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*Committee on Legal Affairs*

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**2011/0129(COD)**

7.3.2012

# **AMENDMENTS**

## **30 - 67**

**Draft opinion**  
**Antonio López-Istúriz White**  
(PE480.514v01-00)

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\_LegOpinion

## Amendment 30

Evelyn Regner

### Proposal for a directive

#### Recital 8

##### *Text proposed by the Commission*

(8) This Directive lays down minimum rules. Member States may extend the rights set out in this Directive in order to provide a higher level of protection.

##### *Amendment*

(8) This Directive lays down minimum rules. Member States may extend the rights set out in this Directive, ***in particular so as to give victims a comprehensive status of party in criminal proceedings, including the right to legal aid and access to the file,*** in order to provide a higher level of protection.

Or. de

## Amendment 31

Evelyn Regner

### Proposal for a directive

#### Recital 10

##### *Text proposed by the Commission*

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

##### *Amendment*

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

prosecute.

Or. de

**Amendment 32**  
**Dimitar Stoyanov**

**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, 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, **and** victims of terrorism **or organised crime**, may require specialist support services due to the particular characteristics of the crime they have fallen victim to.

Or. bg

*Justification*

*Victims of organised crime belong in the group of particularly vulnerable victims, since they are especially open to intimidation and the threat of repeated violence by the perpetrators of such crime. This is why they need special measures not only for protection during criminal proceedings, but also concerning specialist support services.*

**Amendment 33**  
**Dimitar Stoyanov**

**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 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, **victims of organised crime** 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 **or organised crime** and victims of child sexual abuse, sexual exploitation and child pornography, where specific and more detailed provisions are already included in separate instruments adopted or in course of negotiation this Directive does not deal with those same matters.

Or. bg

*Justification*

*Victims of organised crime are one of the specific categories of victim defined in the Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on Strengthening Victims' Rights in the EU – 18.05.2011 (COM(2011) 274). In view of the fact that the victims of organised crime are particularly vulnerable to intimidation and the threat of repeated violence by the perpetrators of such crime, they need special measures for protection.*

**Amendment 34**  
**Jan Philipp Albrecht**

**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. 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.

Or. en

**Amendment 35**  
**Antonio López-Istúriz White**

**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

*Amendment*

(24) Any ***professionals*** in criminal proceedings likely to come into contact with victims should be trained to identify

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*.

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, *for example concerning victims of sexual offences, families bereaved by murder, young victims of crime or victims of cross-border crime*.

Or. es

**Amendment 36**  
**Jan Philipp Albrecht**

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

*Text proposed by the Commission*

*Amendment*

*(25a) Environmental damage is not victimless. Environmental crime is difficult to address because it can result in collective or mass victimisation, has a tendency to affect non-conventional victims, and the resulting victimisation is often gradual and silent. Environmental harm and the question of the victims of environmental crime affect not only individual interests but also those of entire communities or groups of people, and includes the need to consider the consequences of today's actions for future generations based on intergenerational responsibility and to recognise that all people, in present and future generations, have the right to live in an environment conducive to their health and wellbeing in accordance with Regulation (EC) No 1367/2006 of 6 September 2006 of the European Parliament and of the Council on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies. Certain*

*procedural environmental rights concerning, inter alia, access to justice can be ensured through the recognition, by this Directive, of the environment and its ecosystems as potential victims of illicit behaviour.*

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*1. OJ L 264, 5.9.2006, p. 13.*

Or. en

**Amendment 37**  
**Jan Philipp Albrecht**

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

*Text proposed by the Commission*

*Amendment*

*(iia) the environment which has suffered damage caused by a criminal offence.*

*Member States shall ensure that any group, foundation or association which, according to its statutes under national law, aims to protect the environment can benefit from the rights conferred pursuant to Chapter 3 of this Directive.*

Or. en

**Amendment 38**  
**Arlene McCarthy**

**Proposal for a directive**  
**Article 3 – introductory part**

*Text proposed by the Commission*

*Amendment*

Member States shall ensure that victims are provided with the following information, without unnecessary delay, from their first contact with *the* authority *competent to receive* a complaint *concerning* a criminal

Member States shall ensure that victims are provided with the following information, without unnecessary delay, from their first contact with *any public* authority *following*



offence:

a complaint **about** a criminal offence:

Or. en

*Justification*

*There are a number of instances whereby a victim of crime may not report a criminal offence to the correct public authority in the first instance, for example - if they are abroad, or particularly distressed. Therefore, instead of referring victims to different authorities and potentially delaying their access to support, all public authorities should be able to provide these basic details.*

**Amendment 39**

**Jan Philipp Albrecht**

**Proposal for a directive**

**Article 3 – introductory part**

*Text proposed by the Commission*

Member States shall ensure that victims are provided with the following information, without unnecessary delay, from their first contact with the authority competent to receive a complaint concerning a criminal offence:

*Amendment*

Member States shall ensure that **all** victims are provided with the following information, without unnecessary delay **and in a language that the victim understands, conveyed using child-sensitive communication techniques where appropriate**, from their first contact with the authority competent to receive a complaint concerning a criminal offence:

Or. en

**Amendment 40**

**Antonio López-Istúriz White**

**Proposal for a directive**

**Article 3 – point f a (new)**

*Text proposed by the Commission*

*Amendment*

**(fa) that they have a right to interpretation and translation in every case, free of charge;**

**Amendment 41**  
**Arlene McCarthy**

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

*Text proposed by the Commission*

*Amendment*

***The information provided for in paragraph 1 shall be provided both orally and in writing, in simple and accessible language, taking into account any particular need of vulnerable persons.***

Or. en

*Justification*

*It is not sufficient to give authorities the option of providing the information in paragraph 1 only orally.*

**Amendment 42**  
**Evelyn Regner**

**Proposal for a directive**  
**Article 4 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

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

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

Or. de

**Amendment 43**  
**Evelyn Regner**

**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 when the person prosecuted or sentenced for offences concerning them is released from detention. Victims shall receive this information ***immediately*** where they expressed such a wish.

Or. de

**Amendment 44**  
**Antonio López-Istúriz White**

**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 when the person prosecuted or sentenced for offences concerning them is released from detention. Victims shall receive this information ***in every case***.

Or. es

**Amendment 45**  
**Arlene McCarthy**

**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, in accordance with their needs, have access to free of charge, confidential victim support services ***before, during, and for an appropriate amount of time after conclusion of any criminal proceedings.***

Or. en

*Justification*

*It is necessary to specify that there should be a consistent, guaranteed level of support across Member States and that support should not be limited to the aftermath of the crime as criminal proceedings can be protracted, complex and traumatic, particularly for victims of violent and/or sexual crime.*

**Amendment 46**  
**Jan Philipp Albrecht**

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

*Text proposed by the Commission*

*Amendment*

***4a. Member States shall allow non-governmental organisations with a legitimate interest to intervene in criminal proceedings in support of, or on behalf of, the victim or victims, in particular where the criminal offence harms the environment or infringes the public interest by injuring an unspecified number of people.***

Or. en

**Amendment 47**  
**Arlene McCarthy**

**Proposal for a directive**  
**Article 8**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

*Justification*

*In line with the rights afforded to individuals accused of committing crimes abroad.*

**Amendment 48**  
**Evelyn Regner**

**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 may ***take part in criminal proceedings and that they have the right to*** be heard during criminal proceedings and ***to*** supply evidence.

Or. de

**Amendment 49**  
**Arlene McCarthy**

**Proposal for a directive**  
**Article 15 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall take measures to encourage offenders to provide adequate

*Amendment*

2. Member States shall take measures to encourage offenders to provide adequate compensation to victims ***and shall assist***

compensation to victims.

***victims in the timely enforcement of compensation orders.***

Or. en

*Justification*

*I support the rapporteur's amendment to this paragraph; however, it should be strengthened by stressing that Member States should be responsible for ensuring that compensation orders are quickly executed.*

**Amendment 50**  
**Dimitar Stoyanov**

**Proposal for a directive**  
**Article 15 – paragraph 2**

*Text proposed by the Commission*

2. Member States shall take measures to encourage offenders to provide ***adequate*** compensation to victims.

*Amendment*

2. Member States shall take measures to encourage offenders to provide ***satisfactory*** compensation to victims ***for any personal injury or damage to property.***

Or. bg

**Amendment 51**  
**Arlene McCarthy**

**Proposal for a directive**  
**Article 16 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Member States shall ensure that simple, common procedures are in place to enable victims of crime resident in another Member State to apply for compensation easily, and that cross-border compensation orders are executed without undue delay.***

Or. en

### *Justification*

*Victims of crime abroad should not be put off from claiming the compensation that they are entitled to by complex procedures. Member States should ensure that there is a single, simple procedure for non-national claims for compensation, and that cross-border compensation orders are executed in a timely fashion.*

#### **Amendment 52** **Arlene McCarthy**

##### **Proposal for a directive** **Article 18 – paragraph 1 – introductory part**

###### *Text proposed by the Commission*

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

###### *Amendment*

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

Or. en

#### **Amendment 53** **Arlene McCarthy**

##### **Proposal for a directive** **Article 18 – paragraph 1 – point a**

###### *Text proposed by the Commission*

(a) Children;

###### *Amendment*

(a) Children ***and the elderly***;

Or. en

#### **Amendment 54** **Jan Philipp Albrecht**

##### **Proposal for a directive** **Article 18 – paragraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

***(b) Persons with disabilities.***

***deleted***

Or. en

**Amendment 55**  
**Arlene McCarthy**

**Proposal for a directive**  
**Article 18 – paragraph 1 – point b a (new)**

*Text proposed by the Commission*

*Amendment*

***(ba) Persons who are at risk of being targeted or intimidated;***

Or. en

**Amendment 56**  
**Arlene McCarthy**

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

*Text proposed by the Commission*

*Amendment*

***(aa) Victims of domestic violence;***

Or. en

**Amendment 57**  
**Antonio López-Istúriz White**

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

*Text proposed by the Commission*

*Amendment*

***(ba) Victims of terrorist attacks, victims of paedophilia and cybercrime.***



**Amendment 58**  
**Dimitar Stoyanov**

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

*Text proposed by the Commission*

*Amendment*

***ba) Victims of organised crime.***

Or. bg

*Justification*

*Victims of organised crime should be included in the scope of Article 18, which defines the categories of vulnerable victim on the basis of the nature or type of crime of which they were victim. Victims of organised crime are also categorised as particularly vulnerable victims in the Communication from the Commission to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on Strengthening Victims' Rights in the EU – 18.05.2011 (COM(2011) 274).*

**Amendment 59**  
**Jan Philipp Albrecht**

**Proposal for a directive**  
**Article 18 – paragraph 3 a (new)**

*Text proposed by the Commission*

*Amendment*

***3a. Member States shall ensure the proper application of victims' rights in cases of mass victimisation caused by a criminal offence.***

Or. en

**Amendment 60**  
**Arlene McCarthy**

**Proposal for a directive**  
**Article 20 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. Member States shall promote the provision of pre-trial familiarisation visits to courts for victims.***

Or. en

*Justification*

*I support the rapporteur's proposal for further promotion of pre-trial familiarisation. However, for the purposes of this Directive, we should stress that this should be a right for victims.*

**Amendment 61**  
**Dimitar Stoyanov**

**Proposal for a directive**  
**Article 21 – paragraph 2 – point c**

*Text proposed by the Commission*

*Amendment*

c) all interviews with the victim are conducted by the same persons unless this is contrary to the good administration of justice;

c) all interviews with the victim are conducted by the same persons unless this is contrary to the good administration of justice ***and unless the victim expresses a wish to the contrary during the course of the criminal investigations;***

Or. bg

**Amendment 62**  
**Antonio López-Istúriz White**

**Proposal for a directive**  
**Article 24 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Member States shall ensure that police, prosecutors and court staff receive both

1. Member States shall ensure that police, prosecutors and court staff ***always*** receive

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.

both general and specialist training to a level commensurate with their contact with victims to sensitise them to the needs of victims and to deal with them in an impartial, respectful and professional manner.

Or. es

**Amendment 63**  
**Antonio López-Istúriz White**

**Proposal for a directive**  
**Article 24 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. Member States shall always ensure that lawyers have access to both general and specialist training to sensitise them to the needs of victims and to help them to deal with them in an impartial, respectful and professional manner.***

Or. es

**Amendment 64**  
**Antonio López-Istúriz White**

**Proposal for a directive**  
**Article 24 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

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.

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

**Amendment 65**  
**Arlene McCarthy**

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

*Text proposed by the Commission*

*Amendment*

***2a. Member States shall ensure that insurance contracts clearly set out in bold type any exemptions from protection in cases where crimes may be committed and that all insurance documents list the relevant national helplines for consumers to contact if they become a victim of crime.***

Or. en

*Justification*

*This practical suggestion has been made to me by several constituents in cases where they, or relatives, have become victims of crime abroad.*

**Amendment 66**  
**Arlene McCarthy**

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

*Text proposed by the Commission*

*Amendment*

***2b. Member States shall ensure that their embassies and consulates have well-established liaison mechanisms in place with the victims' service providers and agencies in the Member States in which they are located in order to ensure the quick referral of victims.***

Or. en

*Justification*

*This suggestion has been made to me by several constituents in cases where they, or relatives, have become victims of crime abroad. It is an omission that should be addressed in legislation.*

**Amendment 67**  
**Arlene McCarthy**

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

*Text proposed by the Commission*

*Amendment*

***2c. Member States shall ensure that their national law on the repatriation of mortal remains follows a common procedure and time frame which take into account both the wishes of the family and their religious and cultural traditions.***

Or. en

*Justification*

*This is a recurrent and persistent problem for families of victims of crime*