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*Committee on Civil Liberties, Justice and Home Affairs
Committee on Women's Rights and Gender Equality*

2011/0129(COD)

26.1.2012

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DRAFT REPORT

on the 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
(COM(2011)0275 – C7-0127/2011 – 2011/0129(COD))

Committee on Civil Liberties, Justice and Home Affairs
Committee on Women's Rights and Gender Equality

Rapporteurs: Teresa Jiménez-Becerril Barrio, Antonia Parvanova

(Joint Committee meetings - Rule 51 of the Rules of Procedure)

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the 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

(COM(2011)0275 – C7-0127/2011 – 2011/0129(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0275),
 - having regard to Article 294(2) and Article 82(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0127/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of the Protocol (No 2) on the application of the principles of subsidiarity and proportionality, by the ... Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to the opinion of the European Economic and Social Committee,
 - having regard to Rules 55 and 37 of its Rules of Procedure,
 - having regard to the joint deliberations of the Committee on Civil Liberties, Justice and Home Affairs and of the Committee on Women's Rights and Gender Equality under Rule 51 of the Rules of Procedure (A7-0000/2012),
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and of the Committee on Women's Rights and Gender Equality (A7-0000/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive Recital 2 a(new)

Text proposed by the Commission

Amendment

(2a) In its Resolution of 10 June 2011 on a Roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings, the Council stated that action should be taken at Union level in order to strengthen the rights, support and protection of victims of crime. To that end and in accordance with that Resolution, this Directive aims to revise and supplement the principles set out in Framework Decision 2001/220/JHA¹ and to take significant steps forward in the level of protection of victims throughout the Union, in particular within the framework of criminal proceedings.

¹ OJ L 82, 22.3.2001, p. 1.

Or. en

Amendment 2

Proposal for a directive Recital 2 b (new)

Text proposed by the Commission

Amendment

(2b) This Directive is part of a legislative package which aims at strengthening the rights of victims in the Union. When implementing this Directive, Member States should take into account Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order¹ and Regulation (EU) No .../2012 [on mutual

recognition of protection measures in civil matters] should be taken into consideration.*

¹ *OJ L 388, 21.12.2011, p. 2.*

** OJ please insert number, title and reference.*

Or. en

Amendment 3

Proposal for a directive Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) On 7 April 2011 the Council of Europe adopted the Convention on preventing and combating violence against women and domestic violence, which establishes high standards concerning the prevention of gender-based violence, the protection of and assistance for the victims of such violence, and the prosecution of the perpetrators of such violence.

Or. en

Amendment 4

Proposal for a directive Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) The European Pact for Gender Equality for the period 2011 – 2020, adopted by the European Council¹ reaffirms the Union's commitments to closing gender gap in employment, education and social protection, to

promoting a better work-life balance for women and men, and to combating all forms of violence against women.

¹*Annexed to Council conclusions of 7 March 2011 (7166/11).*

Or. en

Amendment 5

Proposal for a directive Recital 5

Text proposed by the Commission

(5) Crime is as an offence against society as well as a violation of the individual rights of victims. As such, victims should be recognised and treated in a respectful, sensitive and professional manner in all contacts with any **public** authority, victim support service or restorative justice service taking into account their personal situation and immediate needs, age, gender, disability and level of maturity and fully respecting their physical, mental and moral integrity. They should be protected from secondary and repeat victimisation and intimidation, should receive appropriate support to facilitate their recovery and should be provided with **sufficient** access to justice.

Amendment

(5) Crime is as an offence against society as well as a violation of the individual rights of victims. As such, victims should be recognised and treated in a respectful, sensitive and professional manner in all contacts with any **competent** authority, victim support service or restorative justice service taking into account their personal situation and immediate needs, age, gender, disability and level of maturity and fully respecting their physical, mental and moral integrity. They should be protected from secondary and repeat victimisation and intimidation, should receive appropriate support to facilitate their recovery and should be provided with **effective** access to justice.

Or. en

Amendment 6

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) This Directive respects fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular it seeks to promote the right to dignity, life, physical and mental integrity, private and family life, right to property, *and* the rights of the child, the elderly and persons with disabilities, and the right to a fair trial.

Amendment

(7) This Directive respects fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular it seeks to promote the right to dignity, life, physical and mental integrity, ***the right to non-discrimination, the right to respect for*** private and family life, right to property, the rights of the child, the elderly and persons with disabilities, and the right to a fair trial.

Or. en

Amendment 7

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) A person should be considered a victim regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. Family members of victims are also harmed as a result of the crime, in particular the family of a deceased victim, who have a legitimate interest in criminal proceedings. Such indirect victims should therefore also benefit from protection under this Directive. Victims need appropriate support and assistance even before reporting a crime. Such support can be crucial both for the recovery of the victim and in any decision to ultimately

Amendment

(9) A person should be considered a victim regardless of whether a perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. Family members of victims are also harmed as a result of the crime, in particular the family of a deceased victim, who have a legitimate interest in criminal proceedings. Such indirect victims should therefore also benefit from protection under this Directive. Victims need appropriate support and assistance even before reporting a crime. Such support can be crucial both for the recovery of the victim and in any decision to ultimately

report the crime.

report the crime. *Measures concerning such support and assistance should be gender-specific where appropriate.*

Or. en

Amendment 8

Proposal for a directive Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) Victimisation that occurs not as a direct result of a criminal act but through the response of institutions and individuals to the victim, which is also known as ‘secondary victimisation’, should be avoided through services to victims which demonstrate an approach relevant to their users. Those services should recognise the gender dynamics, impact and consequences of specific forms of violence, while operating within a gender equality and human rights framework.

Or. en

Justification

This amendment recognizes the key role of victim support services in ensuring that victims will not be exposed to secondary victimisation. To this end, it recommends to Member States to ensure that support services recognize the effects of exposure to violence and the length of the recovery process and treat victims in a manner which avoids secondary victimisation. The amendment echoes similar provisions in the Declaration on the Elimination of Violence Against Women

Amendment 9

Proposal for a directive Recital 9 b (new)

Text proposed by the Commission

Amendment

(9b) Although the ultimate goal must be to prevent harm occurring, much can be done to minimise disability and ill health arising from such harm despite best efforts to prevent its occurrence. Providing high-quality support and care services to victims is therefore an essential component of any response to intentional and unintentional harm. Appropriate services for victims of non-fatal injuries can prevent future fatalities, reduce the amount of short-term and long-term disability, and help those affected to cope with the impact of harm on their lives. In this context, the rights of victims to access to emergency medical services is not enough and long-term rehabilitation and access to services such as recovery care and corrective surgery needs to be fully recognised.

Or. en

Justification

While timely access to health care is crucial in the immediate moment after the occurrence of violence, long-term recovery and avoidance of further violence can only be ensured through access to specialised victim support and care services.

Amendment 10

Proposal for a directive Recital 9 c (new)

Text proposed by the Commission

Amendment

(9c) Connections between interpersonal violence, inequality and human rights have been the focus of increasing attention in law, research and practice. The harm that

victims suffer as a result of crime and the abuse of power needs to be adequately recognised as those victims are dependent emotionally, physically, financially or socially on the perpetrator.

Or. en

Justification

Inequality can be an underlying cause of victimisation, which, in turn, composes human rights violation, placing the issue squarely in the arena of fundamental rights. The amendment pays particular attention to victims who are in emotional, financial or other type of relationship with the perpetrator and asks for recognition of their specific needs in terms of recovery and rehabilitation. The amendment makes use of the Cedaw's case law.

Amendment 11

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) When providing information, sufficient detail should be given to ensure that victims are treated in a respectful manner and to enable them to make informed decisions about their participation in proceedings and how to access their rights. In this respect, information allowing the victim to know about the current status of any proceedings and their progress is particularly important. This is equally relevant for information to enable a victim to decide whether to request a review of a decision not to prosecute.

Amendment

(10) When providing information, sufficient detail should be given to ensure that victims are treated in a respectful manner and to enable them to make informed decisions about their participation in proceedings and how to access their rights. In this respect, information allowing the victim to know about the current status of any proceedings and their progress is particularly important. This is equally relevant for information to enable a victim to decide whether to request a review of a decision not to prosecute. ***When providing information about the release of the offender, effective support and assistance, where appropriate through victims support services, should be given to the victims and their family members, in order to minimise the risk of secondary victimisation and help victims cope with the psychological stress resulting from such information.***

Amendment 12**Proposal for a directive****Recital 11***Text proposed by the Commission*

(11) Information and advice provided by **public** authorities, victim support services and restorative justice services should as far as possible be given through a range of media in a manner which can be understood by the victim. It should also be ensured that the victim can be understood during proceedings. In this respect, the victim's knowledge of the language used to provide information, their age, maturity, intellectual and emotional capacities, literacy levels and any mental or physical impairment such as those related to sight or hearing, should be taken into account. Equally, limitations on a victim's ability to communicate information should be taken into account during criminal proceedings.

