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COMPROMISE AMENDMENTS 1 - 39

Draft report

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(PE480.616v01-00)

on the proposal for a directive of the European Parliament and of the Council
establishing minimum standards on the rights, support and protection of
victims of crime

Proposal for a directive
(COM(2011)0275 – C7-0127/2011 – 2011/0129(COD))

AM_Com_LegCompr

Compromise Amendment 1
replacing amendments 29, 213, 214 and 216

Proposal for a directive
Article 1

Text proposed by the Commission

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

Amendment

The purpose of this Directive is to ensure that all victims of crime receive appropriate protection and support and are able to participate in ***all the stages of*** criminal proceedings and are recognised and treated in a respectful, sensitive, ***personalised*** and professional manner, without discrimination of any kind ***based on any ground such as race, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, nationality, property, disability, age, gender, gender identity and gender expression, sexual orientation, immigration and residence status, state of health (including HIV and AIDS) inter alia,*** in all contacts with any ***competent*** authority, victim support or restorative justice service.

Compromise amendment 2
replacing amendments 31 ,244 245, 246, 247

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

Text proposed by the Commission

Amendment

(g a) 'gender-based violence' means a criminal offence that is directed against a person because of his or her gender or gender identity or gender expression or that affects persons of a particular gender or gender identity disproportionately, and in this regard mostly women, and that results in physical or mental injury, emotional suffering or economic loss of the victim.

Compromise amendment 3
replacing amendments 32, 248, 249, 250

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

Text proposed by the Commission

Amendment

(g b) 'violence in close relationships' means a criminal offence that is committed against a victim by a person who is a current or former spouse or partner or other family member of the victim, whether or not the perpetrator shares or has shared the same household with the victim, and that results in physical or mental injury, emotional suffering or economic loss of the victim. Women are affected disproportionately by this type of violence, and the offence is aggravated by the fact that they are also often dependent on the perpetrator financially, socially or as regards their right to residence.

Compromise amendment 4
replacing amendments 255, 259

Proposal for a directive
Article 3 – point f

Text proposed by the Commission

(f) *to what extent and* on what terms they are entitled to receive legal advice, legal aid or any other sort of advice;

Amendment

(f) *all necessary information regarding their rights, including their right to a fair trial, and the right to redress* as well as on what terms they are entitled to receive legal advice, legal aid or any other sort of *independent and qualified* advice;

Compromise amendment 5
replacing amendments 36, 269, 270, 252

Proposal for a directive
Article 3 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The information referred to in paragraphs 1 and 2 shall be provided either orally or in writing, in simple and accessible language and in a language that the victim understands, using child sensitive communication techniques when appropriate, taking into account the particular needs and the personal characteristics of the victim and the circumstances, the severity and the nature of the criminal offence.

Compromise amendment 6

replacing amendments 41 and 280, 281, 283 , 285 , 286

Proposal for a directive

Article 4 – paragraph 2

Text proposed by the Commission

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

Amendment

(2) Member States shall ensure that victims are offered the opportunity to be notified ***without unnecessary delay***, when the person ***arrested, remanded in custody***, prosecuted or sentenced for offences concerning them is released from ***or has escaped any type of*** detention, ***including pre-trial detention, as well as of any right of appeal against the decision to release such a person***. ***Member States shall ensure that victims are provided with effective support and assistance when receiving this information***. Victims shall receive this information ***unless the competent authority is aware that notification of release is likely to result in harm to the offender***. ***Victims shall also be informed of any measures issued for their protection such as restraining orders or no contact orders***.

Compromise amendment 7

replacing amendments 42, 282, 284, 287

Proposal for a directive

Article 4 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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

Compromise amendment 8
replacing amendments 45, 288, 289 , 290, 292

Proposal for a directive
Article 5

Text proposed by the Commission

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

Amendment

Member States shall take measures to ensure that victims **and their family members fully** understand and can be **fully** understood during any interaction they have with **any competent** authorities **from their first contact with them, during and after the conclusion of** criminal proceedings, including where information is provided by such authorities. **Particular account shall be taken in this respect of the individual and specific needs of the victims, and of difficulties in understanding or communicating which may be due to a disability of some kind, for which accessible media and formats shall be prioritised.**

Compromise Amendment 9
replacing amendments 297, 298, 299 and 300

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

Text proposed by the Commission

Amendment

1a. Member States shall ensure that victims who wish to make a complaint of a criminal offence and who do not understand or speak the language of the competent authority shall be enabled to make the complaint. Member States shall as a minimum ensure that the victims are assisted in making a complaint of a criminal offence in a language that they understand. Member States shall ensure that victims are notified in a simple and accessible manner in a language that the victim understands of their right to assistance and of their rights to active participation in the criminal proceedings.

