Victims of crime in the EU: the extent and nature of support for victims

Summary

Article 47 of the Charter of Fundamental Rights of the European Union guarantees all EU citizens the right to an effective remedy.

The provision of victim support services to victims of crime is fundamental to achieving justice for victims and ensuring victims can claim their rights. Victim support services comprise assistance available to victims before, during and after criminal proceedings, including emotional and psychological support and advice relating to legal, financial and practical issues, as well as to risks of further victimisation. It is the daily work of the staff of victim support services across the EU, including volunteers, that crucially contributes to making victims' rights of access to justice a reality.

Access to such services determines crime victims' ability to exercise their right to effective access to justice, as laid down in Article 47 on the 'Right to an effective remedy and to a fair trial' of the Charter of Fundamental Rights of the European Union (EU). The right of victims to access justice is firmly grounded not only in EU primary and secondary law, but also in Council of Europe and United Nations (UN) instruments, as well as in national legislation. This right, however, only becomes a practical reality when victims are aware that such support exists and get help to make use of it. The Victims' Directive (Directive 2012/29/EU) is a big step forward for victims of crime.

This summary outlines the research findings of the EU Agency for Fundamental Rights (FRA) on support services for victims of crime across the EU from a fundamental rights perspective. It gives an overview of how current victim support service provision across the 28 EU Member States compares in practice with the objectives and goals for victim support set out by the Victims' Directive. The focus is on the directive's Articles 8 and 9 on support services, although other closely related provisions are also considered.

Key findings and evidence-based advice

Victim support services have developed differently across the 28 EU Member States. The data FRA collected track the differing pace, perspectives, contexts and organisational models at work in the evolution of such services across the Member States. These varying backdrops have shaped the nature and scope of services offered. For some Member States, this means that putting the Victims' Directive into practice will present a challenge. FRA research identified several areas in particular, in which Member States currently fall short of meeting the Victims' Directive's requirements. One of the greatest challenges is the obligation to ensure that all victims have access to victim support services in accordance with their needs. More must therefore be done to ensure that the directive's objectives are achieved.

That victims currently do not or cannot fully exercise their rights is underlined by the level of underreporting previous FRA research has uncovered. In its four large-scale surveys on the victimisation of minorities, LGBT persons, antisemitic offences and violence against women, for example, the results consistently show that many victims do not report crimes to the police. While these four surveys looked at the situation of specific categories of victims (such as women victims of violence), the findings uncovered (for example on underreporting) are often relevant to victims of crime more generally, and so certain findings of a more general applicability are highlighted in the report.

Notwithstanding the challenges that remain, FRA evidence also brings to light many positive developments and promising practices. While these practices could inspire further development at the national as well as at the EU level, the different historical and cultural contexts in which they have arisen cannot be overemphasised. These differences should be kept in mind when considering the feasibility of transferring models and solutions across borders.

Based on its findings, FRA has formulated opinions which suggest concrete measures that EU institutions and Member States can take to improve their victim support services.

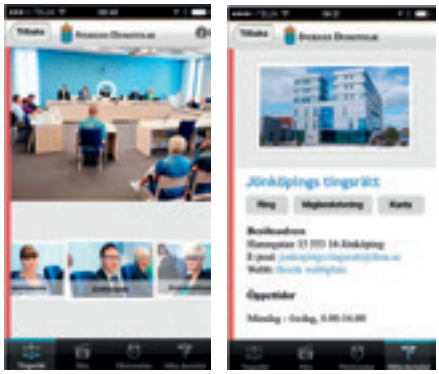
Victims' rights in European and national law

From a legislative perspective, safeguards to protect victims' rights appear across various domains and levels, ranging from EU primary law to legally non-binding acts at the national level. Together these sources form a respectable body of legislative and other measures that aim to provide victims with their fundamental right of access to justice. However, the interpretation of how precisely justice should be made accessible to victims varies by EU Member State, due in part to divergent historical concepts of the victim's role in criminal procedures. These differences then translate into different approaches to victim support.

USEFUL TOOLS FOR VICTIMS OF CRIME

Supporting victims of crime through apps

Court Guide (*domstolsguiden*), Sweden



This app provides details on courtroom interiors and the roles of the respective actors during trial proceedings. The app also has films showing how court procedure works. It includes a 'court locator' with details on opening hours, how to get there and how to contact the court.

See: www.domstol.se/Ladda-ner--bestall/Domstolsguiden/

Zaragoza City of Justice (*Ciudad de la Justicia Zaragoza*), Spain

This app, developed by the regional government of Aragon in Spain, is aimed at the general public and legal practitioners. The app provides the location of a new court complex in the city and a schedule of hearings, and issues alerts to let people know when court cases have finished.

The tool is available at: https://itunes.apple.com/es/app/ciudad-de-la-justicia/id642741128?mt=8 (IOS); https//play.google.com/store/apps/details?id=es.ciudadjusticiazaragoza (Android)

Against this background, joint EU-level action has striven to set common minimum standards for the protection of victims' rights. An important development and forerunner of the Victims' Directive was Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings. EU Member States were required to adapt their legislation in line with the Framework Decision by 2006. It was widely acknowledged, including by the European Commission, however, that this legislation was not well implemented. Since the entry into force of the Victims' Directive, therefore, the focus has been on effective implementation.[1]

Promising practice

Facilitating the effective implementation of victims' rights under EU law: the European Commission's guidance document

To facilitate the effective and timely transposition and implementation of the Victims' Directive, the European Commission prepared a guidance document to assist EU Member States in arriving at a common understanding of its provisions.

See: http://ec.europa.eu/justice/criminal/files/victims/guidance_victims_rights_directive_en.pdf

Guaranteeing the right of victims to access support services and to effective remedy

Victims' effective access to justice depends in large part on the availability of targeted victim support services. The need to provide victims with a set of services that can enable them to enjoy their rights is underlined by FRA research on the reporting of people's experiences of crime. Results on, for example, experiences of hate crime in the EU-MIDIS survey and on reporting patterns in the violence against women survey, show that improvements are necessary to encourage reporting.

Interpreting 'victim' inclusively

The conceptualisation of the victim in the normative (legal and cultural) framework, and the role the victim is seen as having in the criminal procedure depends strongly on the historical development of the legal framework in each individual Member State, and in turn influences the conceptualisation of victim support services. The diverse approaches to victims' rights reflect different understandings of the concept of 'victim' itself. This variety remains even though EU legislation for victims of crime has been in place since 2001.