Amendment

(11) Information and advice provided by **competent** authorities, victim support services and restorative justice services should as far as possible be given through a range of media in a manner which can be understood by the victim. It should also be ensured that the victim can be understood during proceedings. In this respect, the victim's knowledge of the language used to provide information, their age, maturity, intellectual and emotional capacities, literacy levels and any mental or physical impairment such as those related to sight or hearing, should be taken into account. Equally, limitations on a victim's ability to communicate information should be taken into account during criminal proceedings.

Or. en

Amendment 13**Proposal for a directive****Recital 12***Text proposed by the Commission*

(12) Justice cannot be effectively achieved unless the victim can properly explain the circumstances of the crime they have suffered and provide their evidence in a manner understandable to the competent authorities. It is equally important to ensure the respectful treatment of the victim and

Amendment

(12) Justice cannot be effectively achieved unless the victim can properly explain the circumstances of the crime they have suffered and provide their evidence in a manner understandable to the competent authorities. It is equally important to ensure the respectful treatment of the victim and

to ensure they are able to access their rights. Free of charge interpretation should therefore always be available during questioning of the victim and for their participation in court hearings. For other aspects of criminal proceedings, the need of interpretation and translation can vary depending on specific issues, the status of the victim and their involvement in proceedings and any specific rights they have. As such interpretation and translation for these other cases **need only** be provided to the extent necessary for victims to exercise their rights.

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Or. en

Justification

The language and the way authorities communicate towards victims is essential to avoid intimidation and disrespectful treatment. It can worsen the situation for the victims and could complicate the legal process. The victim should not create a feeling of guilt for its own drama. Communication and the translation into a language that the victim clearly understands needs to be guaranteed.

Amendment 14

Proposal for a directive Recital 13

Text proposed by the Commission

(13) Support, whether provided by governmental or non-governmental organisations, should be made available from the moment a crime takes place as well as throughout criminal proceedings and after such proceedings in accordance with the needs of the victim. Support should be provided through a variety of means, without excessive formalities and

Amendment

(13) Support, whether provided by governmental or non-governmental organisations, should be made available from the moment a crime takes place as well as throughout criminal proceedings and after such proceedings in accordance with the needs of the victim. Support should be provided through a variety of means, without excessive formalities and

through a sufficient geographical distribution to allow all victims the opportunity to access such services. Certain groups of victims such as victims of sexual violence, gender, race hate or other bias crimes or victims of terrorism may require specialist support services due to the particular characteristics of the crime they have fallen victim to.

through a sufficient geographical distribution to allow all victims the opportunity to access such services. Certain groups of victims such as victims of sexual violence, gender, race hate or other bias crimes or victims of terrorism may require specialist support services due to the particular characteristics of the crime they have fallen victim to. ***Member States should provide the necessary resources for the support, assistance and protection of victims.***

Or. en

Justification

This amendment recommends to Member States to proactively participate in the design of and provide the necessary resources for victim support services. As reflected by the Council of Europe Convention on preventing and combating violence against women and domestic violence's provision, funding for national victim support services is one way of enhancing implementation of victim's rights.

Amendment 15

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Some victims are particularly vulnerable during criminal proceedings to secondary and repeat victimisation and to intimidation by the offender or his associates. Such vulnerability can broadly be identified from the personal characteristics of the victim and the type or nature of the crime. On this basis some victims such as children, persons with disabilities, victims of sexual violence and victims of human trafficking are in most cases vulnerable to further victimisation and in need of special protection measures. Only in exceptional circumstances, such as balancing the fundamental rights of the accused or suspected person, or where the

Amendment

(17) Some victims are particularly vulnerable during criminal proceedings to secondary and repeat victimisation and to intimidation by the offender or his associates ***and therefore have specific needs***. Such vulnerability can broadly be identified from the personal characteristics of the victim and the type or nature of the crime. On this basis some victims such as children, persons with disabilities, victims of sexual violence, ***victims of gender-based violence, victims of violence in close relationships, victims of terrorism and organised crime***, and victims of human trafficking are in most cases vulnerable to further victimisation and in need of special

victim so wishes, should access to such protection measures be limited. In the case of victims of human trafficking and victims of child sexual abuse, sexual exploitation and child pornography, where specific and more detailed provisions are already included in separate instruments adopted or in course of negotiation this Directive does not deal with those same matters.

protection measures. Only in exceptional circumstances, such as balancing the fundamental rights of the accused or suspected person, or where the victim so wishes, should access to such protection measures be limited. In the case of victims of human trafficking and victims of child sexual abuse, sexual exploitation and child pornography, where specific and more detailed provisions are already included in separate instruments adopted or in course of negotiation this Directive does not deal with those same matters.

Or. en

Justification

Defining victims as vulnerable is seen as unintended discriminatory naming which considers the victims' personal characteristics before having suffered a crime as the sole criteria in defining them. Thus, the current amendment introduces the term 'victims with specific needs' and uses it throughout the Directive. Further amendments require positive action to ensure that any support measures specifically address and take into account the needs of victims with specific needs.

Amendment 16

Proposal for a directive Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) Gender-based violence refers to violence that is directed against a person because of his or her gender. It is a form of violence that affects women disproportionately and it may be interrelated but is not limited to cases of violence in close relationships, sexual violence (including sexual assault and sexual harassment), sexual trafficking and slavery, intimate relationship violence and other harmful practices such as forced marriages and female genital mutilation. Homophobic and transphobic attacks have also been defined as a form

of gender-based violence. Research shows that one-fifth to one-quarter of all women have experienced physical violence at least once during their adult lives and more than one-tenth have suffered sexual violence involving the use of force. It is therefore crucial to criminalise all forms of gender-based violence and provide victims with specific prevention and protection measures, and remedies.

Or. en

Justification

The amendment emphasizes that gender-based violence differs from other types of violence in that the victim's gender is the primary motive for the acts of violence. In other words, gender-based violence refers to any harm that is perpetrated against a person based on perceived differences between the victim and the perpetrator. Noteworthy is the amendment's definition of sexual violence which includes both sexual assault and harassment.

Amendment 17

Proposal for a directive Recital 17 b (new)

Text proposed by the Commission

Amendment

(17b) Violence in close relationship is a serious and often hidden social problem which includes violence perpetrated by intimate partners or ex-partners or other family members. The majority of such violence is carried out in the immediate social environment, and women are its primary victims. Such violence may cover physical or psychological abuse, but also sexual and even economic abuse, leading to discrimination and violations of the fundamental freedoms of the victims, who are therefore in need of specific protection measures.

Or. en

Justification

This amendment provides a comprehensive definition of violence in close relationships which targets all types of violence, including psychological and economic, and recognizing that violence can continue after a relationship has ended and therefore does not require proven biological or legal family ties, or a proof of joint residence of the victim and the perpetrator.

Amendment 18

Proposal for a directive Recital 17 c (new)

Text proposed by the Commission

Amendment

(17c) Victims of terrorism are particularly vulnerable due to the particular nature of the crime. They suffer intimidation, hostile behaviour and threats of retaliation by members of the communities associated with the perpetrators. Victims of terrorism should therefore be granted specific help and recognition from society and must be protected against any exposure to hate and fear. The Commission and Member States should consider adopting specific legislation on victims of terrorism to recognise their public character and include more detailed provisions that ensure adequate protection and support, recognition among other rights, long-term emergency assistance, comprehensive reparation, protection of private and family life, protection of dignity and security, the right to knowledge of truth and the right to memory.

Or. en

Justification

The right to knowledge of truth is a right based on victims entitlement to a full and complete knowledge of the acts that resulted in their victimization, of the people involved and of the circumstances that motivated them. They are entitled to know the truth about the circumstances in which violations were committed and in case of death or disappearance, the fate of the victim.

Amendment 19

Proposal for a directive Recital 17 d (new)

Text proposed by the Commission

Amendment

(17d) Victims of terrorism and of organised crime should be granted specific support given the fact that violating an individual right in such a context also violates the rights of society as a whole. As a consequence, a right with an individual nature should be protected in a specific way as it affects collective rights.