Compromise amendment 10
replacing amendments 52, 314, 315, 316, 317, 320

Proposal for a directive
Article 7 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Member States shall ensure that victims and their family members, have access to free of charge, ***easily accessible and confidential victim support services acting independently and in the interest of the victims from the moment the victims suffer harm, during and after the conclusion of criminal proceedings and regardless of where the crime took place. Victims with specific needs shall have access to victim support services specialised on the type of crime the victim suffered, in order to get the best quality support.***

Compromise amendment 11
replacing amendments 323 and 324

Proposal for a directive
Article 7 – paragraph 2 – point b

Text proposed by the Commission

b) *information on or* referral to, *as appropriate*, specialist services;

Amendment

b) *direct* referral of *victims with specific needs* to specialist *support* services , *in order to avoid victims having to be referred to those services repeatedly and having to report the crime repeatedly*;

Compromise amendment 12

replacing Amendments 58 , 326 and 327

Proposal for a directive Article 7 – paragraph 3

Text proposed by the Commission

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

Amendment

3. Member States shall facilitate the referral of victims, by the ***competent*** authority and ***by*** other relevant agencies ***that received the complaint***, to victim support services. ***Repeat referrals shall be avoided and victims having specific needs or victims of certain types of crime shall be referred directly to specialised services.***

Compromise amendment 13
replacing Amendments 59 , 328, 330, 331

Proposal for a directive
Article 7 – paragraph 4

Text proposed by the Commission

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

Amendment

4. Member States shall ***ensure*** the setting up or development of specialist support services, ***including women's shelters and specialist support services for the victims with specific needs identified according to article 18, including specialist support services for children, for victims of gender-based violence, victims of violence in close relationships and their family members***, in addition to general victim support services.

Compromise amendment 14
replacing Amendments 341 and 343

Proposal for a directive
Article 9

Text proposed by the Commission

Member States shall ensure that victims may be heard during criminal proceedings and may supply evidence.

Amendment

Member States shall ensure that victims, ***taking special consideration of individual circumstances and specific needs where appropriate***, may be heard during criminal proceedings and may supply evidence. ***Child victims shall be given the opportunity to play an active part in criminal proceedings and to have their testimony taken into account. Their testimony shall not be presumed invalid or untrustworthy by reason of the child's age alone as long as his or her age and maturity allow the giving of intelligible and credible testimony with or without appropriate communication aids and tools.***

Compromise amendment 15
replacing amendments 349, 350 and 351

Proposal for a directive
Article 11 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States shall ***establish standards*** to safeguard the victim from intimidation or further victimisation, ***to be applied when providing mediation or other restorative justice services***. Such ***standards should*** as a minimum include the following:

Amendment

1. Member States shall ***take measures*** to ***ensure that the victim who chooses to participate in the restorative justice process has access to safe, competent restorative justice services that*** safeguard the victim from intimidation or further victimisation. Such ***measures shall*** as a minimum include the following:

Compromise amendment 16
replacing Amendments 64, 398, 399, 400, 401 and 402

Proposal for a directive
Article 17 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Member States shall ensure that measures are available to ***identify any possible risks of retaliation, intimidation repeat or further victimisation and to protect the safety and dignity*** of victims and their family members from retaliation, intimidation, repeat or further victimisation, ***such as interim injunctions, or protection and restraining orders from their first contact with a competent authority, during and after the conclusion of criminal proceedings. When requested by the victims, these measures shall include non disclosure of the personal characteristics taken into account in the individual assessment referred to in Article 18.***

Compromise amendment 17
replacing Amendments 75, 443, 448, 449, 450, 451

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

Text proposed by the Commission

Amendment

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

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

(b) the type or nature of the crime such as where exploitation or physical or sexual violence has been used, hate crime or the fact it is committed with a bias or discriminatory motive relating to the victim's personal characteristics referred in point a, the risk factor posed by the accused, the impact on and consequences for the victims, the trauma caused by the crime, the risk of retaliation and repeat victimisation,

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

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

Compromise Amendment 18
replacing Amendments 78, 458, 459, 460

Proposal for a directive
Article 19 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Technical compromise amendment 19
replacing amendments 79 and 454

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

Text proposed by the Commission

Amendment

1a. Member States shall ensure that the design of new court buildings is accessible for persons with disabilities and include separate waiting areas for victims.

