



BARMHERZIGE BRÜDER  
Klinik St. Hedwig  
Regensburg



**SAVE**

Support and treatment of traumatized children After Violence

**COMPENDIUM OF EU-LEGISLATION**  
**DIRECTIVE 2012/29/EU OF THE EUROPEAN**  
**PARLIAMENT AND OF THE COUNCIL**  
**RIGHTS OF CHILDREN AS VICTIMS**  
**OF (DOMESTIC) VIOLENCE**

AGOUST 2020

## **Author**

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The author studied law at the University of Regensburg from 1998 to 2004. After completing his studies and the subsequent legal clerkship, he settled as an independent lawyer in Regensburg in 2006.

For more than ten years he has focused on medical and social law issues - initially in the field of medical self-administration, since 2015 he has been working as a lawyer (in-house lawyer) for the "Barmherzige Brüder".

The Hospital Barmherzige Brüder Regensburg (Krankenhaus Barmherzige Brüder Regensburg, Prüfeninger Straße 86 and Klinik St. Hedwig, Steinmetzstraße 1-3) has - in contrast to the cooperation partners involved in the project - its own legal department, so-called "Stabsstelle Recht", which is headed by the author.

The spectrum of tasks of the "Legal Staff Unit" ranges from providing legal advice to the management, administrative staff, doctors, nursing staff and committees (e.g. ethics committee, child protection group), analysing current court decisions relevant to the hospital and other legal developments, to dealing with enquiries from patients.

Within the project "SAVE" the author is involved as LEAR (Legal Entity Appointed Representative). In this function he is the contact person for the European Commission regarding all questions concerning the legal status of the entity, he maintains and updates the data of the entity in the participant's database and has an overview of the participation and role of his entity in different projects.

## **A) Introduction**

### **I.) Background**

Every year, millions of people fall victim to crime in the Member States of the European Union. Among these large numbers of victims are a lot of children and young people who suffer violence, often in the domestic sphere. The children and young people, but also their family environment, usually suffer for a long time from the consequences of the acts of violence.

The "SAVE" project aims not only to provide medical care for traumatised children and adolescents, but also to offer support to children and adolescents as victims of (domestic) violence and to show them legal options they are entitled to in this respect.

#### **1.**

The protection of the rights of children and young people has been given high priority in national and international laws since the beginning of the 20<sup>th</sup> century.

Efforts to protect children and young people began as early as 1924 in the Geneva Declaration of the League of Nations and continued over the decades until the UN Convention on the Rights of the Child was finally adopted on 21 November 1989, which aimed to create essential standards for the worldwide protection of children. The UN Convention on the Rights of the Child includes various protective rights, including the rights of children to protection from physical or mental violence, from maltreatment or neglect, from cruel or degrading treatment and from sexual abuse.

In addition, the EU Charter of Fundamental Rights entitles children to the protection and care necessary for their well-being and recognises children as independent holders of fundamental rights.

The member states of this project guarantee the protection and care of children and young people through their respective constitutions as well as through various national laws.

#### **2.**

Despite all these efforts, many children and young people in the 21<sup>st</sup> century are still victims of violence - physical or psychological - in various forms. However, children and adolescents

are confronted with violence not only in public, but also in many cases in the domestic sphere. When experiencing violence in the domestic environment, children and young people can be both directly affected and witnesses of violence against other family members. It is precisely in this area, which is protected in and of itself, that violence occurs - unobserved and under the exclusion of the public - to which children and adolescents are helplessly exposed.

The focus of the medical staff is primarily on the treatment of the physical and psychological injuries of children and adolescents. In addition, within the framework of holistic treatment, the young patients and their parents should be given information on how they can defend themselves - with the assistance of state authorities - against the violation of their rights.

Inadequate knowledge of medical professionals in this area can lead to children and adolescents and their parents not receiving sufficient support. Cooperation between health care institutions and the authorities must therefore be strengthened to ensure timely information and intervention as soon as there are indications of the presence of (domestic) violence.

The project aims to close this gap by informing employees in health care institutions about European and national legislation in the field of victim protection and the corresponding possibilities to enforce victims' rights.

## **II.) Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 ("Victim Support Directive")**

In the following, the development of victim protection in the member states of the "SAVE" project as a result of the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 ("Victim Protection Directive") is examined.

By the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 ("Victim Protection Directive") there are established minimum standards for the rights, support and protection of victims of crime in the European Union, especially for underage victims.

The provisions of the "victim protection directive" apply to all victims of crime, irrespective of the victim's nationality and irrespective of the country in which the crime was committed.

