



# PRESERVE

Preventing Racism and Discrimination -  
Enabling the Effective Implementation of the  
EU Anti-Racist Legal Framework

PROJECT 101049763 - CERV-2021-EQUAL

# PRESERVE Training Toolkit

English Version

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# Introduction to the PRESERVE Training Toolkit

## *Introduction*

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# Welcome to PRESERVERE Training Toolkit.

*A state-of-the-art toolkit  
of blended learning*

*for professionals in the field of law, front line workers and stakeholders  
who wish to better understand and apply  
the EU anti-racism legal framework  
as well as the framework  
of protection of victims of criminal actions*



# General Objective of the Training Toolkit

*The PRESERVERE Training Toolkit is aiming at equipping professionals in the field of law, front line workers and stakeholders with knowledge and skills regarding their professional practice in what regards that preventing and fighting racism and xenophobia through a more effective implementation of the European legal framework that has already been transposed in Member States.*

*It focuses, in particular, on professionals who are expected to enforce this framework, but are often unaware of, or unfamiliar with, it and, therefore, unable to rely on it in order to protect and empower victimised groups.*



# Specific learning objectives of the PRESERVERE Training Toolkit

For **professionals in the field of law** and **front-line workers**:

- To be able to explain, interpret, apply and employ EU law principles, rules, practices, trends in the presence or the absence of harmonization between national and EU law regarding racism and protection of victims
- To be capacitated to better protect their beneficiaries against gaps of legislation, practice or jurisprudence in different EU Member States

For **stakeholders** and **relevant ecosystem**:

- To better advocate for a better implementation of relevant EU law and to be capacitated to run awareness campaigns
- To build supportive coalitions in favour of professionals in the field of law and front-line workers and to establish network with other stakeholders toward a better implementation of anti-racist and pro-victimized groups EU law.

For **future trainers** who will use the toolkit:

- To be able to present and explain the methodological and theoretical approach of PRESERVERE project
- To master the PRESERVERE training toolkit so that they can implement workshops independently



# Methodology of Training Toolkit design (I)

The Training Toolkit makes use of the conclusions drawn from the research phase of the PROJECT. During this research phase institutional, legal and practical gaps as well as training needs among the target groups were identified through desk and field research in the project partner countries and beyond. The purpose was to develop educational material that is both specific to local contexts (i.e. the toolkit is tailored to respond to the gaps, needs and expectations of the national context in each partner's country) as well as transferable and adaptable to different contexts both within and outside the consortium countries.

The PRESERVERE Training Toolkit is based on a blended learning methodology. It employs both individual online reading and content processing activities but also various case studies that comprise main aspects of the pre-gained knowledge.



# Methodology of Training Toolkit design (II)

The PRESERVERE Training Toolkit is based on a blended learning methodology. It employs, among other, both individual online reading and content processing activities but also various case studies that comprise main aspects of the pre-gained knowledge.

The online toolkit is based on an extended offline version. The offline version is downloadable in pdf format and comprises a PowerPoint presentation accompanied by a script with instructions and tips to the trainer. The online version is a more inclusive and online-friendly version of the offline version – meaning that it covers all the offline material but in a way that the material is adapted to an online learning environment.

If you are a trainer who wishes to use the full training toolkit for face-to-face workshops, then you can download the extended offline version here:

Though, even in the case of face-to-face workshops, it is strongly recommended that the online platform is utilized in order to enhance the eventual independence of target groups regarding real work life problem solving.



## Methodology of Training Toolkit design (III)

This transferability and adaptability is achieved in a twofold manner: first, through the online toolkit, which rather than being only content-dependent it also offers a common approach and method to delivering the otherwise context-specific material; second, through the composition of the consortium itself, whose composition of partners includes national contexts that present varying levels of efficacy in transposing and implementing the EU legal framework.

The latter variability not only affords a great degree of good practice interchange to occur within the consortium, but also drives innovation, since training plans, techniques and approaches that have already been successful in certain national contexts can be adapted, through the Toolkit, to different contexts and re-purposed to cover other emerging needs and gaps.





# Training Toolkit content

## Introduction

### 1. Curriculum for **professionals in the field of law**

#### 1. Reliance in EU law in domestic courts, institutions and daily practice (2h)

- a. Overview of current trends regarding primacy of EU law (theory and recent jurisprudence)
- b. Overview of anti-racist and victim protection-related EU treaties, legislation, rules and soft law (theory and recent jurisprudence)
- c. Case study: In the absence of harmonization/ EU law

#### 2. The provisions of the Racial Equality Directive (3h)

- a. Overview of main aspects and term of the Directive
- b. Application of the Directive across the EU (harmonization and recent national jurisprudence)
- c. Case study: Case study: In the absence of harmonization/Racial Equality Directive

#### 3. The provisions of the Victim's Rights Directive (3.5h)

- a. Overview of main aspects and terms of the Directive
- b. Application of the Directive across the EU (harmonization and recent national jurisprudence)
- c. Case study: In the absence of harmonization/ Victim's Rights Directive

#### 4. Combination of the covered material & practical scenarios (1.5)

- a. Practical scenario 1
- b. Practical scenario 2
- c. Practical scenario 3

**NOTE:** *The number next to each topic represents the indicative duration of each topic while being taught face to face.*

# Training Toolkit content

## PART I

### 2. Curriculum for **front-line workers**

*This unit is broken down in the same topic titles as topic “1. Curriculum for professionals in the field of law”, but the included material is adapted to the needs of front-line workers*

#### 1. Reliance in EU law in domestic courts, institutions and daily practice (2h)

- a. Overview of current trends regarding primacy of EU law (theory and recent jurisprudence)
- b. Overview of anti-racist and victim protection-related EU treaties, legislation, rules and soft law (theory and recent jurisprudence)
- c. Case study: In the absence of harmonization/ EU law

#### 2. The provisions of the Racial Equality Directive (3h)

- a. Overview of main aspects and term of the Directive
- b. Application of the Directive across the EU (harmonization and recent national jurisprudence)
- c. Case study: Case study: In the absence of harmonization/Racial Equality Directive

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- a. Overview of main aspects and terms of the Directive
- b. Application of the Directive across the EU (harmonization and recent national jurisprudence)
- c. Case study: In the absence of harmonization/ Victim's Rights Directive

#### 4. Combination of the covered material & practical scenarios (1.5)

- a. Practical scenario 1
- b. Practical scenario 2
- c. Practical scenario 3

**NOTE:** *The number next to each topic represents the indicative duration of each topic while being taught face to face.*

# Training Toolkit content

## PART II

### Special topics for stakeholders & other beneficiaries

1. Advocacy towards a better implementation of the Directives (1.5h)
2. Effective awareness raising among professionals and general public (2.5h)
3. Supporting professionals - forming sustainable coalitions (2.5h)
4. Networking resources, calls and opportunities (1.5h)

**NOTE:** *The number next to each topic represents the indicative duration of each topic while being taught face to face.*

# Training Toolkit content

## PART III

### Train the trainer package

1. Introduction to PRESERVERE project (0.5h)
2. Introduction to the PRESERVERE training approach (0.5h)
3. Overview of training packages and materials (1h)
4. How to organise a PRESERVERE training event (Face to Face/online/blended) (2.5h)

**NOTE:** *The number next to each topic represents the indicative duration of each topic while being taught face to face.*



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## EU law and Human Rights protection

### Part I - Curriculum for Frontline Workers

#### *Topic 1*

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## Overview of the Topic



 The effect of EU law in a frontline worker's practice

 Division of EU law (treaties, regulations, directives, guidelines etc.) & Primacy of EU law over the domestic laws of the member states

 Overview of main EU law (treaties and legislation) related to racism / discrimination and victims' protection



- Understanding the importance of European legislation
- Understanding the role of the EU in the protection of human rights in the frontline workers' practice
- Understanding the contents of the relevant EU acts: directives, treaties, regulations, guidelines and their relation with the national law.





The effect of EU law in a frontline worker's practice





The fundamental nature of human needs and rights requires that they be met as a basic justice imperative.

Thus frontline work points out to a consideration of human rights as the most organizing principle for its professional practice.

Frontline work is concerned with the protection of individual and group differences. Frontline workers are often forced to mediate between the people and the institutions and authorities or other people and bodies (services, firms, etc.).

As bridge professions, frontline workers need to be aware of their values and have a solid knowledge base in human rights to guide people in many conflicting situations.

They must be aware that achieving progress in the implementation of human rights depends on effective national and international policies and a clear and defined legislative framework.

Frontline workers must be familiar with the legislative instruments that can help them in their work and must be able to identify gaps.



**Front-line workers** should have a clear perspective of the European Directives against discriminations. They are often the first people to deal with discriminated people and shall be able therefore to correctly inform the victims of their rights and the paths or steps to be undertaken. Moreover, frontline workers should be able to effectively assist the victim of a discrimination during a lawsuit, a mediation or any other proceeding.

One of the principal weaknesses of the European Directives is their concrete application.

**Victims** ignore the tools for their protection or the procedures to reach it so their rights are often trampled.

On another side victims often feel alone while facing one or more episodes of discrimination and even if aware of their rights choose not to proceed against the perpetrator because they feel a lack of support both professional than psychological.

Front line workers with an upgraded knowledge of the European framework and of the relative application in the national framework represent the first actors of the expected change of view on discriminations.

Front line workers well trained will have the capacity to understand what is better for the victim, facing the discrimination on concrete grounds in order to grant the victim a real chance to overcome the discrimination



## Two examples:

### Example 1: A discrimination in the job market.

Mr. Milosk is a young boy very expert in computer and technology. He is looking to be hired and sends his CV to different companies. Every time his application si rejected.

During a phone call with the secretary of the company ABC that rejected his application Milosk understands that this is due to his surname that indicates his Roma origins.

Mr. Milosk knows his rights and wants to proceed with a legal action against the company ABC.

Mr. Milosk contacts the trade union next to his house to ask for support. He contacts Mr. Albanese, a frontline worker at the trade union.



A. SCENARIO: Mr. Albanese ignores the Eu Directives.

Mr. Albanese supports the will of Mr Milosk and approves his decision of a legal proceeding.

A. SCENARIO Mr. Albanese acknowledges the Eu Directives

Mr. Albanese will evaluate the situation informing Mr. Milosk of the risks of a legal proceeding especially under the aspect of the burden of the prove.

Mr Albanese may inform Mr. Milosk that in case of a penal proceeding the company ABC may be condemned to an economic refund but Mr. Milosk may not be hired.

Mr. Albanese may instead intervene as a mediator between Mr. Milosk and the company ABC trying to convince the CEO to give Mr. Milosk a chance considering his very attractive CV and his experience in the sector.



## Example 2: Discrimination in private services

Mr. Milosk is a 23 year old boy of Roma origins. On Friday night he decides to go to a famous disco with his Italian friends. However the entrance to the disco was denied (only to him). The doorman expressly explained loudly in front of all the other people that by order of the owner of the disco, Mr. Dante the Roma were not welcome because, always according to the owner “they cause always troubles for their aspect and may steal money».

Mr. Milosk feels really ashamed: he had to leave without entering the disco and everybody out of the disco was watching him with shame moving far.

The day after Mr. Milosk goes to the frontline office for strangers and asks advice for the episode. He is addressed by Mr. Albanese.



## A. SCENARIO Mr. Albanese ignores the Eu Directives

Mr. Albanese suggests a mediation maybe offering to speak to the owner of the disco in order to convince him to let Mr. Milosk in next time.

## A. SCENARIO Mr. Albanese acknowledges the Eu Directives

Mr. Albanese understands that Mr. Milosk has been victim of racial discrimination with a clear heavy infringement of the right of personality protected by the Constitution, the penal code and the Eu Directives.

Mr. Albanese understands that the doorman committed discrimination because he was instructed to discriminate by his employer Mr. Dante.

Mr. albanese doubts that a proceeding of mediation may change the mind of Mr. Dante, besides he understands that Mr. Milosks suffered a discrimination in front of other people that needs to be denounced in front of the authorities. This also may create a social case that could help other people not to suffer the same treatment.

Mr. Albanese helps Mr. Milosk to fill a report for the police to expose the happenings.





**Division of EU law (treaties, regulations, directives, guidelines etc.) & Primacy of EU law over the domestic laws of the member states**



There are two main streams of human rights policy and action within the European Union.

One is **to protect the fundamental human rights for EU citizens**, and the other is **to promote human rights worldwide**.

The European Union is based on a strong commitment to promoting and protecting human rights, democracy and the rule of law worldwide.

Human rights are at the heart of EU relations with other countries and regions.





EU policy includes:

- ❖ promoting the rights of women, children, minorities and displaced persons
- ❖ opposing the death penalty, torture, human trafficking and discrimination
- ❖ defending civil, political, economic, social and cultural rights
- ❖ defending human rights through active partnership with partner countries, international and regional organisations, and groups and associations at all levels of society
- ❖ inclusion of human rights clauses in all agreements on trade or cooperation with non-EU countries

[https://european-union.europa.eu/priorities-and-actions/actions-topic/human-rights-and-democracy\\_en](https://european-union.europa.eu/priorities-and-actions/actions-topic/human-rights-and-democracy_en)



The **European Union (EU)** being a supranational political and economic union (\*), bases its decisions on law and specifically on **treaties** that have been approved voluntarily and democratically by all EU member countries.

A treaty is a binding agreement between EU member countries. With treaties the EU sets out objectives, rules for EU institutions and establishes how decision shall be made, and establishes the relationship between the EU and its member countries.

Treaties are considered the “primary law”. They are directly applicable in the Member States. After that a treaty is signed and ratified is immediately applicable and doesn’t need an act of reception or implementation. Treaties are moreover effective both against a member state (vertical direct effect), and both against another individual (horizontal direct effect).

(\*) A **supranational union** is a type of international organization that is empowered to directly exercise some of the powers and functions otherwise reserved to [states](#)



The aims set out in the EU treaties are achieved by several types of legal act: regulations, directives, recommendations (secondary law). Some of them are binding and some not.

**Directives** are legislative acts that set out a goal that all EU countries must achieve. The directives leave to the individual countries to devise their own laws on how to reach these goals.

Directives are not directly effective, as they cannot be used in court until they have been enacted by national legislation. If a state fails to implement a directive within the time given by the EU then an individual can take the state to court for non-implementation.

**Regulations.** Regulations are binding legislative acts that directly applicable in the member states with no need of implementation after the notice period allotted for rejection/reservation lapses.



Decisions: is an **act that is binding** in its entirety. It is adopted by the EU institutions in accordance with the [treaties](#).

**A decision can be addressed to all the Member States or only to some of them and is directly applicable.**

Decisions are considered **legislative acts** when they are adopted by the [European Parliament](#) and the [Council of the European Union](#); the Parliament with the participation of the Council or the Council with the participation of the Parliament. Decisions are **non-legislative acts** when they are not adopted in accordance with legislative procedure. For example, by the [European Council](#), the Council or the [European Commission](#).

The wording of a Directive should be sufficiently clear, unconditional and precise.

Recommendations: a **recommendation** is a non-[legal binding](#) act. Though without legal force, they do have a political weight; in fact, they represent an instrument of indirect action aiming at preparation of legislation in Member States



## Division of EU law (treaties, regulations, directives, guidelines) & Primacy of EU law over the domestic law of the member States

A **treaty** is a **binding agreement** between EU member countries. It sets out EU objectives, rules for EU institutions, how decisions are made and the relationship between the EU and its member countries.

**Directives** are documents that set **goals** for member states to implement.

**Regulations** are **laws** that apply to all member states. They become part of national law and can be enforced through the national courts of each member state from the time they come into force.

**Recommendations** are **non binding** documents which aim to facilitate the implementation of European directives





### **Division of EU law (treaties, regulations, directives, guidelines) & Primacy of EU law over the domestic law of the member States**

The European law prevails on the national law of the Member State.

This principle of primacy (also 'precedence' or 'supremacy') is based on the idea that if a conflict arises between EU law and national law in a Member State, EU law will prevail.

The reason must be found in the necessity to create a common ground between all the Member States: if not, EU legislation and EU policies would become unworkable.

As the Member States transferred certain powers to the EU, they limited their sovereign rights, thus in order for EU norms to be effective they must prevail on any provision of national law, including constitutions.





## **Division of EU law (treaties, regulations, directives, guidelines) & Primacy of EU law over the domestic law of the member States**

The principle of the primacy of EU law has developed over time by means of jurisprudence of the Court of Justice of the European Union. We remember the case *Costa v ENEL* ([Case 6/64](#)).

The primacy of EU law must be applied to all national acts, whether they were adopted before or after the EU act in question. In case of conflict, the national law, are not automatically annulled or invalidated, however, national authorities and courts cannot apply those provisions until there is a conflict with the EU laws.

The principle of primacy guarantees uniformity of protection across all EU territories.





## **Overview of main EU law (treaties and legislation) related to racism / discrimination and victims' protection**





## Overview of main EU law related to racism - discrimination and victims protection

European Law disposes of Primary legislation and a Secondary one.

### PRIMARY LEGISLATION

is represented by the **TEU - Treaty of European Union**

(<https://eur-lex.europa.eu/collection/eu-law/treaties/treaties-force.html#>) that at article 13 states that “the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation”.

and by the **TFEU - Treaty on the Functioning of European Union**

([https://www.citizensinformation.ie/en/government\\_in\\_ireland/european\\_government/eu\\_law/charter\\_of\\_fundamental\\_rights.html](https://www.citizensinformation.ie/en/government_in_ireland/european_government/eu_law/charter_of_fundamental_rights.html)), proclaimed in Nice in December 2000, that in Article 21, prohibits “any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation”, as well as discrimination on ground of nationality, “within the scope of the Treaty and without prejudice to any other specific provisions”.



## Overview of main EU law related to discrimination - racism and victims protection

Under the **SECONDARY LEGISLATION**, the most relevant Directives for the purposes of fighting racism and discrimination are:

### RACE EQUALITY DIRECTIVE

- Full name: Council Directive 2000/43/EC of 29 June implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
- Provides sanctions for infringements. The sanctions may comprise the payment of compensation to the victim and must be effective proportionate and dissuasive.

### VICTIMS' RIGHTS DIRECTIVE

- Full name: Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012
- Establishing the implementation of the EU anti-racism legal framework in the European States minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.





## Evaluation of the Topic



## Evaluation of the Topic

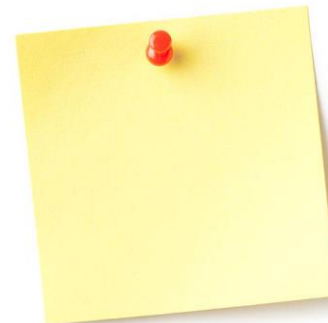
From 1 to 4, how would you evaluate this Topic?

1	2	3	4
Not sufficient	Sufficient	Good	Excellent

Do you think you learnt something new? /\_ / Yes /\_ / No

What are the most important contents you were able to learn from this module? Write down your reflections on a sheet of paper which you will then read out to everyone.

Would you like to give some suggestions to improve the content? Please write down your thoughts on a sheet of paper which you will then read to everyone



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**WP3 – Development of Training Package and PRESERVERE Online Training Toolkit****Curriculum for Frontline workers****EU Law and Human Rights Protection**

Slide 1: Cover

Slide 2: Overview of the Topic

Explain the content that will be addressed

- ✓ The effect of EU law in a frontline worker's practice
- ✓ Division of EU law (treaties, regulations, directives, guidelines etc.) & Primacy of EU law over the domestic laws of the member states
- ✓ Overview of main EU law (treaties and legislation) related to racism and victim protection

Slide 3: Learning objectives

Explain the objectives to be achieved

- Understanding the importance of European legislation
- Understanding the role of the EU in the protection of human rights in the frontline workers' practice
- Understanding the contents of the relevant EU acts: directives, treaties, regulations, guidelines and their relation with the national law.

Slide 4: Cover. The effect of EU law in a frontline worker's practice

Slides 5-10: Some reflections on the importance of the European regulatory framework in frontline workers practice are proposed, with the support of 2 examples.

Slide 5: Reflection on the fundamental role of frontline workers for the concrete implementation of the European Directives: frontline workers as “bridge professionals” between the institutions and the victims are often the first people to deal with discrimination matters.

Slide 6: Reflection on the relationship between frontline workers and victims and on the two most important activities of the frontline workers: inform correctly the victims of their rights: this means that frontline workers must identify clearly the situation watching the episodes from an external point of view, trying not to be emotively involved but establishing with the victim an empathic relationship while giving the correct advice. This requires not only the acknowledgement of the laws and Directives but also the capacity to deal with humankind. This presentation should be conducted in a participatory manner, prompting participants to relate their experiences.

Slide 7: It contains a first example of discrimination in the job sector that is one of the fields where discrimination most often arises. In this case, a boy is discriminated for his origins and does not obtain an employment.

Slide 8: In the example of the job market discrimination are analysed two scenarios:

In the first one, the frontline worker even though being empathetic with the victim, doesn't know the European Directives and has a low acknowledgement of the risks and obstacles in the specific case. The frontline worker so supports the will of the victim to take a legal action. This solution may though, in the prospected case, be not the best one. In fact, would be better to understand first the reasons of the refusal of the employer to employ a Roma boy (the reasons may be not discriminatory). The best solution may be to find a dialogue with the employer, try a mediation, explaining the reasons of the employee and the risk of discrimination.

In the second one, the frontline worker knows the European Directives, understands clearly the episode and while being empathetic with the victim (who wants strongly to undertake a legal action) suggests a mild path that may represent the best solution in the specific case. The employer may be a correct person, and his reason may be not discriminatory. A mediation of the frontline worker may be the best solution for employer and employee.

Slide 9: Is presented another example of discrimination this time in the private services. This is the case of a Roma boy rejected from a famous disco because of his origins and publicly insulted.

Slide 10: in the example of discrimination in private services are analysed two scenarios:

In the first one again the frontline worker doesn't well acknowledge the European Directives and has not enough experience. He suggests a solution of mediation with the owner of the disco. In this case thought the mediation may not be the best solution: the owner may not accept an encounter, besides the boy has been insulted by the bodyguard in front of everybody: there is therefore a damage to the personality and a reputational damage that has to be considered. In this case a legal action is due both towards the bodyguard & that may be instructed to discriminate) both toward the owner of the disco.

In the second one the frontline worker acknowledges the European Directives and is able to individuate the discrimination perpetrated by the owner of the disco also through instructing his employers (bodyguard) to discriminate. In this case it may be better to proceed in a legal way in order to obtain a refund for the reputational damage suffered by the boy. In addition, being the disco a famous one, the episode may have an impact on the public opinion that may arise a discussion in the discrimination issues.

Slide 11. Cover: Division of EU law (treaties, regulations, directives, guidelines etc.) & Primacy of EU law over the domestic laws of the member states

Slide 12: Introduction to the two main streams of human rights policy and action within the European Union.

Slide 13: List of the EU main goals.

Slide 14: Introduction to the treaties as primary law: this means the fundamental law that the member states of European union voluntarily and democratically accepted and approved between them. Is the law that represents the foundation of European Union. On the primary law are based the acts of "secondary law" (directives, decision, regulation, recommendations).

Description of the effect of the Treaties: vertical: treaties are effective between member states, and horizontal effect: treaties are effective against individuals.

It may be possible a reference with slide 21 introducing the two main Treaties of EU.

Slide 15: Description of Directives and Regulations and differences. Is possible a reference with slide 22 introducing a synoptical short table of the two relevant European Directives.

Slide 16: Descriptions of Decisions and Recommendations, and differences.

Slide 17: Synoptic table of the primary law (treaties) and secondary law (directives, regulations, decision and recommendations)

Slide 18: Introduction to the principle of the primacy of EU law on national internal law.

Slide 19: More explanation on the principle of the primacy of EU law.

Ask participants if they know/are aware of this principle and ask what they think about it

Slide 20. Cover. Overview of main EU law (treaties and legislation) related to racism and victims' protection

Slide 21. European Law disposes of Primary legislation and a Secondary one. This slide shows the first one

Slide 22. Overview of the Secondary legislation – The two Directives, with an introductory synoptic table.

Slide 23: Cover of Evaluation of the Topic

Slide 24: Evaluation of the Topic





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# The provisions of the Racial Equality Directive

## Part I - Curriculum for Frontline Workers

### *Topic 2*

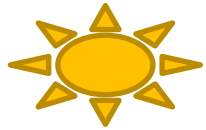
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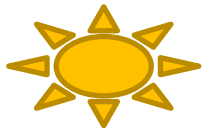
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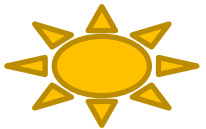
## Overview of the Topic



Common definitions of racism VS definition of racism/discrimination in the Race Equality Directive. Definitions of Discrimination. The Intersectional Discrimination



Overview of main aspects and terms of the Race Equality Directive



How frontline workers can use the Directive: *How to help my beneficiaries benefit from the Directive?*



## Learning Objectives

- Understanding the meaning of “racism” and “discrimination”
- Understanding the different forms of discrimination
- Understanding the relevant content of the Race Equality Directive
- Being able to use the contents of the Directive in one's own work





**Common definition of Racism  
VS  
definition of Racism/Discrimination in the Racial Equality Directive**



# Common definition of Racism VS definition of Racism/Discrimination in the Racial Equality Directive

## Racism

### Definition(s):

prejudice, discrimination, or antagonism by an individual, community, or institution against a person or people on the basis of their membership of a particular racial or ethnic group, typically one that is a minority or marginalized (<https://languages.oup.com/google-dictionary-en>).

“Belief that humans are subdivided into distinct groups that are different in their social behavior and innate capacities and that can be ranked as superior or inferior” (Newman, David M. (2012). *Sociology: Exploring the Architecture of Everyday Life* (9th ed.). Thousand Oaks, Calif.: SAGE Publications. p. 405. [ISBN 978-1-4129-8729-5](https://www.isbn-international.org/product/9781412987295))

“Ideas or theories of superiority of one race or group of persons of one colour or ethnic origin” ([https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/racism\\_en](https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/racism_en))



# Common definition of Racism VS definition of Racism/Discrimination in the Racial Equality Directive

From the Cambridge Dictionary: racism is represented by policies, behaviours, rules, etc. that result in a continued unfair advantage to some people and unfair or harmful treatment of others based on race; or as well harmful or unfair things that people say, do, or think based on the belief that their own race makes them more intelligent, good, moral, etc. than people of other races

From Art. 1(1) of UN Convention on the Elimination of All Forms of Racial Discrimination: **Racial Discrimination is** “Any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”



## Common definition of Discrimination

Discrimination: treating a person or particular group of people differently, especially in a worse way from the way in which you treat other people, because of their race, gender, sexuality, etc. [DISCRIMINATION | English meaning - Cambridge Dictionary](#)

The discrimination is an “umbrella word” that includes somehow the racism because the bad or adverse treatment that happens in an episode of racism (against a specific race or ethnic group) represents discrimination. Discrimination happening on the grounds of race is racism.



# Common definition of Racism VS definition of Racism/Discrimination in the Racial Equality Directive

In the Race Equality Directive is not mentioned the word Racism. The Directive define instead the topics of Discrimination (Direct and Indirect), Harassment, Victimization and Instruction to discriminate.



After all, according to the [United Nations's Convention on the Elimination of All Forms of Racial Discrimination](#), there is no distinction between the terms "racial" and "ethnic" discrimination.







Discrimination is a big “umbrella word” under which is possible to identify different **forms** of blame and shaming, and different **grounds** of discrimination: sexual, racial, religious, social, economic, etc.

## Discrimination: definition and forms

The EU traditionally recognizes four **forms** of discrimination: individual, structural and institutional.

**INDIVIDUAL:** the discrimination arises from the individual members of a race/ethnic/gender group and displays its harmful effects on the members of another race/ethnic/gender group.

**INSTITUTIONAL:** discrimination is originated by institutions and laws. It focuses on the actions, behaviours, decisions of people in positions of power within institutions.

**STRUCTURAL** discrimination arises in social hierarchies that are reflected in all societal institutions such as the school system, the labour market, the health system, media and politics etc.



Moreover the discrimination may happen not only on one ground (racial, sexual, social, economic, etc.) but on different ones. In these cases we speak of **multiple discrimination** that creates a cumulative disadvantage. It is important therefore to distinguish between:

Sequential multiple discrimination – a person suffers discrimination on different grounds and on different occasions. Example, a woman with a disability suffers discrimination once because of her gender and on another occasion because of her disability. In this type of discrimination each incident can be assessed and judged individually.

Additive multiple discrimination – a person suffers discrimination on two grounds but on the same occasion.

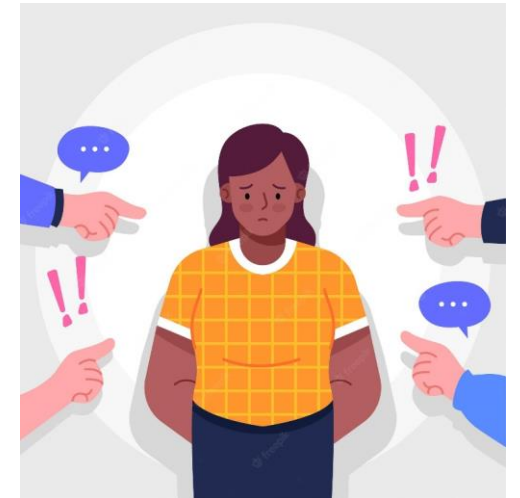
Example a gay woman is harassed because she is woman and gay. Each of the grounds can be identified independently.



# Intersectional Discrimination: Definition and Origin

Around 1989 a new type of discrimination was coined by Kimberlé Crenshaw, an American civil rights advocate and a leading scholar of critical race theory, who first spoke of Intersectionality and Intersectional discrimination to help explain the oppression of African-American women.

**Intersectional discrimination** happens when two or multiple grounds operate in a simultaneous way and interact in an inseparable manner. The discrimination that arises from these inseparable behaviours is different from the previous multiple forms of discrimination. What has to be taken in consideration, in fact, is not the addition of different grounds of discrimination but their negative synergy. The whole discrimination cannot be fully understood as the addition of the different behaviours alone: is instead the particular intersection of all these factors that makes her case individual.



Intersectional discrimination has not been recognized immediately at a national and EU level.

Still now the legal and policy frameworks traditionally rely on addressing discrimination through a single-axis angle while there is a lack of explicit standards for cases involving intersectional discrimination.

This limited approach reflects how European legal bodies are currently underequipped to address cases of intersectional discrimination.



**We try to better explain intersectional discrimination through a meaningful CASE STUDY:**

A young Roma woman is discriminated in the labour market because she is Roma and is considered 'dangerous', because she is a woman, and therefore considered less capable than a man and because she is young and therefore inexperienced. In being considered inexperienced, the woman shares certain experiences of discrimination with young people; in being assumed to fit into a traditional role, she shares experiences with other women; and in being perceived as dangerous, she shares experiences with all Roma, including men. However, all the three grounds of discrimination intercat together and render the case unique.



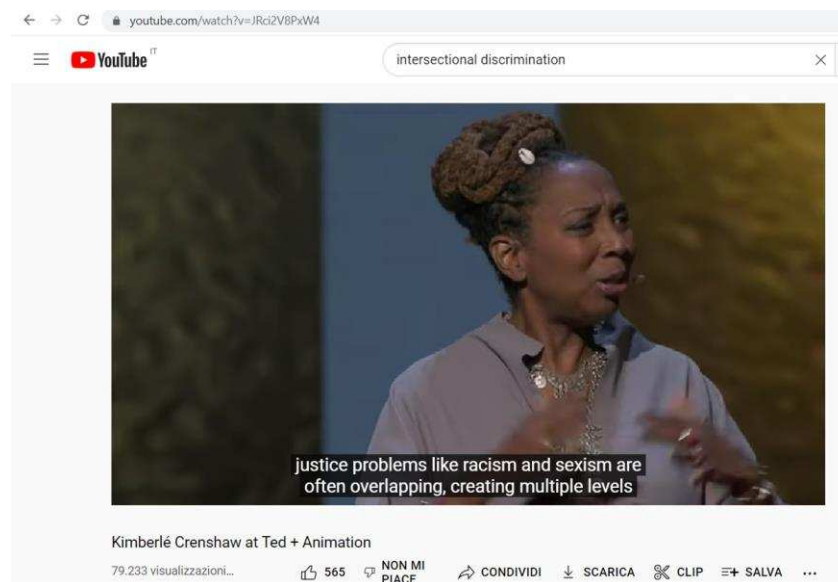
## Activity 1: Watch a video and discuss the content

<https://www.youtube.com/watch?v=JRci2V8PxW4>

<https://www.youtube.com/watch?v=O1isIM0ytkE>

<https://www.youtube.com/watch?v=w6dnj2lyYjE>

<https://www.youtube.com/watch?v=vtkYiyITG14> (Italian)



## Activity 2

Type: Circle Time

Questions:

How does discrimination work?

How does social context influence our perceptions of race, class, and gender?

How does intersectionality contribute to inequality?





## **Overview of main aspects and terms of the Race Equality Directive**





# Overview of main aspects and terms of the Race Equality Directive

## RACE EQUALITY DIRECTIVE

- Full name: Council Directive 2000/43/EC of 29 June implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
- Provides sanctions for infringements. The sanctions may comprise the payment of compensation to the victim and must be effective proportionate and dissuasive.



# Overview of main aspects and terms of the Race Equality Directive

Individuals can enforce the Race Equality Directive before the courts, administrative authorities, or mediatory or reconciliatory Alternative Dispute Resolution ('ADR') bodies.

A duty is thus imposed on the Member States to make available judicial and/or administrative procedures to victims of discrimination nationally.

The judicial proceedings in each Member State can follow a different legal avenue; civil, criminal, labour or administrative.



# Overview of main aspects and terms of the Race Equality Directive

The European Union has long since established the general principle of non-discrimination as one of the *conditio sine qua non* for States to accede to the Union itself.

We recall the already mentioned TFE and TFEU to be considered as primary sources in the anti discrimination legislation.

Before 2000, the EU legislation prohibited discrimination only based on sex (EU Directive 76/207/EEC) and in the employment and social security fields (EU Employment Equality Directive) .

The Race Equality Directive, adopted in 2000, covers a broader subject including social assistance, security and access to supply of goods and services. It refers to direct and indirect discrimination, as well as harassment and instruction to discriminate.



# Overview of main aspects and terms of the Race Equality Directive

Art. 1: The purpose of the Directive is “to lay down a framework for combating discrimination on the grounds of racial or ethnic origin, with a view to putting into effect in the Member States the principle of equal treatment”.

Art. 3: The Directive **applies** to ‘all persons, as regards both the public and private sectors, including public bodies’

Art. 4: The Race Equality Directive (Directive 2000/43/EC) prohibits discrimination on the grounds of race and ethnic origin. The directive does not cover differences of treatment based on nationality and statelessness and does not address matters of immigration law.

Under this Directive, the Member States must:

- 1) provide for a higher level of protection against discrimination in national legislation;
- 2) have, or create, a specialised body for the promotion of equal treatment on grounds of race and ethnic origin.



# Overview of main aspects and terms of the Race Equality Directive

The Directive covers different fields; namely:

- employment & occupation
- vocational training
- membership of employer and employee organisations
- social protection, including social security and health care
- education
- access to goods and services which are available to the public, including housing



# Overview of main aspects and terms of the Race Equality Directive

The Directive faces **five main areas**:

- Direct Discrimination
- Indirect discrimination
- Harassment
- Victimization
- Instruction to discriminate.



# Overview of main aspects and terms of the Race Equality Directive

**Direct discriminations** happens when one person is treated less favourably than another is, has been or would be treated in a comparable situation on ground of his or her protected grounds (art.2(2) a)

An example of direct discrimination is represented by a company that refuses to hire Roma or Muslim people denying their CV, or hires them with extremely low salary compared to the ones of other employees with the same position.

**Typical scenarios** of direct discrimination may include:

- Denied access to employment
- Discriminatory job advertisements
- Difficulties in enrolling to schools
- Bars, restaurants or shops deny entry
- Real estate agencies or owners not renting to minority racial or ethnic tenants
- Racially segregated social housing and education
- Pay differences: in certain Member States statistics indicate that minority men earn less than majority men and minority women.

As we can see, direct discrimination is quite easy to spot.



# Overview of main aspects and terms of the Race Equality Directive

**Indirect discrimination** happens where an apparently neutral provision, criterion, or practice would put persons of a particular racial or ethnic origin at a particular disadvantage compared with other persons (art.2(2)b)

An example of indirect discrimination: a food factory that does not hire male workers with beards. This rule is discriminatory toward Sikh men. The reason of the food factory may be legitimate – to avoid hair in the food – The question that has to be posed although is: can that aim be achieved in a non discriminatory manner? Yes, the men with beards shall be hired asking them to wear a type of hair net if or when working with food.

**Typical scenarios** of indirect discrimination may include:

- Language requirements that are not in fact necessary.
- Inappropriately high requirements of professional or academic qualifications.
- General ban on a profession or activity that is characteristic of a certain racial or ethnic group (Travelling way of life, fortune telling, collection of scrap metal, street trading).
- Dress codes.

As we can see indirect discrimination is more subtle than direct one and often difficult to spot.





## Overview of main aspects and terms of the Race Equality Directive

**Harassment** is represented by an unwanted conduct related to a protected ground with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.

Even if the purpose is not to harass, a behavior capable to create an hostile environment that violates a person's dignity is sufficient for a finding of harassment. An example of harassment: a roma worker hired in a fashion company is the target of his co-workers that play on him or her racist jokes at the workplace, or hate speech, or conducts with similar content in general.