Compromise amendment 20
replacing amendments 86, 477, 478, 479, 476

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

Text proposed by the Commission

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

Amendment

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

Compromise amendment 21

replacing amendments 94, 502, 503, 504, 507, 508, 509, 511

Proposal for a directive

Article 24 – paragraph 1

Text proposed by the Commission

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

Amendment

1. Member States shall ensure that ***professional staff that come into contact with the victims, such as*** police, prosecutors, ***judges*** ,court staff, ***lawyers, the emergency services, health services, social services and any other officials likely to come into contact with victims,*** receive ***the necessary support*** , training, ***and guidelines*** to a level appropriate to their contact with victims, ***especially when the victims are children,*** to sensitise them to the ***rights and*** needs of victims and to deal with them in an impartial, respectful, professional, ***and empowering*** manner, ***and to contribute to begin to repair harm and rebuild trust. Such specialised training shall include the respective contribution of all officials to the process of individual identification of victims with specific needs provided for in Article 18.***

Compromise amendment 22
replacing Amendments 517 and 519

Proposal for a directive
Article 24 – paragraph 3

Text proposed by the Commission

3. Member States shall take measures to ensure that those providing victim support and restorative justice services receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful *and* professional manner.

Amendment

3. Member States shall take measures to ensure that those providing victim support and restorative justice services *and other agencies coming into contact with victims of crime, such as health agencies* receive adequate training to a level appropriate to their contact with victims and observe professional standards to ensure such services are provided in an impartial, respectful, *personalised*, professional *and empowering* manner. *They shall also ensure that especially victims with specific needs are cared for by specialist staff.*

Compromise amendment 23
replacing Amendments 95, 522, 523, 524

Proposal for a directive
Article 24 – paragraph 4

Text proposed by the Commission

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

Amendment

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

Compromise amendment 24
replacing amendments_ 101, 535 , 536, 537, 538

Proposal for a directive
Article 27

Text proposed by the Commission

Member States shall communicate to the European Commission data related to the application of national procedures on victims of crime, by *[two years after the date of adoption]* at the latest.

Amendment

Member States shall ***collect and*** communicate to the European Commission data related to the application of national procedures on victims of crime, ***including at least the number, type and nature of reported crimes, the gender and age of the victims and of the alleged perpetrators, the nationality of the victims, the relationship of the perpetrators to the victims, the geographical location ,the type of services that victims were referred to as well as data on the number of acquittals, the number of convictions, the number of protection orders issued to protect victims - including data concerning people with disabilities and sign language users and data on the implementation of this Directive by ...**** with due regard for the fundamental principles of privacy and the protection of personal data.

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

Compromise amendment 25
replacing amendments 2 and 106

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2b) This Directive is part of a legislative package which aims at strengthening the rights of victims in the Union. When implementing this Directive, Member States should take into account Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order¹ and Regulation (EU) No .../2012 [on mutual recognition of protection measures in civil matters]*. In addition, when implementing this Directive, Member States should take account of Directive 2011/92/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 pornography¹.

¹ OJ L 388, 21.12.2011, p. 2.

* OJ please insert number, title and reference.

¹ OJ L 335, 17.12.11, p.1.

Compromise amendment 26

replacing amendments 5, 109, 110, 111, 112, 113, 114

Proposal for a directive

Recital 5

Text proposed by the Commission

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

Amendment

(5) Crime is a violation of the individual rights of victims ***as well as an offence against society***. As such, victims should be ***treated with all due respect to their human rights***, recognised and treated in a respectful, sensitive, ***personalised*** and professional manner in all contacts with any ***competent*** authority, victim support service or restorative justice service taking into account their personal situation, and immediate needs ***without any kind of discrimination, based on any ground such as race, ethnic or social origin, genetic features, language, religion or belief, political or other opinion, nationality, property, disability, age, gender, gender identity and expression, sexual orientation, immigration and residence status, state of health (including HIV and AIDS)***, and fully respecting their physical, mental and moral integrity. They should be protected from secondary and repeat victimisation and intimidation, should receive appropriate support to facilitate their recovery and should be provided with ***effective and timely*** access to justice.