The "Victim Protection Directive" sets out the following objectives in its "General Provisions":

### ***Article 1 (Objectives)***

*1. The purpose of this Directive is to ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.*

*Member States shall ensure that victims are recognised and treated in a respectful, sensitive, tailored, professional and non-discriminatory manner, in all contacts with victim support or restorative justice services or a competent authority, operating within the context of criminal proceedings. The rights set out in this Directive shall apply to victims in a non-discriminatory manner, including with respect to their residence status.*

*2. Member States shall ensure that in the application of this Directive, where the victim is a child, the child's best interests shall be a primary consideration and shall be assessed on an individual basis. A child-sensitive approach, taking due account of the child's age, maturity, views, needs and concerns, shall prevail. The child and the holder of parental responsibility or other legal representative, if any, shall be informed of any measures or rights specifically focused on the child.*

The provisions of the "Victim Protection Directive" thus concern in particular the areas of adequate information, adequate assistance, adequate protection of victims and participation of victims in criminal proceedings.

Special provisions apply to victims who are particularly vulnerable because of their relationship with and dependence on the perpetrator, i.e. in particular women, men and children affected by domestic violence.

Furthermore, the explicit mention of the "best interests of the child" in the objectives of the "Victim Protection Directive" ensures that the best interests of the child are of central importance in the application of the Directive and that action in accordance with the principles of the "Victim Protection Directive" must be geared in each case to the needs of the child concerned, particularly in the area of information on measures and rights.

The area of information and assistance to victims is dealt with in Chapter 3 of the "Victim Protection Directive", which contains the following specific rights:

***Art. 3 – Right to understand and to be understood***

***Art. 4 – Right to receive information from the first contact with a competent authority***

***Art. 5 – Right of victims when making a complaint***

***Art. 6 – Right to receive information about their case***

***Art. 7 – Right to interpretation and translation***

***Art. 8 – Right to access victim support services***

***Art. 9 – Support from victim support services***

In the context of the project, the provisions of Art. 4 (Right to receive information on first contact with a competent authority) are of particular importance, so that these are explicitly mentioned below - in extracts.

***Art. 4 (Right to receive information from the first contact with a competent authority)***

*(1) Member States shall ensure that victims are offered the following information, without unnecessary delay, from their first contact with a competent authority in order to enable them to access the rights set out in this Directive:*

- a) the type of support they can obtain and from whom, including, where relevant, basic information about access to medical support, any specialist support, including psychological support, and alternative accommodation;*
- b) the procedures for making complaints with regard to a criminal offence and their role in connection with such procedures;*
- c) (...)*

Information about the possibilities listed there is primarily the responsibility of the state authorities. However, due to the fact that - as already mentioned at the beginning - it is often established during initial contact with medical professionals that a child or adolescent has been the victim of (domestic) violence, it is appropriate to provide the medical professionals with the relevant information so that they can inform the children and adolescents accordingly.

**Digression: "Istanbul Convention"**

It is worth noting that individual provisions of the "Victim Protection Directive" on the special protection of victims of domestic violence and their support and information have already been reflected in the Council of Europe Convention on preventing and combating violence against women and domestic violence of 11 May 2011 ("Istanbul Convention"), which entered into force on 1 August 2014.

To complete the overall picture and for comparison purposes, the relevant standards of the "Istanbul Convention" are therefore referred to, which correspond to the aforementioned regulations of the "Victim Protection Directive".

The "Istanbul Convention" is an international treaty that creates binding legal norms against violence against women and domestic violence. One of the aims of the Convention is to improve the provision of support for women, and Chapter IV contains explicit provisions for the protection and support of victims of violence.

### ***Art. 19 – Information***

*Parties shall take the necessary legislative or other measures to ensure that victims receive adequate and timely information on available support services and legal measures in a language they understand.*

### ***Art. 20 – General support services***

- (1) Parties shall take the necessary legislative or other measures to ensure that victims have access to services facilitating their recovery from violence. These measures should include, when necessary, services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment.*
- (2) Parties shall take the necessary legislative or other measures to ensure that victims have access to health care and social services and that services are adequately resourced and professionals are trained to assist victims and refer them to the appropriate services.*

Further support is provided to women affected by violence through the following provisions of the "Istanbul Convention":

***Art. 22: Specialist support services***

***Art. 25: Support for victims of sexual violence***

***Art. 26: Protection and support for child witnesses***

**Digression – End**



### **III.) Implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 ("Victim Protection Directive")**

In European law, directives are legal acts of the European Union and as such part of secondary Union law. In contrast to EU regulations, EU directives are not directly effective and binding, but must be implemented by national legal acts, e.g. laws, in order to become effective (Art. 288 (3) TFEU). It is thus left to the individual member states to decide how to implement the directives, so that the member states have a certain amount of leeway in implementing the directive.