Or. en

Justification

Terrorism and organised crime target specific victims as well as family members, friends and cause victims of collateral damage. Terrorism may be described as politically motivated violence that is perpetrated by individuals, groups or state-sponsored agents and intended to bring about feelings of terror in a population to influence policies or change behaviour. Terrorism is specifically designed to have psychological effects to instil fear and thereby intimidate a 'target audience' that might include an ethnic or religious group, an entire country a government or public opinion.

Amendment 20

Proposal for a directive Recital 18

Text proposed by the Commission

Amendment

(18) Beyond these categories, but again based on personal characteristics and the crime, any person could be vulnerable. Only through individual assessments, carried out at the earliest opportunity by those in a position to make recommendations on protection measures, can such vulnerabilities be effectively identified. The assessment should in

(18) Beyond these categories, but again based on personal characteristics and the crime, any person could be vulnerable ***and could have specific needs***. Only through individual assessments, carried out at the earliest opportunity by those in a position to make recommendations on protection measures, can such vulnerabilities be effectively identified. The assessment

particular take into account age, gender and gender identity, ethnicity, race, religion, sexual orientation, state of health, disability, communication difficulties, relationship to or dependence on the suspected or accused person, previous experience of crime, the type or nature of the crime such as organised crime, terrorism, or bias crimes and whether the victim is a foreign victim. Victims of terrorism require particular attention in any assessment given the varying nature of such acts ranging from mass acts of terrorism to targetted terrorism against individuals.

should in particular take into account age, gender and gender identity, ethnicity, race, religion, sexual orientation, state of health, disability, communication difficulties, relationship to or dependence on the suspected or accused person, previous experience of crime, the type or nature of the crime such as organised crime, terrorism, or bias crimes and whether the victim is a foreign victim. Victims of terrorism require particular attention in any assessment given the varying nature of such acts ranging from mass acts of terrorism to targeted terrorism against individuals.

Or. en

Amendment 21

Proposal for a directive Recital 19

Text proposed by the Commission

(19) Victims who have been identified as **vulnerable** should be offered appropriate measures to protect them during criminal proceedings. The exact nature and extent of any such measures should be determined through the individual assessment, in discussions with the victim and in accordance with rules of judicial discretion. The victim's concerns and fears in relation to proceedings should be a key factor in determining whether they need any particular measure.

Amendment

(19) Victims who have been identified as **having specific needs** should be offered appropriate measures to protect them during criminal proceedings. The exact nature and extent of any such measures should be determined through the individual assessment, in discussions with the victim and in accordance with rules of judicial discretion. The victim's concerns and fears in relation to proceedings should be a key factor in determining whether they need any particular measure.

Or. en

Amendment 22

Proposal for a directive Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) Member States should, where appropriate, while recognising the principle of freedom of expression, encourage the media and journalists to adopt self-regulatory guidelines and to take appropriate measures to ensure the protection of the private and family life of the victims and their family members in the framework of their information activities. Member States should discourage the media from interviewing victims at inappropriate times, interviewing child victims, discussing gruesome details of crimes, publishing information that would negatively impact on the victim's credibility, popularising the offender and blaming the victim for the crime. Member States should ensure that victims have an effective remedy when their right to respect for their private and family life has been violated.

Or. en

Amendment 23

Proposal for a directive Recital 22 b (new)

Text proposed by the Commission

Amendment

(22b) In order to facilitate the more effective protection of victims' rights and interests, Member States should develop a general multi-agency and comprehensive approach. In this regard, Member States should ensure that there are appropriate mechanisms in place that provide for effective cooperation among the judiciary,

public prosecutors, law enforcement agencies, local and regional authorities, non-governmental organisations and other relevant organisations. The term 'mechanism' refers to any formal or informal structure such as agreed protocols, round tables or any other method that enables a number of professionals to cooperate in a standardised manner.

Or. en

Justification

In recognition of the necessity of involving different professional actors in the offer of assistance, this amendment subscribes to an approach which nurtures a culture of working together to build a multi-agency structure of assistance and protection. The amendment does not require the setting up of an official body or institution which would incur costs on Member States but rather encourages the use existing potential in a more collaborative and efficient way.

Amendment 24

Proposal for a directive

Recital 24

Text proposed by the Commission

(24) Any officials in criminal proceedings likely to come into contact with victims should be trained to identify and meet the needs of victims both through initial and ongoing training and to a level appropriate to their contact with victims. This should include specialist training as appropriate.

Amendment

(24) Any officials in criminal proceedings likely to come into contact with victims should be trained to identify and meet the needs of victims both through initial and ongoing training and to a level appropriate to their contact with victims. This should include specialist training as appropriate. ***Police, prosecutors and other personnel involved in cases of gender-based violence should be trained in appropriate methods to deal with victims of such violence in a gender-sensitive manner. Such training should be institutionalised and standardised across Member States and should be carried out in close consultation with non-governmental organisations and service providers for***

victims of gender-based violence.

Or. en

Justification

This amendment places an obligation on Member States to provide appropriate training for the relevant professionals dealing with victims of gender-based violence. The prescribed training would raise awareness among professionals on the specific needs of victims of gender-based violence, and contribute to changing the outlooks and the conduct of these professionals with regard to the victims. The provision that such training should be developed in consultation with NGOs follows the spirit of multi-agency cooperation.

Amendment 25

Proposal for a directive

Recital 25

Text proposed by the Commission

(25) Member States should encourage and work closely with civil society organisations, including recognised and active non-governmental organisations working with victims of crime, in particular in policy-making initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures to support and protect victims of crime.

Amendment

(25) In order to establish and strengthen policies to prevent crime and measures to reduce the risk of people becoming victims of crime, Member States should encourage and work closely with civil society organisations, including recognised and active non-governmental organisations working with victims of crime, in particular in policy-making initiatives, information and awareness-raising campaigns, research and education programmes and in training, as well as in monitoring and evaluating the impact of measures to support and protect victims of crime.

Or. en

Amendment 26

Proposal for a directive Recital 25 a (new)

Text proposed by the Commission

Amendment

(25a) Further victimisation, intimidation and discrimination can occur where victims are the target of abuse due to their personal characteristics such as their race, religion, beliefs, nationality, age, sexual orientation, disability, gender, or social background, which is a leading cause of the high rate of unreported crime cases. Low confidence in the criminal justice system, difficulties in understanding the system for making a complaint, and fear of experiencing unacceptable treatment by the authorities because the victim is not believed or due to a lack of respect and recognition of the victim, are further reasons for unreported crime cases. In order to encourage and facilitate reporting and to allow victims to break the cycle of repeat victimisation, it is imperative that reliable support services are available to victims and that competent authorities are prepared to respond to victims' reports in a respectful, considerate, equal and professional manner. This requires sufficient training and an appropriate level of specialisation on the side of all relevant authorities, as well as regulations that pay sufficient attention to the rights of victims, including the right to protection against intimidation and secondary victimisation. Measures could also include enabling third-party reporting and empowering victim support organisations to engage in proceedings on behalf of victims and allowing the use of communication technologies, such as e-mail or electronic forms for filing complaints.

Or. en

Amendment 27

**Proposal for a directive
Recital 25 b (new)**

Text proposed by the Commission

Amendment

(25b) In order to develop more structured Union-wide monitoring systems for victims of crime, to assess victims' access to the rights and services provided for in this Directive and to facilitate the exchange of best practices, Member States should cooperate to establish, through existing Union victim-support associations and organisations, a European network to set up a database of Union-wide statistics. Such a database should include at least the number, age, gender and nationality of victims, the type of services accessed by victims and any gaps in service provision.

Or. en

Amendment 28

**Proposal for a directive
Recital 25 c (new)**

Text proposed by the Commission

Amendment

(25c) In order to facilitate evaluation of the application of this Directive, Member States should communicate to the Commission relevant data related to the application of national procedures on victims of crime, including at least the number of victims and their gender, age and nationality, the number, type or nature of the reported crimes, and the type of services that victims were referred to. Data should also provide information on the causes and frequency of all forms

of violence the measures put in place to prevent and eradicate gender-based violence, protect victims and punish perpetrators and the effectiveness of those measures.

Or. en

Justification

The collection of disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the scope of this Directive would provide an evidence-based assessment on whether the needs of those exposed to violence have been appropriately met. The provision of national statistics and data to the European Commission would also stimulate cross-border co-operation and enable cross-country comparison and European benchmarking of existing good practices.