**Typical scenarios** are: racist jokes or stories at the workplace.



# Overview of main aspects and terms of the Race Equality Directive

**Victimization** is represented by any adverse measure (treatment or consequence) as a reaction to a complaint or to proceedings where the principle of equal treatment is broken.

An example of victimisation: is where an employee complains about unequal treatment due to racial discrimination, and the employer as a consequence dismiss or fail to promote the employer.

Typical scenarios: where an employee complains about unequal treatment, and the employer (individual or organization) responds by dismissing or failing to promote the employee

**Instruction to discriminate** happens when someone gives an order (instructs) someone who is in some way dependent, to discriminate against another person.

An example of instruction to discriminate: where the personnel manager is told not to hire any people of Roma origin.

Typical scenarios: where employers instruct their employees not to refer to a certain racial group.



# Overview of main aspects and terms of the Race Equality Directive

The Directive also explains how to prove discrimination providing the **burdens of proof reversal**.

This means that when victims bring, before a court or other competent authority, facts representing episodes of discrimination, is the respondent that has to prove that there has been no breach of the principle of equal treatment.





**How frontline workers can use the Directive:  
*How to help my beneficiaries benefit from the Directive?***



## *How to help my beneficiaries benefit from the Directive?*

Front-line workers trained with the Race Equality Directive who are reported a crime or an episode of violence or injustice, will be able:

- 1) to clearly understand if the perpetrated fact may be an episode of discrimination (direct or indirect, or intersectional discrimination, victimization, harassment or instruction to discrimination);
- 2) to intervene as intermediaries in order to solve situations between employer and employees avoiding the intervention of the judge;
- 3) to inform the victims of their rights;
- 4) to fill a complaint or a lawsuit or address them to a legal professional able to deal with the situation;
- 5) to inform the victims of the consequences of their actions;



## *How to help my beneficiaries benefit from the Directive?*

- 6) to inform them on the costs or times of justice, helping them to choose the path more suitable for their situation;
- 7) to create a positive environment bringing racialized people to trust the law enforcement authorities instead of fearing them of misunderstanding or even more harm;
- 8) not to criminalize migrants, homeless, poor people helping them instead to give voice to their complaints;
- 9) to help the elimination of institutional discrimination that is the form of discrimination existing just among the people in position of power;
- 10) to understand if the episode of discrimination requires the application of the Race Directive or other internal laws or remedies even if often there may be cases of overlapping of normative due to the uncertainty of the situations.



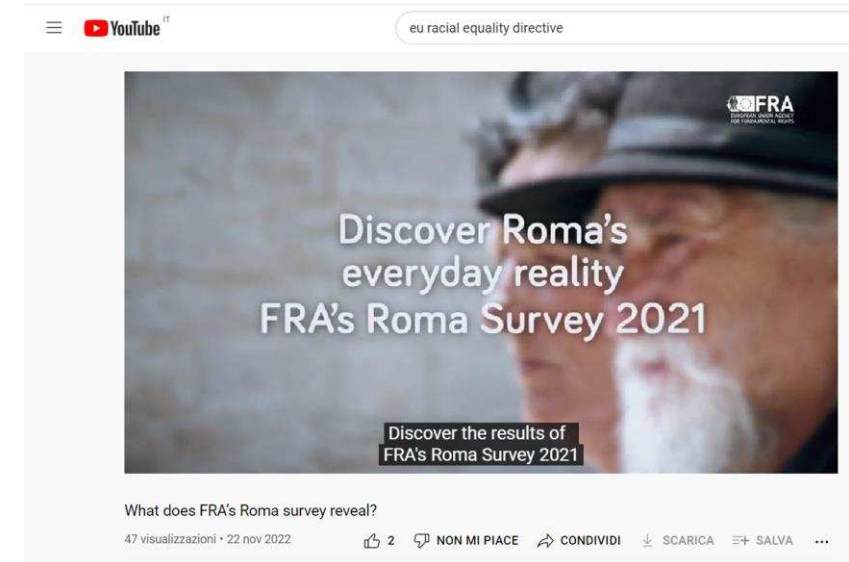
*Watch the videos and discuss*

<https://www.youtube.com/watch?v=HjGR-9o4EMg>



## Activity 3

<https://www.youtube.com/watch?v=5N4BUYQJV2Y>



European Union Agency for Fundamental Rights (FRA)  
Report on the Race Equality Directive

*Where are we now?*





## Evaluation of the Topic





## Evaluation of the Topic

From 1 to 4, how would you evaluate this Topic?

1	2	3	4
Not sufficient	Sufficient	Good	Excellent

Do you think you learnt something new? /\_ / Yes /\_ / No

What are the most important contents you were able to learn from this module? Write down your reflections on a sheet of paper which you will then read out to everyone.

Would you like to give some suggestions to improve the content? Please write down your thoughts on a sheet of paper which you will then read to everyone



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**WP3 – Development of Training Package and PRESERVE Online Training Toolkit****Curriculum for Frontline workers****The provisions of the Race Equality Directive**

Slide 1: Cover

Slide 2: Overview of the Topic

Explain the content that will be addressed:

- ✓ Common definitions of racism VS definition of racism/discrimination in the Race Equality Directive. Definitions of Discrimination. The Intersectional Discrimination
- ✓ Overview of main aspects and terms of the Race Equality Directive
- ✓ How frontline workers can use the Directive: *How to help my beneficiaries benefit from the Directive?*

Slide 3: Learning objectives

Explain the objectives to be achieved

- ✓ Understanding the meaning of “racism” and “discrimination”
- ✓ Understanding the different forms of discrimination
- ✓ Understanding the relevant content of the Race Equality Directive
- ✓ Being able to use the contents of the Directive in one's own work

Slide 4: Cover. Common definition of Racism VS definition of Racism/Discrimination in the Race Equality Directive

Before showing the next slides, ask participants to provide their definition of racism.

Answers can be written on the blackboard

Slides 5 and 6. Some definitions of Racism

Ask participants to compare the different definitions and give their opinion

Slide 7: Definition of Discrimination

Slide 8: Discrimination/Racism in the Directive

The Directive does not speak of Racism. The Directive only deal with the Discrimination (that of course includes racism being this last one a form of discrimination based on race). The Directive though defines only Direct Discrimination, indirect discrimination, Harassment, Victimisation and Instruction to discriminate.

Slide 9: Discrimination: definition and forms

Individual Discrimination is the most simple form of discrimination. Is the case of a person or a group of people insulting another person or a another group of people because of their origins.

The Institutional discriminations happens when the discriminatory act or speech comes from people in position of power within the institutions: the principal of a school, the leader of a company ect. Of course, this form of discrimination is more harmful because involves a debate with powerful people. The action (or reaction) to the discrimination though requires to be a class action, or to involve the public opinion.

The Hierarchical discrimination is a form of discrimination that involves whole systems or fields: the health care system, the school, the job market. Is potentially more harmful of the institutional one because the discriminatory behaviour relies not only on a person with powers, but in the system itself. Is very difficult to face because it relies on old cultural heritage difficult to defeat.

Do you understand the differences between the different forms of discrimination?

Which form of discrimination is in your opinion the most frequent in your country? And why?

Are some ethnical groups more affected by one or all these forms of discrimination?

Which form of discrimination is, in your opinion the most dangerous and why?

Slide 10: Discrimination: grounds

Slide 11: Intersectional discrimination: Definition and origin.

Intersectional discrimination is often explained with a crossroad with four streets coming from north, south, east and west. The people discriminated are in the middle of the crossroad, so they receive the discrimination from all the sides contemporary.

Intersectional discrimination is considered worse than additive discrimination (when discrimination episodes happen one after the other)

Ask participants if they are familiar with this type of discrimination.

Why do you think intersectional discrimination creates a higher damage than additive discrimination?

Is this discrimination common in your country?

Slide 12. Intersectional discrimination in EU and National Laws

Why do you think Intersectional discrimination has not been recognized at a national and EU level?

Slide 13. Intersectional Discrimination: A case study

The case individuates an example of intersectional discrimination where the bias comes contemporary to the victim from three sides: for being a Muslim, for being a woman and for being young. The three forms of discrimination act contemporary. The damage that arises is not just the sum of three forms of discrimination because each aspect impacts on the other and renders the damage bigger.

Slide 14. Activity 1 – Watch a video\* and Discuss

[\*Video Kimberlé Crenshaw at TED Animation: <https://www.youtube.com/watch?v=JRci2V8PxW4>]

<https://www.youtube.com/watch?v=O1isIM0ytKE>

<https://www.youtube.com/watch?v=w6dnj2IyYjE>

<https://www.youtube.com/watch?v=vtkYiyITG14> (Italian)

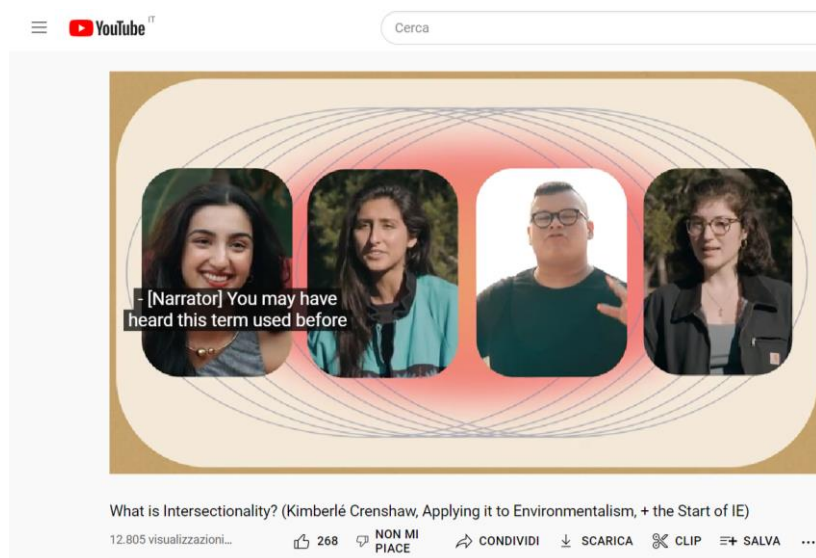
(Each partner should search for a video in their own language, if necessary)

Other videos on Intersectionality:

[https://www.youtube.com/watch?v=tJcPnC\\_Jcg4](https://www.youtube.com/watch?v=tJcPnC_Jcg4)

<https://www.youtube.com/watch?v=-885E7gqVB4>

[https://www.youtube.com/watch?v=cNEDS5BP\\_C8](https://www.youtube.com/watch?v=cNEDS5BP_C8)



Slide 15: Activity 2 – Circle Time

Circle Time is a structured form of colleague support to mobilise adult thinking about a problem and to arrive at agreed strategies. Participants can be stimulated with some targeted questions. E.g.

How does discrimination work? How does social context influence our perceptions of race, class, and gender? How does intersectionality contribute to inequality?

**To explore the topic further**, we recommend watching the following video "Stereotypes vs. Prejudice vs. Discrimination"

[https://www.youtube.com/watch?v=6Hr2XpBc\\_B4](https://www.youtube.com/watch?v=6Hr2XpBc_B4)

It can provide an important outline for the trainer to conduct the lesson.

It could also be useful for an activity with participants, who could be asked to provide definitions before watching the video

In this video, we'll differentiate between stereotypes, prejudice, and discrimination, and we'll discuss several important social psychological concepts and hypotheses related to each, including what causes them to arise in the first place.

*Stereotype: A belief, positive or negative, about the characteristics of members of a group that is applied generally to most members of the group; can lead to prejudice.*

*Prejudice: Drawing negative conclusions about a person, group of people, or situation prior to evaluating the evidence; can lead to discrimination.*

*Discrimination: Negative behavior toward members of out-groups. In-group: A group that we identify with or see ourselves as belonging to.*

*Out-group: A group that we don't belong to and/or that we view as fundamentally different from us.*

*Implicit Stereotypes and Prejudice: Stereotypes and prejudice that we are unaware of.*

*Explicit Stereotypes and Prejudice: Stereotypes and prejudice that we are consciously aware of.*

*Confirmation Bias: The tendency to seek out evidence that supports our beliefs and deny, dismiss, or distort evidence that contradicts them.*

*Cognitive Misers: A term used to describe how, as humans, we seek to use only minimal cognitive resources when explaining the world around us.*

*In-group Bias: The tendency to favor individuals within our group over those from outside our group.*

*Ultimate Attribution Error: The assumption that behaviors among individual members of a group are due to their internal dispositions.*

*Out-group Homogeneity: The tendency to view all individuals outside our group as highly similar.*

*Scapegoating: The act of blaming an out-group when the in-group experiences frustration or is blocked from obtaining a goal.*

Slide 16. Cover: Overview of main aspects and terms of the Race Equality Directive

Slide 17: Short table of the Race Equality Directive: full name and sanctions

Slide 18: Overview of the Race Equality Directive

Slide 19 Overview of the situation ante (before) the Directive.

Slide 20: purpose, application, grounds of the Directive- Obligations of the Member states under the Directive

Slide 21: Fields covered by the Directive

Slide 22: Five main areas of the Directive specifically explained in the following slides 23, 24, 25, 26 and 27

Slide 23: Direct Discrimination definition and typical scenarios

Slide 24: Indirect Discrimination definition and typical scenarios

Slide 25: Harassment definition and typical scenarios

Slide 26: Discrimination and Instruction to discriminate definition and typical scenarios

Slide 27: The burdens proof reversal. The reason of the burden proof reversal obviously is due to the fact that the burden of the proof may be too hard if not impossible for the victims. The provision means though to render easy the undertaking of legal actions against the perpetrator of a discrimination.

**For more information on the provisions of the Directive:**

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. You can find the full text - and its versions in the different languages - at the link <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0043> Directive **2000/43/EC** – or the Race Equality Directive – prohibits discrimination on grounds of race and ethnic origin. It covers the fields of:

- employment & occupation
- vocational training

- membership of employer and employee organisations
  - social protection, including social security and health care
  - education
  - access to goods and services which are available to the public, including housing
- Under this Directive all Member States must have, or create, a specialised body for the promotion of equal treatment on grounds of race and ethnic origin.
- The legislation sets out **minimum** requirements. Member States may therefore provide for a higher level of protection against discrimination in national legislation.
- [[https://ec.europa.eu/commission/presscorner/detail/en/MEMO\\_07\\_257](https://ec.europa.eu/commission/presscorner/detail/en/MEMO_07_257)]

Slide 28. Cover: How frontline workers can use the Directive: *How to help my beneficiaries benefit from the Directive?*

Slides 29 and 30:

Slide 29: List of the reasons why the Directive acknowledgement will be useful to the beneficiaries.

The acknowledgement of the Directive does not represent only a matter of personal culture but enables the beneficiaries to effectively deal with discrimination matters. The evaluation, discussion and debate on the topics of the directive will render the beneficiaries more aware, expert and able to face the different discrimination cases in the correct way choosing between different paths and watching the episodes with an impartial point of view.

Slide 30: Other reasons for the usefulness of the Directive to beneficiaries.

Front-line workers not trained with the Race Equality Directive who are reported a crime or an episode of violence or injustice, may:

- 1) don't realize if an episode can be considered discrimination, this also because of the reluctance of the law enforcement to admit bias if they are not aware of the importance of their role;
- 2) not be able to inform the victims of the path or steps to undertake and prefer avoid to deal with the discrimination itself;
- 3) not be aware of the consequence of the actions of the victims and unable to help them to fill in a complaint or to address them to a legal professional for a lawsuit;
- 4) create a negative environment avoiding racialized people to address the law enforcement authorities fearing to be misunderstood and hopeless of any help;
- 5) criminalize migrants, homeless or poor people not being able to recognize their needs or the episode of racism against them;
- 6) create even more institutional discrimination against the already racialized groups or the weak ones.

Slide 31. Activity 3

Watch the videos and discuss

2 Videos from [European Union Agency for Fundamental Rights \(FRA\)](https://www.youtube.com/watch?v=HjGR-9o4EMg) - Report on the Racial Equality Directive:  
<https://www.youtube.com/watch?v=HjGR-9o4EMg>

and <https://www.youtube.com/watch?v=5N4BUYQJV2Y>

Slide 32: Cover of Evaluation of the Topic

Slide 33: Evaluation of the Topic





# PRESERVE

Preventing Racism and Discrimination -  
Enabling the Effective Implementation of the  
EU Anti-Racist Legal Framework

PROJECT 101049763 - CERV-2021-EQUAL

# The provisions of the Victim's Rights Directive

## Part I - Curriculum for Frontline Workers

### *Topic 3*

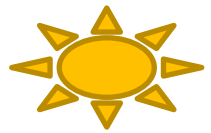
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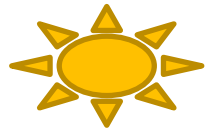
Co-funded by the  
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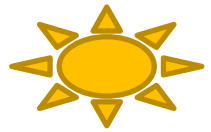
## Overview of the Topic



Common definitions of victim VS definition of victim in the Victim's Rights Directive



Overview of main aspects and terms of the Directive. The evolution of the Victims' Rights Directive: New Victims' Right Strategy 2020-2025



How frontline workers can use the Directive: *How to help my beneficiaries benefit from the Directive?*



## Learning Objectives

- Understanding the meaning of victim
- Understanding the main contents of the EU Directive on the protection of victims
- Being able to use the contents of the Directive in one's own work





## Common definitions of victim VS definition of victim in the Directive





## The common Definition of Victim in law:

*"Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.*

[Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power | OHCHR](#)



The Victim's Rights Directive gives a clear and broad definition of Victim. This includes the following concepts:

- a) Every person that suffered harm from a crime is a victim (therefore not only direct victims of crime, but also family members of victims who die as a result of crime).
- b) The suffering may be objectively measurable (economic loss or physical harm but also mental or emotional harm).
- c) The harm must be directly caused by a crime.
- d) The crimes are defined in the national criminal law.

[Victims' Rights Directive: Frequently asked Questions \(europa.eu\)](#)

[Victims' rights in the EU \(europa.eu\)](#)





**Overview of the main aspects and terms of the Victim's Rights Directive**  
**The evolution of the Victims' Rights Directive: New Victim's Rights Strategy**  
**2020-2025**



## VICTIM'S RIGHTS DIRECTIVE

- Full name: Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012
- Establishing the implementation of the EU anti-racism legal framework in the European States minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.





The Victim's Rights Directive represents one of the fundamental instrument of the EU for the protection of the victims' rights.

It was **adopted in 2012**. EU countries had to implement it by 16 November 2015. In 2013, the European Commission issued a guidance document to assist EU countries in this process.

The aim of the Directive is to grant to all the victims of a crime to receive support and protection together with appropriate information rendering them able to participate in criminal proceedings. Victims shall be recognised and treated in a respectful and sensitive manner by all actors/operators coming into contact with them.



**Victims with specific needs** should be treated even more carefully in order to protect them from secondary victimisation and intimidation. Such victims may also access to specialised support services. As well special provision occur when the victim is a child.

In particular, specific rules are given for the following groups of victims:

- victims of human trafficking,
- child victims of sexual exploitation,
- victims of terrorism.



The Directive was **not immediately transposed or well transposed** into the countries legal orders. This caused a scarce effect on the victim's right protection.

On 11 May 2020, the European Commission adopted a **Report on the implementation of the Victim's Rights Directive** that showed the incomplete transposition and/or incorrect implementation of the EU rules into national legal orders.

The EU set up an **European Network on Victims' Rights** to assist the national authorities in the implementation of the Directive The Network provides a forum of national experts who exchange best practices and discuss the correct application of the transposed law.



On 28 June 2022, the European Commission adopted its **an evaluation plan** of the Victim's Rights Directive.

The evaluation plan showed the **great improvement** brought by the Victims' Rights Directive has greatly enhanced the victims' conditions in terms of safety. The Directive has also contributed to reduce the risk of negatives effect from the participation in criminal proceedings and from the contacts with the offender.

On the other side the evaluation plan also points out situations of **weakness** where victims can't fully rely on their rights due to a lack of clarity and precision in the drafting of some of the rights in the Directive. In particular, victims should be able to take more active role in the criminal proceedings and have easier access to compensation.



# Main aspects and terms of the Victim's Rights Directive

The Directive's **purpose** is to offer support and protection of victims of crime ensuring a minimum standards of rights making sure that they are treated with respect, receive proper protection and access to justice.

It **applies** to victims of crime and their family member. Special provisions are provided for victims with special needs or minors.

**Main areas of the Directive:** The Directive provides victims with a right to **information**, a right to **understand and to be understood**, a right to **access in criminal proceedings**. It provides **support and protection** in accordance with the victims' individual needs.



Image: [https://commission.europa.eu/system/files/2021-12/eu\\_victim's\\_rights\\_directive\\_factsheet\\_february\\_2017\\_en.pdf](https://commission.europa.eu/system/files/2021-12/eu_victim's_rights_directive_factsheet_february_2017_en.pdf)



- ***Right to understand and to be understood***

The communication with victims must be simple and accessible. This means that it must be adapted to the victims specific needs (linguistic capacity, age, language, disability, etc.).

- ***Right to be informed about their rights***

Victims should be informed by the authorities about their rights (the type of support protection, legal advice or compensation they can obtain, the procedure to make a complaint, etc.). All the information must be given from the first contact by a competent authority.



- ***Right to be informed about their case / to participate to criminal proceedings***

In case of criminal proceeding victims must be informed about their case: time and place of the trial, steps in the case, final judgment. They as well have the right to be heard during the proceedings. Victims should - if they wish - also be informed about the release or escape of their offender. They should also be informed if the offender will not be prosecuted and will have the right to have a revision of the decision reviewed if they do not agree with it.

- ***Right to interpretation and translation***

Victims that don't understand or speak the language of the criminal proceedings, must receive interpretation and translation free of charge if they request it.



- ***Right to support***

Victims must have access to free of charge support services such as shelters, trauma support and counselling adapted to different types of victims.

- ***Right to safeguards in the context of restorative justice***

If restorative justice proceedings are used in the national system, they are used in the interest of the victim and the victims shall be protected from the risks of further suffering related to contacts with the offender.

- ***Right to protection***

Victims must be protected from the offender throughout the criminal proceedings.





- ***Right to privacy***

Victims have a right to their privacy during the criminal proceedings. Personal data must be used in accordance with the national rules on data protection. In particular must be avoided the public dissemination of any information that could lead to the identification of a minor.

- ***Right to individual assessment of victims' protection needs***

Victims have a right to the individual assessment of their individual protection needs. The competent authorities (police, prosecutor) and/or specially trained staff will assess the individual needs of every victim, and identify the victims who are the most vulnerable. Such victims will be protected by specific measures.



- ***Children's rights***

Children, as vulnerable victims, should always benefit from the specific protection.

The Directive sets up a general principle according to which the child's best interest should always prevail in the application of the Directive.



# The Evolution of the Victims' Rights Directive: New Victim's Rights Strategy 2020-2025

The new Victim's Rights Strategy is the first-ever Strategy on victims' rights.

The two purposes are: **1) empowering victims of crime** and **2) working together for victims' rights**.

Concrete actions must be taken at EU level by the European Commission, national level by the Member States and at civil society levels by national stakeholders over the next five years.

It has five key priorities: 1) effective communication with victims and a safe environment for victims to report crime; 2) improving support and protection to the most vulnerable victims; 3) facilitating victims' access to compensation; 4) strengthening cooperation and coordination among all relevant actors; 5) strengthening the international dimension of victims' rights.

The implementation of this strategy will be regularly monitored, through regular meetings of the Victims' Rights Platform to update actions under the responsibility of different actors.





**How frontline workers can use the Directive:**  
***How to help my beneficiaries benefit from the Directive?***



## *How to help my beneficiaries benefit from the Directive?*

If a case of discrimination has been perpetrated and the victim is facing a lawsuit (mediation or any other proceeding), a frontline worker trained with the Victim's Rights Directive may help the victim in front of the court by granting:

- ❖ A correct information to the victim about their rights (including the right to psychological assistance);
- ❖ The recognition of the victim's conditions;
- ❖ Protection or help from intimidation;
- ❖ That the victim is aware of what is going on in the legal proceeding understanding them and being able to actively participate;
- ❖ That the victim understands the clear amount of financial damages due by the state or by the offender through legal pronouncement, mediation or other form of restorative justice



## *How to help my beneficiaries benefit from the Directive*

If a case of discrimination has been perpetrated and the victim is facing a lawsuit (mediation or any other proceeding), a frontline worker not trained with the Victim's Rights Directive may not be able to:

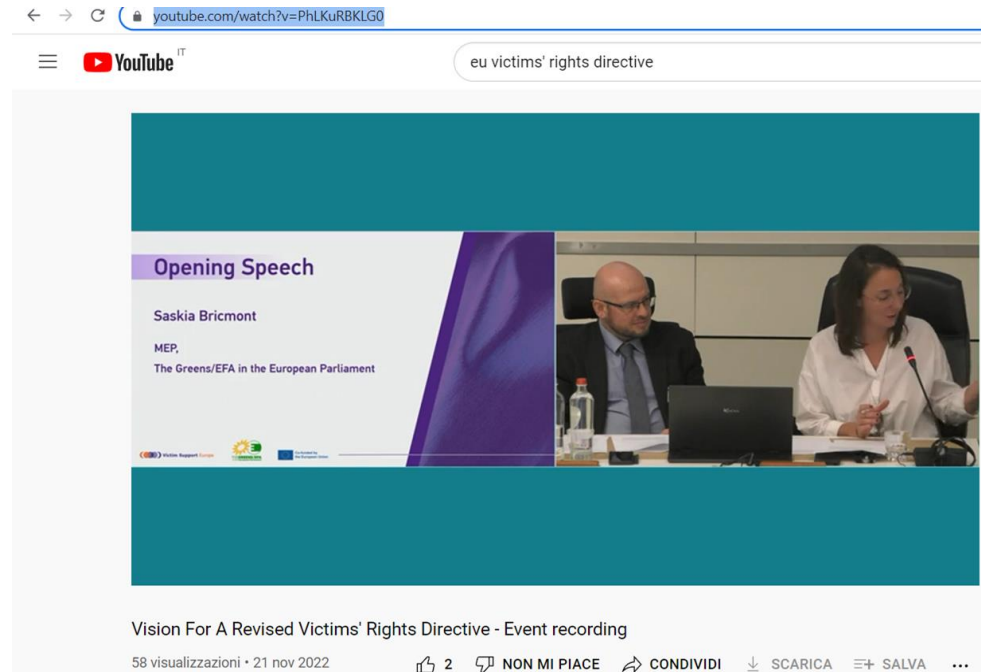
- 1) grant a respectful treatment of the victim because may not be able to understand correctly the victim's conditions (under a psychological, human but also legal aspect);
- 2) protect the victim from intimidation coming from the author or the institution; The frontline worker may not be aware that the victims are often afraid not only of the author of the discrimination but also of the institutions and by an unfriendly environment;
- 3) support the victim with psychological assistance;
- 4) make the victim aware of what is going on in the legal proceeding, understanding them and being able to actively participate;
- 5) be sure that the victim understands the clear amount of financial damages due by the state or by the offender through legal pronouncement, mediation or other form of restorative justice



## Activity

*Watch the video and discuss*

*What do you think?*



The screenshot shows a YouTube video player interface. The browser address bar displays the URL [youtube.com/watch?v=PhLKuRBKLG0](https://www.youtube.com/watch?v=PhLKuRBKLG0). The YouTube logo is visible in the top left, and a search bar contains the text "eu victims' rights directive". The video player itself shows a teal header, followed by a purple banner with the text "Opening Speech". Below this, the speaker is identified as "Saskia Bricmont", an MEP from "The Greens/EFA in the European Parliament". The video frame shows two people seated at a table with microphones and laptops. Below the video, the title "Vision For A Revised Victims' Rights Directive - Event recording" is displayed, along with engagement statistics: "58 visualizzazioni · 21 nov 2022". Interaction icons for likes (2), dislikes (NON MI PIACE), share (CONDIVIDI), download (SCARICA), and save (SALVA) are visible at the bottom.

<https://www.youtube.com/watch?v=PhLKuRBKLG0>





## Evaluation of the Topic





## Evaluation of the Topic

From 1 to 4, how would you evaluate this Topic?

1	2	3	4
Not sufficient	Sufficient	Good	Excellent

Do you think you learnt something new? /\_ / Yes /\_ / No

What are the most important contents you were able to learn from this module? Write down your reflections on a sheet of paper which you will then read out to everyone.

Would you like to give some suggestions to improve the content? Please write down your thoughts on a sheet of paper which you will then read to everyone



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**WP3 – Development of Training Package and PRESERVERE Online Training Toolkit****Curriculum for Frontline workers****The provisions of the Victims Directive**

Slide 1: Cover

Slide 2: Overview of the content

Explain the content that will be addressed:

- Common definitions of victim VS definition of victim in the Victim's Rights Directive
- Overview of main aspects and terms of the Directive. The evolution of the Victims' Rights Directive: New Victims' Right Strategy 2020-2025
- How frontline workers can use the Directive: *How to help my beneficiaries benefit from the Directive?*

Slides 3: Learning objectives

Explain the objectives to be achieved

- Understanding the meaning of victim
- Understanding the main contents of the EU Directive on the protection of victims
- Being able to use the contents of the Directive in one's own work

Slide 4: Cover. Common definitions of victim VS definition of victim in the Directive

Slide 5: Common definition of victim

Ask participants to provide their definition of victim

Slide 6: The definition of victim on the Directive

Ask participants to compare the different definitions and give their opinion

Slide 7: Cover. Overview of the main aspects and terms of the Victim's Rights Directive. The evolution of the Victims' Rights Directive: New Victims' Right Strategy 2020-2025

[The Victims' Rights Directive](#) establishes minimum standards on the rights, support and protection of victims of crime and ensures that persons who have fallen victim to crime are recognised and treated with respect. They must also receive proper protection, support and access to justice. The Directive considerably strengthens the rights of victims and their family members to information, support and protection. It further strengthens the victims' procedural rights in criminal proceedings. The Directive also requires that EU countries ensure appropriate training on victims' needs for those officials who are likely to come into contact with victims.

It may be useful for the trainer to explore the topic at this link [https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/criminal-justice/protecting-victims-rights/victims-rights-eu\\_en](https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/criminal-justice/protecting-victims-rights/victims-rights-eu_en)

Slide 8: Short Synoptical frame of the Victims Rights Directive

Slide 9: General overview of the Victims Rights Directive and aims

Slide 10: Directive's specific groups to protect

Slide 11: The implementation of the Directive: Report on the implementation of the Victim's Right Directive and the European Network on Victims' Rights

Slide 12: Evaluation plan of the Directive

Slide 13: The Directive specific aspects: purposes, application, areas.

Slide 14: list of the rights protected in the directive

Slide 15: list of the rights protected in the directive

Slide 16: list of the rights protected in the directive

Slide 17: list of the rights protected in the directive

Slide 18: list of the rights protected in the directive- specifically the children's rights

Slide 19: The Evolution of the Victims' Rights Directive: New Victims' Right Strategy 2020-2025: purposes, actions and key priorities

Slide 20: Cover. How frontline workers can use the Directive: *How to help my beneficiaries benefit from the Directive?*

Slide 21: The knowledge of the Victims Right Directive is not just a matter of personal culture but again is fundamental to know and understand all the rights of the victims. Often these rights are so "obvious" that is difficult to understand how easily they may be trampled. The Directive list of specific rights empowers the beneficiaries to better understand and to be able to effectively act in case of breach of the victims rights.

If a case of discrimination has been perpetrated and the victim is facing a lawsuit (mediation or any other proceeding) , a frontline worker not trained with the Victims' Rights Directive may not be able to:

- grant a respectful treatment of the victim because may not be able to understand correctly the victim's conditions (under a psychological, human but also legal aspect);
- protect the victim from intimidation coming from the author or the institution; The frontline worker may not be aware that the victims are often afraid not only of the author of the discrimination but also of the institutions and by an unfriendly environment;
- support the victim with psychological assistance;
- make the victim aware of what is going on in the legal proceeding, understanding them and being able to actively participate;
- be sure that the victim understands the clear amount of financial damages due by the state or by the offender through legal pronouncement, mediation or other form of restorative justice.

Slide 23. Activity: Watch the video and discuss

<https://www.youtube.com/watch?v=PhLKuRBKLG0>

On 11 May 2020, the European Commission adopted a [report on the implementation of the Victims' Rights Directive](#). The report assesses the extent to which Member States have taken the necessary measures to comply with its provisions.

3<sup>rd</sup> video (<https://www.youtube.com/watch?v=PhLKuRBKLG0>) is "Vision for a revised Victim's Right Directive". On 16 November, Victim Support Europe and Saskia Bricmont jointly hosted a 'Vision for a revised Victims' Rights Directive' event to officially launch the new 'National Framework for Comprehensive Victim Support' policy document; a testimony of how practice- and evidence-based decision-making is bringing improvements to the victim support system in Europe.

As the European Commission has announced a possible proposal to revise the Victims' Rights Directive by March 2023, we believe it is crucial to seize the momentum to raise awareness and debate on this topic. This revision is indeed essential because it has the power to strengthen existing rights, establish clearer obligations for Member States and new rights for victims.

The event aims to exchange on the way forward for the European Commission's proposal on the Victims' Rights Directive, and how the European Parliament can strengthen the text in its legislative process. It also has the objective to discuss the challenges and opportunities to have a comprehensive and effective Victims Rights Directive.

As we look forward to this EU action, Victim Support Europe (VSE) is calling for a step change in the way we address victims rights. We need a long term, strategic and systemic approach to all the rights established for victims. This means in particular that in addressing victims' need for support, it is not enough to think about the operation of individual and disparate support organisations. Rather, every country must approach this from the perspective of national support framework.

To reinforce these ambition, Victim Support Europe (VSE) will present its new policy paper 'National framework for Comprehensive Victim Support', which aims to change the way we perceive engagement and actions for victims from a silo approach with each organisation operating in single sphere and single perspective, to one where every entity that comes into contact with victims does so from a victim-centred, human rights perspective. We will put this research piece forward not as a criticism of what is in place, but to show what opportunities exist to improve the EU support system even further.

Read the National Framework for Comprehensive Victim Support policy paper here: <https://victim-support.eu/publication...> Victim Support Europe's website: <https://victim-support.eu/> The Greens/EFA website: <https://www.greens-efa.eu/en/>

Slide 24: Cover of Evaluation of the Topic

Slide 25: Evaluation of the Topic



# PRESERVE

Preventing Racism and Discrimination -  
Enabling the Effective Implementation of the  
EU Anti-Racist Legal Framework

PROJECT 101049763 - CERV-2021-EQUAL

## Practical Scenarios

### Part I - Curriculum for Frontline Workers

#### *Topic 4*

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## Practical Scenarios

We are about to present you with three scenarios depicting situations of discrimination that your beneficiaries may experience.

We ask you to cooperate in trying to resolve these situations in the light of the regulations we have elaborated on



## Scenario number 1

Mr. G, a Ghanaian, applied for a position of engineer in computer services. His written exam impressed the employer because he answered the multi choice questions reaching the highest score and gave to the open questions creative and innovative answers.

Consequently, Mr. G was invited to the oral interview. When the employer saw him and realized that he was black skin and he told Mr. G that the position was filled. In the place of Mr. G was hired a French employee with lower skills.

The co-employer Mr. Y (or the personnel selection staff) was (were) not happy for this decision but didn't want to argue with the principal and therefore didn't complain.





## Scenario number 1 – 1st question

- In your opinion, is this a case of direct or indirect discrimination?
- Why?



## Scenario number 1 – 2nd question

What do you think Mr. G should have done, according to the legislation and jurisprudence on the specific action that you've learnt in the Modules 2 and 3?



## Scenario number 1 – 3rd question

What could you have done in your role as professionals if Mr G had asked you for help?



## Scenario number 2

Ms. A is a Roma person who cannot read or write English, but she can read and write Italian and is fluent in speaking both Italian and English. She applied for a position of personal gym trainer for Italian people.

During the face to face interview the employer, realizing that Ms. A was a Roma person, asked her to take a written test in English and she failed. She therefore didn't get the job.

Ms. A spoke to a friend about the happening and she suggested to address a lawyer or a Roma citizen labor union.



## Scenario number 2 – 1st question

- In your opinion, is this a case of direct or indirect discrimination?
- Why?



## Scenario number 2 – 2nd question

What do you think Ms A should have done, according to the legislation and jurisprudence on the specific action that you've learnt in the Modules 2 and 3?



## Scenario number 2 – 3rd question

If you were a union counsellor, what would you do if Ms A approached you to complain?



## Scenario number 3

A company offers its existing employees the chance to apply for an internal job opening. Only employees with degrees obtained from UK universities may apply. This would exclude people who gained their degree in another country from applying for the role. Mr J is a very skilled employee who obtained his degree in a Greek University; therefore Mr. J cannot apply for the wished internal job. The internal workers labour union warned the employer of the risk of indirect discrimination.





## Scenario number 3 – 1st question

- In your opinion, is this really a case of discrimination?
- If so, is it direct or indirect?
- Why?



## Scenario number 3 – 2nd question

What would you do if you were a member of the internal workers labour union?



## Scenario number 3 – 3rd question

What would you do if you were the employee Mr J?



Type: Debriefing and Reflection

Questions: Please reflect on the cases discussed again.

What lessons have we learnt from our experiences in dealing with people who are subject to discrimination?



