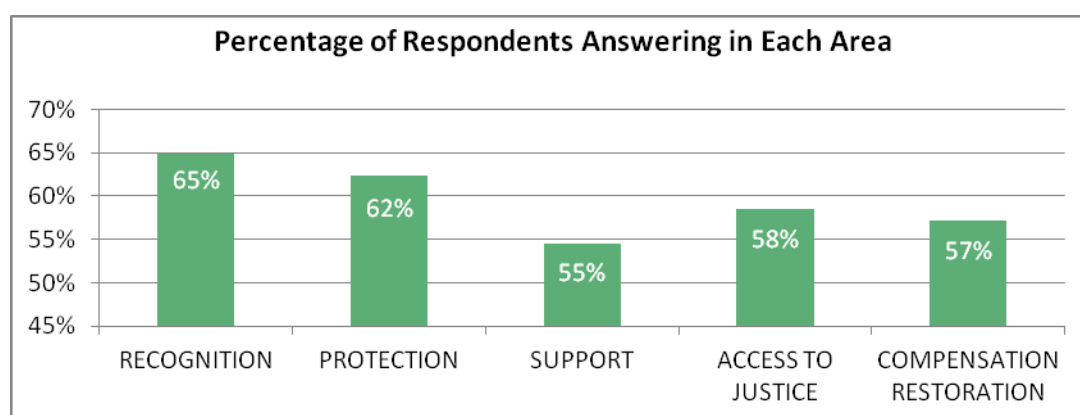
– Response Characteristics

The consultation questionnaire is divided into two parts. Part I presents five general questions and Part II narrows in on the five needs areas. With regard to Part II, the percentage of respondents answering questions varies by needs area. As is illustrated in the figure below, questions on 'recognition' and 'protection' were particularly popular with 65% and 62% of respondents providing answers respectively. Relatively fewer respondents were concerned with questions on 'support' where only 55% of all respondents provided input.

c) **Figure 2: Percentage of Respondents Answering in Each Area**

Source: Consultation Responses and Matrix Calculations

A break-down by stakeholder group reveals that compensation and restoration is particular a point of concern for citizens. Approximately twice as many citizen replies address questions on compensation and restoration compared to any of the other issues. In contrast, national governments as well as members of the judiciary are more concerned with questions that have implications for a country’s judicial system. The attention of respondents from NGO/think tanks (including victims support organisations) is equally divided among all needs areas.



d)

e) **Table 2: Frequency of replies by needs area – cross tabulate responses by country/stakeholder group**

| Responses by stakeholder group | | Responses by stakeholder group / area | | | | |
|--------------------------------|----|---------------------------------------|------------|---------|-------------------|--------------------------|
| | | RECOGNITION | PROTECTION | SUPPORT | ACCESS TO JUSTICE | COMPENSATION RESTORATION |
| NGO/think thank | 31 | 32% | 29% | 29% | 29% | 26% |
| Citizen | 19 | 16% | 16% | 16% | 11% | 32% |
| Judiciary | 10 | 100% | 100% | 70% | 90% | 70% |
| National Government | 9 | 56% | 56% | 56% | 56% | 44% |
| Other | 4 | 25% | 25% | 25% | 25% | 75% |
| Academic | 2 | 100% | 100% | 100% | 100% | 50% |
| Law enforcement - e.g. police | 1 | 0% | 0% | 0% | 0% | 0% |
| Legal profession | 1 | 100% | 100% | 0% | 100% | 100% |
| Medical profession | 0 | n/a | n/a | n/a | n/a | n/a |

Source: Consultation Responses and Matrix Calculations

– Key Findings

This section provides a detailed analysis of the consultation responses. Since the vast majority of questions are open-ended (and even polar questions leave room for open-ended responses), the submissions are predictably broad. It is therefore not possible to quantify the answers without distorting the information provided. Instead, a qualitative analysis of the answers has been carried out, whereby the main arguments are summarised for each individual question, with the relevant respondents identified in the footnotes. For brevity's sake, respondents are listed by their identification number. A corresponding list may be found in the Appendix.

a. Recognition

38 respondents (49%) replied to **Question 6(a)**: *'Do you think victims related training should be compulsory for practioners?'*

Approximately 80% of the respondents would welcome additional training for practitioners. 19 of the 37 respondents are in favour of making training compulsory, and the importance of compulsory training for practioners dealing with female victims and children has been emphasised repeatedly⁷⁶. On the other hand, six respondents believe that making training compulsory is not warranted. Among those, the perception is that existing documentation (e.g. Victims Charter, Guide to the Criminal Justice System) provides sufficient guidance for practitioners.⁷⁷ Moreover, concerns were raised that obligatory training would be too restrictive and could potentially interfere with the independence of the judiciary.⁷⁸

33 respondents (43%) replied to **Question 6(b)**: *'How do you think the quality of training programmes can be improved?'*

Suggestions on how to improve the quality of training programmes have been made with reference to three aspects. First and foremost, the value of combining theoretical knowledge with practical experience of victims has been emphasised.⁷⁹ To this end, cooperation with academic institutions and sharing best practices are perceived as useful instruments.^{80,81} Secondly, it was suggested that training should be introduced when first obtaining one's professional qualification⁸² and should be provided on a continuous basis thereafter.⁸³ The possibility of specialised training by victim type⁸⁴ and needs areas⁸⁵ was highlighted. Thirdly, the importance of adequate financial resource allocation was raised.⁸⁶

36 respondents (47%) replied to **Question 7**: *‘How should it be ensured that the individual needs of victims are properly assessed?’*

First and foremost, it was suggested that multidisciplinary teams should carry out victims’ needs assessment and that they should involve all relevant agencies (e.g. VSO, police, judiciary).⁸⁷ The point was made that victims should be interviewed at the earliest opportunity following the crime⁸⁸, with follow-up discussions used to identify changing needs over time.⁸⁹ The need for individualised assessment, as outlined in Article 2 of the Framework Decision was stressed.⁹⁰ Although a number of respondents highlighted the usefulness of questionnaires and checklists⁹¹, others emphasised the importance of adopting a more qualitative approach that would put the victim at the centre, by listening to the victim and observing his/her behaviour.⁹² Some Victim Support organisations across Europe have developed Assessment Frameworks to assess the needs of each individual victim they work with, to ensure their service meets the need of the individual. These should be shared with or similar programmes developed by criminal justice agencies.⁹³

32 respondents (42%) replied to **Question 8(a)**: *‘How do you think vulnerable victims should be identified?’*

A variety of different views were taken on the identification of vulnerable victims. While the point was made that children and disabled people should automatically be categorised as vulnerable⁹⁴, the risks of identifying vulnerable victims outside of that scope were also addressed. Firstly, as the vulnerability of a victim is to a large part determined individually, making potentially all victims vulnerable⁹⁵, it would be difficult to come up with a limited number of meaningful categories across the board.⁹⁶ Secondly, creating potentially numerous additional sub-categories would further complicate the already complex criminal justice systems.⁹⁷ Thirdly, shifting focus to vulnerable victims bears the risk of diverting attention away from the needs of non-vulnerable victims.⁹⁸ Nevertheless, the point was made that a definition of ‘vulnerable victim’ is needed (e.g. age, disability or circumstance of crime⁹⁹) and should be applied universally.¹⁰⁰

The vulnerability of a victim should be assessed by using the expert knowledge of a multidisciplinary team¹⁰¹ at the earliest opportunity following the crime.¹⁰² For instance, the identification of vulnerable child victims can only take place through close cooperation with those professionals in constant contact with children. However, there are systematic gaps in taking advantage of those professionals. To illustrate with an example, while a kindergarten teacher in Germany is bound by law to report a suspected crime, school teachers and trainers are not. It would hence be useful to employ school nurses and school psychologists across the country.¹⁰³

27 respondents (35%) replied to **Questions 8(b)**: *‘What special measures should be available to vulnerable victims?’*

A number of different measures are perceived as important, almost all of which pertain to the victim’s participation in criminal proceedings. In addition to offering vulnerable victims legal and psychological assistance¹⁰⁴ this includes providing information and explanations on procedural decisions¹⁰⁵ and making the information accessible in an easily understood language¹⁰⁶.

Measures with regards to providing evidence are deemed as particularly important. The use of specially trained professionals¹⁰⁷ and video links¹⁰⁸ as well as the victim’s right to be accompanied by a trusted person¹⁰⁹ is considered important. While repeat questioning should be avoided¹¹⁰, the point was made that a general restriction on the number of questionings not viable with reference to the fair trial principle. Since the initial questioning of the victim is usually used as basis for the indictment, it is not possible to restrict the court used for the proceedings from asking clarifying questions to the victim again.^{111 112}

b. Protection

31 respondents (40%) replied to **Questions 9(a)**: *‘Do you think measures are needed to protect a victim’s privacy and if so how?’*

All 31 respondents reiterate the victim’s right to privacy, particularly where it concerns sensitive information about the individual’s life¹¹³ and in cases of sexual abuse and domestic violence¹¹⁴. Measures to protect victims’ privacy should furthermore extend beyond the end of the criminal proceedings.¹¹⁵

The relationship with the media is of particular concern and the point was made that States should, where appropriate, with full respect for freedom of expression, encourage the media and journalists to adopt self-regulatory measures to ensure the protection of private and family life of victims.¹¹⁶ For example, Bulgarian Media is required to exercise prudence in the disclosure of the victims’ identity, refrain from glorifying or unnecessarily sensational reporting of crime, violence and cruelty, and cautioned not to provide media as a platform to those who promote, incite or use violence.¹¹⁷ Nevertheless, the effectiveness of media codes of conducts has been called into question.¹¹⁸ As a minimum, information on the progress of the investigation or file should be communicated to the victim before being sent to media.¹¹⁹

A central theme is the balance between victims’ rights and defendants’ rights is perceived as important. Accordingly, a point was made that there should be a uniform general obligation that requires the rights of the victim to privacy and confidentiality to be balanced by the judge against the rights of the defendant and the state.¹²⁰ Measures are already in place in some countries (e.g. Germany, Lithuania) and are perceived as sufficient.¹²¹

25 respondents (32%) replied to **Question 9(b)**: *‘What protection measures should be available?’*

The two measures mentioned with regards to the protection of victims’ privacy are (a) keeping proceedings confidential when permitting¹²² and (b) removing any personal data (e.g. contact details, images) from case files, and not distributing them without prior consent.¹²³ Moreover, protection orders should be available for victims who experience threatening, alarming or distressing behaviour that does not yet constitute a crime or in the aftermath of a high profile crime.¹²⁴

Voluntary yet enforceable codes of conduct on disclosure of private information are suggested as one possibility.¹²⁵ For example, ethical codes for lawyers should cover the types of questions which should not be asked of vulnerable victims, while leaving it up to the judge to make the final decision.¹²⁶ Other measures available to the court should be the power to impose reporting

restrictions to prevent the media identifying the victim (e.g. for child) and proportionate measures such as restricting public access to the court room for parts of the trial.¹²⁷

Opinions on legislation on separation of offender and victim in court are divided. While some respondents believe that legislation is necessary¹²⁸, others argue that legislation (or other regulations) on separation of the offender and victim in court and police station is not necessary, as this is the responsibility of the police and the courts. The assumption is that they are capable to fulfil their obvious duties.¹²⁹

35 respondents (45%) replied to **Question 10(a)**: *How do you think victims should be protected from offenders/potential offenders in relation to intimidation/further harm?*

Most of the measures listed under this question pertain to court proceedings. To this end, victims and defendants are to be kept apart by providing separate facilities¹³⁰, enabling victims to give evidence remotely through video link or having read their testimony in their absence.¹³¹ Alternatively, victims could give testimony at court while the defendant is not present.¹³² Nevertheless, the point was made that a separation of victim and defendant often fails in the court's duty to clarify the facts and that an EU wide regulation in this regard would only be sensible if core areas of the taking evidence are harmonised.¹³³

Other measures considered important include protective bail¹³⁴ and restraining orders¹³⁵, providing secure housing and witness protection programmes¹³⁶. Finally, early police arrival at the crime scene as well as frequent police patrols around offender homes not in custody were mentioned as well¹³⁷.