Directives regularly set a deadline by which they must be transposed into national law. When transposed, the content of a directive becomes part of the national legal system and thus applies to all those affected by the act of transposition (e.g. a law). The EU obliged the member states to transpose the "Victim Protection Directive" into national law by 16 November 2015.

In the three member states of the SAVE project (Germany, Italy and Spain), the protection of victims of crime was already considered important before the adoption of the "Victim Protection Directive".

In the following, on the one hand, the implementation of the directive in the individual member states will be dealt with, but on the other hand practical advice will also be given on how, when treating patients within the framework of the "SAVE" project, victims can be shown further contact points - beyond the medical field - in order to receive the best possible support.

## **B) Implementation in Germany – 3. Opferrechtsreformgesetz of 21. Dec. 2015:**

In Germany, the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 was implemented by the so called “3. Opferrechtsreformgesetz of 21. Dec. 2015”

### **I.) Victim protection**

- Since the first law to improve the situation of victims in criminal proceedings (called: “Opferschutzgesetz” of 18. Dec. 1986) the victims’ situation was continuously improved. The protection of victims is ensured by the German Code of Criminal Procedure “Strafprozessordnung (StPO)”.
  
- Significant innovations by “3. Opferrechtsreformgesetz”:
  - Information rights following first contact with the prosecution authorities:
    - ⇒ the procedures for filing a report or complaint, the role that the person will play in the investigation and trial
    - ⇒ the reimbursement of expenses incurred as a result of participation in criminal proceedings (JVEG)
    - ⇒ the possibility of seeking compensations for injury or damage suffered as a result of the crime (Offender-Victim-Compensation, adhesion process, civil law trial, non-official compensation)
    - ⇒ the right to interpreting services and to translation of case documents
    - ⇒ Time and place of the trial, the accusations, if the defendant absconds from pretrial detention or from prison
  - Right to get a written confirmation about the complaint
  - Special victim protection in trials, interrogations and other measures in criminal proceedings
  - Possibility of free psycho-social accompaniment for victims with a special need of protection, before, during or after trial, e. g. kids and young people as victims of sexual abuse and violence

## II.) Victims of a crime - start of criminal proceedings

- A person is be considered a victim of crime if the person has suffered damage, for example the person has been injured or the property has been damaged or stolen as a result of an incident which constitutes a crime according to national law. As a victim of crime, the law grants certain individual rights before, during and after court proceedings (trial).
- A victim can take part in criminal proceedings as a witness or have a more active role by formally becoming a private prosecutor or private accessory prosecutor and thus benefit from a variety of rights available to the victim.
- Criminal proceedings in Germany start with investigations that are conducted by the police and the public prosecution office. A preliminary investigation is initiated if the public prosecutor's office becomes aware of the suspicion of a crime through a report or by other means.

## III.) Practical use – how to support a patient, who is victim of a crime?

### 1. Information on the filing of a criminal complaint

- *Who can file a criminal complaint and where?*
  - The victim of a crime may file a complaint with any police station, police officer, public prosecutor's office or local court.
  - The complaint may also be made on behalf of the victim by another person without the need for a special power of attorney.
- *How must a criminal complaint be made?*
  - The criminal complaint can be made orally or in writing. In the case of a verbal report, written minutes are drawn up by the authority that receives the report.
- *What content must a criminal complaint have?*
  - The report should include the name, address and, for queries, the telephone number of the victim.

- It is important that all information that the victim has about the suspect(s) and the crime is included in the criminal complaint, to enable the police and the public prosecutor's office to verify the information and initiate initial investigations. However, there is no obligation on the victim to provide evidence that a crime has taken place; this is the sole responsibility of the police and the public prosecutor's office.
- *When must the criminal complaint be filed?*
- There is no specific deadline for filing a criminal complaint.
  - However, certain offences can in principle only be prosecuted if a criminal complaint is filed. This criminal complaint must be filed within three months after the victim knows of the crime and the offender, with a court or the public prosecutor's office or for the police to take minutes. The authority with which the victim files a complaint explains which offences require such a complaint.
- *What happens after the criminal charges have been filed?*
- After the criminal complaint has been filed, the victim receives a file number from the authority, which can be used to request information about the investigation and to submit further information.
  - During the investigation, the victim primarily has the status of a witness and can be questioned by the police, the public prosecutor or a judge.
  - In addition, the victim can contact the state authorities at any time, for example to provide further evidence and information.
  - If an offence has been committed that leads to a right to join as a joint plaintiff, a lawyer can be assigned to the victim at state expense already during the preliminary proceedings.
- *Do underage victims have special rights?*
- In preliminary proceedings, persons under the age of 18 may be interviewed as witnesses on video or tape, which may save them the need for further questioning or even appearing in court. The Public Prosecutor's Office is required to conduct the investigation with particular speed.