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**WP3 – Development of Training Package and PRESERVERE Online Training Toolkit****Curriculum for Frontline workers****Practical Scenarios****Implementation:**

*The scenarios proposed in these slides are an addition to the scenarios already presented in previous topics. They can however be useful for conducting group reflection with participants.*

Explain the meaning of the Practical Scenarios. They should serve as a synthesis of the knowledge attempted in the previous Topics, in a practical, exercise-based manner.

In our case, the three scenarios will be useful to test whether participants are able to understand when a given situation is characterised as discrimination or not, and if so, whether it is direct or indirect.

For each scenario, participants are asked three questions - Suggested answers are given in the notes on the slides

Slide 1: Cover

**Slide 2: Presentation of the 1<sup>st</sup> scenario**

Mr G, a Ghanaian, applied for a position of engineer in computer services. His written exam impressed the employer because he answered the multi choice questions reaching the highest score and gave to the open questions creative and innovative answers. Consequently, Mr G was invited to the oral interview. When the employer saw him and realized that he was black skin and he told Mr G that the position was filled. In the place of Mr G was hired a French employee with lower skills. The co-employer Mr Y (or the personnel selection staff) was (were) not happy for this decision but didn't want to argue with the principal and therefore didn't complain.

Slide 3: **Question 1:** In your opinion, is this an episode of direct or indirect discrimination? Why?

**Suggested Answer:** It is a case of direct discrimination, because Mr G was treated less favorably than another employee on the grounds of his nationality.

Slide 4: **Question 2:** What do you think Mr G should have done, according to the legislation and jurisprudence on the specific action that you've learnt in the Modules 1, 2 and 3?

**Suggested Answer:** Mr G should complain with the employer reporting the endured discrimination and eventually address the situation to a lawyer or to a labour union.

Mr G could also have search for a helpline in matter of discrimination in order to get a good advice.

Slide 5: **Question 3:** What could you have done in your role as professionals if Mr G had asked you for help?

**Suggested Answer:** I would have investigated the case further with Mr G and, once I had established that he had been discriminated against, I would have suggested that he contact the union for mediation or get a lawyer and take legal action.

#### Slide 6: **Presentation of the 2nd scenario**

Ms A is a Roma who cannot read or write English, but she can read and write Italian and is fluent in speaking both Italian and English. She applied for a position of personal gym trainer for Italian people. During the face to face interview the employer, realizing that Ms A was a Roma person, asked her to take a written test in English and she failed. She therefore didn't get the job. Ms A spoke to a friend about the happening and she suggested to address a lawyer or a Roma citizen labor union.

Slide 7: **Question 1:** In your opinion, is this an episode of direct or indirect discrimination? Why?

**Suggested answer:** This case could hide an example of indirect discrimination because the employer asked a skill that, for the required position, is not strictly necessary unless he is able to show that the proficiency in reading and writing English is a "genuine occupational requirement" for the offered position. And that Ms A could have not carried out her duties effectively without that skill.

Slide 8: **Question 2:** What do you think Ms A should have done, according to the legislation and jurisprudence on the specific action that you have learnt in the Modules 1, 2 and 3?

**Suggested answer:** Ms A should have complained about the written test arguing that it was not necessary considering the job she applied for (a gym trainer for Italian people).

In a second step, she should address a lawyer or a labour union.

Slide 9: **Question 3:** If you were a union counsellor, what would you do if Ms A approached you to complain?

**Suggested answer:** I would try to contact the employer and make it clear that the company's behaviour discriminated against Ms A and try to understand the reasons for the restriction.

I would try to find a dialogue with the employer to clarify the reasons for the restriction and make it clear that the behaviour may constitute indirect discrimination.

In the worst case, I would write a formal letter to the employer setting out the facts and warning him of the consequences of the discrimination.

#### Slide 10: **Presentation of the 3<sup>rd</sup> Scenario**

A company offers its existing employees the chance to apply for an internal job opening. Only employees with degrees obtained from UK universities may apply. This would exclude people who gained their degree in another country from applying for the role. Mr J is a very skilled employee who obtained his degree in a Greek University; therefore Mr J cannot apply for the wished internal job. The internal workers labour union warned the employer of the risk of indirect discrimination.

Slide 11: **Question 1:** In your opinion, is this really a case of discrimination? If so, is it direct or indirect? Why?

**Suggested answer:** This may be a case of indirect discrimination, though in this case the employer may have justifiable reasons for adopting the policy. For example, it may be difficult or impractical for the company to verify the quality and relevance of non-UK qualifications.

Slide 12: **Question 2:** What would you do if you were a member of the internal workers labour union?

**Suggested answer:** I would suggest to the company to take a proactive approach specifying the reasons of the restriction in order to reduce the risk of unlawful discrimination.

Slide 13: **Question 3:** What would you do if you were the employee Mr J?

**Suggested answer:** I would speak with my principal asking him the reasons of the restriction and if I don't consider the matter addressed, I may make a claim to the tribunal for unlawful discrimination.

Slide 14: Debriefing

Questions: Please reflect on the cases discussed again. What lessons have we learnt from our experiences in dealing with people who are subject to discrimination?

*Obviously, it is also very important to value answers that do not directly answer the suggested questions, but rather open up other scenarios as well as long as they are related to the topics*





# PRESERVE

Preventing Racism and Discrimination -  
Enabling the Effective Implementation of the  
EU Anti-Racist Legal Framework

PROJECT 101049763 - CERV-2021-EQUAL

# Reliance in EU law in domestic courts, institutions and daily practice

## Part I - Curriculum for Legal Professionals

### *Topic 1*

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# Overview of the topic



The principle of supremacy of EU Law: Theory and Practice



The EU anti-discrimination legal framework, with a focus on anti-racism policies



Practical case study



# The principle of Supremacy of EU Law



What is the principle of supremacy of EU law?



# The principle of Supremacy of EU Law

- Not ‘hierarchical’ supremacy in the sense that validity of national law depends on its compliance with EU law

≠

- Obligation to **refrain adopting laws** that are inconsistent with EU law
- **duty to modify** laws that are so inconsistent
- **set aside** conflicting national measures ► inapplicable



# The principle of Supremacy of EU Law

- ***Costa v ENEL***
  - Italian citizen claimed that he did not need pay a higher price for electricity as a result of the nationalisation of the Italian electricity sector, because it was in violation of the EEC law
  - Was nationalisation of energy provider compatible with EU law?
  - Italian legislation passed after Italian Accession to EEC
- **Does EU law or national law take priority?**
- **Guidance to the Italian Constitutional Court**



## Judgment in *Costa v ENEL*: Rationale?

- “By contrast with ordinary international treaties, the EEC Treaty has created its **own legal system which[..] became an integral part of the legal systems of the Member States and which their courts are bound to apply.** [...] the Member States have limited their sovereign rights, albeit within limited fields, and have thus created a body of law which binds both their nationals and themselves.
- The integration into the laws of each Member State of provisions which derive from the [EU], and more generally the terms and the spirit of the Treaty, make it **impossible for the States, as a corollary, to accord precedence to a unilateral and subsequent measure over a legal system accepted by them on a basis of reciprocity.**”



## Judgment in *Costa v ENEL*: Rationale?

- “[T]he law stemming from the Treaty, an **independent source of law**, could not, because of its special and original nature, be overridden by domestic legal provisions, however framed, without being deprived of its character as Community law and without the legal basis of the Community itself being called into question”



# The principle of Supremacy of EU Law

## → Coherence, Unity, Effectiveness of EU Law

- Guarantees uniformity of application of EU law – role of ECJ
- Prevents Member States from pursuing self-interest legislation
- Ensures Treaty rights of, *inter alia*, free movement available to all EU Citizens

## → Transforming the EU from ‘International’ to ‘Constitutional’





# Supremacy in the Treaties?

## Article 4 (3) TEU

The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union.

The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardise the attainment of the Union's objectives.

## Treaty of Lisbon Declaration 17 Concerning Primacy

The Conference recalls that, in accordance with well settled case law of the Court of Justice of the European Union, the Treaties and the law adopted by the Union on the basis of the Treaties have primacy over the law of Member States, under the conditions laid down by the said case law.



# EU anti-discrimination: Primary Legislation

## TFEU

Article 10 TFEU: provision requiring all the EU institutions to work towards eliminating discrimination.

Article 19 TFEU: power to EU institutions to “take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation”.

Article 67(3): prevention and combating of crime, racism and xenophobia

## TEU

Article 2 TEU: “respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities”

Article 3 TEU: combat of social exclusion and discrimination

## EU Charter

Article 21: freestanding right to non-discrimination in the implementation of EU law

broader in scope than the grounds for which the EU can legislate against discrimination under Article 19 of the TFEU

does not require another right to be engaged for the provision to have effect

# EU anti-discrimination: **Secondary Legislation**

Council Directive  
2000/43/EC  
**'Racial Equality  
Directive'**

Directive 2012/29/EU  
**'Victims' Rights  
Directive'**

Council Directive  
2000/78/EC  
**'Employment Equality  
Directive'**

Council Framework  
Decision 2008/913/JHA  
**'Framework Decision on  
combating racism and  
xenophobia'**



# Relationship between primary and secondary legislation

- EU institutions are explicitly granted powers from the EU Treaties → actions to combat discrimination + adopt legislation to ensure a common high level of protection against discrimination in all the Member States



- All EU legislation and policies adopted must comply with the provisions of the Charter, e.g. the Directives
  - **Case C-236/09 Test-Achats and Others**: the validity of the provision of the Directive must be assessed in light of the relevant provisions of the Charter, since the Recitals of that Directive expressly referred to the Charter



# EU anti-discrimination Legal Framework Implementation and Effectiveness?

Why Directives and not Regulations?

Would it make any difference for the Member States?



# EU anti-discrimination Legal Framework Implementation and Effectiveness?

- What happens if the Member States do not implement a Directive?  
Or if they wrongly implement a Directive in the national legal order?



**The principle of Direct Effect as an option for the individual?**



# EU anti-discrimination Legal Framework

## Direct effect principle

- Ability to give rise to rights for individuals which they may enforce in their domestic courts (*Van Gend en Loos*)
- Direct effect for Directives?
  - *Van Duyn v Home Office*, confirmed that directives can have direct effect
  - Directly effective directives must be **sufficiently clear, precise, unconditional and the time limit for implementation has expired.**
  - Directives can only be invoked **vertically against the state or a public authority** (*Marshall v Southampton Area Health Authority*)
  - **What happens if an individual wants to enforce their rights included in a Directive against a private party, e.g. a private employer?**



# EU anti-discrimination Legal Framework

## Direct effect principle

**Case study: Assess whether the following provisions (1) can have direct effect and (2) the addressee of the claim, (3) why would an individual to seek to enforce these provisions using direct effect?**

- Article 6 Council Directive 76/207/EEC  
‘Member States shall introduce into their national legal systems such measures as are necessary to enable all persons who consider themselves wronged by failure to apply to them the principle of equal treatment within the meaning of Articles 3, 4 and 5 to pursue their claims by judicial process after possible recourse to other competent authorities.’
- Art 255 EC:  
‘every citizen of the Union shall have a right of access ... subject to the principles and conditions to be defined’





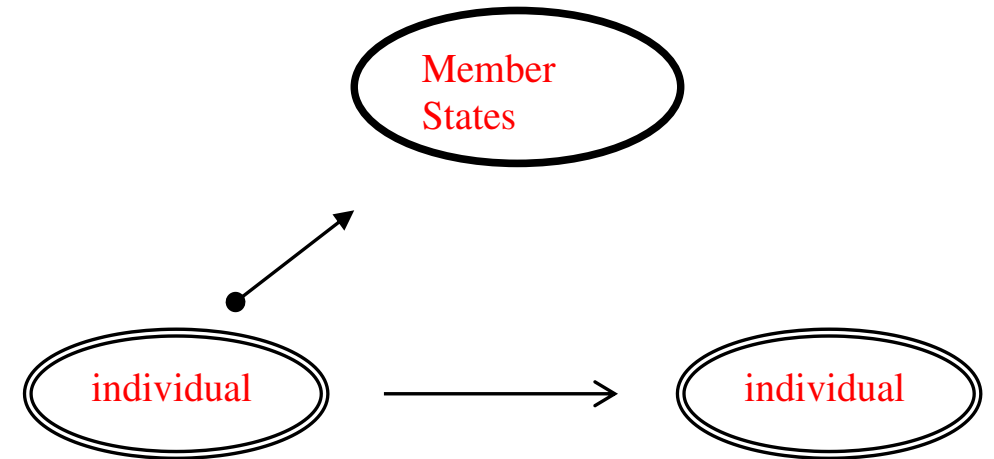
# EU anti-discrimination Legal Framework

## Direct effect principle

### Points to note for the answer:

Criteria for direct effect of Directives before the national courts:

- Clear and precise
- Unconditional
- Time limit for implementation has expired
- Directives can only be **vertically directly effective** (state and public authority)



Vertical direct effect = 

Horizontal direct effect = 



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PART I Topic 1 - Reliance in EU law in domestic courts, institutions and daily practice –  
SCRIPT

→ **Slide no. 2: Overview of the topic**

Explain the overview of topic to the legal professionals as shown on the slide:

- The principle of supremacy of EU Law: Theory and Practice
- The EU anti-discrimination legal framework, with a focus on anti-racism policies
- Practical case study

→ **Slide no. 3: The principle of Supremacy of EU Law**

Ask the audience: What is the principle of supremacy of EU law? What do you know about it?

Possible answers:

- EU Law will prevail in a possible conflict between the EU law and national law
- It is higher law
- It binds all the member states to follow EU law
- Supremacy means that Member States give their legislative power to the EU

Follow-up question: Who has the responsibility to give effect to the supremacy of EU Law on the national level?

Possible answers:

- Companies
- Individuals
- The government
- The courts: 1. By interpreting the national law in accordance with EU Law and 2. If not possible, to disapply national law if in contrast with EU law.
- The legislative branch of the government, the Parliament when drafting new legislation and/or amending existing legislation

Follow-up question: what types of EU legal instruments are the Member States expected to follow?

Treaties, Regulations, Directives (explain the differences)

→ **Slide no. 4: The principle of Supremacy of EU Law**

By reference to the answers given in the previous slide explain the following on Slide 4:

-not necessarily to be seen as a 'hierarchical' supremacy in the sense that the **validity** of national law would depend on its compliance with EU law.

-For instance, while the principle of supremacy imposes an obligation on the national legislature to refrain from adopting laws that are inconsistent with EU law and a duty to modify laws that are inconsistent, it does not automatically render such conflicting national measures invalid or non-existent.

-supremacy imposes an obligation on all national authorities to 'set aside conflicting national measures' and leave them inapplicable

-The EU principle of supremacy affects only the applicability of the conflicting national provision, not its validity, on which the EU has no direct say.

-THEREFORE although states are free to decide how to give effect to international treaty obligations in their domestic legal order and whether or not to award them priority, the EU Treaty does not, according to the Court, leave its Member States such freedom.

-affects only the applicability of the conflicting national provision, not its validity, on which the EU has no direct say.

→ **Slide no. 5: The principle of Supremacy of EU Law**

Ask the question: How was the supremacy of EU law created? It is expressly stated anywhere in the EU treaties?

Answer: It is a judge-made principle, not expressly stated anywhere in the Treaties

Explain the facts of the *Costa v ENEL* case which established the principle

**→ Slides no. 6 and 7: Judgment in *Costa v ENEL***

EXERCISE: Read the paragraphs of the judgment and discuss what do you think is the rationale behind the principle of supremacy according to the Court of Justice of the EU?

[You can write the important points of the discussion on a flip board, e.g. unique characteristics of the EU, voluntary accession, cornerstone of EU law, functionality etc.]

**→ Slide no. 8: The principle of Supremacy of EU Law**

This slide summarises the rationale behind the existence of the principle of supremacy discussed before.

You can explain the following:

-The reasons as to why EU law should be given precedence: the coherence, unity, and effectiveness of EU law.

-Although the Court does not seem to have an overall theoretical vision on primacy what matters the most is that EU law is effectively applied, that Member States cannot get away with non-compliance and that individuals are not unequally affected by such non-compliance (such as by the non-discrimination principle in Article 18 TFEU).

**→ Slide no. 9: Supremacy in the Treaties?**

Is the principle expressly mentioned in the Treaties? No, but the Court of Justice on a number of occasions took the view that supremacy of EU law was implicit in the obligation imposed upon the Member states under Article 4(3) TEU.

Also: Post-Lisbon: The supremacy of Union law over national law is stated in a Declaration (No. 17) attached to the Treaty of Lisbon. This reiterates the doctrine as stated by the Court as shown.

**→ Slide no. 10: EU anti-discrimination: Primary Legislation****Explain the following for the TREATY OF THE FUNCTIONING OF THE EU (TFEU):**

The anti-discrimination legal framework in the EU derives from multiple sources, including primary and secondary legislation, as well as the general principles of EU law on non-discrimination and equality and the case law of the Court of Justice of the EU.

The principles of equality and non-discrimination on the grounds of ethnic and racial background are extensively covered by Treaty provisions of EU primary legislation.

-Article 10 of the TFEU introduced a new significant provision requiring all the EU institutions to work towards eliminating discrimination.

Article 19 TFEU specifically provides the power to EU institutions to “take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation”.

The part of the Treaty dedicated on the Area of Freedom, Security and Justice also makes an important reference to the prevention and combating of crime, racism and xenophobia as one of the objectives of the Union, particularly relevant to the measures adopted in criminal matters and security.

**Explain the following for the TREATY ON THE EU (TEU):**

the TEU also makes explicit references to the protection of individuals against various forms of discrimination and the right to equality

Article 2 TEU sets out the foundational values of the EU

Article 3 TEU sets out the aims of the Union including the combat of social exclusion and discrimination

**Explain the following for the EU CHARTER OF FUNDAMENTAL RIGHTS:**

the Charter of Fundamental Rights has the same legal value as the rest of the Treaties

Article 21 provides a freestanding right to non-discrimination in the implementation of EU law → this is broader in scope than the grounds for which the EU can legislate against discrimination under

Article 19 of the TFEU, and unlike Article 14 of the ECHR, does not require another right to be engaged for the provision to have effect.

→ **Slide no. 11: EU anti-discrimination: Primary Legislation**

Moving to secondary legislation. Explaining briefly the following secondary legal instruments.

Racial Equality Directive: The Racial Equality Directive lays down the framework for combating discrimination specifically on the grounds of racial or ethnic origin deriving from directly or indirectly discriminatory behaviour, including both acts and omissions.

The Racial Equality Directive provides protection against such discrimination in a wide range of sectors including in the field of employment and occupation as well.

Victims' Rights Directive: the Victims' Rights Directive which aims to ensure that victims of crime receive appropriate information, support and protection and may participate in criminal proceedings wherever in the EU the damage occurred. This Directive is considered as a major step forward, as victims constituted the "forgotten party" of the criminal justice system for years.

Employment Equality Directive: the Employment Equality Directive implements equal treatment in employment and occupation, excluding the grounds of gender and race from its protection. Therefore, in contrast to the Racial Equality Directive, the material scope of the Employment Equality Directive is limited to employment and occupation, yet aiming to improve the employment opportunities for a wider range of groups of people, including people with disabilities.

Framework Decision on combating racism and xenophobia: The purpose of the Framework Decision is to ensure that certain serious manifestations of racism and xenophobia (including the instigating, aiding or abetting in the commission of those offences), constitute an offence in all EU countries and be punishable by effective, proportionate and dissuasive penalties.

**→ Slide no. 12: Relationship between primary and secondary legislation**

Explain the following on the relationship:

-EU institutions are explicitly granted powers from the EU Treaties (primary) to take the appropriate actions to combat discrimination and/or adopt legislation to ensure a common high level of protection against discrimination in all the Member States (secondary).

- all EU legislation and policies adopted must comply with the provisions of the Charter, including the Directives

**Example:** Case C-236/09 *Test-Achats and Others* the validity of the provision in question (Article 5(2) of Directive 2014/113) must be assessed in light of the relevant provisions of the Charter, since the Recitals of that Directive expressly referred to the Charter

**→ Slide no. 13: EU anti-discrimination Legal Framework. Implementation and Effectiveness?****Why Directives and not Regulations?****Would it make any difference for the Member States?**

**Regulations:** of general application, binding in their entirety and directly applicable. They must be complied with fully by those to whom they apply (private persons, Member States, Union institutions). Regulations are directly applicable in all the Member States as soon as they enter into force and do not need to be transposed into national law.

**Directives:** Directives are binding, as to the result to be achieved, upon the Member States to whom they are addressed, but leave to the national authorities the choice of form and methods. National legislators must adopt a transposing act or 'national implementing measure' to transpose directives and bring national law into line with their objectives



→ Slide no. 14: EU anti-discrimination Legal Framework. Implementation and Effectiveness?

**What happens if the Member States do not implement a Directive? Or if they wrongly implement a Directive in the national legal order?**

-Possible answers: State liability (individuals vs Member State on the national level), infringement procedure (Commission vs Member States on the EU level).

**The principle of Direct Effect as an option for the individual?**

→ Slide no. 15: Direct Effect

→ Ability to give rise to rights for individuals which they may enforce in their domestic courts (Firstly, established in Van Gend en Loos)

**Important guidance for the trainer:**

The doctrine of direct effect complements the doctrine of supremacy of EU law. Explain the importance of Direct effect principle.

-Although the ECJ is the supreme court in that system, the lower – the national courts – must also be able to apply EU law. In particular, where national law provides lesser rights than EU law, it is vital that an applicant can enforce his Union rights in the national courts. Uniformity in the safeguarding of rights requires that citizens in different MS can seek to realise their rights. Best body to help individual citizens is their domestic courts.

→ Direct effect for Directives?

**Important guidance for the trainer:**

Direct effect should not be an issue since it should be possible to rely on the national, implementing measure before a national court. But the implementing measure may be defective or non-existent. The ECJ has therefore recognised that in certain circumstances a Directive may have direct effect. Originally, it was believed that directives could not be directly effective since a 'directive shall be

binding as to the result to be achieved but shall leave to the national authorities the choice of form and methods'. But the case of **Van Duyn confirmed that directives can have direct effect.**

Case background: *Van Duyn v Home Office*: The UK government was attempting to exclude van Duyn, a Dutch national, from the EU because of her membership in an 'undesirable' organisation. The question was whether Directive 64/221 could be directly enforced by Van Duyn.

→ Van Duyn challenged the UK's decision to refuse her entry, seeking to rely on a Directive which stated that any restriction of free movement on public policy grounds must be based exclusively on the individual's personal conduct.

The court of justice held that she could invoke the Directive before the national court, thus establishing the principle that directives are capable of direct effect. Directly effective directives must be **sufficiently clear, precise, unconditional and the time limit for implementation has expired.**

→ **Directives can only be invoked vertically against the state or a public authority** (Marshall v Southampton Area Health Authority). "It follows that a Directive may not of itself impose obligations on an individual and that a provision of a Directive may not be relied on as against such a person."

### **Important guidance for the trainer:**

The law as to the direct effect of Directives draws a clear distinction between cases where the applicant seeks to enforce a Directive against a Member State and those where enforcement is sought against a private party. In the latter situation a Directive cannot have direct effect, whereas a Treaty Article, Regulation or Decision could.

What happens if an individual wants to enforce their rights against a private party, e.g. a private employer? Direct effect cannot be used. Other methods may be available, e.g. the state liability procedure

→ **Slide no. 16: Direct effect principle**

**Case study: Assess whether the following provisions (1) can have direct effect and (2) the addressee of the claim, (3) why an individual to seek to enforce these provisions using direct effect?**

**Article 6 Council Directive 76/207/EEC** of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions → **Member States shall introduce into their national legal systems such measures as are necessary to enable all persons who consider themselves wronged by failure to apply to them the principle of equal treatment within the meaning of Articles 3, 4 and 5 to pursue their claims by judicial process after possible recourse to other competent authorities.**

**Instructions to the trainer:** This provision was discussed in the case of: *Marshall v Southampton Area Health Authority*

The provision was rendered to be: Clear, precise, unconditional and the time limit for implementation had passed: It could be invoked against a public body such as the Health Authority. However, the horizontal effect of a directive was denied.

**Art 255 EC: ‘every citizen of the Union shall have a right of access ... subject to the principles and conditions to be defined’**

**Instructions to the trainer:** This provision was discussed in the case of: *Petrie v Commission*

The provision was rendered to be: Clear, precise, NOT unconditional. It could NOT have direct effect. Yet if direct effect was available, it would be possible to invoke both against a private and public party (vertical and horizontal direct effect).

→ **Slide no. 17: Points to note for the answer**

**Clear and precise:** the text (and the right it conveys) must be clear and unambiguous

**Unconditional:** requiring no judicial intervention: provisions which are conditional in the sense that they confer a discretionary power on a third party (Member State or the Commission) would be excluded from having direct effect – because the national court cannot usurp that discretion

**Time limit for implementation has expired**

**Directives can only be vertically directly effective (state and public authority):** e.g. bodies that had been made responsible by the State for providing a public service; and provided that service under the control of the State; and had special powers to provide that service, beyond those normally applicable in relations between individuals.



# PRESERVE

Preventing Racism and Discrimination -  
Enabling the Effective Implementation of the  
EU Anti-Racist Legal Framework

PROJECT 101049763 - CERV-2021-EQUAL

# The provisions of the Racial Equality Directive

## Part I - Curriculum for Legal Professionals

### *Topic 2*

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# Objectives of the topic



To provide an overview of the main terms and provisions of the Racial Equality Directive



To identify some of the important case law in relation to the Directive



To apply this knowledge to practical scenarios, in order to see how the law would play out in practice



# Racial Equality Directive

- **Directive 2000/43/EC of 29 June 2000 on the implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.**
  - Infringement proceedings for failing to implement?
  - Putting into effect the principle of equal treatment



**What are some examples of discrimination on the grounds of race and/or ethnicity?**



# Racial Equality Directive: **Who is protected?**

- **‘there shall be no direct or indirect discrimination based on racial or ethnic origin.’** (Article 2(1))
  - All natural persons and all legal persons including nationals of third countries
  - **‘racial or ethnic origin’** not defined in the Directive?
    - **‘race’** → a person’s outward characteristics, such as skin colour
    - **‘ethnicity’** → language, religion, culture, social customs, traditions
- **Legal certainty?**
  - **Inclusive definitions and expanded application of the Directive?** (Case C-83/14, *CHEZ Razpredelenie Bulgaria*)
  - **Commission’s approach?**





# Racial Equality Directive: **Who is not protected?**

*‘This Directive does not cover difference of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third country nationals and stateless persons on the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned.’ Article 3(2)*

- **Case C-668/15, Jyske Finans**
  - Refused to attribute any significance to the overlaps between ethnic origin and nationality
- **Case C-54/07, Feryn**
  - There does not need to exist an identifiable victim for a case to be brought to Court
  - “The fact that an employer declares publicly that it will not recruit employees of a certain ethnic or racial origin, something which is clearly likely to strongly dissuade certain candidates from submitting their candidature and [...] hinder their access to the labour market, constitutes direct discrimination”



# Racial Equality Directive: **Who is not protected?**

→ Would a refugee or asylum seeker be able to rely on this Directive in order to complain that they are discriminated against?

**Nationality ≠ Correlation between a refugee/asylum seeker and their ethnicity?**

- *The Equality Ombudsman v. Skarets Fastigheter Aktiebolag* (Swedish Court of Appeal case)
  - close correlation between a person being a refugee/asylum seeker and their ethnicity



# Racial Equality Directive: **Areas covered?**

Conditions for access to employment and self-employment (recruitment and promotion of the potential victim)

Access to all types and all levels of vocational guidance and training, including practical work experience.

Employment and working conditions, including dismissals and pay.

Membership of and involvement in an organisation of workers or employers.

Social protection, including social security and healthcare.

Education.

Access to and supply of goods and services which are available to the public, including housing.

# Racial Equality Directive: **Prohibitions**



*Direct discrimination*

*Indirect discrimination*

*Harassment*



# Racial Equality Directive: Prohibitions

## Direct discrimination

*‘direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin’ (Art. 2(2)(a))*



→ By the person actually undertaking the discriminatory conduct and a person instructing another to undertake the discriminatory conduct.

Can you think of examples of direct discrimination that would be prohibited by the Directive?



# Racial Equality Directive: Prohibitions

## Indirect discrimination

*‘indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary’ (Art 2(2)(b))*



- Apparent neutrality of the criterion or practice
- By the person actually undertaking the discriminatory conduct and a person instructing another to undertake the discriminatory conduct



# Racial Equality Directive: Prohibitions

## Indirect discrimination

- Case C-83/14, *CHEZ Razpredelenie Bulgaria*
  - In order for a measure to be capable of constituting indirect discrimination under the Directive it is sufficient that ‘although using neutral criteria not based on the protected characteristic, it has the effect of placing particularly persons possessing that characteristic at a disadvantage’

Can you think of examples of indirect discrimination that would be prohibited by the Directive?



# Racial Equality Directive: Prohibitions Harassment

*‘Harassment shall be deemed to be discrimination within the meaning of paragraph 1, when an unwanted conduct related to racial or ethnic origin takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.’ (Art 2(3))*

- establishing a hostile environment that has the effect of violating a person’s dignity is sufficient for a finding of harassment
- directed at specific racial or ethnic minority groups or individuals

**Can you think of examples of harassment that would be prohibited by the Directive?**





# Racial Equality Directive: **Victimisation**

*‘Member States shall introduce into their national legal systems such measures as are necessary to protect individuals from any adverse treatment or adverse consequence **as a reaction to a complaint or to proceedings** aimed at enforcing compliance with the principle of equal treatment.’ (Article 9)*



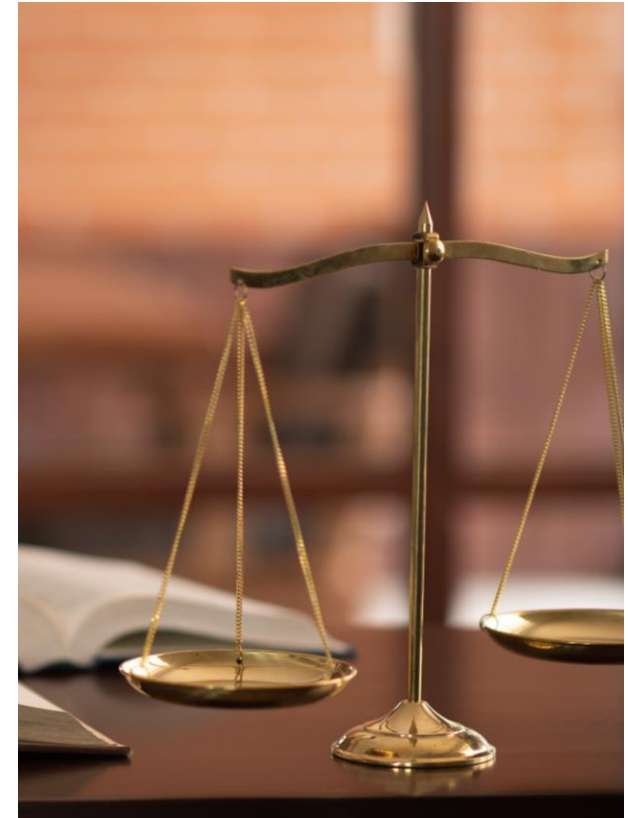
→ **Victimisation** is any adverse measure taken by an organisation (including employers and public authorities) or by an individual in retaliation for efforts to enforce the right to equal treatment.



# Racial Equality Directive: Defences?

Article 5: *‘With a **view to ensuring full equality in practice**, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to racial or ethnic origin.’*

→ organisations of persons of a particular racial or ethnic origin where their main object is the promotion of the special needs of those persons.



# Racial Equality Directive: Defences?

*Article 4: ‘a difference of treatment which is based on a characteristic related to racial or ethnic origin shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is **proportionate**.’*

→ **How is the proportionality requirement assessed?**

→ This defence that can be used **‘In very limited circumstances’**  
(Recital 18 in the preamble)



# When bringing the case to court

If there is a prima facie case of discrimination, the burden of proof shifts back to the respondent (Article 8(1)) → the perpetrator needs to demonstrate that they did not discriminate, rather than requiring that the victim fully proves that they did (not in criminal procedures)

You can rely on statistics to prove the existence of indirect discrimination (Recital 15 in the preamble) → equality bodies have a responsibility to conduct independent national surveys concerning discrimination (Art. 13(2))

Equality bodies have a responsibility under Art. 13(2) of the Directive to '[provide] independent assistance to victims of discrimination in pursuing their complaints'.



# When bringing the case to court II

Article 7(2) → associations, organisations or other legal entities that have a legitimate interest in ensuring the provisions of this Directive are complied with, can intervene in judicial or administrative procedures either on behalf or in support of the victim.

The Directive lays down minimum, not maximum requirements (Art. 6(1)).



# Racial Equality Directive: Remedies?

- payment of compensation → ‘effective, proportionate and dissuasive’
- criminal case → payment of a financial penalty or imprisonment
- sanctions can take the form of prohibitory injunctions according to the rules of national law
- *Case C-81/12, Asociația Accept v Consiliul Național pentru Combaterea Discriminării*
  - Directive precludes national law under which sanctions are purely symbolic and that under certain conditions it would be in breach of the Directive if it is only possible to give a warning in a case of discrimination.



# Racial Equality Directive: Case study

Jean, a Cameroonian national, has entered Rubinia, an EU Member State, irregularly and has applied for asylum. While waiting for his asylum application to be processed, he is told that asylum seekers are not allowed to work in any industry and therefore receive a monthly stipend. The stipend covers his accommodation, but does not leave him with enough money to eat by the end of the month; it is, by law, 60% of the minimum salary guaranteed to Rubinian nationals. Two months later, his asylum application is approved and he is granted refugee status. As a refugee, he is only allowed to work in the farming and agricultural sectors. He is told that this is a necessary governmental policy in order to ensure that the refugee application system is not abused and overwhelmed by economic migrants. When he does get a job, he realises that he is earning less than half of the salary that is earned by other employees that are Rubinian nationals. When he complains about this, he is told mockingly by the manager: 'What are you going to do? Work as an IT consultant?' Jean complains to the authorities and is immediately fired from his job for 'stirring up unnecessary trouble with other employees'. Due to staff shortages and budgetary cuts, the authorities end up investigating the complaint three years later, by which time all witnesses claim to have forgotten the exchange between Jean and his manager.

Kuda isa good friend of Jean. He is a national of Rubinia and although not a person of African descent, he has a darker complexion. The manager mistakenly thinks that he was also a refugee, getting paid a reduced salary and is also planning to complain to the authorities. Just to be on the safe side, he fires him too.

Finally, Jean's wife, Ayshe, is a Muslim and wears the burqa. She wants to get a job as a receptionist, but she is told that she must have a university degree and an excellent command of the Rubinian language. This had not been part of the job advertisement that she had seen when applying for the job; it was mentioned for the first time during the interview. When she attempts to go to University and to enrol in language classes, she is told that one cannot be a student if they are wearing the burqa. As a result, she is unable to attend University. When leave the University's administration office, she spots a poster that says 'This University supports "Radicals out of Rubinia"'. The poster prominently displays a picture of a woman wearing a burqa.

Advise the parties on whether and how they could rely on the Race Equality Directive.



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Curriculum for professionals in the field of law –The provisions of the Racial Equality Directive**Slide 1**

Cover slide

**Slide 2**

Objectives of the topic:

- a) To provide an overview of the main terms and provisions of the Racial Equality Directive
- b) To identify some of the important case law in relation to the Directive
- c) To apply this knowledge to practical scenarios, in order to see how the law would play out in practice

**Slide 3**

- Provide a brief introduction to the Directive:
  - The full name of the Racial Equality Directive is Directive 2000/43/EC of 29 June 2000 on the implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.
  - There are currently no infringement proceedings for failing to implement the Racial Equality Directive. All EU Member States have successfully transposed the Directive into national law.
  - The purpose of the Directive is to put into effect the principle of equal treatment.
- ‘Could you give examples of discrimination on the grounds of race or ethnicity?’
  - Use this brainstorming session to explain the fact that some types of racial/ethnic discrimination could result in criminal proceedings, while others could result in civil proceedings.
  - Also use this brainstorming session to explain that there are different types of discriminatory conduct: **direct discrimination, indirect discrimination and harassment**, all of which are prohibited by the Directive.

**Slide 4**

- Who does the Directive protect?
  - All natural persons and all legal persons, where appropriate. (Recital 16 in the preamble)



- The prohibition of discrimination also applies to nationals of third countries. This is an important element of the Directive, underlining the fact that the prohibition of discrimination protects everyone in the European Union and not only EU citizens.
- The terms of the Directive are not defined. The Directive states that **‘there shall be no direct or indirect discrimination based on racial or ethnic origin.’ (Article 2(1))**. Nevertheless, there is no definition on what is meant by ‘racial or ethnic origin’. Some EU MS have avoided using the word ‘race’ entirely when implementing the legislation, and solely relied on the concept of ‘ethnic origin’.
- Generally speaking, **‘race’** is defined by taking into consideration a person’s outward characteristics, such as skin colour. **‘Ethnicity’** usually includes characteristics like language, religion, culture, social customs, traditions etc.
- On the one hand, this creates problems in terms of legal certainty. On the other hand, it allows the Court of Justice of the EU and national courts to adopt more inclusive definitions and expand the application of the Directive. See, for example, Judgment of the Court of 16 July 2015, *CHEZ Razpredelenie Bulgaria*, C-83/14, ECLI:EU:C:2015:480.<sup>1</sup>
- **Note also that the Directive has been understood in broad terms by the Commission as well:** The Commission considers that the Directive prohibits a situation where a person is directly discriminated against on the basis of a wrong perception or assumption of protected characteristics. For example, if a candidate for a job is not selected because the employer wrongly believes he/she is of a specific ethnic origin, this would amount to discrimination.<sup>2</sup>

## Slide 5

Who does the Directive not protect (I)?

