



Women Against Violence Europe (WAVE) Network Analysis of the European Commission's Proposal for a Revised Victims' Rights Directive (VRD) - Directive 2012/29/EU Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime and Replacing Council Framework Decision 2001/2020/JHA

Vienna, December 5th, 2023

Women Against Violence Europe (WAVE), the largest European Network of Women Specialist Services (WSS)¹, proudly representing over 1,600 women's organisations across 46 European countries through its 170 members, warmly welcomes the European Commission's (EC) proposal to revise the [Victims' Rights Directive \(VRD\)](#). This directive plays a pivotal role in establishing essential standards for the rights, support, and protection of crime victims within the European Union. As the primary horizontal legislation for victims' rights, it defines fundamental entitlements, including access to information, support, protection, justice, and compensation, crucial for safeguarding the rights of all victims.

Since its inception in 2012, the VRD has undeniably improved access to these rights for victims of crime. However, new challenges have emerged, notably due to the COVID-19 pandemic, necessitating a comprehensive revision. This pandemic has underscored the evolving landscape of victim-centric justice and the necessity for greater attention to child-friendly and victim-centred approaches. Consequently, **the unrevised VRD falls short of effectively addressing the unique needs of specific victim categories, especially vulnerable groups such as victims of violence against women, domestic violence, and child victims.**

The core objective of this revision, as outlined by the EC, is to modernize the VRD, aligning it with current standards on victims' rights. To achieve this, the proposal strengthens provisions in six key areas: (i) ensuring effective communication with victims and providing a safe environment for reporting crimes; (ii) enhancing support and protection for the most vulnerable victims; (iii) facilitating victims' access to compensation; (iv) fostering cooperation and coordination among relevant stakeholders; and (v) amplifying the international dimension of victims' rights².

WAVE applauds this holistic approach to the VRD revision, which addresses challenges arising from the worrying shift over the past decade towards harmful political narratives that threaten fundamental rights, especially women's rights and gender equality. We are deeply concerned about efforts to reduce women's acquired rights, accompanied by the dissemination of misleading information and harmful stereotypes.

We wholeheartedly support the EC's proposal to strengthen the recognition of the rights of vulnerable victims, encompassing those who require specialized support and protection measures, including children and victims of violence against women and domestic violence, among others. By making these changes, the EC acknowledges the role of Women Specialist Services, which have accumulated over 40 years of feminist practice and expertise, emphasizing the need for tailored

¹ Women's Specialist Services (WSS) is a collective term used to define feminist services that support women and their children experiencing violence against women and domestic violence. These services include but are not limited to women's support centres, shelters, helplines, rape crisis or sexual violence referral centres, and prevention services.

² Proposal for a Directive of The European Parliament and of The Council amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, Explanatory Memorandum, p.1.



interventions that address the individual needs of victims/survivors of violence against women, domestic violence, and their children.

Furthermore, the explanatory memorandum addresses a crucial point: the complementarity of protection levels envisaged in sectoral and horizontal legislation. It clarifies that sectoral legislation, such as the proposed EU Directive on Violence Against Women and Domestic Violence (VAW and DV), "criminalises certain acts and provides additional rights to victims of those crimes that respond more directly to their specific needs." This sectoral legislation is designed to apply "to those who are in need of specialist support and protection measures," precisely like the victims of violence against women and domestic violence"³.

Therefore, the VRD, as horizontal legislation, establishes minimum standards for protection, recognizing the specific needs of victims of particular categories of crimes, such as VAW and DV. However, it also acknowledges its limitations in fully addressing the specific needs of these vulnerable victims. As such, sectoral legislation, such as the proposed EU Directive on VAW and DV, is not only necessary but also complementary. It "supplements the VRD by providing additional rights to victims of specific categories of crimes under its provisions."⁴ In other words, these two pieces of legislation recognize that specialized support services tailored to the unique needs of victims, such as those affected by VAW and DV, are indispensable and cannot be replaced by general, non-specialist services. This point has unfortunately been subject to misinterpretation and misconstruction in debates, forums, and policy papers concerning victims of VAW and DV. In the subsequent pages, we present our detailed feedback on the EC's proposed changes to relevant articles.

CHAPTER 2

PROVISION OF INFORMATION AND SUPPORT

Article 3a. Victims' Helpline (EC proposed new article)	Article 3a. Victims' Helpline (WAVE proposed amendment)
<ol style="list-style-type: none">1. Member States shall take the necessary measures to establish easily accessible, user-friendly, free-of-charge and confidential victims' helplines which:<ol style="list-style-type: none">a) provide victims with the information referred to in Article 4(1);b) offer emotional support;c) refer victims to specialised support services and/or specialised helplines if needed.2. Member States shall ensure the provision of helplines referred to in paragraph 1 through a telephone helpline connected to the EU harmonised number "116 006" and through other information and communication technologies, including websites.3. Member States shall take appropriate measures to ensure the availability of the services referred to in paragraphs 1 and 2 in other languages, including at least the languages most used in the Member State.	<ol style="list-style-type: none">1. Member States shall take the necessary measures to establish easily accessible, user-friendly, free-of-charge and confidential victims' helplines which:<ol style="list-style-type: none">a) provide victims with the information referred to in Article 4(1);b) offer emotional support;c) refer victims to specialised support services and/or specialised helplines if needed.2. Member States shall ensure the provision of helplines referred to in paragraph 1 through a telephone helpline connected to the EU harmonised number "116 006" and through other information and communication technologies, including websites, <i>without any prejudice to the continuation of pre-existing helplines. Member States shall ensure financial support for such helplines.</i>3. Member States shall take appropriate measures to ensure the availability of the services referred to in paragraphs 1 and 2 in other languages,

³ Ibid., Explanatory Memorandum, p.4.

