

Local and regional good practices on victims' rights

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1. Background and introduction

The European Commission has submitted a victims' package consisting of a communication on strengthening victims' rights,¹ a proposed directive establishing minimum standards for victims' rights² and a proposed regulation on the mutual recognition of protection measures in civil matters,³ which are to complement the European Protection Order.⁴ The present analysis summarises the good practices of EU Member States at local, regional and national level with the objective of proposing the inclusion of a selection of these in the above-mentioned legislative acts under preparation.

The broader context of the EU's framework for victim protection can be traced back to the turn of the millennium, when, moving away from welfare models of crime prevention that focused on the perpetrator, policies started targeting all aspects of crime. Tools of situational crime prevention controlling the opportunities for crime, the direct environment and possibilities for perpetration complemented previous methods of intervention affecting the (potential) perpetrators alone.⁵ Criticism of the welfare paradigm of criminal policy facilitated, among other things, the development of a more humane approach towards the end of the twentieth century, demanding proportionate sanctions and the application of restorative justice techniques that embed crime prevention in a human rights discourse. Most importantly from the point of view of the present analysis, the focus shifted to the victim. Upgrading the role and position of the victim in criminal policy had groundbreaking effects. The notion of victimisation and multiple victimisation⁶ came to the forefront of academic research, exploring not only the rules on becoming a victim of crime, but also adding new dimensions to the fight against criminality. At the same time, the criminal procedural role of the victim was also upgraded.

¹ European Commission, Communication on Strengthening victims' rights in the EU, COM(2011) 274 final, Brussels, 18 May 2011.

² European Commission, *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) 275 final, Brussels, 18 May 2011.

³ European Commission, *Proposal for a Regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters*, COM(2011) 276 final, Brussels, 18 May 2011.

⁴ Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the French Republic, the Italian Republic, the Republic of Hungary, the Republic of Poland, the Portuguese Republic, Romania, the Republic of Finland and the Kingdom of Sweden with a view to the adoption of a Directive of the European Parliament and of the Council on the European Protection Order, OJ C 69/02, 18.3.2010.

⁵ See the Council Decision of 28 May 2001 setting up a European crime prevention network, 2001/427/JHA (OJ L 153, 8.6.2001), which states the following: "Crime prevention covers all measures that are intended to reduce or otherwise contribute to reducing crime and citizens' feeling of insecurity, both quantitatively and qualitatively, either through directly deterring criminal activities or through policies and interventions designed to reduce the potential for crime and the causes of crime."

⁶ Richard Sparks, "Multiple Victimisation: Evidence, Theory and Future Research", *Journal of Criminal Law and Criminology*, Vol. 72, No. 2, 1981, pp. 762-768.

Intentions on the side of the EU to lay down higher standards for victims' rights are fully consistent with the paradigm of post-modern crime prevention. The legislative drafts mentioned have a European touch, i.e. on the one hand, respecting national sovereignty through the principles of proportionality and subsidiarity and, on the other, emphasising the need for common European standards, which flows from the specific features of Europe's borderless area. The need for the harmonisation of victims' rights also flows from the concept of European citizenship, requiring that victims be guaranteed the same rights across the Union without discrimination on the basis of nationality.⁷

Over the past decade and longer, several pieces of legislation have been adopted in the field, the most important being the Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings and Council Directive 2004/80/EC of 29 April 2004 relating to compensation for crime victims.⁸ With the entry into force of the Lisbon Treaty, new provisions of the Treaty on the Functioning of the EU (TFEU) have been incorporated that provide a clear and more flexible legal base for the EU to establish minimum rules on victims' rights.⁹

Laying down higher minimum standards for victims' rights corresponds to the institutionalised and codified framework for fundamental rights protection, the so-called 'fundamental rights culture'¹⁰ that the EU has developed in recent years and which is still in the process of development.¹¹ This is all the more relevant since the European Court of Human Rights (ECtHR) has acknowledged the "need to safeguard victims' rights and their proper place in criminal proceedings"¹² and the need to protect vulnerable victims.¹³ At the Council of

⁷ This principle was declared by the European Court of Justice with regard to compensation in 1989. See Case 186/87, *Ian William Cowan v. Trésor public* [1989] ECR 195. See also European Commission, *EU Citizenship Report 2010: Dismantling the obstacles to EU citizens' rights*, COM(2010) 603 final, Brussels, 27 October 2010.

⁸ Legislation covering victims belonging to specific vulnerable groups and the victims of certain types of crimes has also been adopted. See 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/JHA; see also the *Proposal for a Directive on combating the sexual abuse, sexual exploitation of children and child pornography, repealing Framework Decision 2004/68/JHA*, Brussels, 29 March 2010; and Council of the European Union, Framework Decision 2002/475/JHA on combating terrorism as modified by Council Framework Decision 2008/919/JHA, OJ L 164/3, 22.6.2002.

⁹ Art. 82 Section (2) TFEU. EU institutions may also "establish measures to promote and support the action of Member States in the field of crime prevention" (Art. 84 TFEU).

¹⁰ European Commission, Communication on a Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union, COM(2010) 573 final, Brussels, 19 October 2010.

¹¹ The Lisbon Treaty made the Charter of Fundamental Rights enter into force and obliged the Union to accede to the European Convention on Human Rights and Fundamental Freedoms, with the latter procedure still underway (Art. 6, sections (1) and (2) TEU).

¹² *Perez v. France* [GC], Application No. 47287/99, 12 February 2004, § 72.

¹³ "The Court appreciates that organising criminal proceedings in such a way as to protect the interests of very young witnesses, in particular in trial proceedings involving sexual offences, is a relevant consideration" (*Bocos-Cuesta v. the Netherlands*, Application No. 54789/00, 10 November 2005).

Europe, recommendations of the Committee of Ministers¹⁴ may also be taken into account, especially those cited by the ECtHR.

The strengthening of victims' rights and elevation of the level of minimum standards is consistent with the EU's most recent multi-annual programme on the Area of Freedom, Security and Justice, in which fundamental rights protection became a priority.¹⁵ It is also in line with the Commission's wish to make the Union exemplary when it comes to ensuring fundamental rights by making the "rights provided for in the Charter as effective as possible".¹⁶ To facilitate the process guaranteeing that all EU laws are "fundamental-rights proof",¹⁷ the Commission drew up a so-called "fundamental rights checklist" to ensure that all EU draft laws are put to a "fundamental rights impact assessment".¹⁸ This approach has been driven by the acknowledgment that fundamental rights may in most cases be subject to limitations. Rights restrictions must be provided for by law, respect the essence of the given rights, be proportionate, necessary and effectively meet objectives of general interest as recognised by the Union to protect the rights and freedoms of others.¹⁹ This is especially pertinent when it comes to victims' rights, since they may potentially – though not necessarily – result in a limitation of suspects' rights.²⁰ More specifically, in the EU criminal justice area, both the Commission and the European Parliament have emphasised the implications in terms of fundamental rights and freedoms of both the victims of crime and the suspects and defendants.^{21, 22}

¹⁴ Recommendation No. R(83) 7 on participation of the public in crime policy, adopted by the Committee of Ministers on 23 June 1983, advocating taking account of victims' interest; Recommendation No. R(85) 11 on the position of the victim in the framework of criminal law and procedure, adopted by the Committee of Ministers on 28 June 1985; Recommendation Rec(2000)19 on the role of public prosecution in the criminal justice system, adopted by the Committee of Ministers on 6 October 2000, providing that victims should be able to challenge the decisions of public prosecutors not to prosecute.

¹⁵ European Parliament, Resolution on the Communication from the Commission – An area of freedom, security and justice serving the citizen – Stockholm programme, P7_TA(2009)0090, 25.11.2009; European Council, *The Stockholm Programme — An Open and Secure Europe Serving and Protecting Citizens*, OJ C 115/01, 4.5.2010; European Commission, Communication on Delivering an area of freedom, security and justice for Europe's citizens Action Plan Implementing the Stockholm Programme, COM(2010) 171 final, Brussels, 20.4.2010.