24 respondents (31%) replied to **Question 10(b)**: *As regards to protection orders, what do you think is the most feasible and effective option to achieve EU wide protection?*

Opinions as regards the feasibility and effectiveness of the European Protection Order (EPO) are divided. However, a point strongly conveyed is that an effective system of EU wide protection orders is necessary given the extent of free movement of EU citizens and their frequent change of location.

The variety of approaches used across the EU means that an EU-wide protection measure cannot be a simple mutual recognition instrument¹³⁸, and cooperation between authorities of different countries and harmonization of applicable measures is necessary.¹³⁹ To this end, the proposed EPO is perceived as workable model provided that it can be made to work without disproportionate complexity under the control of the judiciaries of the EU.¹⁴⁰ The argument is that a procedure like the EPO should be short and simple - the main obstacle for victims with the EPO would be that the procedure contains two steps (EPO and transformation in national legislation) with a lot of procedural rights (translation, appeal, oral procedure). This procedure might take more time than starting a new procedure in another Member State.¹⁴¹

It was suggested that the European Protection Order could work in conjunction with practical assistance. These include setting out the facts and details of the protection order in one Member State, so that another Member State (the state to which a vulnerable person is moving) has the information needed to enable them to make a decision as to whether suitable protection can be accommodated within their system. However, it was also stated that the legal base of current draft of the EPO is too wide and that it can only properly cover criminal protection measures.¹⁴²

On the other hand, the view is that the EU wide recognition of protection orders is probably not necessary.¹⁴³ The German Bundesrat has already rejected the possibility for an EU-wide protection order (26 March 2010 (BR-Drs. 43/10)).¹⁴⁴ There is much that can be done without legislation and suggestions are for the Commission to consider working with some of the more practical tools at the EU's disposal, such as the e-justice portal. Moreover, the Commission could translate and promote information specifically about protection measures available in Member States.¹⁴⁵

Support does exist for enforcing protection orders given in one Member State in another State to which the victim have moved. This would be in line with the EU's aim of mutual recognition and providing equal protection to all people who fall victim to crime in Europe.¹⁴⁶ Pursuant to Council Regulation (EC) No 44/2001 of 22 December 2000, decisions must be recognised in the Member States and may be enforced there.¹⁴⁷

Another central theme that has emerged is that protection orders should be recorded on an EU wide database of information (e.g. on offenders) and shared between security service via

Europol or a similar organisation.¹⁴⁸ In this way, EU citizens who travel to other EU member states would be afforded cross-border protection against the potential threats from an offender or his associates.

c. Support

37 respondents (48%) replied to **Question 11:** *How do you think victim support organisations can be assisted to provide effective services to victims?*

The most widely recognised instrument is the provision of enough resources for staff and professional training and in particular financial assistance.¹⁴⁹ Moreover, the official recognition of the work of these organisations by national governments is perceived as crucial.¹⁵⁰ One way of doing so would be through commissioning these organisations to deliver services and support to victims.¹⁵¹

42 respondents (55%) replied to **Question 12:** *What services do you think they should provide?*

There is broad support for the following services: specialised medical care, psychological support either directly or through a help-line available 24/7, legal and financial assistance, provision of secure housing, provision of information, practical support such as escort to the court and court assistance, provision of mediation and restoration services.

32 respondents (42%) replied to **Question 13(a):** *Do you think foreign and/or domestic victims should be provided immediate basic assistance? Who should provide such assistance?*

Respondents unanimously agree that – depending on the crime – some type of immediate assistance should be provided to victims. For minor crimes, access to phone and internet was seen as useful. For more serious crime transitional accommodation as well as food vouchers were perceived as useful assistance. Providing this type of support is seen as primarily the role of consular authorities followed by Social Services and VSOs.

The point was made that with regards to foreign victims, a distinction should be made between tourists and temporary residents as the latter might need less assistance (depending on the crime). In all cases, the issue of language should be taken into account either by translation of informative documents or the provision of a social interpretation.¹⁵²

d. Access to Justice

31 respondents (40%) replied to question **14(a)**: *How should we ensure that victims fully understand their rights and the information they are given?*

There is universal agreement that translation and interpretation are crucial to ensure victims fully understand their rights through availability of translation and interpretation. Additionally the importance of implementing proper quality control regarding the provision of interpretation has been raised, where service provided to victims should be no less than that provided to the defendant.¹⁵³

20 respondents (26%) replied to **Question 14(b)**: *What other ways exist to ensure victims fully understand their rights?*

Most respondents agree on the importance of **easily accessible** written information to be available for victims,¹⁵⁴ which is targeted to victims according to their characteristics such as age, nationality and education.¹⁵⁵ Examples of means through which victims should access such information are: advertising campaigns, leaflets, consultation events,¹⁵⁶ internet,¹⁵⁷ and service providers like police and hospitals.¹⁵⁸

38 respondents (49%) replied to **Question 15**: *Should victims have a right to provide information before key decision are made, such as decisions to stop an investigation or prosecution, and to seek the review of such decisions afterwards?*

There is some agreement that victims should have the right to express their opinion with full knowledge of the consequences,¹⁵⁹ as well as the right to appeal against the court decision.¹⁶⁰

e. Compensation and Restoration

37 respondents (48%) replied to **Question 16**: *How do you think victims should be assisted when making compensation claims and when seeking to enforce compensation orders?*

A number of different approaches to help victims making/enforcing compensation schemes were favoured by the respondents, including State operated compensation scheme,¹⁶¹ advance state payments for victims with high debts¹⁶², free legal assistance and access to a victims fund or a flat-rate financial help for victims^{163,164}. Generally speaking, the availability of clear and simple information and forms, which would need to be translated into EU languages to assist both national and foreign victims, is seen as crucial.¹⁶⁵ The point was made that providing victims with a point of contact to ask for advice in throughout the procedure could be helpful.¹⁶⁶

30 respondents (39%) replied to **Question 16(a)**: *Should restorative justice be available to all victims?*

There is universal agreement that Restorative Justice (RJ) should be available but only about half of respondents agree with the statement unconditionally.¹⁶⁷ Most respondents set some stipulation on the provision of RJ. In addition to regulation the practice of RJ¹⁶⁸ and using only qualified personnel¹⁶⁹, RJ should be applied only to appropriate cases only¹⁷⁰, neither offenders¹⁷¹ nor victims should be compelled to participate in the RJ process.¹⁷²

19 respondents (25%) replied to **Question 17 (b)**: *Should minimum standards be applied to organisations providing such service?*

There is universal agreement that minimum standards should be applied to RJ, including: practice standards related to a variety of types of service provision for child victims in different situations; standards that guarantee adequate children's rights, and access to coherent service delivery with minimum changes of mediators during the process and standards for qualifications of mediators between justice systems and children in different situations.¹⁷³

– Conclusion

The data emerging from a topic this complex and a public consultation this broad is predictably multifaceted. Nevertheless, the analysis carried out in this paper reveals a number of overarching trends and patterns:

- **Universal agreement among respondents exists on the following points:**
 - Victims' right to privacy must be protected;
 - All victims should be provided with some type of immediate assistance;
 - Translation and interpretation are crucial to ensure that victims fully understand their rights and the information they are given; and
 - Minimum standards should apply to Restorative Justice proceedings.
- **Victim Support Organisations are indispensable for providing effective services to victims.** To continue doing so, they need financial assistance. To further increase their profile, the importance of their work must be recognised by national governments, which could also be involved in raising awareness of these organisation.
- **Cooperation and best practice sharing between all organisations involved** with victims (e.g. police, judiciary, VSOs) within a Member State and across the EU is crucial across a large number of issues, including victims' needs assessment, implementing EU-wide protection measures, improving the quality of practioners' training.
- **A central them is the balance between victims' rights and defendant's rights during criminal proceedings.** While restrictions on repeated questions is desirable from the victim's perspective, general restrictions on the number of questionings is not viable with reference to the fair trial principle. Although the victim has an undeniably right to privacy, this right must be balanced against the right of the defendant and the State. While separation between victim and defendant at court seems sensible, it often fails in the face of the court's duty to clarify the facts.