Compromise amendment 27
replacing amendments 6, 117, 118, 119

Proposal for a directive
Recital 7

Text proposed by the Commission

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

Amendment

(7) This Directive respects fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular it seeks to promote the right to dignity, life, physical and mental integrity, ***freedom and security, the right to non-discrimination, the right to respect for*** private and family life, ***the principle of gender equality***, right to property, the rights of the child, the elderly and persons with disabilities, and the right to a fair trial. ***The Directive is without prejudice to the 1951 UN Convention relating to the Status of Refugees as regards the principle of non-refoulement and the fundamental right of victims to seek and enjoy asylum where relevant.***

Compromise amendment 28

replacing amendments 7, 123, 124, 125, 126, 127, 128, 129

Proposal for a directive

Recital 9

Text proposed by the Commission

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

Amendment

(9) A person should be considered a victim regardless of whether ***an offender*** is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between ***the offender*** and the victim. Family members of victims are also harmed as a result of the crime, in particular the family of a deceased victim, who have a legitimate interest in criminal proceedings ***and in all relevant remedial and compensatory measures. Children who are witnessing violence in close relationship may also exhibit similar psychological reactions to children who have been subject to abuse themselves.*** Such indirect victims should therefore also benefit from protection, ***support and the right to compensation*** under this Directive. Victims need appropriate support and assistance, ***regardless of whether or not they report the crime.*** Such support can be crucial both for the recovery of the victim and in any decision to ultimately report the crime. ***Measures concerning such support and assistance should be gender-specific where appropriate and accessible to victims with disabilities and should take into account the age of the victim. Where a victim is a child, the holder of the parental responsibility should be entitled to exercise the rights provided for by this Directive on behalf of the child.***

Compromise amendment 29
replacing amendments 12, 134, 135

Proposal for a directive
Recital 11

Text proposed by the Commission

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

Amendment

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

Compromise amendment 30
replacing amendments 13, 137, 140, 142

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) Justice cannot be effectively achieved unless the victim can properly explain the circumstances of the crime they have suffered and provide their evidence in a manner understandable to the competent authorities. It is equally important to ensure the respectful treatment of the victim and to ensure they are able to access their rights. Free of charge interpretation should therefore always be available during questioning of the victim and for their participation in court hearings. For other aspects of criminal proceedings, the need of interpretation and translation can vary depending on specific issues, the status of the victim and their involvement in proceedings and any specific rights they have. As such interpretation and translation for these other cases need only be provided to the extent necessary for victims to exercise their rights.

Amendment

(12) Justice cannot be effectively achieved unless the victim can properly explain the circumstances of the crime they have suffered and provide their evidence in a manner understandable to the competent authorities. It is equally important to ensure the respectful treatment of the victim and to ensure they are able to access their rights ***regardless of their nationality***. Free of charge interpretation should therefore always be available during questioning of the victim and for their participation in court hearings; ***this should also refer to communication problems arising from a possible disability suffered by the victim***. For other aspects of criminal proceedings, the need of interpretation and translation can vary depending on specific issues, the status of the victim and their involvement in proceedings and any specific rights they have. As such interpretation and translation for these other cases should be provided to the extent necessary for victims to exercise their rights. ***Interpretation and translation under this Directive should be provided in one of the languages spoken and understood by the victims in order to allow them to exercise their rights fully***.

Compromise amendment 31
replacing amendments 14, 143 and 148

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) Support, whether provided by governmental or non-governmental organisations, should be made available from the moment a crime takes place as well as throughout criminal proceedings and after such proceedings in accordance with the needs of the victim. Support should be provided through a variety of means, without excessive formalities and through **a sufficient** geographical distribution to allow all victims the opportunity to access such services. Certain groups of victims such as victims of sexual violence, gender, race hate or other bias crimes or victims of terrorism **may** require specialist support services due to the particular characteristics of the crime they have fallen victim to.