Amendment 29

Proposal for a directive Article 1

Text proposed by the Commission

The purpose of this Directive is to ensure that all victims of crime receive appropriate protection and support and are able to participate in criminal proceedings and are recognised and treated in a respectful, sensitive and professional manner, without discrimination of any kind, in all contacts with any **public** authority, victim support or restorative justice service.

Amendment

The purpose of this Directive is to ensure that all victims of crime receive appropriate protection and support and are able to participate in criminal proceedings and are recognised and treated in a respectful, sensitive and professional manner, without discrimination of any kind, in all contacts with any **competent** authority, victim support or restorative justice service.

Or. en

Amendment 30

Proposal for a directive Article 2 – point a – point ii a (new)

Text proposed by the Commission

Amendment

(ii) the family member(s) or person(s) recognised as the guardian or representative of a victim lacking capacity before or after the crime.

Or. en

Amendment 31

Proposal for a directive Article 2 – point g a (new)

Text proposed by the Commission

Amendment

(ga)'gender-based violence' means violence that is directed against a person because of his or her gender or gender identity;

Or. en

Justification

The amendment provides a comprehensive definition of gender-based violence which stresses that this type of violence differs from other types of violence in that the victim's gender or gender identity is the primary motive for the acts of violence.

Amendment 32

Proposal for a directive Article 2 – point g b (new)

Text proposed by the Commission

Amendment

(gb)'violence in close relationships'

means violence that is committed against a victim by a person who is a current or former spouse or partner or other family member of the victim.

Or. en

Justification

This amendment provides a comprehensive definition of violence in close relationships which targets all types of violence, including psychological and economic, and recognizing that violence can continue after a relationship has ended and therefore does not require proven biological or legal family ties, or a proof of joint residence of the victim and the perpetrator.

Amendment 33

**Proposal for a directive
Article 3 – point g a (new)**

Text proposed by the Commission

Amendment

(ga) to what extent and on what terms they are entitled to interpretation and translation;

Or. en

Amendment 34

**Proposal for a directive
Article 3 – point h**

Text proposed by the Commission

Amendment

(h) if they are resident in ***another*** Member State, any special arrangements ***available to them in order*** to protect their interests;

(h) if they are resident in ***a*** Member State ***other than that where the offence occurred***, any special ***measures, procedures or arrangements which are most suited*** to protect their ***rights and*** interests;

Or. en

Amendment 35

Proposal for a directive

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. In addition to the information referred to in paragraph 1, Member States shall ensure that where a victim has suffered major trauma, they are provided with the following information:

(a) the extent to which they are entitled to medical care;

(b) the extent to which they are entitled to specialist support, including psychological support;

(c) how and under what conditions they can obtain assistance with finding suitable alternative accommodation with appropriate security arrangements.

Or. en

Amendment 36

Proposal for a directive

Article 3 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The information referred to in paragraphs 1 and 2 shall be provided either orally or in writing and in simple and accessible language, taking into account the particular needs and the personal characteristics of the victims and the circumstances, the severity and the nature of the criminal offence.

Or. en

Amendment 37

Proposal for a directive

Article 4 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ensure that victims are notified of their right to receive the following information on their case **and that they receive this information where they have expressed such a wish:**

Amendment

1. Member States shall ensure that victims are notified, **without unnecessary delay**, of their right to receive the following information on their case:

Or. en

Amendment 38

Proposal for a directive

Article 4 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

(-a) any decision to initiate criminal proceedings, including the reasons for the choice of criminal charges;

Or. en

Amendment 39

Proposal for a directive

Article 4 – paragraph 1 – point a

Text proposed by the Commission

(a) any decision, including reasons for that decision, ending the criminal proceedings **instituted as a result of the complaint of a criminal offence made by the victim**, such as a decision not to proceed with or to end an investigation or prosecution, or a final judgment in a trial, **including** any sentence;

Amendment

(a) any decision, including reasons for that decision, ending the criminal proceedings such as a decision not to proceed with or to end an investigation or prosecution, or a final judgment in a trial, **any appeal against that judgment, and** any sentence;

Or. en

Amendment 40

Proposal for a directive

Article 4 – paragraph 1 – point b

Text proposed by the Commission

(b) information enabling the victim to know about the state of affairs of the criminal proceedings ***instituted as a result of the complaint of a criminal offence made by the victim***, unless in exceptional cases the proper handling of the case may be adversely affected;

Amendment

(b) information enabling the victim to know about the state of affairs of the criminal proceedings, unless in exceptional cases the proper handling of the case may be adversely affected;

Or. en

Amendment 41

Proposal for a directive

Article 4 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that victims are offered the opportunity to be notified when the person prosecuted or sentenced for offences concerning them is released from detention. Victims shall receive *this* information ***where they have expressed such a wish***.

Amendment

2. Member States shall ensure that victims are offered the opportunity to be notified, ***without unnecessary delay***, when the person ***arrested, remanded in custody***, prosecuted or sentenced for offences concerning them is released from ***or has escaped*** detention. ***Member States shall ensure that victims are provided with effective support and assistance when receiving that information***. Victims shall receive *that* information ***unless the competent authority is aware that notification of release is likely to result in harm to the offender***.

Or. en

Amendment 42

Proposal for a directive

Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that victims are fully informed of the right to receive the information referred to in paragraphs 1 and 2 and that they receive that information unless they have expressed the wish not to receive it and shall guarantee the right of victims to modify at any moment the decision concerning their wish not to receive such information.

Or. en

Amendment 43

Proposal for a directive

Article 4 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall ensure that victims who state that they do not wish to receive the information referred to in ***paragraphs 1 and 2*** do not receive that information.

3. Member States shall ensure that victims who state that they do not wish to receive the information referred to in ***paragraph 2*** do not receive that information ***unless the competent authority is aware that failure to notify the victims of the release is likely to result in harm to the victims.***

Or. en

Amendment 44

Proposal for a directive

Article 4 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The information referred to in paragraphs 1 and 2 shall be provided either orally or in writing and in simple and accessible language, taking into account the particular needs and the personal characteristics of the victims, the circumstances, the severity and the nature of the criminal offence.

Or. en

Amendment 45

Proposal for a directive

Article 5

Text proposed by the Commission

Amendment

Member States shall take measures to ensure that victims understand and can be understood during any interaction they have with **public** authorities **in** criminal proceedings, including where information is provided by such authorities.

Member States shall take measures to ensure that victims **and their family members fully** understand and can be **fully** understood during any interaction they have with **any competent** authorities **from their first contact with them, during and after the conclusion of** criminal proceedings, including where information is provided by such authorities.

Or. en

Amendment 46

Proposal for a directive

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The right to interpretation under paragraphs 1 and 2 includes appropriate assistance for victims with hearing or speech impediments.

Or. en

Amendment 47

Proposal for a directive

Article 6 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

4. Member States shall ensure that a victim who does not understand or speak the language of the criminal proceedings concerned shall receive translations if they so wish, free of charge, of the following information, to the extent that such information is made available to the victim:

4. Member States shall ensure that a victim who does not understand or speak the language of the criminal proceedings concerned shall receive ***written*** translations ***in a language understood by the victim*** if they so wish, free of charge, of the following information, to the extent that such information is made available to the victim:

Or. en

Amendment 48

Proposal for a directive

Article 6 – paragraph 4 – point a a (new)

Text proposed by the Commission

Amendment

(aa) any decision to initiate criminal proceedings, including the reasons for the choice of criminal charges;

Amendment 49

**Proposal for a directive
Article 6 – paragraph 4 – point b**

Text proposed by the Commission

(b) any decision ending the criminal proceedings *related to the criminal offence reported by the victim including at least a summary of the reasons for such a decision*;

Amendment

(b) any decision, *including the reasons for that decision*, ending the criminal proceedings *such as a decision not to proceed with or to end an investigation or prosecution, or a final judgment in a trial, any appeal against that judgment, and any sentence*;

Or. en

Amendment 50

**Proposal for a directive
Article 6 – paragraph 4 – subparagraph 1 a (new)**

Text proposed by the Commission

Amendment

The information referred to in point (c) of the first subparagraph shall be identified on a case-by-case basis. Victims or their legal counsel may submit a reasoned request that any other information is essential.

Or. en

Amendment 51

**Proposal for a directive
Article 6 – paragraph 6**

Text proposed by the Commission

Amendment

6. Member States shall ensure that, in

6. Member States shall ensure that, in

accordance with procedures in national law, victims have the right to challenge a decision finding that there is no need for interpretation or translation, and when they have been provided, the possibility to complain that the quality of the interpretation is not sufficient to exercise their rights or understand proceedings.

accordance with procedures in national law, victims have the right to challenge a decision finding that there is no need for interpretation or translation, and when they have been provided, the possibility to complain that the quality of the interpretation *or translation* is not sufficient to exercise their rights or understand proceedings.

