



SOC/652
Victims' rights strategy

OPINION

European Economic and Social Committee

**Communication from the Commission to the European Parliament, the Council, the European
Economic and Social Committee and the Committee of the Regions**

EU Strategy on victims' rights (2020-2025)

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1. Conclusions and recommendations

- 1.1 The EESC warmly welcomes the European Commission's EU strategy on victims' rights for 2020-2025, which supports long-term planning and the proper coordinated implementation of policies across a wide range of sectors, while ensuring that no victim is forgotten.
- 1.2 The EESC believes that, in order to be operational, the strategy needs **a clear action plan** with details on how and when to implement actions, and what outcomes are expected.
- 1.3 The proposed strategy should be read and implemented alongside other EU strategies: the Gender Equality Strategy, the EU Strategy for a more effective fight against child sexual abuse, the LGBTI Equality Strategy, the EU Framework for National Roma Integration Strategies and the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).
- 1.4 The proposed strategy should provide more guidance and a detailed overview of how Member States could implement high-quality standards and put in place accessible, fair and effective tools to support victims in their access to such restorative services.
- 1.5 The European Commission should use the strategy to encourage Member States to support data collection and consultation with communities and victims and potential victims, and carry out needs assessments to guide policy-making and institutional responses. A unified vision on data collection regarding victims of crime, which could be ensured through this strategy, would allow for better, more targeted responses.
- 1.6 The EESC recommends that the role of the proposed EU network on the prevention of gender-based violence and domestic violence, referred to in the strategy, should also be expanded to cover the objectives and outputs regarding identification and mitigation of this type of crime, especially relevant when it has a transnational component.
- 1.7 In terms of the key actions proposed by the strategy for the European Commission, the EESC believes that some aspects in the strategy could benefit from further clarification, including:
 - a. The promotion of training should not be limited to judicial and/or law enforcement authorities; the need to ensure continuing professional education in relation to dealing with victims of crimes, in particular victims of hate crimes, is equally relevant for social workers and medical personnel. Such training should explicitly include bias and stereotyping sessions and be conducted in coordination with CSOs providing support to various vulnerable groups.
 - b. The provision of EU funding to national victim support organisations and community-based organisations should be complemented by **enhanced cooperation** between civil society organisations (CSOs) and local or national authorities¹. Overall, the strategy should entail clear guidance for State authorities on cooperating and communicating with CSOs and experts to map communities' needs, and design targeted campaigns, reporting and support systems that are fully accessible, fair and effective.

¹ In terms, inter alia, of data collection and documentation and reporting mechanisms and accessing funds, but also putting in place sustainable local systems for support services.

- c. National campaigns to raise awareness of victims' rights should be adapted to the needs and specific characteristics of particularly vulnerable communities, including non-EU nationals, refugees and asylum-seekers, and should be based on local assessments of needs, trends, good practices and challenges.
- 1.8 The experience of COVID-19 has once again shown that the authorities in some Member States are poorly equipped to provide emergency or short-term shelters, in particular outside capital cities. Developing emergency shelters, safe houses and support centres and providing integrated support services is a necessity and needs the cooperation of national authorities and civil society actors, as well as EU funding.
- 1.9 The European Commission should integrate victims' agenda into all EU funding programmes, including EU funds managed at national and international level.

2. Background to the opinion

- 2.1 Over the last thirty years, victims' rights and policies for protecting them have developed on the international and European stage. Much progress has been seen, among other things, as a result of the adoption of a range of EU regulations that benefit victims, namely the 2012 Victims' Rights Directive and the 2004 Compensation Directive, and now the document "For a new EU Victims' rights strategy 2020-2025".
- 2.2 In adopting its first EU strategy on victims' rights, the Commission's aim is to ensure that all victims of crime can be sure that their rights will be fully respected, no matter where in the EU the crime took place.
- 2.3 The strategy sets out a number of actions for the next five years, focusing on two objectives: first, to empower victims to report crime, claim compensation and ultimately recover from the consequences of crime; second, to work together with all relevant actors for victims' rights.
- 2.4 The strategy also sets out a number of actions for the Commission, as well as Member States and civil society, for the next five years.
- 2.5 The strategy is based on five key priorities: 1. Effective communication with victims and providing a safe environment for victims to report crime; 2. improving protection and support of the most vulnerable victims; 3. facilitating victims' access to compensation; 4. strengthening cooperation and coordination among actors on victims' rights; and 5. strengthening the international dimension of victims' rights.