As the directive sets higher standards in a number of areas than the Council Framework Decision, definitions of the relevant concepts in national law, or their interpretation, should reflect this development in an appropriate manner. FRA findings suggest that the legislation of some EU Member States might require amendments in this regard to be brought in line with the Victims' Directive. Several Member States, for example, define the term 'victim' narrowly in their legislation, excluding 'indirect' victims such as family members. Some Member States fail to define the term at all.

Allocating sufficient resources

Certain new obligations, as well as non-compulsory provisions of the Framework Decision that the Victims' Directive makes obligatory, will require EU Member States to invest further in personnel, equipment or facilities. This includes, for example, ensuring victims' waiting areas at court are separate from those of the accused. Member States must also acquire the technology needed for video-links and video recordings, provide obligatory training for front-line practitioners such as police officers and court staff and ensure that victims are individually assessed to identify their specific protection needs.

[1] See the 2004 and 2009 European Commission Communications on the standing of victims in criminal proceedings (COM(2004) 54 final/2 and COM(2009) 166 final), as well as the 2011 impact assessment accompanying the Commission proposal for a directive establishing minimum standards on the rights, support and protection of victims of crime (SEC(2011) 780 final).

FRA opinions

EU Member States must ensure the effective provision of and access to support services in order to comply with the Victims' Directive and to meet their obligations under Article 47 of the Charter. When implementing the Victims' Directive, EU Member States should take into account Article 47 and relevant ECtHR case-law to assess the rights of victims to actively participate in criminal proceedings, such as the right to be heard and the right to provide evidence.

The Victims' Directive requires that a victim's family members are included in the definition of victim (in relation to victims whose death is a direct cause of a criminal offence) so that they also have access to victim support services in accordance with their needs and the degree of harm suffered as a result of the criminal offence committed against the victim. The term 'family members', as well as other key terms, such as 'particularly vulnerable', should therefore be broadly interpreted so as not to unnecessarily restrict the list of potential rights holders.

EU Member States must ensure they comply with the Victims' Directive's new obligations on training police officers and court staff, providing individual assessments of victims and ensuring separate waiting areas for victims in new court premises. EU Member States should make available the additional resources needed to implement such measures by the transposition deadline.

Aspects of victim support

The Victims' Directive sets the stage for a broad understanding of victim support which goes beyond the functions provided for in its Articles 8 and 9. It encompasses a number of rights that the state is to guarantee, yet which are designed to involve further victim support system actors. Indeed, the right to legal aid, referral of victims among various relevant subjects, or rights at trial to protect the victim against secondary victimisation, contribute to a comprehensive and functional system of victim support. Nonetheless, this system cannot fully function without the involvement of a number of non-state actors.

Victim support is premised in part on the legal availability of victims' rights. The victim support provided in particular during court proceedings depends on the role attributed to victims and on their legal standing in those proceedings. The more rights a victim enjoys to act as a party to criminal proceedings, the more important it is that a support service advises and encourages victims to perform that role in their best interest.

The FRA findings also reveal the importance of 'soft law' instruments and practices. Legislation represents only part of the overall mosaic of victim support in EU Member States and does not in itself, without appropriate application, guarantee the rights of victims. There are a number of legally non-binding instruments and policies that successfully complement or, in some national frameworks, even substitute legislation.

Making legal aid available

Although available to most victims in the majority of EU Member States, FRA findings show that obtaining legal aid is often conditioned on, for example, an economic means test (to determine those who are financially eligible for free legal assistance) or on legal residence. While these conditions might be justifiable, they can present difficult bureaucratic hurdles, particularly where legal aid is required quickly to guarantee the victim's rights. Some global standards also recommend a more restrictive use of means testing. The 2012 United Nations Guidelines and Principles on Access to Legal Aid in Criminal Justice Systems stipulates, for instance, that children are always to be exempted from such testing.

Ensuring effective training systems

Introducing an effective system of practitioner training, as Article 25 of the Victims' Directive requires, is a long-term objective. FRA findings show that some EU Member States emphasise training for specific groups of victims. Others make training available but not compulsory for officials who are likely to come into contact with victims, such as police officers and court staff. EU Member States are therefore encouraged to increase their training capacity and raise awareness among criminal justice practitioners of the needs of specific groups of victims. They are encouraged to involve NGO victim support services where practicable.

Providing information, including referrals to support services

The timely provision of accurate information on victims' rights that Chapter 2 of the Victims' Directive requires is key to empowering victims to use their rights and also points them to the most appropriate support services. Lack of information not only represents a serious obstacle to the enjoyment of victims' rights, but research on victim satisfaction with support services has also repeatedly identified the lack of information as a prime source of dissatisfaction with criminal proceedings, and one which discourages them from actively participating.[2] Measures aimed at raising victims' awareness of their rights are therefore equally important as access to information specific to an individual case. Examples of good practice highlighted in this report show that close cooperation between competent authorities and victim support organisations can facilitate referrals.

USEFUL TOOLS FOR VICTIMS OF CRIME

European e-Justice Portal: special pages for victims of crime

The European e-Justice Portal is conceived as an electronic one-stop-shop in the area of justice, striving to make the lives of people in the EU easier by providing information on justice systems and improving access to justice throughout the EU in all 24 official EU languages.

See: https://e-justice.europa.eu/content_victims_of_crime-65-en.do

Tackling underreporting of victims

FRA research – including four large-scale surveys concerning the victimisation of minorities, of LGBT persons, antisemitic offences and violence against women – consistently shows that many victims do not report crimes to the police. The Council Conclusions of 6 December 2013 on combating hate crime in the EU and the Council Conclusions of 5 June 2014 on preventing and combatting all forms of violence against women and girls underscore these findings. Victims may, however, approach other persons or organisations. Findings from FRA's survey on violence against women show that victims of domestic violence are more likely to contact doctors and healthcare institutions than any other professional organisation or NGO. Therefore, these professionals could play a key role in identifying and providing initial support to victims. Yet evidence also shows that doctors and other clinical professionals are rarely trained for an effective response to domestic violence. Hence initiatives to train and inform healthcare professionals could be considered promising practices, especially given that 87 % of the 42,000 women surveyed in the FRA study on violence against women said that they would welcome further questions from doctors if they showed signs of abuse.