¹⁶ European Commission, Communication on a Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union, COM(2010) 573 final, Brussels, 19 October 2010, p. 3.

¹⁷ Interview with European Commission Vice-President Viviane Reding, responsible for Justice, Fundamental Rights and Citizenship (http://fra.europa.eu/fraWebsite/news_and_events/infocus11_1702_en.htm).

¹⁸ Idem.

¹⁹ European Commission, Communication on a Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union, COM(2010) 573 final, Brussels, 19 October 2010, p. 5.

²⁰ In the terminology of the European Convention on Human Rights, this often takes the form of a rights collision (e.g. Art. 8 on the right to privacy versus Art. 6 on fair trial rights). "[P]rinciples of fair trial...require that in appropriate cases the interests of the defence are balanced against those of witnesses or victims" (*Doorson v. the Netherlands*, Application No. 20524/92, 26 March 1996).

²¹ "Fundamental rights of all individuals must be respected in all EU actions and by Member States when they implement EU law. EU action in this field should thus at the same time raise standards in relation to the fundamental rights of victims of crime whilst ensuring that any limitation of the rights of the defence or to other fundamental rights is formulated in a clear and predictable manner and is necessary and proportionate to protect the rights and freedoms of the victim." See European Commission, *Impact Assessment*, Commission Staff

National sovereignty in criminal matters, or the partial relinquishing of it, still seems to be one of the most sensitive issues in the EU. The mutual recognition called for by the Tampere European Council of 1999 in this area can only be realised if there is mutual trust in one another's justice systems, procedural guarantees and mechanisms for human rights protection throughout the EU. Ensuring the increasing protection of victims' rights corresponds to this objective.

As the Stockholm programme acknowledged, Member States employ different crime prevention methods, and the experience gained from these can be of benefit to the Union legislator. Sharing different local and regional practices can add to the "general knowledge and its respective effectiveness and efficiency, thereby avoiding the duplication of work".²³ In the present analysis, we intend to contribute to the law-making process on raising the level of victims' rights in this spirit.

In the subsequent parts of this paper we provide a description of the methodology used (part II). This is followed by the presentation of good practices in parts III and IV, under two different themes. First, three legal systems are singled out to show the particularities and divergences of possible methods of good practice (part III). These all give comprehensive, though diverse legal frameworks for victims' protection mechanisms. The selected jurisdictions are Hungary, Sweden and the UK. The aim is to show that the varying legal systems can all provide valid and viable protection mechanisms for victims' rights. In other words, in line with the subsidiarity principle, there is room for manoeuvre left to the Member States and there is no single, best solution for all countries. Hungary offers a good example of a legal system with a comprehensive structure for the protection of victims' rights, where data on possible failures of implementation that are typical for other jurisdictions are also available under black-letter law. Discussion of a country with inventive elements of victim protection is also warranted. Although the UK may opt out of pieces of EU legislation in this field, this paper discusses the British solutions underpinned by extensive empirical research, which can serve as instances of good practice and bring the common-law approach into the discussion.

Next, particular elements of crucial importance are presented, illustrated by practices selected from a wide variety of member states (part IV). Critical problem areas are singled out, following but not entirely mirroring the

Working Paper accompanying the Communication and the draft Directive and Regulation mentioned *supra*, SEC(2011) 580 final, Brussels, 18 May 2011, p. 22.

²² European Parliament, Recommendation to the Council on development of an EU criminal justice area, 2009/2012(INI), 7 May 2009.

²³ European Council, *The Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens*, OJ C 115/01, 4.5.2010, section 4.3.2 "More effective crime prevention".

Commission's above-mentioned communication. These are i) protection, ii) support, iii) access to justice, and iv) compensation and restoration, with consideration given to state remedies and selected good practices from restorative justice systems. In this part of the paper we do not wish to give a comprehensive review of the legal solutions, but present only those that can be regarded as good practices in relation to the topic under scrutiny. This approach seems to be all the more valid given that a jurisdiction may be deficient in one respect (subtopic), but may serve as an example of good practice in another.

In the final part of the paper general conclusions are drawn and points worthy of further discussion are identified (part 5).

2. Methodology

Throughout the present summary, a comparative legal methodology has been used, whereby the authors have relied on primary sources of laws, secondary literature and interviews with colleagues from partner research institutes and victims' rights organisations.²⁴ For internal purposes, the practices in the 27 Member States have been reviewed. Although it has not been the objective of the research for the present summary to embark upon a comprehensive overview of victims' rights in Europe, due regard has been given to existing work that brings together national reports by reliable sources. These have included the *Report of the Commission on the 2001 Council Framework Decision on the standing of victims in criminal proceedings* and the *Report from the Commission on the Application of the 2004 Council Directive relating to the compensation of crime victims and their accompanying documents*.²⁵ The outcomes of the "Victims in Europe" project with respect to the implementation of the former piece of legislation²⁶ have also been taken into account, as well as a summary of European best practices on restorative justice.²⁷ The degree of implementation of existing legal documents (which are to be substituted or replaced in the future) has been considered a valid point of departure, on the one hand, for identifying problems that have either not been addressed or have not been sufficiently dealt with by the Member States and, on the other hand, in the quest for good practices.

Chronologically, the first step was to identify the legal issues to be discussed. The second one was to single out jurisdictions meeting the level of European standards. The third was to narrow the pool of practices to those that go beyond

²⁴ Research institutes and victims' rights organisations, including local and umbrella organisations, were approached and their documents consulted. We would like to express our gratitude to those organisations that provided input, most notably the Max Planck Institute for Foreign and International Criminal Law in Freiburg, Weisser Ring in Mainz and Victim Support Northern Ireland in Belfast.

²⁵ European Commission, *Report from the Commission pursuant to Article 18 of the Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings (2001/220/JHA)* [SEC(2009) 476], COM(2009) 166 final, Brussels, 20 April 2009; European Commission, *Commission Staff Working Document accompanying the Commission's Report based on Article 18 of the Council Framework Decision of 15 March 2001 on standing of victims in criminal proceedings* [COM(2009)166 final], SEC(2009) 476, Brussels, 20 April 2009; European Commission, *Report from the Commission to the Council, the European Parliament and the European Economic and Social Committee on the application of Council Directive 2004/80/EC relating to compensation to crime victims* [SEC(2009) 495], COM(2009) 170 final, Brussels, 20 April 2009; European Commission, *Commission Staff Working Document accompanying the report from the Commission to the Council, the European Parliament and the European Economic and Social Committee on the application of Council Directive 2004/80/EC relating to compensation to crime victims* [COM (2009) 170 final], SEC (2009) 495, Brussels, 20 April 2009.

²⁶ See Project Victims in Europe, *Implementation of the EU Framework Decision on the standing of victims in the criminal proceedings in the Member States of the European Union*, Portuguese Association for Victim Support (APAV), Lisbon, 2009 (<http://www.apav.pt/vine/images/reportVinE.pdf>).

²⁷ Melinda Gyokos and Krisztina Lanyi (eds), *European Best Practices of Restorative Justice in the Criminal Procedure*, Ministry of Justice and Law Enforcement, Budapest, 2010.

what is absolutely required by the international instruments. The fourth was to select the most promising jurisdiction wherever similar legal solutions were identified as good or best practices, in order to avoid repetition in the limited space available. A balanced selection of Member States' practices has been ensured in preparing the present document and throughout the research. Besides the three domestic approaches to victims' rights described in more detail in part III, examples of good practices at local and regional level have been taken from a wide variety of jurisdictions, i.e. from numerous EU Member States, in part IV.