- Article 3(2): ‘This Directive does not cover difference of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third country nationals and stateless persons on the territory of Member States, and to any

<sup>1</sup> Background information on the case for those delivering the topic: the complainant was a woman of non-Roma origin who ran a shop in the district with large numbers of Roma persons. She complained that the practice of installing electricity meters on the concrete pylons at a height of between six and seven meters, whereas in the other districts they are placed at a height of 1.70 meters, was attributed to the fact that most of the inhabitants of the district were of Roma origin. This practice, she argued, caused her to suffer direct discrimination as she was unable to check her electricity meter for the purpose of monitoring her consumption. The CJEU held that the principle of equal treatment between persons irrespective of racial or ethnic origin extends to persons who, although not themselves members of the racial or ethnic group concerned, nevertheless suffer direct or indirect discrimination, as a result of less favourable treatment or particular disadvantages respectively.

<sup>2</sup> REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on the application of Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (‘the Racial Equality Directive’) and of Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation (‘the Employment Equality Directive’), (Brussels, 19.3.2021) COM(2021) 139 final, p. 10.



treatment which arises from the legal status of the third-country nationals and stateless persons concerned.'

- The Court of Justice of the European Union has interpreted this provision in two important cases:
  1. Judgment of 6 April 2017, *Jyske Finans*, C-668/15, ECLI:EU:C:2017:278:<sup>3</sup> The Court adopted a **restrictive approach** to the situations that would be caught by the Directive, in that it **refused to attribute any significance to the overlaps between ethnic origin and nationality**.
  2. Judgment of 10 July 2008, *Feryn*, C-54/07, ECLI:EU:C:2008:397, para. 25:<sup>4</sup> The Court adopted a **broad interpretation** of the situations that would be caught by the Directive, in that **there does not need to exist an identifiable victim for a case to be brought to Court**: 'The fact that an employer declares publicly that it will not recruit employees of a certain ethnic or racial origin, something which is clearly likely to strongly dissuade certain candidates from submitting their candidature and, accordingly, to hinder their access to the labour market, constitutes direct discrimination in respect of recruitment within the meaning of Directive 2000/43. The existence of such direct discrimination is not dependant on the identification of a complainant who claims to have been the victim.'

## Slide 6

Who does the Directive not protect (II)?

- **Would a refugee or asylum seeker be able to rely on this Directive in order to complain that they are discriminated against?**
- On the one hand, 'no' because it is their nationality (rather than race and ethnicity) and the conditions that exist in their home country that render them eligible for asylum. On the other hand, there is a very close correlation between a person being a refugee/asylum seeker and their ethnicity (this is something that can be proven through the use of statistics).
- This is the reasoning that was used by the Swedish Court of Appeal when it broadly interpreted the law and found that belonging to the category of refugees, is indirectly related to a person's ethnic affiliation (Göta Court of Appeal case no. T 1666-09 *The Equality Ombudsman v. Skarets Fastigheter Aktiebolag*, judgment of 25 February 2010).
- Give examples of situations that would not be caught by the Directive:
  - a) The fact that foreign domestic workers in Cyprus enter on a special visa and are not allowed to do any other profession.

<sup>3</sup> Background information on the case for those delivering the topic: A Danish citizen of Bosnian origin was asked to provide additional identification documents when requesting for a loan, while his wife, who was of Danish ethnic origin was not. The justification was that she was 'native', while he was not. The Court denied a finding of either direct or indirect discrimination, as the Directive 'does not cover different treatment on grounds of nationality' and the 'different treatment was not necessarily directly based on his ethnic origin'.

<sup>4</sup> Background information on the case for those delivering the topic: The case concerned a public statement by NV Firma Feryn during a job recruitment process that it would not consider applications from persons of a certain ethnic origin. The Court ruled that even in the absence of an identifiable complainant who claims to be the victim, direct discrimination could still occur.

- b) The fact that asylum seekers in many countries are not allowed to work in every profession they want.
- c) The fact that students who are third-country nationals are not allowed to work while they are in the country on a student visa.

## Slide 7

- What areas does the Directive apply to?
  - The Directive applies equally to acts and omissions.
  - It creates obligations to all persons in the public and private sector (Article 3(1)): 'Within the limits of the powers conferred upon the Community, this Directive shall apply to all persons, as regards both the public and private sectors, including public bodies'
  - The Directive creates obligations in the following areas, listed in Article 3(1):
    - (a) Conditions for access to employment and self-employment. This includes both recruitment and promotion of the potential victim.
    - (b) Access to all types and all levels of vocational guidance and training, including practical work experience.
    - (c) Employment and working conditions, including dismissals and pay.
    - (d) Membership of and involvement in an organisation of workers or employers.
    - (e) Social protection, including social security and healthcare.
    - (f) Education.
    - (g) Access to and supply of goods and services which are available to the public, including housing.
  - A note about social protection for those delivering the topic – Social advantages are broadly interpreted to include both benefits of economic or cultural nature including public transport concessionary, reduced prices for access to events or subsidised meals in schools for children from low-income families. (Opinion of AG Sharpston of 11 September 2018, Maniero, C-457-17, ECLI:EU:C:2018:697, para. 47)
  - A note about education for those delivering the topic – this is not defined, but one can assume that it includes everything from pre-school to higher education.
  - Conclude that the scope of the Directive is extremely wide.

## Slide 8

- The Directive prohibits three things: **direct discrimination; indirect discrimination; and harassment.** What are the differences between the three terms?
- In general, equal treatment means that likes should be treated alike (e.g. an ethnic minority child should be given equal access to education) and unalikes should be treated unlike (e.g. ethnic minority language-speakers should receive special assistance in school).

**Slide 9**

- Direct discrimination (defined in Art. 2(2)(a)):
  - 'direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation on grounds of racial or ethnic origin'
  - Direct discrimination is when one person is treated less favourably than another is, has been or would be treated in a comparable situation because of his/her race or ethnicity.
  - Direct discrimination can be perpetrated by the person actually undertaking the discriminatory conduct and a person instructing another to undertake the discriminatory conduct. (Art. 4 of the Directive)

Class discussion: **Can you think of examples of direct discrimination that would be prohibited by the Directive?**

Persons delivering the topic could suggest the following examples:

1. denied access to employment on the basis of one's ethnic or racial origin
2. difficulties in enrolling to schools on the basis of one's ethnic or racial origin
3. discriminatory job advertisements
4. failure/delays of the police or other state bodies to investigate allegations of poor working conditions on the basis of one's ethnic or racial origin.
5. Bars, restaurants and shops deny entry
6. Real estate agencies or owners not renting to minority racial or ethnic tenants
7. Racially segregated social housing and education
8. Pay differences: in certain Member States statistics indicate that minority men earn less than majority men and minority women.

**Slide 10**

- Indirect discrimination (defined in Art 2(2)(b)):
  - 'indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary'
  - The key to understanding indirect discrimination is the **apparent neutrality of the criterion or practice**. For instance, skin colour is usually considered as a directly racist criterion, while language and descent may appear more neutral.
  - As a result, indirect discrimination is harder to spot since it concerns conduct that may 'hide' discrimination well or lack apparent connections to racial or ethnic origin.

- Like with direct discrimination, indirect discrimination can be perpetrated by the person actually undertaking the discriminatory conduct and a person instructing another to undertake the discriminatory conduct. (Art. 4 of the Directive)

## Slide 11

→ Judgment of the Court of 16 July 2015, *CHEZ Razpredelenie Bulgaria*, C-83/14, ECLI:EU:C:2015:480, para. 96: According to the CJEU in order for a measure to be capable of constituting indirect discrimination under the Directive it is sufficient that **‘although using neutral criteria not based on the protected characteristic, it has the effect of placing particularly persons possessing that characteristic at a disadvantage’**.

Class discussion: **Can you think of examples of indirect discrimination that would be prohibited by the Directive?**

Persons delivering the topic could suggest the following examples:

1. Language requirements that are not in fact necessary
2. Inappropriately high requirements of professional or academic qualifications
3. General ban on a profession or activity that is characteristic of a certain racial or ethnic group (e.g. fortune telling, collection of scrap metal).
4. Dress codes (consider for example whether prohibition of the Burqa is indirect discrimination).  
In this regard, the ECHR case law is relevant and useful:
  - See *Leyla Sahin v. Turkey* (App. No. 44774/98, Grand Chamber decision of 10 November 2005) in which the Court did not find a violation of Article 9 (freedom of religion) when a medical student in Turkey was prohibited from attending university wearing her headscarf. The Court did not find a violation of Article 14 either (freedom from discrimination) because the regulations on the Islamic headscarf were not directed against the applicant's religious affiliation, but pursued the legitimate aim of protecting order and the rights and freedoms of others and were manifestly intended to preserve the secular nature of educational institutions.
  - *Dogru v. France* (App. No. 27058/05, 4 December 2008): The applicant, a secondary school student, was expelled from school for refusing to remove her headscarf during gym classes. The Court found no violation of Article 9, accepting that the wearing of a veil, such as the Islamic headscarf, was incompatible with sports classes for reasons of health or safety was not unreasonable.
  - *SAS v. France* (App. No. 43835/11, Grand Chamber decision of 26 June 2014): A French national and practicing Muslim was no longer allowed to wear the full-face veil in public following a law prohibiting the concealment of one's face in public places. The Court held that there had been no violation of Article 8 (right to respect for private life), and no violation of Article 9 (right to respect for freedom of religion) of the Convention. It emphasised in particular that respect for the conditions of 'living together' was a legitimate aim for the measure at

issue, especially in light of the state's wide margin of appreciation. The Court also held that there had been no violation of Article 14 (prohibition of discrimination): the ban admittedly had specific negative effects on the situation of Muslim women who, for religious reasons, wished to wear the full-face veil in public, however, that measure had an objective and reasonable justification.

## Slide 12

- Harassment (defined in Art 2(3)):
  - 'Harassment shall be deemed to be discrimination within the meaning of paragraph 1, when an unwanted conduct related to racial or ethnic origin takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.'
  - Even if the purpose is not to harass, **establishing a hostile environment that has the effect of violating a person's dignity is sufficient for a finding of harassment.**
  - There is no need to make a comparison between similar groups because harassment is **directed at specific racial or ethnic minority groups or individuals.**

Class discussion: **Can you think of examples of harassment that would be prohibited by the Directive?**

Persons delivering the topic could suggest the following examples:

1. Racist jokes or stories at the workplace
2. Demeaning conduct towards racial or ethnic minority co-workers
3. Hate speech (through actual speech, posters, emails, messages etc.)

## Slide 13

- Article 9 is entitled 'Victimisation'; it provides that individuals must be protected from this practice. What is victimisation? **Victimisation is any adverse measure taken by an organisation (including employers and public authorities) or by an individual in retaliation for efforts to enforce the right to equal treatment.**
- The most common example is where an employee complains about unequal treatment, and the employer responds by dismissing or failing to promote the employee.

## Slide 14

- In general, race or ethnic discrimination are the most difficult types of discrimination to justify.
- There are two possible defences that someone can use if a prima facie case has been made that they have acted in a discriminatory manner (directly or indirectly). There are **no possible defences that someone can use if a case has been made that they were harassing another person on the base of their race or ethnicity.**

- The defences to prima facie discriminatory conduct are listed in Articles 4 and 5 of the Directive.
- Article 5:
  - ‘With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to racial or ethnic origin.’
  - Examples of this: one is found in the preamble of the Directive (Recital 17 in the preamble): **organisations of persons of a particular racial or ethnic origin where their main object is the promotion of the special needs of those persons.** Another example could be having additional languages for persons from a specific ethnic group, or in areas of the country that have large populations of that group. So, a measure that does not amount to genuine positive action would not be protected by the exception (e.g. putting an upper limit on the number of ethnic minority employees).

## Slide 15

- Article 4:
  - ‘a difference of treatment which is based on a characteristic related to racial or ethnic origin shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate.’
  - Brief discussion of the proportionality test:
    1. Why was a certain provision/criterion/practice needed? What was its aim?
    2. Was the response satisfying this need necessary and appropriate? Or could the aim be achieved in any other way?

**When applying the proportionality test, bear in mind the following (this is additional guidance for the persons delivering the topic):**

    1. Purely budgetary (financial) considerations can never serve as objective justifications.
    2. The aim of the practice must be unrelated to discrimination and mere generalisations are not sufficient.
    3. Proportionality requires that the concrete measure taken in order to achieve the legitimate aim should be suitable for achieving that aim.
    4. Proportionality requires the respondent to show that another measure with less or no detrimental effect would not be effective.
  - The preamble of the Directive notes that this is a **defence that can be used ‘In very limited circumstances’.** (Recital 18 in the preamble)



- Give examples of this defence being used:
  1. Black actor hired to play Othello.
  2. Requirement that a case worker employed by an NGO receiving complaints from immigrants from East Africa, is himself East African, so that the complainants feel more comfortable to share their stories.

## Slides 16 & 17

### Practical tips when bringing a case to court:

1. **If there is a prima facie case of discrimination, the burden of proof shifts back to the respondent.** This is provided in **Article 8(1)** of the Directive, which states that 'when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.'  
In other words, **the perpetrator needs to demonstrate that they did not discriminate, rather than requiring that the victim fully proves that they did.** This is particularly useful in discrimination cases where the proof often belongs to the perpetrator (e.g. employer's internal documents related to hiring practices or statistics on pay in the case of discrimination in employment)  
**Note, however, that the reversal of the burden of proof does not apply to criminal procedures (e.g. harassment) – it only applies in civil cases: Art. 8(3) of the Directive.**
2. **You can rely on statistics to prove the existence of indirect discrimination.** This is expressly provided in **Recital 15 in the preamble**, which notes that 'Such rules may provide in particular for indirect discrimination to be established by any means including on the basis of statistical evidence.' Note, in this respect, that **equality bodies have a responsibility to conduct independent national surveys concerning discrimination** under Art. 13(2) of the Directive. These surveys could provide valuable statistical evidence.  
**Statistics help to shift the focus away from the individual victim toward underlying structural inequalities. This is helpful if a victim knows that there are many others who share his fate, but are unwilling to bring an action against the discriminator.**
3. When bringing a discrimination case, bear in mind that **equality bodies have a responsibility under Art. 13(2) of the Directive to '[provide] independent assistance to victims of discrimination in pursuing their complaints'**. In some countries, this could mean that equality bodies can intervene as interested third parties or even represent the victims themselves; in other countries, this may not be possible. In either case however, the equality body should remain available to provide guidance on the law.
4. Under **Article 7(2) of the Directive, associations, organisations or other legal entities that have a legitimate interest in ensuring the provisions of this Directive are complied**

**with, can intervene in judicial or administrative procedures either on behalf or in support of the victim.** This sounds like a broad and useful provision, but one should be careful to understand how 'legitimate interest' is defined in every country.

5. **The Directive lays down minimum, not maximum requirements (Art. 6(1)).** It is therefore likely that national laws include greater protections than what has been discussed here.

### Slide 18 – Remedies

- The most likely remedy is the **payment of compensation**, which according to Art. 15 of the Directive, **'must be effective, proportionate and dissuasive'**. It is also possible that Labour courts order an employee's reinstatement.
- In a criminal case, the sanctions would be **the payment of a financial penalty or imprisonment**.
- According to the CJEU, other than fines and compensation, **sanctions can take the form of prohibitory injunctions according to the rules of national law**, ordering the employer to **cease the discriminatory practice, where appropriate a fine, or in conjunction with an adequate level of publicity such as an apology** the cost of which is to be borne by the defendant. (Judgment of 10 July 2008, *Feryn*, C-54/07, ECLI:EU:C:2008:397, paras 35-40)
- **Case C-81/12 Asociația Accept v Consiliul Național pentru Combaterea Discriminării**, judgment of 25 March 2013: the CJEU pointed out that **Directive 2000/43/EC precludes national law under which sanctions are purely symbolic and that under certain conditions it would be in breach of the Directive if it is only possible to give a warning in a case of discrimination**.

### Slide 19 – Case study

Jean, a Cameroonian national, has entered Rubinia, an EU Member State, irregularly and has applied for asylum. While waiting for his asylum application to be processed, he is told that asylum seekers are not allowed to work in any industry and therefore receive a monthly stipend. The stipend covers his accommodation, but does not leave him with enough money to eat by the end of the month; it is, by law, 60% of the minimum salary guaranteed to Rubinian nationals. Two months later, his asylum application is approved and he is granted refugee status. As a refugee, he is only allowed to work in the farming and agricultural sectors. He is told that this is a necessary governmental policy in order to ensure that the refugee application system is not abused and overwhelmed by economic migrants. When he does get a job, he realises that he is earning less than half of the salary that is earned by other employees that are Rubinian nationals. When he complains about this, he is told mockingly by the manager: 'What are you going to do? Work as an IT consultant?' Jean complains to the authorities and is immediately fired from his job for 'stirring up unnecessary trouble with other employees'. Due to staff shortages and budgetary cuts, the authorities end up investigating the

complaint three years later, by which time all witnesses claim to have forgotten the exchange between Jean and his manager.

Kuda is a good friend of Jean. He is a national of Rubinia and although not a person of African descent, he has a darker complexion. The manager mistakenly thinks that he was also a refugee, getting paid a reduced salary and is also planning to complain to the authorities. Just to be on the safe side, he fires him too.

Finally, Jean's wife, Ayshe, is a Muslim and wears the burqa. She wants to get a job as a receptionist, but she is told that she must have a university degree and an excellent command of the Rubinian language. This had not been part of the job advertisement that she had seen when applying for the job; it was mentioned for the first time during the interview. When she attempts to go to University and to enrol in language classes, she is told that one cannot be a student if they are wearing the burqa. As a result, she is unable to attend University. When leaving the University's administration office, she spots a poster that says 'This University supports "Radicals out of Rubinia"'. The poster prominently displays a picture of a woman wearing a burqa.

Advise the parties on whether and how they could rely on the Race Equality Directive.

#### Notes for persons delivering the topic:

Print out the scenario and give the printed copy to each of the participants to the class.

The following incidents are noteworthy from the scenario:

1. The fact that asylum seekers are not allowed to work at all, but they receive a monthly stipend instead. Connected to this is the fact that the monthly asylum seeker stipend is not enough for someone to live on.
  - The monthly stipend is necessary in terms of social protection, since asylum seekers are not allowed to work, so it is likely that it falls within the scope of the Directive.
  - The main question is whether Jean would be able to argue that the law that prevents asylum seekers from working is discriminatory. He is unlikely to be successful because (a) the Court in *Jyske Finans* made it clear that differences in treatment on the basis of nationality would not be caught by the Directive; (b) Article 3(2) of the Directive states that it is 'without prejudice to provisions and conditions relating to the entry into and residence of third country nationals and stateless persons on the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned'. On the other hand, some national courts have taken a more expansive approach because of the close

- statistical correlation between status as an asylum seeker and a person's race/ethnicity.
2. The fact that as a recognised refugee Jean is not allowed to work in any industry he wants.
    - Jean is now a recognised refugee and should be treated like any other Rubinian national, so there is evidence of direct discrimination.
    - According to *CHEZ Razpredelenie Bulgaria* the effect of the measure is important: the effect of this measure is to make refugees (the majority of whom fall in one of the protected groups) to be more vulnerable and likely to be exploited when looking for a job.
    - Is the justification provided a proportionate one? No, for several reasons: (a) it is unlikely that economic migrants will be able to abuse the system, since in order for someone to be recognised as a refugee, they must prove that they are at risk of persecution in their own country – simply being in a precarious economic situation in their country of origin is not enough to result in refugee status; (b) merely economic considerations are not enough to justify prima facie discriminatory practices.
  3. The fact that as a recognised refugee, Jean is getting paid significantly less than Rubinian nationals.
    - Clear evidence of direct discrimination for two reasons: (a) comparison between Jean's salary and that of a Rubinian national – here the use of statistics would be helpful, in order to show that this is a general practice, not one that is only affecting Jean; (b) manager's mocking comments provide evidence that this was a conscious strategy that was adopted to exploit the vulnerable situation of refugees.
  4. The fact that Jean is fired from his job when he attempts to complain for discriminatory payment practices.
    - This is evidence of victimisation that is prohibited under Article 10 of the Directive.
  5. The fact that the authorities significantly delayed in investigating the complaint for discriminatory payment practices.
    - This is a failure to prevent victimisation, which is again prohibited under Article 10 of the Directive. If it also a failure of the state to respond to allegations of direct discrimination in a timely and effective manner.
    - The budgetary constraints under which the government of Rubinia is operating cannot be used to justify these failures.
  6. The fact that Kuda, a Rubinian national and someone who is not a member of a protected group, has been fired on the mistaken belief that he is a member of a protected group.
    - This is again evidence of victimisation, even if in this case the employer mistakenly believed that he was targeting a member of a protected group. The important thing is that they believed that Kuda was in fact a member of a protected group.
  7. The fact that Ayshe is told, after being seen, that she had to have additional skills to the ones initially requested in order to get a job.
    - This is a case of indirect discrimination: a situation where seemingly reasonable and neutral requirements are used to marginalise a person from a protected group. Had the employer needed a potential employee to have excellent use of the language and



a university degree, they would have requested this in the advertisement. The only reason they added these requirements at a later point is because they wanted to make Ayshe ineligible for the position.

8. The fact that Ayshe is denied access to the University for wearing a burqa.
  - This is unlikely that this will result in a violation based on ECHR case law: *Leyla Sahin v. Turkey*, *Dogru v. France*, and *SAS v. France*.
9. The fact that the University is equating the burqa with radicals.
  - Evidence of hate speech and harassment.



# PRESERVE

Preventing Racism and Discrimination -  
Enabling the Effective Implementation of the  
EU Anti-Racist Legal Framework

PROJECT 101049763 - CERV-2021-EQUAL

# The provisions of the Victim's Rights Directive

## Part I - Curriculum for Legal Professionals

### *Topic 3*

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# Overview of the module



Overview of main aspects and terms of the Directive  
2012/29/EU



Application of the Directive 2012/29/EU across the EU  
(harmonization and recent national jurisprudence)



Case study: In the absence of harmonization/ Victim's Rights  
Directive



# Victims' needs

## Victims' rights in the EU

Every year, an estimated 15% of Europeans or 75 million people in the European Union fall victim to crime. More and more people are travelling, living or studying abroad in another EU country and can become potential victims of crime.

## Meet the needs of victims

- ⚖️ Respect and recognition
- ⚖️ Protection
- ⚖️ Support
- ⚖️ Access to justice
- ⚖️ Compensation and restoration






# The Victims' Rights Directive 2019/29/EU



The Victims' Rights Directive establishes minimum standards on the rights, support and protection of victims of crime and ensures that persons who have fallen victim to crime are recognized and treated with respect.



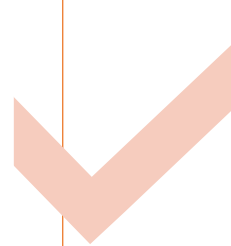
## Victims Directive - Achievements



Ensure minimum rights for all victims, all crimes



Recognize special needs of vulnerable victims



Ensure clear, concrete, enforceable obligations



# Victims Directive - Scope

- ⚖ Information
- ⚖ Interpretation and translation
- ⚖ Support
- ⚖ Protection
- ⚖ Participation in criminal proceedings
- ⚖ Training of practitioners
- ⚖ Coordination



# Introduction

- ⚖ The European Union has the objective of maintaining and developing an **area of freedom, security and justice**.
- ⚖ The Council has adopted Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings
- ⚖ Under the Stockholm Programme, adopted by the European Council on 2009, the Commission and the Member States were asked to examine how to improve legislation and practical support measures for the protection of victims
- ⚖ In 2011 the Council stated that action should be taken at Union level in order to strengthen the rights of, support for, and protection of victims of crime. [Resolution 2011 on a roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings (**‘the Budapest roadmap’**)].
- ⚖ **Legal basis:** Article 82(2) of the Treaty on the Functioning of the European Union (TFEU) provides for the establishment of minimum rules applicable in the Member States to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, in particular with regard to the rights of victims of crime.



## Article 82(2) of the Treaty on the Functioning of the European Union (TFEU)

1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws [..]

2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, the European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States.

They shall concern:

[..]

(c) the rights of victims of crime; [..]

Adoption of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.



**Article 1 - Objectives**

- ⚖ To ensure that victims of crime receive appropriate information, support and protection and are able to participate in criminal proceedings.
- ⚖ That victims are recognized.
- ⚖ That victims are treated in a respectful, sensitive, tailored, professional and non-discriminatory manner regardless of victims' nationality or residence status.
- ⚖ By victim support or restorative justice services or a competent authority, operating within the context of criminal proceedings.
- ⚖ The child's best interests shall be a primary consideration and shall be assessed on an individual basis. A child-sensitive approach, taking due account of the child's age, maturity, views, needs and concerns, shall prevail. The child and the holder of parental responsibility or other legal representative, if any, shall be informed of any measures or rights specifically focused on the child.



## Article 2 - Definitions

### **‘victim’ means:**

- ⚖ a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;
- ⚖ 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;

**‘family members’** means the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim;

**‘child’** means any person below 18 years of age;

**‘restorative justice’** means 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.



**Article 3 - Right to understand and to be understood**

- ⚖ From the first contact and during any further necessary interaction they have with a competent authority in the context of criminal proceedings [Art. 3 (1)]
- ⚖ In simple and accessible language, orally or in writing. [Art. 3 (2)]
- ⚖ Right to be accompanied by a person of the victim's choice in its first contact with the authorities if assistance is needed due to the impact of the crime or if the victim has difficulties understanding proceedings or to be understood.
- ⚖ Communication safeguards apply to the following rights of the victims:

**Articles 4 - Right to receive information**

**Article 5 - Right to receive written acknowledgement of the complaint and right to receive a translation of the written acknowledgement, right to make the complaint in a language that they understand**

**Article 6 - Right to receive information about their case**

**Article 7 - Right to interpretation and translation**





**Article 4 - Right to receive information from the first contact with a competent authority**

All victims of crime have a right on first contact with the competent authority, without unnecessary delay, to the following information:

- a) the type of **support** they can obtain and from whom → Link to Art. 8, access to victim support services
- b) the **procedures** for making complaints and their role → in line with Recital 20
- c) how they can obtain **protection**, including **protection measures** → Link to the European Protection Order and mutual recognition of protection measures in civil matters.
- d) access to **legal advice, legal aid** and any other sort of advice;
- e) access to **compensation**
- f) access to **interpretation and translation**
- g) access to available **special measures**, if they **are resident in a Member State other** than that where the criminal offence was committed
- h) available **complaints** where their rights are not respected
- i) **contact details** for communications about their case;
- j) available **restorative justice services**;
- k) Available **reimbursement of expenses** of their participation in the criminal proceedings.



## Further rights of information and support to victims

- ⚖ To make a formal complaint, if needed with linguistic assistance and receive written acknowledgement [Art. 5]
- ⚖ To receive information about the case's progress [Art. 6] → Link to Article 11 (Rights in the event of a decision not to prosecute)
- ⚖ Right to interpretation and translation [Art. 7] Conditions:
  - For victims with a formal role in proceedings
  - Upon request of the victim and decision taken by the authority
  - Free of charge and for a broad set of procedural actions: it covers contacts with investigative and judicial authorities from first interview/hearing throughout investigation to trial. [Recital 34]
- ⚖ Right to access victim support services [Article 8] → Link to Article 9 Support from victim support services. "Member States shall ensure that access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority". [Article 8 (5)]



- ⚖️ **Right to be heard** [Article 10] → Link to Article 25, **training** for practitioners, judges and prosecutors handling the questioning of victims]
- ⚖️ Right to a **review** of a decision not to prosecute [Article 11]
- ⚖️ **Protection from** secondary and repeat **victimisation**, from intimidation and from retaliation in restorative justice services. [Article 12].
- ⚖️ Right to **legal aid** [Article 13].
- ⚖️ Right to **reimbursement of expenses** [Article 14]
- ⚖️ Right to the **return of property** [Article 15]
- ⚖️ Right to decision on **compensation from the offender** in the course of criminal proceedings [Article 16]



**Request for a preliminary ruling from the Tribunale di Bari**

In this case, the composition of the panel of judges has been changed during the trial and the victim was requested to testify again.

**Article 16 (compensation within a reasonable time)**

The ECJE ruled that fresh examination of the victim in the event of a change in the composition of the panel of judges before which he or she originally gave evidence does not, in itself, mean that a decision cannot be given on compensation for that victim within a reasonable time. (§ 48)



### Article 17 - Rights of victims resident in another Member State

Member States shall ensure that :

- ⚖ the competent authority takes a statement from the victim immediately after the complaint
- ⚖ the authorities have recourse to the extent possible to the provisions on video conferencing and telephone conference calls laid down in the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 (17) for the purpose of hearing victims who are resident abroad.
- ⚖ The victim may lodge a complaint in his/her State of residence:
  - a) if the victim was not able to do so in the State where the crime was committed (e.g. due to administrative, legal or personal constraints)
  - b) if the victim simply does not wish to do so in case of serious offences.
- ⚖ the complaint must be transmitted from the State of residence to the State where the crime occurred without delay (unless the competent authorities in the State of residence have already exercised their national competence to prosecute).



## Protection of victims

### **Right to protection [Article 18]**

Without prejudice to the rights of the defence, Member States shall ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, including against the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying. When necessary, such measures shall also include procedures established under national law for the physical protection of victims and their family members.

### **Right to avoid contact between victim and offender [Article 19]**

1. Member States shall establish the necessary conditions to enable avoidance of contact between victims and their family members, where necessary, and the offender within premises where criminal proceedings are conducted, unless the criminal proceedings require such contact.
2. Member States shall ensure that new court premises have separate waiting areas for victims.



## Case C-38/18 Criminal procedure against Massimo Gambino and Shpetim Hyka

**Article 18 (protection):** The ECJE ruled that it does not follow from the wording of that article that the EU legislature included, among the measures designed to protect the victim of a criminal offence, provision for limiting examination of the victim to a single occasion during the judicial proceedings. (§ 51).

“Consequently, it should be noted that Article 18 of Directive 2012/29 does not in principle preclude, in the event of a change in the composition of the panel of judges, the victim of a criminal offence being examined again by that panel at the request of one of the parties to the proceedings”. (§ 54)

**Article 18 (protection):** “However, it follows from the case-law of the European Court of Human Rights that, in order to determine whether it is possible to use the written record of a victim’s statement in evidence, Member States should examine whether hearing the testimony of the victim is likely to be decisive for purposes of the defendant’s trial and to ensure by means of strong procedural safeguards that the taking of evidence in the context of criminal proceedings does not prejudice the fairness of those proceedings for the purposes of the second paragraph of Article 47 of the Charter or the rights of the defence for the purposes of Article 48(2) of the Charter”. (§ 55)

The referring court should therefore examine whether, in the case in the main proceedings, particular circumstances such as those referred to in the preceding paragraph might lead to the victim of the criminal offence in question not being required to testify again”. (§ 56)



**📄 Right to protection during criminal investigations [Article 20]**

Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that during criminal investigations:

- a) interviews of victims are conducted without unjustified delay after the complaint with regard to a criminal offence has been made to the competent authority
- b) the number of interviews of victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation
- c) victims may be accompanied by their legal representative and a person of their choice, unless a reasoned decision has been made to the contrary
- d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.

**📄 Right to protection of privacy [Article 21]**

Measures to protect the privacy may be taken, including personal characteristics of the victim, and images of victims and of their family members.

In case of a child victim, all lawful measures should be taken to prevent public dissemination of any information that could lead to the identification of the child.

In order to protect the privacy, personal integrity and personal data of victims, Member States shall, with respect for freedom of expression and information and freedom and pluralism of the media, encourage the media to take self-regulatory measures. → ethical conduct towards victims





**Article 22 - Individual assessment of victims to identify specific protection needs**

- ⌚ timely and individual assessment, to identify specific protection needs of the victim
- ⌚ determination whether and to what extent the victim should benefit from special measures (provided for under Articles 23 and 24), due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation and due to: a) the personal characteristics of the victim b) the type or nature of the crime c) the circumstances of the crime.

Victims of: → terrorism → organised crime → human trafficking → gender-based violence → violence in a close relationship → sexual violence → exploitation or hate crime → victims with disabilities shall be duly considered.

**Child victims** shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.

Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures. If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.



**Article 22 (individual assessment):** “It should be added that, in the event of it being decided that the victim should testify before the panel of judges in its new composition, the competent national authorities must, under Article 22 of Directive 2012/29, conduct an individual assessment of that victim to identify his specific protection needs and, where appropriate, to afford him the protection measures provided for in Articles 23 and 24 of that directive”. (§ 57)

“The referring court must therefore ensure that the victim in the main proceedings has no specific protection needs during the criminal proceedings”.



**Article 23 – Right to protection of victims with specific protection needs during criminal proceedings**

A. During criminal investigations the following measures shall be available:

- ☐ interviews with the victim being carried out in premises designed or adapted for that purpose;
- ☐ interviews with the victim being carried out by or through professionals trained for that purpose;
- ☐ all interviews with the victim being conducted by the same persons unless this is contrary to the good administration of justice;
- ☐ all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, being conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced.

B. During court proceedings the following measures shall be available:

- ☐ measures to avoid visual contact between victims and offenders including during the giving of evidence, by appropriate means including the use of communication technology;
- ☐ measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology;
- ☐ measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; and
- ☐ measures allowing a hearing to take place without the presence of the public.



**Article 24 - Right to protection of child victims during criminal proceedings**

1. In addition to the measures provided for in Article 23;

a) in criminal investigations, all interviews with the child victim may be audiovisually recorded and such recorded interviews may be used as evidence in criminal proceedings

b) in criminal investigations and proceedings, in accordance with the role of victims in the relevant criminal justice system, competent authorities appoint a special representative for child victims where, according to national law, the holders of parental responsibility are precluded from representing the child victim as a result of a conflict of interest between them and the child victim, or where the child victim is unaccompanied or separated from the family;

c) where the child victim has the right to a lawyer, he or she has the right to legal advice and representation, in his or her own name, in proceedings where there is, or there could be, a conflict of interest between the child victim and the holders of parental responsibility.

The procedural rules for the audiovisual recordings referred to in point (a) of the first subparagraph and the use thereof shall be determined by national law.

2. Where the age of a victim is uncertain and there are reasons to believe that the victim is a child, the victim shall, for the purposes of this Directive, be presumed to be a child.



## Problematic access of victims of crime's access to qualified professionals

- ❑ This is relevant for professionals in support services and professional translators and interpreters. There is a lack of professional translators and interpreters (Article 5).
- ❑ Access to certain rights – interpretation and translation (Article 7) and the rights of victims residing in another Member State (Article 17) – is hampered by practical difficulties.
- ❑ Financial issues had a particular impact on access to adequate support services (Article 8) and the right to legal aid (Article 13).
- ❑ Training of practitioners who work with victims of crime is necessary in order to implement Articles 6 (receive information about a case), 10 (right to be heard) and 22 (individual assessment) and the identification and protection of victims with special protection needs.



## Main challenges in the protection of victims in EU



- ❑ Victims of domestic violence; provision of effective assistance is hindered by many practical and legal obstacles. The **pandemic situation** became a worsening factor for victims with special needs.
- ❑ **Terrorism**; remains a major concern in many EU states
- ❑ **Migrants and asylum seekers**; Third country nationals remain vulnerable to crime and face practical and legal obstacles in accessing justice and support services and they are on a vulnerable situation. Parallel, there is a rise of hate crimes and xenophobia.
- ❑ **Russian war of aggression against Ukraine**; The war has destroyed people's lives, leaving death and victims behind. EU legislation on victims' rights will ensure that the specific needs of victims who are fleeing from war, such as the right to assistance, support and protection, are met.



### Does the Directive cover legal persons?

- The concept of victim for the purposes of the Council Framework Decision 2001/220/JHA does not include legal persons who have suffered direct harm by violations of the criminal law in a Member State (C-467/05, Dell’Orto, C-205/09, Eredics).
- In relation to the Directive the CJEU ruled that it not apply to legal persons or to the State, even if national law confers on them the status of injured party in criminal proceedings. (C-603/19 Criminal proceedings against TG and UF § 46).
- However, Member States may choose to apply the standards set out in the Directive to legal persons.

### Is restorative justice obligatory?

- The CJEU, interpreting Article 10 Council Framework Decision 2001/220/JHA on mediation, has confirmed that Member States are not obliged to use mediation/restorative justice for all offences (CJEU rulings in cases C-205/09 Eredics and Joined Cases C 483/09 and C 1/10 Gueye/Sanchez).



**Other EU acts in the area of victims' rights**

- ☞ Compensation Directive; Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims
- ☞ Regulation (EU) 606/2013 on mutual recognition of protection measures in civil matters
- ☞ Directive 2011/99/EU on the European protection order;

**Other acts of EU law for victims of particular types of crime**

- ☞ Other EU law which complements and builds on the Victims' Rights Directive.
- ☞ Victims of terrorism; Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA
- ☞ Victims of trafficking in human beings; Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA
- ☞ Child victims of sexual exploitation; Directive 2011/93/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,
- ☞ Victims of non-cash payment fraud; Directive (EU) 2019/713 of the European Parliament and of the Council of 17 April 2019 on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA, PE/89/2018/REV/3





**EU Strategy on victims' rights (2020-2025)**

In 2020, the Commission published for first time the EU Strategy on victims' rights (2020-2025); The main objective of the strategy is to ensure that all victims of all crime, no matter where in the EU or in what circumstances the crime takes place, can fully rely on their rights.

