



VICTIMS RIGHTS DIRECTIVE STATEMENT

The European Network of Migrant Women brings attention to the specific situation of migrant, asylum seeking and refugee women when accessing their rights. While the proposal for the revision of the directive includes dispositions related to ensuring undocumented migrants safe spaces to denounce violations of their rights, they are not sufficient. Migrant women, especially those in irregular administrative situations, must be protected by the immediate granting of a specific and temporary residence permit when they file a complaint. Furthermore, data concerning the legal status of the victim should not be shared with the competent migration authorities before the termination of the investigation, as it is the case in the Spanish immigration law (article 31 bis of Organic Law 4/2000).

The taking into consideration, upon personal evaluation, of the dependency of the victim towards the perpetrator, is an important measure. Lack of independent legal status of the victim should be expressly stated as a dependency factor. Legal status should also be added in the list of the victim's "personal characteristics" to take into consideration through risk assessments implemented by the law enforcement authorities, as well as in the indicators for data collection, along with "sex" and "age".

As the directive takes a "gender neutral" approach, it ignores the specific underlying mechanisms of VAWG and crimes that affect women and girls disproportionately, such as sexual violence, incest and pedocriminality, trafficking for the purpose of sexual exploitation, forced marriage, FGM or femicide. Emergency injunctions and protection orders, aimed at preserving the physical and psychological integrity of women victims in these cases, must necessarily include measures to prevent perpetrators from harassing or physically approaching them.

In addition, the directive should specifically mention that Member States must prohibit "restorative justice" in cases of VAWG (following the examples of Spain and France). This is in line with the Istanbul Convention that prohibits victim-offender compulsory alternative dispute resolution, including mediation, in its Art 48. At the same time, GREVIO Committee in its [1st General report](#) p. 28 notes that "Lacunae regarding the ban of obligatory mediation in civil procedures have been consistently noticed".

The revision proposal states that the Victims Rights Directive does not prevent Member States to implement specific protocols and measures to protect women victims. However, it should go beyond this and set an obligation for all Member States to do so, similarly as for children, especially if the specific provisions related to victims' protection are not included in the final version of the directive on VAWG and domestic violence.

Victims' rights to support should include health services, including sexual and reproductive health services. Accessibility and free access should also be explicitly guaranteed in all support systems for victims of sexual violence.

In terms of protection of children, the revision proposal should state that the best interest of the minor takes precedence over visitation rights when there are reasonable doubts as to the possibility of guaranteeing that such contact with him or her takes place in complete safety, both physically and emotionally.

ENoMW welcomes the disposition stating that victims of sexual violence, VAWG and domestic violence should be interviewed by a person of their own sex if they so wish. No restriction should be added to this disposition. We also welcome the dispositions related to the allocation of sufficient human and financial resources to ensure equal access to justice for all victims.

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