



Irish Council for
Civil Liberties



Guide for Lawyers to the Victims Directive & the Criminal Justice (Victims of Crime) Act 2017

Maria McDonald BL

The Victims Directive and the Criminal Justice (Victims of Crime) Act 2017

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A. Introduction

The EU Victims Directive, which provides substantial legal rights to victims of crime, lies at the heart of a comprehensive EU legislative package that seeks to ensure that all victims of crime have procedural rights to information, support, and protection. The Directive will significantly alter the way victims of crime are treated within the EU.

The implementation of the Victims Directive in practice is complex and challenging. Member States will need to implement legislation, if they have not already done so, to ensure that victims can fully access their rights in domestic law.

Member States, including Ireland, were required to transpose the EU Victims Directive into law by 16th November 2015. Infringement proceedings issued against Ireland for its failure to communicate and implement the Victims Directive. The *Criminal Justice (Victims of Crime) Act 2017* was recently signed into law on 5th November 2017 and it was commenced, for the most part, on 27th November 2017.¹ The commencement coincided with Ireland's obligations to report to the European Commission on how victims have accessed their rights under the Victims Directive.² Any further delay in transposition arguably would have resulted in Ireland being brought before the Court of Justice of the European Union for failure to adequately transpose the Victims Directive.

The Directive and indeed the Criminal Justice (Victims of Crime) Act 2017 places obligations on key state agencies such as the Gardaí, the Director of Public Prosecution (DPP,) the Courts Service and the Irish Prison Services. All have been working on implementing the Directive into Irish law since 2015 albeit with varying levels of success. The lack of legislation prior to the Act made it difficult for state agencies to fully comply with their obligations under the Victims Directive.

The *Criminal Justice (Victims of Crime) Act 2017* is the first major step in putting victims at the heart of the Irish criminal justice system.³ The Act is a comprehensive document which has had the benefit of significant consultation with key state and non-state agencies working with victims of crime, including victims support organisations. The Act broadly mirrors the content of the Directive, although there are some omissions.

In terms of structure, much of this document will consider the rights

afforded in law to victims of crime under the Victims Directive and the *Criminal Justice (Victims of Crime) Act 2017*. EU and international instruments which provide for additional rights and supports for victims of crime will be considered where relevant. This document will explain the EU victims' package; the jurisdiction of the Victims Directive; the definition of a victim; the rights of children; the principle of non-discrimination and the residence status of a victim; the right to information and support services; the right to be understood and to understand; the right of victims when making a complaint; the right to interpretation and translation; rights in the event of a decision not to prosecute; the right to be heard; the right to be accompanied by a person of their choice; the right to protection; restorative justice; legal aid and compensation; access to victim support services and protection; other rights under the Directive and training.

B. The Victims' Package

The Stockholm programme outlined a roadmap for the work of the EU in the areas of justice, freedom and security for the years 2010 to 2014. It called upon the European Commission and Member States to consider developing '*one comprehensive legal document*', which would protect victims of crime and would incorporate the Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings and Council Directive 2004/80/EC relating to compensation for crime victims. The Framework Decision had indirect effect and lacked the legal force needed to require Member States to adequately address rights for victims of crime (Peers 2013). The European Commission's inability to issue infringement proceedings under the Framework Decision further illustrated the need for the implementation of dedicated victims-focused legislation which had direct effect.

A package of legislative proposals, known as the victims' package, was published by the European Commission in May 2011. The Commission proposed the development of a Directive on minimum standards for victims of crime and a Regulation on Civil Law Protection measures. Subsequently, the Resolution of the Council of 10 June 2011 on a roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings, held that action should be taken at an EU level to strengthen the rights of victims of crime. The Council welcomed the victims' package published by the Commission and invited them to submit proposals on the roadmap. This roadmap, known as

the **Budapest Roadmap**, illustrated the action which was needed to strengthen the rights of victims of crime and to establish minimum standards for many key objectives.

These objectives included the establishment of procedures which would ensure respect for the dignity, integrity (both personal and psychological) and privacy of victims; the improvement of victims' access to justice by the use of victim support services; the development of procedures to limit secondary and repeat victimisation; the use of interpreters and translators in criminal proceedings; if appropriate, the encouragement of victims to actively engage in criminal proceedings; strengthening of the right to information in a timely manner about proceedings and their results; encouragement of the use of restorative justice which takes into account the interests of the victim; consideration at all times of the best interests of children and having special regard to their interests and needs; emphasising of the training of professionals and/or the encouragement of training; and, finally, that victims should be able to access compensation⁴.

Measures A to E of the Budapest Roadmap outline a plan of action on to how to achieve these objectives.

Measure A of the Budapest Roadmap focuses on the proposal for a Victims Directive, stresses its priority and commits to its implementation. This measure has since been satisfied with the implementation and transposition of the Victims Directive. Once the Victims Directive had been approved Measure B recommended that the Commission should complement the Directive by developing a proposal for a Recommendation which would outline best practice on assisting and protecting victims. The aim was to guide Member States on how to implement it. Measure B requested that the Commission consider best practices developed by non-governmental organisations in addition to Recommendation Rec (2006) 8 of the Committee of Ministers of the Council of Europe on assistance to crime victims. The development of the European Commission DG Justice Guidelines on the transposition and implementation of the Victims Directive, facilitated the implementation of Measure B. These Guidelines do not have any legal force and rather assist Member States' *'common understanding'* of the provisions and rights set out in the Victims Directive (DG Justice 2013: 1) They are particularly beneficial in determining best practice and assisting Member States on how they should implement the rights set out in the Victims

Directive in domestic law. It is also a useful document for practitioners to determine whether Member States have applied best practice in implementing it.

Measure C of the Budapest Roadmap referred to two documents. First, a Directive on the European Protection Order related to the mutual recognition of orders made in criminal proceedings, which would protect the victim from danger. Second, a proposed Regulation focused on the mutual recognition of protection measures in civil proceedings, for example barring orders or safety orders, which would take place within the family law system in Ireland. Measure C indicated that the Council would address the implementation of both the Regulation and the Directive as a matter of urgency. Both the Regulation and the Directive have since been implemented. The European Council adopted the Regulation of the European Parliament and of the Council on mutual recognition of protection measures in civil matters on 6th June 2013. That Regulation enables a protection order made in one Member State to be enforced in another Member State if there is a serious risk to the life, physical or mental integrity of a person or to prevent any further form of harm to that person. The Regulation applies to protection measures ordered on or after 11th January 2015, irrespective of when proceedings were instituted. The Directive on the European Protection Order entered into force in Member States on 11th January 2016. Ireland and Denmark have opted out of this Directive and they are not bound by it⁵.

Measure D requested a review of Council Directive 2004/80/EC of 29 April 2004 relating to compensation for crime victims (Compensation Directive). The Budapest Roadmap asked the Commission to outline proposals for legislative or non-legislative measures relating to compensation for victims of crime. The specific needs of victims of crime are outlined in Measure E. While the implementation of the Victims Directive, under Measure A, relates to all victims of crime, Measure E recognises that some victims of crime have specific needs due to their personal characteristics, the nature of the crime, the circumstances and the type of crime. The measure identifies victims who may have specific needs such as victims of trafficking, child victims who have been sexually exploited, victims of organised crime and victims of terrorism. These needs should, according to Measure E, be dealt with in specific legislation which deals with these types of crimes. The Victims Directive in some respects addressed some needs by requiring that all victims of crime must be individually assessed and given additional protections where they have special protection needs. However, designated pieces of legislation

have been implemented which support Measure E. These include the Trafficking Directive (2011/36/EU), the Directive on Child Exploitation (2011/92/EU) and a Directive on Combating Terrorism (2017/541/EU). These plans of action were the impetus for the implementation of the victims' package, with the Victims Directive at its core. The Victims Directive was agreed and negotiated in 18 months, a period which reflects Member States consensus that victims' rights needed to be put on a statutory footing (Todino 2013: 1).

C. The Victims Directive

The Victims Directive was adopted on 25th October 2012 and Member States were required to transpose the Directive by 16th November 2015. It provides for minimum rights, support and protections for all victims of crime. The aim of the Directive is to improve the day to day experiences of victims of crime across the EU (DG Justice 2013: 3). The Directive recognises that victims must be treated with respect and dignity in a professional, sensitive and non-discriminatory manner.⁶ In legislating for these principles, the Victims Directive reinforces the rights outlined in the EU Charter of Fundamental Rights of the European Union (EU Charter). More specifically, Article 47 of the EU Charter provides that victims of crime have the right to an effective remedy and a fair trial which ensures victims have '*effective access to court proceedings*' (FRA 2015: 11). Article 47 of the EU Charter and the European Convention on Human Rights will be considered in more detail below. (FRA 2015: 25-26).

1. Jurisdiction of the Victims Directive

The Victims Directive applies to all victims where the crime was committed within the EU, regardless of the residence status of the victim.⁷ Crimes which occur in detention, direct provision and on the Irish border will fall within the remit of the Directive (PICUM 2015: 10). The Directive also applies to criminal proceedings which take place within the EU, with the exception of Denmark, which did not apply or adopt the Directive.⁸

Criminal proceedings are deemed to have commenced '*the moment a complaint is made*'.⁹ A victim is entitled to the rights under the Directive if they make a complaint about an act which is a criminal offence under domestic law (Redress 2013). The Victims Directive does not define complaint. A complaint is rather defined by Section 2 of the *Criminal*

Justice (Victims of Crime) Act 2017 as ‘a statement made by a person orally or in writing, including by electronic means, to a member of the Garda Síochána or an officer of the Ombudsman Commission alleging that the person, or another person, has been the victim of an offence’.¹⁰ A complaint made to an embassy or police outside of the EU will not create rights under the Directive.¹¹

The right to information and support services in the Victims Directive is not contingent on a victim reporting the crime or making a complaint.¹²

Article 29 (8) of the Irish Constitution provides that the State ‘may exercise extra-territorial jurisdiction in accordance with the generally recognised principles of international law.’ Legislation has provided for the use of extra-territorial jurisdiction under the *International Criminal Court Act, 2006*¹³, the *International War Crimes Tribunals Act, 1998*¹⁴, the *Geneva Conventions Act, 1962*¹⁵ and the *Criminal Justice (United Nations Conventions against Torture) Act, 2000*.¹⁶ If a victim makes a complaint in Ireland about an extra-territorial crime which took place outside of the EU, then they should be entitled to the basic rights to information and support, set out in the Directive if the act is a criminal offence. These rights should be provided regardless of whether there is a prosecution or an intention to prosecute.¹⁷ The relevant factor is that a person is deemed to be a victim under the Victims Directive and the *Criminal Justice (Victims of Crime) Act 2017*.

2. Defining a Victim

The implementation of the Victims Directive has harmonized the definition of a victim throughout the EU. Some countries, such as Ireland, had arguably not legislated for the definition of a victim.¹⁸ In Greece, for example, the Criminal Code rarely uses the word victim, it used instead terms such as ‘witness’, ‘injured party’ and ‘litigant’ (FRA 2013: 29). These varying definitions can be explained by the differing role which victims have within the criminal justice system throughout the EU. Victims are not a party to criminal justice proceedings in Ireland (subject to limited exceptions) and this arguably explains the absence of a definition and the previous lack of impetus to implement dedicated victim’s legislation in Ireland.¹⁹

Article 2 (1) (a) (i) of the Victims Directive defines a victim as a ‘natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence’.²⁰

Legal entities do not fall under the definition of a victim. Someone is deemed to be a victim of crime even if an offender is not *'identified, apprehended, prosecuted or convicted'* for a crime.²¹ It is essential that someone is recognised as a victim for him/her to access the rights under the Victims Directive. If a victim does not know about their rights then they cannot access them.

Article 2 (1) (a) (ii) of the Victims Directive provides that the definition of a victim includes *'family members of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death'*.²² Family members include a spouse or a partner who is living with the victim in a joint household, in a committed intimate relationship, on a stable and continuous basis.²³ Siblings, dependents and relatives in direct line are also deemed to be family members for the purpose of the Directive.²⁴

The Victims Directive permits Member States to limit the number of family members who can access rights under the Directive, having regard to the individual circumstances of the case.²⁵ This is important given that a family member may have been charged or is under investigation for the alleged offence.²⁶

In advance of the enactment of the *Criminal Justice (Victims of Crime) Act 2017* there was no legal definition of a victim of crime in Irish criminal law and rather legislation makes reference to a *'complainant'*. The difficulty with the use of *'complainant'* as opposed to victim is that the former only includes persons who have made a formal complaint to the Gardaí. The latter includes persons who have not made a complaint or indeed may never report the crime. Under the Directive, victims who do not report a crime are still entitled to minimum rights.²⁷

Section 2 *Criminal Justice (Victims of Crime) Act 2017* defines a victim as *'a natural person who has suffered harm, including physical, mental or emotional harm or economic loss, which was directly caused by an offence'*. This mirrors the definition in the Directive, outlined above.