⁴ Ibid., Explanatory Memorandum, p.4.



<p>4. Helplines may be set up by public or non-governmental organisations and may be organised on a professional or voluntary basis.</p>	<p>including at least the languages most used in the Member State.</p> <p>4. Helplines may be set up by public or non-governmental organisations and may be organised on a professional or voluntary basis.</p>
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WAVE warmly welcomes the provision acknowledging victim helplines, particularly those managed by non-governmental organizations, within the revised Victims' Rights Directive. However, it is crucial to emphasize that establishing a European Helpline should not be seen as a replacement for specialized helplines that cater to the unique needs of various victim categories, such as victims of Violence against Women (VAW) and Domestic Violence (DV). The primary goal should revolve around creating robust referral protocols between these helplines rather than supplanting national services. Clear and effective protocols for referral are paramount to ensure seamless access for victims to the specialized support services they require. This approach safeguards victims' rights without compromising their access to tailored assistance during crucial moments.

<p>Article 5a. Reporting of Crime (EC proposed new article)</p> <ol style="list-style-type: none"> 1. Member States shall ensure that victims can report criminal offences to the competent authorities through easily accessible, user-friendly information and communication technologies. Such possibility shall include the submission of evidence where feasible. 2. Member States shall take the necessary measures to encourage any person who knows about or suspects, in good faith, that criminal offences have been committed, or that further acts of violence are to be expected, to report this to the competent authorities. 3. Member States shall ensure that victims can effectively report crimes committed in detention facilities. Detention facilities shall include in addition to jails, detention centres and holding cells for suspects and accused, specialised detention facilities for applicants of international protection and pre-removal centres, and accommodation centres where applicants and beneficiaries of international protection are located. 4. Where children report criminal offences, Member States shall ensure that the reporting procedures are safe, confidential, designed and accessible in a child-friendly manner and use language in accordance with their age and maturity. 5. Member States shall ensure that the competent authorities coming in contact with a victim reporting crimes are prohibited from transferring personal data pertaining to the residence status of the victim to competent migration authorities, at least until completion of the first individual assessment referred to in Article 22. 	<p>Article 5a. Reporting of Crime (WAVE proposed amendment)</p> <ol style="list-style-type: none"> 2. Member States shall take the necessary measures to encourage any person who knows about or suspects, in good faith, that criminal offences have been committed, or that further acts of violence are to be expected, to report this to the competent authorities <i>and to do so anonymously.</i> 5. Member States shall ensure that the competent authorities coming in contact with a victim reporting crimes are prohibited from transferring personal data pertaining to the residence status of the victim to competent migration authorities, <i>at least until completion of the first individual assessment referred to in Article 22.'</i>
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WAVE firmly asserts that safeguarding the rights of victims and upholding human rights within the European Union must stand as an overarching priority, extending to all individuals regardless of their migration status. Restricting protection solely to victims of crimes occurring within the Union, contingent upon the completion of their individual assessments, falls short of effectively preserving their rights. This limitation risks discouraging victims of all forms of crime, including survivors of Violence against Women (VAW) and Domestic Violence (DV), from seeking assistance from authorities. Regarding **literal 4 of this Article, WAVE welcomes the explicit reference to the necessity for safe and child-friendly reporting procedures.** This inclusion addresses a significant gap in the protection of children's rights, guaranteeing that the unique needs of children are thoughtfully and adequately taken into account.

Article 8. Right to Access Victim Support Services (Original 2012 version)	Article 8. Right to Access Victim Support Services (EC proposed amendments)
<ol style="list-style-type: none">1. Member States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings. Family members shall 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.2. Member States shall facilitate the referral of victims, by the competent authority that received the complaint and by other relevant entities, to victim support services.3. Member States shall take measures to establish free-of-charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organisations to call on existing specialised entities providing such specialist support. Victims, in accordance with their specific needs, shall have access to such services and family members shall have access in accordance with their specific needs and the degree of harm suffered as a result of the criminal offence committed against the victim.4. Victim support services and any specialist support services may be set up as public or non-governmental organisations and may be organised on a professional or voluntary basis.5. Member States shall ensure that access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority.	<ol style="list-style-type: none">2. Member States shall ensure that victims are contacted by the relevant general or specialised support services if the individual assessment referred to in Article 22 demonstrates the need for support and the victim consents to be contacted by support services or if the victim requests support. <p>The following paragraph is added:</p> <ol style="list-style-type: none">6. Victim support services shall remain operational in times of crisis, such as health crises, significant migratory situations, or other states of emergency.