Appendix

| Entry ID | Name of Respondent | | | |
|----------|--|-------------------|--|-------------------------------|
| 01 | A G Cowie MA(Hons) MBA. Chief Superintendent, Chair, ACPOS Victims & Witnesses Portfolio Group | UK (Scotland) | Association of Chief Police Officers in Scotland Victims & Witnesses Portfolio Group | Law enforcement - e.g. police |
| 02 | Alianza de Solidaridad Extremeña | Spain | Alianza de Solidaridad Extremeña | NGO/think thank |
| 03 | Margarida Medina Martins (Member of the Board) | Portugal | Associação de Mulheres Contra a Violência (AMCV) Association of Women Against Violence | NGO/think thank |
| 04 | John Allman | UK | Beulah Baruch Ministries | Other |
| 05 | Laia Herrera i Guardiola | Spain (Catalan) | Catalan Women's Institute (Institut Català de les Dones) | NGO/think thank |
| 06 | Mgr. Markéta Vitoušová | Czech Republic | Czech victim support - Bily kruh bezpeci | NGO/think thank |
| 07 | The Restorative Justice Council (formerly Restorative Justice Consortium) | UK | The Restorative Justice Council (formerly Restorative Justice Consortium) | NGO/think thank |
| 08 | GERMAN FEDERAL MINISTRY OF JUSTICE | Germany | GERMAN FEDERAL MINISTRY OF JUSTICE | National Government |
| 09 | Victims and Witnesses for England and Wales | England and Wales | Victims and Witnesses for England and Wales | NGO/think thank |
| 10 | Mr. H.M.J. Ezendam Senior beleidsmedewerker | The Netherlands | Ministerie van Justitie - Dutch Ministry of Justice | National Government |
| 11 | Ministry of Justice for England and Wales | England and Wales | Ministry of Justice for England and Wales | National Government |
| 12 | ENCJ - Spain | Spain | European Network of Councils for the Judiciary (ENCJ) | Judiciary |
| 13 | ENCJ - Scotland | Scotland | European Network of Councils for the Judiciary (ENCJ) | Judiciary |
| 14 | ENCJ - Italy | Italy | European Network of Councils for the Judiciary (ENCJ) | Judiciary |

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|----|--|--|---|---------------------|
| 15 | ENCJ - The Netherlands | The Netherlands | European Network of Councils for the Judiciary (ENCJ) | Judiciary |
| 16 | ENCJ - Lithuania | Lithuania | European Network of Councils for the Judiciary (ENCJ) | Judiciary |
| 17 | ENCJ - Romania | Romania | European Network of Councils for the Judiciary (ENCJ) | Judiciary |
| 18 | ENCJ - Ireland | Ireland | European Network of Councils for the Judiciary (ENCJ) | Judiciary |
| 19 | ENCJ - Bulgaria | Bulgaria | European Network of Councils for the Judiciary (ENCJ) | Judiciary |
| 20 | ENCJ - Joint response from expert group | Expert group with judges from England and Wales, Spain, Italy, Denmark, Romania and Bulgaria | ENCJ | Judiciary |
| 21 | Caoimhe Sheridan - Editorial and Policy Assistant | International | ENAR- European Network Against Racism | NGO/think thank |
| 22 | Ms Kirsi Pulkkinen Legal Adviser Ministry of Justice | Finland | Finish Ministry of Justice | National Government |
| 23 | CENTRAL OFFICE OF JUSTICE VICTIM SUPPORT SERVICE | Hungary | CENTRAL OFFICE OF JUSTICE VICTIM SUPPORT SERVICE | NGO/think thank |
| 24 | David Fernández Barba Gabinet Tècnic Direcció de Serveis | Spain | Security Programme against Gender Violence (Government of Catalonia, Spain) | National Government |
| 25 | Brigitte Chaudhry President FEVR | Belgium, France, Greece, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal Romania, Slovenia, Spain, the United Kingdom. | FEVR - European Federation of Road Traffic Victims | NGO/think thank |
| 26 | Victim Support Europe | International | Victim Support Europe | NGO/think thank |
| 27 | Regional Representative for Europe of the United Nations High Commissioner for Human Rights, the Director of the Bureau for Europe of UNHCR, the Director of the UNICEF Brussels Office, Relations with the EU Institutions, the Head of the UNODC | international | Various | NGO/think thank |

| | | | | |
|----|---|-----------------|---|-----------------|
| | Liaison Office with the EU Institutions, the Director of the International Labour Organisation (ILO) Office for the European Union and the Benelux countries, and the Officer in Charge of the UNIFEM Brussels Office | | | |
| 28 | Margaret Wachenfeld Senior Policy Adviser, | International | UNICEF | NGO/think thank |
| 29 | European Women's Lobby Centre on Violence against Women | International | European Women's Lobby Centre on Violence against Women | NGO/think thank |
| 30 | Amy Aeron-Thomas | Britain | Road Peace | NGO/think thank |
| 31 | Dr Claire Corbett | Britain | N/A | Citizen |
| 32 | Diana Dodds | Ireland | MEP | Other |
| 33 | Dr David Gadd, Senior Lecturer in Criminology, Deputy Interim Research Director for Social Science Research Institutes Keele University | UK | Keele University | Academic |
| 34 | Eric Davies | UK | N/A | Citizen |
| 35 | Ferial Hamid | Portugal | N/A | Citizen |
| 36 | Save the Children | International | Save the Children | NGO/think thank |
| 37 | Portuguese Association for Victim Support | Portugal | Portuguese Association for Victim Support | NGO/think thank |
| 38 | Kathleen O'Hara | US / England | consultant for the Federal Office for Victims of Crime in the US / Victim Support England | Citizen |
| 39 | (Dr) Martin Wright | UK | N/A | Academic |
| 40 | Sylvia Robbins Huntley | Malta | N/A | Citizen |
| 41 | Ann | UK | N/A | Citizen |
| 42 | Robert Shaw | UK | N/A | Citizen |
| 43 | Slachtofferhulp Nederland | The Netherlands | Slachtofferhulp Nederland | NGO/think thank |
| 44 | Unknown | Finland | N/A | Citizen |
| 45 | Jan Klemenčič | Slovenia | N/A | Citizen |
| 46 | Worldwide Campaign Against Torture | International | Worldwide Campaign Against Torture | Other |
| 47 | Alison Wills | Unknown | N/A | Citizen |
| 48 | Jake Maverick | UK | N/A | Citizen |

| | | | | |
|----|---|---------|---|---------------------|
| 49 | Kevin Hennessey | UK | N/A | Citizen |
| 50 | Wirtschaftskammer Oesterreich | Austria | Wirtschaftskammer Oesterreich | National Government |
| 51 | Austrian Bar Association | Austria | Austrian Bar Association | Legal Profession |
| 52 | Austrian Federal Ministry of Justice | Austria | Austrian Federal Ministry of Justice | National Government |
| 53 | Frauenhauskoordinierung | Germany | Frauenhauskoordinierung | NGO/think thank |
| 54 | Deutsche Kinderhilfe | Germany | Deutsche Kinderhilfe | NGO/think thank |
| 55 | Hesse Ministry of Justice, Integration and Europe | Germany | Hesse Ministry of Justice, Integration and Europe | National Government |
| 56 | German Association of Judges - Deutscher Richterbund | Germany | German Association of Judges - Deutscher Richterbund | Judiciary |
| 57 | Hilfsorganisation für Angehörige von Mord, Tötungs, Suizid und Vermisstenfällen | Germany | Hilfsorganisation für Angehörige von Mord, Tötungs, Suizid und Vermisstenfällen | NGO/think thank |
| 58 | Raymond Bell | Finland | N/A | Citizen |
| 59 | Unknown | Unknown | N/A | Citizen |
| 60 | Julen Fernández Conte | Spain | CGAE | NGO/think thank |
| 61 | Camila de Epalza Azqueta | Spain | Delegation of the Basque Country | National Government |
| 62 | Txema URKIJO | Spain | Víctimas del Terrorismo | NGO/think thank |
| 63 | Fundación Miguel Angel Blanco | Spain | Fundación Miguel Angel Blanco | NGO/think thank |
| 64 | Unknown | Unknown | N/A | Citizen |
| 65 | Consultation eur SASJ Arlon | Belgium | SASJ | NGO/think thank |
| 66 | Consultation eur SASJ Dinant | Belgium | SASJ | NGO/think thank |
| 67 | Consultation eur SASJ Huy | Belgium | SASJ - Aide et Reclassement | NGO/think thank |
| 68 | Consultation eur SASJ Liège II | Belgium | SASJ | NGO/think thank |
| 69 | Consultation eur SASJ Marche | Belgium | SASJ | NGO/think thank |
| 70 | Consultation eur SASJ Neufchâteau | Belgium | SASJ | NGO/think thank |
| 71 | Consultation eur SASJ Nivelles | Belgium | SASJ | NGO/think thank |
| 72 | Consultation eur SASJ Verviers | Belgium | SASJ | NGO/think thank |

| | | | | |
|----|-----------------|---------|---|---------|
| 73 | Luminita Ratiu | Romania | N/A | Citizen |
| 74 | Arthur Lepp | Canada | N/A | Citizen |
| 75 | Unknown | China | Chinese Victims Of Directed Energy And Neurological Weapons | Other |
| 76 | Jacques Duhayon | Belgium | N/A | Citizen |
| 77 | Xavier Brosse | France | N/A | Citizen |

SUPPLEMENT TO ANNEXES 3-7
OVERVIEW: STATE OF PLAY - MEMBER STATES

| | | | |
|----------------------|---|--|---|
| VICTIMS NEEDS | RESPECT/ RECOGNITION | I – Recognition as indirect victims | <ol style="list-style-type: none"> 1. Parents (21 MS) 2. Children (21 MS) 3. Other family members (20 MS) 4. Same sex partners (13 MS) 5. First responders (11 MS) |
| | | II – Repetitive questioning | <ol style="list-style-type: none"> 6. No limits (15 MS) 7. Repetitive Questioning is limited for all victims (1 MS) 8. Repetitive questioning is limited for certain vulnerable victims (11 MS) |
| | | II.1. Limits on repetitive questioning | |
| | | II.2. Questioning of child-witnesses | <ol style="list-style-type: none"> 9. No special attention (none) 10. Discretion of individual examiner (3 MS) 11. Performed by specially trained police officers (20 MS) 12. Trusted adult present and/or a child-friendly environment (27 MS) 13. Television-link, and/ or video recording (24 MS) |
| | | II.3. Questioning of victims with mental disabilities | <ol style="list-style-type: none"> 14. No special attention (8 MS) 15. Should take place in the presence of a trusted adult (15 MS) 16. Can take place through a television-link and/ or video recording of earlier questioning (11 MS) |
| | | II.4. Questioning of victims of sexual and domestic violence | <ol style="list-style-type: none"> 17. No special attention (10 MS) 18. Should be conducted by a police officer of the same sex (10 MS) 19. Allowed to be conducted in the presence of a companion (10 MS) 20. Specialized rape or domestic violence teams (8 MS) 21. Special guidelines for sexual and domestic violence (12 MS) |
| | | II.5. Questioning of cross-border victims | <ol style="list-style-type: none"> 22. No special attention (none) 23. Translators are available for the questioning (29 MS) 24. Video/telephone conferencing or earlier video-recording (14 MS) 25. Immediate statement (14 MS) |
| | III – What are the criteria used to define vulnerable victims? | <ol style="list-style-type: none"> 26. Age victim (27 MS) 27. Handicap victim (19 MS) 28. Type of crime (20 MS) | |
| | PROTECTION | IV – Measures for protection from the offender | <ol style="list-style-type: none"> 29. Police protection of victim and family (22 MS) 30. Preventive custody of offender (22 MS) 31. Provision of protection equipment (8 MS) 32. Relocation of victims (19 MS) 33. Facilities at court (17 MS) 34. Measures to prevent offenders from tracing (14 MS) 35. Right to complete anonymity for victims (14 MS) |

| | | | |
|--|--|--|--|
| | | V – Are there any obligation to provide separate waiting areas for victim and offender? | 36. No obligation (24 MS) 37. Conditional obligation (3 MS) 38. Unrestricted obligation (1 MS) |
|--|--|--|--|