Or. en

Amendment 52

Proposal for a directive Article 7 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that victims and their family members, ***in accordance with their needs***, have access to free of charge, confidential victim support services.

Amendment

1. Member States shall ensure that victims and their family members have access to free of charge, confidential victim support services ***from the moment the victims suffer harm, during and after the conclusion of criminal proceedings and regardless of where the crime took place.***

Or. en

Amendment 53

Proposal for a directive Article 7 – paragraph 1 a (new)

Text proposed by the Commission

1a. Member States shall ensure that access to victim support services is not dependent on a victim making a complaint of a criminal offence to a competent authority.

Amendment

Or. en

Amendment 54

Proposal for a directive

Article 7 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) a support person to accompany, support and assist victims and their family members, in accordance with their needs, during criminal proceedings;

Or. en

Amendment 55

Proposal for a directive

Article 7 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) emotional ***and*** psychological support;

(c) emotional, psychological ***and material*** support;

Or. en

Amendment 56

Proposal for a directive

Article 7 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) if the victims and their family members are resident in a Member State other than that in which the offence occurred, information on victim support services available in that Member State;

Or. en

Amendment 57

Proposal for a directive
Article 7 – paragraph 2 – point d b (new)

Text proposed by the Commission

Amendment

(db) advice relating to risk of intimidation and further victimisation and how to prevent or avoid it.

Or. en

Amendment 58

Proposal for a directive
Article 7 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall facilitate the referral of victims, by the authority ***that received the complaint*** and other relevant agencies, to victim support services.

3. Member States shall facilitate the referral of victims, by the ***competent*** authority and ***by*** other relevant agencies ***that received the complaint***, to victim support services.

Or. en

Amendment 59

Proposal for a directive
Article 7 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall ***promote*** the setting up or development of specialist support services, in addition to general victim

4. Member States shall ***ensure*** the setting up or development of specialist support services, ***including specialist support services for victims of gender-based***

support services.

violence, victims of violence in close relationships and their family members in addition to general victim support services.

Or. en

Justification

This amendment invites Member States to set up specialised support services which recognize the specific nature of the ordeal of victims of gender-based violence and violence in close relationships. The aim of such specialised support is to ensure the complex task of empowering victims through optimal support and assistance catered to their specific needs

Amendment 60

**Proposal for a directive
Article 7 – paragraph 4 a (new)**

Text proposed by the Commission

Amendment

4a. Member States shall promote and support community-based initiatives, including the formation of groups of victims or their family members with a view to stimulate mutual support, to empower them, and to strengthen solidarity in society.

Or. en

Amendment 61

**Proposal for a directive
Article 8**

Text proposed by the Commission

Amendment

Member States shall ensure that victims receive written acknowledgement of any complaint made by them to ***an appropriate*** authority of the Member State.

Member States shall ensure that victims receive written acknowledgement ***and a copy*** of any complaint made by them to ***a competent*** authority of the Member State.

Or. en

Amendment 62

Proposal for a directive Article 16 – paragraph 1 – indent 1

Text proposed by the Commission

– to take a statement from the victim immediately after the complaint of the criminal offence is made to the **appropriate** authority;

Amendment

– to take a statement from the victim immediately after the complaint of the criminal offence is made to the **competent** authority;

Or. en

Amendment 63

Proposal for a directive Chapter 4 - title

Text proposed by the Commission

Recognition of **vulnerability** and protection of victims

Amendment

Recognition of **specific needs** and protection of victims

Or. en

Amendment 64

Proposal for a directive Article 17 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that measures are available to protect the safety of victims and their family members from retaliation, intimidation, repeat or further victimisation.

Amendment

1. Member States shall ensure that measures are available to protect the safety **and dignity** of victims and their family members from retaliation, intimidation, repeat or further victimisation **from their first contact with a competent authority, during and after the conclusion of criminal proceedings.**

Amendment 65

Proposal for a directive Article 17 – paragraph 2

Text proposed by the Commission

2. The measures referred to in paragraph 1, shall in particular include procedures for the physical protection of victims and their family members, measures to ensure that contact between offenders and victims may be avoided within premises where criminal proceedings are conducted, and measures to ensure that the risk of psychological or emotional harm to victims during questioning or when testifying is minimised and their safety and dignity are secured.

Amendment

2. The measures referred to in paragraph 1, shall in particular include procedures for the physical protection of victims and their family members, measures to ensure that contact between offenders and victims **and their family members** may be avoided within premises where criminal proceedings are conducted, and measures to ensure that the risk of psychological or emotional harm to victims during questioning or when testifying is minimised and their safety and dignity are secured.

Or. en

Amendment 66

Proposal for a directive Article 18 – title

Text proposed by the Commission

Identification of **vulnerable** victims

Amendment

Identification of victims **with specific needs**

Or. en

Amendment 67

Proposal for a directive

Article 18 – paragraph 1 – introductory part

Text proposed by the Commission

1. For the purposes of this Directive, the following categories of victims are considered to ***be vulnerable*** due to their personal characteristics:

Amendment

1. For the purposes of this Directive, the following categories of victims are considered to ***have specific needs*** due to their personal characteristics:

Or. en

Amendment 68

Proposal for a directive

Article 18 – paragraph 2 – introductory part

Text proposed by the Commission

2. For the purposes of this Directive, the following categories of victims are considered to ***be vulnerable*** due to the nature or type of crime to which they have fallen victim:

Amendment

2. For the purposes of this Directive, the following categories of victims are considered to ***have specific needs*** due to the nature or type of crime to which they have fallen victim:

Or. en

Amendment 69

Proposal for a directive

Article 18 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) Victims of gender-based violence;

Or. en

Amendment 70

**Proposal for a directive
Article 18 – paragraph 2 – point a b (new)**

Text proposed by the Commission

Amendment

(ab) Victims of violence in close relationships;

Or. en

Amendment 71

**Proposal for a directive
Article 18 – paragraph 2 – point b a (new)**

Text proposed by the Commission

Amendment

(ba) Victims of terrorism;

Or. en

Amendment 72

**Proposal for a directive
Article 18 – paragraph 2 – point b c (new)**

Text proposed by the Commission

Amendment

(bc) Victims of organised crime.

Or. en

Amendment 73

Proposal for a directive Article 18 – paragraph 3

Text proposed by the Commission

3. Member States shall ensure that all other victims receive a timely and individual assessment, in accordance with national procedures, to determine whether they **are vulnerable**, due to their personal characteristics or the circumstances or the type or nature of the crime, to secondary and repeat victimisation or intimidation.

Amendment

3. Member States shall ensure that all other victims receive a timely and individual assessment, in accordance with national procedures, to determine whether they **have specific needs**, due to their personal characteristics or the circumstances or the type or nature of the crime, to secondary and repeat victimisation or intimidation.

Or. en

Amendment 74

Proposal for a directive Article 18 – paragraph 4

Text proposed by the Commission

4. Member States shall ensure that all **vulnerable** victims as identified in paragraphs 1, 2 and 3, receive a timely and individual assessment, in accordance with national procedures, to determine which special measures as provided in Articles 21 and 22 they should benefit from. **Such an assessment shall take into account the wishes of the vulnerable victim including where they do not wish to benefit from special measures.**

Amendment

4. Member States shall ensure that all victims **with specific needs** as identified in paragraphs 1, 2 and 3, receive a timely and individual assessment, in accordance with national procedures, to determine which special measures as provided in Articles 21 and 22 they should benefit from.

Or. en

Amendment 75

Proposal for a directive Article 18 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States shall ensure that the individual assessments referred to in paragraphs 3 and 4 are carried out at regular intervals throughout the criminal proceedings in order to take account of any changes in the personal characteristics or circumstances, needs and wishes of victims. Individual assessments shall take into account the following factors:

(a) the personal characteristics of the victim such as age, gender, gender identity, ethnicity, race, religion, sexual orientation, state of health, disability, legal status, communication difficulties, relationship to or dependence on the suspected or accused person, previous experience of crime;

(b) the circumstances of the crime such as the fact that a person is victimised abroad;

(c) the type or nature of the crime such as where exploitation or physical or sexual violence has been used;

(d) the wishes of the victim with specific needs including if they do not wish to benefit from special measures.

Or. en

Amendment 76

**Proposal for a directive
Article 18 a (new)**

Text proposed by the Commission

Amendment

Article 18a

Right to access specialist victim support services for victims of gender-based violence and of violence in close relationships

1. Member States shall ensure that victims of gender-based violence and of violence in close relationships and their family members, in accordance with their needs, have access to free of charge, confidential specialist victim support services which:

(a) are based on a gendered understanding of violence and focused on the human rights and safety of the victim;

(b) are based on an integrated approach which takes into account the relationship between victims, perpetrators, children and their wider social environment;

(c) are aimed at avoiding secondary victimisation;

(d) are aimed at the empowerment and economic independence of victims of violence;

(e) allow, where appropriate, a range of protection and support services to be located on the same premises;

(f) address the specific needs of victims, including child victims.

2. Member States shall ensure timely provision of financial assistance to victims of gender-based violence and of violence in close relationship and shall prohibit any form of discrimination against the survivors of such violence, including employment, property and housing status, and social security benefits.

Justification

Understanding that access to support is not only a right for victims, but also a vital element in protection from further victimization and socio-economic empowerment, this amendment lists a number of aims and criteria which support services for victims with special needs should pursue or be based on. The amendment provides also for adequate financial resources for victims and zero tolerance for discrimination against victims of gender-based violence

Amendment 77**Proposal for a directive
Article 18 b (new)***Text proposed by the Commission**Amendment****Article 18b***

Right to access to rape crisis and sexual violence centres by victims of sexual violence

Member States shall ensure that victims of sexual violence and their family members have access to rape crisis or sexual violence referral centres, which provide medical and forensic examination, trauma support and counselling for victims and their family members.

Justification

The traumatic nature of sexual violence requires a particularly sensitive response by trained and specialised staff. This amendment therefore lays particular emphasis on providing this type of specialised support by requesting Member States to provide for the setting-up of accessible rape crisis or sexual violence referral centres in sufficient numbers. The Council of Europe recommends that one such centre should be available per every 200.000 inhabitants

Amendment 78

Proposal for a directive Article 19 – paragraph 1

Text proposed by the Commission

Member States shall **progressively** establish the necessary conditions to enable avoidance of contact between victims and accused or suspected persons in any venue where victims may have personal contact with **public** authorities due to their being a victim and in particular venues where criminal proceedings are conducted.

Amendment

1. Member States shall establish the necessary conditions to enable avoidance of contact between victims **and their family members** and accused or suspected persons **or offenders** in any venue where victims may have personal contact with **competent** authorities due to their being a victim and in particular venues where criminal proceedings are conducted, **unless criminal proceedings require such contact or the victims request otherwise.**

Or. en

Amendment 79

Proposal for a directive Article 19 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Member States shall ensure that the design of new court buildings include separate waiting areas for victims.

Or. en

Amendment 80

Proposal for a directive Article 20 – point b

Text proposed by the Commission

Amendment

(b) the number of interviews with victims is kept to a minimum and interviews are

(b) the number of interviews with victims is kept to a minimum and interviews are

carried out only where strictly necessary for the purposes of criminal proceedings;

carried out only where strictly necessary for the purposes of criminal *investigations and* proceedings;

Or. en

Amendment 81

Proposal for a directive Article 20 – point c

Text proposed by the Commission

(c) victims may be accompanied, **where appropriate**, by their legal representative, or a person of their choice, unless a reasoned decision has been made to the contrary in respect of that person.

Amendment

(c) victims may be accompanied by their legal representative, or, **where appropriate, by** a person of their choice, unless a reasoned decision has been made to the contrary in respect of that person;

Or. en

Amendment 82

Proposal for a directive Article 20 – point c a (new)

Text proposed by the Commission

Amendment

(ca) in the event of delayed reporting of violence due to fear of retaliation, humiliation, or stigmatisation, such a delay does not give rise to any adverse inference for the victim's complaint.

Or. en

Justification

This amendment prohibits courts from drawing any adverse inference from a delay of any length between the alleged commission of violence and the reporting thereof. The obligation that a delay in reporting should not be held against the victim is also endorsed in the CEDAW's case law.

Amendment 83

Proposal for a directive Article 21 – Title

Text proposed by the Commission

Right to protection of **vulnerable** victims during criminal proceedings

Amendment

Right to protection of victims **with specific needs** during criminal proceedings

Or. en

Amendment 84

Proposal for a directive Article 21 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that **vulnerable** victims referred to in Article 18 benefit from the measures provided for in paragraphs 2 and 3 in accordance with an individual assessment as provided for in Article 18(4) and with rules of judicial discretion.

Amendment

1. Member States shall ensure that victims **with specific needs** referred to in Article 18 benefit from the measures provided for in paragraphs 2 and 3 in accordance with an individual assessment as provided for in Article 18(4) and with rules of judicial discretion.

Or. en

Amendment 85

Proposal for a directive Article 21 – paragraph 2 – introductory part

Text proposed by the Commission

2. **Vulnerable** victims shall be offered the following measures during criminal investigations:

Amendment

2. Victims **with specific needs** shall be offered the following measures during criminal investigations:

Or. en

Amendment 86

Proposal for a directive Article 21 – paragraph 2 – point d

Text proposed by the Commission

(d) all interviews with victims of sexual violence are conducted by a person of the *same* sex.

Amendment

(d) all interviews with victims of sexual violence, *gender-based violence and violence in close relationships* are conducted by a person of the sex *chosen by the victim*.

Or. en

Amendment 87

Proposal for a directive Article 21 – paragraph 3 – introductory part

Text proposed by the Commission

3. *Vulnerable* victims shall be offered the following measures during court proceedings:

Amendment

3. Victims *with* specific *needs* shall be offered the following measures during court proceedings:

Or. en

Amendment 88

Proposal for a directive Article 22 – point a

Text proposed by the Commission

(a) in criminal investigations, all interviews with the victim may be *video* recorded and such *video* recorded interviews may be used, in accordance with national law, as evidence in criminal court proceedings;

Amendment

(a) in criminal investigations, all interviews with the victim may be *audiovisually* recorded and such *audiovisually* recorded interviews may be used, in accordance with national law, as evidence in criminal court proceedings;

Amendment 89

Proposal for a directive Article 22 – point b

Text proposed by the Commission

(b) in criminal investigations and court proceedings, **judicial** authorities appoint a special representative for the victim where, according to national law, the holders of parental responsibility are precluded from representing the child as a result of a conflict of interest between them and the victim, or where the child is unaccompanied or separated from the family.

Amendment

(b) in criminal investigations and court proceedings, **competent** authorities appoint a special representative for the victim where, according to national law, the holders of parental responsibility are precluded from representing the child as a result of a conflict of interest between them and the victim, or where the child is unaccompanied or separated from the family.

Amendment 90

Proposal for a directive Article 23 – paragraph -1 (new)

Text proposed by the Commission

Amendment

- 1. Member States shall, as far as possible, guarantee the protection of the private and family life of victims and protect personal data of victims from the first contact with a competent authority, throughout any criminal proceedings and after such proceedings.

Amendment 91

Proposal for a directive Article 23 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that judicial authorities may adopt during the court proceedings, appropriate measures to protect the privacy and photographic images of victims and their family members.

Amendment

1. Member States shall ensure that judicial authorities may adopt during the ***criminal investigations and*** court proceedings, appropriate measures to protect the privacy and photographic images of victims and their family members.

Or. en

Amendment 92

Proposal for a directive Article 23 a (new)

Text proposed by the Commission

Amendment

Article 23a

Prevention

1. Member States shall take appropriate action, including through the internet, such as information and awareness-raising campaigns, research and education programmes, where appropriate in cooperation with relevant civil society organisations and other stakeholders, aimed at raising awareness about the rights set out in this Directive, and reducing the risk of people, especially children, becoming victims of crime.

2. Member States shall develop specialised awareness-raising campaigns on gender-based violence aimed at sensitising the population about gender-based violence as a manifestation of gender inequality and violation of human rights, and at increasing knowledge of laws addressing gender-based violence and remedies available.

Justification

The purpose of this amendment is to ensure that the general public is fully informed of the various forms of violence as well as of the different manifestations of gender-based violence. To this end, the requirements entail the running of public awareness-raising campaigns that address and explain the provisions of the current Directive and sensitise the public regarding human rights and gender-equality matters. Such campaigns would also serve as an informative tool for victims regarding their rights and existing support services.