The key priorities include: (i) effective communication with victims and a safe environment for victims to report crime; (ii) improving support and protection to the most vulnerable victims; (iii) facilitating victims' access to compensation. The key priorities aimed at working together on victims' rights are: (i) strengthening cooperation and coordination among all relevant actors; and (ii) strengthening the international dimension of victims' rights.

**Other relevant EU strategies:** Gender Equality Strategy 2020-2025, Strategy on the rights of the child, Strategy on European judicial training, LGBTI+ Equality Strategy, EU Anti-racism Action Plan 2020-2025, EU updated framework for Roma equality, inclusion and participation, Strategy for the Rights of Persons with Disabilities 2021-2030, Security Union Strategy, The strategic approach towards the eradication of trafficking in human beings, The Strategy for a more effective fight against child sexual abuse

**New Initiative for EU Legislation**

On 8 March 2022, the Commission presented a proposal for a Directive on combating violence against women and domestic violence; Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence, COM/2022/105 final





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**Explanatory text for the trainers****SLIDE 1**

**Title:** The provisions of the Victims' Rights Directive

Trainer: the title and the aim of the seminar is introduced.

References should be made;

- 1) To PRESERVERE project: Preventing Racism and Discrimination –Enabling the Effective Implementation of the EU Anti-Racist Legal Framework
- 2) To one of the main aims of the Directive; Officials and professionals involved in criminal proceedings who are likely to come into personal contact with victims should be able to access and receive appropriate initial and ongoing training, to a level appropriate to their contact with victims, so that they are able to identify victims and their needs and deal with them in a respectful, sensitive, professional and non-discriminatory manner (Rec. 61, Art. 25)

**SLIDE 2**

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1

**Title:** Overview of the module

Trainer: The overview of the module is introduced.

The Victims' Rights Directive is a piece of legislation that sets out minimum standards for the rights, support, and protection of victims of crime in the European Union.

The training module will cover a range of topics related to the directive, including:

- 1) Overview of main aspects and terms of the Directive 2012/29/EU: What is the directive, and what are its key provisions?
- 2) Application of the Directive 2012/29/EU across the EU (harmonization and recent national jurisprudence): The implementation of the directive has led to significant changes in national legislation and practice across the EU. For example, many member states have introduced new laws or amended existing ones to ensure that victims are informed about their rights and the progress of their case, and to provide them with greater access to support services such as counseling and legal assistance. In addition to harmonization, there have been recent

developments in national jurisprudence that have influenced the application of the directive across the EU. For instance, the Court of Justice of the European Union (CJEU) has issued a number of rulings related to the interpretation and implementation of the directive, which have been binding on all member states.

- 3) Case study: In the absence of harmonization/ Victim's Rights Directive: The case study illustrates the need for harmonization at the EU level to ensure that all victims receive a minimum level of protection, support, and rights, regardless of where they are located in the EU.

### SLIDE 3

**Title:** Victims' needs

Victims of crime have a range of needs that must be addressed in order to support their recovery and help them cope with the effects of the crime. These needs can be grouped into several broad categories:

- Respect and recognition: Victims of crime have the right to be treated with dignity and respect throughout the criminal justice process.
- Protection: Victims of crime may fear further harm and require protection and security measures to ensure their safety.
- Support: Victims of crime may require emotional support, counseling, and therapy to help them cope with the emotional effects of the crime.
- Access to justice: Victims of crime have the right to participate in the criminal justice process and have their voices heard.
- Compensation and restoration: Victims of crime may suffer financial losses or other harms as a result of the crime.

2

### SLIDE 4

**Title:** The Victims' Rights Directive 2019/29/EU

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.

The Directive is part of the EU legal framework for victims' rights. It reinforces existing national measures with EU-wide minimum standards on the rights, support and protection of victims of crime in every EU country. It aims to:

- **strengthen the rights of all victims of any crime**, in order to achieve
- **the same basic level of rights**
- **whatever the nationality of the victim(s)**
- **wherever in the EU the crime took place.**

Trainer: In this part the title and the main aim of the Directive is addressed. It should be specifically mentioned that the Directive brought about major changes in the EU legal framework for victims' rights.

Member States should ensure that rights set out in this Directive are not made conditional on the victim having legal residence status on their territory or on the victim's citizenship or nationality (see also Recital 10). Thus, third country nationals and stateless persons who have been victims of crime on EU territory should benefit from the right to information, support and protection.

This may be of particular importance in the context of racist and xenophobic hate crimes and gender based violence against undocumented migrant women and girls. However, reporting a crime and participating in criminal proceedings do not create any rights regarding the residence status of the victim (as per the Directive)

Thus, under the Directive, a victim of crime does not have a right to residence but the right to information, support and protection. Many EU Member States provide for residence permits as per national law to victims of specific categories of crime (eg domestic violence victims)

In this regard reference should be made to Rec. 18 of the Directive "Where violence is committed in a close relationship, it is committed by a person who is a current or former spouse, or partner or other family member of the victim, whether or not the offender shares or has shared the same household with the victim. Such violence could cover physical, sexual, psychological or economic violence and

could result in physical, mental or emotional harm or economic loss. Violence in close relationships is a serious and often hidden social problem which could cause systematic psychological and physical trauma with severe consequences because the offender is a person whom the victim should be able to trust. Victims of violence in close relationships may therefore be in need of special protection measures. Women are affected disproportionately by this type of violence and the situation can be worse if the woman is dependent on the offender economically, socially **or as regards her right to residence**".

In the end of this part we can refer to the fact that many professionals involved in criminal proceedings still consider that victims of crime have the rights as per the respective national law. This brings us to the following 2 slides (3 and 4) that explain the competence of the EU.

## SLIDE 5

### **Title:** Victims Directive - Achievements

The Victims' Rights Directive has been a significant achievement in improving the protection and support provided to victims of crime across the EU, and has helped to ensure that victims are treated with dignity, respect, and compassion throughout the criminal justice process.

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4

The key achievements of the Victims' Directive are related to:

- 1) Ensure minimum rights for all victims, all crimes: The Victims' Rights Directive ensures that all victims of crime, regardless of the type of crime or their personal circumstances, receive a minimum level of protection and support throughout the criminal justice process.
- 2) Recognize special needs of vulnerable victims: The Victims' Rights Directive recognizes that certain victims of crime, such as children, victims of gender-based violence, victims of human trafficking, and victims with disabilities, may have specific needs and require special protection and support. The directive requires member states to take into account the special needs of vulnerable victims when providing support and protection, and to ensure that these victims receive the assistance they require to participate in the criminal justice process. For example, the directive requires member states to ensure that child victims are interviewed in a child-friendly manner, that victims of gender-based violence have access to specialized support services, such as shelters and hotlines, and that victims with disabilities have access to communication aids and other forms of support to help them participate in the criminal

justice process. In addition, the directive requires member states to ensure that victims of crime are treated with sensitivity, respect, and compassion, and that they are not subject to further victimization or stigmatization due to their status as a victim. This is particularly important for vulnerable victims who may be more at risk of being re-victimized or marginalized due to their circumstances.

- 3) Ensure clear, concrete, enforceable obligations: The Victims' Rights Directive ensures clear, concrete, and enforceable obligations on member states to protect and support victims of crime. The directive creates specific obligations on member states to provide victims with certain types of support and protection, such as access to information, protection from intimidation and retaliation, and the right to participate in criminal proceedings. These obligations are concrete and measurable, which means that member states can be held accountable if they fail to meet them. Also, the directive provides for remedies in case member states fail to meet their obligations. Victims can file complaints and seek redress if they believe their rights have been violated, and member states can face legal action if they fail to comply with the directive. Finally, the directive requires member states to monitor their compliance with the directive and to report regularly to the European Commission on their progress. This helps to ensure that member states are held accountable for meeting their obligations and that the directive is being implemented effectively across the EU.

## SLIDE 6

### **Title:** Victims Directive - Scope

- 1) Information: The directive ensures that victims of crime have access to clear and comprehensive information about their rights and the criminal justice process. This includes information about the progress of the investigation, the outcome of the case, and the available support services. The directive requires member states to provide this information in a timely and accessible manner, taking into account the needs of vulnerable victims.
- 2) Interpretation and translation: The directive ensures that victims who do not speak the language of the criminal proceedings are able to understand and participate in the process. The directive requires member states to provide interpretation and translation services free of charge to victims who need them, and to ensure that the quality of these services is high.

- 3) **Support:** The directive ensures that victims of crime have access to the support services they need to recover from the effects of the crime. This includes access to victim support services, counseling, medical care, and other forms of support. The directive requires member states to provide these services free of charge to victims, regardless of the type of crime they have experienced.
- 4) **Protection:** The directive ensures that victims of crime are protected from further harm, such as intimidation, retaliation, or harassment. The directive requires member states to take measures to protect victims from such harm, including providing police protection and restraining orders where necessary.
- 5) **Participation in criminal proceedings:** The directive ensures that victims of crime have the right to participate in the proceedings and to have their views and concerns taken into account. This includes the right to make a statement, the right to attend hearings, and the right to request information about the case. The directive requires member states to ensure that victims are able to exercise these rights effectively.
- 6) **Training of practitioners:** The directive ensures that professionals involved in the criminal justice process, such as police officers, prosecutors, and judges, are trained to work effectively with victims of crime. This includes training on how to communicate with victims, how to identify and respond to the needs of vulnerable victims, and how to ensure that victims are able to participate in the proceedings.
- 7) **Coordination:** The directive ensures that different agencies and professionals involved in the criminal justice process work together effectively to support victims of crime. The directive requires member states to establish coordination mechanisms to ensure that victims are able to access the support and protection they need in a coordinated and timely manner.

## SLIDE 7

### **Title:** Introduction

→ The European Union has the objective of maintaining and developing an area of freedom, security and justice.



→ The European Union is committed to the protection of, and to the establishment of minimum standards in regard to, victims of crime and the Council has adopted Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings

→ Under the Stockholm Programme, adopted by the European Council on 2009, the Commission and the Member States were asked to examine how to improve legislation and practical support measures for the protection of victims

→ In 2011 the Council stated that action should be taken at Union level in order to strengthen the rights of, support for, and protection of victims of crime. [Resolution 2011 on a roadmap for strengthening the rights and protection of victims, in particular in criminal proceedings ('**the Budapest roadmap**')].

→ **Legal basis:** Article 82(2) of the Treaty on the Functioning of the European Union (TFEU) provides for the establishment of minimum rules applicable in the Member States to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, in particular with regard to the rights of victims of crime.

**Trainers:**

7

**Here the acts that led to the adoption of the Directive are presented.**

**The next slide is closely related for the presentation and comments can be made jointly.**

**The trainers explain that prior to the adoption of the Directive the European Commission was not able to initiate infringement proceedings under the Framework Decision. There was need for the implementation of dedicated victims-focused binding legislation.**

## SLIDE 8

**Title:** Article 82(2) of the Treaty on the Functioning of the European Union (TFEU)

(ex Article 31 TEU)

1. Judicial cooperation in criminal matters in the Union shall be based on the principle of mutual recognition of judgments and judicial decisions and shall include the approximation of the laws and regulations of the Member States in the areas referred to in paragraph 2 and in Article 83.

The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures to:

- (a) lay down rules and procedures for ensuring recognition throughout the Union of all forms of judgments and judicial decisions;
- (b) prevent and settle conflicts of jurisdiction between Member States;
- (c) support the training of the judiciary and judicial staff;
- (d) facilitate cooperation between judicial or equivalent authorities of the Member States in relation to proceedings in criminal matters and the enforcement of decisions.

2. To the extent necessary to facilitate mutual recognition of judgments and judicial decisions and police and judicial cooperation in criminal matters having a cross-border dimension, the European Parliament and the Council may, by means of directives adopted in accordance with the ordinary legislative procedure, establish minimum rules. Such rules shall take into account the differences between the legal traditions and systems of the Member States.

They shall concern:

- (a) mutual admissibility of evidence between Member States;
- (b) the rights of individuals in criminal procedure;
- (c) the rights of victims of crime;
- (d) any other specific aspects of criminal procedure which the Council has identified in advance by a decision; for the adoption of such a decision, the Council shall act unanimously after obtaining the consent of the European Parliament.

Adoption of the minimum rules referred to in this paragraph shall not prevent Member States from maintaining or introducing a higher level of protection for individuals.

#### **Trainers:**

The competence of the EU to legislate in the area of criminal procedure is often neglected by legal professionals. It is important to highlight that domestic criminal procedures should comply with international and EU law. We explain to the professionals that all issues of competence are explicitly

mentioned in the preamble of the Directives. We note the importance of reading the text of the EU legislative texts parallel to the legislative acts adopted by EU Member States to transpose a Directive.

Specifically in the sphere of rights and procedural guarantees afforded to victims of crime, national transposition is complex as many provisions of the Directive were either already part of national law or have been transposed in domestic legislation in different domestic legislative acts (in the code of criminal procedure, and/or in the criminal code and/or in other laws).

Article 82 (par. 1 -2) of the Treaty on the Functioning of the European Union (TFEU) is presented in order to enhance the understanding of the trainees in relation to the legal basis of EU secondary legislation such as the Victims Rights Directive.

It is important in this part that the participants clarify that victims' rights are an EU and not just a national issue. It can be helpful to repeat that as per Art. 82 (2) TFEU the Directive sets minimum standards and Member States can "maintain or introduce a higher level of protection for individuals". This is explicitly stated in the title of the Directive and on rec. 11 "This Directive lays down minimum rules. Member States may extend the rights set out in this Directive in order to provide a higher level of protection". Only the higher level of protection to victims of crime remains a national issue.

## SLIDE 9

**Title:** Victims Directive – Article 1

(Recitals 9-14)

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

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

2. Member States shall ensure that in the application of this Directive, where the victim is a child, the **child's best interests shall be a primary consideration** and shall be assessed on an individual basis. A child-sensitive approach, taking due account of the child's age, maturity, views, needs and concerns,

shall prevail. The child and the holder of parental responsibility or other legal representative, if any, shall be informed of any measures or rights specifically focused on the child.

Trainers:

Article 1 sets the general objectives of the Directive. Member States should ensure that the national criminal justice system recognises the victim as an individual with individual needs, with a key role in the criminal proceedings, while ensuring the fair trial principle and bearing in mind that the rights set out in the Directive are without prejudice to the rights of the offender.

## SLIDE 10

**Title:** Victims Directive – Article 2

‘victim’ means:

→ a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence;

regardless of whether an offender is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between them (Recital 19).

→ 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;

‘family members’ means the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim;

‘child’ means any person below 18 years of age;

‘restorative justice’ means 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.

Trainer: in this part we explain the main concepts of the Directive.

We note the importance of the recognition of the victim, in order for the individual concerned to access the rights under the Directive. The Directive has harmonized the definition of a victim

throughout the EU. Some countries, had not legislated for the definition of the victim and/or there are various definitions across the Member States of the EU.

We note that as per Art. 2 (2) Member States may establish procedures to limit the number of family members who may benefit from the rights set out in the Directive and/or to determine which family members have priority to exercise the rights. This will be done in the national transposition legislation. The criterion ‘committed intimate relationship, in a joint household and on a stable and continuous basis’ presupposes close emotional ties and financial interdependence between two persons (as if they were formally married). Member States should use inclusive definitions of ‘family members’ when it comes to the victim’s partners. Such definitions should include spouses, as well as unmarried partners, regardless of whether the partners are in a registered civil partnership under its national laws. Thus, Article 2 para 1(b) should apply in all Member States, regardless of the national legislation on the recognition of unmarried couples, same-sex couples and same sex marriages. (non – discrimination)

We explain also that the Directive does not define “complaint” [the concept is regulated by national laws of the Member States]

## SLIDE 11

**Title:** Victims Directive – Articles 3-7

→ From the first contact and during any further necessary interaction they have with a competent authority in the context of criminal proceedings [Art. 3 (1)]

→ In simple and accessible language, orally or in writing. [Art. 3 (2)]

→ Right to be accompanied by a person of the victim’s choice in its first contact with the authorities if assistance is needed due to the impact of the crime or if the victim has difficulties understanding proceedings or to be understood.

Communication safeguards apply to the following Articles:

→ Articles 4 right to receive information

→ Article 5 right to receive written acknowledgement of the complaint and right to receive a translation of the written acknowledgement, right to make the complaint in a language that they understand

→ Article 6 right to receive information about their case

→ Article 7 Right to interpretation and translation

Trainer: Article 3 clarifies ‘communication safeguards’ in detail and is linked to other rights of the Directive. The Directive seeks to ensure that victims — based on their personal characteristics (e.g. gender, disability, age, maturity, relationship to or dependence on the offender) — understand and can make themselves understood during criminal proceedings (linguistically or otherwise) and that authorities pro-actively assist victims to do so throughout criminal proceedings.

Article 3 (3) gives victims the right to be accompanied by a person of their choice in their first contact with the authorities if they need assistance due to the impact of the crime or if the victim has difficulties understanding proceedings or to be understood. It safeguards provision of practical assistance and moral support to the victim when reporting a crime. This right is provided in addition to the right to be accompanied under Article 20(c) [during criminal investigations: victims may be accompanied by their legal representative and a person of their choice, unless a reasoned decision has been made to the contrary;]. In the context of Art. 3 the victim can be accompanied by a person who voluntarily tries to help (eg an eye witness of a robbery)

## SLIDE 12

**Title:** Victims Directive – Article 4

All victims of crime have a right on first contact with the competent authority, without unnecessary delay, to the following information:

a) the type of support they can obtain and from whom, (access to medical support, any specialist support, including psychological support, and alternative accommodation)

→ Direct link to the right to access victim support services, Article 8

b) the procedures for making complaints with regard to a criminal offence and their role in connection with such procedures; [in line with Recital 20]

(Recital 20) “The role of victims in the criminal justice system and whether they can participate actively in criminal proceedings vary across Member States, depending on the national system, and is determined by one or more of the following criteria: whether the national system provides for a legal status as a party to criminal proceedings; whether the victim is under a legal requirement or is requested to participate actively in criminal proceedings, for example as a witness; and/or whether the victim has a legal entitlement under national law to participate actively in criminal proceedings and is seeking to do so, where the national system does not provide that victims have the legal status of a party to the criminal proceedings. Member States should determine which of those criteria apply to determine the scope of rights set out in this Directive where there are references to the role of the victim in the relevant criminal justice system”.

- c) how and under what conditions they can obtain protection, including protection measures; [Link to Directive 2011/99/EU on the European Protection Order and Regulation 606/2013/EU of the European Parliament and of the Council on mutual recognition of protection measures in civil matters].
- d) how and under what conditions they can access legal advice, legal aid and any other sort of advice;
- e) how and under what conditions they can access compensation;
- f) how and under what conditions they are entitled to interpretation and translation;
- g) if they are resident in a Member State other than that where the criminal offence was committed, any special measures, procedures or arrangements, which are available to protect their interests in the Member State where the first contact with the competent authority is made;
- h) the available procedures for making complaints where their rights are not respected by the competent authority operating within the context of criminal proceedings;
- i) the contact details for communications about their case;
- j) the available restorative justice services;
- k) how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed.

**Trainers:** In this part it is important to explain all rights set out above. The rationale behind this provision requires the criminal justice authorities to provide extensive information proactively ex officio, rather than the onus being on victims to seek out such information for themselves. Victims must be granted ‘effective access to information’.

The competent authority is not defined by the Victims Directive. According to the EU Commission Directorate-General Justice Guidelines “The term ‘competent authority’ is broader than the ‘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. This is particularly important in cases of trafficking in human beings (e.g. FRONTEX experience) or customs/smuggling offences. **Hospitals, employment centres and similar facilities should not be deemed competent authorities in criminal proceedings**”.

### SLIDE 13

**Title:** Further rights of information and support to victims

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→ to make a formal complaint, if needed with linguistic assistance and receive written acknowledgement [Art. 5]

→ To receive information about the case’s progress [Art. 6] → Link to Article 11 (Rights in the event of a decision not to prosecute)

→ Right to interpretation and translation [Art. 7]

- For victims with a formal role in proceedings
- Upon request of the victim and decision taken by the authority
- Free of charge and for a broad set of procedural actions: it covers contacts with investigative and judicial authorities from first interview/hearing throughout investigation to trial. [Recital 34]

“Justice cannot be effectively achieved unless victims can properly explain the circumstances of the crime and provide their evidence in a manner understandable to the competent authorities. It is equally important to ensure that victims are treated in a respectful manner and that they are able to access their rights. Interpretation should



therefore be made available, free of charge, during questioning of the victim and in order to enable them to participate actively in court hearings, in accordance with the role of the victim in the relevant criminal justice system. For other aspects of criminal proceedings, the need for interpretation and translation can vary depending on specific issues, the role of the victim in the relevant criminal justice system and his or her involvement in proceedings and any specific rights they have. As such, interpretation and translation for these other cases need only be provided to the extent necessary for victims to exercise their rights.”

→ Right to access victim support services [Article 8] → Link to Article 9 Support from victim support services

“Member States shall ensure that access to any victim support services is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority”. [Article 8 (5)]

#### **Trainers:**

**For Article 5:** The competent authority should assess whether the victim speaks and understands the language when making a complaint. In this part it is important to explain that Article 5 does not explicitly address an individual assessment procedure as in articles 7 and 22. In practice, however, in order to implement Art. 5 the authorities should act parallel to the procedures addressed in Art. 7 (right to interpretation and translation and 22 (individual assessment of victims to identify specific protection needs).

It should also be explained that in Article 5 the notion ‘linguistic assistance’ is more flexible than the stricter requirement for translation and interpretation in Article 7. A victim may be assisted under Article 5 by a person who speaks his/her language but who is not an official interpreter if this is deemed appropriate by the competent authorities, respecting the proper conduct of criminal proceedings and confidentiality. (eg a family member, friend or member of the community is used to help with interpreting when a victim is making a complaint). However, authorities are responsible to assess the risk of biased or incorrect interpretation by such a person before accepting such assistance.

Victims also have the right to request a translation of a written acknowledgement if they do not understand the language of the document. (Already explained in slide 7 in the presentation of Art. 3).

We can use this chance to explain that all rights set out to this Directive are linked to each other.

This translation must be provided free of charge in any language the victim understands (which does not, however, necessarily mean the victim's mother tongue).

**For Article 6:** Art. 6 (3) imposes an obligation to provide reasons or a brief summary of reasons for decisions to end proceedings (i.e. not to proceed with or to end investigations or not to prosecute the offender) or the final judgment. This is important to allow victims to access justice, to respect and recognize the victim. It is also a prerequisite in order for the victims to access their right to review a decision not to prosecute. This provision is linked to Article 11 (rights in the event not to prosecute).

**For Article 7:** See also Article 2 of the 2010 Directive on the right to interpretation and translation for suspects and accused persons ('Interpretation and Translation Directive'. Under EU Directives suspects and victims have similar interpretation and translation rights.

**For Article 8:** The right to support is one of the core rights in the Directive. It is closely linked to Article 9 (support from victim support services) in order to ensure that victims, or their family members, have access to confidential support services free of charge. These services include provision of information and advice, emotional and psychological support and practical assistance.

Support should be available from the moment the competent authorities are aware of the victim and throughout criminal proceedings and for an appropriate time after such proceedings in accordance with the needs of the victim and the rights set out in this Directive. Support should be provided through a variety of means, without excessive formalities and through a sufficient geographical distribution across the Member State to allow all victims the opportunity to access such services. Victims who have suffered considerable harm due to the severity of the crime could require specialist support services. [Recital 37]

Repeat referrals should be avoided. [Recital 38, 62]

Member States should encourage and work closely with civil society organisations, including recognised and active non-governmental organisations working with victims of crime. [...] public services should work in a coordinated manner and should be involved at all administrative levels — at Union level, and at national, regional and local level. Victims should be assisted in finding and addressing the competent authorities in order to avoid repeat referrals. Member States should consider developing 'sole points of access' or 'one-stop shops', that address victims' multiple needs when involved in criminal proceedings, including the need to receive information, assistance, support, protection and compensation.[Recital 62]

In order to encourage and facilitate reporting of crimes and to allow victims to break the cycle of repeat victimisation, it is essential that reliable support services are available to victims and that competent authorities are prepared to respond to victims' reports in a respectful, sensitive, professional and non-discriminatory manner. This could increase victims' confidence in the criminal justice systems of Member States and reduce the number of unreported crimes. Practitioners who are likely to receive complaints from victims with regard to criminal offences should be appropriately trained to facilitate reporting of crimes, and measures should be put in place to enable third-party reporting, including by civil society organisations. It should be possible to make use of communication technology, such as e-mail, video recordings or online electronic forms for making complaints. [Recital 63]

#### SLIDE 14

**Title:** Participation of victims in criminal proceedings

→ Right to be heard [Article 10] → Link to Article 25, training for practitioners, judges and prosecutors handling the questioning of victims]

→ Right to a review of a decision not to prosecute [Article 11]

→ Protection from secondary and repeat victimisation, from intimidation and from retaliation in restorative justice services. [Article 12].

→ Right to legal aid [Article 13].

→ Right to reimbursement of expenses [Article 14]

→ Right to the return of property [Article 15]

→ Right to decision on compensation from the offender in the course of criminal proceedings [Article 16]

Trainers:

For Article 10: Member States can implement the applicable procedural rules as per their national laws. The principles of judicial discretion and free assessment of evidence must be preserved.

For Article 11: The Directive respects national procedural autonomy and procedures for a review are left to national law. Right to review has been already been mentioned in Article 6 (regarding obligation to provide reasons for decision not to prosecute, mentioned in the previous slide).

For Article 12: Restorative justice services include victim-offender mediation, family group conferencing and sentencing circles. Such services may be attached to, running prior to, in parallel with or after criminal proceedings (pre-trial and post-trial). The purpose of this Article is to ensure that where such services are provided, safeguards are in place to ensure the victim is not further victimised as a result of the process. Participation of the victim should be voluntary, upon informed and free choice of the victim and should be confidential. Factors such as the nature and severity of the crime, the ensuing degree of trauma, the repeat violation of a victim's physical, sexual, or psychological integrity, power imbalances, and the age, maturity or intellectual capacity of the victim, which could limit or reduce the victim's ability to make an informed choice or could prejudice a positive outcome for the victim, should be taken into consideration in referring a case to the restorative justice services and in conducting a restorative justice process. Any agreement between the parties should be reached voluntarily.

The Directive does not oblige the Member States to introduce restorative justice services if they do not have such a mechanism in place in national law.

For Article 13: The Directive imposes a concrete obligation, for provision of legal aid 'where the victims have the status of parties in the criminal proceedings' and not 'when it is possible for them to have the status of parties'. National law must provide for the appropriate legal framework to ensure that victims have the right to legal aid.

For Article 14: The Article covers only necessary expenses when the victim is obliged or requested by the competent authorities to be present and actively participate in criminal proceedings. Legal fees should be covered by legal aid.

For Article 15: Recoverable property which is seized in criminal proceedings should be returned as soon as possible to the victim of the crime. National law determines the conditions or procedural rules under which such property is returned to the victims.

For Article 16: The Article only deals with compensation from the offender, and not from the State. A victim is entitled to obtain a decision on compensation by the offender within a reasonable time in the course of criminal proceedings, except where national law provides for such a decision to be made

in other legal proceedings. Member States are also asked to encourage offenders to pay compensation to victims.

### SLIDE 15

#### **Title: Case C-38/18 Criminal procedure against Massimo Gambino and Shpetim Hyka**

In this case, the composition of the panel of judges has been changed during the trial and the victim was requested to testify again.

Article 16 (compensation within a reasonable time): The ECJE ruled that fresh examination of the victim in the event of a change in the composition of the panel of judges before which he or she originally gave evidence does not, in itself, mean that a decision cannot be given on compensation for that victim within a reasonable time. (§ 48)

### SLIDE 16

#### **Title: Victims Directive – Article 17**

Member States shall ensure that :

- the competent authority takes a statement from the victim immediately after the complaint
- the authorities have recourse to the extent possible to the provisions on video conferencing and telephone conference calls laid down in the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 (17) for the purpose of hearing victims who are resident abroad.
- The victim may lodge a complaint in his/her State of residence:
  - a) if the victim was not able to do so in the State where the crime was committed (e.g. due to administrative, legal or personal constraints)
  - b) if the victim simply does not wish to do so in case of serious offences.
- the complaint must be transmitted from the State of residence to the State where the crime occurred without delay (unless the competent authorities in the State of residence have already exercised their national competence to prosecute).

Trainers: In relation to support services, Recital 51 clarifies this obligation: If the victim has left the territory of the Member State where the criminal offence was committed, that Member State should no longer be obliged to provide assistance, support and protection other than in direct relation to any criminal proceedings (such as special protection measures during court proceedings). The Member State in which the victim resides should provide assistance, support and protection required for the victim's need to recover. Therefore, the obligation to provide support for non-resident victims is 'shared' between the two Member States.

### SLIDE 17

**Title:** Victims Directive – Articles 18-19

→ **Right to protection [Article 18]**

Without prejudice to the rights of the defence, Member States shall ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, including against the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying. When necessary, such measures shall also include procedures established under national law for the physical protection of victims and their family members.

→ **Right to avoid contact between victim and offender [Article 19]**

1. Member States shall establish the necessary conditions to enable avoidance of contact between victims and their family members, where necessary, and the offender within premises where criminal proceedings are conducted, unless the criminal proceedings require such contact.
2. Member States shall ensure that new court premises have separate waiting areas for victims.

Trainers:

For Article 18: Such protection measures can include as interim injunctions or protection/restraining orders. The protection obligation has a wide scope and requires a holistic approach in relation to the range of protection measures needed to protect victims and their family members. Protection of the victim's dignity entails adopting measures guiding the behaviour of professionals in contact with victims, and ensuring that victims are treated in a sensitive and professional manner in accordance

with their needs. It also includes ensuring that disclosure procedures are limited to disclosing only information relevant to the case.

Protection from secondary victimization may entail limiting intrusive questions, ensuring that only questions that are of interest and importance to the case in hand are asked during questioning and cross-examination. In order to protect the dignity of victims during questioning other measures may include limits on the number of times a victim can be questioned, the manner in which criminal justice professionals ask questions and ensuring that victims are respected and recognised as victims throughout the criminal justice process.

Protection from repeat victimisation applies to all victims. However it is of particular importance in situations of gender-based violence and violence in close relationships. Physical protection from intimidation and retaliation may include measures such as the ones of Article 19.

The Directive does not cover witness protection per se.

Furthermore, Article 18 does not harmonise the types of national protection orders. Other EU legislation could be used as guidance, such as Article 5 of the Directive 2011/99/EU on the European Protection Order ('EPO Directive') and Article 3(1) of the Regulation 606/2013/EU on the mutual recognition of protection measures in civil matters ('EPO Civil Regulation') (i.e. (a) prohibition from entering certain localities, places or defined areas where the protected person resides or visits; (b) prohibition or regulation of contact, in any form, with the protected person; (c) prohibition or regulation on approaching the protected person more closely than a prescribed distance).

For the application of the protection of Article 18 an individual assessment is necessary.

The reference 'without prejudice to the rights of defence' should be interpreted strictly proportionately. Rules on interpretation should be developed to ensure transparency and avoid decisions on an arbitrary basis.

For Article 19: The Directive requires that contact be avoided in all premises involved in criminal proceedings (i.e. including police stations, prosecutors' offices and court premises). In court buildings and police stations, separate entrances and waiting areas for victims should be provided. All new court premises have to designate separate waiting areas for victims.

Member States should, to the extent possible, plan the criminal proceedings so that contacts between victims and their family members and offenders are avoided, such as by summoning victims and offenders to hearings at different times.

The reference ‘unless the criminal proceedings require such contact’ should be interpreted strictly proportionately and only in cases where the victim’s interests are secondary to the interests of proceedings. National law should examine these cases in order to ensure transparency and avoid decisions on an arbitrary basis.

Protection rights continue to the next slide.

### SLIDE 18

**Title:** Case C-38/18 Criminal procedure against Massimo Gambino and Shpetim Hyka

Article 18 (protection): The ECJ ruled that it does not follow from the wording of that article that the EU legislature included, among the measures designed to protect the victim of a criminal offence, provision for limiting examination of the victim to a single occasion during the judicial proceedings. (§ 51).

“Consequently, it should be noted that Article 18 of Directive 2012/29 does not in principle preclude, in the event of a change in the composition of the panel of judges, the victim of a criminal offence being examined again by that panel at the request of one of the parties to the proceedings”. (§ 54)

“However, it follows from the case-law of the European Court of Human Rights that, in order to determine whether it is possible to use the written record of a victim’s statement in evidence, Member States should examine whether hearing the testimony of the victim is likely to be decisive for purposes of the defendant’s trial and to ensure by means of strong procedural safeguards that the taking of evidence in the context of criminal proceedings does not prejudice the fairness of those proceedings for the purposes of the second paragraph of Article 47 of the Charter or the rights of the defence for the purposes of Article 48(2) of the Charter”. (§ 55)

The referring court should therefore examine whether, in the case in the main proceedings, particular circumstances such as those referred to in the preceding paragraph might lead to the victim of the criminal offence in question not being required to testify again”. (§ 56)



**SLIDE 19**

**Title:** Victims Directive 20-21

**→ Right to protection during criminal investigations [Article 20]**

Without prejudice to the rights of the defence and in accordance with rules of judicial discretion, Member States shall ensure that during criminal investigations:

- a) interviews of victims are conducted without unjustified delay after the complaint with regard to a criminal offence has been made to the competent authority.
- b) the number of interviews of victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation
- c) victims may be accompanied by their legal representative and a person of their choice, unless a reasoned decision has been made to the contrary.
- d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.

**→ Right to protection of privacy [Article 21]**

Measures to protect the privacy may be taken, including personal characteristics of the victim, and images of victims and of their family members.

In case of a child victim, all lawful measures should be taken to prevent public dissemination of any information that could lead to the identification of the child.

In order to protect the privacy, personal integrity and personal data of victims, Member States shall, with respect for freedom of expression and information and freedom and pluralism of the media, encourage the media to take self-regulatory measures. → ethical conduct towards victims

Trainers:

For Article 20: This is a new right. These measures are set up in the Human Trafficking and Child Sexual Abuse Directives.

The purpose of this Article is to prevent secondary victimisation of all victims — not just vulnerable victims.

The right to be accompanied by a person of choice in paragraph 2 (c): The lawyer of the victim should be present at interviews. In addition, the victim should be able to bring a trusted person for moral support. Only in exceptional circumstances should the possibility to be accompanied by a person of the victim's choice be limited, and then only in relation to a specific person. If this happens, the victim should be able to choose another person. The limitation can take place for example when there is a conflict of interests (e.g. the chosen person is the offender, like in cases of domestic violence or child abuse where family members may also be the perpetrators) or for confidentiality concerns.

For Article 21: Recital 54: "Protecting the privacy of the victim can be an important means of preventing secondary and repeat victimisation, intimidation and retaliation and can be achieved through a range of measures including non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of the victim. Such protection is particularly important for child victims, and includes non-disclosure of the name of the child. However, there might be cases where, exceptionally, the child can benefit from the disclosure or even widespread publication of information, for example where a child has been abducted. Measures to protect the privacy and images of victims and of their family members should always be consistent with the right to a fair trial and freedom of expression, as recognised in Articles 6 and 10, respectively, of the European Convention for the Protection of Human Rights and Fundamental Freedoms".

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This Article is mainly based on CoE Recommendations (2006), which state: 'States should encourage the media to adopt and respect self regulation measures in order to protect victims' privacy and personal data',

## SLIDE 20

### **Title:** Victims Directive – Article 22

→ timely and individual assessment, to identify specific protection needs of the victim → determination whether and to what extent the victim should benefit from special measures ( provided for under Articles 23 and 24) , due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. Due to: a) the personal characteristics of the victim b) the type or nature of the crime c) the circumstances of the crime.

Victims of: → terrorism → organised crime → human trafficking → gender-based violence → violence in a close relationship → sexual violence → exploitation or hate crime → victims with disabilities shall be duly considered.

Child victims shall be presumed to have specific protection needs due to their vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.

Individual assessments shall be carried out with the close involvement of the victim and shall take into account their wishes including where they do not wish to benefit from special measures. If the elements that form the basis of the individual assessment have changed significantly, Member States shall ensure that it is updated throughout the criminal proceedings.

Trainers: in this regard we present how the safeguards of the Directive are applicable in practice through the individual assessment. The specific rights afforded to victims with specific protection needs are presented in the next slide.

## SLIDE 21

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**Title:** Case C-38/18 Criminal procedure against Massimo Gambino and Shpetim Hyka

Article 22 (individual assessment): “It should be added that, in the event of it being decided that the victim should testify before the panel of judges in its new composition, the competent national authorities must, under Article 22 of Directive 2012/29, conduct an individual assessment of that victim to identify his specific protection needs and, where appropriate, to afford him the protection measures provided for in Articles 23 and 24 of that directive”. (§ 57)

“The referring court must therefore ensure that the victim in the main proceedings has no specific protection needs during the criminal proceedings”.