[2] See for example: Sims, L. and Myhill, A. (2001), *Policing and the Public: Findings from the 2000 British Crime Survey. Home Office Research Findings No. 136*, London, Home Office and Wemmers, J. (1999), 'Victim notification and public support for the criminal justice system', *International Review of Victimology*, Vol. 6, No. 3.

FRA opinions

Legal aid guaranteed under Article 13 of the Victims' Directive should be available to victims who are party to criminal proceedings in the same way as it is currently available to defendants. Bureaucratic hurdles, such as lengthy proceedings or economic means testing, should be identified and removed. Means testing may not always be in compliance with UN guidelines.

Law reforms should aim at better inclusion of the victim in the criminal justice system. Victims should be enabled to play a more significant role in criminal proceedings, as set out in Chapter 3 of the Victims' Directive. Criminal justice practitioners can support this process, guiding victims through proceedings, helping them to understand the legislation and fully recognise its practical implications. This process is greatly aided by training of criminal justice practitioners.

EU Member States should introduce measures that ensure that victims, at all stages of the process, have access to information about their rights and available support services, as well as to relevant information about the case. EU Member States should particularly consider putting in place an effective referral system that would guide victims through the support service system.

As a means of encouraging victims to report crimes and of facilitating such reporting, EU Member States should make sure that information about victim support services and victims' rights is accessible and made available to victims by all authorities and public services that victims contact, including medical service providers, and that the staff of these organisations are trained to deal with victims in an informed and sympathetic manner.

USEFUL TOOLS FOR VICTIMS OF CRIME

Reporting crimes by mobile phone: useful apps for victims of crime

Guardia civil (GDT), Spain

This app, developed by the Cybercrime unit of the Spanish Civil Guard (*Guardia Civil*), offers two different services: one is to inform its users of current fraud and crimes being committed online, the other allows citizens to anonymously report potential criminal acts. The app also offers locations of the closest Civil Guard stations.

The tool is available at: https://market.android.com/details?id=es.guardiacivil.gdt (Android); http://itunes.apple.com/es/app/gdt/id441712875?mt=8&ls=1 (iOS)

Federal District Prosecutor Office (*Procuradoría General de Justicia del Distrito Federal*), Mexico

This tool allows for anonymous reporting of crimes and the loss of national identification papers or passports. It also provides useful information on criminal justice issues, such as Prosecutors' Offices contact information.

The tool is available at: www.pgjdf.gob.mx/index.php/servicios/enlinea/aplicacionpgjcdmx; https://play.google.com/store/apps/details?id=com.tr3sco.pgjdf (Android); https://itunes.apple.com/us/app/pgjcdmx/id830812886?ls=1&mt=8 (iOS); http://appworld.blackberry.com/webstore/content/31955/ (Blackberry)

Victim support services in EU Member States

Some specifics that govern the provision of victim support can be derived from Articles 8 and 9 of the Victims' Directive. These principles serve as benchmarks, or at least as points of reference, when setting up victim support services or assessing the services a given EU Member State currently offers.[3] To date, vast differences prevail as regards the extent and the service capability of victim support services in Member States.

When it comes to establishing or developing a system of organisations providing victim support, Article 8 of the Victims' Directive makes it clear that Member States have more than one organisational model available to them. Victim support services can be set up as public organisations or as non-governmental organisations (NGOs), they may be organised on a professional or voluntary basis, and specialist services can be provided in addition to, or as an integrated part of, general victim support services. Member State models vary as to the state actor responsible for the oversight of support services, funding methods, the geographical distribution of services and the extent to which services rely on the work of volunteers as opposed to permanent staff.

A government's choice to either set up a public organisation or foster private initiatives supporting civil society capacity-building is not just an organisational and technical matter. It touches on political aspects, such as the value to the community of a layer of civil society organisations mediating the involvement of citizens in issues of public concern. In the end, the matter is tied to a basic understanding of how a democratic society should be constructed – whether it includes a public sphere that remains – in part – in the hands of civil society organisations that are supported and monitored but not controlled by the government. Similar considerations also apply to the question of involving volunteers in victim support organisations.

Irrespective of the model chosen, governments must ensure certain functions, including the coordination of existing services, incentives for the development of services that may be missing, the definition of standards of victim support provision and decisions concerning the funding of support services.

Any organisational partisanship of a victim support service must be visible and credible. Probation services seem, therefore, poorly placed to also perform the functions of victim support, even if organisational sub-divisions are established and strictly separated. The staff would nevertheless be suspected of bearing the organisation's general interests in mind. This can potentially impair victims' as much as offenders' trust in the determination of staff members to, at times, pay attention exclusively to their interests. Similar considerations militate in favour of separating victim support services from victim-offender mediation services.

Despite the differences, the FRA findings do indicate some emerging themes. A majority of EU Member States distribute responsibility for support services among several ministries. Most also rely on cooperation between public and private bodies to provide generic victim support. The most common model regarding the geographical distribution of generic support services is that of strong regionalisation, regardless of the Member State size or the public or private nature of the main service provider. Volunteers outnumber permanent staff in most Member States, while their tasks and training vary depending not only on the nature of the service provider, but also on the historical development of volunteerism in the country in question.

While Member States may wish to take experiences of other Member States into account when establishing, extending or strengthening a system of victim support services, a careful assessment of the transferability of models and solutions from one Member State to another is necessary. Several aspects must be considered. These might include cultural differences relating to traditions of private initiatives and involvement in issues of common interest, or the readiness of citizens to engage in voluntary work.

What can be learned from the prevailing organisational diversity is that there are no definitive answers as to which solutions are preferable. Often there are strong arguments pointing in various directions.

[3] The CJEU is the sole institution entitled to authoritatively interpret EU law and consequently to decide whether Article 8 of the Victims' Directive is to be read as an obligation of result or of means, in the latter case requiring governments to take, with due diligence, all reasonable steps available to them under the given circumstances, with a view to progressively and in due course establishing a comprehensive system of victim support services.

Main models of victim support

It is possible to distinguish between three main models of generic victim support services in EU Member States. Distinctions are drawn between the (non-) governmental nature and sources of funding of the main generic support provider. The table below illustrates the model prevalent in each Member State.

