New EU Directive establishing minimum standards on the rights, support and protection of victims of crime

– Achievements & Challenges Ahead
Victims Directive - Achievements

• Replacing Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings

• Commission Proposal: 18 May 2011
• European Parliament first reading agreement: 12 September 2012
• Adoption: 4 October 2012
• Transposition deadline: 3 years (end 2015)
• Commission Report deadline: 5 years (end 2017)
Victims Directive – Approach

- Victims are individuals and should be treated as such!

- Meet the needs of victims:
  - Respect and recognition
  - Protection
  - Support
  - Access to justice
  - Compensation and restoration
• **Scope:**
  - Natural persons (not legal persons)
  - Crimes committed in the EU and criminal proceedings taking place in the EU (for extra-territorial offences)
  - Irrespective of victims' residence status
  - Both victims and their family members

• Ensure minimum rights for **all** victims, **all** crimes
• Recognise special needs of vulnerable victims
• Ensure clear, concrete, enforceable obligations
• Directive is just one step – practical measures and further action required (Budapest Roadmap)
Victims Directive compared to 2001 Framework Decision?

- Legally binding and enforceable!
- *NEW*: Applies also to victims’ *family members*
- **Child sensitive** approach
- Accessibility of information & communications
- Extended right to *information* (from first contact throughout criminal proceedings)
- Stronger obligation to provide *victim support*
- *NEW*: Right to *review* decision not to prosecute
- **Individual assessment** to identify vulnerable victims & special protection measures
- **Training** of practitioners

➢ *BUT* some key rights limited to victims with *formal role*!
Victims Directive - Content

• **32 Articles (Art. 1-26 operational)**

• **Art. 1 – Objectives**
  - Victims to receive appropriate information, support and protection and be able to participate in criminal proceedings.
  - Victims to be recognised and treated in a respectful, sensitive, tailored, professional and non-discriminatory manner.
  - Child sensitive approach.
Victims Directive - Content

- **Art. 2 – Definitions** (selection)
  - “Victim” is a natural person who has suffered harm directly caused by a criminal offence, and family members of deceased victim, who have suffered harm as a result
  - “Family members” include also non-married partners
  - Right to limit the number of and prioritise among family members
Victims Directive - Content

• Art. 3-7 - Right to information

- Right to understand and be understood
- Right to get written (translated) acknowledgement of complaint
- Right to receive a range of information from first contact with competent authorities
- Right to receive information about victim’s case throughout criminal proceedings
- Right to interpretation and translation
Victims Directive - Content

- **Art. 8-9 - Victim support**
  - Right to access victim support services (general and specialised support) in accordance with victims’ and family members’ needs. Victim support should be confidential and free of charge.
  - VSO may be public or NGO, professional or voluntary. Specialist support provided by separate entity or by general VSO (or VSO "may call on existing specialised entities").
  - MS must facilitate referrals to VSOs.
  - Support not dependent on formal complaint.
  - Minimum services, incl. procedural and practical information & advice and emotional support. Specialist support to provide shelters and targeted & integrated support for victims with specific needs.
Victims Directive - Content

- Art. 10-17 - Participation in criminal proceedings
  - Right to be heard, reimbursement, legal aid, recovery of property, compensation
  - Rights of victims residents in another MS
  - Safeguards for restorative justice processes
  - Right to review a decision not to prosecute
Victims Directive - Content

- Art. 18-24 - Protection and recognition of victims with specific protection needs
  - Range of protection measures, including avoiding contact with offender, safeguards when interviewing victim, protection of privacy
  - Individual assessment to determine specific protection needs due to vulnerability to secondary and repeat victimisation, intimidation or retaliation.
  - Criteria: personal characteristics, type or nature of the crime and circumstances of the crime.
  - Children always presumed to be vulnerable.
  - Particular attention given some categories of victims
  - Range of special measures to protect such victims during criminal proceedings.
Victims Directive - Content

- **Art. 25 - Training**
  - Training compulsory for police and court staff
  - Training to be available for judges, prosecutors and lawyers
  - Training to be encouraged for victim support and restorative justice services

- **Art. 26 - Cooperation**
  - MS should cooperate with each other
  - Awareness raising actions, information, education
How will we implement the Directive?

- Different **levels** of victims’ procedural rights in the MS
- Different **legal traditions** and **criminal justice systems**
- Different **approaches** taken on victims (hard/soft law)

- Some victims’ rights are more developed than others and MS don't have the same approach on specific rights.
- Directive's minimum standards may already be achieved in some MS while others have a long way to go...
- Some MS are already in the process of reforming their systems and will be in compliance with the Directive quicker than others (who may need more time and assistance).
### Table 3.49: The existence and position of Victim Support Organisations in Member States

<table>
<thead>
<tr>
<th>Member State</th>
<th>There is no national VSO</th>
<th>There is a national VSO</th>
<th>The VSO has achieved national coverage</th>
<th>The VSO provides general services for all victims of crime</th>
<th>The VSO provides specialised services meeting the needs of specific groups</th>
<th>The VSO is consulted on national policies concerning crime victims</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Belgium</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Cyprus</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Denmark</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Estonia</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Finland</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Germany</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Greece</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Hungary</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Ireland</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Italy</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Latvia</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Lithuania</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Malta</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Netherlands</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Poland</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Portugal</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Slovakia</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Slovenia</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Spain</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Sweden</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>0</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

*Source: APAV 2009*
Commission's role in the Implementation

- **Commission** guidelines on interpretation of each Article and appropriate measures for compliance (considering both hard and soft law measures).

- **Consultation and cooperation** with MS, VSOs and other stakeholders (meetings and workshops).

- **Commission funding of practical action** through grant funding or contracts (e.g. exchange of best practices, training, information provision, awareness raising, studies)

- **Recommendations** on specific issues.
Challenges Ahead...

- **Keep the momentum on victims!** We now have to live up to expectations and make a real change for victims.

- **Effective implementation.** We have to listen to Member States and consult with and involve stakeholders.

- **Address gaps for future action.** Our efforts don't end here – upcoming actions in the pipeline (e.g. compensation).
Contact / Info:

European Commission
DG Justice, Procedural Criminal Law unit

Ingrid Bellander Todino
Victims Team Leader

Tel.: +32-2 298 7539
E-mail: ingrid.bellander-todino@ec.europa.eu

Website: