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NOTE

From: Presidency
To: Delegations

Subject: The Rights of Crime Victims - the way forward

Delegations will find attached the above-mentioned Note, tabled by the Presidency for the discussion on this subject at the JHA Council on 7 October 2019.

The Rights of Crime Victims - the way forward

Active protection of victims of crime must remain a high priority for the European Union and its Member States. Crime is a violation of the individual rights of victims and its consequences can be severe and long-lasting. It is therefore of utmost importance to protect victims from secondary and repeat victimisation, from intimidation and from retaliation during criminal proceedings and afterwards. Victims should receive appropriate support to facilitate their recovery and should be provided with sufficient access to justice.

Significant progress has been achieved in the area of victims' rights in the EU, with the development of a comprehensive set of legal and political instruments. The most important legal instruments in this area are:

- Directive 2012/29/EU of the European Parliament and of the Council, of 25 October 2012, establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA¹;
- Directive (EU) 2017/541 of the European Parliament and of the Council, of 15 March 2017, on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA²;
- Directive 2011/36/EU of the European Parliament and of the Council, of 5 April 2011, on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA³;

¹ OJ L 315, 14.11.2012, p. 57.

² OJ L 88, 31.3.2017, p. 6.

³ OJ L 101, 15.4.2011, p. 1.

- Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order⁴;
- Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA⁵;
- Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims⁶ (hereinafter ‘the 2004 Directive’).

This important set of common rules aim at protecting and assisting victims of crime, ensuring access to justice and protecting victims against secondary and repeat victimisation. The Council has also repeatedly underlined its political commitment to do more to protect victims of crime:

- Council Conclusions on victims of terrorism, adopted in June 2018⁷;
- Council Conclusions establishing an Informal European Network on Victims’ Rights, adopted in June 2016⁸;
- Council Conclusions on preventing and combating all forms of violence against women and girls, including female genital mutilation, adopted in May 2014⁹.

A renewed commitment to pay particular attention to children and in particular child victims of sexual abuse will be made by the JHA Council on 7 and 8 October 2019. Additional work is needed on prevention, as well as on assistance and protection measures for child victims.

It must also be underlined that the European Union should do all it can to prevent gender-based violence and protect victims. Finland’s Presidency will continue its work to prepare the EU’s accession to the Istanbul Convention, which is also a key priority for the new Commission.

⁴ OJ L 388, 21.12.2011, p. 2.

⁵ OJ L 335, 17.12.2011, p. 1.

⁶ OJ L 261, 6.8.2004, p. 15.

⁷ 9719/18.

⁸ 9997/16.

⁹ 9543/14.

Political commitment and a legislative framework will benefit the victims only through effective implementation and concrete action. The EU recently created a set of structures to support close cooperation and the smooth exchange of information and best practices between Member States and their authorities. The European Network on Victims' Rights aims, in particular, to enhance the exchange of best practices and to stimulate the implementation of existing EU legislation on victims' rights. Member States have also been called on to nominate a national contact point responsible for the provision of information concerning the available support, assistance, protection and compensation for victims in order to facilitate a rapid exchange of information and provide assistance in the event of a terrorist attack¹⁰.

Furthermore, the 2004 Directive provides for regular meetings of the national contact points appointed by Member States, in order, for example, to further close cooperation and the exchange of information between state compensation authorities in the Member States. In the future, the functioning of these networks will need to be assessed in order to avoid overlap and ensure added value.

Despite the increased attention paid to the situation of victims of crime and the protection of their rights at both EU and national levels, challenges and room for improvement remain. In her March 2019 report 'Strengthening Victims' Rights: From compensation to reparation'¹¹, Special Adviser J. Milquet draws particular attention to the problems that victims currently face when claiming compensation. The report shows that victims' difficulties in accessing justice and compensation are often due to a lack of information, insufficient support, and overly restrictive eligibility criteria or procedural hurdles.

The EU Fundamental Rights Agency has repeatedly focused on the particular needs of victims of crime. Its four recent reports¹² ('Justice for victims of violent crime') show how the rights of victims of violent crime are applied in practice and what shortcomings still exist. The reports focus on victims' rights from a human rights perspective, as well as on procedural justice, sanctions and the experiences of women affected by partner violence.

¹⁰ See Council Conclusions on victims of terrorism (footnote 6).

¹¹ The report is included in 8629/19.

¹² <https://fra.europa.eu/en/press-release/2019/how-member-states-are-failing-victims-violent-crime-eu-agency-reports>

Strengthening the framework for European cooperation to ensure that victims can effectively access their rights must continue. It is clear that more needs to be done in order to ensure the effective practical implementation of existing EU legislation on victims' rights . The importance of promoting the creation of best practices in the Member States should be underlined. It is important that victims feel that their rights apply in practice and regardless of in which Member State a crime occurs.

According to the Council's new strategic agenda for 2019-2024, protecting citizens and freedoms is a key priority for the Union. The European Council has confirmed that Europe must be a place where people feel free and safe. Finland's Presidency aims to present Council Conclusions on the protection of victims of crime for adoption in the December Justice and Home Affairs Council. A high-level event on 6 November 2019, organised by the European Commission, will support this process. The Presidency intends to launch a discussion at expert level on these Council Conclusions on 9 October 2019.

In light of the above, the Presidency invites ministers to express their views on the following questions:

- Regarding crime victims' rights and protection in the EU, which aspects require the most attention and improvement over the next five years?
- What would be the best course of action to deal with the challenges identified?