	1. At least one national generic – main provider/ structure is state run and funded	2. At least one national generic – main provider/structure is non-governmental but relies strongly on state funding	3. At least one national generic – main provider/structure is non-governmental, but does not rely strongly on state funding
AT			✓
BE	✓		
BG			
CY			
CZ	✓		
DE			✓
DK		✓	
EE	✓		
EL			
ES	✓		
FI		✓	
FR		✓	
HR	✓		
HU	✓		
IE		✓	
IT			
LT			
LU	✓		
LV			
MT		✓	
NL		✓	
PL		✓	
PT		✓	
RO			
SE		✓	
SI			
SK			✓
UK		✓	
Total	7	10	3

Note: *The table refers to those EU Member States with at least one national generic victim support service. From the research it appears there are no generic victim support services (that is aimed at all rather than specific categories of victims) in Bulgaria, Cyprus, Greece, Italy, Lithuania, Latvia, Romania and Slovenia). Orange-shaded areas indicate that no generic victim support service exists.*

Source: *FRA, 2014; see also: http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/victims-support-services/models*

Important role of NGOs and advocacy for crime victims

Private support services have effectively promoted the interests of victims of crime in public and legislative discussions in many EU Member States. Some support services perform important functions of public advocacy, including vis-à-vis governments. These NGOs can voice the concerns of victims so authentically because they support victims on a daily basis. Many staff members even contribute on a voluntary basis. In some Member States, private associations that are – organisationally and

financially – independent of the government provide generic victim support. They have persistently advocated for the interests of victims in public. Hence, some indications exist that for the advancement of the rights of victims the existence of powerful and to a certain extent independent NGOs is of some significance.

Ensuring access to generic victim support for all victims

Most Member States provide some form of generic victim support services, and all Member States provide support services to at least some specific groups of victims. Eight Member States, however, have yet to establish the generic victim support services required by Article 8 of the directive. Article 8 (5) furthermore specifies that provision of services should not be dependent on a victim making a formal complaint. Funding to support services should be carried out in a transparent and objective manner that ensures access to victim support services for all.

Providing comprehensive and confidential services

For effective support services, the organisation must be designed with a view to establishing trust and confidence with victims. This can be done, for example, by ensuring that victims are not transferred between organisations and individuals (although in some cases specialist referral may be necessary). The tasks of support services should also solely focus on providing support to victims. Mixing victim support with mediation and probation services, as some EU Member States do, would not, for example, instill sufficient confidence in the objective of the delivery of support. FRA findings also show that a number of EU Member States do not guarantee victims the right to be accompanied by support persons during trial.

Involving volunteers

FRA research shows increased reliance on volunteers, due in part to economic constraints and to a rise in volunteerism in several EU Member States where such traditions are less strong. While FRA findings highlight the need to strike a balance between the number of volunteers and professional staff working in victim support, overall, FRA evidence shows that victim support systems in the vast majority of Member States rely to some extent on volunteers. There tends to be a higher provision of generic victim support services in those countries with a long-standing culture of volunteerism.

Role of umbrella organisations at EU level

A considerable number of organisations advocate at EU level for the rights of victims of crime in general or for specific groups of victims – such as women who are victims of violence. Such organisations contribute significantly to making the fundamental rights of persons living in the EU a reality. Importantly, the diversity of organisations at EU level mirrors the different approaches to the rights of victims and to the organisation of the provision of victim support both between and within Member States.

USEFUL TOOLS FOR VICTIMS OF CRIME

Supporting victims of crime through apps

This Swedish app (*Brottsofferappen*) provides victims of crime with information. By providing details on the location of the user and type of crime, the tool locates the closest police station and support services. It also provides a checklist on how to report the crime and claim damages.

The basic concept for the app was conceived to provide only targeted and relevant information – in other words information specific to the crime and location. Information was collected from all relevant authorities and organisations. Updates will have to be requested. The app cost approximately €10,000 to develop, covering both the technical aspects and data collection. The actual development took four weeks. Further features will be added, including checklists and 'alert' functions, with which the location of the user can be sent to selected persons. In developing the tool, the organisation drew mainly on the extensive in-house experience of those working with issues related to victims of crime.

Source: http://brottsofferappen.org/

FRA opinions

EU Member States which have not yet established generic support services are encouraged to take urgent steps to comply with the Victims' Directive (Article 8). Access to support services should be available to all crime victims free of charge and should not be dependent on a victim reporting the crime to the police.

EU Member States should ensure that victim support is coordinated and that referral – according to Articles 4 (1) and 8 (2) of the Victims' Directive – is effective, particularly for certain groups of victims who may have specific protection needs and may fall under the remit of different ministries and/or support organisations.

Victim support should be organised in a manner that allows victims, as much as possible, to benefit from a relation of trust. The support system should avoid handing the victim over from one support provider to another, where unnecessary. In this respect it is important that victims can be accompanied to court proceedings by the same person who supports them before and after the trial phase, as required by Article 20 (c) of the Victims' Directive.

Support services should be positioned in a manner that allows them to act in strict confidence and in the interests of the victim and ensures that support services can also be perceived to act in such a manner. In order to guarantee this orientation, organisations providing victim support should not also be tasked with providing mediation or probation services.

FRA recognises the importance of encouraging citizens to become involved in the performance of public tasks and recommends initiatives at EU Member State level to foster volunteerism, particularly in Member States where voluntary work may be a relatively new concept. Consideration should be given to the relation between the number of professional staff and the number of volunteers. In particular, organisations relying on volunteers should make sure that permanent staff offer effective guidance to volunteers and supervise the quality of their work. Tasks performed by professionals or volunteers of victim support organisations must be in line with quality standards and appropriate to the professional background of the person providing the support or advice.

The EU should continue its interaction with and support to victim support organisations working at the European level, drawing on their expertise and ability to pool best practices and knowledge among their members. This expertise includes the provision of further assistance with respect to the increasing need for cross-border facilitation of victim support. Generic services at EU and Member State levels should cooperate with and draw on the wealth of experience amassed by specialised services, in particular that of organisations that support women who are victims of violence.

Support for specific groups of victims

The Victims' Directive requires Member States to take the needs of specific groups of victims into account. Specific needs must first be identified through an individual assessment, and then catered for either through the establishment of specialised support organisations, or that of specialised services within generic support organisations that offer targeted support to specific groups of victims.

FRA conducted limited research on specialised areas of victim support (such as support for victims of domestic violence, human trafficking and hate crime), underpinned by extensive FRA research on different vulnerable victim groups. Findings indicate that victims belonging to each of these groups may face particular problems in accessing justice. These findings are supported by additional parallel research by FRA on a wide range of issues related to victims of crime, including studies of specific categories, such as migrant victims, victims of hate crime, violence against women and child victims.