Family members are deemed to be victims for the purpose of the Act if the death of the victim was directly caused by a criminal offence.²⁸ A family member will not be entitled to the rights thereunder if they have been charged with or is under investigation for the death of the victim.²⁹

The definition of a family member under the *Criminal Justice (Victims of*

Crime) Act 2017 includes a spouse, civil partner, cohabitant, child or step-child, parent or grandparent, a brother, sister, half-brother or half-sister, a grandchild, an aunt, uncle, nephew or niece of the victim. Any other person can also be deemed to be a family member where that individual is or was 'dependent on the victim'. Similarly, any other person can also be treated as a family member for the purpose of the legislation if 'a court, a member of the Garda Síochána, an officer of the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, a director of a children detention school or a clinical director of a designated centre, as the case may be' consider that the individual had a 'sufficiently close' connection that would justify him/her being treated as a family member.³⁰

Section 3 of the *Criminal Justice (Victims of Crime) Act 2017* provides that where more than one family member seeks to avail of the rights under the Act, a request can be made of the family members to nominate one person to receive information.³¹ If the family are not able to reach an agreement then a family member may be nominated by the relevant authority,³² having regard to the relationship between the family member and the victim.³³ These provisions give clarity as to who are entitled to the rights set out under the Directive and when they will be made available. However, notwithstanding any legal definition, a victim and family members can still face the challenge of being recognised as a victim of crime. A victim does not have to make a complaint to be entitled to the rights under the Directive, but if they are not recognised as a victim, they may not be provided with information on first contact or access to support services.

3. Potential problems in defining a victim

There is potential for the value of the Victims Directive to be diluted by the failure of the Gardaí and other State agencies to identify someone as a victim of crime. This can occur for a number of reasons.

a. Misclassification of a Crime

A crime may not be recorded as a crime or it can be misclassified. This issue is illustrated in the Report of the Garda Inspectorate on crime investigation (2014), and figures from the Central Statistics Office (CSO 2016) indicate that some acts have been recorded as non-crimes by the Garda information system, PULSE (CSO 2016:4) while other crimes have been misclassified (CSO 2016: 5). The impact of this mistake can be seen

in the O'Higgins Report (2016) and it has the potential to prevent a victim from not only accessing their rights under the Directive but it also inhibits a victim from accessing justice, pursuant to the European Convention of Human Rights and the EU Charter.

b. An act is an offence in EU law and not in Irish Law

An act may be a criminal offence in EU law but not in Irish law. If the act does not amount to a crime, then a person is not a victim for the purpose of the Victims Directive and a victim cannot access their rights thereunder. A problem may occur where an act is a criminal offence in EU and international law but is not a criminal offence in the domestic law of a Member State. The question then arises: is someone a victim for the purposes of the Directive in this context?

Article 83 of the Treaty of the Functioning of the European Union (TFEU) provides that the European Parliament and the Council can implement Directives to define and provide sanctions for serious cross border criminal offences. Article 83 (1) lists these offences as terrorism, trafficking, the exploitation of women and children, illicit arms and drug trafficking, corruption, money laundering, counterfeiting, organised crime and computer crime. This is a non-exhaustive list. It can be expanded upon where there are developments in crime; it meets the criteria of Article 83 (1) and if the Council acts unanimously and with the consent of the Parliament. In accordance with Article 83, the European Commission has implemented the Trafficking Directive, the Directive on Child Exploitation and the Directive on Combatting Terrorism.

Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA, came into force on the 18th of December 2013. Ireland has arguably failed to date, to fully implement this Child Exploitation Directive.³⁴ Article 2 of this Directive defines child pornography³⁵, child prostitution³⁶ and pornographic performance³⁷. Article 3 (1) requires Member States to *'take the necessary measures to ensure that the intentional conduct'* is punishable. The *Criminal Justice (Sexual Offences) Act 2017* legislates for most offences defined under that Child Exploitation Directive, however, it does not legislate for the liability of legal persons under Article 12 of the Child Exploitation Directive.

The Combating Terrorism Directive requires Ireland to criminalise certain

offences. That Directive must be transposed in Ireland by the 8th of May 2018. Any delay will result in a derivation between the criminal offences within EU law and Irish law. With no pending legislation, it appears that Ireland will miss this deadline. Once the date of the 8th of May 2018 has passed, the crimes outlined in the Combating Terrorism Directive will have direct effect and therefore the crimes outlined in the Directive are offences notwithstanding that Ireland may have failed to legislate for all of these crimes in national legislation. The question arises as to what would happen if an accused commits a crime, which is punishable under the Directive, but has not been criminalised in domestic law? First, the victim should, in accordance with Article 49 of the EU Charter, still be deemed to be a victim provided that it is a crime in EU law and that the Directive has direct effect. From a practical perspective this may not happen. If the act is reported, the relevant member of An Garda Síochána may not know that it is a criminal offence in EU law. Alternatively, it may be recorded by the Gardaí as a non-crime. A victim may seek to bring a judicial review if he/she is not able to access the rights under the Victims Directive on this basis.³⁸ Secondly, can an accused be prosecuted for an offence under EU law where there is no domestic legislation criminalising or punishing the act? The provision of EU law, which has direct effect, should be sufficient in theory to criminalise the act, notwithstanding that it was not an offence at the time it was committed within the domestic law of the state. This is in keeping with the Article 49 of the EU Charter requirement that the act must be a criminal act in domestic or international law. The reality is that the prosecution of these crimes is not likely to happen without domestic legislation. If prosecutions did commence, there is likely to be significant legal challenge based on the rights of an accused to a fair trial. The failure of the State to implement legislation to give effect to EU Directives and to penalise the criminal actions, can impact on a victim's right to an effective remedy and an accused's right to a fair trial. It also undermines the integrity and authority of EU law and the harm which has been done to the victim and may face legal challenge.

The first case under the Victims Directive was referred to the Court of Justice of the European Union (CJEU).³⁹ The court found the decision to be inadmissible, but its judgment is relevant in that it held that there is nothing in the Victims Directive which would require a Member State to classify certain acts as criminal offences.⁴⁰ That is rather left to other Directives, such as the Counter Terrorism Directive and the Child Exploitation Directive. The Victims Directive is about providing rights to victims rather than criminalising acts. The CJEU went on to acknowledge the power of the EU under Article 83 (1) and (2) of the TFEU to define

criminal offences and sanctions; however, in the case before the court, Article 83 did not apply to the crime in issue before it.⁴¹

c. A victim may be involved in a criminal offence

Third, a victim of crime is entitled to the rights set out in the Directive regardless of their involvement in another criminal offence. This is something that is often seen in feuding groups/families, where one day they are a victim of a crime and the next they are an accused, having been involved in a retaliatory attack. Similarly, a convicted person may be a victim of crime in prison and he/she should be entitled to the rights under the Directive. Victims of trafficking can find themselves involved in criminal conduct such as breaches of immigration law, prostitution, forced marriages (due to become an offence in the *Domestic Violence Bill 2017*)⁴² and sham marriages (Immigrant Council of Ireland 2016). Practitioners should be cognisant that an accused may have been trafficked into the country. If an individual is identified as a victim of trafficking, then he/she should be entitled to the rights set out in the Victims Directive and the *Criminal Justice (Victims of Crime) Act 2017*, including access to special protection measures.⁴³ The Trafficking Directive gives additional rights to victims of trafficking over and above those outlined in the Victims Directive.

If someone is defined as a victim of trafficking under the Trafficking Directive, then the DPP has a discretion not to prosecute that individual if he/she has been compelled to carry out the offence (Office of the Director of Public Prosecutions 2016: 13).⁴⁴ Article 11 (4) of the Trafficking Directive provides that Member States are required to put in place ‘*appropriate mechanisms*’ for the early identification of suspected victims of trafficking. The decision of Ms. Justice O’Malley in *P. v. The Chief Superintendent of the Garda National Immigration Bureau, the DPP, Ireland* illustrates ‘*that there is a necessity for rules or protocols, if not legislation, establishing what is to be done in circumstances where the person claiming to be a victim is also suspected of criminal activity*’ in Irish law.⁴⁵

Given all of the foregoing there are a number of variables which can impact on someone being identified as a victims of crime. If someone falls under the definition of victim in the Act then they should be provided with basic rights.

4. The Rights of Child Victims

A child is defined by the Directive as an individual who is below the age of 18 years of age.⁴⁶ The best interests of the child must be a primary consideration in implementing the Directive.⁴⁷ A child victim is presumed to have special protection needs.⁴⁸ A child's best interests should be considered on an individual basis⁴⁹ having regard to the age, level of maturity, needs, views and concerns of the child.⁵⁰ Children are entitled to the protection measures set out in Article 23 of the Victims Directive. They are also entitled to additional measures. Interviews with a child victim may be video recorded and they may be used in criminal proceedings as evidence.⁵¹ The video recording of a child victims' statement may also be admissible in evidence if the child was under 18 when it was recorded, notwithstanding that they have turned 18 by the time of the trial. The wording of Article 24 (1) (a) of the Directive appears to permit such a stance with the inclusion that *'such recorded interviews may be used as evidence in criminal proceedings'*.

Legislation should provide that, when a child victim turns 18 during the course of the criminal process, then they should be individually assessed under Article 22 for special protection measures. If they have special protection needs on turning 18 then it might be appropriate to permit the use of such a recording in evidence. A special representative may be appointed to protect the victim where the holders of parental responsibility are precluded from representing the child.⁵² In cases involving children, it may be inappropriate for a family or guardian to accompany or support a child. A child victim has a right to a lawyer, where there is a conflict of interest between the child and the holders of parental responsibility.⁵³

The provisions of the Act in relation to children reflect those of the Directive. Under the Directive a special representative may be appointed to a child victim where a family member is precluded from representing the child.⁵⁴ The *Criminal Justice (Victims of Crime) Act 2017* outlines situations where this might occur namely; when a family member or guardian has *'been charged with, or is under investigation for an offence in connection with the victim'*; when there is a reason why the family member or guardian have been prevented from accompanying the child victim; if the family member or guardian may be unavailable or could not be contacted; the child victim may not want the family member or guardian to accompany him/her and the family member or guardian

may not be identifiable.⁵⁵ Both the Directive and the Act provide that all victims of crime must be individually assessed in order to determine whether they have any special protection needs. Where the victim is a child, there is a presumption that they are entitled to protection needs.⁵⁶

In considering what protection and special measures a child might benefit from, the Act outlines that An Garda Síochána and/or the Garda Commissioner, as the case may be, 'shall' take into account the child's best interests including any concerns or views which the child may have, taking due regard to the maturity and their age and the concerns and views of the guardian or parent or another person authorised to act on behalf of the child, once that individual is not under investigation or has been charged with an offence against that child.⁵⁷ The provisions in the Act relating to children not only reflects Ireland's obligations under the Victims Directive, but they also take account of Ireland's obligations under the UN Convention on the Rights of the Child and the Irish Constitution.⁵⁸

Section 22 (1) of the *Criminal Justice (Victims of Crime) Act 2017* states that any communication, both oral or in writing, with a victim must be in 'simple and accessible language' and have regard to the personal characteristics of the victim, including any disability which the victim may have. This applies to communications between a child victim and the Gardaí, the Garda Ombudsman Commission, the DPP, the Courts Service, the Irish Prison Service, the clinical director of a designated center or the director of a children's detention school. This is in keeping with Article 3 (1) of the Directive and information provided to victims of crime, including children, should be provided in a manner having regard to their ability to understand and be understood.