WAVE appreciates the European Commission's clear and unequivocal language in Article 8 and its corresponding Recital 10. This precision leaves no room for misinterpretation and unequivocally recognizes the unique needs of vulnerable victims. Furthermore, it substantially enhances accessibility



to specialist support services for survivors of gender-based violence. Of particular note is the revision within Paragraph 2 of Article 8, which deserves commendation for its explicit clarification of the pathways for referrals between general and specialist services. This revision underscores a fundamental principle: the urgent and crucial necessity of assessing victims' support needs comprehensively, including the provision of specialized assistance when required. Equally important is the obligation to ensure swift referrals to the most appropriate services, an aspect we wholeheartedly endorse.

Women Specialist Services have consistently demonstrated their capacity to provide high quality, survivor-centred counselling. Their track record speaks to their commitment to survivors' well-being and their ability to deliver the specialized care needed to facilitate recovery. By bolstering the capacity of these services, we can significantly reduce waiting times, ensuring that survivors receive the timely and specialized support they need to heal and rebuild their lives. Extensive research⁵ has repeatedly underlined the importance of connecting victims of violence against women, particularly those affected by sexual violence, with the right support at precisely the right moment. It is well-documented that survivors often withhold disclosure of sexual violence unless they encounter service providers that possess the requisite knowledge and expertise, and provide women-centred, confidential, and non-judgemental openness to such disclosure. Therefore, when victims engage with statutory services and spaces are not specialist for women, it becomes imperative that they are swiftly directed to specialist services that are uniquely placed to address their specific needs.

Therefore, the European Commission's commitment to explicit language and clear directives in Article 8 and Recital 10 is a significant step toward achieving comprehensive and survivor-centric support for victims of gender-based violence against women. By promoting specialized services and prompt referrals, we are not only respecting the experiences of survivors but also actively working to dismantle the barriers that have long hindered their path to recovery.

In regard to the newly introduced paragraph 6, WAVE commends the Commission's recognition of the need to sustain victim support services, including specialist services, during crises. This aligns closely with WAVE's recommendations in its 2021 Country Report⁶ concerning the impact of the COVID-19 pandemic on the provision of Women Specialist Services. In both times of crisis and periods of stability, states must unequivocally declare the prevention and mitigation of violence against women as a top priority. This includes acknowledging the essential role of women's specialist support services in these efforts.

To ensure the long-term viability of service provision, the necessary resources must be allocated through flexible funding mechanisms. This will enable services and their staff to adapt and meet the evolving needs during crisis conditions. Therefore, WAVE anticipates that Member States and the Commission will commit to **providing adequate resources to cover the costs of delivering specialized**

⁵ "Rape as a Weapon of War: Advancing the Rights of Women in Armed Conflict" FOURNET, Caroline 2014, Cambridge University Press. Caroline Fournet's work examines the use of rape as a weapon of war and the critical need for immediate and specialized support for victims in conflict zones; "Violence Against Women: An EU-Wide Survey" 2014, European Union Agency for Fundamental Rights. This survey by the European Union Agency for Fundamental Rights highlights the prevalence of violence against women in the EU and the urgent requirement for timely and appropriate support for victims; "The Long-Term Health Consequences of Child Physical Abuse, Emotional Abuse, and Neglect: A Systematic Review and Meta-Analysis" BELLIS, David C. et al. 2019, PLOS Medicine. This systematic review emphasizes the long-term health consequences of abuse and neglect in childhood, highlighting the need for early intervention and support for victims; "Mental Health and Sexual Violence: A Review of the Literature" SCOTT, K et al. 2011, Aggression and Violent Behaviour. This literature review explores the intersection of mental health and sexual violence, emphasizing the importance of timely support for survivors to mitigate mental health consequences. These references collectively underscore the critical significance of providing victims of violence against women, especially those affected by sexual violence, with the right support at the right time to address the immediate and long-term consequences of such violence.

⁶"WAVE Country Report 2021 – Women's Specialist Support Services in Europe and the impact of COVID-19 on their provision", Women Against Violence Europe (WAVE) Network. Vienna, Austria, December 2021.



services, including those delivered by non-governmental organizations, as outlined in this article and the corresponding Recital 15.

Article 9. Support from Victim Support Services (Original VRD 2012 version)	Article 9. Support from Victim Support Services (EC proposed amendments)
<p>1. Victim support services, as referred to in Article 8(1), shall, as a minimum, provide:</p> <ul style="list-style-type: none">(a) information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial;(b) information about or direct referral to any relevant specialist support services in place;(c) emotional and, where available, psychological support;(d) advice relating to financial and practical issues arising from the crime;(e) unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation. <p>2. Member States shall encourage victim support services to pay particular attention to the specific needs of victims who have suffered considerable harm due to the severity of the crime.</p> <p>3. Unless otherwise provided by other public or private services, specialist support services referred to in Article 8(3), shall, as a minimum, develop and provide:</p> <ul style="list-style-type: none">(a) shelters or any other appropriate interim accommodation for victims in need of a safe place due to an imminent risk of secondary and repeat victimisation, of intimidation and of retaliation;(b) targeted and integrated support for victims with specific needs, such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships, including trauma support and counselling.	<p>1. Victim support services, as referred to in Article 8(1), shall, as a minimum, provide:</p> <ul style="list-style-type: none">(a) no changes(b) no changes(c) emotional and, where available, psychological support once they become aware of the status of a person as a victim. If the special need for psychological support has been demonstrated by individual assessment referred to in Article 22, psychological support shall be available to victims in need of such support for as long as necessary;(d) no changes(e) no changes <p>2. No changes</p> <p>3. Unless otherwise provided by other public or private services, specialist support services referred to in Article 8(3), shall, as a minimum, develop and provide:</p> <ul style="list-style-type: none">(a) no changes(b) targeted and integrated support, including trauma support and counselling, for victims with specific needs, such as victims of sexual violence, victims of gender-based violence, including violence against women and domestic violence covered by Directive (EU) .../... of the European Parliament and of the Council [on combating violence against women and domestic violence], victims of trafficking in human beings, victims of organised crimes, victims with disabilities, victims of exploitation, victims of hate crime, victims of terrorism, victims of core international crimes. <p>4. Member States shall provide the protection and specialist support services necessary to comprehensively address the multiple needs of victims with specific needs in line with the protocols referred to in Article 26a(1), point (c).</p>