USEFUL TOOLS FOR VICTIMS OF CRIME

Supporting women against violence

This app, called Clique180, guides women information on what to do if exposed to violence. The app, launched during the 2014 World Cup in Brazil, provides user-generated geodata on safe and unsafe areas and explains what violence against women is. The self-explanatory user-friendly interface gives links to support services and to Brazilian federal legislation on violence against women. The app also includes a direct call button to a support services hotline.

Available at: http://clique180.org.br/download

FRA research shows that victims face problems such as vulnerability to secondary and repeat victimisation, intimidation and retaliation, fear of facing bias from police or support service staff and a related unwillingness to report the crime in question.

The findings of this project show that specialised services for at least some specific groups of victims exist in all Member States. Several promising practices are of note in this regard. The nature and scope of specialised support offered, however, varies widely between Member States (also depending on the group in question). There is much room for improvement.

EU legislation: Measure E of the Budapest Roadmap

Measure E of the Budapest Roadmap addresses the specific needs of certain groups of victims. The Council recalls that some victims have specific needs based on the type or on the circumstances of crime they are victim of, given the social, physical and psychological repercussions of these crimes. Among other groups, the Roadmap mentions victims of trafficking in human beings and child victims of sexual exploitation.

See: http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32011G0628(01)&qid=1402495822750&from=EN

Ensuring individual assessments to identify possible specific protection needs

Article 22 of the directive stipulates that EU Member States must ensure that individual assessments of victims are carried out to identify possible specific protection needs. Such specific protection needs might refer to victims who have suffered considerable harm due to the severity of the crime, victims of crime based on bias or a discriminatory motive, or victims made vulnerable by their relationship to and dependence on the perpetrator. FRA findings show that the police often refers victims to generic support services who then have to further assess the possible individual need for specialised support.

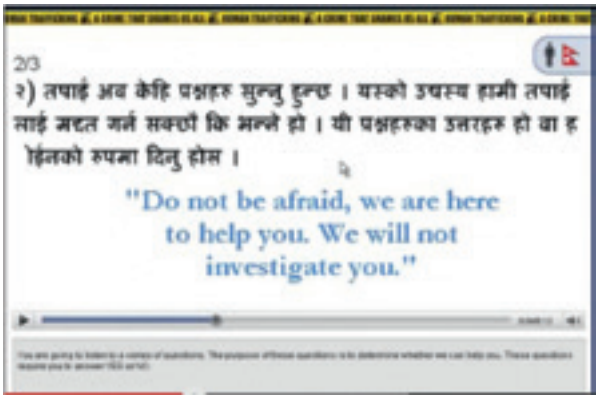
Recognising the important role played by support services for victims with specific needs in EU Member States

Whether integrated within a larger generic structure or established as separate, individual services, the Victims' Directive stipulates that support services should adopt an approach that considers the specific needs of victims, the severity of the harm suffered as a result of a criminal offence, and also the relationship between victims, offenders and their wider social environment. This would include, for example, the specific needs of children. Individual support services targeting victims with specific needs might be particularly well placed to promote the rights of certain groups. Hate crime victims, for example, might feel more comfortable confiding in and relying on the expertise of smaller and highly specialised organisations advocating their rights.

USEFUL TOOLS FOR VICTIMS OF CRIME

Sending life support messages to victims of human trafficking

The Victim Translation Assistance Tool uses audio messages to enable law enforcement officials and victim service providers – often the first point of contact for victims of human trafficking who do not speak the language of the country they are in – to provide a level of basic assistance to victims of human trafficking.



Thirty-five basic questions and messages have been recorded and translated into 40 languages, including special questions for children.

The tool was developed by UN.GIFT/UNODC, the Austrian Criminal Intelligence Service and the Austrian NGO LEFOE-IBF. Human trafficking survivors contributed to the development of the messages, with the support of human trafficking experts who focus on victims' needs.

Download the tool from: www.ungift.org/knowledgehub/en/tools/vita.html

FRA opinions

EU Member States must ensure that individual assessments are carried out by the victim's first point of contact, typically the police or a victim support organisation. Victims should be referred in a timely fashion to specialised victim support services that are able to offer them the help and support they need. EU Member States must ensure that children are always treated as persons in need of special protection, taking into account their age, maturity, level of understanding and any communication difficulties they may have, and in accordance with Article 22 (4) of the Victims' Directive.

While recognising that specialist services can either be established separately and in addition to general support services or integrated into a generic organisation, EU Member States should ensure the existence of support services, including trauma support and counselling, that provide targeted support for victims with specific needs. These include child victims, victims of sexual violence and other gender-based violence, victims with a disability, victims who are irregular migrants and victims of violence in close relationships, including trauma support and counselling. In accordance with the Victims' Directive, these services must, as a minimum, develop and provide suitable interim accommodation for victims in need of a safe place due to an imminent risk of repeat victimisation, of intimidation and of retaliation.

In addition, when implementing the Victims' Directive, EU Member States should pay particular attention to the protection needs of victims of crimes committed with a discriminatory motive.

Performance standards and indicators

The Victims' Directive is not explicitly on quality and performance. But for victim support to be effective and efficient, quality standards need to be at the core of the design, improvement and continued delivery of victim support. An integral part of quality standards are indicators. By using the established methodology of clustering indicators under the headings of structural, process, and outcome, the full range of actions that need to be taken – from acceptance and intent, through efforts, to results on the ground – can be captured. This in turn will facilitate measuring progress as well as enabling comparison between systems, which is needed for a solid assessment of what practices actually work.

The full report suggests a range of indicators within this methodological framework, based on existing standards for the delivery of victim support services. A more advanced and refined version of these indicators – which should be validated by relevant stakeholders, such as victim support organisations – would be a useful first step for a systematic follow-up and assessment of practices. Indicators would have to be coupled with clear benchmarks on the required level of 'compliance'. A system for data collection to populate all of the indicators would also have to be conceived. In this context, Article 28 of the Victims' Directive should be recalled, requiring Member States to share data, as of November 2017 and every three years thereafter, on victims' rights in practice under the directive.