5.The Principle of Non-Discrimination and the Residence Status of the Victim

The Victims Directive must be adopted by Member States in a non-discriminatory manner including with respect to a victim's residence status (DG Justice 2013). A victim of crime does not have a right to residence because of the rights set out in the Directive; however, they have a right to information, support and protection once they make a complaint to the Gardaí about a criminal act. For victims to be able to actively engage with the criminal justice system, a residence permit should be allocated for the duration of those criminal proceedings. If a victim's residence permit is removed, then a victim will not be able to

actively participate in criminal proceedings. In Spain, for example, the *Immigration Act* as amended⁵⁹ permits the residential status of a non-EU national victim of domestic abuse to be extended for the course of the criminal justice proceedings (PICUM 2012: 103-107).⁶⁰ If the victim's abuser is found guilty, then the victim *'will receive a regular residence and labour permit'* (Ibid: 106).⁶¹

Recital 18 of the Directive acknowledges the very difficult position which victims of domestic violence may be in if their residence permit is linked to the residence of their abuser.⁶² This issue has been addressed by the State in submissions made in a Report to the Committee of the UN Convention on the Elimination of all Forms of Discrimination Against Women (Department of Justice and Equality 2016). The Department of Justice has now put in place arrangements *'to ensure that victims of domestic violence are issued with a Stamp 4 permit which allows the holder to reside in the State in their own right, and to access the labour market freely and without the need for a work permit'* (Ibid: 24).⁶³ This is certainly a welcome development. It is important that clear guidelines are in place so that a victim knows how to make an application to reside in the State. Very often there will be language barriers to accessing this information. Immigration Guidelines for Victims of Domestic Violence are available online.⁶⁴ It is also not clear when a victim will be deemed to be a victim of domestic violence in order to access a work permit, although the aforementioned Guidelines do reference a number of different types of documents, including medical reports, which will be considered.⁶⁵ For example, is a person deemed to be a victim when he/she makes a complaint to the Gardaí? How does a victim seek such a permit in advance of making a complaint? The Department has not clarified for how long a victim is entitled to a work permit. These are all matters that should be addressed in further guidelines and/or regulation(s).

6. The Right to Information

Article 4 of the Victims Directive (right to information) provides that all victims of crime have a right to certain information on first contact with the competent authority. The competent authority is not defined by the Victims Directive but the EU Commission Directorate-General (DG) Justice Guidelines give us an indication as to who should fall within the definition:-

"The term 'competent authority' is broader than the FD's 'law enforcement authority' (i.e. police). The competent authorities, acting in

the criminal proceedings under this Directive, are determined by national law. This does not exclude, for example, customs or border agencies, if they have the status of law enforcement authorities under national law”⁶⁶

The *Criminal Justice (Victims of Crime) Act 2017* only applies to investigations which are conducted by the Gardaí or the Ombudsman Commission. Such a restriction prevents victims from accessing information in any other form of prosecution or investigation. Any statutory authority who potentially has the power to prosecute a criminal offence would fall under the remit of Section 4 of the Victims Directive (the right to information).

There is a significant list of bodies which fall within this remit including, but not limited to, the Health and Safety Authority (HAS), Health Information and Quality Authority (HIQA), The Child and Family Agency (TULSA), Health and Safety Executive (HSE), Commission for Communications Regulation (COMREG) et al. These bodies have the power to investigate and prosecute criminal offences. Victims, who are natural persons, should be provided with information from these prosecuting authorities, in accordance with Article 4 of the Victims Directive.

Similarly, where a competent authority is investigating and/or prosecuting an offence they should be obliged to provide all of the necessary information, support and protection which would otherwise be provided by An Garda Síochána if they were prosecuting.

The failure to include other investigating authorities in the legislation will arguably create two classes of victims of crime.

Section 7 (1) provides that a victim is entitled to certain information on first contact with An Garda Síochána or the Ombudsman Commission. The Gardaí and the Ombudsman Commission investigate criminal offences and provide information to victims of crime in the context of criminal proceedings; however, the Directive legally requires them to offer information to a victim on first contact and without unnecessary delay.⁶⁷ Information ‘shall’ be provided to victims on the available victim support services including specialist support services;⁶⁸ on how to make a complaint about a criminal offence;⁶⁹ on a victim’s role in the criminal justice system⁷⁰; how and under what conditions a victim can access protection;⁷¹ on legal advice and legal aid;⁷² compensation, for example the power of the court to make a compensation order;⁷³ expenses⁷⁴ on the

interpretation and translation services which are available;⁷⁵ on complaint procedures if a victims rights are not protected by the competent authority;⁷⁶ on the available restorative justice services;⁷⁷ on special measures and procedures where a victim is resident in another member state other than where first contact was made;⁷⁸ and on contact details of the person who will communicate with the victim about the case.⁷⁹ A victim does not have to make a complaint to access this information.

Victims of crime must also be informed about their right to receive certain information about their case upon request.⁸⁰ A record should be taken of any information which a victim requests.⁸¹ Upon request, a victim is entitled to information about the place and time of the trial and the type of crimes the offender was charged with, including the fact that the accused was charged;⁸² any final judgement of the trial;⁸³ and any significant developments in the investigation.⁸⁴ A victim is entitled to a copy of any statement made by them during the course of the investigation, including a victim impact statement.⁸⁵ This information should be provided as soon as practicable to a victim. A victim can decide not to receive information, unless that information must be provided to the victim, as for example they are a witness in the case.⁸⁶ A victim can decide to change their mind and receive information at any time.⁸⁷

There are situations which may limit the information provided to a victim. Information on criminal proceedings will not be given to a victim if it could damage the case.⁸⁸ Information will not be provided to a victim if it could interfere with an investigation;⁸⁹ prejudice future or ongoing proceedings;⁹⁰ *'endanger the personal safety of a person'*;⁹¹ or *'endanger'* State security.⁹² The decision with respect to whether or not information should be provided must be made by a member of the Gardaí not below Superintendent or an authorised member of the: Ombudsman Commission; the DPP; the Irish Prison Service; staff of the children's detention school, or the clinical director of the designated centre.⁹³ Reasons as to why the information was not provided should be recorded by the relevant agency.⁹⁴

7. The Right to Understand and to be Understood

Article 3 (1) of the Directive requires that victims must be able to understand and be understood. Article 3 (2) of the Directive indicates that any information should be provided in *'simple and accessible language orally or in writing'* having regard to the *'personal characteristics'* of the victim and any disability which *'may'* affect their ability to understand

and be understood. Information provided to victims of crime should be provided in a manner having regard to their ability to understand and be understood.⁹⁵

This has been legislated for under Section 22 (1) of the *Criminal Justice (Victims of Crime) Act 2017*. It places an obligation on the Gardaí, the Ombudsman Commission GSOC, the DPP, the Courts, the Courts Service, the Irish Prison Service, et al that they *'shall, when dealing with a victim ensure that any oral or written communications with the victim are in simple and accessible language and take into account the personal characteristics of the victim including any disability, which may affect the ability of the victim to understand them or be understood'*.

Section 22 (3) goes onto provide that

- a. if a victim requests; (Section 22 (3)(a));
- b. it appears to member of the Garda or DPP (Section 22 (3)(b));
- c. or the court directs (Section 22 (3)(c));

that a victim need assistance to be understood, then the victim should get access to an interpreter or translator, as the case may be.

8. The Right of Victims when making a Complaint

A victim is entitled to written acknowledgment of any formal complaint they make to the Gardaí or to the Ombudsman Commission.⁹⁶ This must include the *'basic elements of the alleged offence'* and information for a victim on how they can find information if they have any queries.⁹⁷ If a victim does not understand the language then the victim can ask for the written acknowledgment to be translated.⁹⁸ This translation must be free of charge and completed as soon as practicable.⁹⁹ It can be translated via electronic means and either orally or in writing.¹⁰⁰

9. The Right to Interpretation and Translation

If a victim does not understand or speak the language then he/she can *obtain 'the necessary linguistic assistance'* to enable him/her to make a complaint.¹⁰¹ *'Linguistic assistance'* can be provided by a person who speaks the language such as a family member (DG Justice 2013: 17). Such assistance is different to interpretation and translation, which should be provided by a professional contacted/provided for by the courts service/Gardaí. If a person does not speak or understand the language,

then a written acknowledgement of a formal complaint should be translated, upon request.¹⁰² The translation of this document can be in any language the victim understands.¹⁰³ This according to the DG Justice Guidelines does not necessarily mean the victim's mother tongue.¹⁰⁴

Where a victim has a formal role in criminal proceedings, he/she can request interpretation free of charge where the victim does not understand or speak the language.¹⁰⁵ An individual assessment should be carried out to determine whether a victim needs translation and/or interpretation pursuant to Article 7 of the Directive (DG Justice 2013: 17). Article 7 (5) of the Victims Directive enables a victim to '*submit a reasoned request to consider a document as essential*'. Only documentation which enables victims to '*actively participate*' will be deemed to be essential. If a document is essential, an oral summary can be provided instead of a written translation once it does not prejudice the case. A victim can challenge any decision not to provide translation or interpretation. The process for doing so will need to be set out in domestic legislation.¹⁰⁶ Any challenge should not '*unreasonably*' delay criminal proceedings.¹⁰⁷

Section 22 to 25 of the *Criminal Justice (Victims of Crime) Act 2017* implement Article 7 of the Victims Directive. A victim who is a witness can access interpretation and translation under the Act when giving evidence if: the victim requests it; the DPP or the Gardaí recognise that the victim needs interpretation; or if the court directs that interpretation or translation is needed.¹⁰⁸ Interpretation or translation will be provided '*as soon as practicable*'¹⁰⁹ and can be provided via different communication technology.¹¹⁰ Translation can also be provided orally or in writing.¹¹¹

A request for interpretation or translation can be refused if it appears that the individual does not need assistance to be understood or to understand.¹¹² Reasons should be recorded if there is a refusal and the victim should be informed in writing of the decision, with a '*summary of the reasons*', '*as soon as practicable*'.¹¹³ A written decision can be transmitted via electronic means.¹¹⁴

A refusal to provide interpretation according to Section 25 of the *Criminal Justice (Victims of Crime) Act 2017* shall not according to that provision '*operate to prevent, or provide a basis of delaying, the commencement or continuation of any criminal proceedings*'.¹¹⁵ However, a Judge in his or her discretion may determine that a victim should have access to interpretation or translation in accordance with the Victims Directive and

the Act, notwithstanding any earlier decision to the contrary.¹¹⁶ In such an instance a short adjournment may be required to comply with the Victims Directive.¹¹⁷

The DG Justice Guidelines (2013) recommends that consideration should be made with respect to the gender of the translator or interpreter taking account of the needs of the victim and their wishes (DG Justice 2013: 13). Practitioners should be cognisant of the quality and confidentiality of interpretation and/or translation being provided to victims of crime. An interpreter/translator may have acted for an accused on a previous occasion and the quality of the interpretation may put a victim at risk of repeat or secondary victimisation. The Fundamental Rights Agency are in the process of completing a report in this area.¹¹⁸ It is likely to raise concerns over the quality and confidentiality of interpreters and translators within the criminal justice system.

10. Rights in the event of a Decision not to Prosecute

In accordance with the Victims Directive and Section 8 (2) (c)-(f) of the *Criminal Justice (Victims of Crime) Act 2017* a victim has certain rights when a decision is made not to prosecute an alleged offence. A victim should be informed of:

- a. any decision not to prosecute;
- b. his/her right to a summary of the reasons for the decision not to prosecute;
- c. his/her right to request a review of that decision¹¹⁹

Information provided should be translated upon request if a victim does not understand or speak the language.¹²⁰

If a decision is made not to prosecute then a member of An Garda Síochána or an officer of the DPP *'shall'* inform a victim of his/her right to review a decision not to prosecute and information should be provided to the victim on the review procedure.¹²¹

Article 11 (1) of the Victims Directive states that victims have a right to review a decision not to prosecute, upon request, depending on their role in criminal proceedings. Article 11 (2) clarifies this such that where the role of a victim cannot be determined until after a decision has been made to prosecute; then in such an instance *'victims of serious crimes*

have a right to review a decision not to prosecute’.

In Ireland, the legislation has provided that all victims of crimes have a right to review a decision not to prosecute. Section 10 (1) of the *Criminal Justice (Victims of Crime) Act 2017* places time limit of 28 days on the right to request a review. A victim should request a review of a decision not to prosecute within 28 days from the date which they first heard of the decision not to prosecute. The time period can be extended if An Garda Síochána or the DPP are *‘satisfied that circumstances exist that warrant the extension.’*¹²²

In practice, if the case was prosecuted by An Garda Síochána (District Court), then they, rather than the DPP, will provide a summary of reasons and a review of a decision not to prosecute. A form must be completed to request a summary of Garda reasons not to prosecute.¹²³ The form must be completed and received within 28 days of a victim being informed of the decision not to prosecute.¹²⁴ A form must be completed to request a review of a decision not to prosecute by An Garda Síochána.¹²⁵ The time period of 28 days commences on a victim being told of the reasons not to prosecute.