| | | | |
|--|-------------------|---|---|
| | SUPPORT | VI – The existence and position of Victim Support Organisations (VSO) | <p>39. There is no national VSO (9 MS)</p> <p>40. There is a national VSO (10 MS)</p> <p>41. The VSO has achieved national coverage (10 MS)</p> <p>42. The VSO provides general services for all victims of crime (13 MS)</p> <p>43. The VSO provides specialised services meeting the needs of specific groups (11 MS)</p> <p>44. The VSO is consulted on national policies concerning crime victims (10 MS)</p> |
| | | VII – Percentage of victims that received victim support of those indicating a need for it (percentage in a period of five years) | <p>45. 1996 Surveys</p> <p>46. 2000 Surveys</p> <p>47. 2004/05 Surveys</p> |
| | ACCESS TO JUSTICE | VIII – Exclusion of victims from trial: are there a right to supply the courts with information relevant to the victims' need for compensation? | <p>48. No obligation (2 MS)</p> <p>49. Participatory right of victim or lawyer (25 MS)</p> <p>50. Formal duty of public prosecutor (6 MS)</p> <p>51. Victim Impact Statement (12 MS)</p> |
| | | IX – Interpretation and translation | <p>52. Translators and interpreters are available for victims, free of charge (27 MS)</p> <p>53. Information should be made available in different languages (6 MS)</p> |
| | | IX.1. Communication safeguards | |
| | | IX.2. Eligibility for communication safeguards | <p>54. No victims (none)</p> <p>55. At least for victims as witnesses (27 MS)</p> <p>56. Other victims as well (15 MS)</p> |
| | | X – Right to review prosecution decision | <p>57. No right to review (6 MS)</p> <p>58. Non-institutionalized review (none)</p> <p>59. Institutionalized review (21 MS)</p> |
| | RESTORATION | XI.1. – Is Restorative Justice allowed? | <p>60. No (6 MS)</p> <p>61. Yes (21 MS)</p> |
| | | XI.2. Are there Guidelines or Agency Code for agents of the Criminal Justice System? | <p>62. No (5 MS)</p> <p>63. Yes (11 MS)</p> <p>64. Data not available (12 MS)</p> |

Abbreviations:

EW = England and Wales / SNI = Scotland and Northern Ireland / S = Scotland / NI = Northern Ireland

NOTE:

Sources:

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ANNEX 3 – MEMBER STATE POSITIONS IN RELATION TO RESPECT AND RECOGNITION

RESPECT/ RECOGNITION

| | |
|---|---|
| I – Recognition as indirect victims | 1. Parents (21 MS); 2. Children (21 MS); 3. Other family members (20 MS); 4. Same sex partners (13 MS); 5. First responders (11 MS) |
| II – Repetitive questioning | 6. No limits (15 MS); 7. Repetitive Questioning is limited for all victims (1 MS); 8. Repetitive questioning is limited for certain vulnerable victims (11 MS) |
| II.1. Limits on repetitive questioning | |
| II.2. Questioning of child-witnesses | 9. No special attention (none); 10. Discretion of individual examiner (3 MS); 11. Performed by specially trained police officers (20 MS); 12. Trusted adult present and/or a child-friendly environment (27 MS) ; 13. Television-link, and/ or video recording (24 MS) |
| II.3. Questioning of victims with mental disabilities | 14. No special attention (8 MS); 15. Should take place in the presence of a trusted adult (15 MS); 16. Can take place through a television-link and/ or video recording of earlier questioning (11 MS) |
| II.4. Questioning of victims of sexual and domestic violence | 17. No special attention (10 MS); 18. Should be conducted by a police officer of the same sex (10 MS); 19. Allowed to be conducted in the presence of a companion (10 MS); 20. Specialized rape or domestic violence teams (7 MS); 21. Special guidelines for sexual and domestic violence (11 MS) |
| II.5. Questioning of cross-border victims | 22. No special attention (none); 23. Translators are available for the questioning (27 MS) ; 24. Video/telephone conferencing or earlier video-recording (12 MS); 25. Immediate statement (13 MS) |
| III – What are the criteria used to define vulnerable victims? | 26. Age victim (27 MS) ; 27. Handicap victim (19 MS); 28. Type of crime (20 MS) |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|-----------|--------------|
| | AT | BE | BG | CZ | CY | DK | EE | FI | FR | DE | EL | HU | IE | IT | LV | LT | LU | MT | NL | PL | PT | RO | SK | SI | ES | SE | UK | Total |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | MS | |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|-----|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|--------------|----|
| 1. | √ | √ | √ | √ | √ | | √ | √ | | √ | √ | √ | √ | √ | √ | √ | √ | | √ | √ | √ | | | | √ | √ | √ | 21 | |
| 2. | √ | √ | √ | √ | √ | | √ | √ | | √ | √ | √ | √ | √ | √ | √ | √ | | √ | √ | √ | | | | √ | √ | √ | 21 | |
| 3. | √ | √ | √ | √ | √ | | √ | √ | | √ | √ | √ | √ | √ | √ | √ | √ | | √ | √ | | | | √ | √ | √ | 20 | | |
| 4. | √ | √ | √ | √ | | | √ | | | √ | | √ | √ | √ | | | √ | | √ | | | | | √ | | | 13 | | |
| 5. | | | √ | √ | | | √ | √ | | √ | √ | √ | √ | √ | | √ | √ | | | | | | | | | | 11 | | |
| 6. | | √ | √ | | √ | √ | √ | | | √ | √ | √ | √ | | | | | √ | | | | √ | √ | √ | √ | | √ | 15 | |
| 7. | | | | √ | | | | | | | | | | | | | | | | | | | | | | | | 1 | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | | Total | |
| | AT | BE | BG | CZ | CY | DK | EE | FI | FR | DE | EL | HU | IE | IT | LV | LT | LU | MT | NL | PL | PT | RO | SK | SI | ES | SE | UK | MS | |
| 8. | √ | | | | | | | √ | √ | | | | | √ | √ | √ | √ | | √ | √ | √ | | | | | √ | | 11 | |
| 9. | | | | | | | | | | | | | | | | | | | | | | | | | | | | none | |
| 10. | | | | | | | | | | | | | | | | | | √ | | √ | | | | | | √ | | 3 | |
| 11. | √ | √ | √ | √ | | √ | √ | √ | √ | √ | | √ | √ | √ | √ | √ | √ | | √ | √ | | | √ | √ | | √ | √ | 20 | |
| 12. | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | 27 |
| 13. | √ | √ | | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | | √ | √ | √ | | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | 24 |
| 14. | | | | | √ | | | | √ | | √ | | √ | √ | | | √ | | | √ | | | | | √ | | | 8 | |
| 15. | √ | | √ | | | √ | √ | √ | | √ | | √ | | | √ | √ | | √ | | √ | | √ | | √ | | √ | √ | 15 | |
| 16. | √ | √ | | √ | | | | √ | | √ | | | | | √ | | | | √ | | | | | √ | √ | | √ | √ | 11 |
| 17. | | | √ | | | | √ | | | | √ | √ | | √ | √ | √ | | √ | | √ | | | | √ | | | | 10 | |
| 18. | √ | | | √ | | | | | √ | √ | | | | | | | √ | | √ | | | √ | | | √ | √ | √ | 10 | |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---------------------------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------|----|
| 19. | √ | √ | | √ | | | | √ | | √ | | | | | | | √ | | | | √ | √ | √ | | | √ | | 10 | |
| 20. | | | | | | √ | | | | | | | | | | | √ | √ | √ | | | | | √ | √ | | √ (EW) | 7 | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | √ (SNI) | | |
| 21. | √ | √ | | | √ | | | √ | √ | √ | | | | | | | √ | √ | √ | | | | | | | √ | √ (EW) | 11 | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | √ (SNI) | | |
| 22. | | | | | | | | | | | | | | | | | | | | | | | | | | | | None | |
| 23. | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ (EW) | 27 | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | √ (S) | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | √ (NI) | | |
| 24. | √ | | √ | | | | √ | √ | √ | √ | √ | | | √ | | √ | | | | √ | | | | √ | √ | √ | √ (EW) | 12 | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | √ (S) | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | √ (NI) | | |
| 25. | | √ | √ | | | | √ | | √ | | | | | | | √ | √ | √ | √ | | √ | √ | | √ | | √ | √ (S) | 13 | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | √ (NI) | | |
| 26. | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | 27 |
| 27. | √ | √ | √ | √ | | √ | √ | √ | √ | √ | √ | | √ | √ | √ | | | √ | √ | √ | | √ | √ | | | | √ | 19 | |
| 28. | √ | √ | √ | √ | √ | √ | | √ | √ | √ | | | | √ | √ | | √ | | | √ | √ | √ | | √ | √ | √ | √ | 20 | |
| Total 28[√] | 18 | 16 | 16 | 16 | 11 | 10 | 16 | 17 | 13 | 19 | 13 | 13 | 13 | 14 | 15 | 13 | 19 | 11 | 16 | 16 | 10 | 11 | 10 | 12 | 15 | 17 | 15 | | |

ANNEX 4 - MEMBER STATE POSITIONS IN RELATION TO PROTECTION

PROTECTION

IV – Measures for protection from the offender

29. Police protection of victim and family (22 MS); 30. Preventive custody of offender (22 MS); 31. Provision of protection equipment (8 MS); 32. Relocation of victims (19 MS); 33. Facilities at court (17 MS); 34. Measures to prevent offenders from tracing (14 MS); 35. Right to complete anonymity for victims (14 MS)

V – Are there any obligation to provide separate waiting areas for victim and offender?