Trainer: This case can be used in order to explain how claims in relation to protection needs of victims can be raised before the criminal proceedings

**SLIDE 22****Title:** Victims Directive – Article 23

During criminal investigations the following measures shall be available:

- a) interviews with the victim being carried out in premises designed or adapted for that purpose;
- b) interviews with the victim being carried out by or through professionals trained for that purpose;
- c) all interviews with the victim being conducted by the same persons unless this is contrary to the good administration of justice;
- d) all interviews with victims of sexual violence, gender-based violence or violence in close relationships, unless conducted by a prosecutor or a judge, being conducted by a person of the same sex as the victim, if the victim so wishes, provided that the course of the criminal proceedings will not be prejudiced;

A. During court proceedings the following measures shall be available:

- a) measures to avoid visual contact between victims and offenders including during the giving of evidence, by appropriate means including the use of communication technology;
- b) measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology;
- c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence;
- d) measures allowing a hearing to take place without the presence of the public.

Trainers: Upon individual assessment it will be determined whether a victim with specific needs should benefit from some or all of these measures. The wish of the victims should be taken into account. The extent of any such measure should be determined without prejudice to the rights of the defence and in accordance with rules of judicial discretion. The victims' concerns and fears in relation to proceedings should be a key factor in determining whether they need any particular measure.

“operational needs and constraints” are clarified in Recital 59.

“Immediate operational needs and constraints may make it impossible to ensure, for example, that the same police officer consistently interview the victim; illness, maternity or parental leave are

examples of such constraints. Furthermore, premises specially designed for interviews with victims may not be available due, for example, to renovation. In the event of such operational or practical constraints, a special measure envisaged following an individual assessment may not be possible to provide on a case-by-case basis". However, these situations should be only temporarily, due to exceptional circumstances in an individual case.

### SLIDE 23

#### Title: Victims Directive – Article 24

1. In addition to the measures provided for in Article 23, where the victim is a child:
  - a) in criminal investigations, all interviews with the child victim may be audiovisually recorded and such recorded interviews may be used as evidence in criminal proceedings;
  - b) in criminal investigations and proceedings, in accordance with the role of victims in the relevant criminal justice system, competent authorities appoint a special representative for child victims where, according to national law, the holders of parental responsibility are precluded from representing the child victim as a result of a conflict of interest between them and the child victim, or where the child victim is unaccompanied or separated from the family;
  - c) where the child victim has the right to a lawyer, he or she has the right to legal advice and representation, in his or her own name, in proceedings where there is, or there could be, a conflict of interest between the child victim and the holders of parental responsibility;

The procedural rules for the audiovisual recordings referred to in point (a) of the first subparagraph and the use thereof shall be determined by national law.

2. Where the age of a victim is uncertain and there are reasons to believe that the victim is a child, the victim shall, for the purposes of this Directive, be presumed to be a child.

Trainers: These measures are included in the Human Trafficking and Child Sexual Exploitation Directives, therefore there should already be structures in place to comply with these requirements. (Unfortunately, this is not the case for all Member States).

Measures to protect child victims shall be adopted in their best interests, taking into account an assessment of their needs.

Where, in accordance with this Directive, a guardian or a representative is to be appointed for a child, those roles could be performed by the same person or by a legal person, an institution or an authority.

If a child victim has to take part in criminal proceedings, this should, as far as possible, not cause further trauma as a result of interviews or visual contact with offenders. A good understanding of children and how they behave when faced with traumatic experiences will help to ensure high quality evidence-taking and reduce the stress on children while the necessary measures are carried out.

#### SLIDE 24

**Title:** Problematic access of victims of crime's access to qualified professionals

This is relevant for professionals in support services and professional translators and interpreters. There is a lack of professional translators and interpreters (Article 5).

Access to certain rights – interpretation and translation (Article 7) and the rights of victims residing in another Member State (Article 17) – is hampered by practical difficulties.

Financial issues had a particular impact on access to adequate support services (Article 8) and the right to legal aid (Article 13)

Training of practitioners who work with victims of crime is necessary in order to implement Articles 6 (receive information about a case), 10 (right to be heard) and 22 (individual assessment) and the identification and protection of victims with special protection needs.

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#### SLIDE 25

**Title:** Main challenges in the protection of victims in EU

Victims of domestic violence; provision of effective assistance is hindered by many practical and legal obstacles. The pandemic situation became a worsening factor for victims with special needs.

Terrorism; remains a major concern in many EU states

Migrants and asylum seekers; Third country nationals remain vulnerable to crime and face practical and legal obstacles in accessing justice and support services and they are on a vulnerable situation.

Parallel, there is a rise of hate crimes and xenophobia.

Russian war of aggression against Ukraine; The war has destroyed people's lives, leaving death and victims behind. EU legislation on victims' rights will ensure that the specific needs of victims who are fleeing from war, such as the right to assistance, support and protection, are met.

## SLIDE 26

**Title:** CJEU Case Law

Does the Directive cover legal persons?

The concept of victim for the purposes of the Council Framework Decision 2001/220/JHA does not include legal persons who have suffered direct harm by violations of the criminal law in a Member State (C-467/05, Dell'Orto, C-205/09, Eredics).

In relation to the Directive the CJEU ruled that it not apply to legal persons or to the State, even if national law confers on them the status of injured party in criminal proceedings. (C-603/19 Criminal proceedings against TG and UF § 46)

However, Member States may choose to apply the standards set out in the Directive to legal persons.

CJEU case law: Is restorative justice obligatory?

The CJEU, interpreting Article 10 Council Framework Decision 2001/220/JHA on mediation, has confirmed that Member States are not obliged to use mediation/restorative justice for all offences (CJEU rulings in cases C-205/09 Eredics and Joined Cases C 483/09 and C 1/10 Gueye/Sanchez).

Trainers: In this part it is important to highlight the importance of the reference for a preliminary ruling by national courts to the CJEU in order to have authoritative interpretation of EU law applicable in all EU Member States. According to the Member State where the training is taking place, it can be discussed with the participants if the respective national courts are using this process and how lawyers should request such referrals. It needs to be highlighted that this process is not for cases of clear breach of EU law but where interpretation is needed.

## SLIDE 27

**Title:** Other acts of EU law

Compensation Directive; Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims

Regulation (EU) 606/2013 on mutual recognition of protection measures in civil matters

Directive 2011/99/EU on the European protection order;

Other acts of EU law for victims of particular types of crime

Other EU law which complements and builds on the Victims' Rights Directive.

Victims of terrorism; Directive (EU) 2017/541 of the European Parliament and of the Council of 15 March 2017 on combating terrorism and replacing Council Framework Decision 2002/475/JHA and amending Council Decision 2005/671/JHA

Victims of trafficking in human beings; Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

Child victims of sexual exploitation; Directive 2011/93/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,

Victims of non-cash payment fraud; Directive (EU) 2019/713 of the European Parliament and of the Council of 17 April 2019 on combating fraud and counterfeiting of non-cash means of payment and replacing Council Framework Decision 2001/413/JHA, PE/89/2018/REV/3

Trainers: As it has already been illustrated, some rights and safeguards of the Directive have as a model other Directives for the protection of specific categories of victims (eg child sexual abuse), or refer to procedures (eg European Protection Order). Furthermore, many notions used by the Directive and the meaning of rights granted by its provisions can be better interpreted and/or invoked with an overall view on the developments on victims' rights. Victims' rights are envisaged in a set of binding and non binding legal tools in the EU which are presented here in order for the participants to have an holistic understanding. The extended personal scope of the Directive (victims of all crimes) renders the provisions of the Directive relevant to all these categories of EU acts.

Lawyers play a crucial role in the enforcement and proper implementation of EU law, specifically when rights of individuals are addressed.



**SLIDE 28**

**Title:** Other relevant EU strategies

In 2020, the Commission published for first time the EU Strategy on victims' rights (2020-2025); The main objective of the strategy is to ensure that all victims of all crime, no matter where in the EU or in what circumstances the crime takes place, can fully rely on their rights.

The key priorities include: (i) effective communication with victims and a safe environment for victims to report crime; (ii) improving support and protection to the most vulnerable victims; (iii) facilitating victims' access to compensation. The key priorities aimed at working together on victims' rights are: (i) strengthening cooperation and coordination among all relevant actors; and (ii) strengthening the international dimension of victims' rights.

Title: Other relevant EU strategies

Gender Equality Strategy 2020-2025

Strategy on the rights of the child,

Strategy on European judicial training

LGBTI+ Equality Strategy ,

EU Anti-racism Action Plan 2020-2025 ,

EU updated framework for Roma equality, inclusion and participation

Strategy for the Rights of Persons with Disabilities 2021-2030,

Security Union Strategy,

The strategic approach towards the eradication of trafficking in human beings

The Strategy for a more effective fight against child sexual abuse

New Initiative for EU Legislation

On 8 March 2022, the Commission presented a proposal for a Directive on combating violence against women and domestic violence; Proposal for a Directive of the European Parliament and of the Council on combating violence against women and domestic violence, COM/2022/105 final



# PRESERVE

Preventing Racism and Discrimination -  
Enabling the Effective Implementation of the  
EU Anti-Racist Legal Framework

PROJECT 101049763 - CERV-2021-EQUAL

## Practical Scenarios

### Part I - Curriculum for Legal Professionals

#### *Topic 4*

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A is a 12 years old child. The mother of the child complains to the police that she found communication via sms and other social media in the mobile of the child showing that the child is sexually abused by C, a 45 years old man. The mother lodges the complaint upon involvement of the aunt of the child, who saw some of the communications in the mobile of the child. During the criminal investigation C, the main suspect is arrested and put in pre trial detention. The mother is accused also as supporting C and is placed in pre trial detention as well. The child testifies in the Police Headquarters in the Division of Child Protection before a specialized police psychologist. In some instances, at the first days, the child comes in contact with her mother who was arrested and kept in the Police Headquarters, until she is transferred to the prison. The child testifies during the criminal investigation 10 times. The lawyer who represented the family on the initial stage, keeps representing the child (victim) and the mother (suspect). At the trial the child requests not to be examined again. The main defendant objects.

How should the child participate in the criminal proceedings and during the trial? Identify the child's protection needs. Should the authorities provide for the representation of the child?



Naya is an asylum seeker from Afghanistan and she is an asylum seeker in an EU member State. She is married to B who is national of the said EU Member State. Naya brings a criminal complaint before the police for domestic violence of B against her and their 2 children 6 and 8 years old. She does not have money to hire a lawyer. In the police she receives interpretation in English offered by a police officer. Naya is not able to express herself in English. B, claims that he is the victim of a fake criminal complaint and requests custody of the children.

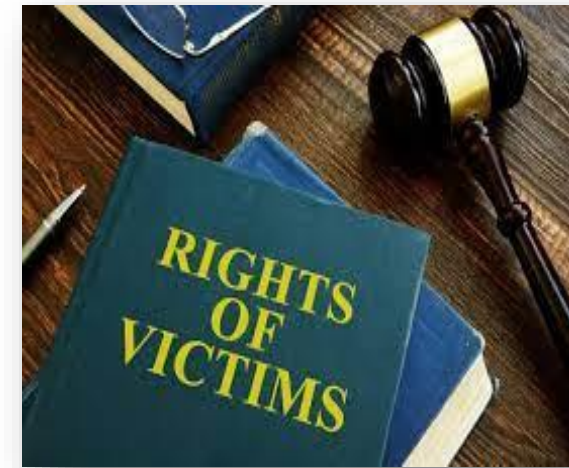
Identify key questions in relation to the rights granted to Naya from the early stages of the procedure. How should her identification as a victim with specific special needs take place? What procedural guarantees need to be put in place?

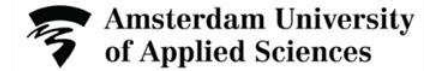
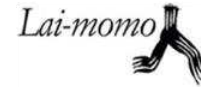


Anna is a Roma child living in a city of a Member State of the EU. In this city a population of approximately 1000 Roma persons is residing. The local authorities implement projects for the proper inclusion of the Roma in the community. However, the majority of the adults and mainly the women are not able to read and write. The children are not enrolled in the school and/or they do not attend the class. Anna's parents try to enforce the authorities to safeguard the child's rights. The municipality proposes the solution of separate schools for Roma children after massive demonstrations of the local population. The locals consider that Roma children are not fit to be with the rest of the children in the school. They complain that they are not vaccinated, that they are violent, that they are not speaking properly the language.

The same problem arises with a reception center for asylum seekers in the same city. The children who are asylum seekers face difficulties to be enrolled in schools. They are mainly Kurds from Syria, Afghans (of different ethnicities eg Hazaras, Tajiks etc) and from different African countries. Some children are unaccompanied, and remain in the reception shelter without their parents or other person responsible for them.

After long disputes, the local authorities enroll the children at schools. However, Local population using xenophobic and racist slogans protest outside the school and block the Roma and asylum seekers children to come to the school. They shout that Roma are dirty and that "blacks" and "foreigners" should not be mixed with their children. They threaten also the teachers who wish to help. Try to apply the Victims Directive and the Racial Equality Directive. Do you believe that both Directives apply? Identify key issues in relation to access of children to education in all the above scenarios and their protection as victims.





**FOLLOW US ON**



**preservere-eu-project**



**SLIDE 1**

Title.

Trainers: 3 case studies will be used in order for the participants to apply the provisions of the Directives and identify potential violations.

The method used can be decided according to the number of participants and to the online or physical presence of the participants in the seminar.

Ideas: Participants are divided in groups. Each group discusses internally the practical scenarios for 15- 20'. In the end, one or two representatives from each group present their findings. Every other participant can add or challenge the findings of the others. The aim of the practical scenarios is to help the participants to apply the provisions and the rights and guarantees of the Directive.

**SLIDE 2****PRACTICAL SCENARIO 1**

---

**1**

A is a 12 years old child. The mother of the child complaints to the police that she found communication via sms and other social media in the mobile of the child showing that the child is sexually abused by C, a 45 years old man. The mother lodges the complaint upon involvement of the aunt of the child, who saw some of the communications in the mobile of the child. During the criminal investigation C, the main suspect is arrested and put in pre-trial detention. The mother is accused also as supporting C and is placed in pre-trial detention as well. The child testifies in the Police Headquarters in the Division of Child Protection before a specialized police psychologist. In some instances, at the first days, the child comes in contact with her mother who was arrested and kept in the Police Headquarters, until she is transferred to the prison. The child testifies during the criminal investigation 10 times. The lawyer who represented the family on the initial stage, keeps representing the child (victim) and the mother (suspect). At the trial the child requests not to be examined again. The main defendant objects.

Apply the Victims' Directive. How should the child participate in the criminal proceedings and during the trial? Identify the child's protection needs. Should the authorities provide for the representation of the child?

Trainers: The main issue is to explore the procedural shortcomings during the course of the criminal investigation and explore the margin of appreciation of the court at the trial in relation to the specific needs of the child. Articles 1 (2), 22, 24 should be mainly addressed. Case C-38/18 is relevant as well. It is important to highlight that a child friendly manner is necessary in all steps of the criminal proceedings.

### SLIDE 3

#### PRACTICAL SCENARIO 2

Naya is an asylum seeker from Afghanistan and she is an asylum seeker in an EU member State. She is married to B who is national of the said EU Member State. Naya brings a criminal complaint before the police for domestic violence of B against her and their 2 children 6 and 8 years old. She does not have money to hire a lawyer. In the police she receives interpretation in English offered by a police officer. Naya is not able to express herself in English. B, claims that he is the victim of a fake criminal complaint and requests custody of the children.

Apply the Victims' Directive. Identify key questions in relation to the rights granted to Naya from the early stages of the procedure. How should her identification as a victim with specific special needs take place? What procedural guarantees need to be put in place?

Trainers: In this case it is important to highlight the rights in relation to information and support to the victims (Articles 3 – 8). It is highlighted that in the absence of proper implementation of these rights the victims remain unprotected and the offender can turn against them. Issues in relation to legal aid (Art. 13), protection of victims (Article 18 -19), necessity for an individual assessment (Article 22) and protection as a victim with specific protection needs (Article 23) are applicable.

### SLIDE 4

#### PRACTICAL SCENARIO 3

Anna is a Roma child living in a city of a Member State of the EU. In this city a population of approximately 1000 Roma persons is residing. The local authorities implement projects for the proper inclusion of the Roma in the community. However, the majority of the adults and mainly the women are not able to read and write. The children are not enrolled in the school and/or they do not attend



the class. Anna's parents try to enforce the authorities to safeguard the child's rights. The municipality proposes the solution of separate schools for Roma children after massive demonstrations of the local population. The locals consider that Roma children are not fit to be with the rest of the children in the school. They complain that they are not vaccinated, that they are violent, that they are not speaking properly the language.

The same problem arises with a reception center for asylum seekers in the same city. The children who are asylum seekers face difficulties to be enrolled in schools. They are mainly Kurds from Syria, Afghans (of different ethnicities eg Hazaras, Tajiks etc) and from different African countries. Some children are unaccompanied, and remain in the reception shelter without their parents or other person responsible for them.

After long disputes, the local authorities enroll the children at schools. However, Local population using xenophobic and racist slogans protest outside the school and block the Roma and asylum seekers children to come to the school. They shout that Roma are dirty and that "blacks" and "foreigners" should not be mixed with their children. They threaten also the teachers who wish to help.

Try to apply the Victims Directive and the Racial Equality Directive. Do you believe that both Directives apply? Identify key issues in relation to access of children to education in all the above scenarios and their protection as victims.

Trainers: In relation to the Racial Equality Directive: Applicability of the Directive (Art. 1) should be explored. The Roma persons fall into the scope of the Racial Equality Directive. In relation to the asylum seekers in this case there are elements of close correlation between their status as asylum seekers and their ethnicity taken in conjunction with the facts of the case. The concepts of discrimination should be defined (direct discrimination and harassment) (Art. 2). Art. 3 is also applicable in terms of education and social advantages.

In relation to Victims' Rights Directive: Here we have victims who have suffered a crime committed with a bias or discriminatory motive which is related to their personal characteristics. (Article 22) and that many are children (Article 24). Therefore they are entitled to right to information, support and specific protection needs. Special mention should be made to the unaccompanied asylum seeker minors who are in need of representation (Art. 24)



# PRESERVE

Preventing Racism and Discrimination -  
Enabling the Effective Implementation of the  
EU Anti-Racist Legal Framework

# Advocacy toward better implementation of the EU Anti-Racism Legal Framework

## Part II - Special topics for stakeholders & other beneficiaries

### *Topic 1*

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Racism and discrimination in Europe

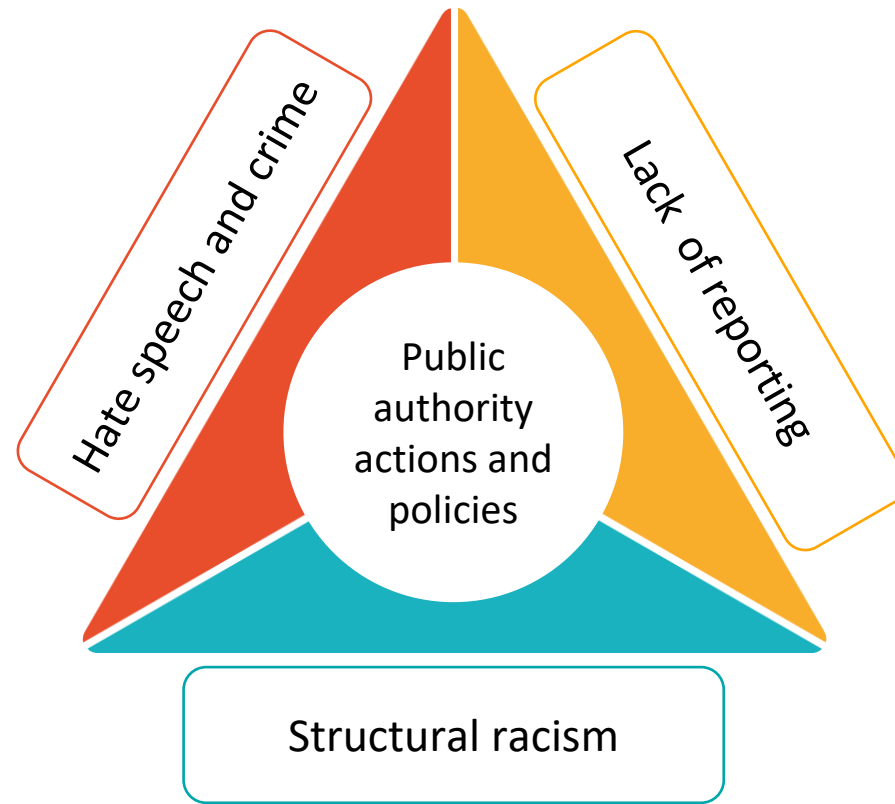


The EU anti-racism legal framework, with a focus on the Racial Equality Directive and the Victims' Rights Directive



What does a better implementation of the EU anti racism legal framework entail?





How are we addressing **structural racism**, **hate crimes**, and **lack of reporting** in our countries?



## Structural racism



ENAR's 'structural racism in the labour market toolkit'

## Lack of reporting



SPAD (Anti Racial Discrimination Desk)

## Hate speech and crime



Mapping national responses to hate speech in Spain



How do **structural racism** and **hate crimes** affect the daily lives of victims?  
What are the consequences of **underreporting**?



○ **1/3**   
**black people** experience racial harassment

○ **4 in 10**   
say nothing would have changed by reporting it

○ **4/10**   
**Jews** consider emigrating because they do not feel safe as Jews

○ Political hate speech and right-wing extremism targeting **Muslims and refugees** have become mainstream across the EU

○ **Racist harassment and violence** is common in the EU but remains invisible in official statistics



○ **Discriminatory racial profiling** remains a concern

**4/10** 

**black people** stopped by the police say it was because of their skin colour



To establish a **common European framework** that combats racism and discrimination



The Directive holds the role of **harmonising** national anti-discrimination laws across EU member states.



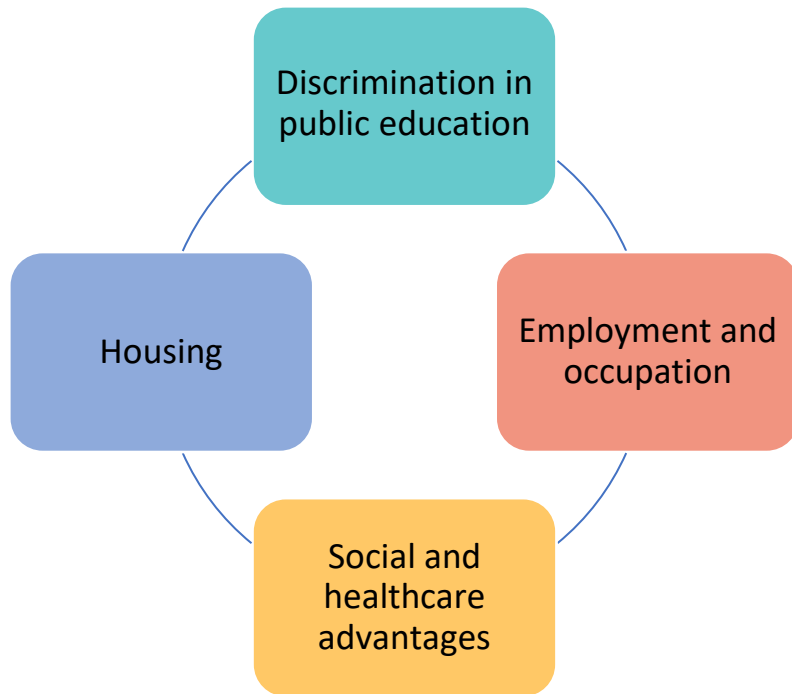
Provisions for **affirmative action** for individuals from marginalised racial and ethnic collectives promote equality of opportunity.





## The Impacts of the Racial Equality Directive on EU Citizens:

Scenarios covered by the Directive:



Setting of **minimum standards** for the protection of individuals against racial or ethnic discrimination

**Protection** for “all persons” in both the public and private sectors

Addresses **infringements** of national provisions pursuant to the Directive

Creation of **equality bodies** for the promotion of equal treatment across sectors

**Treatment differences** based on nationality of 3rd country nationals and stateless persons persist

**Prohibition** of direct and indirect discrimination and harassment



Focus on the victims' needs in a **tailored and non-discriminatory manner**



This applies to all people who fall victim to crime in Europe **regardless of their nationality**

.



The directive is a set of binding rights for victims and clear **obligations on EU Member States** to ensure these rights in practice.

*Did you know? Every year, an estimated 15% of Europeans or 75 million people in the European Union fall victim to crime.*



## The Impact of the Victims' Rights Directive on EU Citizens:



**Family members** receive the same rights and legally become victims too

All **communication** with victims must be in simple & accessible language

**Information** concerning their rights & assistance available to them

Access and advice on diverse **support services**

Entitlement to a more **active role** in criminal proceedings – to be heard and informed about different steps

**Protection** from both the offender and from the risk of further harm by the criminal justice system



## Challenges to the Implementation of the Directives



**Social perceptions and legal culture** - differ in each country and shape the extent to which law is successfully applied in practice

*The Cypriot legal system has traditionally focused more on retribution, rather than prevention and protection*

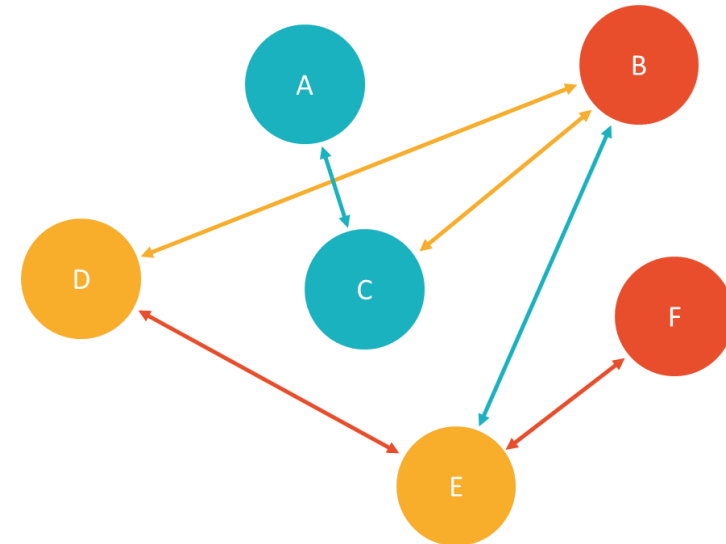


**Structural problems** - such as underfunding of national bodies or NGOs in the field

*Training can provide relevant institutions with knowledge, and result in better quality publications and decisions. They can have a positive effect on the decisions of the Courts.*



Which actors **would you work with?**



In light of all the regulations covered by the legal framework, **what should you prioritise?**



## Training

- To promote awareness-building on discrimination issues faced across sectors relevant to stakeholders
- To encourage stakeholder cooperation in promoting education on human rights and European law

## Multidimensional approach to the Directives

- To advocate for best practice to implement the Directives
- To facilitate cross-disciplinary dialogue among stakeholders

## Monitoring

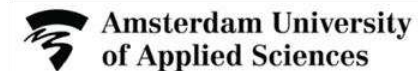
- To establish specific monitoring tenets within scope of stakeholder
- To prioritise the protection of vulnerable groups across disciplines



What **individual actions** am I willing to take to contribute to the implementation of the Directives?



PRESERVERE partnership:



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*Special topics for stakeholders & other beneficiaries*

**Part I - Advocacy toward better implementation of the Directive**

Slide Number	Instructions	Time frame
1	<p>Start by welcoming the group and introducing yourself.</p> <p>Shortly explain PRESERVE (Preventing Racism and Discrimination - Enabling the Effective Implementation of the EU Anti-Racist-Legal Framework), including the project's goals, and research frame. One central question to the research project is why the EU anti-racism legal framework does not have its designated effects and what needs to be done to achieve that effect.</p> <p>Get your audience interested in the topic and assure them that limited knowledge in the field is not a problem. Encourage questions throughout the training. Let them know that the training will be based on the research and the analysis of the e-book.</p>	<p>Beginn</p> <p>0:01':00</p>
2	<p>Present the outline of the training. Use phrases such as "First of all..", "Later we will move on to...", "Together we will try to...". Briefly touch upon the content of the three modules. Include the time schedule and set a few highlights.</p>	<p>0:01':00</p> <p>0:02':00</p>
3	<p>Start by explaining the triangle. Present the three problems to the group and mention how they are connected. Explain that these are issues highlighted in the research project using the PRESERVE ebook. (4min)</p> <p>One section of the e-book (<i>Common themes from the different national reports</i>, p.35-39) compares and concludes from the different country reports and should be used as a base for this part of the training. A possible way to structure it could be the following:</p> <p>Start by explaining <b>Structural racism</b>: systemic racism is embedded in the laws and regulations of a society. It manifests as discrimination in areas such as criminal justice, employment, housing, health care, education, and politics. Examples from the e-book include the lack</p>	<p>0:02':00</p> <p>0:14':00</p>



	<p>of political will and underfunding of NGOs and relevant bodies. Some important aspects to consider in the fight against structural racism in Europe are the social perceptions and the legal culture of each country, which shape the extent to which a law is applied in practice.</p> <p>→ Describe structural racism as an issue that often results in hate speech and crime.</p> <p><b>Hate speech and crime:</b> hate speech and crime refer to the offensive actions or dialogue used to target an individual or a group based on personal beliefs or characteristics (such as race, religion or gender). This kind of hate is driven by structural racism and it is becoming more present in online platforms. Information from the e-book shows that fighting hate speech and hate crime is an important part of anti-discrimination strategies.</p> <p>→ highlight that hate speech/ crime are a relevant problem and fighting them is difficult because they are generally not being reported, be more specific in the next section.</p> <p><b>Lack of reporting:</b> Many victims who are the intended beneficiaries of the EU anti-racism legal framework come from the most vulnerable social groups. Irregular migrants have been found to be a case example of crime underreporting due to their vulnerable situation and mistrust in authorities. This creates issues with the effective application of the Directives.</p> <p>Click next on the same slide. Ask the question to the group <i>“How are we addressing these issues in our countries?”</i> Split the trainees in random, equally large, zoom groups. Tell them to discuss the situation from their countries. (6min)</p> <p>Get everyone back to the main room and ask for a few voices to conclude what they took from their discussions. (2min)</p>	
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4	<p>Pick up on examples from the trainees and lead over to the best practices. Explain one practice used in an EU country to address the issues presented in the first slide. The slide includes three examples, but you can choose the one you think is better based on the trainees comments and interests.</p> <p><b>(Please note that the second example “ the SPAD - Anti Racial Discrimination Desk of the Municipality of Bologna" comes from the PRESERVERE Ebook, so it is recommended to use this one ).</b></p> <ol style="list-style-type: none"> <li><b>1. ENAR’s ‘structural racism in the labour market toolkit’:</b> This toolkit was created in order to explore how to integrate an anti-racism approach regarding how this issue affects racialised people's access to the workplace. It resulted from a collaborative work following the 12th Equal@Work seminar organised by the European Network against Racism. Its main focus was on ending structural discrimination in the labour market. This toolkit is included in ENAR’s work on exploring racism, discrimination and exclusion of racialised persons in the European Union. One of the main goals of this practice is to challenge mainstream diversity management actions through addressing structural racism ingrained in the labour market. The method used for the practice analyses patterns in the workplace in order to generate new organizational management styles. The toolkit is created for Diversity, Equity and Inclusion managers, and for organisations looking to be guided by equality principles, <b>dismantle barriers posed by structural racism in the workplace</b>, and challenge dominant power structures. (3min)</li> <li><b>2. Lack of reporting: the SPAD (Anti Racial Discrimination Desk) of the Municipality of Bologna.</b> Co-designed by the Municipality of Bologna together with 28 civil society organisations, the SPAD aims to guide and support people who are victims or witnesses of discrimination. The Desk receives reports of discrimination and provides the most appropriate solution, such as intercultural</li> </ol>	<p>0:14’:00</p> <p>0:18’:00</p>
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	<p>mediation, conflict mediation or legal, psychological and emotional support. The Help Center specialises in dealing with racial, ethnic, religious, and origin-based discrimination, whether it is 'direct' or 'indirect'. The SPAD also organises information and training activities. These activities seek to spread information to a wider audience, as well as to an Observatory. The role of the latter is to analyse and <b>draft reports to share recommendations and respond to the identified needs</b>. An example of this would be to respond to recurrent discriminatory acts for which it is necessary to intervene in a structural fashion. The 35 members of staff have specific training on discrimination and victim support. (3min)</p> <p>3. ' <b>Mapping national responses to hate speech in Spain</b>': the goal of this project developed by the Council of Europe in 2019 was to improve national strategic capabilities to address the rising rate of hate speech. The Spanish Ministry of Interior's Hate Crime Office agreed to pilot it in Spain. The methodology used had the purpose of creating links between implicit and explicit qualitative data sets. The data was gathered through workshops, interviews and surveys conducted with an array of stakeholders from the public and private sectors, NGOs and institutions. The overall goals of the project were to show interactions between the aforementioned stakeholders through the process of addressing hate speech, list the encountered gaps and challenges to improve the national approach to address hate speech, and <b>provide recommendations for follow-up actions</b> to enhance the approach to addressing hate speech. (3min)</p> <p>You can finish by drawing a conclusion on what we can learn from them. (1min)</p>	
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5	<p>New question for the trainees. <i>“How do structural racism, hate crimes, and lack of reporting influence the daily life of victims of discrimination?”</i> and <i>“What are the consequences of underreporting?”</i>. Present the questions and send the participants in new breakout zoom rooms. (8min)</p> <p>Visit the different zoom rooms to see if there are any questions and join the conversation if the opportunity presents itself.</p> <p>Back in the main room, collect some answers and examples of their discussion. Give room for discussion and encourage the participants to share their experiences. (4 min)</p> <p>Before showing the next slide, tell the trainees that you want to look at the reality of racism in Europe and that you brought some statistics for a better visualization of the problem. This gives the trainees a clear structure and it will be easy to follow for everyone.</p>	<p>0:18':00</p> <p>0:30':00</p>
6	<p>Explain that the following information was created by the European Union Agency for Fundamental Rights (FRA). Since all trainees have different backgrounds, always make sure everyone can easily follow. Provide background information on FRA (What do they do? How do they work? What is the focus area? Why are they relevant?). (2min)</p> <p>Start with <i>“ Did you know that...”</i> or <i>“In Europe...”</i> when presenting each of the facts.</p> <p>Build a connection between the different statistics and stress the fact that several social groups are affected. Use this information as a way to circle back to the topic of lack of reporting of crime from the previous slides. This will show the trainees that there are clear lines throughout the presentation. (3min)</p> <p>Ask the participants if they are surprised by any of the statistics. <i>“What are the reasons?”</i>. Collect answers and set them in relation to each other. (5min)</p>	<p>0:30':00</p> <p>0:40':00</p>





	The next slide will be on the legal instruments stakeholders can refer to address racism and discrimination.	
7	<p>You can use phrases such as: “Now we are going to look more closely at the Racial Equality Directive”.</p> <p>Introduce the Directive including the date it was first introduced, the purpose and goal. Lead the trainees through the most important aspects and keep in mind that they might not be that familiar with legal terminology. Try to keep it as simple and precise as possible. (3min)</p> <p><b>Explain</b> the difference between direct and indirect discrimination based on the Ebook:</p> <p>Indirect discrimination is defined as an apparently neutral measure which would put “persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary”.(p.72) Therefore, <u>indirect discrimination is harder to spot</u> since it concerns conduct that may ‘hide’ discrimination well or lack apparent connections to racial or ethnic origin.</p>	<p>0:40’:00</p> <p>0:43’:00</p>
8	<p>Start by asking “What does this mean in practice?”. Focus on the fact that this slide is supposed to help the trainees gain a better understanding of the Directive and its goals.</p> <p>Follow the order of the graph and shortly explain the content of each bubble.</p> <p>Show that while the Directive protects ‘All persons’ there are exceptions. Especially when the case conflicts with</p>	<p>0:43’:00</p> <p>0:49’:00</p>





	<p>the country's immigration policy, refugees and stateless persons are not always covered by the Directive.</p> <p><b>Infringements</b> can occur:</p> <ul style="list-style-type: none"> <li>• <i>by legislation</i></li> <li>• <i>by government/regional provisions</i></li> <li>• <i>by court judgments if they have a "precedent" effect</i></li> <li>• <i>by de facto situations caused even by independent institutions</i></li> </ul> <p>Finish by making use of the examples referred to in the bubbles:</p> <p><b>Positive: Employment and occupation:</b> an individual is not hired for a job because of their race or ethnic origin, and is able to successfully claim discrimination under the directive / <b>Education:</b> inclusion of children in public education is key to ensuring access to the labour market</p> <p><b>Negative: Housing:</b> the Directive does not apply to the rental of private dwellings, so if a third-country national is not offered a rental lease because of their ethnic origin, they may not be able to claim discrimination under the directive.</p> <p><b>How does harassment differ to discrimination?</b> The Directive prohibits discriminatory harassment on the grounds of racial or ethnic origin under Article 2(3), when the unwanted conduct “takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment.</p>	
9	<p>Introduce the Victims’ Rights Directive by showing the importance of the Directive. Continue with “In order to better protect people that fall victim to crime, the Directive was introduced.” This is going to help the trainees understand why you are discussing the topic and get their attention.</p>	<p>0:49:00</p> <p>0:52:00</p>