Amendment

(13) Support, whether provided by governmental or non-governmental organisations, **suitably identified**, should be made available from the moment a crime takes place as well as throughout criminal proceedings and after such proceedings in accordance with the needs of the victim. Support should be provided through a variety of means, without excessive formalities and through **an appropriate** geographical distribution to allow all victims the opportunity to access such services. **Children and** certain groups of victims such as victims of sexual violence, gender, race hate or other bias crimes or victims of terrorism **and organised crime** require specialist support services due to the particular characteristics of the crime they have fallen victim to. **Member States should provide the necessary resources for the support, assistance and protection of victims and the proceeds seized in the context of various forms of common, organised or terrorist-related crime should be set aside for this purpose as a matter of priority.**

Compromise amendment 32
replacing amendments 155, 156, 157, 158, 159

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) Restorative justice services, including for example victim-offender mediation, family group conferencing and sentencing circles, can be of great benefit to the victim, **but require safeguards** to prevent **any further** victimisation. **Such** services should **therefore** have as a primary consideration the interests and needs of the victim, repairing the harm done to the victim and avoiding further harm. Factors such as power imbalances, and the age, maturity or intellectual capacity of the victim, which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim, should be taken into consideration in referring a case to and in conducting a restorative process. Whilst **private** proceedings should in general be confidential, unless agreed otherwise by the parties, factors such as threats **made** during the process may be considered as requiring disclosure in the public interest.

Amendment

(16) Restorative justice services, including for example victim-offender mediation, family group conferencing and sentencing circles, can be of great benefit to the victim. **In order** to prevent **secondary** victimisation **such** services **have to be conducted in a competent manner and** should have as a primary consideration the interests and needs of the victim, repairing the harm done to the victim and avoiding further harm. Factors such as **the type, nature and gravity of the crime, the ensuing degree of trauma,** power imbalances, and the age, maturity or intellectual capacity of the victim, which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim, should be taken into consideration in referring a case to and in conducting a restorative process. Whilst proceedings should in general be confidential, unless agreed otherwise by the parties, factors such as threats **or any other forms of violence occurring** during the process may be considered as requiring disclosure in the public interest. **Considering the potential benefits of restorative justice, victims should have the possibility to take advantage of such services to the widest extent possible. In all cases, any such step requires the express permission of the victim concerned.**

Compromise amendment 33
replacing amendments 15, 161, 163, 166

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) Some victims are particularly vulnerable during criminal proceedings to secondary and repeat victimisation and to intimidation by the offender or his associates. Such vulnerability can broadly be identified from the personal characteristics of the victim and the type or nature of the crime. On this basis some victims such as children, persons with disabilities, victims of sexual violence and victims of human trafficking are in most cases vulnerable to further victimisation and in need of special protection measures. Only in exceptional circumstances, such as balancing the fundamental rights of the accused or suspected person, or where the victim so wishes, should access to such protection measures be limited. In the case of victims of human trafficking and victims of child sexual abuse, sexual exploitation and *child* pornography, where specific and more detailed provisions are already included in separate instruments adopted or in course of negotiation this Directive does not deal with those same matters.

Amendment

(17) Some victims are particularly vulnerable during criminal proceedings to secondary and repeat victimisation and *can easily be intimidated* by the offender or his associates *and therefore have specific needs*. Such vulnerability can broadly be identified from the personal characteristics of the victim and the type or nature of the crime. On this basis some victims such as children, persons with disabilities, victims of sexual violence, *victims of gender-based violence, victims of violence in close relationships, victims of terrorism and organised crime, such as victims of mafia organisations and drug traffickers*, and victims of human *and organ* trafficking, are in most cases vulnerable to further victimisation and in need of special protection measures. Only in exceptional circumstances, such as balancing the fundamental rights of the accused or suspected person, or where the victim so wishes, should access to such protection measures be limited. *In addition to measures available to all victims, Member States should ensure that specific assistance, support and protection measures are available to child victims. Those measures should be provided in the best interests of the child and in accordance with the 1989 United Nations Convention on the Rights of the Child.* In the case of victims of human *and organ* trafficking and victims of child sexual abuse, sexual exploitation of *children and mentally retarded people* and pornography *involving both groups*, where specific and more detailed provisions are already included in separate instruments adopted or in course of negotiation this

Directive does not deal with those same matters.

Compromise amendment 34
replacing amendments 16, 167 and 172

Proposal for a directive
Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) Gender-based violence refers to violence that is directed against a person because of his or her gender, gender identity or gender expression. It is a form of violence that affects women disproportionately and it may be interrelated but is not limited to cases of violence in close relationships, sexual violence (including sexual assault and sexual harassment), sexual trafficking and slavery, intimate relationship violence and other harmful practices such as forced marriages and female genital mutilation. Homophobic and transphobic attacks have also been defined as a form of gender-based violence. Research shows that one-fifth to one-quarter of all women have experienced physical violence at least once during their adult lives and more than one-tenth have suffered sexual violence involving the use of force. It is therefore crucial to criminalise all forms of gender-based violence and provide victims with specific prevention and protection measures, and remedies.