Amendment 93**Proposal for a directive
Article 23 b new***Text proposed by the Commission**Amendment**Article 23b**Facilitating the reporting of crime*

Member States shall take measures, where appropriate in cooperation with relevant civil society organisations and other stakeholders, to facilitate the reporting of criminal offences by victims.

Amendment 94**Proposal for a directive
Article 24 – paragraph 1***Text proposed by the Commission**Amendment*

1. Member States shall ensure that police, prosecutors *and* court staff receive both general and specialist training to a level appropriate to their contact with *victims* to sensitise them to the needs of victims and to deal with them in an impartial, respectful and professional manner.

1. Member States shall ensure that police, prosecutors, court staff, *lawyers and any other officials likely to come into contact with victims* receive both general and specialist training to a level appropriate to their contact with victims to sensitise them to the needs of victims and to deal with them in an impartial, respectful and professional manner.

Justification

Training for those who are in contact with victims is important in order to avoid any further harm or intimidation to the victim. Authorities need to be aware of the victim's state and needs, as it is vital to keep the confidence of victims for whom going through the legal process might incur tremendous difficulty and require hard efforts. This amendment forestalls that any official likely to come into contact with victims should receive regular and institutionalized gender-sensitive training on victims' needs and rights. Such training should be developed and carried out in close cooperation with NGOs and service providers.

Amendment 95

**Proposal for a directive
Article 24 – paragraph 4**

Text proposed by the Commission

4. In accordance with the duties involved, and the nature and level of contact the practitioner has with victims, training shall as a minimum include matters relating to the impact that crime has on victims, the risks of intimidation, repeat and secondary victimisation and how these can be avoided **and** the availability and relevance of support to victims.

Amendment

4. In accordance with the duties involved, and the nature and level of contact the practitioner has with victims, training shall as a minimum include matters relating to the impact that crime has on victims, the risks of intimidation, repeat and secondary victimisation and how these can be avoided, the availability and relevance of support to victims, ***the prevention and detection of violence, equality between women and men and the needs and rights of victims.***

Amendment 96

**Proposal for a directive
Article 25 – paragraph 2**

Text proposed by the Commission

2. Member States shall ensure that those authorities working with or providing

Amendment

2. Member States shall ensure that those authorities working with or providing

support to victims work together to ensure a co-ordinated response to victims, and to minimise the negative impact of the crime, the risks of secondary and repeat victimisation and the burden on the victim due to interactions between the victim and criminal justice agencies.

support to victims work together to ensure a co-ordinated response to victims, ***to facilitate the reporting of criminal offences*** and to minimise the negative impact of the crime, the risks of secondary and repeat victimisation and the burden on the victim due to interactions between the victim and criminal justice agencies.

Or. en

Amendment 97

Proposal for a directive Article 25 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall ensure that all measures adopted under this Directive take into account the relationship between victims, perpetrators, children and their wider environment to avoid the risk of addressing their needs in isolation or without acknowledging the social reality.

Or. en

Amendment 98

Proposal for a directive Article 25 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Member States shall take the necessary legislative or other measures to ensure that an assessment of the risk to the life of the victim, the seriousness of his or her situation and the risk of repeated violence is carried out by the competent authorities

in order to manage the risk and, if necessary, to provide coordinated safety and support.

Or. en

Amendment 99

Proposal for a directive Article 25 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. Member States shall cooperate and coordinate their services in order to ensure the existence of a consistent legal framework that promotes human rights and gender equality, and the elimination of gender-based violence. To this end, Member States shall assess and, if necessary, revise provisions within other areas of law, such as family and divorce law, property law, housing rules and regulations, social security law, and employment law.

Or. en

Justification

This amendment forestalls that in order to be fully effective, the adoption of new gender-sensitive legislation in the area of victims' rights should be accompanied by a review of all other relevant laws. This would ensure that the gender dynamics are consistently incorporated across the entire legislative spectrum of Member States and taken as a whole would offer a holistic response to victims' needs.

Amendment 100

Proposal for a directive Article 25 – paragraph 2 d (new)

Text proposed by the Commission

Amendment

2d. Member States shall cooperate to facilitate the establishment, through existing European associations supporting victims, of a European network for observation and aid to victims of crimes to set up a database of statistics to assess the implementation of this Directive, including the overall number, age, gender and nationality of victims, the type of services accessed by victims and any gaps in service provision. The European network shall also be responsible for the development, coordination and cooperation regarding best practices, quality standards and cross-border referrals to enable Union-wide application and access by victims to the rights and services provided for under this Directive.

Or. en

Justification

To frame the reality of crime in the EU a Network of already existing agencies should be developed to set up an effective data exchange program between Member States. Costs will be modest as it doesn't require launching agencies or associations. This amendment serves to strengthen the idea of collaboration and European benchmarking. The creation of a pan-European database would shed light over the type of services used across Member States for victim support and empowerment and their effectiveness and provide better evidence for European benchmarking of best practices.

Amendment 101

Proposal for a directive Article 27

Text proposed by the Commission

Amendment

Member States shall communicate to the European Commission data related to the

Member States shall communicate to the European Commission data related to the

application of national procedures on victims of crime, by *[two years after the date of adoption]* at the latest.

application of national procedures on victims of crime, ***including at least the number of victims and their gender, age and nationality of the victims, the number, type or nature of the reported crimes, and the type of services that victims were referred to*** by ... *.

** OJ please insert date: two years after the date of entry into force of this Directive.*

Or. en

Amendment 102

Proposal for a directive Article 28 a (new)

Text proposed by the Commission

Amendment

Article 28a

Report

By*, the Commission shall submit a report to the European Parliament and to the Council on the application of this Directive. That report shall be accompanied, if necessary, by legislative proposals.

**** OJ please insert date: three years after the entry into force of this Directive.***

Or. en

EXPLANATORY STATEMENT

The Rapporteurs welcome the Commission's proposal for a Directive on the rights, support and protection of victims of crime, as part of a legislative package which aims at strengthening the rights of victims in the EU and which also includes a proposal for a Regulation on mutual recognition of protection measures in civil matters and a communication on strengthening victims' rights in the EU. Since the entry into force of the Lisbon Treaty in 2009 and the guidelines towards a European Area of Freedom, Security and Justice, like the Stockholm Programme envisages, protection of victims of any crime in the EU has been on the top of the EU's agenda.

The Commission's proposal reinforces the need to adopt a comprehensive European legal framework offering all victims of crime, regardless of their legal status, recognition and the widest protection within the territory of the Union. This proposal is partly borne out of the Council Framework decision 2001/220/JHA of 15th of March 2001 regarding the standing of victims in criminal proceedings. The Commission has broadened the rights of all victims of any kind of crime into minimum standards across the EU, granting all victims - irrespective of their nationality or the place where the crime took place - rights to information, right to understand and be understood, right to interpretation and translation, right to access legal aid, rights to access victims support services, the right to be heard, right to restorative justice, right in the event of a decision not to prosecute, right to avoid contact between victim and offender, right to protection of victim during questioning in criminal investigation, amongst others. It is also crucial that the future Directive provides a unified definition of "victim", which grants the status of victim not only to the persons harmed by the offence, but also to close family members

Many proposals in this Directive are welcomed by the Rapporteurs.

Confidence in justice is a priority for all the citizens, especially for victims who experience their rights as unheard and out-of-reach. A common and transparent justice system applicable in all EU Member States is an urgent need if the EU wants to fulfil the Stockholm Programme. This Directive will not just defend victims' rights, give support and protection, but also will help European citizens gain trust in their national judicial system and of their EU neighbours by harmonising these minimum standards.

In keeping with the procedures resulting from implementation of the Treaty of Lisbon, Rule 51 of Parliament's Rules of Procedure allows reports to be drawn up on a cross-cutting basis. This report has benefited from input from the discussions in the Committee on Civil Liberties, Justice and Home Affairs and the Committee on Women's Rights and Gender Equality as well as from the collaboration between the two Rapporteurs.

General approach - Strengthening victims' rights

In spite of these provisions currently included in the Commission's proposal, more can be done to safeguard the needs of victims in each single Member State. All victims, whatever their background or level of harm they have suffered, need to feel they are taken on board in

this Directive. Research and data show that all too often victims do not report a crime, due to fear, uncertainty, a lack of trust or information. Victims, because to their vulnerability, are suffocated by an arduous experience which makes legal procedures hard to cope with. It is therefore important to provide support to victims from the moment harm takes place. Throughout all the phases of the legal process, victims need to be treated with respect, dignity and, in practical terms, in a language they understand.