Both Article 6 (3) and Article 11 (3) of the Victims Directive provide victims must be informed of their right to request a summary of reasons and to request a review of a decision not to prosecute.¹²⁶ However, the Garda Information Leaflet, which should be provided to all victims of crime, makes no reference to the right of victims to request reasons or a review of decision not to prosecute.¹²⁷ Key to the rights set out in Article 6 (3) and Article 11 of the Victims Directive and the Act is the obligation to provide information to victims so that they are able to access these rights. Given the foregoing the Gardaí may not currently be fully compliant in providing information to victims.

The DPP in Ireland has completed a comprehensive booklet which outlines how a victim can request a brief summary of the reasons not to prosecute and a review of a decision not to prosecute.¹²⁸

It is worth quoting the relevant passage of the booklet:-

“If you are a victim, or a family member of a deceased victim, and you are not satisfied with the reasons for our decision not to prosecute, you can ask for a review. The review will be carried out by a lawyer who was not involved in making the original decision.

You should write to us and ask for a review within 28 days of the date on the letter telling you of the reason for not prosecuting your case. You should send your letter to our Communications and Victims Liaison Unit (see contact details on page22).

Even if you did not ask us for a reason for the DPP's decision, you can still ask for a review of the decision. In this case, you should write to us and ask for a review within 56 days (8 weeks) of the date you were told of the decision not to prosecute.

*In some cases the DPP may extend these time limits, but only if there is a good reason and it is in the interests of justice*¹²⁹

The Document makes it clear that a victim can only seek a summary of the reasons not to prosecute where they have received a decision not to prosecute on or after the 16th of November 2015 [the transposition date of the Directive]. No such date requirement has been outlined in relation to a review of a decision not to prosecute. It appears that the victim has 56 days to ask for a review of a decision not to prosecute from the date which the victim was told of the decision not to prosecute, although this time period is not contained in the *Criminal Justice (Victims of Crime) Act 2017*.

The Victims Directive does not place any time period on requesting a summary of reasons or a review of a decision not to prosecute. Such a short time frame of 28 days, if adhered to by An Garda Síochána and the DPP may be in breach of the Directive. It is accepted that both the Gardaí and the DPP do need to be cognisant of the rights of the defence and a long timeframe for requesting reasons and right to review would not be reasonable. That being said, 28 days is very short, although the discretion to extend the time period has the ability to be applied in a flexible manner and may thus prevent any legal challenge.

11. The Right to be Heard

Victims have a right to be heard during criminal justice proceedings.¹³⁰ A victim should be able to give his/her views *'throughout criminal proceedings'* (DG Justice 2013: 29).

Section 31 of the *Criminal Justice (Victims of Crime) Act 2017* amends Section 5 of the *Criminal Justice Act 1993* Act to enable all victims of

crime to provide ‘*evidence or submissions*’ about the effect or otherwise of the crime on the victim. It in effect permits all-natural victims to provide a Victim Impact Statement should they wish to do so.

The Victims Directive gives victims a right to be heard during criminal proceedings. Section 8 of the *Criminal Justice Act 2017* inserts a Section 9A into the *Bail Act 1997*, permitting a court to hear a complainant’s voice in bail applications. On the application of a member of An Garda Síochána, the court can receive evidence from a victim on the probability of ‘*direct or indirect interference or attempted interference*’ by the accused on the victim, or on the victim’s family;¹³¹ and evidence of the seriousness and type of any danger.¹³² If the victim is a child under the age of 14, then the court can obtain evidence from him or her, a family member or a guardian.¹³³ If the victim has a ‘*mental disorder*’, then a guardian can speak on his or her behalf.¹³⁴ Where it is in their interests to do so, a court can order that information given in evidence should not be published.¹³⁵

The *Criminal Justice Act 2017* makes it a criminal offence to publish evidence of a victim where an order is made to the contrary.¹³⁶ On summary conviction the maximum penalty is 12 months imprisonment and a class A fine. On indictment, the maximum sentence is 3 years imprisonment and/or a maximum fine of €50,000.

Section 8 of the *Criminal Justice Act 2017* makes no reference to a ‘*victim*’ but rather uses the indicator ‘*complainant*’. However, it predated the implementation and enforcement of the *Criminal Justice (Victims of Crime) Act 2017*.

The *Criminal Justice Act 2017* commenced on the 14th of August 2017.¹³⁷

12. The Right to be Accompanied by a Person of Your Choice

The Directive permits a person to be accompanied under Article 3 (3) and Article 20 (c). Section 7 (4) of the *Criminal Justice (Victims of Crime) Act 2017* provides that a victim has a right to be accompanied by a person of their choice, including a legal representative on first contact with the Gardaí or GSOC. This right to be accompanied is also available when making a complaint¹³⁸ and during any subsequent interview or statement which is provided.¹³⁹ This right is not absolute, if it would be ‘*contrary to the best interests of the victim or would prejudice any investigation or criminal proceedings*’.¹⁴⁰ Although, the victim should be informed that

they can choose an alternative person to accompany them, if the first is refused.¹⁴¹ A record must be taken and a reason provided for of any decision made by the Gardaí or the Ombudsman Commission to exclude an individual from an interview.¹⁴²

13. The Right to Protection

(a) Protection under the Victims Directive

Victims of crime have a right to avoid contact with the offender.¹⁴³ Interviews after a complaint has been made should be done as soon as practicable.¹⁴⁴ Both medical examinations and interviews with a victim should be kept to a minimum and only be done where it is necessary to *'investigate the offence'*.¹⁴⁵ Victims, during the course of criminal investigations can, in certain circumstances, be accompanied by a person of their choice and a legal representative (discussed above).¹⁴⁶

All victims of crime should be individually assessed to identify victims that have specific protection requirements.¹⁴⁷ In considering whether a victim needs extra protection measures, regard will be given to his or her characteristics, the nature of the crime, and the circumstances of the crime.¹⁴⁸ It is assumed that child victims need extra protection.¹⁴⁹ If a victim is identified as having special protection needs then they can access special measures. These measures ensure that interviews should be conducted in premises designed and/or adapted for that purpose; they should be done by a person professionally trained for that purpose and interviews with victims of gender based violence should be conducted by a person of the same sex as the victim, unless it could prejudice the case.¹⁵⁰ The same persons should conduct all interviews unless it goes against *'the good administration of justice'*.¹⁵¹

(b) Individual Assessment

Section 15 (2) of the Act outlines a list of factors which an Gardaí Síochána or the Ombudsman Commission should have regard to when conducting an individual assessment of the victim. This includes the nature and type of crime;¹⁵² the circumstances around the offence;¹⁵³ the harm suffered by the victim as a result of the offence;¹⁵⁴ the personal characteristics of the victim, which include *'the personal characteristics of the victim, including his or her age, gender, gender identity or expression, ethnicity, race, religion, sexual orientation, health, disability, communications difficulties, relationship to, or dependence on, the alleged offender and any previous*

experience of crime;¹⁵⁵ *whether the alleged offence appears to have been committed with a bias or discriminatory motive, which may be related to the personal characteristics of the victim referred to in paragraph (d)*¹⁵⁶ and *the particular vulnerability of victims of terrorism, organised crime, human trafficking, gender-based violence, violence in a close relationship, sexual violence, exploitation or hate crimes and victims with disabilities*.¹⁵⁷ The Act has an exhaustive list of acts which can be deemed to have a bias or discriminatory motive.

(c) Special Protection Measures

If a victim is identified as having special protection needs, then they are also entitled to additional protection measures under the *Criminal Justice (Victims of Crime) Act 2017*. These include avoiding contact with the offender by giving evidence via other means, which would include via communication technology.¹⁵⁸ Measures should be available to enable a victim to be heard in a courtroom without being present, again via the use of communication technology.¹⁵⁹

Section 30 of the *Criminal Justice (Victims of Crime) Act 2017* amends the *Criminal Evidence Act 1992* to expand upon the current use of video link evidence, intermediaries and screens by permitting their use in circumstances where a victim has special protection needs (identified during the course of an individual assessment)¹⁶⁰ and having regard to the victim's vulnerability to repeat and secondary victimisation, retaliation and intimidation.¹⁶¹ It is important to note that Section 30 and Section 19 (2) (c) are the only provisions of the *Criminal Justice (Victims of Crime) Act 2017*, which have not yet commenced.

One of the most important measures of the Directive provides that a victim who has special protection needs should be provided with measures to *'avoid unnecessary questioning concerning the victim's private life not related to the criminal offence'*.¹⁶² This provision is included in Section 21 of the *Criminal Justice (Victims of Crime) Act 2017*. Under Section 21 a court may give directions in relation to *'any evidence adduced or sought to be adduced and any questions asked in cross-examination at the trial, which relates to the private life of a victim and is unrelated to the offence'*; if due to the circumstances of the case it is necessary to protect a victim from repeat victimisation, intimidation or retaliation and it is not contrary to the interests of justice. Attention can be drawn to similar legalisation, which exists in relation to limiting cross-examination in relation to a victim's prior sexual history pursuant

to Section 3 of the *Criminal Justice (Rape) Act 1981*, as amended. Case law governing Section 3 of the 1981 Act may be of assistance in any future case law surrounding the right of a victim not to be cross-examined about their private life that is not related to the criminal offence (RCNI 2012).¹⁶³

Another special protection measure is what Article 23 (3) (d) of the Victims Directive refers to as *'measures allowing a hearing to take place without the presence of the public'*. This has been transposed in Section 20 of the *Criminal Justice (Victims of Crime) Act 2017*. Section 19 (2) (a) clarifies that this is a special protection measure.

It provides that *'if the court is satisfied'*

"(a) that the nature or circumstances of the case are such that there is a need to protect a victim of the offence from secondary and repeat victimisation, intimidation or retaliation, and

(b) it would not be contrary to the interests of justice in the case, the court may, on the application of the prosecution, exclude from the court during such proceedings—

(i) the public or any portion of the public, or

(ii) any particular person or persons, except officers of the court and bona fide representatives of the Press."

It is important to note that Section 20 (2) is without prejudice to the *'right'* a victim to have certain people in court with them; namely

(i) a parent, relative or friend of the victim,

(ii) a support worker of the victim's choice

(iii) where the accused person is under the age of 18 years, a parent, relative or friend of the accused person, or

(iv) an appropriate person under section 18, to remain in court, and

During the debate in the Dáil on the *Criminal Justice (Victims of Crime) Bill 2016*, as it was then, there was an application to include *and/or* at the end of *(i)-(iv)*. The Bills office indicated that there was no need to include

this as they were not mutually exclusive and for example a victim could have both a family member with them and a support worker.

14. Restorative Justice

There has been growing recognition that restorative justice should be explored in order to provide redress for victims of crime (Kool 2016). It is a process which is being increasingly used by victims of crime in Ireland (Le Cheile, 2015). Article 2 (1) (d) of the Victims Directive defines restorative justice as *'Member States are not any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party'* required to establish restorative justice services, but where they existed Member States were required to have safeguards in place for their use.

The *Criminal Justice (Victims of Crime) Bill 2016* originally had one major omission: restorative justice. Ireland has no statutory scheme for restorative justice and originally it was intended that restorative justice would not be included in draft legislation. It was subsequently included in the *Scheme of the Criminal Justice (Victims of Crime) Bill 2015*. It was therefore a surprise that restorative justice was not included in the subsequent publication of the *Criminal Justice (Victims of Crime) Bill 2016*. It was later accepted by Government that it would need to be included after criticisms were levied by both politicians and victim support organisations.¹⁶⁴ Restorative Justice was included in the Act.

Section 2 of the *Criminal Justice (Victims of Crime) Act 2017* defines restorative justice scheme as *'any scheme administered for the time being under which, with the consent of each of them, a victim and an offender or alleged offender engage with each other to resolve, with the assistance of an impartial third party, matters arising from the offence or alleged offence'*. The reference to consent in the definition is required under Article 12 of the Victims Directive.

Section 26 of the *Criminal Justice (Victims of Crime) Act 2017* mirrors Article 12 of the Victims Directive, providing safeguards to protect a victim from repeat and secondary victimisation - from retaliation and intimidation.

Restorative justice should only be used if it is in the interest of the victim to do so based on his or her free and informed consent.¹⁶⁵ A victim can

withdraw his/her consent at any time.¹⁶⁶ Prior to agreeing to engage in restorative justice, a victim must be given complete and unbiased information.¹⁶⁷ This should include information on the outcomes and the supervision of the process. The offender must acknowledge the basic facts of the case.¹⁶⁸ The agreement of the parties must be voluntary and it can be considered in any criminal proceedings which follow, such as the sentence but only where both parties consent to the information being disclosed.¹⁶⁹ If restorative justice is conducted in private then it is confidential and it cannot be discussed without the consent of the parties, save where there it is required by law.¹⁷⁰ Victims that choose to engage in restorative justice have the benefit of these measures.