	Continue with stating the aim and lead them through the most important aspects and goal of the Directive. Keep it short and precise.	
10	<p>This slide is going to help the trainees understand the Directive more in detail.</p> <p>Ask “What does it mean in practice?” and continue with a phrase that includes the trainees' participation. Such as: “Let’s have a look at the different goals”.</p> <p>Follow the order of the graph and shortly explain the content of each bubble. Examples can help the trainees visualise the goals and understand the relevance of the Directive.</p>	<p>0:52’:00</p> <p>0:58’:00</p>
11	<p>Research shows that there are challenges to the implementation of the Directives. For the purpose of conveying the message of this presentation, the ones extracted from the ebook were split into two main categories: Social perceptions and legal culture and structural problems.</p> <p><b><u>Under social perceptions and legal culture: The Cypriot legal system has traditionally focused more on retribution, rather than prevention and protection -</u></b>  <b>meaning: The Victims’ Rights Directive’s emphasis on the latter often clashes with the prevailing legal culture and is, ultimately, ignored (this could provide an explanation, for instance, as to why the Directive’s provisions on restorative justice have not been transposed in national legislation). Similarly, the Cypriot legal system has prioritised international over EU law – this is reflected both in the fact that international law is supreme over domestic law, and that Chapter 2 of the Constitution (‘The Bill of Rights’) uses the same language as the European Convention on Human Rights. As a result, EU law tends to be used to a far lesser extent in court than its international counterpart.</b></p>	<p>0:58’:00</p> <p>1:02’:00</p>





	<p><b>Under structural problems:</b> Countries like the Netherlands have raised complaints about widespread underfunding of national bodies and NGOs working directly towards defending the issues covered by the Directive. These are issues that should be prioritised given their role in the protection of human rights and EU Law. The <u>impact</u> of underfunded anti-discrimination institutions <u>is two-fold</u>: on the one hand, it might lead to decisions to turn down victims they should have helped because they do not have the resources to take them on. On the other hand, the training needs of the staff in these bodies will be further deprioritised, as receiving training is costly, both financially (hiring trainers, developing the relevant courses etc) and in terms of the hours spent to learn something new.</p>	
12	<p>At this point of the training you can take a moment to reflect and revise what has been discussed. It is important to include the trainees' comments, thoughts and concerns to keep their interest high and reach the best learning outcome.</p> <p>Pose the first question "In light of all the regulations covered by the legal framework, what should you prioritise in your field/country?" and send the trainees in (random) break out zoom rooms. (5min) Visit each group and encourage a discussion by posing sub-questions. Examples: "Would you say that this is a problem only in your job or can it be generalised?", "Do the others agree with what XX has just mentioned?"</p> <p>Come back to the big group and encourage every group to share their main discussion points.</p> <p>Pose the second question "Who do we act with?". For this part you want the trainees to be more active and draw a sociogram in smaller groups. Explain what a Sociogram is. Talk about how they can approach the task with ideas such as "Start by thinking about which actors you stand in direct contact with." Make sure everyone understood the task and split the group into breakout sessions. Visit each group and encourage discussion by posing follow up questions. Have every group present their sociogram to the rest of the groups. Compare the</p>	<p>1:02':00</p> <p>1:17':00</p>





	<p>results (without judgment) and encourage discussion of the similarities and differences with everyone. Conclude by pointing out which actors seem most relevant. (10min)</p>	
13	<p>Use the discussion points that were raised in the previous slide to present the ways forward. “Now that we have discussed..”, “After discussing we can now move on to...” or “How can we move forward from this point?”. Remind the trainees that you are only presenting one of many approaches to the issue.</p> <p>Present <i>Training</i> as an important tool for development. Both arguments in the table are valuable to the trainees as stakeholders.</p> <p>Use phrases such as: “In addition to that..”, “Equally important..” when moving to a <i>Multidimensional approach to the Directives</i>. Ask the participants what comes to their mind when they hear ‘Multidimensional approach’ and then add the two aspects from the table after getting a few answers.</p> <p>Continue with “Lastly, we identified..” or “The third aspect for our way forward is...”. Present the meaning and use of <i>Monitoring</i>. Always underline the role of stakeholders, the trainees, in the approach; highlight <b>what they can do</b> from their position.</p> <p>Make sure to present the table as several steps relating to one another and which combine to present a well-rounded way forward.</p>	<p>1:17:00</p> <p>1:20:00</p>
14	<p>Ask the last question “ <i>What individual actions am I willing to take to contribute to the implementation of the Directives?</i>”</p> <p>This is the last slide and an important part of the training. The aim is to help the trainees think of what individual actions they can take to contribute to the implementation of the EU anti-racism framework. The training will reach its intent if they can identify one small action for themselves.</p>	<p>1:20:00</p> <p>1:30:00</p>





	<p>Use the “Popcorn” Brainstorming technique, which taps into the energy of group idea generation by getting everyone in the room to contribute simultaneously. The trainer poses the question, and the trainees respond by speaking out and sharing their answers. Trainees "popcorn out" their responses and ideas as it comes to them.</p> <p>Step 1</p> <p>Ask the question that will be the subject of the brainstorm. Give everyone a minute to reflect before you start the next step.</p> <p>Step 2</p> <p>Start brainstorming! Invite everyone to contribute ideas out loud. Go quickly, keep ideas moving, and have one person take notes</p> <p>Step 3</p> <p>Stop when no more ideas are coming out or when the group has nothing else to add. As a team, review the assembled ideas, briefly discuss and debrief.</p>	
15	<p>Conclude the training session. Ask if there are any follow up questions. Thank the trainees for their participation and encourage them to use the different tools in their future work.</p> <p>End the session on a positive and hopeful note.</p>	1:30':00





# PRESERVE

Preventing Racism and Discrimination -  
Enabling the Effective Implementation of the  
EU Anti-Racist Legal Framework

PROJECT 101049763 - CERV-2021-EQUAL

## Effective awareness raising amongst professionals and general public

Part II - Special topics for stakeholders & other beneficiaries

*Topic 2*

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## Overview of topic:

Effective awareness raising among professionals and general public

## Agenda:

- Introduction trainers & participants
- Bias and association
- Questions
- Closing



## Who Am I?

1. Age?
2. Born in...?
3. Origin parents?
4. Relationship? M/F/X?
5. Children?
6. Hobby?
7. Education?



## Introduce yourself

1. Please tell us your name and one characteristic that's particularly yours... *Share only what you feel comfortable to share*
2. The group: Do you recognize/share this? Raise your hand if you do!
3. Pass on the baton!😊





<https://youtu.be/KCgIRGKAafc>





## SYSTEM 1

Intuition & instinct

95%

Unconscious  
Fast  
Associative  
Automatic pilot



## SYSTEM 2

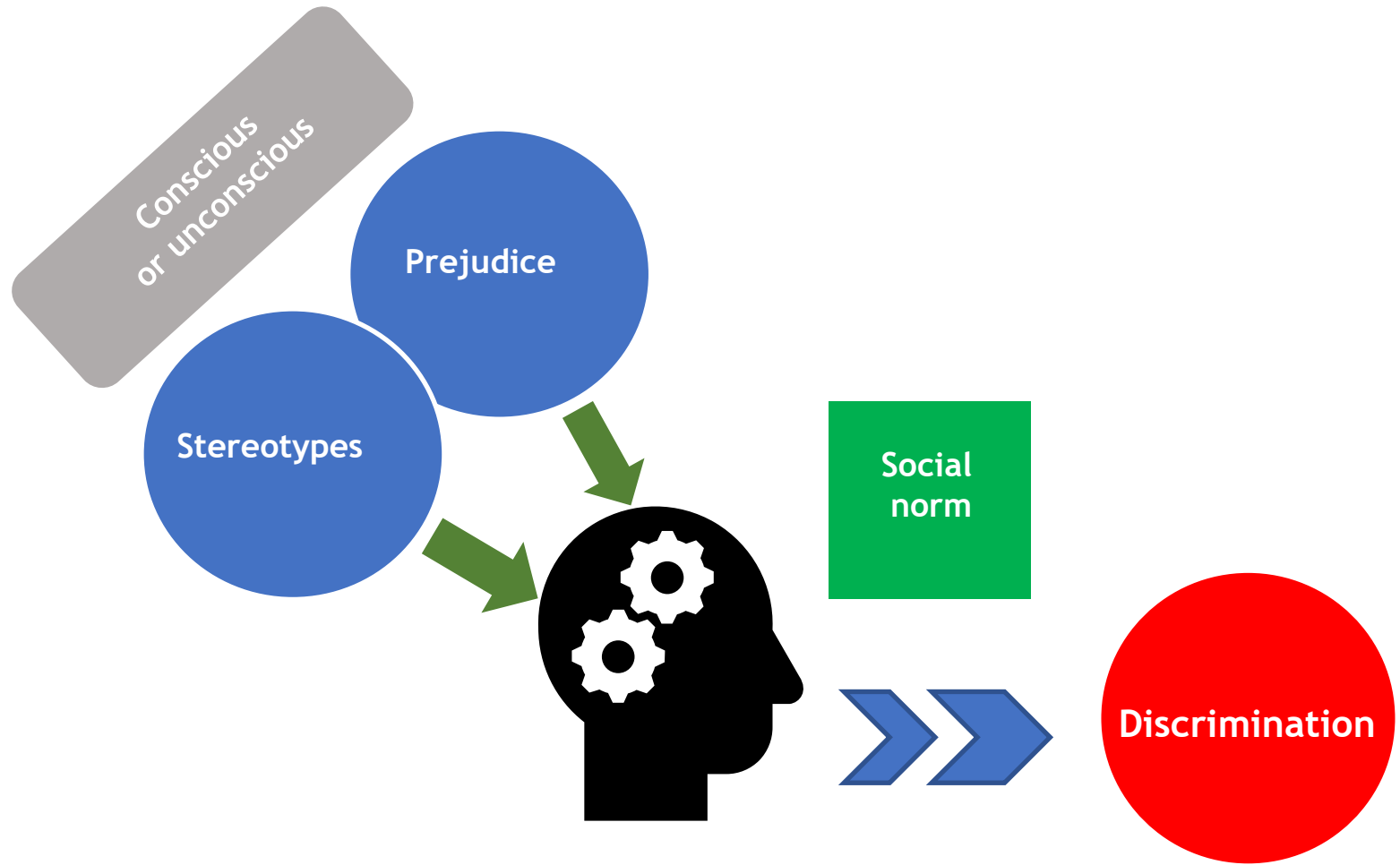
Rational thinking

5%

Takes effort  
Slow  
Logical  
Lazy  
Indecisive

*Source: Daniel Kahneman*





# Circle of Trust

	Initials	Gender	Sexual orientation	Ethnic background	Skin color	Age	Level of education	Nationality	Ableness *	Native language
1										
2										
3										
4										
5										



## Questions and Closing

How are you leaving  
this workshop?

In one word 😊



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PRESERVE – Workshop EFFECTIVE AWARENESS RAISING AMONGST PROFESSIONALS AND GENERAL PUBLIC (1,5h)

Part		Time	Who
1. Welcome		13.00 – 13.05	5 min
2. Introduction trainers	Interaction	13.05 – 13.20	15 min
3. Introduction participants	Presentation	13.20 – 13.40	20 min
4. Bias and association	Interaction	13.40 – 14.10	30 min
5. Questions		14:10 – 14:25	15 min
6. Closing		14.25 – 14:30	5 min

## 1. Welcome | 5 min

Welcome by trainers:

- What are we going to do?
- Purpose of the workshop
- What can you expect?

## 2. Introduction trainers and participants | 35 mins

### Introducing trainers by the participants (*interactive exercise*) | Who am I?

The participants introduce the trainers on the basis of the points below. Participants should not think about it for too long. They answer the first thing that comes to mind.

- |                       |             |
|-----------------------|-------------|
| 1. Age                | 5. Children |
| 2. Born in            | 6. Hobby    |
| 3. Origin (parents)   | 7. Study    |
| 4. Relationship m/f/x |             |

*The trainer writes the answers on a flip chart. If both trainers are introduced, the correct answers are revealed. Trainer also pays attention to the answers where prejudice and bias play a role. There is no right or wrong but it also makes the participants see that all of us, no one excepted, have prejudices or biases. We develop these prejudices and biases through all what we experience, learn and hear. It's not wrong but it is important that we are aware of this, so we can adjust when needed.*

### Introducing participants (*interactive exercise*) | 30 seconds blah blah blah

Trainer explains: In a few everybody will get 30 seconds each to share:

- Your name and function
- First association with discrimination / Diversity / Inclusion (trainer chooses the question)

Or:

- Your name and function
- A special quality of yourself that you do not see on the outside

There is only ONE rule: you cannot stop talking within the 30 seconds. Participants: if you recognize something, just lift your hand

Trainer gives participants 1 min. to prepare their speech.

*You can either use this exercise to open participant up for the subject of the training or use to create a safe space by getting to know each other better in a safe way. Participants share what they choose to share. A trainer never compels a participant to have to share, but you can ask them to take a challenge.*

### 3. Bias & associations / 30 min

*Goal: awareness of one's own bias, prejudices and own actions in this.*

Providing insights into mechanisms of (un)conscious prejudices and associations (bias) and awareness of one's own position and influence on this.

Trainer starts with an animated YouTube video about bias: <https://youtu.be/KCgIRGKAbfc>

*After that explain the theory of Daniel Kaneman to guarantee the participants understand how the mind works and how they can change/influence a different mindset if they want to. It takes work, but it can be done.*

*Daniel Kahneman is an Israeli psychologist. He is an important pioneer at the interface of economics and psychology. In his publications he made short work of the idea of the rationally calculating man acting for his own benefit, and introduced the human psyche into economics.*

*He states that our brains have two cognitive systems*

**System 1:** a fast-acting, automatic, emotional, thinking in stereotypes & unconscious system

**System 2:** a slow, effort-consuming, calculating, logical system.

*\*His book: Daniel Kahneman's Thinking Fast and Slow*

If there is time: **Short interactive exercise: Circle of trust** (see attachments)

*This exercise can be a trigger for participants. Make very clear that there is no right or wrong and that this exercise only visualizes how we unconsciously gravitate towards people who look like us. This is not traffic but we have to be aware of it because our bias is reflected in everything we do, private and work.*

### 4. Questions | 15 min

Trainer sees if there are any questions, maybe there are some comments or remarks.

**5. Closing | 5 min**

Trainer asks the participants to tell how they are leaving the workshop in one word. Make a quick round (not open for discussions) Trainer can write the words down as an evaluation of the session.

Thank participants and close.



### *The Circle of Trust*

*This is non-confrontational exercise for people to explore their unconscious bias as well the behaviours and prejudices of their peers. The purpose of this activity is to cultivate awareness. This tool helps to uncover unconscious, affinity bias*

#### *Unconscious Bias*

*Unconscious biases, also known as implicit biases, are the underlying attitudes and stereotypes that people unconsciously attribute to another person or group of people that affect how they understand and engage with a person or group.*

#### *Affinity Bias*

*Affinity bias, also known as similarity bias, is the tendency people have to connect with others who share similar interests, experiences and backgrounds.*

#### *Steps:*

*1. Hand out the worksheets. Ask each participant to write down the names or initials of five to ten people that they trust but who are not from their immediate family. (people one considers trustworthy and whose counsel one seeks in making decisions.*

*2. Ask each participant to place an [X] by each person in each column, that defines themselves the same as the participant. e.g "if you are heterosexual and the people you trust also are then you should have an [X] in that whole column".*

#### *3. Reflection*

*When having done the whole exercise ask the participants to reflect on their circle. No one has to share any details - the focus here is on what their results made them think about.*

- If you are male, are most of your trusted male too?*
- If you are female, are the majority of your trusted females?*
- Do those you trust look similar to you in age or race or education level?*
- Are the majority of your same nationality?*
- The results of the exercise lead well into a reflection or an open discussion.*

*Examples of reflection questions are:*

- How diverse is your circle of trust?*
- How might you diversify your inner circle of confidants?*
- In regards to a business strategy, how might embracing diverse perspectives, have an impact on: customer empathy? worldview of markets? potential customers? opportunities? possibilities....? What else?*

	Initials	Gender	Sexual orientation	Ethnic background	Skin color	Age	Level of education	Nationality	Ableness*	Native language
1										
2										
3										
4										
5										

*\*Ableness: Is their quality or condition of being able of, or have the capacity for doing similar movements/actions like yourself?*

1. In the first column write your five trusted names. (not family, but people you gather around you)
2. Example: Gender: Place an X for everyone that defines themselves as the same gender as you.
3. Continue to do the same for all of the columns: e.g if you are heterosexual and the people you trust also are then you should have an X in that whole column.



# PRESERVE

Preventing Racism and Discrimination -  
Enabling the Effective Implementation of the  
EU Anti-Racist Legal Framework

PROJECT 101049763 - CERV-2021-EQUAL

## Supporting professionals- forming sustainable coalitions- exploring work-related dilemmas

Part II - Special topics for stakeholders & other beneficiaries

*Topic 3*

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## Overview of topic:

Supporting professionals – forming sustainable coalitions

## Agenda:

- Recap workshop Awareness
- Case discussion
- Exploring work-related dilemmas
- Reflection
- Questions & Closing



## Recap from previous training

- What do you remember from the previous training?
- What touched you the most?
- Did something change in your mindset?



## Case Study

A woman works at a law firm under an annual contract. Her performance is assessed positively. She becomes pregnant and reports her pregnancy to her employer. Shortly afterwards, she is told that her contract will not be renewed. The employer cites the business interest in continuity as the reason.

**Is this discrimination?**



## Case Study

A boy with autism enrolls in the ICT and Media Management course. The training rejects the boy on the grounds that they cannot provide the guidance that someone with autism needs during the training.

**Is this discrimination?**



## Case Study

A coordinating employee of the blood collection department in a hospital wants to be able to cover her arms completely because of her faith. The hospital wants her to keep her forearms free for hygiene reasons.

**Is this discrimination?**





Participants are requested to bring a case to the workshop. During the session, the trainer will guide the discussion as follows:

1. **Discussing** the moral dilemmas within the sub-group
2. **Indicate** from personal frame to a broader perspective (organisation & society)
3. **Action:** come up with a clear direction of action (and related actions)
4. **Presentation** of the outcome
5. **Reflect** on the process



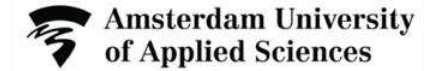
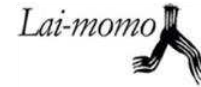
## Questions and Closing

**How are you leaving  
this workshop?**

**In one word 😊**



PRESERERE partnership:



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Program – Training SUPPORTING PROFESSIONALS – FORMING SUSTAINBLE COALITIONS- Exploring work-Related dilemmas (2,5h = 150 min)

Onderdeel		Time	Who
1. Welcome		13.00 – 13.10	10 min
2. Recap previous training	Interaction	13.10 – 13.25	15 min
3. Case discussion	Interaction	13.25 – 13.50	30 min
<b>Break</b>			<b>05 min</b>
4. Exploring work-related dilemma's	Interaction	14:00 – 15:00	60 min
5. Reflection	Interaction	15:00 – 15:15	15 min
6. Questions, comments & closing	Interaction	15:15 – 15:25	10 min

## 1. Welcome | 10 min

Welcome by trainers

1. What are we going to do?
2. Purpose of the training
3. Wat can you expect?

## 2. Recap previous training | 15 min

Recap previous training by participants (*interactive exercise*) : 30 seconds

Trainer explains: In a few everybody will get 30 seconds each to share:

- What do you remember from previous training?
- What touched you the most?
- Did something change in your mindset for instance?

There is only ONE rule: you cannot stop talking within the 30 seconds. Trainer gives participants 1 min. to prepare their speech.

## 3. Case discussion | 30 min

Group discussion about one or two cases that show that the law sometimes rubs off. When is something discrimination? And why or why not? What does the law say?

## BREAK

## 4. Exploring work-related dilemma's | 60 min

Exploring work-related dilemma's trough the Ostrich methodology

Divide the participants in smaller groups (3 or 4 persons) For instructions see attachment!

## 5. Reflection | 15 min

Short reflection of the outcome per group

Depends on the time left how deep you can go into each individual group outcome. Trainer can also decide for a more common reflection on the process and emotions.

## 1. Questions, comments & closing | 10 min

*Trainer sees if there are any questions, maybe there are some comments or remarks.*

*Trainer asks the participants to tell how they are leaving the workshop in one word. Make a quick round (not open for discussions) Trainer can write the words down as an evaluation of the session.*

*Thank participants and Bye!*

## Ostrich session

(credits to developer: <https://www.kis.nl/tools/struisvogel-sessie-gesprekstool-voor-morele-dilemmas>)

This tool helps to start the conversation about difficult topics or situations that often lead to moral dilemmas. The result is a clear direction of action. Many professionals struggle with moral dilemmas within their work field on their own. That can be pretty lonely. And the result is sometimes that they stick their heads in the sand.

That's where the Ostrich session comes in!

The Ostrich Session is a method by which professionals engage in conversation about moral dilemmas during work. This method specifically zooms in on moral dilemmas arising from a growing diversity of values and norms in our society. During this activity, the participants go through a few steps that test the dilemmas against the broader context of the organization and society.

A dilemma is turned inside out in a group.

What makes the issue a dilemma?

What are the different perspectives, who are involved?

What do organizational rules and legislation say about it?

What are the possible reactions and what is the most appropriate response?

And eventually: what does it take to put it into practice?

## Steps

Prior to the session participants will have to do a home assignment

Home assignment: Moral dilemma

With the home assignment, the participant will reflect on their experiences with moral dilemmas for themselves. So they can get used to the theme. Also, this increases the personal relevance to the session, because one can work with self-inserted examples.

Before starting the group session the facilitator creates a safe space by setting the rules for dialogue.

- Respectful conversation
- Listen to each other
- No judgement

### 1) Talk: about these moral dilemmas

During this step, participants briefly discuss moral dilemmas. They reflect on their principles, values and norms and share their personal perspective on the moral dilemma. In this way, the understanding of what moral dilemmas are grows and how everyone can act differently in the same dilemma because of their personal frame of reference. In this part participants also fill in 'the dilemma cards'

- Describe the situation
- Describe the dilemma
- How did one react
- What were the emotions

## 2) Indicate

During this step, participants transcend their personal frame of reference and look from a broader perspective at moral dilemmas: the organization and society. In this way, they become more aware of the context of moral dilemmas and map them out. It also encourages them to look at the dilemma from a professional perspective.

## 3) Action

Here participants use the knowledge gained so far to come up with a clear direction of action and related actions to deal with the moral dilemma that has been discussed.

## 4) Presentation (optional)

Close the session with presentations combining all forms of work into a complete end result.

## 5) Reflection

Reflect on the session: how did it go? What is the added value?

What does the Ostrich Session yield?

- Conversation about moral dilemmas from different perspectives
- You formulate a common vision, concrete actions and agreements that can provide a basis similar situations in the future
- You will feel more confident in the future when acting in situations with moral dilemmas.

# Resource Networks, Information and Training Opportunities

## Part II - Special topics for stakeholders & other beneficiaries

### *Topic 4*

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# Learning Objectives



Funding Opportunities



EU Anti-Racism Networks



Learning Resources





## EU Funding, Grants And Subsidies

**What types** of funding are available?

- Grants
- Loans
- Subsidies

**Who** Can Receive Funding?

- Researchers
- Public bodies
- NGOs
- Young People
- Other beneficiaries



Link for more info: [here](#)

All EU funding and tender opportunities: [here](#)





## Upcoming EU opportunity: CERV Programme

The **Citizens, Equality, Rights and Values Programme (CERV)** funds national and transnational projects. Priorities:

Combating **racism, xenophobia and intolerance**, (antigypsyism, anti-black racism, antisemitism, anti-Muslim hatred, etc.).

Promoting diversity management and inclusion at the **workplace**.

Fighting discrimination against **LGBTIQ people** and promoting LGBTIQ equality.

Call for **public authorities** (national, regional and local) to improve responses to discrimination and the implementation of the **Racial Equality Directive**.

Deadline: 20 June 2023. Call for proposals [here](#).





## Other opportunities



### [European Research Council](#)

- Funding for researchers of any nationality and age.
- All research topics.



### [EEA and Norway Grants](#)

- Funding for projects in Bulgaria, Croatia, Czech Republic, Cyprus, Estonia, Greece, Hungary, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia and Slovenia.
- Various topics (For example Roma inclusion and empowerment, social inclusion, human rights).



### [EuroDesk Opportunity Finder](#)

- Grants, funding, calls for proposal etc.
- Various topics (racism, human rights, youth, cultural diversity etc.).





## Anti-Racism Networks

- Open to **organisations** working on anti-racism in Europe.
- It combines advocacy for racial equality and cooperation among civil society actors.

- Open to **municipalities** interested in fighting racism and discrimination and exchanging good practices.
- By joining the Coalition, municipalities adhere to a Ten-Point Plan of Action.

- Open to **researchers**, graduate students, activists and policy practitioners working in the field of race and racism.
- It supports constructive dialogue across methodological approaches and disciplines.





## Networks for Social Inclusion and Cooperation

### European Network of Innovation for Inclusion

- ❑ A European networking organisation to increase cooperation between organisations in Europe that are linked by a social challenge.
- ❑ **Hosts** International Networking Sessions, Seminars and Webinars, Training Courses, Study Visits, Partner Search, Development and Educational Materials

### Equinet

- ❑ The European Network of Equality Bodies. It allows for an open exchange of information and knowledge between national anti-racism organisations and sharing expertise.





## Networks against hate speech

### The No Hate Speech Network

- Open to **human rights activists and organisations** interested in countering hate speech online and offline.
- It continues the work and initiatives of the Council of Europe's No Hate Speech Movement.

### The International Network Against Cyber-hate (INACH)

- Open to **national and local organisations** who are active in the fight against cyber hate and the implementation of human rights on the Internet.
- It combats cyber hate by combining monitoring, content removal, educational methods, international cooperation, advocacy and technology.





## Networks for Roma Equality

### European Roma Grassroots Organisations Network (ERGO)

- Open to **Roma and pro-Roma organisations** from across Europe.
- It connects grassroots, national and international organisations and individuals who combat antigypsyism and Roma poverty; strengthen Roma participation in decision-making; improve social inclusion and anti-discrimination policies.



**European Roma Information Office (ERIO)** - <https://www.erionet.eu/>

• <https://www.facebook.com/erionet.eu/>







## Networks against Antisemitism

### Networks Overcoming Antisemitism (NOA)

- Partnership of major **Jewish networks**.
- It supports Member States in the development and implementation of national action plans and provides educational resources.

### European Network for Countering Antisemitism through Education (ENCATE)

- Network of **educational practitioners** who counter antisemitism and other forms of discrimination.
- It educates a variety of audiences to identify and address different manifestations of antisemitism.





## Networks against Islamophobia

### European Forum of Muslim Women (EFOMW)

- Open to **European Muslim women organisations.**
- It advocates against Islamophobia and for gender equality through conferences, debates, trainings, publications, networking events etc.





## EU Agency for Fundamental Rights ([FRA](#))



### What is it?

- Independent centre of reference for human rights protection in the EU.
- It shares evidence-based insights and expert advice with policy- and decision-makers.
- Provides [information on equality, non-discrimination and racism](#).



### What can you find?

- Reports, databases, case-law, latest developments, promising practices, etc.
- For example: report on [unlawful profiling during police stops](#).





## European Commission against Racism and Intolerance ([ECRI](#))



### What is it?

- Human rights monitoring body which specialises in the fight against racism, discrimination, xenophobia, antisemitism and intolerance in Europe.
- ECRI's statutory activities cover country monitoring, work on general themes and relations with civil society and equality bodies.



### What can you find?

- Country reports, opinions, studies, glossary, etc.





## European Equality Law Network



### What is it?

- ❑ Network of legal experts in gender equality and non-discrimination, set up by the European Commission.



### What can you find?

- ❑ Country reports, law reviews, thematic reports, comparative analyses, etc.



**Example:**  
Annual country report on Malta's non-discrimination policy and legal frameworks.

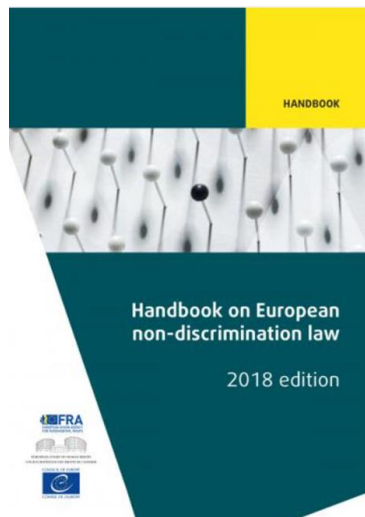




## Other resources



[ENAR toolkits and publications](#)



[Handbook on European non-discrimination laws](#)

### BRIEFING



## EU legislation and policies to address racial and ethnic discrimination

### SUMMARY

Racial and ethnic minorities face discrimination and its consequences on a daily basis. The exact scale of the problem is hard to gauge due to a lack of data and general under-reporting of racist incidents.

The coronavirus pandemic has seen a major increase in reports of racist and xenophobic incidents, and the crisis it triggered has had a disproportionately large negative effect on racial and ethnic minority groups, in the form of higher death and infection rates.

## [European Parliament briefing on legislation & policies addressing racial and ethnic discrimination](#)



## PRESERVERE partnership:



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WP3.4 - PPT Script

Slide Number	Content Instructions
1	<p>Start by welcoming the group and introducing yourself. Introduce the 'Resource networks, information and training opportunities' module as part of the PRESERVE project. Explain the importance of this knowledge to expand connections in the field, to learn how to find funding opportunities for future projects, and to boost understanding of anti-discrimination concepts and legislation. Add that this information is aimed at a variety of interested stakeholders, including academics, legal professionals, NGOs, national equality bodies, educators, members of the judiciary, etc.</p>
2	<p>Present the learning objectives of the training. Use phrases such as "First of all.", "Later we will move on to...", "Together we will try to...". Briefly touch upon the content of the three modules. Inform about the time schedule and set a few highlights for the session.</p>
3	<p>State that the first topic is <b>funding opportunities</b>.            This slide illustrates that many kinds of funding exist in the European Union, and that they can be accessed by different entities and groups for a variety of purposes.</p> <ul style="list-style-type: none"> <li>- Grants: do not need to be paid back. They are usually awarded following a call for a proposal. The proposals can be projects, ideas, or initiatives. They are partly funded by the EU and partly from secondary sources.</li> <li>- Loans: need to be paid back and interest depends on terms. They support EU policies and programs.</li> <li>- Subsidies: a type of EU funding that is managed by national and/or local authorities.</li> </ul> <p>Briefly explain the list of different groups and entities that can receive funding. Refer to the links at the bottom:</p> <ul style="list-style-type: none"> <li>- The first link points to additional general information about EU funding.</li> <li>- The second link leads to a webpage that aggregates funding and tender opportunities.</li> </ul>
4	<p>Present the <b>CERV Programme</b> as one noteworthy EU funding opportunity that is coming soon. Highlight that it is targeted to both national and transnational projects and is open to all member states.</p> <p>Describe the objectives and focus areas in the circles. Point out that the fourth objective is particularly fitting for public authorities interested in improving the implementation of the Racial Equality Directive.</p> <p>Explain that projects can include training activities, awareness-raising activities, support for main actors (such as NGOs, government members, etc.), development of mutual learning initiatives, analytical activities, and much more.</p> <p>State the deadline date and refer to the link to find out more.</p>
5	<p>Introduce this slide as a page for more funding resources. Briefly go through</p>



	<p>each funding opportunity and explain the target recipients, the relevant topics and themes, and the participating funding sources.</p> <p>The <b>European Research Council</b> is the premier European funding organisation for excellent research. It funds researchers of any nationality and age, to run research projects across all fields.</p> <p>The <b>EEA and Norway Grants</b> are funded by Iceland, Liechtenstein and Norway and are addressed at 15 Beneficiary States in Europe. The Grants fund projects on a variety of topics. Point out that there are specific opportunities regarding Roma inclusion and empowerment, social inclusion, human rights.</p> <p>The <b>EuroDesk Opportunity Finder</b> is a very useful tool which aggregates upcoming calls for proposal, grants, calls for projects, youth exchanges, etc.</p>
6	<p>Move on now to the second topic, <b>EU Anti-Racism Networks</b>. Briefly highlight that there are many anti-racism networks that can focus on different types of discrimination. Introduce the three shown on this slide as general racism-fighting organisations.</p> <p>Begin to give an explanation of <b>ENAR</b> (the European Network Against Racism) as a pan-European network that works on structural racism, migration, equality data, islamophobia, AI, and more. Describe to whom it is open and its goals.</p> <p><b>ECCAR</b> (European Coalition of Cities Against Racism): a UNESCO initiative launched in 2004 to produce a network of cities that shares knowledge to improve policies related to racism, discrimination and xenophobia. Explain that membership is open to municipalities upon submitting an application and paying an annual fee proportional to the number of inhabitants. Make it clear that municipalities which are part of ECCAR must commit to a Ten-Points Action Plan. The Plan is a set of mission guidelines, such as commitment to the fight against racism and better support for victims. Make it clear that ECCAR also has funding opportunities, organises events and conferences, and enacts anti-racism projects.</p> <p>Introduce the <b>Council for European Studies</b> as an extensive research network on race and racism in Europe. Clarify which groups and entities can join and the following information. Continue on to say that it awards grants and fellowships, as well as organises informational conferences and exhibitions.</p>
7	<p>Announce these organisations as networks for social inclusion and cooperation.</p> <p>Explain that the <b>European Network of Innovation for Inclusion</b> aims to build European alliances and drive social innovation. Inform the audience that this network is open to organisations only. Mention the list of activities.</p> <p>Present <b>Equinet</b>. Add that membership is open to public institutions fighting discrimination at the national level. Mention the aim to increase capacity and expertise for all members, as well as publish guides, organise webinars, conduct training programs, and provide assistance resources for victims.</p>
8	<p>Present this slide as anti-racism networks that fight in the realm of hate speech. Define hate speech as the type of communication that takes place with the intention of attacking a person on the basis of their race, religion, national origin, gender, sexual orientation, or health status. Clarify that hate speech can also take any form of expression, including words, images, gestures, posts, and symbols, delivered online or offline.</p>

	<p>Introduce the <b>No Hate Speech Network</b> as an organisation founded in 2019 to continue the work of the Council of Europe's No Hate Speech Movement. Describe the aim to prevent and counter hate speech through the mobilisation and empowerment of organisations, the youth, and other relevant stakeholders. Mention that membership is open to both individuals and organisations and allows participation in events, workshops, and project conferences.</p> <p><b>INACH</b> (International Network Against Cyber Hate): a network to combat cyber hate. Address to whom membership is open to and explain their method of using monitoring, content removal, education, advocacy, and international cooperation.</p>
9	<p>Present this slide as a network to aid Roma equality. Briefly define the groups defined as Roma people.</p> <p>Introduce <b>ERGO</b> as a network open to pro-Roma organisations and then explain the following information as the organisation's aim. Specify the Roma policy issues that ERGO focuses on, including poverty and social exclusion, local development, civic participation, and combating antigypsyism. Add that ERGO implements many projects and campaigns, such as 'Romani Women Power of Change' that seeks to empower Romani women to participate in political processes.</p>
10	<p>Announce this topic as antisemitism-cobatting networks. Briefly define antisemitism. Discuss <b>NOA</b> (Networks Overcoming Antisemitism) as a project started in 2019 to connect major European Jewish organisations. It was created in response to the European Council's Declaration for member states to address antisemitism. Explain that it aids member states' implementation in the second bullet point.</p> <p>Present <b>ENCATE</b> (European Network for Countering Antisemitism through Education) and its method to fight against antisemitism. Add that ENCATE organises study visits to exchange information, stakeholder meetings, and networking events.</p>
11	<p>Present this slide as networks against Islamophobia.</p> <p><b>European Forum of Muslim Women:</b> state that it is an organisation whose mission is to address muslim discrimination at the European level and advance women's rights. Discuss to whom it is open to and the second bullet point</p>
12	<p>Now move on to the third part of the presentation, the learning resources. Explain that this section is devoted to organisations, sites, and reports that provide useful legal and practical information on anti-racism.</p> <p>Introduce the <b>FRA</b> as a resource for human rights information in the EU. Add to the second bullet point by including other activities of FRA, such as analysing laws and data, identifying trends, and strengthening cooperation between human rights actors. Explain that the third bullet point is a link for more information on different types of discrimination, including handbooks and videos.</p> <p>Mention what you can find in the second part of the slide. Present the example as a statistical data report based on a FRA survey.</p>
13	<p>Present <b>ECRI</b>. Add that it was established by the first Summit of Heads of State</p>

	<p>and Government in 2002 of the European Council. Mention ECRI's main activities and the types of information found on its website. Explain that the country monitoring framework allows ECRI to individually examine country-level situations of racism and intolerance for specific research.</p>
14	<p>Present the <b>European Equality Law Network</b> by saying that it was created in 2014 by the European Commission, and its aim is to put together legal experts in gender equality and non-discrimination in order to study the effects of EU's equal treatment and non-discrimination laws.</p> <p>Then, give an explanation of its four main activities: production of reports (i.e. country reports, thematic reports and flash reports), the European Equality Law Review (bi-annual review reporting key legal developments at the national and regional levels, such as updates on new ECHR's case laws), ad hoc requests (provides answers to requests from the European Commission on EU-matters or national matters), and seminars (annual conference to discuss the key findings of the year).</p> <p>Finish the description of this learning resource by pointing out the example of the 2022 Malta annual country report on anti-discrimination legal frameworks. Add that this is an example of country monitoring work of the EELN.</p>
15	<p>Introduce this slide by mentioning that the following are the last three learning resources.</p> <p>Remind the audience that we have already talked about <b>ENAR</b> as a network for organisations to potentially join, but on the website there are also toolkits, reports, policy positions, fact sheets, etc. For example, ENAR has recently published a toolkit with solutions and recommendations to challenge structural racism in the labour market.</p> <p>Finally, for those who want to learn more on EU anti-discrimination law, there are two resources which provide a comprehensive overview, written in as accessible way: the <b>Handbook on European non-discrimination law</b>, published by the EU Fundamental Rights Agency, and the <b>European Parliament briefing on legislation and policies to address racial and ethnic discrimination</b>.</p>
16	<p>Conclude the training session. Ask if there are any follow up questions. Thank the trainees for their participation and encourage them to use the networking opportunities and informational materials in their future work.</p> <p>End the session on a positive and hopeful note.</p>

## Part III – Train the Trainer Toolkit

# INTRODUCTION

This Training Toolkit Package is aimed at those who would like to use the **Preservere Training Curriculum** to train others on anti-discrimination.