- In cases of certain serious crimes, if the victim is under 18 years of age, the hearing may be replaced by a prior judicial hearing recorded on video or tape.
  - The examination as a witness is carried out by the President of the Court alone, i.e. the victim is not asked any direct questions by the accused or his defence counsel.
  - There are facilitated conditions that the public is excluded during the questioning of the victim and that the accused is not in the room.
- *Are victims of domestic violence entitled to special rights?*
- A victim of domestic violence can apply to a civil court for a decision that the accused is sent away from the family home and cannot approach the victim.
  - In order to protect the children, the custody of the custody holders (usually the parents) can be withdrawn in whole or in part, this also applies to contact (visiting rights excluded).
  - As a first measure before a court order, the police can expel the offender from the family home or arrest him/her.
- *What services or assistance can a victim receive during the investigation of a crime?*
- There are numerous non-governmental organisations offering support. A victim needs to be informed about the possibility of contacting such an organisation in the region in question and to receive the contact details.

## 2. General sources of information on victims' rights

### - **Federal Ministry of Justice:**

- Brochure “Opferfibel – Primer for Victims” : explains the legal situation of victims of crime and gives advice.
- Brochure “Ich habe Rechte – I have Rights”, aimed at young people who have become victims of crime.

⇒ Internet:

[www.bmju.de/DE/Themen/OpferschutzUndGewaltpraevention/OpferhilfeUndGewaltpraevention\\_node.html](http://www.bmju.de/DE/Themen/OpferschutzUndGewaltpraevention/OpferhilfeUndGewaltpraevention_node.html)

### - **Federal Ministry of Labour and Social Affairs:**

- Brochure “Hilfe für Opfer von Gewalttaten – Help for Victims of Violent Crime”
  - ⇒ Internet:
    - [www.bmas.de/DE/Service/Publikationen/a720-hilfe-opfer-von-gewalttaten-brosch.html](http://www.bmas.de/DE/Service/Publikationen/a720-hilfe-opfer-von-gewalttaten-brosch.html)

- **Federal Ministry for Family Affairs, Senior Citizens, Women and Youth:**

- Information to a database of advice centres across Germany:
  - ⇒ Internet: [www.hinschauen-helfen-handeln.de/](http://www.hinschauen-helfen-handeln.de/)
- Guide for parents which contains advice and information on sexual violence against girls and boys “Mutig fragen – besonnen handeln – Daring Questions – Prudent Action”:
  - ⇒ Internet:
    - [www.bmfsfj.de/bmfsfj/service/publikationen/mutig-fragen---besonnen-handeln/95882](http://www.bmfsfj.de/bmfsfj/service/publikationen/mutig-fragen---besonnen-handeln/95882)
- Information on child and youth protection:
  - ⇒ Internet:
    - [www.bmfsfj.de/bmfsfj/themen/kinder-und-jugendkinder-und-jugendschutz](http://www.bmfsfj.de/bmfsfj/themen/kinder-und-jugendkinder-und-jugendschutz)

### 3. Contact points for crime victims

- **Independent Commissioner for Child Sexual Abuse Issues:**

- **Hilfeportal Sexuelle Gewalt:**

The help portal "Sexual Abuse" is the central federal portal for people who suffered sexual violence in their childhood or youth and their relatives. Those affected and their relatives can find counselling centres and therapy offers in their immediate vicinity.

⇒ Internet: [www.hilfeportal-missbrauch.de/startseite.html](http://www.hilfeportal-missbrauch.de/startseite.html)

- **Bundesweites Hilfetelefon „Sexueller Missbrauch“:**

The help line "Sexual Abuse" is the nationwide, free and anonymous contact point for people affected by sexual violence, for relatives and people from the social environment of children, for professionals and for all interested parties.

