

Standards introduced by the Victims' Directive – compatibility checklist

Compatibility checklist

This Checklist is intended as a tool for Policy Makers in their effort to determine to what additional practices within other institutions are compatible with the standards of the Victims' Directive. This tool will be used for assessing the compatibility of institutional practices with the standards of the Directive.

Minimum standards

Directive provisions have a general character and are often quite abstract. These standards attempt to make them concrete and organize them around the three themes of identification of victims, needs assessment and referral.

Standards refer to the minimum level of service that derives from the Directive. These standards are derived from the preamble of the Directive, article 2 that determines who should fall under its provisions; arts. 8 and 9 that determine the standards of service provision to be offered; arts. 22 and 23 that determine the specific protection needs and measures and the Guidance to the Directive.

The compilation of minimum standards in a check list serves the purpose of allowing a straightforward comparison of national practices with them.



A. IDENTIFICATION OF VICTIMS

Identification refers to the action of deciding who falls under the protection of the Directive. This involves every action from the entry points that relates to identifying whether a person is actually a victim or not and can benefit from existing services. Institutional practice recorded in the member states participating in the project showed that identification is often a loose and informal procedure, that relies heavily on self-identification of an individual as a victim and often overlaps or cannot be clearly differentiated from needs assessment.

1. Purpose of identification: collecting a minimum of information to be able to ensure that someone falls under the definition of victim. The definition of victim included in art, 2 o the Directive is very broad. Standards that can be derived from the Directive:

2. Definition of a victim: The definition of a victim needs to be inclusive and common for all entry points accessible by victims. This is important to eliminate inequalities

3. Procedure: The directive does not require a formal identification procedure. Self-identification is common practice that appears to be compatible with the Directive. Identification should be a loose process that allows everyone who self-identifies as victim to be recognized as such

4. Link to a criminal offence: this should be rather loose link to allow for self-identification. This link is not so relevant for the entry points. It is relevant for the prosecution.

5. Actors: specially trained persons/officers

6. Location: The Directive does not prescribe a specific place for identification. This can take place in a variety of ways including through physical contact with the victim, online, through mail, phone etc. All these practices are compatible as long as they respect the dignity and privacy of the victim.

7. Timing: During the first contact with the entry points.

8. Outcome: The minimum outcome if the provisions of information to the victim in any form (written, oral, online).



B. INDIVIDUAL NEEDS ASSESSMENT

Individual Needs Assessment lies at the heart of the Directive. Relevant standards can be derived from arts. 8 (Right to access victim support services), 9 (Support from victim support services), 22 (Individual assessment of victims to identify specific protection needs) and 23 (Right to protection of victims with specific protection needs during criminal proceedings) of the Directive. The following standards can be derived:

- 1. Timely:** needs assessment needs to take place as soon as possible after the contact of the victim with the entry point.
- 2. Process:** Needs assessment needs to include at least two steps: a) the assessment of needs and b) the determination of measures to meet these needs.
- 3. Actors:** Specialized professionals, trained in assessing needs in a holistic way
- 4. Involvement of the victim:** The active involvement of the victim is a requirement. This means that available options need to be presented and explained and the victim may select. The right to not use or refuse measures should always be respected. Measures should be assessed and acted upon only with the explicit consent of the victim.

Whenever special procedures are in place for specific groups of victims such as victims of domestic violence, victims of human trafficking, these could be opened for other vulnerable groups of victims. This would ensure the uniform application of high standard needs assessment procedures.

- 5. Confidentiality:** respect of privacy, taking into account the personal characteristics of the victim. These include: gender, race, disability (physical-mental), age, sexual orientation, religion or belief). The victim should be allowed not to disclose personal information (relevant for LGBTI victims)
- 6. Update:** A regular update of the needs assessment is necessary.
- 7. Services to be offered:** The services to be offered to victims should be confidential, free of charge, available before, during and after proceedings, needs based, in the interest of victims.

Services can be differentiated between generalized Victim Support Services and specific Victim Support Services (specialized on victims of hate crime, domestic violence, etc.), offer accommodation (shelters) and trauma support.



C. REFERRAL

Referral is the process of sharing information between entry points or institutions that offer services to victims. The referral process essentially concerns coordination issues but must always respect data protection and privacy. Relevant standards can be deduced from several articles of the Directive, the preamble and the Guidance. The following standards are derived:

1. Referral should reply on an accurate mapping of existing services. This should be available both in a form to be handed out to victims as well as in order for professionals to decide on referrals. One stop shops for referrals can be considered a model practice.

2. Types of referral: different types of referral can be identified either within an organization or externally. Referrals can be distinguished between:

- Internal referral: more open (can be anyone who encounters a victim)
- External: by a competent person within the organization

Referrals can also be differentiated with regard to their content:

- Referral through the provision of Information and guidance to suitable services
- Formal referral where a process is followed and the victim is officially referred to another institution

3. Form and procedure: the use of common forms for referral can be considered a model practice

4. Privacy and data protection: data sharing and data protection is the major concern during referral, especially given the fact that sensitive data is collected and handled. Specific guidance on data protection and how to handle sensitive data needs to be provided.

5. Actors: Any trained professional identifying a victims needs should be in the position to refer. A coordination-institution for referrals is a model practice especially for accommodation in shelters or sensitive groups like children.

6. Timing: Referrals should be timely and should take place as soon as possible after the individual assessment of needs

7. Referral notes: only if it does not harm the safety of the victim (problematic for certain crimes, such as domestic violence)

8. Follow up/monitoring: central database, “the blue card” it was identified as one of the weakest points in the country studies

This entails also the issue of who is responsible for the victim within the system.