15. Legal Aid

The Victims Directive accords victims the right to legal aid only where they are parties to criminal proceedings. The right to legal aid is only accorded to victims under Article 6 (1) of the European Convention on Human Rights where they are a party to criminal proceedings. Article 13 of the European Convention on Human Rights provides for an effective remedy for victims, and a victim may in such an instance seek legal aid (FRA 2015: 17).

Article 47 of the EU Charter has two parts, the right to a fair trial and the right to an effective remedy. It accords both a victim and the accused these rights. A victim is entitled to legal aid for the purposes of a fair trial, if he/she is a participant in criminal proceedings. However, a victim may be entitled to legal aid on the basis of his/her right to an effective remedy. Article 47 states that *'legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice'*. Legal aid should therefore be afforded to victims who cannot afford it *'to ensure victims effective access to justice'* (FRA 2015: 17).

The EU Charter arguably gives victims, who are not participants to criminal proceedings, a right to legal aid where they are trying to get access to justice. It raises the question of whether a victim, who is trying to access their rights under the Directive, is trying to access justice, and should therefore be considered for legal aid. Ireland is unlikely to extend legal aid to all victims of crime in any legislative manner without significant public pressure.¹⁷¹

Given the significant cost implications in extending legal aid to victims,

the granting of legal aid will be left to the discretion of the court. An application for legal aid for a breach of a victim's rights should illustrate that legal aid is necessary in order for a victim to access their right to an effective remedy under Article 47 of the EU Charter. If a victim could have sought an effective remedy elsewhere, then the court is unlikely to grant legal aid. It is therefore advisable that reasonable steps are taken to exhaust domestic remedies prior to going to the courts. Regard should be had to the urgency of the matter in determining whether it is necessary to go to the courts.

16. Compensation

A victim has a right, under Article 16 of the Victims Directive, to obtain a decision on compensation during criminal proceedings, within a reasonable timeframe, if national law does not permit a victim to seek compensation via alternative means. The Directive also requires Member States to *'promote measures to encourage offenders to provide adequate compensation to victims'*.¹⁷² There are initiatives in Ireland that enable victims of crime to seek compensation from an offender and from the State. This is achieved via a mix of administrative schemes and legislation.¹⁷³

a. *International Law*

The right of victims to compensation is not a new concept. The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, was adopted by General Assembly resolution 40/34 of 29 November 1985. The UN Principles outlined that remedies should be available to victims in national law for abuses of power and laws should provide restitution and compensation to a victim.¹⁷⁴ Principle 12 of that UN Convention provides that when an offender, or another party, cannot *'fully'* compensate a victim then the State should try to provide financial compensation. Principle 12 outlines who should be entitled to compensation, namely a victim who has *'significant bodily injury or impairment of physical or mental health as a result of serious crimes'* and to family members where their loved one has *'died or become physically or mentally incapacitated as a result of such victimization'*.¹⁷⁵

b. *Directive 2004/80/EC*

Directive 2004/80/EC was implemented to require Member States to pay compensation if a violent international crime occurred on their territory

even if a victim is resident in another Member State.¹⁷⁶ Member States are required to have national schemes in place for violent international crime.¹⁷⁷

The European Commission brought a successful case against Italy for its failure to legislate for a general compensation scheme for victims of violent international crime.¹⁷⁸ Member States cannot limit the type of international violent crimes, which the scheme will apply to. Italy only had a compensation scheme for some violent international crimes. Homicide, rape and other serious assaults were not included in the Italian compensation scheme, which was challenged by the EU. The CJEU held that although a Member State has a discretion as to how they implement a Directive it did not permit Italy *'to limit the scope of the compensation scheme for victims to only certain violent international crimes.'*

Directive 2004/80/EC on compensation is administered in Ireland by the Criminal Injuries Compensation Tribunal.¹⁷⁹ The State also administers a compensation scheme for victims who suffer a death or an injury due to a violent crime. This scheme is also administered by the Criminal Injuries Compensation Tribunal.¹⁸⁰

There has been a recent successful judicial review relating to the delay made in assessing a compensation claim by the Criminal Injuries Compensation Tribunal. The applicant in *Byrne v Criminal Injuries Compensation Tribunal & Ors [2017] IEHC 28* attempted to rely on the decision of the CJEU in *European Commission v. Italy*.¹⁸¹ In that regard, the High Court held that the *'failure of the State to place a Tribunal on a statutory footing does not amount to any breach of the applicant's rights'*.¹⁸² Furthermore, the court was of the view that the CJEU decision *'does not place an obligation on this Court to set out the manner and scope of a scheme for the compensation of victims of crime'*.¹⁸³ However, the High Court concluded that the scheme should be administered in accordance with the *'provisions of constitutional justice'*¹⁸⁴ and this includes a *'reasonably prompt decision'*.¹⁸⁵ The court in *Byrne* made a declaration that the delay by the respondent in assessing the claimant's claim for compensation was in *'vindication of the applicant's right to constitutional justice'*.¹⁸⁶

c. *Personal Injuries Assessment Board*

A victim can sue an offender under civil law in Ireland. A victim can seek personal injuries as against an offender pursuant to the *Personal Injuries*

Assessment Act 2003 as amended.¹⁸⁷ The Act permits an applicant to make an application to the Personal Injuries Assessment Board (PIAB) seeking damages from a respondent/offender as the case may be.¹⁸⁸ Cases involving medical negligence cannot be submitted to PIAB.¹⁸⁹ A victim can make a claim to PIAB for assessment of his/her claim.¹⁹⁰ An assessment '*means an assessment of the amount of damages the claimant is entitled to in respect of the claim on the assumption that the respondent or respondents are fully liable to the claimant in respect of the claim*'.¹⁹¹

On making an application to PIAB time is suspended under the statute of limitation. It is also suspended for a period of six months from the issue date of the PIAB authorisation.¹⁹²

Someone is a victim of crime under the Victims Directive, regardless of whether an offender is '*identified, apprehended, prosecuted or convicted*'.¹⁹³ Where there is an unidentified and untraced motorist a victim of a crime can seek compensation for personal injuries from the Motor Insurance Bureau of Ireland (MIBI). The MIBI can be sued as a defendant pursuant to the provisions of the Agreement entered into between it and the Minister for Transport on the 29th January 2009, in circumstances wherein personal injury was caused to the applicant (victim, as the case may be) by reason of the negligent use of a motor vehicle in a public place where the owner and/or user of the vehicle remains unidentified or untraced, and the Defendant is sued in accordance with the provisions of Clause 2 (4) of the Agreement.

d. The Statute of Limitations

A victim must make an application to PIAB within the permitted time period, as outlined in the *Statute of Limitations 1957* or the *Statute of Limitations (Amendment) Act 1991*, as amended by the *Civil Liability and Courts Act 2004*. Generally, speaking a victim's date of knowledge of his/her personal injuries is the date the incident/crime occurred, and a victim has two years to make a personal claim.¹⁹⁴ There are some exceptions to this rule.

The date of knowledge for a child is deemed to occur when they turn 18 years of age. They would therefore, have two years from that date to seek compensation. A minor can however, seek personal injuries in advance of that date where an adult, usually a parent or guardian, acts as a '*next friend*' on his/her behalf. There are also exceptions for asbestos-

related injury cases. The nature of asbestos is such that an individual may not be aware of their injuries until years after their exposure. In these circumstances, the time period of two years only begins when the individual became aware that they had developed an injury related to the a Section 48 A of the *Statute of Limitations Act 1957* was inserted by Section 2 of the *Statute of Limitations Amendment Act 2000* and permits an extension to the normal time period if a person has a disability or is suffering from an injury of a psychological nature as a result of sexual abuse, which was caused by the offender and which has affected *'his or her ability to make a reasoned decision'*, and has thus *'substantially impaired'* his or her ability to bring a case.¹⁹⁵

Section 48A (1) provides that a person is *'under a disability while he or she is suffering from any psychological injury that—*

(i) is caused, in whole or in part, by that act, or any other act, of the person who committed the first-mentioned act, and

(ii) is of such significance that his or her will, or his or her ability to make a reasoned decision, to bring such action is substantially impaired.'

The Supreme Court in *Doherty v Quigley [2015] IESC 54* considered, among other things, whether the trial judge should have applied a subjective or an objective test in determining whether the victim was substantially impaired. If she was substantially impaired in accordance with Section 48 (A) then the case was, in effect, not statute barred. The applicant had argued that an objective test should be used.

The Supreme Court stated that in considering whether someone is substantially impaired it is *'largely [a] subjective approach but, of course, the trial judge will inevitably have regard to objective facts and determine the weight to be accorded to them. The onus is on a plaintiff, relying on s.48A, to establish the necessary factual basis from which a trial court can properly conclude, on the balance of probabilities, that the section applies to him or her. Thus, the outcome of such an issue is governed by this essentially subjective approach, but it does not seem to me to be a fruitful exercise in this context to approach this issue by trying to break down the process of the determination by characterising the process as involving, wholly or partly, objective or subjective elements. I do not consider the appellant's objection to the trial judge's conclusions on the grounds that they were not based on an objective, or sufficiently objective, analysis of the facts pertaining to the respondent to be well founded.'*¹⁹⁶

Moreover, *'the fact that such a person is aware of the relevant limitation period, and its implications, does not of itself defeat the application of the section.'*¹⁹⁷ In determining whether a person has a psychological injury due to sexual abuse, then a court should consider the impact and nature of the injury on the Plaintiff as a whole as well as their *'ability to confront the perpetrator of such acts of sexual abuse by bringing her own civil proceedings.'*¹⁹⁸

The decision also recognised that the wording of Section 48A *'is clearly not suggesting that victim's ability must be totally impaired, or indeed substantially impaired at every moment of time. There could well be short periods or a window in a person's life where he or she might have the capacity to bring proceedings, but the underlying psychological injury which impairs the ability to bring proceedings may intervene before the opportunity to act arises.'*¹⁹⁹

Importantly *Doherty v Quigley [2015] IESC 54* acknowledged the difficulties victims of sexual abuse face in making a complaint or in bringing a civil case.²⁰⁰

e. Compensation Orders: Section 6 of the Criminal Justice Act 1993

A court may make a compensation order pursuant to Section 6 of the *Criminal Justice Act, 1993* when a victim has suffered loss or personal injury due to the crime (O'Malley 2016: 738). On conviction, a court may make a compensation order requiring an offender to pay a victim compensation for the personal injury which they suffered because of the offence. The court can make a compensation order in addition to or instead of dealing with the offender in a particular manner.²⁰¹ The *'means'* of the offender should be taken into account in determining the amount of any compensation order.²⁰²

The Court of Criminal Appeal considered compensation orders in *DPP v. Anthony Lyons [2014] IECCA 27*. That case involved an application by the DPP pursuant to Section 2 of the *Criminal Justice Act 1993*, namely, a request to review a sentence on the grounds it was unduly lenient. Mr. Lyons had been convicted by a jury for sexual assault contrary to Section 2 of the *Criminal Law (Rape) (Amendment) Act 1990*, as amended by Section 37 of the *Sex Offenders Act 2001*. He was sentenced to 6 years imprisonment, 5½ years of which were suspended. Pursuant to Section 6 of the *Criminal Justice Act 1993*, Lyons was ordered to pay compensation

to the victim in the sum of €75,000 compensation, within one month. Both the DPP and the defence indicated that they had no objection to a compensation order being made.