Women Specialist Services have been at the forefront of recognizing the pressing need for psychological support for victims and survivors of Violence against Women (VAW) and Domestic Violence (DV) for many decades. Despite operating under severe financial constraints, these services have tirelessly provided long-term psychological support. In light of this, **WAVE fully endorses the Directive's acknowledgement, as articulated in the amendment to literal (c) paragraph 1**, that victims



with a demonstrated special need for psychological support should have access to such services free of charge, for as long as they require it.

Furthermore, extensive research has underscored the pivotal role of integrated support, which encompasses trauma support and counselling, for victims with specific needs, including survivors of sexual violence and victims of gender-based violence, such as Violence against Women and Domestic Violence. For instance, the Clinical Innovation Project (CIP) developed by the Rape Crisis Network Ireland⁷ has revealed that "survivors of sexual violence have complex counselling needs and encounter numerous barriers to accessing counselling, as well as additional obstacles when disclosing their experiences."

Consequently, for victims and survivors to effectively disclose incidents of gender-based, sexual, and intimate partner violence, and to address the long-term consequences of these traumatic experiences, it is imperative that they have consistent access to reliable, specialized, and long-term counselling services. Therefore, **WAVE welcomes the amendment to literal (b) paragraph 3, and the introduction of the new paragraph 4 in Article 9.** These revisions align with Article 22 of the Istanbul Convention, emphasizing the importance of ensuring access to long-term counselling provided by trained and specialist staff.

Article 9a. Targeted and Integrated Support Services for Children

(EC proposed new article)

1. Member States shall take the necessary measures to ensure the availability of child-friendly targeted and integrated specialist services for children to provide for age-appropriate support and protection necessary to comprehensively address the multitude of needs of child victims.
2. Targeted and integrated support services for child victims shall provide for a coordinated multi-agency mechanism that includes the following services:
 - (a) the provision of information;
 - (b) medical examination;
 - (c) emotional and psychological support;
 - (d) possibility of crime reporting;
 - (e) individual assessment of protection and support needs referred to in Article 22;
 - (f) video recording of testimonies referred to in Article 24(1).

The services referred to in paragraph 2 shall be provided within the same premises.'

As a network of Women Specialist Services dedicated to assisting women who are victims of domestic violence, WAVE possesses a profound understanding of the imperative for specialized services that are child-friendly and targeted to address the unique needs of child victims. This need is particularly clear when violence against women extends to include violence against children within the same household.

Considering this, we fully endorse the European Commission's recognition of the necessity to safeguard children's rights by establishing integrated support services designed to assist child victims. This recognition is especially crucial in situations where children may experience secondary victimization because of witnessing intimate partner violence. Hence, **fully support the Commission's proposed new Article 5a**, as it is a pivotal step forward in prioritizing the protection of children's rights and ensuring the provision of comprehensive support services for them.

Article 10a. Right to Assistance at the Court

(EC proposed new article)

⁷ Rape Crisis Network Ireland, "The State of Counselling for Survivors of Sexual Violence" [Manuscript submitted for publication].



Member States shall take the necessary measures to establish assistance at the court premises to provide information and emotional support to victims.

The proposed Article 10a, which underscores the right to assistance at the court premises for victims, is a significant addition to the Victim Rights Directive. From a feminist perspective, and considering the specialized expertise of Women Specialist Services, this provision is extremely important, particularly in the context of child custody proceedings related to violence against women and domestic violence. Women Specialist Services are uniquely positioned to provide the necessary support and guidance to women navigating the complex, and often traumatic, terrain of family courts. In cases involving child custody, where the dynamics of violence persist, the presence of these specialized services can be transformative. Their role in court settings can encompass offering emotional support, explaining legal procedures, and providing critical information to empower women to make informed decisions in the best interests of themselves and their children. Moreover, their presence helps to counterbalance the power dynamics that may disadvantage survivors in court, ultimately contributing to a fairer and more just legal process. This provision not only recognizes the importance of providing assistance to victims of all crimes but opens the door to reinforce the unique competence of Women Specialist Services in ensuring that women's voices are heard, and their rights are protected, particularly in child custody cases marred by violence.