Establishing quality control standards that respect the independence of civil society

Recital 63 of the Victims' Directive stresses that in order "to encourage and facilitate reporting of crimes and to allow victims to break the cycle of repeat victimisation, it is essential that reliable support services are available to victims and that competent authorities are prepared to respond to victims' reports in a respectful, sensitive, professional and non-discriminatory manner". To assess whether a given Member State's services meet these criteria, clear and consistent quality control mechanisms should be established, including across borders.

Benchmarking quality standards

Quality standards for victim support services would benefit from clear indicators and benchmarks. FRA research covered formally adopted key performance indicators on the quality of service EU Member States' generic victim support services provide. Such indicators, when measured over time, would help assess the implementation and effect of the Victims' Directive on victims and on their enjoyment of rights in practice.

FRA opinions

FRA stresses the responsibility of EU Member States to develop a comprehensive network of victim support services and to monitor support services' performance, ensuring that they conform to designated standards while also respecting the independence of civil society.

FRA analysis highlights good examples of criteria and/or membership conditions developed by EU-level umbrella organisations active in the fields of networking, coordinating and promoting generic victim support, or supporting specific groups of victims. Such criteria include, for example: separation between victim support and probation services, independence from political activities, confidentiality of service users (i.e. victims) and transparency concerning sources of funding. Such standards could form a basis on which to explore additional criteria that could be developed at national, regional and EU levels, as appropriate.

Inspiration for a system of quality control for victim support services could also be drawn from the peer-review system used globally by National Human Rights Institutions (a self-accreditation system under the so-called Paris Principles).

To this end, and taking these examples into account, Member States could consider establishing an accreditation system for victim support services.

FRA emphasises the importance of defined and generally accepted organisational and performance standards for victim support delivery. FRA findings show that generic support services have adopted such standards in fewer than half of Member States.

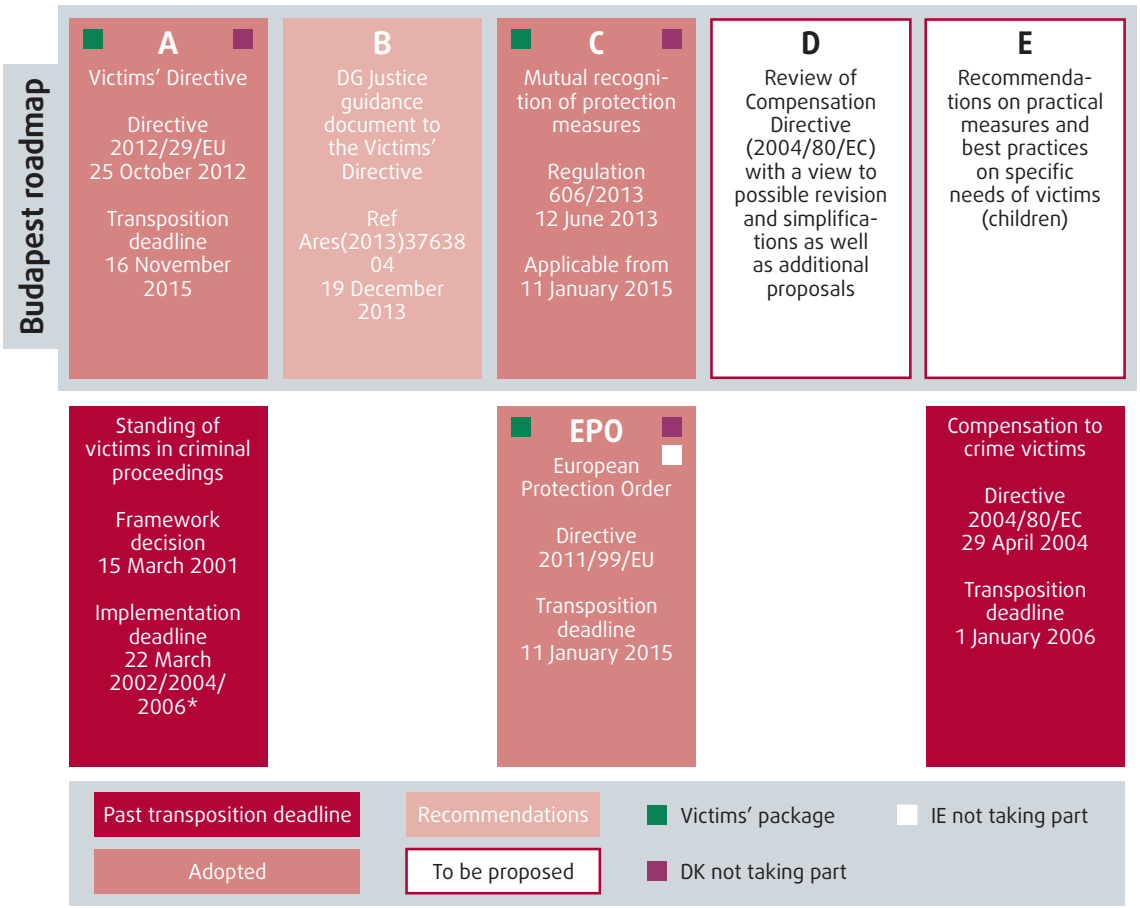
Article 28 of the Victims' Directive obliges Member States to communicate to the European Commission available data on how victims have accessed the rights established in the Victims' Directive, beginning in November 2017 (two years after the transposition deadline) and every three years thereafter. Such data should take into account indicators related to victim support and victims' rights, including performance indicators related to the quality of service provided by generic victim support services. Indicators about the service provision quality should also be directly collected from victims who use these services.

Victim support organisations and/or governments, as appropriate in the respective EU Member States, should consider developing shared indicators on victim support – and more broadly on victims' rights. Data for such indicators could in part make use of the required collection of data under Article 28 of the Victims' Directive.

The Victims' Directive

The Victims' Directive is the most important legislative development for victims' rights at the EU level to date. It is the main pillar of the Victims' package, a set of European Commission legislative proposals that aim to reinforce and improve national and EU measures on victims' rights. It responds to the European Council's call for an integrated and coordinated approach to victims contained in the Stockholm Programme and in the Budapest Roadmap, which concentrate specifically on strengthening the rights and protection of victims. EU Member States must transpose the Victims' Directive in their national legislation by 16 November 2015. Denmark is not participating; so after the transposition deadline, the Framework Decision will remain in effect there.