Murray J. in giving judgment for the court commented:-

“In the view of the Court, the making of an order for compensation in serious criminal cases at the time of sentencing by an accused is unavoidably a delicate and difficult issue. There can never be any question of it being applied in a way that suggests there is one law for the rich and one law for the poor. Nonetheless, the Oireachtas has ordained that a sentencing court must have the option of compensating a victim by means of a “compensation order” by reference to the accused’s means. This statutory coupling of a “compensation order” with the sentencing in serious indictable cases, could at least be said to be unsatisfactory (and warrant review by the legislature) as it risks giving rise to the misconception that in such serious cases an accused could escape the appropriate sentence simply by the payment of compensation.”²⁰³

A letter was before the court indicating that compensation had been paid to settle a civil claim by the complainant in the sum of €199,500 (before VAT, medical fees and legal costs). The court stated that it did not see any reason why a payment of compensation in civil law, in advance of the conclusion of criminal proceedings, should ‘*automatically*’ be a factor in mitigation.²⁰⁴

The court went on to comment that the civil case was a ‘*distinct and separate civil matter to the criminal matters with which this Court has to deal*’. Furthermore, without ‘*any evidence to show that*’ the payment of compensation was ‘*specially burdensome or onerous, the Court does not consider that it should affect the sentence which should be imposed in this case. Accordingly, it is not treated as a mitigating factor here*’.²⁰⁵

Mr. Justice Murray went onto distinguish between the use of Section 6 in the District Court versus the Circuit Court. In relation to the District Court, the Oireachtas could have envisaged that compensation orders may be used for minor offences ‘*instead*’ of dealing with the case in a different manner; ‘*[h]owever, where serious indictable offences are concerned it would seem that, in principle, if a compensation order is being made it should be made only in addition to the appropriate sentence, including imprisonment, that meets the gravity of the case*’.²⁰⁶

There is nothing preventing an offender from offering a victim compensation at for example sentence. However, one must be mindful of how this is done given the State's obligations under the Victims Directive and the *Criminal Justice (Victims of Crime) Act 2017* both of which provide that there must be due regard to the right of a victim to avoid contact with the offender, the right to protect the victim from repeat and secondary victimisation and the right of a victim to have his/her voice heard. An accused should not approach a victim offering him or her compensation. Rather a prosecutor or the Garda should ask the victim whether he or she wants to receive compensation from the accused/offender. It is then the victim's choice as to whether they want to receive the compensation offered. A victim may not want to receive monies from the offender and that wish should be respected.²⁰⁷ The RCNI has suggested that victims should always be asked whether they want compensation at sentence. An offer of compensation by an accused can be a mitigating factor in sentencing.²⁰⁸

Transposition of Article 16 of the Victims Directive does not on first glance require any amendment to our existing law with respect to compensation. However, the Directive and the *Criminal Justice (Victims of Crime) Act 2017* place an obligation on the Gardaí and the Garda Ombudsman to inform victims of how and in what circumstances they can access compensation.²⁰⁹ This includes a victim's right to compensation under any scheme which offers compensation to victims of a crime and information on the courts' power to make a compensation order under Section 6 of the *Criminal Justice Act 1993*.

17. Access to Victim Support Services & Protection

The Victims Directive requires that victims have access to victim support services free of charge for a period before, during and after a criminal investigation.²¹⁰ The Gardaí are required to inform victims about victim support services and '*shall facilitate the referral of victims*'.²¹¹ The Gardaí are not currently providing a complete list of the victim support services which are available to victims of crime (VRA 2014: 28).²¹² Section 7 (9) of the *Criminal Justice (Victims of Crime) Act 2017* states that '*A member of the Garda Síochána or an officer of the Ombudsman Commission, as the case may be, may, where a victim consents, arrange for the victim to be referred to an appropriate, and where relevant specialist, service which provides support for victims.*' (emphasis added). Credit must go to the RCNI, Safe Ireland and the VRA for the inclusion of '*relevant specialist, service*' as such a reference was not included in earlier drafts

of the Bill. The inclusion of some form of relevant referral in the Act is a positive step, but the inclusion of the word *'may'* means that a member of the Gardaí or Ombudsman Commission are under no legal obligation to refer a victim to support services even where the victim has consented to such a referral. This is not in keeping with the positive obligation under Article 8 (2) of the Victims Directive, where the Gardaí *'shall facilitate the referral of victims'* (emphasis added). It is accepted that there may be issues which might arise where it might be inappropriate or impossible for a member of An Garda Síochána to refer a victim but the inclusion of the word *'may'* makes it completely discretionary on the part of individual Gardaí to refer a victim of crime to support services. This is not in keeping with the spirit of the Victims Directive and may face legal challenge.

18. Other Rights under the Directive

The Directive also makes provision for other rights. Victims have a right to reimbursement of expenses, for example, which they incur due to their *'active participation'* in the criminal proceedings.²¹³ The Irish Criminal Injuries Compensation Tribunal decides which vouched-for out-of-pocket expenses should be awarded to victims of crime.²¹⁴ Any property of the victim which was seized during the course of criminal proceedings should be returned without delay, unless it is required as evidence within the case.²¹⁵

Victims also have a right to privacy. Member States are required to implement measures to protect their privacy, including images of the victim and their family. The victim's personal characteristics should also be protected having regard to an individual assessment which is carried out. All measures should be taken to prevent the identification of a victim who is a child. The Directive envisages that a victim's privacy can be protected by self-regulation measures in the media. Prosecutions for breaches of court orders; such as the in camera rule, are necessitated in order to protect victims' privacy and to have a deterrent effect

19. Training

Training is key to creating a criminal justice system which not only protects the rights of the accused but also the rights of the victim. Article 25 of the Victims Directive deals with the training of persons working with victims of crime on the needs of victims of crime.

Significant debate was recorded in both the Dáil and Seanad as to

whether a provision should be included requiring State and non-state agencies to report on training provided under the Victims Directive. The Seanad passed an amendment to the *Criminal Justice (Victims of Crime) Bill 2016* which required that:

*“Within 60 days after the end of each calendar year those responsible for the training within An Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, the Court Service, the Bar of Ireland, the Law Society of Ireland and the Judicial Studies Institute shall publish in written form a report of any general and specialist training which has been provided in accordance with the provisions of this Act and Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.”*²¹⁶

The Government subsequently requested that this be removed from the Bill, with success. There were obvious issues with the amendment; however, its intention was well meaning, given the State’s obligation under Article 25 to provide training under the Victims Directive and the obligation under Article 28 of the Victims Directive to provide statistics to the European Commission on how victims have accessed their rights under the Directive. The reporting on training provided is a factor which should be considered in monitoring the implementation of the Victims Directive in Ireland.

The wording of the amendment in the Seanad arose from Canadian legislation, namely, the Judicial Accountability through Sexual Assault Law Training Act (An Act to amend the Judges Act and the Criminal Code (sexual assault)) which had broad party support in Canada, notwithstanding that it was originally introduced as a private members Bill. That piece of Canadian legislation requires, among other things, that the Canadian Judicial Council report to the Canadian Minister for Justice in relation to the description and detail of the training which has been provided, the number of judges who attending the training, and the number of sexual assault cases which have been heard by the judges who attended the training. It only applies to new judges and not existing Judges. Despite some initial pushback, the Canadian Bill was passed by the Canadian House of Commons in May 2017 and the Canadian Senate in September 2017, thus remaining a part of the Bill. It is currently at its Second Reading in the Canadian Senate.²¹⁷

The debate around the requirement to report on training provided under the Victims Directive is a legitimate one, having due regard to the separation of powers. The aforementioned debate in the Seanad with respect to some bodies is now moot. The Irish Council for Civil Liberties, The Bar of Ireland and the Law Society of Ireland have obtained EU funding to develop a training programme for lawyers and the judiciary across five different jurisdictions. The training provided as part of this programme will go some way to ensuring the effective implementation of the Victims Directive and the *Criminal Justice (Victims of Crime) Act 2017* in Ireland.

D. Conclusion

Article 288 of the Treaty of the European Union provides that a Directive is binding *'as to, the result to be achieved'*, but it leaves it up to Member States as to how they wish to implement it as to the *'form and method'* (Treaty of Lisbon 2007). The Victims Directive must be properly transposed and implemented if victims of crime are to experience real rights across all Member States (Todino 2013: 2). The Commission is the Guardian of EU Treaties and, as part of that task, it monitors Member States' implementation of the Victims Directive. The Commissioner of Justice, Consumers and Gender Affairs Věra Jourová (2015) asserts that the European Commission will *'not hesitate to take steps'* against those countries who fail to implement the Directive on time and *'[c]itizens can invoke these rights directly before the national courts – even if the new rules are not correctly transposed into national law'*.

As of December 2016, infringement proceedings were brought against 11 Member States, including Ireland, for failure to communicate on their implementation of the Victims Directive. Failure of Member States to implement the Victims Directive will result in the Commission and/or victims of crime enforcing their rights before the courts.

The first case under the Victims Directive was referred to the Court of Justice of the European Union, but it was found to be inadmissible by the court.²¹⁸ More cases are likely to be referred in the coming years as Member States fail to provide victims of crime with their rights under the Directive in practice.

The Victims Directive has changed the landscape for victims of crime in Ireland. Victim's rights are being considered by the Gardaí, the DPP, the Courts Service, the Irish Prison Service, and lawyers and judges.

This is an exciting time for the Irish criminal justice system. The cultural shift will need to happen over time but the implementation of the transposition of the Victims Directive and the full commencement of the *Criminal Justice (Victims of Crime) Act 2017* is the first major challenge in implementing the Directive.

Yes, Ireland has had challenges in transposing the Victims Directive, but that should not take away from the significance of the rights set out in the Victims Directive, rights which only a decade ago seemed out of reach.

The former Federal Ombudsman for Victims of Crime in Canada, Sue O’Sullivan, uses the mantra: what’s measured gets done. The inclusion of a provision requiring state agencies to keep statistics on the implementation of the *Criminal Justice (Victims of Crime) Act 2017* will enable Ireland to lead the way in ensuring the rights under the Victims Directive are protected for generations to come.²¹⁹

*Maria McDonald is a Barrister at Law and a founding member of the Victims’ Rights Alliance (VRA) See www.victimrightsalliance.com She is working with the ICCL to develop an EU Training Module on the Victims Directive, which is funded by the Justice Programme of the European Union. Our partners are The Bar of Ireland and The Law Society of Ireland, the HRMI in Lithuania, the Peace Institute in Slovenia, APAV in Portugal and the Ministry of Justice in Hungary. Our associate partners are Victim Support Europe and PICUM and the project has been supported by the VRA. The Guide has been translated by our 4 international partners and will be adapted to the law in each of these jurisdictions. The author wishes to thank staff in the University of Limerick for their comments on an early draft and to thank ICCL staff members and for Caroline Conahan of the RCNI for reviewing and providing their comments on this document. Also a massive thanks to Dr. Tom Gerald Daly of Melbourne Law School in the University of Melbourne, Ms. Sarah Enright and to the members of the VRA for imparting their knowledge. Any mistakes are the authors own.

1. Section 30 and Section 19 (2) (c), of the Criminal Justice (Victims of Crime) Act 2017 have not yet commenced.
2. Article 28, Victims Directive
3. Section 30 and Section 19 (2) (c), of the Criminal Justice (Victims of Crime) Act 2017 have not yet commenced.
4. http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2011.187.01.0001.01.ENG accessed 19/11/2017
5. <https://ahssresearch.wordpress.com/2016/05/09/a-lot-is-happening-in-european-criminal-justice-but-not-in-ireland/> accessed 19/11/2017
6. Article 1, Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of Crime, and replacing Council Framework Decision 2001/220/JHA5 (Hereafter Victims Directive)
7. Article 1, Victims Directive
8. Recital 71, Victims Directive
9. Recital 19, Victims Directive
10. Section 2, Criminal Justice (Victims of Crime) Act 2017
11. Recital 33, Victims Directive
12. Article 4 and Article 8 (5), Victims Directive

