

I assent.

(L.S.)

GEORGE VELLA
President

16th April, 2021

ACT No. XVII of 2021

AN ACT to amend the Victims of Crime Act, Cap. 539.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

1. The short title of this Act is the Victims of Crime (Amendment) Act, 2021 and this Act shall be read and construed as one with the Victims of Crime Act, hereinafter referred to as "the principal Act".

Short title.

Cap. 539.

2. Immediately after sub-article (3) of article 6 of the principal Act there shall be added the following new sub-article:

Amendment of article 6 of the principal Act.

"(4) During criminal investigations:

(a) interviews of victims shall be conducted without unjustified delay after the complaint with regard to a criminal offence has been made to the Executive Police;

(b) the number of interviews of victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation;

(c) victims may be accompanied by their legal representative and a person of their choice, unless the victims would have refused such representation, in an explicit manner and in writing, or unless a reasoned decision has been made to the contrary by the investigating Police Officers, wheresoever they are of the opinion that the person chosen may create conflict of interest in the investigation;

(d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings."

Amendment of article 7 of the principal Act.

3. Sub-article (7) of article 7 of the principal Act shall be substituted by the following new sub-article:

"(7) The court shall assess whether victims need interpretation or translation as provided for under sub-articles (1) and (2). Victims may challenge the court's decision not to provide interpretation or translation."

Addition of new articles to the principal Act.

4. Immediately after article 10 of the principal Act there shall be added the following new articles:

"Right to reimbursement of expenses. S.L. 9.12.

10A. Without prejudice to the Criminal Injuries Compensation Scheme Regulations, victims who participate in criminal proceedings shall have the possibility to be reimbursed for the expenses incurred as a result of their active participation in criminal proceedings, in accordance with their role in the relevant criminal proceedings. The conditions or procedural rules under which victims may be reimbursed shall be determined by the Minister responsible for justice.

Right to protection of privacy.

10B. The Ministry or any other entity or agency which the Minister may designate for that purpose shall take during the criminal proceedings appropriate measures to protect the privacy, including personal characteristics of the victim taken into account in the individual assessment provided for under article 12, and images of victims and of their family members."

Amendment of article 11 of the principal Act.

5. Immediately after sub-article (2) of article 11 of the principal Act there shall be added the following new sub-articles:

"(3) Where a victim is a resident of a Member State other than Malta, the Executive Police shall take a statement from the victim immediately after the complaint with regard to the

criminal offence is made.

(4) Where a victim is a resident of a Member State other than Malta, the victim shall have recourse to the extent possible to the provisions on video conferencing and telephone conference calls laid down in the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 (1) for the purpose of hearing victims who are resident abroad."

6. Article 12 of the principal Act shall be substituted by the following new article:

Substitution of article 12 of the principal Act.

"12. The Ministry or any other entity or agency which the Minister may designate for the purpose shall make provision:

(a) to ensure that victims receive a timely and individual assessment, in accordance with this Act, and to determine whether and to what extent they would benefit from special measures in this Act due to their particular vulnerability. The victim may request to be interviewed by a person of the same sex;

(b) for the timely and individual assessment of victims who suffered from severe crimes, including crimes committed with a bias or discriminatory motive which could in particular, be related to their particular characteristics, and victims whose relationship to and dependence on the offender make them particularly vulnerable such as:

- (i) minors;
- (ii) victims of terrorism;
- (iii) victims of organised crime;
- (iv) victims of human trafficking;
- (v) victims of gender-based violence;
- (vi) victims of violence in a close relationship;
- (vii) victims of sexual violence;
- (viii) victims of exploitation or hate crime; and
- (ix) victims with disabilities:

Provided that the individual assessment shall, in particular, take into account the personal characteristics of the victim, the type or nature of the crime and the circumstances of the crime;

(c) victim support services which shall, as a minimum, provide:

(i) information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial;

(ii) information about or direct referral to any relevant specialist support services in place;

(iii) emotional and, where available, psychological support;

(iv) advice relating to financial and practical issues arising from the crime;

(v) unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation;

(vi) medical treatment in accordance with the national healthcare system for as long as such treatment is necessary;

(vii) protection measures, paying particular attention to the risk of intimidation and retaliation and the need to protect the dignity and physical integrity, including during questioning and when testifying;

(viii) shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of secondary and repeat victimisation, of intimidation and of retaliation; and

(ix) targeted and integrated support for victims with specific needs, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling;

(d) for the close involvement of the victim in the carrying out of individual assessments which shall take into account the wishes of the victims as to whether they do not wish to benefit from the special measures provided for in this Act;

(e) for updating of the elements that form the basis of the individual assessment throughout the criminal proceedings."

7. Immediately after sub-article (3) of article 14 of the principal Act there shall be added the following new sub-article:

Amendment of article 14 of the principal Act.

"(4) Where the victim is a minor he shall be presumed to have specific protection needs due to his vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under this Act, child victims shall be subject to an individual assessment as provided for in article 12."

8. Immediately after article 14A of the principal Act there shall be added the following new article:

Addition of new article to the principal Act.

"Right to protection of victims with specific protection needs during criminal proceedings. Cap. 164.

14B. (1) Without prejudice to the *locus standi* and rights of the injured party, the provisions of Title II of Part III of the Police Act and to the rights of the defence and by virtue of judicial discretion, victims with specific protection needs who benefit from special measures identified as a result of an individual assessment provided for in article 12, may benefit from the measures provided for in this Act. A special measure envisaged following the individual assessment shall not be made available if operational or practical constraints make this impossible, or where there is a an urgent need to interview the victim and failure to do so could harm the victim or another person or could prejudice the course of the proceedings.

(2) The following measures shall be available during criminal investigations to victims with specific protection needs identified in accordance with article 12:

(a) interviews with the victim being carried out in premises designed or adapted for that purpose;

(b) interviews with the victim being carried out by or through professionals trained for that purpose;

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(c) all interviews with the victim being conducted by the same persons unless this is contrary to the good administration of justice;

(d) all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a person presiding the Court, to be conducted by a person of the same sex as the victim, if the victim so wishes:

Provided that the course of the criminal proceedings will not be prejudiced."

Passed by the House of Representatives at Sitting No. 447 of the 13th April, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

VERŻJONI ELETTRONIKA