- ⇒ Telefon: (0800) 2255 530
- ⇒ Internet: [www.beaufragter-missbrauch.de/hilfe/hilfetelefon](http://www.beaufragter-missbrauch.de/hilfe/hilfetelefon)
- **WEISSER RING e. V. Bundesgeschäftsstelle, Weberstraße 16 · 55130 Mainz:**
  - ⇒ **Bundesweites Opfer-Telefon des WEISSEN RINGS: 116 006**
  - ⇒ Tel.: (06131) 83 03-0
  - ⇒ E-Mail: [info@weisser-ring.de](mailto:info@weisser-ring.de)
  - ⇒ Internet: [www.weisser-ring.de](http://www.weisser-ring.de)
- **Arbeitskreis der Opferhilfen in Deutschland e. V. (ado), Oldenburger Straße 38 · 10551 Berlin:**
  - ⇒ Tel.: (030) 39407780
  - ⇒ E-Mail: [info@opferhilfen.de](mailto:info@opferhilfen.de)
  - ⇒ Internet: [www.opferhilfen.de](http://www.opferhilfen.de)
- **Bundesverband Psychosoziale Prozessbegleitung e.V., Lefèvrestr. 23 · 12161 Berlin:**
  - ⇒ E-Mail: [infobppev@gmail.com](mailto:infobppev@gmail.com)
  - ⇒ Internet: [www.bpp-bundesverband.de](http://www.bpp-bundesverband.de)
- **Bundesverband Frauenberatungsstellen und Frauennotrufe – Frauen gegen Gewalt e.V.:**
- **Petersburgerstr. 94 · 10247 Berlin**
  - ⇒ Tel: (030) 32299500
  - ⇒ E-Mail: [info@bv-bff.de](mailto:info@bv-bff.de)
  - ⇒ Internet: [www.frauen-gegen-gewalt.de](http://www.frauen-gegen-gewalt.de)
- **Bundesweites mehrsprachiges Hilfstelefon „Gewalt gegen Frauen“:**
  - ⇒ Tel.: (08000) 116016
  - ⇒ Internet: [www.hilfetelefon.de](http://www.hilfetelefon.de)

## **C) Implementation in Italy – DECRETO LEGISLATIVO 15 dicembre 2015, n. 212**

### **I.) Victim of crime**

- A person is considered the victim of a crime – ‘offended party’ – if it is accepted that the person hold a legal right that is protected by the criminal legislation which has been breached by an act that constitutes an offence under national law, i.e. that the person has suffered the injury that forms part of the essence of the criminal act.
  
- A person suffers injury in civil law as a result of a crime when the person suffers damage (material or non-material, but in any case damage that can be valued in financial terms) as a result of the crime.
  
- The criminal law and the civil law provide a victim with various individual rights before, during and after the proceedings. A victim can play an important role in the criminal proceedings, and consequently there are a number of rights. A victim can participate as an offended party without a specific legal status, or play a more active role by officially bringing a civil action against the offender.

### **II.) Information rights before reporting the crime**

- The public prosecution service and the criminal investigation department (CID), upon being notified of the crime, must advise that as the offended party a person entitled to appoint counsel to exercise the rights conferred upon the person, and that the person is entitled to access legal aid from the Italian State (Article 101 of the Italian Code of Criminal Procedure (Codice di procedura penale or c.p.p.)
  
- Following first contact with the prosecuting authorities, a victim will be provided, in a language the person can understand, with information relating to:
  - the procedures for filing a report or complaint, the role that the person will play in the investigation and trial, the right to be made aware of the date and location of

- the trial, and of the charges, and, if the person has joined proceedings as a civil party, the right to receive notification of the judgment, including as a summary,
- the entitlement to legal advice and legal aid, paid for by the Italian State,
  - how to exercise the right to interpreting services and to translation of case documents,
  - any protection measures that may be available to the person,
  - the rights recognised by law if the person resides in a different EU Member State to the one in which the crime has been committed,
  - how any expenses incurred as a result of participation in criminal proceedings will be reimbursed,
  - the possibility of seeking compensation for injury or damage suffered as a result of the crime, the possibility of settling proceedings by withdrawal of the complaint or through mediation,
  - the rights that the person will have in proceedings where the defendant requests suspension of the proceedings with probation or in those in which exemption from punishment applies due to the trivial nature of the offence,
  - health care facilities in the local area, residential facilities, refuges and shelters.

### **III.) Practical use – how to support a patient, who is victim of a crime?**

#### **1. Information on the filing of a criminal complaint**

- *Who can file a criminal complaint and where?*

- Any person who has knowledge of an offence that is being prosecuted ex officio can report it to the public prosecutor's office or the police (denuncia).
- A criminal complaint (querela) is an application by which a person who has been the victim of a crime (or their legal counsel) requests that an infringer be prosecuted. The criminal complaint refers to an offence that is not prosecuted ex officio. The application must include a description of the crime committed and must clearly state the applicant's obvious desire to bring the accusation to court and punish the guilty party.

- Reports and criminal charges must be addressed to the services of the law enforcement agencies, i.e. provincial police services, local police services, services of the military police (carabinieri) or the public prosecutor's office.

*What content must a criminal complaint have?*

- The notification must contain the essential facts of the case, the date on which the person was informed and the evidence already known.
- It should also include details of the person, place of residence and other information which may help to identify the suspect, as well as details of the identity of the injured party and details of any other person who may be able to provide relevant information to help clarify the facts of the case.
- If no relevant information is provided to identify the suspect, a complaint may be lodged against unknown persons.