Article 14. Right to reimbursement of expenses
(Original VRD 2012 version)

Member States shall afford victims who participate in criminal proceedings, the possibility of reimbursement of expenses incurred as a result of their active participation in criminal proceedings, in accordance with their role in the relevant criminal justice system. The conditions or procedural rules under which victims may be reimbursed shall be determined by national law.

Article 14. Right to reimbursement of expenses
(WAVE proposed amendment)

Member States shall afford victims who participate in criminal proceedings, the possibility of reimbursement of expenses incurred as a result of their active participation in criminal proceedings, in accordance with their role in the relevant criminal justice system, *especially in cases where victims are economically dependent on their offenders*. The conditions or procedural rules under which victims may be reimbursed shall be determined by national law.

Article 16. Right to decision on compensation from the offender in the course of criminal proceedings
(Original VRD 2012 version)

1. Member States shall ensure that, in the course of criminal proceedings, victims are entitled to obtain a decision on compensation by the offender, within a reasonable time, except where national law provides for such a decision to be made in other legal proceedings.

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

Article 16. Right to decision on compensation from the offender in the course of criminal proceedings
(WAVE proposed amendment)

1. Member States shall ensure that, in the course of criminal proceedings, victims are entitled to obtain a decision on compensation by the offender, within a reasonable time, except where national law provides for such a decision to be made in other legal proceedings. *In the case of the victims facing economic dependency on offenders, they shall have expedited access to compensation.*

2. Member States shall promote measures to encourage offenders to provide adequate compensation to victims. *In cases where offenders are unable to fulfil their compensation obligations due to bankruptcy or other reasons, Member States shall assume responsibility for ensuring timely compensation to victims of domestic violence, in accordance with National law.*



WAVE advocates for enhanced support for domestic violence victims under Article 14 and Article 16 of the EU Victims' Rights Directive. Article 14 focuses on reimbursing expenses incurred by victims actively involved in criminal proceedings. However, WAVE is concerned about its adequacy, particularly for victims economically dependent on their abusers.

Victims of intimate partner violence are often economically dependent on their abusers, hindering their ability to initiate legal actions. This reliance becomes a barrier to reporting these crimes effectively. Therefore, we urge Member States to extend support beyond mere expense reimbursement, recognizing how economic constraints impede victims from reporting offenses.

Additionally, Article 16 emphasizes victims' entitlement to seek compensation from offenders during criminal proceedings, stressing the need for a reasonable timeframe for this decision. Member States are encouraged to encourage offenders to provide adequate compensation.

Our proposal highlights both Article 30 of the Istanbul Convention concerning compensation from perpetrators⁸ and Member States' responsibility to protect citizens, especially victims facing economic dependency, a common aspect in domestic violence cases. Scarce resources significantly impede reporting, underscoring the urgency for comprehensive support surpassing mere expense reimbursement. This support should include accessible free legal aid to alleviate victims' economic burden, enabling them to pursue legal action without financial constraints.

Furthermore, we advocate for expedited compensation procedures within criminal proceedings and emphasize offender liability. Timely decisions on compensation are crucial. In instances where offenders are unable to compensate due to bankruptcy, we suggest Member States assume responsibility, as per Article 30 of the Istanbul Convention. This ensures timely compensation for domestic violence victims, irrespective of the offenders' ability to fulfil obligations.

CHAPTER 4

PROTECTION OF VICTIMS AND RECOGNITION OF VICTIMS WITH SPECIFIC PROTECTION NEEDS

<p>Article 22. Individual assessment of victims to identify specific protection needs (Original 2012 version)</p> <ol style="list-style-type: none">1. Member States shall ensure that victims receive a timely and individual assessment, in accordance with national procedures, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures in the course of criminal proceedings, as provided for under Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.2. The individual assessment shall, in particular, take into account:	<p>Article 22. Individual assessment of victims to identify specific <u>support</u> protection needs (EC proposed amendments)</p> <ol style="list-style-type: none">1. Member States shall ensure that victims receive a timely and individual assessment, to identify specific support and protection needs and to determine whether and to what extent they would benefit from special measures provided for under Article 9(1), point (c), and Articles 23 and 24, due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.1a. The individual assessment shall be initiated upon the first contact of the victim with the competent authorities and shall last as long as
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⁸ Istanbul Convention. Article 30 – *Compensation*. 1 Parties shall take the necessary legislative or other measures to ensure that victims have the right to claim compensation from perpetrators for any of the offences established in accordance with this Convention. 2 Adequate State compensation shall be awarded to those who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources such as the perpetrator, insurance or State-funded health and social provisions. This does not preclude Parties from claiming regress for compensation awarded from the perpetrator, as long as due regard is paid to the victim's safety. 3 Measures taken pursuant to paragraph 2 shall ensure the granting of compensation within a reasonable time.