36. No obligation (24 MS); 37. Conditional obligation (3 MS); 38. Unrestricted obligation (1 MS)

| | AT | BE | BG | CZ | CY | DK | EE | FI | FR | DE | EL | HU | IE | IT | LV | LT | LU | MT | NL | PL | PT | RO | SK | SI | ES | SE | UK | Total MS | |
|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----------|----|
| 29. | √ | | √ | √ | √ | √ | √ | √ | | √ | √ | | √ | √ | √ | √ | √ | √ | √ | | √ | | √ | √ | √ | √ | √ | √ | 22 |
| 30. | √ | √ | √ | | √ | √ | √ | | | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | | √ | | √ | √ | √ | √ | 22 |
| 31. | √ | | | | | √ | | | | | | | | √ | | | | | | | √ | | | √ | √ | √ | √ | 8 | |
| 32. | √ | √ | √ | √ | √ | √ | | √ | | | √ | | √ | √ | √ | √ | | √ | | | √ | | √ | √ | √ | √ | √ | 19 | |
| 33. | √ | √ | √ | √ | √ | √ | | √ | | √ | √ | | | √ | | √ | | √ | √ | | | | | √ | √ | √ | √ | 17 | |
| 34. | √ | √ | | √ | √ | √ | | √ | | | | | | √ | | √ | | | | √ | √ | | √ | √ | | √ | √ | 14 | |
| 35. | √ | | √ | √ | | | √ | | | | √ | | | √ | √ | √ | | | √ | √ | | | √ | √ | √ | | √ | 14 | |
| 36. | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | | √ | √ | | √ | √ | | √ | √ | √ | √ | √ | 24 | |

ANNEX 5 - MEMBER STATE POSITIONS IN RELATION TO SUPPORT

SUPPORT

VI – The existence and position of Victim Support Organisations (VSO)

39. There is no national VSO (9 MS); 40. There is a national VSO (10 MS); 41. The VSO has achieved national coverage (10 MS); 42. The VSO provides general services for all victims of crime (13 MS); 43. The VSO provides specialised services meeting the needs of specific groups (11 MS); 44. The VSO is consulted on national policies concerning crime victims (10 MS)

VII – Percentage of victims that received victim support of those indicating a need for it

45. 1996 Surveys; 46. 2000 Surveys; 47. 2004/05 Surveys

(percentage in a period of five years)

| | AT | BE | BG | CZ | CY | DK | EE | FI | FR | DE | EL | HU | IE | IT | LV | LT | LU | MT | NL | PL | PT | RO | SK | SI | ES | SE | UK | Total MS |
|-----------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|
| 39. | | | | | √ | √ | | | | | √ | | | √ | √ | √ | | | | √ | | | | √ | √ | | | 9 |
| 40. | √ | √ | | | | | √ | √ | | √ | | | | | | | | | √ | | √ | | | | | √ | √ | 10 |
| 41. | √ | √ | | | | | √ | √ | | √ | | | | | | | | | √ | | √ | | | | | √ | √ | 10 |
| 42. | √ | √ | √ | √ | | | √ | √ | | √ | | √ | | | | | √ | √ | √ | | √ | | | | | √ | | 13 |
| 43. | √ | √ | √ | √ | | | √ | √ | | √ | | | | | | | √ | | √ | | √ | | | | | | √ | 11 |
| 44. | √ | √ | √ | √ | | | √ | √ | | √ | | | | | | | | | √ | | √ | | | | | | √ | 10 |
| Total 6√ | 5 | 5 | 3 | 3 | 1 | 1 | 5 | 5 | 0 | 5 | 1 | 1 | 0 | 1 | 1 | 1 | 2 | 1 | 5 | 1 | 5 | 0 | 2 | 1 | 1 | 3 | 4 | |
| 45. | 18 | | | | | | | 16 | 13 | | | | | | | | | | 33 | 6 | 0 | | | | | 27 | 25 (UK) | |

ANNEX 6 - MEMBER STATE POSITIONS IN RELATION TO ACCESS TO JUSTICE

ACCESS TO JUSTICE

VIII – Exclusion of victims from trial: are there a right to supply the courts with information relevant to the victims’ need for compensation?

48. No obligation (2 MS); 49. Participatory right of victim or lawyer (24 MS); 50. Formal duty of public prosecutor (5 MS); 51. Victim Impact Statement (10 MS)

IX – Interpretation and translation -

52. Translators and interpreters are available for victims, free of charge (27 MS); 53. Information should be made available in different languages (6 MS)

IX.1. Communication safeguards

IX.2. Eligibility for communication safeguards

54. No victims (none); **55. At least for victims as witnesses (27 MS);** 56. Other victims as well (15 MS)

X – Right to review prosecution decision

57. No right to review (6 MS); 58. Non-institutionalized review (none); 59. Institutionalized review (21 MS)

| | AT | BE | BG | CZ | CY | DK | EE | FI | FR | DE | EL | HU | IE | IT | LV | LT | LU | MT | NL | PL | PT | RO | SK | SI | ES | SE | UK | Total MS |
|-----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|--------|----------|
| 48. | | | | | √ | | | | | | | | | | | | | | | | | | | | √ | | | 2 |
| 49. | √ | √ | √ | √ | | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | | √ | √ | √ | √ | √ | √ | √ | | √ | √ (EW) | 24 |
| 50. | √ | | | | | | | √ | | | | | | | | | | | | | √ | | | | | √ | √ (EW) | 5 |
| 51. | √ | √ | | | | | √ | √ | | | | | √ | | | | √ | | √ | √ | | √ | | | | | √ (EW) | 10 |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | √ (S) | |

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---------------------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|------|
| | | | | | | | | | | | | | | | | | | | | | | | | | | √ (NI) | | |
| 52. | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | 27 |
| 53. | | | | | | | | | | | | | | | | √ | √ | | √ | | √ | | | | √ | | √ | 6 |
| 54. | | | | | | | | | | | | | | | | | | | | | | | | | | | | None |
| 55. | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | √ | 27 |
| 56. | √ | | | | | | √ | √ | √ | √ | √ | √ | | | | √ | √ | | √ | | | √ | √ | | √ | √ | √ | 15 |
| 57. | | √ | | | √ | | | | | | | | √ | | | | √ | √ | | | | | | √ | | | | 6 |
| 58. | | | | | | | | | | | | | | | | | | | | | | | | | | | | None |
| 59. | √ | | √ | √ | | √ | √ | √ | √ | √ | √ | √ | | √ | √ | √ | | | √ | √ | √ | √ | √ | | √ | √ | √ | 21 |
| Total 12[√] | 7 | 5 | 4 | 3 | 4 | 4 | 6 | 7 | 5 | 5 | 5 | 5 | 5 | 4 | 4 | 6 | 6 | 4 | 7 | 5 | 6 | 6 | 5 | 4 | 6 | 6 | 8 | |

ANNEX 7 - MEMBER STATE POSITIONS IN RELATION TO RESTORATION

RESTORATION

XI.1. Is Restorative Justice allowed?

60. No (6 MS); 61. Yes (21 MS)

XI.2. Are there Guidelines or Agency Code for agents of the Criminal Justice System?

62. No (5 MS); 63. Yes (10 MS); 64. Data not available (12 MS)

| | AT | BE | BG | CZ | CY | DK | EE | FI | FR | DE | EL | HU | IE | IT | LV | LT | LU | MT | NL | PL | PT | RO | SK | SI | ES | SE | UK | Total MS | |
|--------------------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|----------|-----------------|----------|----|
| 60. | | | | | √ | √ | | | | | | | | | | √ | | √ | √ | | | | | √ | | | | | 6 |
| 61. | √ | √ | √ | √ | | | √ | √ | √ | √ | √ | √ | √ | √ | √ | | √ | | | √ | √ | √ | | √ | √ | √ | √ | √ | 21 |
| 62. | | | | | √ | | | | √ | | √ | | | | | √ | | √ | | | | | | | | | | | 5 |
| 63. | √ | | | √ | | | | √ | | √ | | | | √ | | | | | | √ | √ | | | √ | | √ | √ (EW) √ (S) | 10 | |
| 64. | | √ | √ | | | √ | √ | | | | | √ | √ | | √ | | √ | | √ | | | √ | √ | | √ | | | 12 | |
| Total 5√ | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | | |

**ANNEX 8 - INTERNATIONAL INSTRUMENTS RELATED TO
VICTIMS OF CRIME**

| | |
|---|---|
| <p>f. United Nations</p> | <ul style="list-style-type: none"> • Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, GA Res. 40/34 of 29 November 1985 • Basis Principles on the Use of Restorative e Justice Programmes in Criminal Matters, ECOSOC Res. 2002/12, 2002 • UN Convention against Transnational Organized Crime, Articles 1, 14, 24 and 25, 2000 • Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, 2000 • Guidelines on Justice for Child Victims and Witnesses of Crime, ECOSOC Res. 2005/20, 2005 • Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights and Serious Violations of International Humanitarian Law, GA Resolution 60/147, 2005 • Draft UN Convention on Justice and Support for Victims of Crime and Abuse of Power |
| g. | h. |
| <p>i. International Criminal Court</p> | <ul style="list-style-type: none"> • Statute of Rome to establish the International Criminal Court, Articles 36 (8), 42 (9), 43 (6), 54 (I), 68, 69, 75, 79 and 93, 1998 • Selection of the Rules of Procedure and Evidence, relating to victims and witnesses, 2002 |
| j. | k. |
| <p>l. Council of Europe</p> | <ul style="list-style-type: none"> • European Convention on the Compensation of Victims of Violent Crimes, Strasbourg, 24.XI.1983 (CETS 116) • Recommendation (1985) 11 on the Position of the Victim in the Framework of Criminal Law and Procedure, adopted on 28 June 1985 • Recommendation (1999) 19 concerning Mediation in Penal Matters, adopted on 15 September 1999 • Guidelines of the Committee of Ministers on the Protection of Victims of Terrorist Acts, adopted on 2 March 2005 • Recommendation (2006) 8 on Assistance to Crime Victims, adopted on 14 June 2006 |
| m. | n. |
| <p>o. European Union</p> | <ul style="list-style-type: none"> • Framework Decision on the Standing of Victims in Criminal Proceedings (2001/200/JHA) • Directive 2004/80/EC relating to Compensation to Crime Victims, 29 April |

| | |
|--|---|
| | <p>2004</p> <ul style="list-style-type: none"> • Proposal for a Directive of the European Parliament and of the Council on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA • Proposal for a directive on combating the sexual abuse, sexual exploitation of children and child pornography, repealing FD 2004/68/JHA • Communication from the Commission Towards an EU Strategy on the Rights of the Child, COM(2006) 367 and Communication 'An EU agenda for children's rights', COM (2011) 60. • Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions, Strategy for equality between women and men (2010-2015), COM(2010) 491. • Decision No 779/2007/EC of the European Parliament and of the Council of 20 June 2007 establishing for the period 2007-2013 a specific programme to prevent and combat violence against children, young people and women and to protect victims and groups at risk (Daphne III programme). • Framework Decision 2002/475/JHa of 13 June 2002 on combating terrorism. • Proposed Directive of the European Parliament and of the Council on facilitating cross-border enforcement in the field of road safety (not yet adopted) COM(2008) 151 final; Framework Decision 2005/214/JHA of 24 February 2005 on the application of principle of mutual recognition to financial penalties. |
|--|---|