3. Good practices: Characteristic legal systems

3.1. Hungary

It should be clarified at the outset that Hungarian criminal theory distinguishes between and uses different terminology for injured parties in criminal proceedings (*sértett*) and the broader notion of victims (*áldozat*) taken from victimology.²⁸

First, victims' support in the broad sense is addressed. The first Hungarian legal instrument covering victims' rights, including the rights of family members, came into force in 1999.²⁹ The drafters put the emphasis on proper information being given to victims, on their human dignity, their humane treatment and the corresponding education of professional staff. Vulnerable groups in particular were singled out for greater protection, including women and children forced into prostitution. Right after the political changes, victim support was recognised as an important goal by civil society.³⁰ The legislation supported civil and religious organisations engaged in assisting victims. A subsequent law³¹ on the compensation of victims – in line with the principle of territoriality – covered Hungarian citizens who became victims on Hungarian territory. The scope was extended to all EU citizens after Hungary's accession to the EU on 1 May 2004.

The National Strategy of Social Crime Prevention (Parliamentary Resolution 115/2003 (X.28.) OGY) created a long-term and comprehensive programme for crime prevention. It sets the prevention of victimisation, victim support and compensation for victims as priorities. Corresponding to these objectives and international obligations, the Strategy urged the adoption of legislation to support victims of crime, which came into force in 2005.

²⁸ See Ilona Gorgényi, *Ötletek a készülő áldozatvédelmi törvényhez – az áldozat büntetőeljárásjogi helyzete de lege ferenda*, *Kriminológiai Közlemények* 61, Budapest: Magyar Kriminológiai Társaság, 2004, 105-131; Anna Kiss, *A sértett fogalma a büntetőeljárásban*, in Fenyvesi Cs., Herke Cs. És Mészáros B. (szerk.) *Bizonyítékok. Tiszteletkötet Tremmel Flórián egyetemi tanár 65. születésnapjára*, Pécs: PTE ÁJK, 2006.

²⁹ Government Decree 1074/1999 (VII.7.) on certain legislative tasks and other obligations flowing from the protection and compensation of victims and their relatives.

³⁰ The victim support organisation Fehér Gyűrű Közhasznú Egyesület was founded in 1989 and as time went by other organisations joined it. For a detailed summary, see Lenke Fehér and Barbara Zséger, *Civilek az áldozatsegítésben*, in Andrea Borbíró, Anna Kiss, Edit Velez and Lajos Garami, *A kriminálpolitika és a társadalmi bűnmegelőzés kézikönyve II.*, Budapest: IRM, 2009, pp. 95-103.

³¹ The above Government Decree served as the basis for Government Decree 209/2001 (X.31.) on the compensation of victims having suffered certain violent crimes and their relatives.

Victim assistance is provided at local level, by the county offices of the Victim Support Service of the Office of Justice. These offices operate as an information service, giving advice to anyone free of charge. Victim assistance covers a narrower group of individuals. To obtain help from the Victim Support Service, a certificate is required proving the commencement of an investigation or a criminal procedure, which is issued by either the police, the public prosecutor's office or the court. Should the victim be unable to produce the certificate, the Service takes steps to obtain it. Victim assistance covers both victim support (including facilitating the enforcement of victims' fundamental rights, instant financial aid within three working days after the crime and legal aid for the needy) and state compensation.

The county offices inform victims about their rights and obligations in criminal proceedings, as well as other matters: the forms of support they can receive and their conditions; other opportunities to assert victims' rights; the contact details of state and local government, civil and church organisations involved in helping victims of crime; and ways to avoid secondary victimisation.

State compensation is granted to victims of intentional and violent crimes in the event that their physical integrity and health has been seriously damaged as a result of the criminal act. Victims' relatives are also to be regarded as victims from this point of view: they can be granted compensation if they were living together with the victim at the time the crime was committed. Victims have to be indigent in order to be entitled to compensation. Victims who are being processed as refugees are presumed to be indigent by law.

Let us now turn to the rights of victims in the narrow sense. Victims can have different positions in criminal proceedings, such as a victim in the strict sense, a party bringing the claim, a private prosecutor, a substitute private prosecutor,³² a party bringing a civil claim or a complainant, a witness or subject of an expert's opinion. Their rights correspond to the differences in position.³³

³² In addition to criminal proceedings instituted on the application of the public prosecutor, Hungarian law permits victims of certain minor offences to initiate and conduct a prosecution; this is known as 'private prosecution' (*magánvád*). The 'substitute private prosecutor' (*pótmagánvád*) is a third means of initiating criminal proceedings, which permits victims of a crime to take action, inter alia where the public prosecutor terminates proceedings that he has initiated. Private prosecution and substitute private prosecution should not be confused with the bringing of civil claims for damages in criminal proceedings.

³³ Anna Kiss, *Áldozatsegítés Magyarországon* [Victim Support in Hungary], in Andrea Borbíró, Anna Kiss, Edit Velez and Lajos Garami, *A kriminálpolitika és a társadalmi bűnmegelőzés kézikönyve II.*, Budapest: IRM, 2009, 55-72; Ákos Farkas and Erika Róth, *A büntetőeljárás*. Budapest: KJK-Kerszöv, 2004; Tibor Király, *Büntetőeljárás jog*. Budapest: Osiris, 2003; Katalin Ligeti, *Az új Büntető Torvénykönyv Általános Részének Konceptiója*, in Fenyvesi Cs., Herke Cs. és Mészáros B. (szerk.), *Bizonyítékok: Tiszteletkötet Tremmel Flórián egyetemi tanár 65. születésnapjára*. Pécs: Pécsi Tudományegyetem ÁJK, 2006, 371-381; Erika Róth, *A sértett szerepe a büntetőeljárásban – Avagy mit kíván az Európai Unió*, in Ákos Farkas (szerk.), *Emlékkönyv Kratochwill Ferenc (1933-1993) tiszteletére*. Bűnügyi Tudományi Közlemények, 5. Miskolc: Bíbor Kiadó, 2003.

Apart from rights in connection with the commencement of the criminal procedure, there are other rights that are expressly stated or which can be derived mainly from the Criminal Procedural Code. These include attending the proceedings and examining procedural documents concerning the victim; making applications and submitting observations at any stage in the proceedings; obtaining information from the court, the public prosecutor and the investigating authority on the victim's rights and obligations in the criminal proceedings; and exercising appeal rights. Victims have the right to use their mother tongue and have the right to interpretation. They also have the right to agree to the compensation.

Most importantly, since the entry into force of Act LI of 2006, victims have had the right to a protection order. Act LXXII of 2009 has been in force since 1 October 2009, introducing and regulating in detail a special version of restraining orders in cases of violence between relatives. It defines domestic violence between relatives and provides three levels of intervention by the state. First, members of the signalling system have the duty to report potential cases to the relevant authority if they notice a danger of violence. Second, a temporary, preventive restraining order can be issued by the police for a maximum of 72 hours. Third, preventive restraining orders can be set by the court for a maximum of 30 days. Whereas previously some 100-200 restraining orders were issued annually, since the entry into force of the 2009 Act the number has risen to approximately 1,500.