Figure: EU instruments related to victims of crime, especially support services



Notes: *The labelling A–E is that of the Roadmap.*
** Applicable to DK also after transposition deadline of Victims' Directive.*

Source: *FRA, 2014*

The Victims' Directive sets out several objectives to ensure the availability of effective and accessible victim support services throughout EU Member States. It introduces new rights for victims of crime and transforms a number of formerly optional provisions into obligations, converting potential benefits for victims into victims' rights. It further places victim support services at the system's forefront and recognises the central role they play in enabling victims to enjoy their rights. By setting up minimum standards for their activities while obliging the state to ensure their availability, the directive has the potential to reshape the victim support system across the EU to benefit victims.

The directive does not, however, provide an instrument to harmonise the divergent approaches to the victim's role in the various EU Member States' criminal justice systems and, consequently, to the provision of victim support services. While it undoubtedly sets the overall bar higher than the Framework Decision, the need to accommodate these structural differences inevitably creates space for divergence in the quality of victim support services and thus potentially also in the equal enjoyment of victims' rights.

Examples of higher standards as set out in the Victims' Directive

Provision of information and support

- It newly emphasises the right to understand and be understood, in the sense that all communication with victims must be carried out in a way that the victims understand (Article 3).
- Article 4 of the directive goes beyond the rights granted in the Framework Decision on first-contact information with the competent authorities. Victims are no longer to be merely informed of the type of services or organisations to which they can turn. Instead, through the provision of Article 8 (2), they are to be directly referred to the appropriate victim support services at the initial stage. They should, in other words, be asked if they want to be placed in contact with a support service.
- It expressly prescribes that access to victim support services must be granted regardless of whether or not the victim decides to make a formal complaint and press charges, although it is generally understood that the competent authorities should encourage reporting (see Recital 63 of directive).
- It stipulates what information about the case should be made available to the victim. This information includes the nature of the criminal charges, the time and place of the trial, any decision to end the investigation or not to prosecute, as well as the final judgment. The reasons for these decisions will also be made clear.
- It differentiates between general and specialist victim support services (Article 8) and specifies the minimum level of services that Member States must provide (Article 9). From the victim support viewpoint, the specification of minimum standards is of fundamental importance. The Framework Decision obliged EU Member States to "encourage action" by victim support services in the field of providing victims with information, accompanying them and assisting them. Now, victim support services are to provide clearly defined services relevant to the rights of victims, including: advice on accessing national compensation schemes and on other financial and practical issues arising from crime; and emotional and psychological support. It also covers advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation.

Allocating sufficient resources

- Certain new obligations, as well as non-compulsory provisions of the Framework Decision that the Victims' Directive makes obligatory, will require EU Member States to invest further in personnel, equipment or facilities. This includes ensuring that victims' waiting areas at court are separate from those of the accused, at the very least in any new court premises (Article 19 (2)). Member States must also acquire the technology needed for video-links and video recordings, provide obligatory training for front-line practitioners such as police officers and court staff (Article 25 (1)) and ensure that victims are individually assessed to identify their specific protection needs (Article 22 (1)). FRA findings show that some Member States have yet to implement these measures.

Victim support and fundamental rights

Victim support is indispensable to ensuring the effectiveness of victims' fundamental rights in general and victims' access to criminal justice in particular. This is in line with Article 47 of the EU Charter of Fundamental Rights. Crime is a particularly severe violation of fundamental rights and consequently criminal law and criminal justice endeavour to protect the most significant aspects of individuals' fundamental rights. European Court of Human Rights (ECtHR) case law supports this approach. However, the punishment criminal law prescribes will only be credible if it is backed by effective law enforcement machinery and if state authorities demonstrate their resolve to carry out the law's provisions.[4] In parallel, victims should be afforded effective victim support.

This right of victims to have access to justice must not be only theoretical but also effective.[5] In a 2011 judgment, the ECtHR emphasised that "the object and purpose of the Convention [for the Protection of Human Rights and Fundamental Freedoms, ECHR] as an instrument for the protection of individual human beings requires that its provisions be interpreted and applied so as to make its safeguards practical and effective".[6]

Given the difficulties that victims experience in coming forward and reporting to the police, effective access to justice requires new measures. These should address the individual, providing for instance information, assistance and counselling. They should also tackle institutional issues, setting up the training of professionals, safeguards against institutional forms of discrimination, or procedures which are designed to respond in an appropriate manner to the rights and needs of victims. Ultimately, this relates to the overall public climate. A perception that the climate is unfriendly can keep victims from seeking assistance, since they do not expect recognition or sympathy.

Victims have a right to be offered support in accessing justice, but their effective access to justice will in practice often be premised on the availability of victim support services. Effective support services are thus a crucial means of making victims' rights to access justice a reality. As is the case with many fundamental rights which oblige EU Member States to take action and to provide services, the obligation to provide appropriate support services does not prescribe how Member States implement those services. What they are required to invest to meet their obligations under Article 47 of the Charter will to some extent depend on what is practically feasible in the given circumstances. States are – at a minimum – under an obligation to ensure progressive realisation of victims' effective access to criminal justice, which includes progressive improvement of support services provided to victims of crime.

Closer analysis makes it possible to distinguish certain particular aspects of the right of victims to access justice. These various aspects demonstrate the wide range of victims' rights under the Charter. Some of these aspects can be traced to both the Charter and the European Convention on Human Rights (ECHR). Article 52 (3) of the Charter, for instance, ensures that the Charter has at least the meaning and scope of the corresponding ECHR guarantees. Additional aspects of a victim's right to access justice relate only to Article 47 of the Charter, which exceeds the rights under the ECHR.

The ECtHR's case law rests on two pillars: firstly, on what the court refers to as the procedural limbs of certain rights (including Articles 2, 3, 4 and 8 of the ECHR), and secondly on the right to an effective remedy under Article 13 of the ECHR. The first pillar, the procedural aspect of substantive articles, emphasises the task of criminal law provisions and their forceful implementation, to dissuade potential perpetrators from violating human rights. The second pillar highlights the right of victims to have the violation of their rights taken seriously and be redressed.

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4 ECtHR, *Osman v. UK,* No. 23452/94, 28 October 1998, para. 115; *Menson v. UK*, No. 47916/99, 6 May 2003 (Dec.); *A v. Croatia*, No. 55164/08, 14 October 2010, para. 78.