<p>(a) the personal characteristics of the victim; (b) the type or nature of the crime; (c) the circumstances of the crime.</p> <p>3. In the context of the individual assessment, particular attention shall be paid to victims who have suffered considerable harm due to the severity of the crime; victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; victims whose relationship to and dependence on the offender make them particularly vulnerable. In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crime, and victims with disabilities shall be duly considered.</p> <p>4. For the purposes of this Directive, child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article.</p> <p>5. The extent of the individual assessment may be adapted according to the severity of the crime and the degree of apparent harm suffered by the victim.</p> <p>6. Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 23 and 24.</p> <p>7. If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.</p>	<p>necessary depending on the specific needs of each victim. Where the result of the initial stage of the individual assessment by the first contact authorities demonstrates the need to continue the assessment, such assessment shall be undertaken in collaboration with the institutions and bodies depending on the stage of the procedure and victims' individual needs in accordance with the protocols referred to in Article 26a.</p> <p>2. The individual assessment shall take into account:</p> <p>(a) the personal characteristics of the victim, including relevant experiences of discrimination, also when based on a combination of several grounds such as sex, gender, age, disability, religion or belief, language, racial, social or ethnic origin, sexual orientation;</p> <p>(a) the type or nature of the crime; (b) the circumstances of the crime; (c) the relationship to and the characteristics of the offender.</p> <p>3. In the context of the individual assessment, particular attention shall be paid to:</p> <p>(a) victims who have suffered considerable harm due to the severity of the crime; (b) victims who have suffered a crime committed with a bias or discriminatory motive which could, in particular, be related to their personal characteristics; (c) victims whose relationship to and dependence on the offender make them particularly vulnerable.</p> <p>In this regard, victims of terrorism, organised crime, human trafficking, gender-based violence, including violence against women and domestic violence, sexual violence, exploitation or hate crime, victims of core international crime and victims with disabilities shall be duly considered. Particular attention shall be paid to victims who fall under more than one of those categories.</p> <p>3a. In the context of the individual assessment, particular attention shall be paid to the risk emanating from the offender, including the risk of violent behaviour and of bodily harm, the use of weapons, involvement in a group of organised crime, drug or alcohol abuse, child abuse, mental health issues, behaviour of stalking, expression of threats or hate speech.</p> <p>4. For the purposes of this Directive, child victims shall be presumed to have specific support and protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. To determine</p>
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	<p>whether and to what extent they would benefit from special measures as provided for under Articles 23 and 24, child victims shall be subject to an individual assessment as provided for in paragraph 1 of this Article. The individual assessment of child victims shall be organised within the framework of targeted and integrated support services referred to in Article 9a.</p> <p>5. Does not change.</p> <p>6. Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures as provided for in Articles 8, 9, 9a, 23 and 24.'</p> <p>7. Competent authorities shall update the individual assessment at regular intervals to ensure the support and protection measures related to the victim's changing situation. If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.</p>
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WAVE appreciates the European Commission's acknowledgement of the need to assess victims' requirements for support in addition to ensuring their protection. This approach underscores the importance of placing victims at the centre of our efforts, enabling a more comprehensive safeguarding of their rights. Moreover, we commend the explicit mention of adjusting the duration of individual assessments to align with each victim's unique needs. This adaptive approach truly recognizes the individuality of each case, allowing for a nuanced consideration of specific circumstances.

In a similar vein, we welcome the inclusion of experiences of intersectional discrimination and the characteristics of the offender as relevant criteria in the individual assessment process (paragraph 2). Furthermore, the assessment of risk posed by the offender (paragraph 3) is a critical component that we support. These additions align with longstanding demands from Women Specialist Services, particularly for women who are victims of intimate partner violence and sexual violence. The significance of these provisions becomes evident when we consider the distressing statistics regarding sexual abuse against children and women in Europe. Shockingly, between 70% and 85% of children in Europe know their abusers, emphasizing the need for comprehensive assessments that consider these complex dynamics. Additionally, the fact that 31% of women in the EU-28 have experienced physical violence by either a partner or a non-partner since the age of 15⁹ underscores the urgency of these measures in addressing gender-based violence effectively. In conclusion, the Commission's efforts in recognizing and addressing the multifaceted aspects of gender-based violence are commendable, and we believe these provisions will significantly contribute to better protecting and supporting victims in Europe.

<p>Article 23. Right to protection of victims with specific protection needs during criminal proceedings (EC proposed new paragraph)</p>	<p>Article 23. Right to protection of victims with specific protection needs during criminal proceedings (WAVE proposed amendments)</p>
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⁹"Violence Against Women: An EU-Wide Survey" 2014, European Union Agency for Fundamental Rights. https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf



<p>4. The following measures to ensure victims' physical protection shall be available for victims with <u>specific protection needs</u> identified in accordance with Article 22(1) during criminal proceedings:</p> <ul style="list-style-type: none">(a) continuous or temporary presence of law enforcement authorities;(b) barring, restraining or protection orders to provide protection for victims against any acts of violence, including by prohibiting or restraining certain dangerous behaviour of the offender.	<p>4. The following measures to ensure victims' physical protection shall be available for victims with <u>specific protection needs</u> identified in accordance with Article 22(1) during criminal proceedings:</p> <ul style="list-style-type: none">a) continuous or temporary presence of law enforcement authorities;b) barring, restraining or protection orders to provide protection for victims against any acts of violence, including by prohibiting or restraining certain dangerous behaviour of the offender.c) <i>access to shelters and other appropriate interim accommodations</i>
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Barring, restraining, or protection orders, particularly emergency protection orders, are pivotal tools to ensure the safety of women who are victims of violence and their children when they face immediate danger. The recently acceded Istanbul Convention by the European Union mandates that in such perilous situations, law enforcement or another relevant authority can instruct an aggressor to vacate the victim's residence for an adequate duration. Several European countries have adopted these measures in recent years, and European protective measures are in place, facilitating the recognition of such protections across EU Member States' borders. Despite substantial progress in establishing these protective measures, concerns persist regarding their effective implementation.