3.2. Sweden

Reporting a crime in Sweden is facilitated by the state through an easy-to-remember telephone line or the Internet, in addition to the possibility of contacting local police officers directly. Police officers and prosecutors are obliged to give information to the victim on the possibilities of receiving damages and criminal injury compensation, which needs to be presented to the court by the prosecution if the victim asks for it. Also, information is to be provided on visiting bans, free legal counsel and assistance from a support service. Victims need to be informed about legal aid and legal advice, along with the authorities and organisations offering additional support and assistance. As regards criminal proceedings, the prosecutor is obliged to inform the victim if an investigation is not to be initiated, if it will be discontinued or if prosecution is waived. An appeal may be lodged against such a decision. A discontinued investigation can also involve entitlement to damages through insurance or criminal injury compensation if it can be proved that someone has been the victim of a crime. Should the procedure go further, the victim is entitled to a so-called "support person" during questioning, who may be anyone who helps the victim to feel less anxious. Witness support persons must not take

sides in or even discuss the judicial case itself, however. There is a witness support service established at all the District Courts and Courts of Appeal in Sweden. The government has commissioned the Crime Victim Compensation and Support Authority and the National Courts Administration to ensure that there is a witness support service. This is a voluntary service, usually carried out by victim support centres and administered locally by the witness-support service coordinator, who can be contacted through the court. Support persons are not compensated by the court. The local victim-support centres operate under the nationwide Swedish Association for Victim Support.³⁴

The above-mentioned Crime Victim Compensation and Support Authority assesses state compensation and administers the fund for victims of crime. It also acts as an information point and as an expert centre. In assessing compensation, the authority is not bound by a court decision on damages. Members are typically experts on tort law and insurance law. The crime victim fund administered by the authority is a unique mechanism: it is funded primarily from money paid by offenders in addition to donations. The fund generates some €2.7 million per year. A council connected to the authority determines who receives the money. The fund is also the main sponsor of many research studies on criminology.

In cases of a sexual nature and violent crimes, as well as in other cases when appropriate, the victim has the right to legal counsel free of charge from the point at which a preliminary investigation starts. The counsel's mandate ceases after the hearings. Applications for legal counsel can be lodged with the police officer, the prosecutor or the District Court, with the latter deciding on the victim's eligibility and appointing a lawyer. In cases where a child is the victim of a crime, a special legal representative is appointed if the suspect has custody of the child or the person having custody has a close relationship with the suspect. After the hearing, victims in need can make use of the Legal Aid Act³⁵ which provides for fixed fees for consultations with lawyers. Should the legal advice not be sufficient, legal aid may be requested, the costs of which will be partly covered by the state if the victim is in need. Information about the application procedure for legal aid is available from any law office, court of law or the National Legal Aid Authority.³⁶

Once the liability of the defendant has been established, the court may award damages. The insurance of the victim may also be involved in covering the costs of injuries. However, if the defendant is not able to pay or the victim does not have insurance, the state may provide compensation for criminal damages.

³⁴ See the website of the Victim Support Association (BOJ) (<http://boj.se/>).

³⁵ Rättshjälpslagen 1996:1619.

³⁶ See the Rättshjälpsmyndigheten website (<http://www.rattshjalp.se/>).

Swedish residents are also entitled to such damages for crimes suffered abroad. Another element of the court's decision may be a visiting ban on abusers/harassers. In especially serious situations, this ban can be applied to someone living with the victim.

Costs related to questioning – including expenses for travelling and accommodation, compensation for the loss of income and other related costs – will be reimbursed. In cases where guilt has been established, among other things the court will state the amount of damages to be paid to the victim. This applies even if the perpetrator is below the age of criminal responsibility.

The social welfare board has special responsibilities vis-à-vis victims and their relatives. Special attention is to be paid to women subjected to violence or other abuse and children who have witnessed or been subjected to violence or abuse.³⁷ Those who do not speak Swedish or who have impaired hearing or a speech disability are entitled to free interpretation.

Restorative justice techniques are used extensively, especially in the form of victim–offender mediation. In especially grave cases, victims have the right to a name change, to a so-called “security package” consisting of a mobile phone, an alarm system, a bodyguard and an assumed identity.

Sweden is exemplary in the fight against domestic violence, honour-based crimes and violence against women and children.³⁸ Preliminary investigations in such cases are conducted by special expert prosecutors who have undergone special training. Also, officers who investigate gender-based crimes are specifically educated in this field. Special interrogation techniques for children are employed. Women's shelters are especially active and there is a growing number of places for women and girls. The two main national organisations are Women's and Girls' Shelters in Sweden (ROKS) and the Swedish Association of Women's Shelters (SKR). Special shelters designed for men also exist in Sweden. A helpline offering support and help for victims of gender-related crime is operated in more than 40 languages.

³⁷ Social Services Act, Socialtjänstlag (2001:453), Chapter 5, Section II.

³⁸ See the website of Polise.se (www.polise.se/komtilloss).

3.3. UK

The UK system also distinguishes between the procedural rights of victims during and the service rights granted outside the criminal procedure. A study of the UK as a jurisdiction certainly adds to the quest for good practices, given its numerous organisations and procedures for victims' rights (in both the narrow and broad sense), vast body of information available for victims, studies underpinned by research on victimisation in the form of the British Crime Surveys (BCS) and the Offending Crime and Justice Survey.

The BCS is an outstanding source of data on victims. It includes crimes not reported to the police and is therefore an important tool of the UK Home Office in shaping policy to fight against crime or encourage victims to speak up about unreported crime. Since 2001, a household survey of more than 50,000 interviews has been conducted, enquiring whether people have become victims of crime in the previous year. The BCS is conducted regularly, enabling the changing patterns of victimisation to be traced over time. A parallel survey, the Offending Crime and Justice Survey, covers the victimisation of children and young persons aged between 10 and 25. There is considerable research underway on the basis of these surveys on behalf of the Home Office. The UK Code of Practice for Victims of Crime, launched in 2006, enumerates the services a victim can receive from the criminal justice agencies, which are all requested to declare the minimum standards of service granted to crime victims. Minimum requirements are the right to information about the crime within pre-determined timescales, a dedicated family-liaison police officer assigned to relatives, clear and precise information on the compensation offered by the Criminal Injuries Compensation Authority³⁹ and information about the national charity, Victim Support.⁴⁰

There are two main obstacles related to victims' rights during the criminal justice process, both of which are rooted in the structure of the criminal justice system. The first is more general and is a danger for other jurisdictions as well: the various diversion methods used in an attempt to ease the heavy workload of courts might result in diminishing victims' rights. The second problem stems from the specific features of the common law model, whereby criminal courts engage in determining procedural justice instead of conducting a quest for the truth, which might leave victims dissatisfied. Victims do not have much right to intervene in the process. Nevertheless, there is the possibility of calling for a judicial review to challenge a decision on the part of the prosecution not to

³⁹ See the Justice website, "Criminal Injuries Compensation Authority", (<http://www.justice.gov.uk/guidance/compensation-schemes/cica/>).

⁴⁰ See the Victim Support main website (<http://www.victimsupport.org/>), and Victim Support website page, "Are you ok?" (<http://www.are-you-ok.org.uk/>).

pursue a case and an option of pursuing a private prosecution. As compensation for their passive role during criminal proceedings, victims have the opportunity to provide a personal statement to the court. Victims also have the right to damages. As part of the criminal process, the judge may order financial compensation for the personal injury suffered or in respect of goods stolen or money obtained. Irrespective of whether an offender is convicted in the criminal process, a victim is entitled to start civil proceedings against the offender to recover losses.

Outside the criminal procedure, victims also have a number of rights that can serve as good practices. For serious sexual or violent crimes for which the offender is serving at least 12 months in prison, victims have the right to be consulted and notified about the release date. They can also claim protection from offenders. The victim may even be able to influence the terms of parole, for example by ensuring that the perpetrator stays away from the victim. Should a victim receive unwanted contact from an offender, the victim can make use of the Prison Service telephone helpline.

Specific vulnerable groups are singled out and standards prescribing even greater sensitivity apply to them. These groups include young persons under the age of 16 and victims of racist or religious crime, miscarriages of justice, terrorism or domestic violence. As to the latter group, their rights have considerably improved since the passage of the groundbreaking Domestic Violence, Crime and Victims Act. The *Guidance on Investigating Domestic Abuse*⁴¹ provides clear operational, tactical and strategic recommendations. It is taught to police forces across England and Wales through a modular training package. The national risk-assessment model, “Domestic Abuse, Stalking and Harassment and Honour-Based Violence 2009”,⁴² offers further guidance for the police and non-governmental organisations (NGOs). Domestic violence enforcement campaigns are run at specific times of the year when there is a greater probability of domestic violence.