The Rapporteurs believe certain aspects need to be more emphasized and detailed. Therefore the right to receive information from first contact with a competent authority has been extended and deepened for victims who suffered major trauma. Right to receive information on their case includes that Member States shall provide assistance when information regarding the release of the offender is presented to the victim. Due to possible psychological pressure and for the comfort of the person who suffered violence, the victim should have the right to refuse certain information and dismiss this refusal at any moment.

The victim should be offered free victim support from the moment he or she has suffered harm. This includes their children and family members. Victims support should also be converted into community-based programmes or initiatives promoted by the Member States. A rather broader social acknowledgment of victimisation in general is important to victims, with victim's recovery being connected to the victim's experience of positive reactions from society that show appreciation for the victim's unique state and acknowledge the victim's current difficult situation. The Rapporteurs view that the media should play an important role in stimulating acknowledgment of victimisation in society, while at the same time take appropriate measures to ensure the protection of the private and family life of the victims and their family members in the framework of their information activities.

The Rapporteurs are aware that recommended additional measures for Member States to implement might entail, in certain cases, a re-allocation or an increase of resource mobilisation for national authorities. It is however crucial to remind that, as estimated by the European Commission, the total cost of crime - not only for victims, but also to employers, the state and society as a whole - can be estimated at €233 billion a year in the European Union. These costs result not just from the crime itself but from the lack of appropriate support to the victim to help them recover and to cope with criminal proceedings. Any effort to strengthen victims' rights and to provide adequate support services should therefore be seen as a cost-effective measure which will positively contribute to facilitating the report of crimes, and maintaining the sustainability of national justice and health systems.

Further protection of victims with specific needs

The Rapporteurs support the overall concept of the Directive establishing minimum standards on the rights, support and protection of victims of crime but consider it imperative to further address support services for victims who are in a particularly high risk of suffering further harm, intimidation or repeated victimization during criminal proceedings.

The Rapporteurs share the Commission's proposal to make a reference to vulnerable victims, but prefer the wording of 'victims with specific needs'. The terminology used in the Commission's proposal, defining this category of victims as "vulnerable victims" could be seen as an unintended discriminatory naming. Many victims, including victims of gender-

based violence do not like to be associated with vulnerability. However, a victim of gender-based violence can have specific needs without being seen as vulnerable. The Commission's proposal correctly mentions children and persons with disabilities as vulnerable victims because of their personal characteristics. It seems indeed logical to define a person affected by disability, a woman having suffered from a sexual assault or a child as a vulnerable victim, but the victims' personal characteristics before having suffered a crime should not be considered as the sole criteria in defining them. The Rapporteurs therefore prefer to refer to this group as "victims with specific needs" and provide for specific protection measures for such victims.

These measures include but are not limited to provision of shelter, medical support, forensic medical evidence, psychological counselling, and legal counselling. Such support services should be sufficiently spread throughout the country and accessible for all victims.

In order to further assess circumstances and victims' characteristics, the Rapporteurs also introduce additional definitions, namely "gender-based violence" and "violence in close relationship". Gender-based violence refers to violence that is directed against a person because of his or her gender. Violence in close relationship includes violence perpetrated by intimate partners or ex partners or other family members and leads to discrimination and violations of the fundamental freedoms of the victims.

When dealing with victims with specific needs on the basis of the nature of the crime we should also reach a helping hand to other types of victims, not solely victims of human trafficking or victims of sexual violence (as shown in the Commission's text).

Victims of terrorism, victims of organised crime, victims of violence in close relationships and victims of gender based violence should also be included as victims of specific needs. As the nature of the crime occurs in different forms, the need for the victim differs as well. The mentioning of specific needs is as essential as its sensitivity. For example victims of terrorism: the main difference with other victims lies in the context in which terrorist victimisation occurs, and its audience. Victims of terrorism, by definition are attacked as representative of a larger group. Acknowledgment of their victimisation entails recognising this fact. Support groups for victims of terrorism encompasses the needs of victims, amongst their legal support, into four necessities: the right to justice, dignity, truth and memory, by which the later stands for rebuking terrorism and its victimization and to preserve that memory for generations to come.

Individual assessment and training

Apart from conventional victim support, in addition to an initial focus on those victims who have suffered a particularly gruesome experience is not to be underestimated: severe exposure and destruction or traumatic loss; experience of traumatic events or a current or prior history of mental health of mental health treatment and a lack of social support, not having close family and friends support are very important to be taken in account. Efforts should be made to ascertain those members of social community who are alone, as they may be the ones for whom social support or follow-up help may be particularly important.

The Rapporteurs therefore consider the individual assessment an important step from the

moment harm takes place. It will identify the needs of the victim before, during and after the criminal proceedings. In criminal proceedings often the authorities are unaware of the needs of the victim, making it difficult for the victim to cope with the cooperation. Police, prosecutors and other personnel should be trained to know how to approach the victim, depending on the type of crime. Specifically, in order to better provide to the needs of victims of gender-based violence and violence in close relationships the Rapporteurs demand that justice professionals, police officers and members of the victim support services should receive training which would gender-sensitise them and allow for quick identification of and support for the victims' needs. In line with the spirit of co-operation, the Rapporteurs deem it relevant that such training is carried out in close consultation with non-governmental organizations and service providers for victims of gender-based violence, and is institutionalised and standardised across Member States.

Understanding the gender dynamics of victims' rights

Gender-based violence is a form of violence that affects women disproportionately and it may be interrelated but it is not limited to cases of violence in close relationship. Research shows that in Europe one-fifth to one-quarter of all women have experienced physical violence at least once during their adult lives and more than one-tenth have suffered sexual violence involving the use of force. In this context, the Rapporteurs believe that is crucial to criminalise all forms of gender-based violence and provide victims thereof with special prevention, protection and remedies measures.

To this end, the Rapporteurs set a clear obligation that support for victims with specific needs recognises gender dynamics and operates within a gender equality and human rights framework. The Rapporteurs trust that such an approach is also vital for avoiding secondary victimisation of victims of gender-based violence.

The intention of the Rapporteurs is to ensure that a comprehensive definition of "victim" was adopted on European level and that the particular situation of victims with specific needs is taken into account when designing appropriate support services or training practitioners who are in immediate contact with victims. To this end, the Directive includes a number of rights which victims should be assured of and thus fills a significant gap in human rights protection for victims of crime. The Rapporteurs also frame the gender-based violence as a manifestation of gender inequality and violation of human rights and thus significantly further recognition of violence against women as a form of discrimination which has to be recognised and combated.

A greater co-operation and co-ordination to protect victims

Member States are also advised to develop a general multi-agency approach that ensures effective co-ordination among those authorities providing support to victims. In this respect, the Directive envisions the creation of formal or informal structures which would allow professionals from the judiciary, law enforcement agencies and NGOs to co-operate in a standardised manner. The Rapporteurs believe that co-ordinated response to all victims would minimise the negative impact of the crime, the risks of secondary and repeated victimisation and stigmatization and the burden on the victim due to repeated interactions between the victim and criminal justice agencies.

Ensuring protection of victim's privacy

The Rapporteurs set a clear obligation that the private and family life of victims is protected throughout any criminal proceedings and after such proceedings. Safeguarding the privacy of the victim, whatever the nature of the harm, should by all means be guaranteed as it is part of the victim's needs to cope with the legal process specifically, and the psychological recovery generally. For example the media can often inflict a further victimization upon crime victims or survivors by exacerbating victims' feelings of violation, disorientation, and loss of control. Therefore, the Rapporteurs also require the media to pursue "self-regulatory measures" in order to protect victims' personal integrity from intrusive media attention.

European network and statistics

Victim needs to be aware that their rights will be standardised throughout the whole of the EU. Information and awareness raising campaigns, research and education programmes and cooperation with civil society agencies should be established by means of well orchestrated campaigns between the EU Member States. Furthermore, collecting and exchange of data on all types of victims is required to ultimately tackle crime. For that reason the Rapporteurs call for the establishment through already existing European associations dealing with victims' needs, of a European Network for observation and aid to victims to set up a database of statistics includes the number, age, gender and nationality of the victim. Such a Network could provide the premises for future Directives to further enhance the development of an area of Freedom, Security and Justice.

Acknowledgement

The Rapporteurs are grateful for the explanations provided by the Commission through DG JUSTICE, as well as for the fruitful exchange of views with the shadow Rapporteurs, and the Danish Presidency of the EU. The Rapporteurs would also like to express their gratitude for the positions and expertise put forward by organisations, associations and NGO's on rights, support and protection of victims of crime.