Women Against Violence Europe is optimistic that the inclusion of these protection measures, specifically designed, among others, for victims of gender-based violence, within the legal framework will yield positive outcomes. This includes improved implementation of these measures and enhanced data collection to assess the impact and effectiveness of emergency barring orders and other protective measures in safeguarding victims.

From the perspective of Women's Support Services, it is evident that numerous barriers obstruct victims from accessing these measures. These barriers encompass the provisional and temporary nature of the orders, as well as a scarcity of housing programs, which compel victims to cohabit with abusive ex-partners post-separation. Notably, orders mandating the abuser's departure from the victim's residence often come with an expiration date, granting the abuser the right to return once the order has lapsed. This aspect underscores the pressing need for more comprehensive and enduring solutions to ensure the safety and well-being of victims of gender-based violence.

Concerning WAVE's proposal of including "**access to access to shelters and other appropriate interim accommodations**" this is a crucial addition for several reasons:

a) *Safety and Protection*: Women experiencing domestic violence or other forms of abuse often require immediate and secure shelter away from the perpetrator. During criminal proceedings, the risk of retaliation or further violence can escalate, making the need for safe accommodations even more critical. Shelters and interim accommodations provide a secure environment where victims can be protected from potential harm.

b) *Psychological Well-being*: Victims of abuse often face emotional and psychological trauma. Access to shelters and interim accommodations not only ensures physical safety but also provides a supportive environment where victims can receive counselling, specialist support services, and resources to aid in their recovery. This supportive environment is crucial during the stress and anxiety of legal proceedings.



c) *Continuity of Support*: Women Specialist Services, such as women's shelters and helplines, offer specialized support tailored to the needs of survivors. Having access to these services during criminal proceedings ensures continuity of care and support for victims, allowing them to access resources that address their specific needs beyond mere physical protection.

d) *Empowerment and Choice*: Providing victims with options for shelters and interim accommodations empowers them to make informed decisions about their safety. It offers them the opportunity to access safe spaces where they feel empowered and supported, enabling them to participate more effectively in legal proceedings without fear for their safety.

Given the vulnerable position of victims of domestic violence and the specific support required, including access to shelters and appropriate interim accommodations during criminal proceedings aligns with the comprehensive care and protection needed for these victims. It acknowledges their multifaceted needs beyond legal protection, prioritizing their safety, well-being, and empowerment throughout the legal process.

Article 24. Right to protection of child victims during criminal proceedings
(EC proposed new paragraph)

3. Where the offence involves the holder of parental responsibility, or there could be any other conflict of interest between the child victims and the holder of parental responsibility, Member States shall take into account the best interest of the child and ensure that any act requiring consent is not conditional upon the consent of the holder of parental responsibility.

Significant improvements have been made in this revision of the VRD, particularly in recognizing the rights of children and gaining a more nuanced understanding of the intricate dynamics of violence, which takes into account the relationships between victims, perpetrators, and children. Notably, the amendments to Article 24 and the inclusion of a new paragraph addressing offences involving individuals with parental responsibility, with a clear emphasis on prioritizing the best interests of the child over the rights of those with parental responsibility, represent a positive step forward. These developments are not only a stride toward better-safeguarding children but also offer increased protection for women who are victims of intimate partner violence. In essence, WAVE acknowledges and appreciates the European Commission's commitment and determination to address some of the most pressing challenges faced by victims of all types of crimes, with a particular focus on Violence against Women (VAW) and Domestic Violence (DV).

Article 27a. Specific obligations in relation to victims of violence against women and domestic violence
(EC proposed new article)

When Member States adopt the measures to comply with this Directive, they shall ensure that it is done without affecting the obligations under Directive (EU) .../... [on combating violence against women and domestic violence], which are applicable in relation to such victims in addition to the obligations set out in this Directive. In particular, Member States shall ensure that

- (a) the victims' helpline as referred to in Article 3a of this Directive does not affect the operation of dedicated and specialised helplines for victims of violence against women and domestic violence as required under Article 31 of Directive (EU) .../... [on combating violence against women and domestic violence];
- (b) the obligation to take measures pursuant to Article 5a(2) of this Directive does not affect Member States' obligation to take targeted measures to encourage the reporting of acts of violence against women or domestic violence set out in Article 16(1) of Directive (EU) .../... [on combatting violence against women and domestic violence];



- (c) the obligation to take measures pursuant to Article 5a(3) of this Directive does not affect Member States' obligation to take specialised measures to ensure the reporting of occurrences of violence against women or domestic violence in reception and detention centres set out in Article 35(4) of Directive (EU) .../... [on combatting violence against women and domestic violence];
- (d) the obligation to take measures pursuant to Article 5a(4) of this Directive does not affect Member States' obligation to take targeted measures under Article 16(4) of Directive (EU) .../... [on combatting violence against women and domestic violence];
- (e) as regards victims of violence against women or domestic violence, the provisions of [Articles 18 and 19 of Directive (EU) .../... [on combating violence against women and domestic violence] shall apply in addition to the rules set out in Article 22 of Directive 2019/29, as amended by this Directive';
- (f) the protocols on individual assessment of victims' needs for support and protection as referred to in Article 26a in conjunction with Article 22 of this Directive do not affect Member States' obligations to issue guidelines and establish dedicated mechanisms for victims of violence against women and domestic violence provided for in Article 23, point (b), and Article 40(2) of Directive (EU) .../... [on combating violence against women and domestic violence].'