5 ECtHR, *El-Masri v. The Former Yugoslav Republic of Macedonia* [GC], No. 39630/09, 13 December 2012, para. 255.

6 ECtHR, *Al-Skeini and Others v. The United Kingdom* [GC], No. 55721/07, 7 July 2011, para. 162.

Definitions in criminal law and procedural guarantees

For an investigation to be effective in practice, the state must first have enacted criminal law provisions that comprehensively penalise practices contrary to the article in question.[7] Such provisions must capture the substance of the human rights violations the victim has suffered. To capture the rights violations suffered by victims of long-lasting domestic violence, for example, that law must criminalise more than the single acts of violence. It must also reflect the psychological impact of such a relationship, including the feelings of fear, helplessness and vilification suffered in the long-term.[8] Or, in the case of violent acts committed with a discriminatory motive, criminal law must not just cover the incidents of violence, it must sufficiently reflect the discrimination dimension.[9]

Once they become aware of an incident, the authorities must act of their own volition; they cannot leave it to the victim or the victim's relatives to initiate proceedings. The right of the victim to have access to justice is not predicated on his or her active contribution, such as reporting to the police or supporting investigations or prosecution.[10]

A person who can arguably claim to have been subjected to violent victimisation is entitled to "a thorough and effective investigation capable of leading to the identification and punishment of those responsible".[11] The authorities must have taken all reasonable steps available to them to secure the evidence concerning the offence, including, among others, eyewitness testimony and forensic evidence. Victims must be involved in the procedure to the extent necessary to safeguard their legitimate interests.

Additional rights of victims under Article 47 of the Charter

The procedural rights of defendants are protected under Article 6 (fair trial) of the ECHR and those of victims under Article 13 (effective remedy). Victims of crime cannot claim fair trial rights under Article 6 of the ECHR unless they join criminal proceedings to enforce civil law claims within the framework of the criminal procedure.[12] But even in such cases victims owe their rights under Article 6 to their civil law claims – not because they suffered victimisation in terms of criminal law provisions. In the ECHR human rights system, fair trial rights and the right to an effective remedy are distinct and unrelated.

The Charter does not maintain the ECHR's distinction between defendants and victims (Article 47). Under the Charter, victims of crime not only enjoy the right to an effective remedy, which covers the range of rights of victims under Article 13 of the ECHR, but also fair trial rights (Article 6 (1)), namely the:

- right to a fair and public hearing conducted by an independent tribunal within a reasonable time;
- right to be advised and represented;
- right to legal aid, available to victims who lack sufficient resources in so far as such legal aid is necessary to ensure victims' effective access to justice.

The Victims' Directive takes up important aspects of these fair trial rights, such as the right to be heard (Article 10) and the right to legal aid (Article 13). In addition, Recital 66 of the Victims' Directive explicitly refers to the rights of victims under the Charter and highlights victims' "right to a fair trial".

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7 ECtHR, *M.C. v. Bulgaria*, No. 39272/98, 4 December 2003, para. 150, 153 and 166; ECtHR, *Gäfgen v. Germany* [GC], No. 22978/05, 1 June 2010, para. 117.

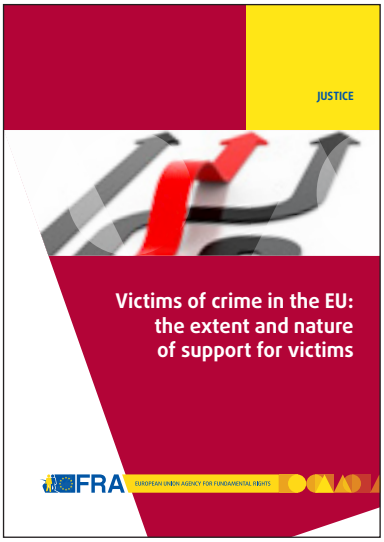
8 ECtHR, *Valiulienė v. Lithuania*, No. 33234/07, 26 March 2013, para. 69–70; *Eremia v. the Republic of Moldova*, No. 3564/11, 28 May 2013, para. 54.

9 ECtHR, *Nachova v. Bulgaria* [GC], No. 43577/98, 6 July 2005, para. 160.

10 ECtHR, *Cadiroğlu v. Turkey*, No. 15762/10, 3 September 2013, para. 30.

11 ECtHR, *Gäfgen v. Germany* [GC], No. 22978/05, 1 June 2010, para. 116 and 117; ECtHR, *El-Masri v. The Former Yugoslav Republic of Macedonia* [GC], No. 39630/09, 13 December 2012, para. 255.

12 ECtHR, *Perez v. France,* No. 47287/99, 12 February 2004, paras. 57 to 72; *Novak v. Slovenia,* No. 5420/07, 25 April 2013.



The rights of victims of crime to access justice and to be protected against repeat victimisation may remain illusory in practice if the victim fails to receive professional advice and support. This research by the European Union Agency for Fundamental Rights (FRA) examines support service provision for such victims across the 28 EU Member States, in line with the 2012 EU Victims' Directive. It focuses not on abstract fundamental rights standards but on the final practical results. FRA research identified promising practices that Member States looking to improve their victim support structures might turn to for inspiration. It also found several areas where Member States currently fall short of meeting the directive's requirements. They will need to take further legislative and policy steps to ensure they comply with the directive by the implementation deadline of 16 November 2015.

Further information:

For the full FRA report on victims' support services – *Victims of crime in the EU: the extent and nature of support for victims* (2014) – see: https://fra.europa.eu/en/publication/2015/victims-crime-eu-support.

For a mapping of victims' rights and support in the EU, see: http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/victims-support-services.

See also FRA's main results reports of its four large-scale surveys:

- *EU-MIDIS – European Union Minorities and Discrimination Survey. Main results report* (2009): http://fra.europa.eu/en/publication/2012/eu-midis-main-results-report
- *Discrimination and hate crime against Jews in EU Member States: experiences and perceptions of antisemitism* (2013): http://fra.europa.eu/en/publication/2013/discrimination-and-hate-crime-against-jews-eu-member-states-experiences-and
- *Violence against women: an EU-wide survey* (2014): http://fra.europa.eu/en/publication/2014/vaw-survey-main-results
- *EU LGBT survey – European Union lesbian, gay, bisexual and transgender survey* (2014): http://fra.europa.eu/en/publication/2014/eu-lgbt-survey-european-union-lesbian-gay-bisexual-and-transgender-survey-main

An overview of FRA activities on access to justice is available at: http://fra.europa.eu/en/theme/access-justice.

Further translations of this summary will be published in 2015.

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