ANNEX 9 - OVERVIEW OF LEGISLATIVE DEVELOPMENTS IN SELECTED MEMBER STATES

| Member State | Developments in the Legislative Pipeline |
|--------------|---|
| Luxembourg | <ul style="list-style-type: none"> • A new law has been recently enacted : "Loi du 6 octobre 2009 renforçant le droit des victimes d'infractions pénales"). • This law introduced the following changes : <ul style="list-style-type: none"> ✓ Provision of information in a language understandable to the victim. ✓ The need for the prosecutor to inform the victim about the proceeding within 18 months. ✓ The victim receives a copy of his/her accusation free of charge. |
| Ireland | <ul style="list-style-type: none"> • The 'Justice for Victims' initiative¹⁷⁴ was announced in 2008. • A bill has been submitted in 2009 which proposes among others to reform the victim impact statement mechanism, in particular, to give a statutory right to make a statement to family members in homicide cases or in cases where the victim is incapacitated as a result of the crime or where the victim is a child or is unable to make a statement due to a mental disorder.¹⁷⁵ • The Criminal Procedure Act was signed in 2010 • Up to now four legislative changes are in process to be implemented or finalised: <ul style="list-style-type: none"> ✓ Victim Impact Statements ✓ Bail ✓ Domestic violence breach proceedings ✓ Video identity parades |
| Netherlands | <ul style="list-style-type: none"> • On 1 July 2010, a new law came into force that gives victims the right to check the offender's blood for contagious diseases. • On 1 January 2011, a new law will come into force that significantly strengthens the position of victims in the criminal procedure. • A law on the Dutch Criminal Injuries Compensation Fund is pending as currently discussed in the parliament. The draft envisages expanding the rights of victims and surviving relatives with regard to state compensation. A decision is expected in 2011. |
| Malta | <ul style="list-style-type: none"> • A White Paper was presented for Justice and Home Affairs on Restorative Justice in February 2009¹⁷⁶. Its main aims are: <ul style="list-style-type: none"> ✓ To initiate public consultation on the possibility of introducing new methods of dealing with the problem, shifting away from imprisonment as retribution to a wider concept that emphasises social protection, reform, and the problem of relapse. |

| | |
|---------|--|
| | <ul style="list-style-type: none"> ✓ To outline the required institutional framework for Restorative Justice, proposes the establishment of Restorative Justice Procedures, namely, parole, petition, and remission, and makes proposals for initiatives aimed at the education of offenders and the management of victim support. |
| Romania | <ul style="list-style-type: none"> • Legislative changes in it Criminal Code as well as comprehensive reform are planned, and the first draft is expected to be tabled in autumn 2010. • The Ministry of Justice recently implemented minor changes in the context of a "small reform". A legislative proposal to introduce two new articles in the Criminal Procedure Code has been approved by the government in its session on 23 July 2010. |
| Finland | <ul style="list-style-type: none"> • The government submitted a proposal (78/2010) regarding domestic and workplace violence to the Parliament in June 2010. • According to the government proposal, minor assaults at work would be subject to public prosecution as well. • The purpose of the proposal is to improve the situation of victims in need of special protection and take the vulnerable position of a victim of domestic violence better into account. • The amendment of the Criminal Code is proposed to come into force from the beginning of 2011. |
| Sweden | <ul style="list-style-type: none"> • The Swedish Budget Bill (Prop. 2007/08:1) includes several statements on crime victims, saying for example that 'the increased demands on the judicial authorities embrace a strengthening of the crime victims' perspective in the legal chain' and that 'it is evident that victims should be met by respect and professionalism'.¹⁷⁷ • The 2009 Swedish Action Plan on Violence¹⁷⁸ lists up a number of measures to be undertaken by the government including a review of the Criminal Injuries Compensation Act and stricter provisions in the Social Services Act clarifying municipal responsibility for providing help and support to crime victims. |
| Denmark | <ul style="list-style-type: none"> • The Minister suggested an improvement of the level of information provided by the police/prosecution to victims of crimes, including the right to know when the trial takes place; to receive a copy of the court decision etc.¹⁷⁹ |

ANNEX 10 - ANALYSIS OF FINANCIAL IMPACTS OF FIVE KEY MEASURES

OVERALL COSTS

OPTION 2 **Total costs are expected to be the lowest in this option** (excluding *status quo*). Almost all costs will fall to public administrations on both a national and local level. Some costs could fall to the voluntary sector. Some costs may be limited to the short run such as the development of guidelines, whilst others may incur

| | Min - Total EU cost (Millions of euros) | Max- Total EU cost (Millions of euros) |
|--|---|--|
| Training (1 off development cost) | 0 | 1.58 |
| Victim Support Services (annual running costs) | < 23 | < 23 |
| Interpretation/ translation (annual costs) | < 0.03 | 6.88 |
| Restorative Justice (Annual running costs) Possible savings from reduced reoffending could more than offset total costs. | 0 | 878 |
| Attendance of trial (annual costs) | 0.146 | 1.58 |
| TOTAL | < 23.18 | < 973.04 |

ongoing running costs such as victim support services.

OPTION 3a Total costs are expected to be the in the **lower middle** of the three options (excluding Status quo). Almost all costs will fall to public administrations on both a

| | Min (Millions of euros) | Max (Millions of euros) |
|--|---------------------------------------|--|
| Training (1 st year costs, range of cost reduction factors exist) | 4.61 (opportunity cost: 71.27) | 17.28 (opportunity cost: 72.29) |
| Victim Support Services (Annual running costs) | < 24 | < 27 |
| Interpretation/ translation (annual costs) | < 89.29 | < 205.49 |
| Restorative Justice (Annual running costs) Possible savings from reduced reoffending could more than offset total costs. | 0 | 878 |
| Attendance of trial (Annual Costs) | 240 | 242.9 |
| TOTAL | 357.9 | 1,370.67 |

national and local level.

OPTION 3b Total costs are expected to be the in the **higher middle** of the three options (excluding Status quo). Almost all costs will fall to public administrations on both a

| | Min (Millions of euros) | Max (Millions of euros) |
|---|---------------------------------------|--|
| Training (1 st year costs, range of cost reduction factors exist) | 4.61 (opportunity cost: 71.27) | 17.28 (opportunity cost: 72.29) |
| Victim Support Services (Annual running costs) | < 24 | < 27 |
| Interpretation/ translation (annual costs) | < 89.29 | < 205.49 |
| Restorative Justice (Annual running costs) Possible savings from reduced reoffending could more than offset total costs. | 20.08 | 2,641.58 |
| Attendance of trial (Annual Costs) | 240 | 242.9 |
| TOTAL | 377.98 | 3,134.25 |

national and local level.

OPTION 4 Total costs are expected to be the **highest** of the three options (excluding Status quo). Almost all costs will fall to public administrations on both a national and local level. Depending on the Member States' implementation, victim support and restorative justice services may bear the costs of implementing any new

| | Min (Millions of euros) | Max (Millions of euros) |
|---|---------------------------------------|--|
| Training (1 st year costs, range of cost reduction factors exist) | 4.61 (opportunity cost: 71.27) | 17.28 (opportunity cost: 72.29) |
| Victim Support Services (Annual running costs) | 4,074 | 6,617 |
| Interpretation/ translation (annual costs) | 89.29 | 205.49 |
| Restorative Justice (Annual running costs) Possible savings from reduced reoffending could more than offset total costs. | 20.08 | 2,641.58 |
| Attendance of trial (Annual Costs) | 240 | 242.9 |
| TOTAL | 4,427.98 | 9,724.25 |

safeguards in their sectors, such as training or accreditation.

TRAINING COSTS

OPTION 2

| | | |
|--|--------------------------------|---------------------------|
| Training – development of guidelines: near to zero – €1.58 million for 27 Member States | | |
| Internally developed by Ministry of Justice | Externally contracted | EU Drafted, MS adaptation |
| €145,615.60 (€678.60 in BG to 11,190.40 in LU) | €70,000 and €1,580,000. | €236,201 |

However, some Member States e.g. FR, BE already have guidelines which would reduce this cost. Alternatively, the European Network of Councils for the Judiciary recently produced basic guidelines for judges at virtually no cost. Such an approach for all practitioners **could significantly reduce costs close to zero**

OPTION 3a

Training – legal practitioners trained, training available for judges, some detail on content:

OPTION 3b

Total training of police and judiciary – €4.61 – €17.28 million (based on single training scenario for all practitioners assuming no Member State provides training)

Lost police and judicial time - €71.27 million – €72.29 million No figures available for prosecutors or court staff.

Costs are based on estimates for a 2 hour face to face training session for police officers and judges. Costings are based on hourly wages of trainers (including development of the course), number of police officers and judges and their average national salaries¹⁸⁰.

It should be noted that the above costs could be significantly reduced due to a range of factors:

- The above scenario assumes no training is currently provided. However, although exact details are not available, we know that some Member States already provide training. Respondents in the APAV interim report, felt that police officers and legal practitioners in BE, CY, FI, FR, EL, HU, IE, IT, MT, PL, PT, SK, SI and SE need more training programmes in order for them to meet the needs of most victims. It was also felt that professionals in DE and UK who deal with victims do not have enough knowledge
- Since training of judges is not mandatory in this option, it can be assumed that not all judges will be trained. Costs will therefore be lower.

We would also anticipate that costs would be significantly lowered by providing victims training during basic training i.e. before practitioners are practicing. Further reductions could be made through online or e-learning to minimise lost work time. Costs are also much lower where provided by victim support organisations. The more such organisations are strengthened the more likely they are to carry out such tasks.

Finally these costs are based on the first year of training provision. Subsequent training at this level would only be

needed for new recruits and thus **2nd year costs onwards would be much lower.**

OPTION 4

Training: mandatory training for police, prosecutors, judges, court staff

Total training of police and judiciary – €4.61 – €7.28 million (based on single training scenario for all practitioners assuming no Member State currently provides training)

Lost police and judicial time - €1.27 million – €2.29 million

Costings are based on the same calculations as in option 3. However, this option makes training for judges mandatory and is therefore expected to be more costly than that option

VICTIM SUPPORT SERVICES

OPTION 2

Victim Support Services – easy, effective access:

Total Cost – Less than €23.5 million assuming implementation by 19 States

This option gives Member States wide flexibility in implementation. This may result in Member States either carrying out few changes or not implementing to the extent described below. As such it can be assumed that costs will be lower than options 3 and 4.

Known budgets for victim support organisations range from €20,000 for the smallest State (Malta), through to €119,000 for HU, 1.5 million for PT and 39 Million for England and Wales. Given the wide range a median of **€1.5 million has been taken as an average cost**. Highest costs are expected in CY, DK, EL, IT, LV, LT, PL, SI and ES (9 States) where no national VS service has been identified. **Running costs could total around €13.5 million**. Set up costs are unknown. Lower costs would be expected for BG, CZ, FR, HU, IE, LU, MT, RO (8 States) which have VS services but not national coverage. We therefore estimate **a lower median cost of €1 million** giving a total of **€10 million**. This option is unlikely to impact greatly on AT, BE, EE, FI, DE, NL, PT, SK, SE, UK which have achieved national coverage

OPTION 3a

OPTION 3b

Victims support services – establish services or support existing ones. Minimum standard. Including accreditation

Total Cost – Less than €23.5 million to establish nationwide services.

Total cost for accreditation: From €477,000 – €3.58 million

Costings based on calculations in option 2. Given that this option requires that those working for victim support services shall be competent to do so, it is assumed that there will be additional training costs for those services which do not already provide such training. No data is available on these costs or in which States such training is already provided. However, costings have been used in relation to accreditation, which includes accreditation of training. These have been taken from costings in relation to restorative justice accreditation (see Matrix Options Paper., p. 108)

OPTION 4

Victims Support Services – establish or support independent services. Legal advice shall be provided.

Total Cost – €4.07 – €6.6 billion

Costs are based on calculations provided in option 3. However, in this option, VSS are required to be independent, autonomous and to provide legal advice or assistance. It can be assumed that whilst most costs should remain the same, the provision of legal advice could significantly increase costs.