Article 27a. Specific obligations in relation to victims of violence against women and domestic violence
(WAVE proposed amendment)

- (g) the use of barring, restraining and protection orders to provide protection for victims as referred to in Article 23 of this Directive does not affect Member States' obligations to ensure the physical integrity of victims of violence against women and domestic violence and their dependents provided for in Article 21 of Directive (EU) .../... [on combating violence against women and domestic violence].'*

Regarding the proposal for an **EU Directive on Combating Violence Against Women and Domestic Violence (2022/0066 (COD))**, the revised Victims' Rights Directive (VRD) proposal includes specific references **highlighting the alignment between these two pieces of legislation throughout its text**. Notably, **Article 27**, which outlines the particular obligations related to victims of Violence Against Women (VAW) and Domestic Violence (DV), serves to underscore the distinctions in competencies between these two legislative frameworks.

WAVE proposes the inclusion of point (g) regarding the **use of barring, restraining, and protection orders**. This addition is crucial as Victims of VAW and DV face intricate challenges that require heightened protection measures. By explicitly noting that the use of barring, restraining, and protection orders does not diminish Member States' obligations to ensure the physical integrity of victims and their dependents as articulated in Article 21 of the proposed VAW & DV Directive, this addition acknowledges the multifaceted needs of victims in situations of gender-based violence against women and reinforces the imperative for Member States to provide enhanced protection measures that encompass not only legal orders but also broader support systems to guarantee the physical safety and well-being of victims and their dependents in these specific cases. It's important to note that many countries lack monitoring mechanisms to ensure effective implementation/compliance with protection orders. Next to the proposed amendment, Article 27 article acknowledges several key points:

- (i) The recognition of the existence of specialized helplines designed to assist victims of VAW and DV, emphasizing that these specialized services cannot be substituted by the helplines referred to in Article 3a of the proposed VRD.
- (ii) The imperative for targeted measures that facilitate the reporting of cases involving VAW and DV, surpassing the scope of the VRD.
- (iii) The complementary nature of the provisions in both Directives, especially regarding the "specialized individual assessment to identify victims' protection needs" and the "individual assessment of victims' support needs."



- (iv) The need for specific guidelines and protocols to effectively conduct the individual assessment of support needs.

These nuanced and distinct references within Article 27 further **underscore the vital role that both Directives play in addressing and combatting VAW and DV**, recognizing the need for a comprehensive and multifaceted approach to protect victims and ensure their access to support and justice.

In conclusion, Women against Violence Europe (WAVE), representing Women Specialist Services (WSS) across European countries, extends its appreciation to the European Commission for its proactive proposal to revise the Victims' Rights Directive (VRD). The VRD, as the cornerstone of EU legislation safeguarding victims' rights, plays a pivotal role in upholding the fundamental rights of all individuals. It is indeed encouraging to witness the Commission's commitment to ensuring that the VRD remains a robust and contemporary instrument for protecting the rights, safety, and well-being of all victims.

The proposed revisions to the VRD reflect a comprehensive and forward-thinking approach that addresses the evolving challenges in our society, particularly those posed by the persistent issues of Violence against Women and Domestic Violence. The strengthened provisions in critical areas such as enhanced support and protection for the most vulnerable, streamlined access to compensation, and reinforced cooperation among relevant actors are important steps forward. These amendments underscore the Commission's recognition of the urgent need to counteract the erosion of fundamental rights, particularly the rights of women and their children to live free from all forms of violence.

The Commission's proposal also **shines a spotlight on the essential role of specialized support services, specifically Women Specialist Services, in the fight against gender-based violence**. For over four decades, Women Specialist Services have been on the front lines, providing tailored interventions that respond to the individual needs of victims and survivors of violence against women and domestic violence, as well as their children. The proposal's emphasis on improving access to these services is an resounding acknowledgement of their expertise, dedication, and unwavering commitment to ending gender-based violence against women and girls.

In summary, through this revised version of the VRD, the Commission demonstrates its resolute commitment to the protection of fundamental rights within the European Union. **The WAVE network, as a repository of expertise and advocacy, eagerly anticipates its active participation in the forthcoming discussions on this revision, where we will passionately advocate for the voices of women, children, and Women Specialist Services to be comprehensively represented in the final text.** We are at your disposal to enrich this robust debate, challenge misconceptions, and champion the indispensable role of Women Specialist Services in achieving a Europe where all individuals can live free from violence.

The WAVE Network

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