⁴¹ National Policing Improvement Agency, *Guidance on Investigating Domestic Abuse*, Specialist Operations Centre, Wyboston, UK, 2008 (http://www.npia.police.uk/en/docs/Domestic_Abuse_Guidance_2008.pdf).

⁴² Laura Richards, “Domestic Abuse, Stalking and Harassment and Honour-Based Violence (DASH 2009) Risk Identification and Assessment and Management Model”, Association of Chief Police Officers (ACPO), London (<http://www.dashriskchecklist.co.uk/uploads/pdfs/DASH%202009.pdf>).

4. Good practices: Key elements

It should be noted that the practical realisation, effectiveness and efficiency of the practices identified in this part of the paper have not been tested by the authors. The practices are relatively new and there is no methodology yet to assist the identification of best or even good practices, i.e. there are few impact assessments on how the programmes actually influence victims' positions after having suffered from a crime, either during or after the criminal procedure. The point of departure here and the test used for identifying local and regional institutions, procedures, methods, programmes and practices as "good" or "best" is whether they are theoretically – from a legal and criminological standpoint – viable, fulfilling the expectations reflected in the Commission's victim package.

In the following discussion, along the lines of the communication's terminology, good practices with respect to victims' needs are discussed under four headings: access to justice, protection, support and compensation/restoration. Special emphasis is placed on vulnerable victims.⁴³

4.1. Access to justice

Access to justice is a core element of victims' rights. It is more than a right in itself – it is the condition *sine qua non* of the enforcement of other substantial rights and interests of the victim.

Access to justice covers a wide range of requirements serving the same purpose, most notably that justice is done and victims obtain a remedy when their rights are violated. It ensures that the range of due process rights is guaranteed in a uniform way. A preliminary requirement for their enforcement is non-discriminatory access to justice irrespective of nationality, among other characteristics.

Victims' rights to information are at the very heart of the right of access to justice. Receiving all the necessary information on victims' rights and on the nature, scope and timing of procedures are pivotal to ensuring that victims can make use of their rights in any of the Member States. Information needs to be

⁴³ Our selection of good practices and related issues is mainly based on various collections, reports and databases in the field of victim support and crime prevention, such as the best practice database of the European Crime Prevention Network, the Annual Reports of the European Union Fundamental Rights Agency, the Victim Support Europe Reports, and the study by the Project Victims in Europe, *Implementation of the EU Framework Decision on the standing of victims in the criminal proceedings in the Member States of the European Union*, Portuguese Association for Victim Support (APAV), Lisbon, 2009. Other examples of good practices have been selected from academic literature. A third group of examples, particularly those concerning access to information and justice, is based on a review of the on-line information and services provided by national victim-support bodies.

given in a language and manner comprehensible for the victim, taking the special and vulnerable situation of the victim into account. In line with Arts. 3-6 of the proposed directive, minimum standards shall ensure that victims receive sufficient information in a way they can understand to enable them to make informed decisions and to have full access to their rights. In particular, victims have a right to receive information on such issues as where and how they can make a complaint about a criminal offence; details of the support services to which they can turn; the type of support, protection, legal aid and compensation available; and on any procedures for making complaints if their rights are not respected. Information should be available as early as possible and on a regular basis throughout the criminal proceedings.

Providing sufficient, detailed information is a practical issue that is best understood in terms of the needs of the victim. These include prompt, informal, easy and anonymous access to all the relevant information soon after the crime has been committed. One appropriate tool to satisfy this need is a proper and detailed website page. Although such sites operate in most of the Member States, good practices go beyond the minimum expectations and meet some advanced criteria. From a victim's perspective, good website pages are easy to find, provide detailed and well-structured information on all relevant issues, use an easily understandable, everyday language (e.g. avoiding unnecessary legal terms), are available in the country's relevant languages and in English, and provide direct links to support services as well as to the documents and forms necessary to obtain assistance (Box 1).

Box 1. Access to information: Examples of good practices at regional level

Downloadable and printable brochures on victims' rights and thematically grouped practical advice may also be of great help to victims. In Ireland, the recently published *Victims' Charter and Guide to the Criminal Justice System*^{*} provides a detailed but easy-to-follow introduction to victims' rights, victim support and criminal proceedings. To facilitate access to justice for foreign victims, the Swedish Crime Victim Compensation and Support Authority (Brottsoffermyndigheten) has issued a 38-page brochure in English, which provides a comprehensive overview of victims' procedural rights and duties, the support and protection available, methods of compensation and relevant organisations.^{**}

Another good practice initiative by the Swedish Brottsoffermyndigheten is its "Court Introduction" for victims, which has also been available in English since 2010.[†] This highly informative and interactive online presentation provides a step-by-step introduction to the justice system from a victim's perspective, as well as important practical information on access to victims' rights.

The victim support service of Portugal (Apoio à Vítima, AVAP) recently launched its "May I Help You?" campaign for tourists who become victims of crime. Recognising that foreign victims are in a more vulnerable position, AVAP's new website page provides important information on and access to available support.^{††}

AVAP has also issued the leaflet "Victims of crime in another country?" containing practical information and a brief introduction to victims' rights. The leaflet was developed under the project "CABVIS – Capacity Building for EU Crime Victim Support", whose goal is to improve victim support services and access to victims' rights across the EU Member States.^{†††}

* See Victims Crime Office, *Victims Charter and Guide to the Criminal Justice System*, Department of Justice and Equality, Dublin, 2010 (http://www.justice.ie/en/JELR/Pages/Victims_Charter).

** See Brottsoffermyndigheten [Crime Victim and Support Authority], *Information for crime victims*, Umea, 2009 (<http://www.brottsoffermyndigheten.se/default.asp?id=2396>).

† See the Brottsoffermyndigheten website, "Welcome to Court Introduction" (<http://www.courtintroduction.se/>).

†† See the website of the project "May I Help You?" (<http://helptouristvictims.org/en/>).

††† We would like to express our thanks to Victim Support Northern Ireland for calling our attention to this project.

Efforts to facilitate access to justice depend greatly on the responsiveness of the judicial and administrative processes. The objective is minimising the inconvenience to victims, i.e. making a complaint and submitting an application should be as easy as possible, avoiding unnecessary formalities and

bureaucracy. Preferably, one-stop access is provided and legal aid is granted to those requiring it (Box 2).

Box 2. Facilitating access: Examples of good practices at regional level

Helping to provide non-discriminatory and more convenient access to justice is the idea behind the *maisons de justice et du droit* in France and Belgium. Located mostly in so-called “sensitive areas”, *maisons de justice* provide legal advice and information to the general public as well as direct support, including mediation, to the victims of crime.

Codes of practice may be helpful tools in harmonising and strengthening the activities of the relevant actors involved in victim support. While they are valuable sources of detailed information for victims, the primary aim of codes of practice is to set out the general minimum standards on how to treat victims and enforce the fullest protection of their rights. As an example, such codes of practice have been issued by the **UK Home Office**^{*} and by the Department of Justice of Northern Ireland,^{**} as well as by a number of local police authorities across the UK.

Developing a system of one-stop access to justice was one of priorities of the domestic-violence prevention programme in the Province of Limburg, Belgium. The project “*Intrafamiliaal geweld intersectoraal gevel*” [Domestic Violence Tackled Intersectorally] addresses partnership and domestic violence in an integrated and complex approach, resulting in a wide range of interventions. Besides improving direct support and protection services for victims (e.g. through the so-called “relief points”), the project introduced a number of initiatives regarding the right of access to justice and support. The programme element “1 PO Box for referring to assistance” was designed to avoid the fragmentation of victim support services and procedures, and to establish a transparent and easy-to-follow chain of actions with a single access point.[†]

* Office for Criminal Justice Reform, *The Code of Practice for Victims of Crime*, Home Office, London, 2005.