13. International Criminal Court Act 2006
14. Section 27, International War Crimes Tribunals Act 1998
15. The Geneva Conventions Act, 1962 as amended
16. Criminal Justice (United Nations Conventions Against Torture) Act 2000
17. Article 8 (5), Victims Directive
18. Although the word victim was not used in legislation other language was used to refer to a victim of crime in Irish legislation in advance of the Criminal Justice (Victims of Crime) Act 2017 i.e Section 5, Criminal Justice Act 1993 as amended (substantially) by Section 4, Criminal Procedure Act 2010
19. Section 26 (3) (b), Civil Legal Aid Act 1995; Section 39, Criminal Law (Sexual Offences) Act 2017
20. Section 2, Criminal Justice (Victims of Crime) Act 2017 defines a victim in terms of Article 2 (1) (a) (i) of the Victims Directive. The Act defines a victim as 'a natural person who has suffered harm, including physical, mental or emotional harm or economic loss, which was directly caused by an offence.'
21. Recital 19, Victims Directive
22. Section 2, of the Criminal Justice (Victims of Crime) Act 2017 defines a family member as:
 - (a) a spouse, civil partner or cohabitant of the victim,
 - (b) a child or step-child of the victim,
 - (c) a parent or grandparent of the victim,
 - (d) a brother, sister, half brother or half sister of the victim,
 - (e) a grandchild of the victim,
 - (f) an aunt, uncle, nephew or niece of the victim, and
 - (g) any other person
 - (i) who is or, where the victim is deceased, was dependent on the victim, or
 - (ii) who a court, a member of the Garda Síochána, an officer of the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, a director of a children detention school or a clinical director of a designated centre, as the case may be, considers has or, where the victim is deceased, had a sufficiently close connection with the victim as to warrant his or her being treated as a family member
23. Article 2 (1) (b), Victims Directive
24. Article 2 (1) (b), Victims Directive
25. Article 2 (3), Victims Directive; See Section 3 Criminal Justice (Victims of Crime) Act 2017
26. Section 15 (7) (iii) & Section 17 (1) (b) (i), Criminal Justice (Victims of Crime) Act 2017
27. Article 8 (5), Victims Directive
28. Section 2 (2), Criminal Justice (Victims of Crime) Act 2017
29. Ibid
30. Section 2 (g) (i)-(ii), Criminal Justice (Victims of Crime) Act 2017
31. Section 3 (a), Criminal Justice (Victims of Crime) Act 2017
32. The Garda Síochána, the Ombudsman Commission, the Director of Public Prosecutions, the Irish Prison Service, the director of a children detention school or the clinical director of a designated centre
33. Section 3 (b), Criminal Justice (Victims of Crime) Act 2017
34. S.I. No. 309/2015 - European Union (Combating the Sexual Abuse and Sexual Exploitation of Children and Child Pornography) Regulations 2015
35. Article 2 (c), Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (Hereafter Child Exploitation Directive)
36. Article 2 (d), Child Exploitation Directive
37. Article 2 (e), Child Exploitation Directive
38. He/she is used throughout this text as an indicator in the absence of any third gender marker pending a review of the Gender Recognition Act 2015
39. Case C-484/16 Request for a preliminary ruling from the Giudice di Pace di Taranto (Italy) lodged on 8 September 2016. The referring court asked whether the Victims Directive, which was implemented in Italy by Legislative Decree No. 212 of 15th December 2015, prevented the repeal of an offence under Article 594 of the Italian Criminal Code, which was referred to in Article 1 of the Italian Legislative Decree No 7 of the 15th of January 2016 in light of Article 83 of the Treaty of the Functioning of the European Union (TFEU); Article 2 and 3 of the Italian Constitution and Article 49, 51, 53 and 54 of the Charter of Fundamental Rights of the European Union.
40. Case C-484/16 Order of the Court (Ninth Chamber) of 13 December 2016. Criminal proceedings

contre Antonio Semeraro. Request for a preliminary ruling from the Giudice di pace di Taranto at para 33; unofficial English translation. French & Italian versions are only available.
<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1484837639678&uri=CELEX:62016C00484>
accessed 19/1/2017

41. Ibid at 38 - 40; unofficial English translation Original in French and English
42. See Section 39 Domestic Violence Bill 2017, (As passed by Seanad Eireann, 30th November 2017)
43. Article 22 (3) Victims Directive and Section 15 (2) (f) Criminal Justice (Victims of Crime) Act 2017
44. Article 8 of the Trafficking Directive provides that Member States shall have measures to ensure that prosecution authorities, such as the Director of Public Prosecutions (DPP), are entitled not to prosecute accused persons for engaging in criminal conduct if they have been compelled to commit the offence as a result of being trafficked. The DPP has issued Guidelines to Prosecutors (2016) stating that if there is 'credible information that a suspect is also a crime victim, the prosecutor should consider whether the public interest is served by a prosecution of the suspect' (13). There are a number of factors which prosecutors should consider when determining whether or not proceedings should continue against a victim of trafficking. These include the type of offence; information relating to duress or coercion and if there was duress whether there was any violence or threats of violence used or fraud, deceit, or an abuse of authority. Consideration will also be had as to whether or not a victim co-operated with the State
45. P. v. The Chief Superintendent of the Garda National Immigration Bureau, the DPP, Ireland [2015] IEHC 222 para 191 The Trafficking Directive defines criminal offences relating to trafficking and the sanctions which should be imposed. It does not define a victim of trafficking. Article 11 (2) provides that the supports under the directive should be made available 'as soon as the competent authorities have a reasonable-grounds indication for believing that the person might have been subjected' to a criminal offence provided for in the Directive. In Ireland victims are identified as a victim of trafficking via an administrative scheme drafted by the Department of Justice and Equality. The obligation to ascertain whether someone is a suspected victim of trafficking was allocated to a Garda officer not below the rank of Superintendent of the Garda National Bureau of Immigration. Ms. Justice O'Malley in P. v. The Chief Superintendent of the Garda National Immigration Bureau, the DPP, Ireland said that the 'current mechanism, such as it is, must be held to be inadequate in terms of the transposition of the Directive' (205). A recommendation has been made by the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) that the Irish Government implement legislation to transpose the Trafficking Directive (GRETA 2013: 52-53; IHREC 2015: 8). The Irish Human Rights and Equality Commission (2015) has also recommended that the State 'take immediate action to rectify the inadequacies in the administrative system and put in place a statutory scheme for the identification and protection of alleged victims of trafficking in line with the relevant EU law' (IHERC 2015: 8). The State to date have not effectively implemented the Trafficking Directive and further challenges may ensue given the lack of guidance on how to identify a victim of trafficking.
46. Article 2 (c), Victims Directive
47. Article 1 (2), Victims Directive
48. Article 20, Victims Directive
49. Section 15 (7) (b) (i), Criminal Justice (Victims of Crime) Act 2017
50. Article 1 (2), Victims Directive; Section 15 (7) (b) (i), Criminal Justice (Victims of Crime) Act 2017
51. Article 24 (1) (a), Victims Directive
52. Article 24 (1) (b), Victims Directive
53. Article 24 (1) (c), Victims Directive
54. Article 24 (1) (b), Victims Directive
55. Section 18 (1) (b) (i) - (v), Criminal Justice (Victims of Crime) Act 2017
56. Article 22 (4), Victims Directive
57. Section 18 (7) (b) (i) - (iii), Criminal Justice (Victims of Crime) Act 2017
58. Article 3 (1) & Article 12, UN Convention on the Rights of the Child and Article 42 A Irish Constitution
59. Instruction DGI/SGRJ/3/2011, of 20 April amending Regulation of Organic Law 4/2000, and Act 2/20091; Article 31; Instrucción DGI/SGRJ/3/2011, sobre aplicación del Reglamento de la Ley Orgánica 4/2000, sobre derechos y libertades de los extranjeros en España y su integración social, en materia de informe de arraigo. See PICUM 'Strategies to End Double Violence Against Undocumented Women Protecting Rights and Ensuring Justice' (Brussels: PICUM, 2012) pg. 106 available at <http://picum.org/picum.org/uploads/publication/Double%20Violence%20Against%20Undocumented%20Women%20-%20Protecting%20Rights%20and%20Ensuring%20Justice.pdf>



- accessed 19/1/2017
60. See also Plan de Atención y Prevención de la Violencia de Género en Población Extranjera Inmigrante 2009-2012; Ley Orgánica 2/2009, de 11 de diciembre, de reforma de la Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social.
 61. <http://picum.org/picum.org/uploads/publication/Double%20Violence%20Against%20Undocumented%20Women%20-%20Protecting%20Rights%20and%20Ensuring%20Justice.pdf> accessed 19/1/2017
 62. Recital 18, Victims Directive
 63. http://www.justice.ie/en/JELR/CEDAW_REPORT_September_2016.pdf/Files/CEDAW_REPORT_September_2016.pdf accessed 19/11/2017
 64. See Victims of Domestic Violence: Immigration Guidelines <http://www.inis.gov.ie/en/INIS/Victims%20of%20Domestic%20Violence%20-%20Note%20for%20Web.pdf/Files/Victims%20of%20Domestic%20Violence%20-%20Note%20for%20Web.pdf>
 65. Ibid
 66. DG Justice: Guidance Document on the Victims Directive, pg. 13
 67. Article 7 (1), Criminal Justice (Victims of Crime) Act 2017
 68. Section 4 (1) (a), Victims Directive; Section 7 (1) (a), Criminal Justice (Victims of Crime) Act 2017
 69. Section 4 (1) (b), Victims Directive; Section 7 (1) (b), Criminal Justice (Victims of Crime) Act 2017
 70. Ibid; Section 7 (1) (e), Criminal Justice (Victims of Crime) Act 2017
 71. Section 4 (1) (c), Victims Directive; Section 7 (1) (h), Criminal Justice (Victims of Crime) Act 2017
 72. Section 4 (1) (d), Victims Directive; Section 7 (1) (n), Criminal Justice (Victims of Crime) Act 2017
 73. Section 4 (1) (e), Victims Directive; Section 7 (1) (j), Criminal Justice (Victims of Crime) Act 2017
 74. Section 4 (1) (k), Victims Directive; Section 7 (1) (o), Criminal Justice (Victims of Crime) Act 2017
 75. Section 4 (1) (f), Victims Directive
 76. Section 4 (1) (h,) Victims Directive
 77. Section 4 (1) (j), Victims Directive; Section 7 (1) (m), Criminal Justice (Victims of Crime) Act 2017
 78. Section 4 (1) (g), Victims Directive; Section 7 (1) (f), Criminal Justice (Victims of Crime) Act 2017
 79. Section 4 (1) (i), Victims Directive
 80. Article 6 (1), Victims Directive; Section 8 (1) (a) (i)-(ii) Criminal Justice (Victims of Crime) Act 2017. Section 8 (2), Criminal Justice (Victims of Crime) Act 2017.
 81. Section 8 (4) (a), Criminal Justice (Victims of Crime) Act 2017
 82. Article 6 (1) (a) and (b), Victims Directive; Section 8 (2) (ii) - (g), Criminal Justice Victims of Crime Act 2017;
 83. Article 6 (2) (a), Victims Directive; Section 8 (2) (j), Criminal Justice (Victims of Crime) Act 2017
 84. Section 8 (2) (a), Criminal Justice Victims of Crime Act 2017
 85. Section 8 (2) (b) (i)-(ii), Criminal Justice Victims of Crime Act 2017
 86. Article 6 (4), Victims Directive
 87. Ibid
 88. Article 6 (2) (b), Victims Directive
 89. Section 11 (1) (a) Criminal Justice (Victims of Crime) Act 2017
 90. Section 11 (1) (b) Criminal Justice (Victims of Crime) Act 2017
 91. Section 11 (1) (c) Criminal Justice (Victims of Crime) Act 2017
 92. Section 11 (1) (d) Criminal Justice (Victims of Crime) Act 2017
 93. Section 11 (2) (a)-(f) Criminal Justice (Victims of Crime) Act 2017
 94. Section 11 (3) Criminal Justice (Victims of Crime) Act 2017
 95. Section 8 (1)(b), Criminal Justice (Victims of Crime) Act 2017
 96. Article 5, Victims Directive; Section 12 (5), Criminal Justice (Victims of Crime) Act 2017
 97. Article 5, Victims Directive; Section 12 (6), Criminal Justice (Victims of Crime) Act 2017
 98. Article 5 (3), Victims Directive; Section 12 (7), Criminal Justice (Victims of Crime) Act 2017
 99. Article 5 (3) Victims Directive; Section 12 (8) (a), Criminal Justice (Victims of Crime) Act 2017
 100. Article 5 (3) Victims Directive; Section 12 (8) (b), Criminal Justice (Victims of Crime) Act 2017
 101. Article 5 (2), Victims Directive
 102. Section 12 (7), Criminal Justice (Victims of Crime) Act 2017
 103. Ibid
 104. Section 12 (7), Criminal Justice (Victims of Crime) Act 2017
 105. Section 22 (3), Criminal Justice (Victims of Crime) Act 2017
 106. Section 23, Criminal Justice (Victims of Crime) Bill 2016 enables victims to request a review of