- *What happens after the criminal charges have been filed?*

- After the complaint has been filed, the complainant (usually the victim) is provided with the following information, among others:
  - ⇒ to authorities that can be contacted to obtain further information on the case,
  - ⇒ on the role in investigative and judicial proceedings,
  - ⇒ on the right to be informed about the date and place of the trial, the charges against him and the state of the proceedings,
  - ⇒ on the right to be informed of entries in the official register of reported offences,
  - ⇒ on the right to be informed of applications to close the procedure and to challenge violations of victims' rights.
- If a crime is related to abuse in the family or sexual violence, the police will automatically refer the victim to a victim support centre, e.g. women's shelters, anti-violence centres.

- *Do underage victims have special rights?*

- Minors who are victims of violent crimes are entitled to give their testimony under protected conditions. In particular, precautions may be taken to prevent the victim

from coming into contact with the offender in the course of investigations or legal proceedings.

- The following possibilities exist for the protection of underage victims, among others:
  - ⇒ Audiovisual recordings of the victim's statements may also be used, even if this is not absolutely necessary.
  - ⇒ The Criminal Investigation Department must request the assistance of a qualified child psychologist or psychiatrist appointed by the Public Prosecutor's Office when conducting informational interviews and collecting evidence. The underage victim is assured that he or she will not come into contact with the suspect under any circumstances and that he or she will not be asked for such questioning more often than is strictly necessary for the investigation.
  - ⇒ The questioning of minors as witnesses shall be conducted by the presiding judge, who may call on the assistance of a relative of the minor or a qualified child psychologist.
  - ⇒ Witness statements must be fully recorded by means of phonographic or audiovisual media.
  - ⇒ In proceedings for violent crimes, underage victims are interviewed at their own request or at the request of their lawyer, using mirrored glass panes and an intercom system.
  - ⇒ In addition, further protective measures may be applied for and ordered in individual cases.

- *Are victims of domestic violence entitled to special rights?*

- The police will automatically refer the victim to a victim support centre, e.g. women's shelters, anti-violence centres, if a crime is related to domestic abuse or sexual violence. Some anti-violence centres have safe houses where you can be sheltered in more serious cases to avoid further violence.
- If there are minors among the victims, the juvenile court must be informed to examine the situation and protective measures. The Court of First Instance may - in order to protect the victim from further violence - restrict the offender's

freedom, e.g. detention, expulsion from the family home, prohibition to go to places where the victim frequently stays.

- *What services or assistance may be available to a victim during the investigation of a crime?*
  - After an initial contact with the law enforcement authorities, the victim receives information in an understandable language about: the health facilities in the area (Azienda Sanitaria Locale; ASL), housing, refuges and shelters. In general, in many regions there is a network of associations, consisting of local organisations, public prosecutors' offices, district courts and health services, which offer free assistance to victims of any type of crime.
  - The law enforcement authorities have a duty to put the victim in contact with the following organisations at any time, if desired (victim support services) Einrichtungen der Opferhilfe:
    - ⇒ Authorities specialised in legal advice
    - ⇒ Bar Associations (Consigli dell'Ordine)
    - ⇒ Non-governmental organisations (NGOs)
    - ⇒ Legal clinics, forensic medicine departments
    - ⇒ State authorities involved in mutual legal assistance (Ministry of Justice, Ministry of the Interior)
  - Access to support services for victims of crime is free and confidential.

## 2. Contact

- **Victim support services:**
  - Specialised legal support authorities
  - Bar councils (Consigli dell'Ordine)
  - Non-governmental organisations (NGOs)
  - Legal clinics forensic medicine departments
  - State authorities involved in legal support (Ministry of Justice, Interior Ministry)
- **Victim support non-governmental organisations:**

- Non-governmental organisations provide various types of assistance, including psychological support, temporary accommodation in facilities such as shelters, legal assistance and counselling, material support, provision of necessities, etc.

Women's refuge Rome: 06 6840 172006

- Dafne network (support for victims of violence): 011 5683686

- **Helplines:**

- Anti-trafficking Helpline: 800 290 290
- Anti-violence Helpline: 1522
- Anti-discrimination Helpline: 800 90 10 10
- Helpline for victims of genital mutilation: 800 300 558
- Emergency Helpline for minors: 114

## **D) Implementation in Spain – Law 4/2015 of 27 April 2015**

### **I.) Victim of crime:**

- Under Law 4/2015 of 27 April 2015 natural persons that are the victims of offences committed in or which may be prosecuted in Spain are considered to be victims of crime, regardless of their nationality, of whether they are of legal age or minors and of whether or not they are legally resident.
- The provisions of this Law shall inter alia apply as a direct victim, to any natural person who has suffered harm to his or her person or property, especially physical or mental injury, emotional suffering or economic loss directly caused by an offence.