** Victims Crime Office, *Victims Charter and Guide to the Criminal Justice System*, Department of Justice and Equality, Dublin, 2010.

† For a project summary, see e.g. the website of the European Crime Prevention Network, “Good Practice” (<http://www.eucpn.org/goodpractice/showdoc.asp?docid=207>).

4.2. Protection

Protection of the victim refers to the set of rights and guarantees that aim at preventing any further harm or intimidation on the victim’s side either as a consequence of a subsequent crime (repeat victimisation) or inappropriate criminal proceedings (secondary victimisation). Victims can suffer during criminal proceedings because of the way the system operates. To avoid harm

caused by inadequate proceedings, such as repeated and insensitive interviewing, it is important to ensure the protection of victims throughout criminal investigations and court proceedings. This protection is essential for particularly vulnerable victims, such as children.

A key element of victim protection is the identification of vulnerable victims. Art. 18 of the proposed directive states that crime prevention goals and the expectation that victims are treated in an individual manner requires that a consistent mechanism is established to identify vulnerable victims⁴⁴ and to assess the risk of further harm and intimidation (see also Box 3).

Box 3. Vulnerable victims' protection: An example of good practice at regional level

An assessment of the risks of further harm to victims is one of the core elements of the Women's Safety Unit (WSU) programme in Cardiff, UK. It was developed in 2002 and since then it has become the basis of the UK's Coordinated Community Response Model for tackling domestic violence. The programme was launched with the dual goal of reducing the risk of repeat victimisation in domestic abuse cases and of developing a systematic risk-based model to facilitate individual case management. The WSU is based on the cooperation of a wide range of relevant local bodies and organisations. The model comprises five elements:

- i) domestic violence cases are now dealt with by specialist courts operating within the Magistrate and Crown Courts;
- ii) a risk-assessment checklist has been developed and is now used by all the relevant agencies to identify risk situations;
- iii) the Multi-Agency Risk Assessment Conference (for sharing information) has been set up to deal with high-risk cases;
- iv) advocacy is provided for all the women in contact with the Unit; and
- v) a multi-agency fast-track system was launched to follow up individual cases, based on a one-stop approach to ensure that the victim only has to be interviewed once.

The WSU has been extended by the project "Dyn", specifically targeting heterosexual and homosexual male and transgender victims of domestic violence.*

* On evaluation, see Amanda L. Robinson, *The Cardiff Women Safety Unit: A Multi-Agency Approach to Domestic Violence*, Cardiff University, 2003.

⁴⁴ The vulnerability of victims should be determined by the personal characteristics of the victim (e.g. children and persons with disabilities) and the nature of the crime (e.g. victims of sexual violence). In addition, a number of individual risk factors should be taken into account, such as age, gender, ethnicity, race, religion, sexual orientation, state of health, communication difficulties, relationship to the suspected person and previous experience of crime.

The crime prevention goals of victim protection include preventing repeat victimisation. Criminological research has shown that the distribution of the risk of becoming a victim is uneven: persons with previous victimisation experiences are at greater risk. The risk of repeat victimisation is particularly high for certain types of crimes, e.g. domestic violence or situational crimes. Accordingly, protection of the victim requires effective preventive action, *ex ante* modification of the situation when the person is exposed to crime (Box 4).

Box 4. Prevention of repeat victimisation: Examples of good practices at regional level

A programme running in Marseille, France for the immediate separation and monitoring of alleged perpetrators of domestic violence can serve as an example of good practice. The objective is the prompt prevention of any further violence within the family, ensured by cooperation between the prosecution office and local probation and victim support organisations. The actions taken are the immediate removal of the offender from the family residence and immediate rehabilitation counselling.*

Following the success of the “Kirkholt Burglary Prevention” project (Rochdale, UK, 1987–90), a new burglary reduction programme was launched in Huddersfield, UK. The “Biting Back” project (1994–96) consisted of a three-level structure of intervention, where the scope and intensity of responses changed after the first, second and third crimes. Responses to the first burglary included crime prevention advice for victims and several basic situational measures, such as property marking, target hardening, loan of temporary alarm equipment and the “Cocoon Watch” scheme. After the second victimisation, more intense intervention took place, e.g. visits by a crime prevention officer, installation of a monitored, silent alarm system, and “Police Watch” visits twice a week for six weeks. Finally, responses to a third burglary included installation of high-tech security equipment and a daily Police Watch visit during high-risk periods. An evaluation of the outcomes suggests a remarkable decline in both first and repeat victimisation.**

* The programme is called “Immediate Separation & Monitoring of Alleged Perpetrators of Domestic Violence”. For a project summary, see e.g. the website of the European Crime Prevention Network, “Good Practice” (<http://www.eucpn.org/goodpractice/showdoc.asp?docid=25>).

** On evaluation, see e.g. Sylvia Chenery, John Holt and Ken Pease, *Biting Back II: Reducing Repeat Victimisation in Huddersfield*, Crime Detection and Prevention Series Paper 82, Home Office Police Policy Group, London, 1997.

While risk assessment may be useful in identifying vulnerable victims, effective prevention of their secondary victimisation during the proceedings requires further guarantees. Arts. 19-22 of the proposed directive establish a set of

standards that seek to protect victims from the harm and intimidation caused by inadequate proceedings. These include the right of the victim to avoid contact with the offender, the right to protection during questioning in criminal investigations and the right of vulnerable victims to protection during criminal proceedings. National laws on criminal procedures have a great impact on the realisation of these standards. For example, they can ensure that the victim is interviewed as early as possible and the authorities question victims only insofar as necessary for the purpose of the proceedings, that victims sufficiently participate in the procedure, that legal assistance is always available and that victims have proper access to all the information of relevance to their case. Good practice also shows that the actual environment set for interviews plays a crucial role in the protection of victims (Box 5).

Box 5. Protection during the criminal justice process: Examples of good practice at regional level

Establishing separate waiting areas and controlling the arrival of the accused and the victim on criminal justice premises might be an effective way of ensuring the victim's right to avoid contact with the offender. In Ireland, the new Criminal Court Complex in Dublin (opened in 2009) contains facilities for vulnerable victims and witnesses, such as a separate suite for victims and an evidence room specifically designed for children, as well as sufficient space for the private entrance and exit of victims and witnesses. Victim support services have been located in a secure area within the building.

Improving conditions towards “child-friendly justice” has recently been a major priority in several European countries. In 2007, the initiative of establishing a special hearing room was launched in the Czech Republic to ensure fuller protection for child victims and witnesses of sexual abuse and violence. The rooms are specially designed to create a proper environment for the careful treatment and hearing of children, while an audiovisual recording system helps to avoid repeat questioning and provides the opportunity for a subsequent assessment of the records.* Similarly, the Coalition for Child-Friendly Interviewing, a cooperative project of the NGO Nobody's Children Foundation in Poland** and the Social Activities and Practices Institute in Bulgaria† have launched an initiative to improve child-friendly criminal justice. The goal of the child-friendly interview project is to strengthen the protection of child victims and witnesses of sexual and domestic violence. To fulfil this expectation, interview rooms are to meet a number of minimum criteria, such as maximum privacy, proper equipment and furniture serving the child's physical and mental safety and comfort, and an audiovisual recording system. The child is interviewed by a judge in the presence of a psychologist; other persons may participate from a separate room through a communication system. Suites meeting the list of requirements obtain a certification from the Ministry of Justice.

* For a project summary, see e.g. European Crime Prevention Network, “Good Practices” (<http://www.eucpn.org/goodpractice/showdoc.asp?docid=258>).