3. General comments

- 3.1 Overall, the strategy's five priorities are likely to generate positive effects and contribute effectively to supporting Member States' implementation of the relevant EU framework. However, several key points, as well as cross-cutting issues, can also be noted.

- 3.2 The strategy includes limited guidance on the importance of setting up or, depending on the case, enhancing the reach and effectiveness of reporting mechanisms (whether formal or informal). Such mechanisms should be mainstreamed and accessible to all categories of victims, regardless of their status in the respective EU Member State, and should be adapted and flexible to meet the needs of the most vulnerable. This would require enhanced needs assessment, documentation, data collection and consultative processes, as outlined in other comments below.
- 3.3 While the strategy makes a number of references to the challenges faced by vulnerable categories, it should also refer to refugees and asylum-seekers, recognising their increased vulnerability, as a category, to Islamophobic, racist, xenophobic and other types of hate crime.
- 3.4 The strategy makes the general point that "Victims' difficulties in accessing justice are mainly due to lack of information, insufficient support and protection". It is worth highlighting that further details should be included in the strategy, in terms of the need to make existing provisions and mechanisms not only better known, but generally more accessible (from reporting and self-identification to accessing support or redress mechanisms). Support services may often be needed in this regard, for example community workers, child protection staff for unaccompanied migrants or asylum-seeking children or for children in the child protection systems, medical personnel, mental health workers, interpreters for those who do not speak the local language, etc. Such support services should equally benefit from training but, currently, most of the references to training on victims' rights relate to law enforcement and the judiciary.
- 3.5 While the strategy's first priority is clearly to ensure effective communication with victims of crime and a safe environment for victims to report crime, there is still a major concern in relation to ensuring the **existence, effective functioning and accessibility** of reporting and recording systems, especially informal ones, since the strategy itself highlights that many of the most vulnerable communities and victims are often reluctant to liaise with authorities, are unable to do so, or face other barriers in accessing formal reporting (with authorities). Even if such systems do not lead to criminal investigations, they may still warrant access to specific types of support and may be relevant to providing data in local or national contexts – which should be key to policy-making – and to the budgeting and planning of services.
- 3.6 Furthermore, and on the same note, there seems to be little or no reference in the strategy to documentation or data collection. Responding to victims' needs and putting in place a framework to ensure victims' rights, especially when it comes to victims of certain types of crime – hate crime, sexual and gender-based violence (SGBV), etc. – requires a thorough understanding of the local and community context, access to communities, needs assessments and the development of targeted policy and practical solutions. As a result, the strategy should generally encourage States, perhaps using a cross-cutting approach, to support data collection and consultation with communities and victims and potential victims, and carry out needs assessments with mapping of best practices in cooperation with CSOs to guide policy-making and institutional responses.
- 3.7 One last point to highlight in relation to data collection is the need for key authorities (police/judicial/prosecution bodies) to put in place effective systems that allow for **information on crime victims** to be collected throughout and systematically analysed and used in the design

of targeted response measures. Currently, for example, only a few EU Member States collect disaggregated information on the profiles of crime victims. Such information would be useful for an analysis of trends and patterns, and would contribute to the design of prevention activities, information campaigns, reporting tools, identification and response mechanisms or support services.