Women victims of gender-based violence and their children also require special attention and protection because of a high risk of repeat victimisation with this type of crime and due to the severe trauma such a crime causes because it is committed by a person the victim should be able to trust and also because victims cannot rely on support by the partner in overcoming the trauma.

Compromise amendment 35
replacing Amendments 20, 174, 175, 176, 179, 180

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) Beyond these categories, but again based on personal characteristics and the crime, any person could be vulnerable. Only through individual assessments, carried out at the earliest opportunity by those in a position to make recommendations on protection measures, can such vulnerabilities be effectively identified. The assessment should in particular take into account age, gender and gender identity, ethnicity, race, religion, sexual orientation, state of health, disability, communication difficulties, relationship to or dependence on the suspected or accused person, previous experience of crime, the type or nature of the crime such as organised crime, terrorism, or bias crimes and whether the victim is a foreign victim. Victims of terrorism require particular attention in any assessment given the varying nature of such acts ranging from mass acts of terrorism to targeted terrorism against individuals.

Amendment

(18) Beyond these categories, but again based on personal characteristics and the crime, any person could be vulnerable ***and could have specific needs***. Only through individual assessments, carried out at the earliest opportunity by those in a position to make recommendations on protection measures, can such vulnerabilities be effectively identified. The assessment should in particular take into account age, gender and gender identity ***and gender expression***, ethnicity, race, religion, sexual orientation, state of health, disability, communication difficulties, relationship to or dependence on the suspected or accused person, previous experience of crime, the type or nature of the crime such as organised crime, terrorism, or bias crimes, ***the results of the crime and the trauma suffered by the victim, and whether the victim is a foreign victim and whether the victim is a migrant, an asylum seeker or a beneficiary of international protection, in particular a woman whose legal status may depend on that of the alleged offender***. Victims of terrorism require particular attention in any assessment given the varying nature of such acts ranging from mass acts of terrorism to targeted terrorism against individuals ***or to the victims of organised crime, especially mafia-style crime. Women who are victims of gender-based violence and their children also require special attention and immediate protection because there is a high risk of repeat victimisation together with huge trauma due to the crime being committed by someone whom the victim ought to be able to trust. Special attention needs to be paid to 'organised***

intimidation' wherein the full complexity of criminal organisations and the social groups that support them come together in coordinated direct intimidation of specific individuals and, through them, of society as a whole. They intimidate and place pressure on people who, on account of their activities, thoughts, attitudes or position in the social and professional fabric may be targeted for more serious attacks, including assassination.

Compromise amendment 36
replacing amendments 21, 184, 185, 186

Proposal for a directive
Recital 19

Text proposed by the Commission

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

Amendment

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

Compromise amendment 37
replacing amendments 3, 188 and 189

Proposal for a directive
Recital 20 a (new)

Text proposed by the Commission

Amendment

(20 a) In applying the provisions of this Directive, Member States should act with due diligence and ensure that women's rights are protected as to respect obligations deriving from the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) of 1979, the CEDAW Committee's recommendations and decisions and should take into account the standards set out in the Council of Europe Convention on preventing and combating violence against women and domestic violence adopted on 7 April 2011 concerning the prevention of gender-based violence, the protection of and assistance for the victims of such violence, and the prosecution of the perpetrators of such violence.

Compromise amendment 38
replacing amendments 24, 198, 199, 200, 196

Proposal for a directive
Recital 24

Text proposed by the Commission

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

Amendment

(24) Any officials in criminal proceedings likely to come into contact with victims should be **able to access and receive appropriate training so they are able to identify victims, to deal with them** to identify and meet the needs of victims both through initial and ongoing training and to a level appropriate to their contact with victims. This should include **training on the specific services to which victims should be referred or specialist training where their work focuses on victims with special needs and specific psychological training** as appropriate. **Member States should promote this training requirement for the following: police services, lawyers, health services, social services and social workers, judges and staff within the judicial authorities, staff responsible for the protection of children's rights and any other person likely to come into contact with victims in the course of their duties.**

In cases of gender-based violence training should include appropriate methods to deal with victims of such violence in a gender-sensitive manner. Such training should be institutionalised and standardised across Member States and should be carried out in close consultation with non-governmental organisations and service providers for victims of gender-based violence.

Compromise amendment 39
replacing amendments 26, 208, 209

Proposal for a directive
Recital 25 a (new)

Text proposed by the Commission

Amendment

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