** See the website of the Nobody's Children Foundation, “Projects and Programmes” (<http://fdn.pl/en/projects-and-programmes>).

† See the website of the Social Activities and Practices Institute, “Coalition for Child-Friendly Interviewing” (<http://www.sapibg.org/index.php?lang=en&page=346>).

4.3. Support

Appropriate and timely access to emotional, practical, administrative and legal support is one of the critical elements of victims' rights in need of harmonisation across the EU.

To be effective, victim support should meet a number of fundamental criteria. It needs to be available before, during and after the criminal proceedings, and from the earliest possible time irrespective of whether the crime has been reported. Access to support should be easy, without involving excessive procedures and formalities. Finally, victims should be assisted by well-trained professionals capable of providing prompt and well-targeted assistance.

Art. 7 of the proposed directive sets out the minimum standards for the right of access to victim support services. As a minimum, such services shall provide information, advice and support relevant to the rights of victims, information on or referral to specialist services, emotional and psychological support, and advice relating to financial and practical issues following the crime.

The most common way to provide prompt support and information to victims in the Member States is through a helpline. Help over the telephone might be an essential tool of victim support. It functions not only as an important facilitator of access to justice, but also as the first opportunity for crisis intervention. To fulfil this expectation, however, helpline services should meet some basic requirements. After reviewing a large number of helpline services operating in the Member States, we have concluded that the core elements of good practice could be summarised as follows:

- helplines should be available 24/7, with easy access and telephone numbers that are easy to remember;
- the helpline and the additional services (e.g. counselling) should be free of charge;
- support should additionally be available in English and in the minority languages of the country;
- a high level of confidentiality should be ensured;
- those providing support should be well-trained and capable of giving immediate legal and psychological assistance and information; and

- there should be a common, general helpline for all victims, and separate ones for vulnerable victims or victims of special crimes.

The legal form, the existence of state support and the fact of whether the helpline is operated by the state, a church or an NGO do not matter as long as it fulfils its functions and meets the above criteria (Box 6).

Box 6. Helplines: Examples of good practice at regional level

As part of its ULRİK development project 2007–11, Victim Support Finland recently launched a new helpline specifically for victims with a foreign background. The Czech NGO Bily kruh bezpeci (BKB) has been providing free victim support in seven regions since 1991.^{*} Services include a 24-hour general hotline for crime victims, as well as a special helpline (DONA helpline)^{**} for victims of domestic violence. In Austria, a 24-hour helpline (Frauenhelpline) is available in German, Arabic, English, Bosnian-Croatian-Serbian, Romanian, Spanish and Turkish, as an integral part of the country’s developed services addressing the problem of violence against women.[†] Besides the central hotline, help over the telephone is also available during a more limited operating time at regional level, except in Vienna, where the helpline operates 24 hours a day. Women’s helplines are psychosocial facilities offering specifically targeted assistance, such as crisis intervention, psychosocial counselling, psychotherapy, trauma therapy, and psychosocial and legal assistance during court proceedings. In 2009, as part of the government’s National Multi-Annual Programme on Preventing and Combating Violence Against Women 2009–13, Greece also launched a 24-hour helpline for female victims of violence.^{††}

* See the BKB website (<http://www.bkb.cz/>).

** See the DONA Linka website (<http://www.donalinka.cz/>).

† See the Frauenhelpline website (<http://www.frauenhelpline.at/>).

†† Refer to the Ministry of the Interior, Decentralisation and E-Government, General Secretariat for Gender Equality, *7th National Regular Report of Greece 2005-2008 to the United Nations Committee for the Elimination of Discrimination Against Women (CEDAW)*, Athens, 2010.

Victim support services should in particular take the special needs of vulnerable victims into account. These include individual counselling, crisis intervention, post-traumatic treatment and long-term therapies, and they require specialised professionals and facilities as well as services far beyond the general framework of victim support (Box 7).

Box 7. Victim support for vulnerable groups: Examples of good practice at regional level

Poland recently took significant steps towards facilitating victim support at local level. The Network of the Local Support Centres for Crime Victims focuses on vulnerable victims, especially children and victims of sexual or domestic violence. Covering 12 regions in Poland, the Network is based upon the strong cooperation of local bodies and organisations. Local Support Centres provide free legal, psychological and social assistance. Hungary has sought to provide psychological assistance for victims of any forms of sexual violence at the Eszter (Rehabilitation of the Victims of Violent Sexual Attack) Foundation and Centre in Budapest.* Besides prompt crisis intervention over the telephone, the Centre also provides face-to-face counselling and long-term psychotherapy for children and adult victims. In Denmark, the Dialogue Against Domestic Violence (DADV) is a treatment programme of NGO Askovgaarden specifically designed for offenders and victims of domestic violence. DADV offices in Copenhagen, Århus and Odense provide cognitive behavioural therapies for offenders, as well as trauma counselling for women and children.**

* See the Eszter website (<http://www.eszteralapitvany.hu/>).

** For a project summary, see e.g. European Crime Prevention Network, "Good Practices" (<http://www.eucpn.org/goodpractice/showdoc.asp?docid=210>).

4.4. Compensation

The victims' needs for some kind of reparation for their financial and emotional losses may be met either through state compensation programmes or restitution from the offender. State compensation has a number of advantages, e.g. its relative quickness and its independence from the success of the criminal procedure. Obtaining restitution from the offender through the formal justice system (either through the criminal process or related procedures) remains a major problem in victims' rights protection across the Member States owing to such factors as the non-supportive attitudes of actors in the justice system,⁴⁵ procedural difficulties and the lack of permanent legal support for the victim. Still, some reparation-focused elements built into the criminal procedure can make the criminal justice system more responsive to victims' needs⁴⁶ (see also Box 8).

⁴⁵ See e.g. "Victim Rights and Compensation in an International Comparison: France, Austria, Germany", the research project of the Max Planck Institut für ausländisches und internationales Strafrecht, Project Head: Michael Würger (http://www.mpicc.de/ww/en/pub/forschung/forschungsarbeit/kriminologie/archiv/victim_rights.htm).

⁴⁶ See e.g. Jo Goodey, *Compensating Victims of Violent Crime in the European Union with a Special Focus on Victims of Terrorism*, Discussion Paper, National Center for Victims of Crime, Washington, D.C., 2003.

⁴⁶ See e.g. Irvin Waller, *Crime Victims: Doing justice to their support and protection*, Publication Series No. 39, HEUNI, Helsinki, 2003.

Box 8. State compensation for victims: Examples of good practice at regional level

Compared with other Member States, in France victims have strong rights and legal support in the courts and therefore issues of reparation are dealt with as a routine part of the criminal process.*

A unique model of compensation is the Swedish crime victim fund, run by the Crime Victim Compensation and Support Authority. The main financial source of the fund – a total sum of approximately €3.5 million per year – is the money paid by convicted offenders as a part of their punishment. The crime victim fund finances victim support services and projects.

In the UK, compensation orders imposed by the criminal courts – instead of civil claims by the victims – serve as a form of reparation. The amount of compensation depends on the loss of the victim and the offender's ability to pay. The compensation order is an integral part of the punishment; thus in the case of non-compliance, it should be converted into other sanctions.

* For a comprehensive overview on best practices of restorative justice, see e.g. Melinda Gyokos and Krisztina Lanyi (eds), *European Best Practices of Restorative Justice in the Criminal Procedure*, Ministry of Justice and Law Enforcement, Budapest, 2010.

Restorative justice may have powerful potential in terms of both crime prevention and victim support. In a broader sense, restorative techniques cover a wide range of conflict resolution practices, many of which may contribute to preventing the escalation of the conflict and hence the occurrence of more serious harm and victimisation. Research also suggests that restorative justice in criminal matters can have a favourable impact on re-offending rates. But the most significant advantages of the restorative approach are those connected with the victims' interests. These may include financial compensation for the damage suffered as a result of the crime, as well as an emotional need for the offender's apology and remorse, or the expression of personal feelings about being victimised and a need for a communicative process to overcome the trauma caused by the crime. Various forms of restorative practices – either as an alternative to or in combination with formal criminal justice – are becoming more and more popular in the Member States. As Art. 11 of the proposed directive suggests, however, safeguards are also essential for the effective protection of victims' rights and for preventing secondary victimisation. For that reason, the participation of the victim in restorative processes should always be

voluntary, and all the necessary information about the risks and benefits of such processes should be accessible⁴⁷ (see also Box 9).

⁴⁷ See e.g. Theo Gavrielides, “Restoring Relationships: Hate Crime and Restorative Justice” in Melinda Gyokos and Krisztina Lanyi (eds), *European Best Practices of Restorative Justice in the Criminal Procedure*, Ministry of Justice and Law Enforcement, Budapest, 2010.

Box 9. Restorative justice: Examples of good practice at regional level

In the **UK**, the Southwark Mediation Centre in London specialises in mediating various forms of conflict, including those associated with the workplace, family, youth, antisocial behaviour and hate crimes. Owing to its highly emotional nature, this latter type of crime is a particularly difficult issue to deal with in a restorative way. External evaluations have indicated favourable impacts of the programme, especially in terms of repeat victimisation.

Operating as an alternative to formal criminal justice, the Halt Programme^{*} in the Netherlands is a special scheme designed for first or second-time young offenders. The programme is based upon the dual goals of providing special treatment and support for young offenders, and fulfilling victims' needs for reparation. The police can refer young offenders who have committed minor crimes to the Halt offices, where an interview takes place with the offender and his or her parents to facilitate communication with the victim. During the meetings, the offender is gradually introduced to the programme, including information about the possible means of reparation, the victim's expectations, and as a core element of the programme, how to apologise to the victim. Apologies in general are expected to be offered in person; however, if the victim does not intend to participate in a face-to-face meeting, this should be expressed in a letter. The programme contains further elements of restoration, such as reparation of the damage caused by the crime. The parents of the young offender are fully involved in the programme from the beginning to its completion.

In 2006, a *Gemeinschaftskonferenz* (GMK) [Family Group Conferencing] project for young offenders was launched in Elmshorn, Germany. The aim of the project was to set up a local framework of restorative procedures, in which both the community and the victim are involved, and which also aims to prevent re-offending. Unlike most restorative programmes in Germany, the Elmshorn GMK focuses on more serious offences, such as robbery, burglary and some forms of violent crimes. Conferences are run if the victim, the offender and at least one supporter of the offender are all willing to

participate in the procedure. The result of a successful conference is a protocol on the form of restoration agreed by all parties. According to preliminary evaluations, the project has been successful in terms of victims' satisfaction.^{**}

* See the Halt website (<http://www.halt.nl/>).

** See e.g. Otmar Hagemann, "'Gemeinschaftskonferenzen' in Elmshorn – The First German Family Group Conferencing Project in Criminal Matters", in Otmar Hagemann, Peter Schäfer and Stephanie Schmidt (eds), *Victimology, Victim Assistance and Criminal Justice: Perspectives shared by International Experts at the Inter-University Centre of Dubrovnik*, 2010.

5. Conclusions

As shown in part III of this paper, in accordance with the subsidiarity principle there is considerable room for manoeuvre left to the Member States, as there are various legal solutions capable of creating sufficient guarantees for victims' rights. Nevertheless, common patterns can be traced in jurisdictions putting the emphasis on the rights of victims and injured parties, especially with regard to some vulnerable victims singled out by the law or policy-makers. These include, among others, the problem of domestic violence, the victims of which are typically women and children, or the victims of terrorism. The spread of these good practices to as-yet-neglected victim groups and further jurisdictions would be desirable. In this part of the paper we would like to draw attention to some common characteristics of the local and regional practices chosen from a wide variety of jurisdictions across the EU, which would justifiably deserve common acknowledgment by all Member States – and not only at regional and local level – by becoming European minimum requirements.

First are practices contributing to victims' access to justice. One of the two aims of the access-to-justice requirement is the provision of easy, informal and anonymous access to all the relevant information for the victim in sufficient detail and within the shortest possible time after the crime is committed. (An example of best practice in this regard is the one-stop access to justice facilitated by the framework of the domestic-violence prevention programme in the Province of Limburg, Belgium.) Preferably all the actors involved in starting a criminal procedure or reporting a crime should be prepared to provide written and verbal information (e.g. as done by the Swedish Brottsoffermyndigheten), putting a special emphasis on victims in vulnerable positions (e.g. the project targeting foreign victims by the Portuguese victim support service, Apoio à Vítima). The second aim of the access-to-justice requirement is the ability of the victim to participate in the criminal justice system or to go on with their case even if the prosecution decides not to continue. Legal aid, legal advice or legal counselling should be made available to those in need, preferably at the lowest possible level (e.g. as provided by the county offices of the Victim Support Service of the Office of Justice in Hungary). Victims should be entitled to be accompanied by support persons. Courts should have separate victim and witness support rooms, where individuals can wait for the hearing or the trial undisturbed.

Secondary programmes that ensure or facilitate the protection of victims. Protection should entail preventing any further harm or intimidation to the victim either as a consequence of a subsequent crime (repeat victimisation) or owing to inappropriate criminal proceedings (secondary victimisation). From the

point of view of the former, education and information for the public through formal and informal channels is a crucial, but not sufficient, element of protection. Proactive intervention (such as the Kirkholt “Burglary Prevention” and the “Biting Back” projects in certain areas in the UK) is seen as good practice. Restorative justice practices can also help in adjusting the victims’ perceptions of safety to reality and in restoring community and individual safety. Fully implemented protection orders issued quickly and without requiring many formalities on the part of the victim are a *sine qua non* of protection. Women’s shelters should be operated throughout the country. Moreover, victims’ privacy is vital not only in such cases, but also more generally, and their privacy and personal data should be protected. Victims should be protected from unnecessary publicity. On this latter point, national laws on criminal procedures and the education of trained personnel having contact with the victims (e.g. interrogating them) have a great impact on the application of methods aimed at avoiding secondary victimisation. Notable examples are the new Criminal Court Complex in Dublin and the NGO project “Coalition for Child-Friendly Interviewing” jointly led by a Bulgarian and a Polish organisation.

Third is appropriate and timely access to emotional, practical, administrative and legal support, which is an essential element of victims’ rights. Effective victim support involves meeting a number of fundamental criteria: it needs to be available before, during and after the criminal proceedings, and from the earliest possible time, irrespective of whether the crime has been reported. Access to support needs to be easy, without involving excessive procedures and formalities. In addition, victims should be assisted by well-trained professionals capable of providing prompt and targeted assistance. The most common way to provide rapid support and information to victims in the Member States is through helplines. We have identified a number of requirements that helplines need to satisfy in order to be effective. Preferably the special needs of vulnerable victims are taken into account and besides the general helplines for victim support, separate, specialised support services should be operated (e.g. as done by the Polish Network of Local Support Centres for Crime Victims or the Eszter Foundation in Budapest).

Finally, research on the legal frameworks and practices in compensation and reparation across the Member States suggests a strong need for development in this field. Obtaining reparation through formal justice might be particularly difficult, although some good practices indicate that with a more reparation-focused approach, it can be significantly facilitated (e.g. as can be seen in France, Sweden and the UK). Meanwhile, a restorative approach in the formal procedure is still an exception rather than the rule. Good practices in restorative justice as an alternative to formal justice, however, show great potential not only

for victim protection, but also for crime prevention (as demonstrated by the Southwark Mediation Centre in London, the Dutch Halt programme, and the *Gemeinschaftskonferenz* [Family Group Conferencing] initiative in Elmshorn, Germany).