- 3.8 Furthermore, the magnitude of phenomena such as hate crime is hard to estimate in many EU Member States, due to a lack of accessible reporting systems, excessively formal systems to record incidents and/or complaints (which may be available only to the police and/or prosecution), and the lack of certain criteria and guidance for data collection when it comes to victims. A unified vision of data collection regarding victims of crime, which could be ensured through this strategy, would allow for better, more targeted responses. This also ties in with other Commission initiatives and how they can be implemented (such as those linked to racism and xenophobia), as these are likely also negatively impacted by the lack of data or the proper analysis thereof.
- 3.9 With regard to reporting, it is important to clarify that the strategy looks into all three pillars that are relevant to ensuring victims' rights: a) identification (of victims of crime), which can be done through formal and informal reporting mechanisms as mentioned in a previous comment; b) prevention and c) response.
- 3.10 It is a welcome development that the strategy contains several references to the importance of communication between "relevant professionals with victims in a way that is adapted to victims' specific needs". However, for the adequate implementation of this particular output, a mechanism should be put in place, and capacity-building schemes established, for relevant professionals, to allow for the proper identification and understanding of these specific needs. Without such identification, the objective of ensuring a response that meets the specific needs cannot be achieved. Such a mechanism would rely on coordination between the authorities, civil society organisations and grassroots or community organisations. This will not only increase crime reporting and recording from members of specific vulnerable communities, and contribute to case-building; it will also enhance the overall capabilities of national systems to map victims' needs and provide relevant referrals and individualised responses. The strategy should, therefore, include a focus on or clarification of the means to enhance identification of the specific needs of crime victims.
- 3.11 In relation to the above point, there are several references in the strategy to victims with "specific needs", who "should have access to specialist support". In this regard, national-level stakeholders should be encouraged, through the strategy, to put in place identification and evaluation mechanisms for special needs, which will also entail **regular exchanges with other existing relevant identification mechanisms** such as the anti-trafficking mechanism. This would allow for exchanges of expertise between several bodies, and also a better, more comprehensive and holistic response that properly matches the special needs identified.
- 3.12 Any services, as well as any awareness campaigns on victims' rights, need equally to rely on needs assessments and consultations with communities. Particular attention should be paid not only to child victims, the elderly or victims with disabilities in the design of such information

campaigns, but also to the needs of refugees, asylum-seekers and migrant victims, for example, who may also face severe barriers in access to information, reporting, or support services, including intersectional discrimination.

- 3.13 The focus on training is reflected throughout the strategy – and indeed, it is key to ensuring smoothly operating systems and to ensuring victims' rights. However, if we acknowledge the impact of certain types of crime, in particular hate crime, cybercrime, GBV or crime affecting children, training activities should not only be available to the judicial authorities and police. Focus should also be placed on improving the skillset of first responders – who may be community workers, teachers, child protection staff, reception or immigration detention staff or border police. This is especially true in the context of mixed migration, including irregular mixed migration between EU Member States, the risk of falling victim to exploitation and the increasing reports of violence at the borders and in asylum reception facilities.
- 3.14 While we welcome the focus of the 2012 Victims' Rights Directive on restorative justice services and the inference that such services should primarily consider the interests and needs of victims, the strategy should provide more guidance and a detailed overview of how States could implement high-quality standards and put in place accessible, fair and effective tools to support victims in their access to such restorative services.
- 3.15 Regarding victims of gender-based violence: while the strategy does provide some examples of GBV, other types of SGBV should also be acknowledged and specified, for example harmful traditional practices such as female genital mutilation (FGM), child marriage etc. Expanding this list would contribute to increased awareness of such practices amongst law enforcement and other relevant professionals.
- 3.16 The role of the proposed EU Network on the prevention of GBV and domestic violence, referred to in the strategy, should also be expanded to cover the objectives and outputs regarding identification and mitigation of this type of crime (especially relevant when it has a transnational component).
- 3.17 Gender-based violence and harassment in the world of work is considered a human rights violation or abuse and is a threat to human dignity, the promotion of decent work and access to and progress in the labour market. The European social partners signed an autonomous agreement in 2007 to address this issue, which needs to be fully implemented at national level in Member States. In 2019, on the occasion of the ILO Centenary, Convention No 190 – the Violence and Harassment Convention – was adopted, which identifies measures to prevent acts of violence and to protect victims and indicates tools for effective enforcement and remedies, together with guidance, training and awareness-raising initiatives. The EESC calls on the European institutions to promote the rapid ratification of this Convention among Member States and coordinate possible follow-up activities at European level.
- 3.18 Whenever trafficking is tackled in the strategy, the impact of trafficking and exploitation on non-EU nationals and refugees also needs to be acknowledged. This also applies to the key actions provided for in the strategy, which should also focus on assessing the extent to which mechanisms available to trafficking victims are also accessible to non-EU nationals (such as