### **II.) Basic victims' rights:**

- All victims are entitled to protection, information, support, assistance and care, as well as to participate actively in criminal proceedings and to receive respectful, professional, personal and non-discriminatory treatment from their first contact with the authorities or officials, while victim assistance and support and restorative justice services are being provided, throughout criminal proceedings and for a sufficient period of time after their conclusion, regardless of whether or not the identity of the offender is known and of the outcome of the proceedings.
- As a victim of crime, the law grants certain individual rights before, during and after court proceedings (trial).
- The crime victim is normally entitled to protection, information, assistance and support from the moment he or she first contacts the authorities and throughout the time that the authorities' assistance and support services are at work, including before the crime is reported.

### III.) Practical use - how to support a patient, who is victim of a crime?

#### 1. Information on the filing of a criminal complaint

- *Who can file a criminal complaint and where?*
  - If a person has been the victim of a crime, he or she is entitled to be informed of his or her right to file a complaint from the moment of first contact with the authorities.
  - In addition to the "regular" cases in which the public prosecutor's office brings charges against the offender, it should be noted that in the case of "semi-public" offences, the submission of a complaint or the bringing of charges by the victim is necessary for the public prosecutor's office to take responsibility for the charges.
  - The crime can be reported to the police; in the subsequent proceedings the victim can appear as a witness.
  
- *How and with what content must a criminal complaint be made?*
  - The offence may be reported in writing or orally; in the latter case, the necessary records shall be made by the authority.
  - There are no specific requirements from the authorities regarding the filing of a criminal complaint.
  - However, the report must contain the name, address, identification number and, for queries, the victim's telephone number, and must be signed by the victim.
  
- *When must the criminal complaint be filed?*
  - There is no specific deadline for filing a criminal complaint.
  - However, criminal prosecution is only possible within certain time limits; depending on the seriousness of the offence, these are 10 to 20 years.
  
- *What happens after the criminal charges have been filed?*
  - At the time of reporting the offence, the police carries out an initial individual assessment of the victim's situation to determine the need for protection and whether the victim is particularly vulnerable, e.g. due to being a minor. The victim is also informed to contact the Office for Victim Support.

- A certified copy of the report (with file number) is provided, as well as other information on the course of the proceedings, e.g. the offence for which the offender is charged, the date, time and place of the trial, the sentence, the offender's detention/release, measures to ensure personal protection and information in the event of no criminal proceedings.
- *Do underage victims have special rights?*
- The authorities and officials responsible for investigating, prosecuting and sentencing criminal offences shall take the necessary measures provided for by law to protect the lives of victims and their families, their mental and physical health, their freedom, security and sexual freedom and independence and to ensure that their privacy and dignity are adequately protected, in particular when they have to give evidence or appear as witnesses in court.
  - In the course of criminal investigations, the prosecution must ensure that this right to protection is enforced in the case of victims who are minors and that the appropriate measures are taken in the interests of the victim, which can prevent or limit the harm that may result for the victim from the course of the proceedings.
  - The following are some of the possibilities for the protection of child victims:
    - ⇒ Visual contact between the minor victim and the offender can be prevented by technical means.
    - ⇒ The underage victim can be interviewed by a specially trained team in a separate room so that no threatening atmosphere is created.
    - ⇒ The victim can only make a statement once, in the presence of the examining magistrate, the judicial officer and all parties involved in the proceedings, i.e. during the court hearing no further statement is required.
    - ⇒ The statements of the minor victim can be recorded by audiovisual media and can be played during the trial in the cases and under the conditions established by law.
    - ⇒ Evidence may be examined by experts before the hearing.
    - ⇒ A guardian may be appointed at the request of the prosecution if there is a conflict of interest with the legal representative of the minor victim.
- *Are victims of domestic violence entitled to special rights?*

- At the time of reporting the crime, the victim of a crime involving gender-related or domestic violence can apply to the police for a protection order. It is also possible to apply for a protection order directly at the judicial authority or the public prosecutor's office, at the offices of victim support or at the social and care facilities of the public authorities.
  - In any case, when the complaint is filed, the victim is given the application forms for a protection order and the victim is informed about this order.
  - A protection order may, inter alia, impose the following measures on the offender if this is essential for the protection of the victim: a ban on staying or visiting a place, district, town or region; a ban on approaching the victim or communicating with certain persons; a protection order may also be issued to protect parental rights
- *What services or assistance can a victim receive during the investigation of a crime?*
- Each victim of crime can go to a Crime Victim Support Office (Oficinas de Asistencia a las Víctimas del delito).
  - Crime Victim Support Offices are a free, public multidisciplinary service to address victims' needs, run by the Ministry of Justice. There are Offices in all the autonomous communities, in nearly all provincial capitals as well as other cities.
  - The Crime Victim Support Offices will provide a victim of crime with comprehensive, coordinated and specialist victim support, meeting the specific legal, psychological and social needs.
  - In particular, the Crime Victim Support Offices will provide with information about the specialist services and psychosocial and care resources available, regardless of whether the victim files a complaint, and about how to access these services.
  - They will also provide with information about the care and support measures (medical, psychological or material) available and the procedure for obtaining them, including, where needed, information concerning the possibilities of obtaining alternative accommodation.
  - In addition, they will advise about how you can make a complaint and the procedure for filing it, as well as the possibility of obtaining legal advice and

defence and, where appropriate, the conditions under which the victim obtains these free of charge.

