

Technical adjustments to be inserted in the updated 4-column table for trilogue
(changes highlighted in track changes or in distinct colours)

Article 7

7. Member States shall ensure that the competent authority assesses whether victims need interpretation or translation as provided for under paragraphs 1 and 3. Victims may challenge a decision not to provide interpretation or translation. The procedural rules for such a challenge shall be determined by national law. **In relation to decisions not to provide interpretation or translation during court hearings proceedings, the provisions of Article 10b, paragraph 2 shall apply.**¹

Article 26(2) - Processing and transmission of data

2. Member States shall ensure that **they** **their competent authorities** are able to **collect and share** **process and transmit** personal data of victims **to** the **competent authorities of the** Member State of residence of the victim with the victim's consent, and without such consent where **it is impossible to obtain such consent from** the victim **is incapable of giving consent, in accordance with applicable Union legislation, when the processing [including the transmission] by the data controller complies with a legal obligation or is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller, or it is necessary in order to protect the vital interests of the victims.**

[Wording for corresponding recital to be finetuned]

Article 26b - Use of information and communication technologies

2. Victims of crime shall not be prevented from accessing or otherwise using **the services provided by** national systems offering the **information and communication technologies** referred to in paragraph 1, **and if such systems are available in the Member States, the services referred to in paragraph 1a,** on the basis that they are residents of another Member State.

¹ The purpose of this amendment is to clarify the relationship between Article 7(7) and Article 10b.

Recital to Article 5a

Competent authorities ~~should take the general principles of EU data protection law into account,~~ **should comply with the** in particular, that personal data should not be processed for a purpose other than for which it has been collected, unless a legal basis exists under national or Union law and where the processing for such other purpose is necessary and proportionate in a democratic society. Depending on the purpose of the processing, competent authorities should apply the appropriate data protection instrument/framework, including where personal data are transmitted between different authorities.

Recital 9a on legal aid

(9a) The right to legal aid is essential to guarantee universal access to justice and effective participation for victims in criminal proceedings and should therefore be made available to victims who have the right to become parties to the in criminal proceedings. This should include those victims who have the status of a party at the moment of introducing the request for legal aid, as well as those whose formal status **as a party** will be decided at a later stage of the proceedings, such as in a situation where the status of a party is only granted after a decision to prosecute the offender. Legal aid should cover the costs and expenses relating to the assistance by a lawyer during criminal proceedings, including **such costs incurred** before a status of a party has been granted. When carrying out a merits test, where an individual assessment pursuant to Article 22 has already been carried out, Member States are encouraged to take the results of that assessment into account.

Certain categories of victims, in particular for victims in vulnerable situation, such as victims with disabilities or minors, or for victims of certain crimes, who have the right to become parties to criminal proceedings should be granted legal aid when they do not have sufficient means. ~~For certain categories of victims in particular for victims in vulnerable situation, such as victims with disabilities or minors, or for victims of certain crimes, who have the right to become parties to criminal proceedings, when determining whether access to legal aid is to be granted, Member States should apply only a means test². These categories shall be defined by Member~~

² Certain Member States indicated that for certain categories, there would not even be a means test and this could be interfering with their system. The Presidency proposes to copy the operative part, to avoid any interpretation that could harm the more advantageous systems in place.

States in national law. This Directive does not create any right to become a party to criminal proceedings.

In applying the right to legal aid, Member States are encouraged to grant legal aid to victims of gender-based violence, terrorism and human trafficking irrespective of a means or a merits test.