- decision to refuse interpretation or translation. Such a request must be made within 7 days.
107. Article 7 (8), Victims Directive. Section 24, Criminal Justice (Victims of Crime) Bill 2016
 108. Section 22 (3) (a)-(c) and (i)-(ii) Criminal Justice (Victims of Crime) Act 2017
 109. Section 22 (4), Criminal Justice (Victims of Crime) Act 2017
 110. Section 22 (5) & (6), Criminal Justice (Victims of Crime) Act 2017
 111. Section 22 (6), Criminal Justice (Victims of Crime) Act 2017
 112. Section 23 (1) (a), Criminal Justice (Victims of Crime) Act 2017
 113. Section 23 (2) (a) & (b), Criminal Justice (Victims of Crime) Act 2017
 114. Section 23 (8), Criminal Justice (Victims of Crime) Act 2017
 115. Article 7 (8), Victims Directive
 116. Section 22 (3) (c), Criminal Justice (Victims of Crime) Act 2017
 117. Section 22 (3) (c), Criminal Justice (Victims of Crime) Act 2017
 118. <http://fra.europa.eu/en/project/2015/right-interpretation-and-translation-and-right-information-criminal-proceedings-eu> accessed 19/11/2017
 119. Article 6 (1) (a) & Article 6 (3), Victims Directive
 120. Article 7 (4), Victims Directive
 121. Section 9, Criminal Justice (Victims of Crime) Act 2017
 122. Section 10 (2), Criminal Justice (Victims of Crime) Act 2017
 123. Form Request for a Summary of Garda Reasons (Not to Prosecute) available at <http://www.garda.ie/documents/user/Request%20Form%20-%20Summary%20of%20garda%20Reasons%20Not%20To%20Prosecute.pdf>
 124. Section 10 (1), Criminal Justice (Victims of Crime) Act 2017 Also see Garda Form <http://www.garda.ie/Documents/User/Request%20Form%20-%20Review%20of%20Garda%20Reasons%20Not%20To%20Prosecute.pdf>
 125. Form Request for Review of Garda Decision (Not to Prosecute) available at <http://www.garda.ie/Documents/User/Request%20Form%20-%20Review%20of%20Garda%20Reasons%20Not%20To%20Prosecute.pdf>
 126. Article 11 (3), Victims Directive
 127. <http://www.garda.ie/Documents/User/Victims%20Information%20Leaflet%20English.pdf>
 128. The Role of the DPP (November 2015) para 17, pg 16, available at http://www.dppireland.ie/filestore/documents/victims_directive_publications/ENGLISH_-_Role_of_the_DPP.pdf
 129. The Role of the DPP (November 2015) para 17, pg 16, available at http://www.dppireland.ie/filestore/documents/victims_directive_publications/ENGLISH_-_Role_of_the_DPP.pdf
 130. Article 10, Victims Directive
 131. Section 8, Criminal Justice Act 2017, formally Section 5, Bail (Amendment) Act 2006 inserting Section 9A (1) (a) of the Bail Act 1997
 132. Section 8, Criminal Justice Act 2017 formally Section 5, Bail (Amendment) Act 2006 inserting Section 9A (1) (b) of the Bail Act 1997
 133. Section 8, Criminal Justice Act 2017 inserting Section 9A (2) (a) of the Bail Act 1997
 134. Section 8, Criminal Justice Act 2017 inserting Section 9A (2) (b) of the Bail Act 1997
 135. Section 8, Criminal Justice Act 2017 inserting Section 9A (3) of the Bail Act 1997
 136. Section 8, Criminal Justice Act 2017 inserting Section 9A (4) of the Bail Act 1997
 137. Criminal Justice Act 2017 (Commencement) Order 2017 (S.I. No. 359 of 2017)
 138. Section 12 (1), Criminal Justice (Victims of Crime) Act 2017
 139. Section 14 (2), Criminal Justice (Victims of Crime) Act 2017
 140. Section 7 (5)/Section 12(2)/14 (3), Criminal Justice (Victims of Crime) Act 2017
 141. Section 7 (6)/Section 12 (3)/Section 14 (4), Criminal Justice (Victims of Crime) Act 2017
 142. Section 7 (7)/Section 12 (4)/Section 14 (1) (5), Criminal Justice (Victims of Crime) Act 2017
 143. Article 19 (2), Victims Directive
 144. Article 20 (a), Victims Directive; Section 14 (1) (b), Criminal Justice (Victims of Crime) Act 2017
 145. Article 20 (d) & (b), Victim Directive; Section 14 (1) (c), Criminal Justice (Victims of Crime) Act 2017
 146. Article 20 (c), Victims Directive
 147. Article 22, Victims Directive
 148. Article 22 (2), Victims Directive
 149. Article 22 (4) & Article 24, Victims Directive
 150. Article 23 (2) (a) & (b) (d), Victims Directive
 151. Article 23 (2) (c), Victims Directive
 152. Section 15 (2) (a), Criminal Justice (Victims of Crime) Act 2017

153. Section 15 (2) (b), Criminal Justice (Victims of Crime) Act 2017
154. Section 15 (2) (c), Criminal Justice (Victims of Crime) Act 2017
155. Section 15 (2) (d), Criminal Justice (Victims of Crime) Act 2017
156. Section 15 (2) (e), Criminal Justice (Victims of Crime) Act 2017
157. Section 15 (2) (f), Criminal Justice (Victims of Crime) Act 2017
158. Article 23 (3) (a), Victims Directive
159. Article 23 (3) (b), Victims Directive
160. Section 15, Criminal Justice (Victims of Crime) Act 2017
161. Section 15(1) (c), Criminal Justice (Victims of Crime) Act 2017 See also Section 15 (2), Criminal Justice (Victims of Crime) Act 2017
162. Article 23 (3) (c), Victims Directive
163. DPP-v- GK [2006] IE CCA 99
164. See www.victimrightsalliance.com The Victims Rights Alliance engaged with politicians advocating for the definition of restorative justice and the inclusion of safeguards as provided for in Article 12 of the Victims Directive.
165. Section 26 (2), Criminal Justice (Victims of Crime) Act 2017
166. Section 26 (3) (iii), Criminal Justice (Victims of Crime) Act 2017
167. Section 26 (3), Criminal Justice (Victims of Crime) Act 2017
168. Section 26 (2) (b), Criminal Justice (Victims of Crime) Act 2017
169. Section 26 (4) (a)-(b), Criminal Justice (Victims of Crime) Act 2017
170. Section 26 (4) (c), Criminal Justice (Victims of Crime) Act 2017
171. See Section 26 (3) (b), Civil Legal Aid Act 1995; Section 39, Sexual Offences Act 2017
172. Article 16 (2) Victims Directive
173. Section 6 Criminal Justice Act 1993; Section 11 & Section 20 Personal Injuries Assessment Act 2003; Protections for Persons Reporting Child Abuse Act 1998 as amended. Under Directive 2004/80/EC relating to compensation to crime victims a member state is required to pay compensation if a violent international crime occurred on their territory even if a victim is resident in another member state. Member states are required to have national schemes in place for violent international crime. In Case C-601/14 European Commission v Italian Republic [2016] ECR 759 the European Commission brought a case against Italy for its failure to legislate for a general compensation scheme for victims of violent international crime. They were successful. Member states cannot limit the type of international violent crimes which the scheme will apply to. Italy only had a compensation scheme for some violent international crimes. Homicide, rape and other serious assaults were not included in the compensation scheme. The Court of Justice held that although a member state has a discretion as to how they implement a Directive it did not permit Italy 'to limit the scope of the compensation scheme for victims to only certain violent international crimes'. Ireland indicates that they have implemented Directive 2004/80/EC. http://www.justice.ie/en/JELR/Pages/access_to_compensation_in_cross_border_cases accessed 11/12/2017
174. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power Adopted by General Assembly resolution 40/34 of 29 November 1985, Principle 19
175. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power Adopted by General Assembly resolution 40/34 of 29 November 1985, Principle 12 (a)-(b)
176. Article 2 Directive 2004/80/EC relating to compensation to crime victims [Hereafter Compensation Directive]
177. Article 12 (1) & (2) Compensation Directive
178. Case C-601/14 European Commission v Italian Republic [2016] ECR 759
179. http://www.justice.ie/en/JELR/Pages/access_to_compensation_in_cross_border_cases (Last accessed 11th November 2017)
180. <http://justice.ie/en/JELR/Pages/WP15000110> last accessed 11/12/2017
181. Case C-601/14 European Commission v Italian Republic [2016] ECR 759
182. Byrne v. Criminal Injuries Compensation Tribunal & Ors [2017] IEHC 28, at para 27
183. Byrne v. Criminal Injuries Compensation Tribunal & Ors [2017] IEHC 28, at para 28
184. Byrne v. Criminal Injuries Compensation Tribunal & Ors [2017] IEHC 28, at para 29
185. Byrne v. Criminal Injuries Compensation Tribunal & Ors [2017] IEHC 28, at para 30
186. Byrne v. Criminal Injuries Compensation Tribunal & Ors [2017] IEHC 28, at para 31
187. Article 3 Personal Injuries Assessment Act 2003 as amended by Civil Law (Miscellaneous Provisions) Act 2011. Section 3 outlines the civil actions which the act applies to.
188. Section 11 & Section 20 Personal Injuries Assessment Act 2003 as amended

189. *Ibid*
190. Section 11 Personal Injuries Assessment Act 2003 as amended
191. Section 20 Personal Injuries Assessment Act 2003 as amended
192. Section 50/20 Personal Injuries Assessment Act 2003 as amended
193. Recital 19 Victims Directive
194. Section 7 Civil Liability and Courts Act 2004 which amends the Statute of Limitations (Amendment) Act 1991 and substitutes subsection (1) of section 3,4,5,6 of the 1991 Act of “2 years” for “three years” and inserts Section 5 (A).
195. Section 2, Statute of Limitations (Amendment) Act 2000 which inserts Section 48A, into the Statute of Limitations 1957
196. *Doherty v Quigley* [2015] IESC 54, para 31
197. *Doherty v Quigley* [2015] IESC 54, para 37
198. *Doherty v Quigley* [2015] IESC 54, para 48
199. *Doherty v Quigley* [2015] IESC 54, para 47
200. *Doherty v Quigley* [2015] IESC 54, para 47 citing *P.O’C. v. D.P.P.* [2000] 3 I.R. 87, at 105 and *H v. DPP* [2006] 3 I.R. 575
201. Section 6 (1) Criminal Evidence Act 1993
202. Section 6 (5) Criminal Evidence Act 1993
203. *DPP v. Anthony Lyons* [2014] IECCA 27, para 59
204. *DPP v. Anthony Lyons* [2014] IECCA 27, para 63 “It is almost axiomatic that a person who, through criminal wrongdoing, inflicts injury or loss on another person, that he or she is separately and distinctly liable to pay full compensation in civil proceedings. It represents a civil liability independent of the criminal liability of the convicted person. While there are no statistics or objective information as to the degree to which civil claims are brought following or arising from criminal convictions, it would appear to be a relatively uncommon occurrence, largely because, it would seem, the range of persons which come before the criminal courts are so often persons of little or no means, thus rendering the bringing of civil proceedings futile. It does, however, occur. In this case the resolution of the civil proceedings has occurred by agreement before the full scope of the criminal proceedings had been completed. More often, when it does occur, it will occur after conviction and sentence. The fact that a person is exposed, on conviction, to a potential civil claim, is not a factor which is taken into account in sentencing. It is a separate civil liability. It is also self-evident that where a person who has been convicted has to pay compensation as a result of a successful civil claim subsequent to conviction, the compensation award can have no bearing on the original sentence imposed. In principle, therefore, the Court does not see any reason why the payment of compensation and settlement of a civil action prior to the completion of the criminal proceedings should automatically be a factor, even a marginal factor, in mitigation.”
205. *DPP v. Anthony Lyons* [2014] IECCA 27, para 67
206. *DPP v. Anthony Lyons* [2014] IECCA 27, para 68
207. *The People (DPP) v. Collins* [2016] IECA 35
208. *The People (DPP) v. Collins* [2016] IECA 35
209. Article 4 (1) (e) Victims Directive; Section 7 (1) (i)-(j) Criminal Justice (Victims of Crime) Act 2017
210. Article 8 (1), Victims Directive
211. Article 4 (1) (a) and Article 8 (2), Victims Directive
212. <http://www.garda.ie/Controller.aspx?Page=7999> and <https://victimsrightsalliance.com/> accessed 19/11/2017
213. Article 14, Victims Directive
214. <http://www.justice.ie/en/JELR/Pages/WP15000110> accessed 19/11/2017
215. Article 15, Victims Directive
216. Criminal Justice (Victims of Crime) Act 2017; List of Proposed Committee Stage Amendments Last accessed 5/12/2017
217. <https://openparliament.ca/bills/42-1/C-337/> last accessed 5/12/2017
218. Case C-484/16 Request for a preliminary ruling from the Giudice di Pace di Taranto (Italy) lodged on 8 September 2016. Case C-484/16 Order of the Court (Ninth Chamber) of 13 December 2016. Criminal proceedings contre Antonio Semeraro. Request for a preliminary ruling from the Giudice di pace di Taranto
219. Section 36 Criminal Justice (Victims of Crime) Act 2017

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Irish Council for
Civil Liberties

Irish Council for Civil Liberties
Unit 11, First Floor, 34 Usher's Quay
Dublin 8, Ireland
T: +353 1 912 1640
E: info@iccl.ie
www.iccl.ie
Twitter: @ICCLtweet