It is difficult to calculate the cost of providing such advice. Some victim support organisations already do so either through in house or external lawyers. Costs can vary greatly depending on how advice is given but also on the nature of the advice. If it is basic and related to information on general rights etc this could be provided by lower qualified persons. However, legal counsel could be extremely expensive. Costings have been attempted based on national hourly wages of lawyers in the Member States, 1 hour of advice being provided by an external lawyer.

According to the ICVS, on average 43% of victims reporting four types of serious crime felt help would have been useful for them. This compares with a report by the UK's Victim's commissioner that only 20% of victims want support services. Since this takes account of victims of lesser crimes an average of 30% of victims will be taken for costings. It is assumed that some of these will not need advice, nevertheless costs are provided for all victims who could potentially receive support. On this basis if around 22.5 million victims (30% of all reported and unreported crimes) received 1 hour of legal advice at an average cost of €180 - €293 per hour, the total EU cost would be between **€4.05 – €6.59 billion**

INTERPRETATION AND TRANSLATION

OPTION 2

Interpretation and Translation – minimise communication difficulties:

Total Cost – less than €30,000 – €6.87 million

This option provides a wide leeway for implementation by Member States. Costs of implementation are expected to fall on government authorities at a national and regional level. Cost for leaflets should only be borne once and for any subsequent changes but there are unlikely to be annual translation costs. Costs for translation of proceedings are expected to remain relatively constant.

As a minimum, this could involve providing **information leaflets in a foreign language**. According to the APAV study, in 6 States (LT, LU, NL, PT, ES, UK) information is already available in different languages. **Those States may not have additional costs in this respect** and so calculations are made for 21 States.

According to studies, the estimated cost of translating a short 4 page information leaflet for 21 States would range from €1,360.60 (minimum 1 page cost is €340.15) – €3,942.68 (maximum 1 page cost is €985.67)¹⁸¹. This cost must be multiplied by the number of languages the document is translated into. If all 22 EU languages were translated costs would range from **€29,933.20 – €86,738.96**. However, Member States are likely to do this based on the most common languages used in their jurisdiction rather than for all 22 EU languages. Thus costs are likely to be lower.

Member States could also provide a short summary of the outcome of proceedings.

According to APAV 15 Member States (AT, EE, FI, FR, DE, EL, HU, LT, LU, NL, RO, SK, ES, SE, UK) already provide translation and interpretation services for all victims. The remaining 12 States provide such services but only for victims as witnesses. Since no data is available on the number of non-witness victims, costings are based on total foreign victim population in the 12 Member States (BE, BG, CZ, CY, DK, IE, IT, LV, MT, PL, PT, SI).

A 1 page summary would cost from **€310.15 - €722.40** per case for the 12 States above. It is estimated that around **57869** cases **involving foreign victims** actually go to court (figures are available for 17 Member States ranging from 27 cases in Cyprus to 27864 in the UK. 11 States have less than 1000 cases and 16 States less than 7000. As such a median of 768 cases has been taken for Member States for which data were not available¹⁸²). This works out at **9395 cases for the 12 Member States** referred to above. The cost of producing 1 page summaries is therefore estimated to range from **€2.91 million to €6.79 million**

OPTION 3a**Interpretation and Translation – provided on basis of proportionality****OPTION 3b****Total Costs: less than €89.29 – €205.49 million****Translation: €87.42 – €203.61 million****Interpretation: €1,879,000**

As with option 1, this option is difficult to cost. A proportionality test has been introduced to provide Member States with sufficient flexibility to ensure that translation and interpretation is provided only where necessary and to a necessary extent. This should effectively reduce cost implications in particular in relation to low level crimes (where for instance a simple summary may be provided) or where the victim has indicated they do not wish to receive translations etc.

Furthermore, additional costs are only expected to arise in relation to 12 Member States ((BE, BG, CZ, CY, DK, IE, IT, LV, MT, PL, PT, SI – see option 2) remaining 15 already provide interpretation and translation to all victims.

Translation: To provide a baseline for translation, the total estimated costs for translating **1 page** ranges from **€310.15 – €722.40 for the 12 Member States**. It is estimated that in civil proceedings, each proceedings involves on average **30 pages**. On this basis, the total cost for translating **30 pages for a total of 9395 cases** involving foreign victims in those States ranges **from €87.42 – €203.61 million**.

Interpretation: according to the 2009 Impact assessment for a Proposal for a Council Framework Decision on the right to interpretation and to translation in criminal proceedings¹⁸³, the average cost of interpretation for the accused for 1 case is around **€200**. Based on this costing, it is estimated that interpretation for the 12 States that do not currently provide interpretation for all victims would cost around **€1,879,000** at a maximum.

However, these costings only provide a baseline. Since Member States will apply a proportionality test, it is assumed that **costs can be reduced**.

In addition, interpretation costs are based on UK figures for interpretation. It has been observed that interpretation in the UK is provided to a very high level and it can therefore be assumed that **these costs are at the maximum end of the scale**.

OPTION 4**Interpretation and Translation – provided for all victims during proceedings****Total Costs: €89.29 – €205.49 million**

Costing are based on calculations made in option 3. However, no flexibility is provided in relation to when translation and interpretation is provided which will minimise the possibility to reduce costs.

RESTORATIVE JUSTICE SERVICES

OPTION 2

Restorative Justice Services (RJS) – safeguards where RJS exists

OPTION 3a

Total cost - €0 – €78 million (accreditation and legal advice for 21 Member States)

21 Member States provide some form of RJS (AT, BE, BG, CZ, EE, FI, FR, DE, EL, HU, IE, IT, LV, LU, PL, PT, RO, SI, ES, SE, UK). Calculations on safeguards will thus only be based on costs in those states.

Member States could implement this requirement ranging from no significant costs since **many safeguards do not impose financial burdens** (such as the requirement of consent to participate in RJS), to the most expensive safeguards **accreditation schemes and provision of legal advice** (in accordance with the UN guidelines on RJS safeguards). Cost estimates will thus only be given on those two safeguards.

Total cost of accreditation schemes – From €570,000 – €3.58 million (assuming implemented by all 21 States)

Total Cost of Legal advice – from €645 – 937 million (assuming implemented by all 21 States)

A range of safeguards can be applied in relation to RJS. However, based on UN guidelines the key safeguards having cost implications are standards of competence which inevitably requires at least training but also possibly accreditation and the right to legal counsel.

Accreditation: Based on calculations in available studies (using Member States wages and reported and unreported crime statistics), the cost of accreditation schemes can vary based on whether the scheme accredits training and services only or individuals as well. It can also vary depending on whether accreditation is carried out through paid assessors or by volunteers. Costings are based on a single organisation carrying out accreditation. Based on UK research estimated costs would result in the accreditation of around 350 individual practitioners, 120 training courses and 10 restorative services/organisations over five years. This was deemed to be sufficient to meet victim/ offender demand. In addition any organisation carrying out accreditation could charge for such services and could do so on a profitable basis. However, it should be noted that a number of Member States are likely to have accreditation schemes in place already so the costs should be lower than those provided.

Accreditation for 21 States

| Individuals, services, training - paid | Individuals, services, training - volunteer | Services, training - paid | Services, training – Volunteer |
|--|---|---------------------------|--------------------------------|
| €113,914 - €3,420,182 | €624,730 | €661,395 | €505,578 |

Legal advice: Provision of legal counsel to victims is difficult to calculate due to a range of variables similar to those in relation to the provision of restorative justice. However, based on an assumption that 50% of victims wish to receive RJS and do in fact receive it, costings can be established based on the provision of 1 hour of legal advice. This provides a baseline costing but it is assumed that costs would be lower as not all 50% of victims would actually receive RJ (case not suitable, offender refusal) or would get to a stage where legal advice was required or desired.

Based on hourly rates for legal advice for each Member State and on the victim population for each Member State (for reported crime) costs could at a maximum range from €2.4 billion to €3.7 billion. However, **a more likely costing scenario**, which we use for total costing, would be based on the number of cases that currently go to court. Based on available studies, this is estimated at 5,264,059 cases. With a 50% take up rate (i.e. 2,632,045) costs are estimated at between **€606 million to €875 million**.

OPTION 3b

OPTION 4

Restorative Justice Services (RJS) – establish or enhance RJS based on minimum standards:

Total cost of establishing RJS and apply minimum standards (including establishment costs, accreditation and legal advice):

€20 million to €2.6 billion

Total cost of establishing RJS for all victims who want it – from €19.6 million (at €75 per case) to €1.7 billion (at €6570 per case) (in 6 Member States that do not have RJS)

Total cost of accreditation schemes – from €477,296 to €3.58 million (assuming implemented by all 27 States)

Total cost of legal advice – from €645 million to €938 million (assuming implemented by all 27 States) – NB – this cost will only be included in the

maximum costing since Member States are not obliged to carry it out.

Cost of establishing and running RJS:

Based on a recent report¹⁸⁴, 21 Member States have some form of RJS in place(AT, BE, BG, CZ, EE, FI, FR, DE, EL, HU, IE, IT, LV, LU, PL, PT, RO, SI, ES, SE, UK). The cost estimates are thus made on the basis of **only those States which do not have RJS** (CY, DK, LT, MT, NL, SK).

Various studies show that 30% to 50% of all victims are interested in a personal meeting with the offender. This percentage increases up to 70% or more when the possibility for indirect mediation is also presented¹⁸⁵. **For the purposes of costings an average take up rate of 50% is used which amounts to 261,507 cases** based on 523,013 cases going to court in these six Member States.

Given that this option does not specify what type of RJS should be provided, in relation to which offences, nor at what point in the formal process or indeed whether it should act as a diversion to the criminal justice system, calculation of costs are extremely difficult to make. A study carried out in the US shows that the cost per case can vary widely from \$97 (€75) in France (for the category of less time-consuming cases) to \$250 (€193 – 11.01.11 exchange rates applied) in the US/California and \$1.069 (€827) in Germany¹⁸⁶. More recently, analysis of pilot restorative justice projects in the UK have shown costs of the schemes varied between £248 and £1,458 per case referred, or between about £3,261 and £5,457 (€6570) per case in which restorative justice was completed (these costs include staffing, premises, communications etc)¹⁸⁷.

Thus costs could range from €19.6 million (at €75 per case) to €1.7 billion (at €6570 per case).

Accreditation and Legal advice:

It should be noted that this option establish certain standards to be achieved including that practitioners are competent in restorative justice. This implies that they will receive training and that accreditation will be carried out. Costing are not available for training but accreditation costs are based on restorative justice calculations. Member States may also choose to ensure that legal advice is provided. Costing have therefore been established. However, since they are not obliged to provide this service, such costs are only included in the maximum total cost.

Cost estimates for accreditation and legal advice are provided for all 27 Member States since no data is available on which States provide these safeguards.