- The Crime Victim Support Offices will be able to refer to specialist legal, psychological and social services, depending on your needs, such as e.g. municipal, social welfare, health, education and employment services; associations, foundations and other nonprofit entities; psychosocial services from the Justice Administration; and, in the event of being a victim of gender-based violence, to the Units for Coordination against Violence against Women (Unidades de Coordinación contra la Violencia sobre la Mujer) and Women Units (Unidades sobre la Mujer) in each autonomous community and province.
- Access to crime victim care and support services, such as the Crime Victim Support Offices, is free and confidential; it is not necessary to file a complaint first.

## **2. Contact – victim support hotlines**

### **- 016-Telephone-Service:**

- For certain crimes like gender-based violence, in Spain there are telephone services for assistance and guidance, e.g. the 016 Telephone Service for Information and Legal Advice concerning Gender-Based Violence (Servicio telefónico de información y asesoramiento jurídico en materia de violencia de género).
- The 016 Telephone Service for Information and Legal Advice concerning Gender-Based Violence provides free, professional assistance 24 hours a day, 365 days a year. The data of persons who use this service are guaranteed to remain confidential at all times.
- Assistance is offered in 51 languages.
- The accessibility of the service for people with hearing and/or speech impairments is guaranteed via the following means: text telephone (TTY) on 900 116 016; Telesor service via the Telesor website (<https://www.telesor.es/>). An Internet connection is required in this case; mobile telephone or PDA.

- This service offers assistance for anyone with queries related to specific cases of gender-based violence: female victims of gender-based violence, people who are close to a female victim of gender-based violence (relatives, friends, neighbours, etc.), professionals attending to a female victim of gender-based violence or who are aware of a situation of this kind of violence, etc.
- The information provided refers to the resources and rights available to you as victim of this kind of crime, concerning employment, social services, financial support and information, assistance, reception and legal advice resources.
- In the event of receiving an emergency call, it is immediately diverted to the 112 emergency number of the respective autonomous community.

- **ANAR Hotline for Aid for Children and Adolescents (900 20 20 10)**

- In the case of particularly vulnerable victims, such as minors, there are specific services such as the ANAR (Aid for At-Risk Children and Adolescents) Foundation Hotline (Servicio de atención telefónica de la Fundación ANAR)), aimed at children and young people, adults and relatives of minors and relatives in the case of missing minors.
- If there is an underage victim of gender-based violence, any calls made to the 016 Service will be diverted to the ANAR Hotline for Aid for Children and Adolescents (900 20 20 10).
- The ANAR (Aid for At-Risk Children and Adolescents) Foundation Hotline (900 20 20 10) is a free, confidential and anonymous service, available 24 hours a day, 365 days a year, which mainly consists of three aid lines:
  - The ANAR Hotline for Aid for Children and Adolescents, the main aim of which is to offer child or adolescent callers the necessary support and guidance when they have problems or are in a situation of risk.
  - The ANAR Hotline for Adults and Families, aimed at adults who need guidance on issues related to minors.
  - The ANAR 116 000 Hotline for cases of missing minors (the European Union's harmonised number of social value for dealing with these cases).

- This service will divert the calls you make to the 016 Service if you are an adult female and victim of gender-based violence or an adult who is aware of a case of this kind of violence.

- **Types of support from non-governmental organisations**

- Non-governmental organisations (NGOs) can offer support to victims of specific crimes by means of establishing personalised pathways according to each victim's needs and characteristics.
- The assistance function mainly includes legal advice, information about the different resources and aid available and psychological and emotional support.

## **E) Summary:**

The above remarks show that the member states of the "SAVE" project have transposed the Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 ("Victim Protection Directive") into national law in different ways, thus making use of the leeway provided by the law. In addition to the adaptation - in all three member states of the project - of the respective laws, various possibilities were created to provide the greatest possible support to victims of crime.

The "SAVE" project opens up opportunities for medical personnel to provide not only the best possible medical care, but also support for traumatised children and adolescents through targeted information about the legal possibilities after the experience of violence.

In conclusion, it remains to be hoped that the number of patients who need such support can be continuously reduced through appropriate preventive measures to avoid the use of violence.

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