migrants, asylum-seekers and refugees). Furthermore, the strategy should include support measures to enhance the accessibility, effectiveness and adaptability of trafficking identification and response mechanisms, for refugees, migrants and asylum-seekers who become victims of trafficking-related crime.

- 3.19 When it comes to access to compensation for victims of crime, the idea that such access should be independent from (or regardless of) the status of the victim in an EU Member State should also be better reflected in the strategy. Unfortunately, asylum-seekers, refugees and migrants are often reluctant to seek compensation when they become victims of crime, due to the lack of information, absence of knowledgeable and accessible support services, or the fear of retaliation or negative effects in relation to their status. If its aim is to empower victims, then the strategy should equally touch on these concerns and provide for targeted actions to bridge these gaps faced by specific categories of victims.

4. Specific comments on the five priorities of the strategy

- 4.1 Effective communication with victims and providing a safe environment for victims to report crime

4.1.1 One of the key actions for the European Commission refers to training for judicial and law enforcement authorities. However, the need to ensure continuing professional education in relation to dealing with victims of crimes, in particular victims of hate crimes, is equally relevant for social workers and medical personnel. Such training should explicitly include bias and stereotyping sessions and be conducted in coordination with NGOs providing support to various vulnerable groups.

4.1.2 Concerning the key action to be undertaken by the European Commission to provide EU funding to national victim support organisations and relevant community-based organisations: in particular, such funding should be provided in order to develop support services as comprehensive packages – legal and psychological support in helping to find work when needed, emergency accommodation and support with medical expenses.

4.1.3 At the level of the Member States, the key actions proposed remain at a very general and rather rhetorical level. Effective implementation of the directive will be ensured if the national authorities develop, adopt and implement methodological norms to allow judicial and law enforcement authorities and social services to recognise victims of crimes (in particular victims of hate crimes) and to provide adequate support.

4.1.4 Where disaggregated data regarding the victims of crimes are not already collected by the national authorities, this should become a priority, perhaps with the support of EU funding.

4.1.5 Member States should be included in the proposed key actions on awareness regarding rights and the avenues available to report crimes starts in schools, with civic education. National authorities should make sure that national compulsory curricula include information regarding rights, national human rights institutions, and on the protection mechanisms available, adapted to the level of understanding of pupils.

4.1.6 In order to allow NGOs to participate in training activities with authorities, while bringing in the valuable experience of the beneficiaries and experts supporting the victims of crimes, it is important that this contribution is recognised and remunerated through institutional partnerships².

4.2 Improving protection and support for the most vulnerable victims

4.2.1 Concerning the proposed key action for the European Commission in support of victims with special needs such as child victims, victims of gender-based or domestic violence, victims of racist and xenophobic hate crime, LGBTI+ victims of hate crime, elderly victims and victims with disabilities: providing support to particularly vulnerable groups should start with recognising them and the specific characteristics of their status, which often leads to their victimisation. This would mean adopting secondary legislation and developing training packages explaining the specific features of the various most vulnerable groups, methods of interviewing them that avoid re-traumatisation and guides on liaising with the communities where this is the case.

4.2.2 On the proposed key action for the European Commission to implement the guiding principles on ensuring protection and support for victims of hate crime and hate speech, this should be supplemented by establishing an EU mechanism for monitoring effective responses to hate crimes and hate speech, through the EU Agency for Fundamental Rights, which could further develop its current data collection mechanism and include national reporting and early warning features.

4.2.3 Regarding the proposed key action for Member States that builds on the lessons learnt from the COVID-19 pandemic, in particular action aimed at ensuring that victims of gender-based and domestic violence have access to support and protection and setting up integrated and targeted specialist support services for the most vulnerable victims, including safe houses for children, families, women victims of GBV and LGBTI+ individuals: In some Member States, the COVID-19 experience has once again shown that the authorities are poorly equipped to provide emergency or short-term shelters, in particular outside capital cities. Developing emergency shelters, safe houses and support centres and providing integrated support services is a necessity and needs the cooperation of national authorities and private actors, as well as EU funding.

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By way of example, following the ECHR's 2016 ruling on the MC and AC v. Romania case (a case of homophobic hate crime) and currently under the close supervision of the Council of Ministers of the CoE, the NGO ACCEPT Romania, which supported the plaintiffs in the case, regularly provides pro bono training to the Romanian Institute for Studies of Public Order (ISOP). Such training includes a presentation of anti-discrimination legislation, the provisions on hate crimes and what sexual orientation and gender identity mean, and features practical sessions, simulations and living libraries, where three or four members of the LGBTI community participate for an hour during the day and share their experiences with the law enforcement authorities. This is a huge human and logistical effort, which is provided for free by the NGO volunteers and the experts affiliated with the NGO. The real challenge, however, lies in the lack of sustainability and the limited impact of the sessions. Only a small group of 20-30 participants is engaged in these training sessions out of the hundreds of new recruits or the thousands of employees of the MoI. The solution would be to prioritise developing internal capacities within the national judiciary or law enforcement authorities to carry out such courses as integrated into continuing professional education.

4.3 Facilitating victims' access to compensation

4.3.1 One of the relevant stakeholders is the EU Agency for Fundamental Rights which, through its network of independent Member State experts (FRANET), carries out an annual analysis of the legislation and policies adopted to ensure protection of victims' rights and which can also produce thematic reports. Through its mandate, FRA is in a position to promote promising practices and to organise events at which compensation authorities can exchange ideas and enhance cooperation.

4.4 Strengthening cooperation and coordination among all relevant actors

4.4.1 Concerning the Member States' proposed action aimed at building societies that are more resilient by promoting greater involvement of civil society in national measures: here the concept of "involvement of civil society" is far too broad – associations of policemen, detention-centre guards, civil protection/defence associations and churches are also civil society. The active engagement of those parts of civil society working directly with victims of crimes is essential.

4.4.2 While the EU has signed up to the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), at the national level, the Istanbul Convention is coming under attack in some Member States, with reservations and interpretations being put forward in response to an emerging rhetoric of "traditional values" describing gender, gender-based violence and gender identity as constructs eroding national identities and portraying domestic violence as a privacy concern. The EU has a fundamental role in safeguarding the Istanbul Convention. While it is up to the Member States to develop and improve domestic legislation, the EU can foster awareness regarding the importance of protection against gender-based violence. This can also be achieved through earmarking funding for developing professional modules to educate the legal profession, for facilitating exchanges and for providing support for NGOs that campaign and do advocacy work, while also providing support to the victims of gender-based violence.

4.5 Strengthening the international dimension of victims' rights

4.5.1 Coordination across all EU institutions and agencies in implementing the strategy is essential in order for the EU to take the lead in Council of Europe and UN activities for victims.

4.5.2 The EU should use international programmes to fund activities outside the EU to support the development of laws, policies and services, including through the funding for capacity-building activities, which covers all victims of crime.

5. **EU funding**

5.1 Only a negligible fraction of the EU's budget is spent on victims' issues. This contrasts with the cost of crime to victims and society. Having in mind the importance and cross-cutting nature of victims' issues, the European Commission should develop a strategic approach to victims' funding that identifies areas most likely to benefit from EU funding and that coordinates

incorporation of victims' priorities across the various EU funding programmes, including those operating at national and international level³.

5.2 Funding is critical and should be delivered using a non-project-based approach and on a rather long term with a mix of EU and national funding.

Brussels, 29 October 2020

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³ Victim Support Europe, roadmap for the victims' rights strategy for 2020-2024.