Accreditation: Based on calculations in available studies (using Member States wages and reported and unreported crime statistics), the cost of accreditation schemes can vary based on whether the scheme accredits training and services only or individuals as well. It can also vary depending on whether accreditation is carried out through paid assessors or by volunteers. Costings are based on a single organisation carrying out

accreditation. Based on UK research estimated costs would result in the accreditation of around 350 individual practitioners, 120 training courses and 10 restorative services/organisations over five years. This was deemed to be sufficient to meet victim/ offender demand. In addition any organisation carrying out accreditation could charge for such services and could do so on a profitable basis. However, it should be noted that a number of Member States are likely to have accreditation schemes in place already so the costs should be lower than those provided.

| Accreditation for 27 States | | | |
|---|--|----------------------------------|---------------------------------------|
| Individuals, services, training - paid | Individuals, services, training - volunteer | Services, training - paid | Services, training – Volunteer |
| €477,296 - €3,580,278 | €693,242 | €730,800 | €571,190 |

Legal advice: Provision of legal counsel to victims is difficult to calculate due to a range of variables similar to those in relation to the provision of restorative justice. However, based on an assumption that 50% of victims wish to receive RJS and do in fact receive it, costings can be established based on the provision of 1 hour of legal advice. This provides a baseline costing but it is assumed that costs would be lower as not all 50% of victims would actually receive RJ (case not suitable, offender refusal) or would get to a stage where legal advice was required or desired.

Based on hourly rates for legal advice for each Member State and on the victim population for each Member State (for reported crime) costs could at a maximum range from €2.6 billion to €4.2 billion. However, **a more likely costing scenario**, which we use for total costing, would be based on the number of cases that currently go to court. Based on available studies, this is estimated at 5,787,102 cases in the 27 Member States. With a 50% take up rate (i.e. 2,893,551) costs are estimated at between **€645 million to €938 million**.

This total costing is expected to only be established over a prolonged period of time since the full establishment of such services will not be possible immediately. It will take time to establish service providers, train personnel and attain complete national coverage. In the short term costs are therefore likely to be lower.

It should be noted that based on UK study, for all the projects and counting only reductions in the frequency of offending, RJ saved the Criminal Justice System around 8 times what it cost to deliver i.e. for every 1 euro spent, 8 euros were saved. The savings in relation to restorative justice for more serious crimes such as burglary are higher at around 14:1.¹⁸⁸

Based on this ratio, RJS could result in **significant savings to the total criminal justice budget** purely based on a reduction in reoffending which could more than offset the costs of establishing and running restorative justice services.

The benefits to victims and offenders of the process would further enhance cost-value calculations. These calculations are also based RJS where the formal process continues. **Where cases are diverted from the formal justice system, further significant savings can be made.**

ATTENDANCE OF TRIAL

OPTION 2

Attendance of trial – establish guidelines –

Total cost: between €146,000 to €1,580,000

This policy option involves the establishment of guidelines to better inform victims concerning trial dates and possibility of reimbursement.

Based on the analysis of guidelines on training in studies, the following costs are expected:

| Guidelines attending trial | | |
|---|---------------------------------|---------------------------|
| Internally developed by Ministry of Justice | Externally contracted | EU Drafted, MS adaptation |
| €145,616 (€679 in BG to €11,190 in LU) | between €970,000 and €1,580,000 | €236,201 |

OPTION 3a

Attendance of trial: assessment on exclusion, trial date info, reimbursement

OPTION 3b

Total cost – €240 – €242.9 million

Cost of providing information - €0 – €2.9 million

Reimbursement – €240 million

Key costs relate to informing the victim of the trial date and reimbursing the victim for attendance. Assessment of exclusion of the victim is not expected to impose significant financial costs though some additional administrative burden will be experienced.

Information on trial date: According the APAV Study, 8 Member States (AT, BE, BG, CZ, IE, LT, LV, NL) already inform all victims of the trial date with the remaining 19 States informing witnesses. Additional Costs are calculated for these 19 States though in reality they will be lower since many victims are witnesses.

It is assumed that such communication will be made in writing. If this is done by letter, it is estimated that the cost would be in the range of **€2.9 million** for 19 Member States based on an estimated cost of stamps of €0,50 and around 5,787,102 cases going to court¹⁸⁹. It should be noted that these costs could be reduced to near zero by sending the official communication by E-mail.

Reimbursement for attendance: In 17 Member States (AT, BG, CZ, FI, FR, DE, EL, HU, LV, LT, LU, NL, PL, PT, SK, SI, SE)¹⁹⁰ reimbursement is already provided for victims. Those States should have no additional costs in this respect. In 7 Member States (BE, CY, DK, EE, IE, IT, UK)¹⁹¹ only witnesses are eligible for reimbursement of expenses of attending a trial. MT and ES have no provisions concerning reimbursement of attendance of trial¹⁹². The calculations are made for these 9 Member States considering the requirement of reimbursement of all their foreign cases.

Based on available studies, the total costs for these 9 states amounts to around **€240 million**.¹⁹³

OPTION 4

Attendance of trial – right to attend trial, informed of date and reimbursed, availability considered.

Attendance of trial: Total cost - > €240 – 242.6 million

Cost of providing information - > €0 – 2.6 million

Reimbursement - > €240 million

Costs are based on calculations made in option 3. However, as a result this requiring that full information is provided to victims about the attendance of trial and also taking into account the victims availability when determining the date of the trial, the costs of reimbursement are likely to be higher, since more victims are likely to attend and due to possible delays where the victims is unavailable.

There are no figures available in relation to victims attendance of any matter related to proceedings, but even if we assume as a minimum that the victim has to attend two further sessions of questioning during the investigation process this would treble reimbursement costs.

ANNEX 11 – POTENTIAL MONITORING AND EVALUATION INDICATORS

The core indicators of progress towards meeting the objectives of the proposal could be listed as follows:

| p. Objective | q. Indicator |
|---|---|
| <p>r. A -specific Objective:</p> <p>s. <u>Specific objective: to ensure that victims are recognised and treated with respect and dignity</u></p> | <ul style="list-style-type: none"> • Number of positive responses to the following range of questions: • Did the staff of victim support, police, judiciary, prosecution service: • treat you politely, respect your rights, show interest in your personal story, take you seriously, show understanding of your situation, respect your privacy, treat your personal details confidentially, leave you waiting a long time before you could report the crime? show compassion, refer you to medical or mental health services? behave in a professional fashion? |
| <p>t. A.1 To ensure that that the needs of indirect victims (co-victims of murder and immediate family members of victims of crime in general) are met.</p> | <ul style="list-style-type: none"> • Practical – number of positive responses from co-victims of murder to the question did you receive the following services where you wished to receive such services (Services determined by content of Directive). • Practical - number of positive responses from indirect victims did you receive the support and protection you had expressed a need for? |
| <p>u. A.2 To ensure that police, prosecutors and court staff receive appropriate victims training. To ensure that the judiciary have access to judicial studies opportunities.</p> | <ul style="list-style-type: none"> • Number of police, prosecutors and court staff that have received appropriate victims training in comparison with the total number of staff. • Details of training plans to ensure staff are trained • Evidence of what training programmes are available to judges and on what basis. |
| <p>v. A.3 To establish needs assessment mechanisms to</p> | <ul style="list-style-type: none"> • Evidence of what needs assessments have been established. |

| | |
|---|--|
| <p>identify the needs of victims and to identify vulnerable victims and their specific needs.</p> | <ul style="list-style-type: none"> • Number of needs assessments carried out compared with the number of victims reporting crimes. |
| | <ul style="list-style-type: none"> • Number of identified vulnerable victims and trends in numbers. |
| | <ul style="list-style-type: none"> • Number of victims who received specialist treatment having been identified as vulnerable. |
| | <ul style="list-style-type: none"> • Number of victims confirming that they had been identified as vulnerable compared with the number of victims who felt themselves vulnerable but had not been identified as such. |
| | <ul style="list-style-type: none"> • Number of victims confirming that they felt vulnerable compared with the number who confirmed they had received appropriate services. |
| <p>w. <u>B. Specific objective: to ensure that victims are protected</u></p> | <p>x.</p> |
| <p>y. B.1 To ensure that victims do not lose the protection they have been given when they travel or move abroad.</p> | <ul style="list-style-type: none"> • Number of victims receiving protection measures as a result of using the Directives mechanisms compared with those who would have liked such measures but did not receive them. |
| <p>z. B.2 To ensure contact between the offender and victim can be avoided during proceedings.</p> | <ul style="list-style-type: none"> • Number of new courts built with separate waiting areas compared to those without. |
| | <ul style="list-style-type: none"> • Evidence of the establishment of guidelines for court staff. |
| <p>aa. <u>C Specific objective: to ensure that victims are supported</u></p> | <p>bb.</p> |
| <p>cc. C.1 To ensure that effective victims support services are available to victims.</p> | <ul style="list-style-type: none"> • Evidence of how support services have been established or facilitated. |
| | <ul style="list-style-type: none"> • Number of victims receiving victim support services compared with number of known victims |
| | <ul style="list-style-type: none"> • Number of victims expressing a wish for support and receiving that support. |

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| <p>dd. C.2 To ensure that victims have the rights to be accompanied by a trusted person or victim support organisation during proceedings.</p> | <ul style="list-style-type: none"> • Legislation: evidence that trusted persons are not excluded from accompanying a victim except in certain circumstances. • Number of persons who were accompanied by a trusted person having expressed a wish for this. |
| <p>ee. <u>D. Specific objective: to ensure victims have effective access to justice</u></p> | <p>ff.</p> |
| <p>gg. D.1 To ensure victims are only excluded from attending trial in exceptional circumstances and that they are informed of the trial date and receive reimbursement for attendance.</p> | <ul style="list-style-type: none"> • Legislation or other measures conforming with the objective. • Number of victims attending trial who expressed a wish to do so. |
| <p>hh. D.2 To ensure that victims are assisted in understanding their rights, obligations and the proceedings</p> | <ul style="list-style-type: none"> • Number of victims who expressed a wish for interpretation and translation or documentation in their own language who received it. • Number of victims stating that they had difficulties understanding information or proceedings. |
| <p>ii. D.3 Ensure that victims have a right to have prosecution decisions reviewed.</p> | <ul style="list-style-type: none"> • Number of reviews of prosecution decisions. • Number of requests for review which have been rejected. |
| <p>jj. <u>E. Specific objective: to ensure victims have access to restorative justice</u></p> <p>kk.</p> | <p>ll.</p> |
| <p>mm. E.1 To ensure victims have access to effective Restorative Justice Services.</p> | <ul style="list-style-type: none"> • Number of victims who expressed a wish to take part in restorative justice services |
| <p>nn.</p> | <ul style="list-style-type: none"> • Number of victims who expressed a wish to take part in restorative justice services and who received those services |
| <p>oo.</p> | <ul style="list-style-type: none"> • Number of victims who expressed a wish to take part in restorative justice services but didn't take part due to the refusal of the offender. |