Recital 10

(10) All victims should be assessed in a timely, adequate, efficient and proportionate manner, in accordance with this Directive and with national procedures relevant, ~~for any element of the individual assessment not covered under this Directive~~ **in order to give effect to the rules in this directive these requirements. National procedures are important to ensure that support and protection measures are adapted to individual needs and circumstances and that competent authorities at national, regional or local level can determine the practical organisation, including the most appropriate institutions or bodies to carry out assessments.** It is essential to ensure that victims receive the support and protection that correspond to their individual needs. The individual assessment of victims' needs of support and protection should last for as long as necessary, depending on victims' individual needs. It means that it should be done in stages, some victims will only have a contact with a police service, other victims will go through further stages of individual assessment. All victims should be assessed at the earliest stage possible such as the first contact with the competent authorities, whose staff should be adequately trained, for instance law enforcement and prosecution authorities, to ensure that the most vulnerable victims are identified at the very early stages of the proceeding. As of the next stages, victims who need such enhanced assessment should be assessed ~~by the competent authorities or any other relevant institution, organisation or body, such as victim support services and where possible by psychologists,~~ **where appropriate, in collaboration or coordination with the relevant institutions and bodies, as well as general and specialist support services, including referrals thereto,** depending on victims' individual needs and the stage of the procedure. ~~Collaboration and coordination with general or specialist victim support services should be ensured throughout the whole individual assessment process.~~ Such services and law enforcement authorities are best placed to assess the state of victims' well-being. The contact with helplines should not be considered as the first contact with competent authorities. The institution and bodies may include competent justice

and law enforcement authorities working with victims as well as those responsible for the adoption of protection measures.

The individual assessment of victims' needs should include the assessment of victims' needs of support, not only of protection. It is essential to identify victims who are in need of special support, so a targeted support such as psychological aid **support** is provided to those who need it **in accordance with Article 22 of this Directive**. ~~via any relevant protocol or guideline as provided for in this Directive.~~ Member States should ensure that any personal data is dealt with in accordance with the Union law on data protection, which may require the provision of legislative measures if necessary.

~~Victims' needs for support and protection may change in the course of the criminal proceedings, which means that the individual assessment should be reviewed according to the individual needs of the victim. In the cases of significant changes to the elements that form the basis of the individual assessment, such as when the offender is released from custody, the individual assessment should be updated, **so that, where relevant, new measures can be taken according to the law.**~~

When assessing the victim's protection and support needs, the concern should lie in safeguarding the victim's safety and providing **targeted** support and protection, taking into account, among other matters, the individual circumstances of the victim, the impact of crime and their specific vulnerabilities.

In particular, the individual assessment should take into account the personal characteristics of the victims, including experiences of discrimination, also based on intersectional forms of discrimination such as on the grounds of gender, including gender identity, age, disability, resident status, religion or belief, language, racial, social or ethnic origin, and sexual orientation,

The individual assessment should also take into account, on the basis of the available information, **the risks emanating from the situation of the offender**, who may have a history of violence, use of weapons or abusing drugs and as such pose higher risks for victims, **as well as a situation when victims are dependent on the offender, for instance financially**. ~~The individual assessment of victims' needs should also include the assessment of victims' needs of support, not only of protection. It is essential to identify victims who are in need of special support so a targeted support such as additional psychological support is provided to those who need it.~~

~~The individual assessments of protection and support needs should take into consideration a situation when victims are dependent on the offender, for instance financially. The individual assessment should be conducted in the best interest of the victim, avoiding secondary or repeated~~

victimisation. Where relevant and appropriate, the protection and support needs of the victim's family members and dependents should be duly considered in the individual assessment.

~~Member States should determine the practical organisation of the individual assessment via any protocols or guidelines as provided for in this Directive. Member States should ensure that any personal data is dealt with in accordance with the Union law on data protection, which may require the provision of legislative measures if necessary.~~

Recital on the Charter

(19) ~~On the basis of~~ In accordance with **Article 47 of** the Charter of Fundamental Rights of the European Union, an effective remedy ~~should~~ **is to be** available where the rights under this Directive are ~~undermined or refused in full or in part~~ **violated. In addition,** the principle of effectiveness of Union law requires that **national procedural law does not make it impossible or excessively difficult to enforce rights under Union law** ~~that Member States put in place adequate and effective remedies in the event of a breach of a right conferred upon individuals by Union law.~~