It provides **instructions and practical information** on how to carry out the various sessions of the programme.

As the training plan is aimed at legal professionals and frontline workers, “Train the Trainer” participants may come from these professional fields or from contexts where anti-discrimination issues are dealt with and addressed (NGOs; civil society associations, public authorities; universities).

It is advisable that trainers have a certain degree of familiarity with the topics addressed, but also that they possess presentation and facilitation skills that allow for good meeting management and training effectiveness.

In this Train the Trainers Toolkit trainers will find:

- 1- Introduction to PRESERVERE Project
- 2- Introduction to the PRESERVERE Training Approach
- 3- Overview of Training Packages and Curriculum
- 4- How to organise a PRESERVERE Training Event

When organising a train-the-trainer event, a total duration of **one working day** can be considered, divided as follows:

- Welcome and presentation > 15 min
- Introduction of the project > 15 min
- Description of the training approach > 15 min
- Analysis of the training materials > 1,15 hour
- Suggestions on how to organise the PRESERVERE Training event > 1,5 hour
- Practical exercises and activities on how to conduct the training > 1,5 hour
- Questions and final discussion > 30 min
- Evaluation



# PRESERVE

Preventing Racism and Discrimination -  
Enabling the Effective Implementation of the  
EU Anti-Racist Legal Framework

PROJECT 101049763 - CERV-2021-EQUAL

## Introduction to PRESERVE Project

### Part III - Train the Trainer Package

#### *Topic 1*

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## Overview of the Topic

- 1** The Project
- 2** Duration
- 3** Target Groups
- 4** Main Activities
- 5** Partnership



## The Project

**PRESERVERE** is concerned with **fighting intolerance, racism, xenophobia and discrimination** against vulnerable ethnic and racial groups and, in particular, Roma, Jews, Muslims and people of African descent. Starting from the premise that any system tasked with protecting the vulnerable from discrimination must, first and foremost, rely on an effective legal framework, the project implements activities concerned with the **better enforcement of the law**.

The project is financed by the European Commission, Citizens, Equality, Rights and Values programme (CERV).



## Duration



**24 Months**

**Starting Date:** 1 February 2022

**Ending Date:** 31 January 2024





## Target groups

+ 210

### Legal Professionals

Professionals in field of law directly involved in anti-racism work; representatives of equality bodies; representatives of law enforcement branches tasked with promoting racial equality or with branches concerned with the continuous professional development of members of the force; and civil society organisations that work in the field.

+ 210

### Front line Professionals

Police officers, reception centres workers, social workers.

+ 70

### Trainers & Educators

Professional trainers and/or by subject matter experts and professionals who want to implement training courses in the field of anti-discrimination.



## Main Activities (1)

- 1 European Comparative Research and 6 National Reports (on Italy, Cyprus, Bulgaria, Greece, Malta and the Netherlands)** to identify the hurdles that are preventing the effective implementation of the EU legal framework on combating intolerance, racism, xenophobia and discrimination in the different national contexts (including features of the domestic legislation that are likely to have an impact, positive or negative, on the implementation of the law).

You can download the eBook at this link

<https://independent.academia.edu/PreservereEUproject/PRESERVERE-E-book-#1>



## Main Activities (2)

- 2 An **Online Toolkit** to offer valid, credible and accessible learning sources and 6 series of Capacity Building Sessions in Italy, Cyprus, Bulgaria, Greece, Malta and the Netherlands addressed to legal and frontline professionals aimed at training the targets to proactively identify instances of violations of the EU framework, to encourage practices of reporting and to assist in the better enforcement of the EU law.



## Main Activities (3)

3

A final **White Paper** offering key lessons learned from the project and recommendations that will strengthen already established coalitions across Europe that seek to fight racism, xenophobia, and discrimination against specific ethnic/racial groups.



## Main Activities (4)

4

A **Final Conference** to raise the awareness and sensitise the general public about how phenomena of discrimination regardless of their form (e.g. antigypsism, antisemitism, anti-Muslim hatred, Afrophobia and LGBTIQphobia) ran counter to EU and national laws and values.



## Project Partners

**8 organisations** – universities, cooperatives, NGOs, from **6 European countries** are participating in the project:

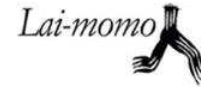
- **Italy** - Cooperativa Sociale San Saturnino Onlus and Lai-Momo Società Cooperativa Sociale
- **Cyprus** - University of Central Lancashire Cyprus and Center For Social Innovation (CSI)
- **Bulgaria** - Multi Kulti Collective
- **Greece** - The Themistocles and Dimitris Tsatsos Foundation – Centre for European Constitutional Law
- **Malta** - The People for Change Foundation
- **the Netherlands** - Amsterdam University of Applied Sciences (AUAS)



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PRESERVERE partnership:



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## Part III – Train the Trainer Toolkit

## TOPIC 1: Overview of PRESERVE Project

<b>Introduction</b>	<p>PRESERVE - Preventing Racism and Discrimination – Enabling the Effective Implementation of the EU Anti-Racist Legal Framework</p> <p>The Project is funded by the Citizenship, Equality, Rights and Values Programme (CERV) of the European Union</p>
<b>The Project</b>	<p>The project proposes actions that prevent and fight racism and xenophobia through a <b>more effective implementation of the European legal framework</b> that has already been transposed in Member States. It focuses, in particular, on professionals who are expected to enforce this framework, but are often unaware of, or unfamiliar with, it and, therefore, unable to rely on it in order to protect and empower victimised groups.</p> <p>The victimised groups that the project aims to indirectly assist are those subjected to intolerant and discriminatory practices on the basis of their ethnicity or race and, in particular, Roma, Jews, Muslims and persons of African descent.</p>
<b>Duration</b>	<p>The duration of the project is 24 months: from 1<sup>st</sup> February 2022 to 31<sup>st</sup> January 2024.</p>
<b>Target Groups</b>	<p>The project aims to directly engage three target groups:</p> <ol style="list-style-type: none"> <li>1. <b>Legal professionals</b> – these could be professionals in field of law directly involved in anti-racism work; representatives of equality bodies; representatives of law enforcement branches tasked with promoting racial equality or with branches concerned with the continuous professional development of members of the force; and civil society organisations that work in the field. Target number: 210</li> <li>2. <b>Front line professionals</b> – these could be police officers, reception centres workers, social workers, administration staff, care givers, psychologists, educators, medic and paramedic professions and others. Target number: 210.</li> <li>3. <b>Trainers &amp; Educators</b> – these could be professional trainers and/or by subject matter experts and professionals who want to implement training courses in the field of anti-discrimination. Target numbers: 70.</li> </ol>
<b>Main Activities</b>	<p><b>The first result of the project has been the publication of an eBook titled</b></p> <p>“THE IMPLEMENTATION OF THE EU ANTI-RACISM LEGAL FRAMEWORK IN 6 EUROPEAN STATES: Bulgaria, Cyprus, Greece, Italy, Malta and the Netherlands”</p>

Accessible at this link

<https://independent.academia.edu/PreservereEUproject/PRESERERE-E-book-#1>

The eBook is the result of activities undertaken under the “Work Package 2” aimed at giving the scientific basis for the subsequent design, development and implementation work packages (Work Package 3 and Work Package 4). Within the scope of WP2 itself, a research team focused on the relevant legal framework (Treaty provisions, Directives and case law) at the European and national levels and on the guidance that has been issued on the implementation of this framework by European bodies, such as the Commission and the Agency for Fundamental Rights. The objective was **to assess whether the EU anti-racism legal framework is meeting its stated objectives or if legal amendments/drafting of new Directives is necessary.**

At the same time, the research delved into how the European framework has been transposed in the respective Member States and focused on features of the domestic legislation that are likely to have an impact, positive or negative, on the implementation of the law. The implementation of two Directives has been examined in more detail: **Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin** (‘Racial Equality Directive’) 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** (‘Victims’ Rights Directive’).

The research focused, inter alia, on

- (a) how faithfully Directives have been transposed into national legislation;
- (b) what are the procedures for someone to bring a complaint or start a legal case for discrimination or hate speech/crimes on grounds of race or ethnicity;
- (c) what are the available remedies to someone who does this;
- (d) what good practices have been adopted for the implementation of the European framework; and
- (e) what steps have been taken to ensure that key stakeholders are familiar with, and can use, this.

Information was collected through desktop and empirical research.

For the desktop research, national reports focused on Case law from the Court of Justice of the EU; Guidance that has been issued by European bodies, such as the Commission, Parliament and the Fundamental Rights Agency; Case law from relevant domestic courts in respective Member States; Decisions of equality bodies in

	<p>respective Member States; Recent secondary literature</p> <p>For the empirical research 2 focus groups took place in each country: one Focus Group involved at least 7 participants from the professional fields of law or law enforcement; the other focus group involved at least 7 frontline workers. Moreover, 6 in depth interviews with selected women professionals in the above-mentioned fields will take place.</p> <p><b>Educational materials are created taking into consideration the results of this research:</b></p> <p>Work package 3 achieves:</p> <p>(a) the instructional design of an informed and needs oriented training package for target groups,</p> <p>(b) the development of innovative learning tools and the online platform for the digital form of the training package, and</p> <p>(c) the creation of the project's Training Toolkit which will help deliver the training package by the consortium's trainers team and by trainers in other organisations which might use it.</p> <p>The deliverables of WP3 will be used for the <b>implementation of training in all partner countries</b>. WP4 involve training professionals in the field of law and frontline workers. The partners will also provide access to the Training Toolkit to selected trainers/educators.</p> <p>Finally, a key objective of the project is to <b>collect good examples</b> of PRESERVE's training toolkit's implementation in each partner country and test its adaptability to local contexts.</p>
<p><b>Partnership</b></p>	<p><b>8 organisations</b> – universities, cooperatives, NGOs, from <b>6 EU countries</b> are participating in the project:</p> <ul style="list-style-type: none"> <li>• <b>Italy</b> – Cooperativa Sociale San Saturnino Onlus and Lai-Momo Societa' Cooperativa Sociale</li> <li>• <b>Cyprus</b> – University of Central Lancashire Cyprus and Center for Social Innovation (CSI)</li> <li>• <b>Bulgaria</b> – Multi Kulti Collective</li> <li>• <b>Greece</b> – The Themistocles and Dimitris Tsatsos Foundation – Centre for European Constitutional Law</li> <li>• <b>Malta</b> – The People for Change Foundation</li> <li>• <b>The Netherlands</b> – Amsterdam University of Applied Sciences (AUAS)</li> </ul>



Preventing Racism and Discrimination - Enabling the Effective  
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# PRESERVE

Preventing Racism and Discrimination -  
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# Introduction to the PRESERVE training approach

Part III - Train the Trainer Package

*Topic 2*

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## Overview of the Topic

- 1 Needs Assessment
- 2 Target groups
- 3 Methodology
- 4 Module Structure
- 5 Content transferability, adaptability & sustainability



## Needs Assessment

The PRESERVERE project identified, both in its national research and comparative European research, concluded in September 2022, that **all project countries – Italy, Cyprus, Bulgaria, Greece, Malta and the Netherlands – need additional training on anti-discrimination and EU law implementation on the national level.** This applies for both legal professionals and frontline workers.



## Needs Assessment

The **Directive 2012/29/EU** also highlights the need for training:

- “Any officials involved in criminal proceedings who are likely to come into personal contact with victims should be able to access and receive appropriate initial and ongoing training, to a level appropriate to their contact with victims, so that they are able to identify victims and their needs and deal with them in a respectful, sensitive, professional and non-discriminatory manner.”
- “Member States should ensure such training for police services and court staff. Equally, training should be promoted for lawyers, prosecutors and judges and for practitioners who provide victim support or restorative justice services.”
- “Member States' actions on training should be complemented by guidelines, recommendations and exchange of best practices in accordance with the Budapest roadmap.”





## Target groups

### Main Target Groups:

- 210 professionals in the field of law
- 210 frontline workers (social workers, administration staff, care givers, psychologists, educators, medic and paramedic professions and others)
- 70 trainers/educators

### Stakeholders & Other Beneficiaries among which:

- Entities working in combating discrimination, racism, intolerance and xenophobia
- Civil society organisations & NGOs fighting phenomena of discrimination
- Public authorities (municipalities, relevant ministry departments, migration offices)
- National equality bodies
- Academic staff in the field of law and/or public policy



## Methodology

- The PRESERVERE training methodology is based on an adapted version of the ADDIE model which includes **5 stages - Analysis, Design, Development, Implementation, and Evaluation.**
- The PRESERVERE tool also includes a horizontal or vertical **Intersectional Discrimination approach** with specific focus on gender and LGBTQ+ rights and challenges.
- It can also be adapted for various purposes such as Learning, Training, Assessment, Action, Evaluation.



## Module Structure

**40%**  
**Theory**

Explanatory text, videos and other multimedia, short introductory discussions, wrapping up at every important milestone

**40%**  
**Activities**

Case studies, quizzes, short research exercises, readings etc. (group or individual ones)

**20%**  
**Discussion**

Structured discussion topics (group work)



## Content transferability, adaptability & sustainability

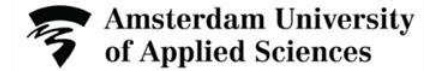
- The PRESERVERE training methodology is designed with the goal to provide all interested target groups and beneficiaries with **sustainable, dynamic and adaptable training tools** that will resist occasional political, legal and practical changes in the different EU Member States.
- The Modules are designed as **transferable** ones. They can address the core target group (legal professionals, front-line workers and trainers/educators) however, they can be easily adapted to train other stakeholders/target groups.
- The PRESERVERE training tool is designed in a way which allows to be delivered both **face-to-face** and **online** through a learning platform.
- The PRESERVERE training methodology can allow any external trainer to easily understand it and be able to adapt it according to his/her own needs **in less than 1 day**.



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## Part III – Train the Trainer Toolkit

## TOPIC 2: Introduction to the PRESERVE Training Approach

<b>Needs Assessment</b>	<p>The PRESERVE project started with a comprehensive research activity in all partner countries – Italy, Cyprus, Bulgaria, Greece, Malta and the Netherlands. Using the same methodology, it aimed to find out to what extent the EU anti-racism legal framework is applied on the national level, identify concrete gaps, challenges and best practices. The study focused on two EU Directives – Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (henceforth, the Racial Equality Directive) 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 (henceforth, the Victims’ Rights Directive). In particular, the national papers were interested in how faithfully these two EU Directives have been transposed into national legislation, the extent and quality of the protection provided to the vulnerable groups, the main gaps and good practices observed by various stakeholders in this regard.</p> <p>However, there are, in fact, 6 research questions which capture the essence of the research:</p> <ul style="list-style-type: none"> <li>(i) How faithfully have the Racial Equality Directive and the Victims’ Rights Directive been transposed into national legislation?</li> <li>(ii) Does the legal framework, at European and national levels remain fit for purpose, or are there gaps to be filled? In other words, is the legal framework of practical use to potential victims? If no, how is it failing them and why?</li> <li>(iii) What are the gaps (and reasons these exist) in the implementation of the law in each Member State?</li> <li>(iv) What are the procedures for someone to bring a complaint or start a legal case for discrimination or hate speech/crimes on grounds of race or ethnicity in each Member State?</li> <li>(v) What are the available remedies to someone who initiates a procedure as described in (iv) above?</li> <li>(vi) What good practices have been adopted for the implementation of the EU Law framework in each Member State?</li> <li>(vii) What steps have been taken to ensure that key stakeholders in the country</li> </ul>
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are familiar with, and can use, the EU Law framework?

The research methodology envisioned desktop and empirical research. In the course of the field work, two main target groups were identified: “professionals in the field of law” (this group includes lawyers active in courts, legal counselors, legal supporters, judges, police men with judiciary tasks and responsibilities, forensic legal professionals, etc) and “front line workers” (social workers, administration staff, care givers, psychologists, educators, medic and paramedic professions, etc.).

The research in all 6 countries clearly established that the professionals who are expected to know and use the two EU Directives are not adequately familiar with their provisions. Therefore, it was made clear that both the national legal professionals and front-line workers are in need of further training. Some of the national reports conclude as follows:

- *“[...] The research we conducted resulted in the following conclusions: First, bar associations and other relevant professional bodies must be utilised in order to inform their members of the trainings that will be provided. This will not only help with the visibility and dissemination of the trainings, but also the organisations’ endorsement will provide the trainings with additional credibility. If there is a way in each country to provide some professional acknowledgement that individuals have undertaken the training (for example, in the form of continuous professional development credits), this is something that partners should pursue.*
- *[...] Second, while ad hoc training sessions are valuable, what would add to the sustainability of the project and the impact of the training to a greater extent is their integration in existing training schemes offered by already established bodies.*
- *[...] In almost all of the countries where research was conducted, the intended audience of the trainings, and lawyers, in particular, stated that they were too busy to participate in the focus groups and interviews. This is a hurdle that we might be asked to overcome when delivering the trainings as well. While the intended audience might, in principle, be interested in finding out more about the EU anti-racism legal framework, in practice, they might be reluctant to participate because of their overloaded schedule. This is something that should be considered when planning the trainings. Possible solutions include offering the option of attending only parts of the training or supplementing the training itself with continuous digital access to training materials that could be accessed at a time that is more convenient for each individual trainee.*
- *[...] Training should be tailored to its recipients. Lawyers and frontline workers might be working on similar themes, but they are likely to be faced with different challenges and their respective trainings should reflect this. While, for*



	<p><i>instance, frontline workers would like to acquire a more all-rounded knowledge of the rights that are protected under the Directives, lawyers would be more interested in greater analysis of case law and other documents they could use in court.</i></p> <ul style="list-style-type: none"> <li>• <i>[...] It was a unanimous request of interviewees and focus group participants in the different countries that the trainings should provide specific, practical help in the form of real-life scenarios. General training on the legislation is welcome, it was often stated, but this should always be supplemented by case studies.</i></li> </ul> <p>In addition, it is also worth mentioning that the Victims’ Rights Directive specifically highlights the need for training:</p> <p>“Any officials involved in criminal proceedings who are likely to come into personal contact with victims should be able to access and receive appropriate initial and ongoing training, to a level appropriate to their contact with victims, so that they are able to identify victims and their needs and deal with them in a respectful, sensitive, professional and non-discriminatory manner. Persons who are likely to be involved in the individual assessment to identify victims' specific protection needs and to determine their need for special protection measures should receive specific training on how to carry out such an assessment. Member States should ensure such training for police services and court staff. Equally, training should be promoted for lawyers, prosecutors and judges and for practitioners who provide victim support or restorative justice services. This requirement should include training on the specific support services to which victims should be referred or specialist training where their work focuses on victims with specific needs and specific psychological training, as appropriate. Where relevant, such training should be gender sensitive. Member States' actions on training should be complemented by guidelines, recommendations and exchange of best practices in accordance with the Budapest roadmap.” (Paragraph 61 of the Preamble of Directive 2012/29/EU)</p>
<p><b>Target groups</b></p>	<p>The PRESERVE project aims to directly engage <b>3 main target groups</b>:</p> <ul style="list-style-type: none"> <li>• 210 professionals in the field of law (professionals in field of law directly involved in anti-racism work; representatives of equality bodies; representatives of law enforcement branches tasked with promoting racial equality or with branches concerned with the continuous professional development of members of the force; and civil society organisations that work in the field);</li> <li>• 210 frontline workers (police officers, reception centres workers, social workers, administration staff, care givers, psychologists, educators, medic</li> </ul>

	<p>and paramedic professions and others);</p> <ul style="list-style-type: none"> <li>• 70 trainers/educators (professional trainers and/or by subject matter experts and professionals who want to implement training courses in the field of anti-discrimination).</li> </ul> <p>In addition, the PRESERVERE project takes into consideration <b>other stakeholders &amp; other beneficiaries</b> among which:</p> <ul style="list-style-type: none"> <li>• Entities working in combating discrimination, racism, intolerance and xenophobia;</li> <li>• Civil society organisations &amp; NGOs fighting phenomena of discrimination;</li> <li>• Public authorities (municipalities, relevant ministry departments, migration offices);</li> <li>• National equality bodies;</li> <li>• Academic staff in the field of law and/or public policy.</li> </ul>
<p><b>Methodology</b></p>	<p>The PRESERVERE project uses a comprehensive training methodology. It is based on an adapted version of the ADDIE model which includes <b>5 stages</b>:</p> <ul style="list-style-type: none"> <li>• Analysis;</li> <li>• Design;</li> <li>• Development;</li> <li>• Implementation;</li> <li>• Evaluation.</li> </ul> <p>Another key element is the horizontal or vertical <b>Intersectional Discrimination approach</b> with specific focus on gender and LGBTQ+ rights and challenges.</p> <p>The methodology is designed in a way which allows to serve various purposes such as:</p> <ul style="list-style-type: none"> <li>• Learning;</li> <li>• Training;</li> <li>• Assessment;</li> <li>• Action;</li> <li>• Evaluation.</li> </ul>
<p><b>Module Structure</b></p>	<p>The PRESERVERE training tool is designed into several Modules which all follow the same structure. The goal was to provide a balanced modern approach which offers:</p> <p><b>(i) 40% Theory</b></p>

	<ul style="list-style-type: none"> <li>• 25% explanatory (text) slides</li> <li>• 25% videos and other multimedia</li> <li>• 25% short introductory discussions (ex. Do you know....? What if...?)</li> <li>• 25% Wrapping up at every important milestone and Q/A sessions</li> </ul> <p>(ii) <b>40% Activities</b> – individual or group work</p> <ul style="list-style-type: none"> <li>• Case studies</li> <li>• Quizzes</li> <li>• Short research exercises</li> <li>• Readings</li> </ul> <p>(iii) <b>20% Structured discussion topics</b> – group work</p>
<p><b>Content transferability, adaptability &amp; sustainability</b></p>	<p>The PRESERVERE training tool is designed with the intention to provide interested trainers and target groups with <b>sustainable, dynamic and adaptable training tools</b> that could be adapted based on the EU member state’s national context.</p> <p><b>Transferability</b> is another key element of the tool as it allows trainers to use it freely for various professional situations. It can be used for the core target groups (legal professionals, front-line workers and trainers/educators) and, at the same time, be easily adapted to train other stakeholders and target groups (entities working in combating discrimination, racism, intolerance and xenophobia; civil society organisations &amp; NGOs fighting phenomena of discrimination; public authorities (municipalities, relevant ministry departments, migration offices); national equality bodies; academic staff in the field of law and/or public policy).</p> <p>In the light of the increased interest for online and blended learning (especially after the COVID-19 pandemic), the tool is structured in a way which can satisfy two types of learning:</p> <ul style="list-style-type: none"> <li>• Face to face learning;</li> <li>• Online learning.</li> </ul> <p>Last but not least, the PRESERVERE training tool is designed in such a way, which can allow any professional trainer to easily understand it and modify it to his/her needs</p>

	for less than 1 day. In this way, the tool aims to be straight-forward to work with but also offer significant depth of knowledge.
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# PRESERVE

Preventing Racism and Discrimination -  
Enabling the Effective Implementation of the  
EU Anti-Racist Legal Framework

PROJECT 101049763 - CERV-2021-EQUAL

## Overview of Training Packages and materials

### Part III - Train the Trainer Package

#### *Topic 3*

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## Overview of the Topic

-  Programme Structure
-  Curricula Structure
-  Training Material



## Programme Structure



Curriculum for professionals in the field of law



Curriculum for front line workers



Special topics for stakeholders & other indirect groups



# Curriculum for professionals in the field of law (1)

## 1. Reliance in EU law in domestic courts, institutions and daily practice

- a. Overview of current trends regarding primacy of EU law (theory and recent jurisprudence)
- b. Overview of anti-racist and victim protection-related EU treaties, legislation, rules and soft law (theory and recent jurisprudence)
- c. Case study: In the absence of harmonization/ EU law





## Curriculum for professionals in the field of law (2)

### 2. The provisions of the Racial Equality Directive

- a. Overview of main aspects and term of the Directive
- b. Application of the Directive across the EU (harmonization and recent national jurisprudence)
- c. Case study: In the absence of harmonization/Racial Equality Directive



## Curriculum for professionals in the field of law (3)

### 3. The provisions of the Victim's Rights Directive

- a. Overview of main aspects and terms of the Directive
- b. Application of the Directive across the EU (harmonization and recent national jurisprudence)
- c. Case study: In the absence of harmonization/ Victim's Rights Directive



## Curriculum for professionals in the field of law (4)

### 4. Combination of the covered material & practical scenarios

- a. Practical scenario 1
- b. Practical scenario 2
- c. Practical scenario 3

#### **Practical Scenarios**

The practical scenarios serve to synthesise the knowledge acquired in the two main curriculum through practical exercises. The scenarios can be taken from a real situation or a legal case, or they can be imaginary.

Trainees must analyse the case presented and try to find answers to questions such as **“What would you do on the basis of the knowledge of EU law that you have acquired?”**



# Curriculum for frontline workers (1)

## 1. EU law and human rights protection

- a. The effect of EU law in a front-line worker's practice
- b. Division of EU law (treaties, regulations, directives, guidelines etc.) & Primacy of EU law over the domestic laws of the member states
- c. Overview of main EU law (treaties and legislation) related to racism and victim protection



## Curriculum for frontline workers (2)

### 2. The provisions of the Racial Equality Directive

- a. Common definitions of racism VS definition of racism in the directive
- b. Overview of main aspects and terms of the Directive
- c. How to help my beneficiaries benefit from the Directive



## Curriculum for frontline workers (3)

### 3. The provisions of the Victim's Rights Directive

- a. Common definitions of victim VS definition of racism in the directive
- b. Overview of main aspects and terms of the Directive
- c. How to help my beneficiaries benefit from the Directive



## Curriculum for frontline workers (4)

### 4. Combination of the covered material & practical scenarios

- a. Practical scenario 1
- b. Practical scenario 2
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Trainees must analyse the case presented and try to find answers to questions such as **“What would you do on the basis of the knowledge of EU law that you have acquired?”**



## Special topics for stakeholders & other beneficiaries:

1. Advocacy towards a better implementation of the Directives
2. Effective awareness raising among professionals and general public
3. Supporting professionals - forming sustainable coalitions
4. Networking resources, calls and opportunities





## Training Material



**Slide Presentation (PPT)** to be used during face-to-face events

Each Presentation offers:

- An introduction with the learning objectives to be achieved
- An overview of the topics covered
- Explanations, diagrams and multimedia material
- Suggestions for class thoughts and discussions
- Activities to be carried out in class and/or autonomously
- References to materials to be used for further studies



## Training Material



**Script** (PDF Format) containing:

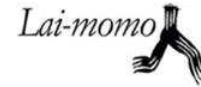
- Explanation of each slide
- Useful tips
- More elaborated data
- Further information



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## Part III – Train the Trainer Toolkit

## TOPIC 3: Overview of Training Packages and Materials

<b>Introduction</b>	<p>The content of this training was developed taking into account the needs identified through the <b>fieldwork and document research</b> conducted in the initial phase of the project.</p> <p>As assessed during the field research led during the first phase of the project:</p> <p><i>Training should be tailored to its recipients. Lawyers and frontline workers might be working on similar themes, but they are likely to be faced with <b>different challenges</b> and their respective trainings should reflect this. While, for instance, frontline workers would like to acquire a more all-rounded knowledge of the rights that are protected under the Directives, lawyers would be more interested in greater analysis of case law and other documents they could use in court. [see eBook p.43]</i></p> <p>To answer their need as much as possible, different curricula have been created for the main target groups:</p> <ul style="list-style-type: none"> <li>• Professionals in the field of law</li> <li>• Curriculum for front line workers</li> <li>• Stakeholders &amp; other indirect groups</li> </ul>
<b>Curricula Structure</b>	<p>Legal professionals and front-line workers are provided with <b>respective integrated curricula</b> as they constitute the main knowledge and skills recipients of PRESERVE project.</p> <p><b>For the legal professionals it includes:</b></p> <p><b>1. Reliance in EU law in domestic courts, institutions and daily practice</b></p> <ol style="list-style-type: none"> <li>a) Overview of current trends regarding primacy of EU law (theory and recent jurisprudence)</li> <li>b) Overview of anti-racist and victim protection-related EU treaties, legislation, rules and soft law (theory and recent jurisprudence)</li> <li>c) Case study: In the absence of harmonization/ EU law</li> </ol> <p><b>2. The provisions of the Racial Equality Directive</b></p> <ol style="list-style-type: none"> <li>a) Overview of main aspects and term of the Directive</li> <li>b) Application of the Directive across the EU (harmonization and recent</li> </ol>



	<p>national jurisprudence)</p> <p>c) Case study: Case study: In the absence of harmonization/Racial Equality Directive</p> <p><b>3. The provisions of the Victim's Rights Directive</b></p> <p>a) Overview of main aspects and terms of the Directive</p> <p>b) Application of the Directive across the EU (harmonization and recent national jurisprudence)</p> <p>c) Case study: Case study: In the absence of harmonization/ Victim's Rights Directive</p> <p><b>4. Combination of the covered material &amp; practical scenarios</b></p> <p>a) Practical scenario 1: [TITLE]</p> <p>b) Practical scenario 2: [TITLE]</p> <p>c) Practical scenario 3: [TITLE]</p> <p><b>For the frontline workers it includes:</b></p> <p><b>1. EU law and human rights protection</b></p> <p>a) The effect of EU law in a front-line worker's practice</p> <p>b) Division of EU law (treaties, regulations, directives, guidelines etc.) &amp; Primacy of EU law over the domestic laws of the member states</p> <p>c) Overview of main EU law (treaties and legislation) related to racism and victim protection</p> <p><b>2. The provisions of the Racial Equality Directive</b></p> <p>a) Common definitions of racism VS definition of racism in the directive</p> <p>b) Overview of main aspects and terms of the Directive</p> <p>c) How to help my beneficiaries benefit from the Directive</p> <p><b>3. The provisions of the Victim's Rights Directive</b></p> <p>a) Common definitions of victim VS definition of racism in the directive</p> <p>b) Overview of main aspects and terms of the Directive</p> <p>c) How to help my beneficiaries benefit from the Directive</p> <p><b>4. Combination of the covered material &amp; practical scenarios</b></p>
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	<p>a) Practical scenario 1: [TITLE]</p> <p>b) Practical scenario 2: [TITLE]</p> <p>c) Practical scenario 3: [TITLE]</p> <p>As for the stakeholders and the broader beneficiaries, they are provided with <b>special topics</b> that focus more on networking, raising awareness and supporting the core target groups throughout their effort to implement antiracist and pro-victim EU legislation in a more effective way.</p> <p><b>Special topics for stakeholders &amp; other beneficiaries:</b></p> <p>a) Advocacy towards a better implementation of the Directives</p> <p>b) Effective awareness raising among professionals and general public</p> <p>c) Supporting professionals - forming sustainable coalitions</p> <p>d) Networking resources, calls and opportunities</p>
<p><b>Training Material</b></p>	<p>Trainers will be provided with ready to use but also adaptable:</p> <ul style="list-style-type: none"> <li>• <b>Slide Presentations in 7 languages</b> to be used during face-to-face events;</li> <li>• <b>PDF documents</b> containing explanation slides, suggestions, tips, more elaborate data, etc.</li> </ul>



# PRESERVE

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# How To Organise a PRESERVE Training Event

## Part III - Train the Trainer Package

### *Topic 4*

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## Overview of the Topic

- 1 How to plan a training event
- 2 Duration of the training programme
- 3 Training format
- 4 Classroom training session
- 5 How to facilitate the classroom training session



## How to plan a training event (1)

An effective training experience requires a few **basic steps**:

1

### Preliminary analysis of training recipients

It is important to know the **characteristics of the participants and their training needs**. The toolkit materials are subdivided according to target group profiles but within each category needs may differ, and it is important for the trainers to know who they are addressing.

2

### Establishing learning objectives

Knowing the participants makes it possible to select and establish which specific objectives one wants to achieve through the training, also according to the needs of the organiser.



## How to plan a training event (2)

3

### Planning the training content

The content of the training will be selected and determined from the carried-out analysis.

4

### Organising the training – online or offline

Timetable, mode and venue or virtual space will be arranged according to the needs of participants and organiser and depending on logistical and organisational availabilities.



## How to plan a training event (3)

- 5** **Holding the training**  
Realizing the training according to the plan but also allowing flexibility for last-minute changes according to the groups' needs.

- 6** **Evaluating the training**  
Establishing the effectiveness of the training intervention allows the trainer and the training provider to become aware of weaknesses and strengths and to take the necessary measures for improvement.



## Duration of the training programme

The total duration of the programme for each main target group should be approximately



**16 hours**

**6 hours** of real-time lecture



**10 hours** of individual online study



## Training Format (1)

To reflect the needs for flexibility and adaptability of the toolkit, training can be delivered in **different formats**:

- **Classroom training**, instructor-lead learning in real time
- **Online training**, in which users independently go through the training process
- **Blended training**, combining traditional classroom methods and autonomous training



## Training Format (2)

Each format has advantages and disadvantages that must be considered when preparing to use the training.

### Classroom Training

- It allows interaction and discussion with the group and questions to the trainer.
- It is binding from the point of view of the content proposed by the trainer and the times and spaces.
- It has management costs.

### Online Training

- It allows the participants to manage their own learning according to their needs and availability.
- It is cheaper.
- It allows the trainer to reach a large number of people.
- It allows limited interaction with the class and the teacher.

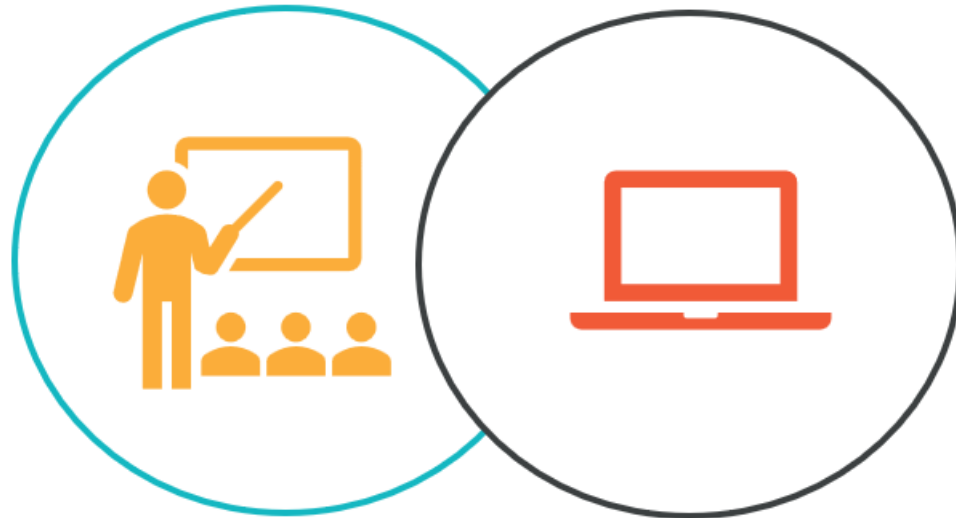
### Blended Training

- It allows the participants to benefit from the trainer's support during classroom training.
- It allows in-depth content and exercises through online training.
- It is cheaper and easier to manage.



## Training Format (3)

The format we propose is a **blended training** in which **classroom teaching** is aimed at providing the general framework of the course and the essential notions related to the topics that will then be addressed and deepened independently by the participants through the **online platform**.





## In-person classroom training session (1)

Face-to-face training requires the **availability of a physical place to host participants**.

The **choice of venue** and **seating arrangement** depends not only on the **number of people** the trainer wants to involve in the event, but also on the **type of activity** he/she wants to carry out and the **degree of interaction** he/she wants to ensure.

Learning space shapes learning and teaching behaviour



## In-person classroom training session (2)

We can consider **three main types** of classroom arrangement:

- **Traditional classroom**
- **U-Shaped layout**
- **Circle layout**



## In-person classroom training session (3)

### The Traditional Classroom

In this layout all **desks and chairs face the trainer** and the presentation board. It is the most common arrangement used in schools and universities.

- + Participants focus on the presentation
- Participants' collaboration is difficult as they are facing each other back

It is the best option for **attending lectures and watching slides presentations**. This type of accommodation is suitable for **large groups**.



## In-person classroom training session (4)

### The U-Shaped Layout

In this layout the desks and chairs are set in a U-shape, so that participants can see each other and the trainer presentation.

- + It enhances group discussion and interaction
- It requires more space

This type of accommodation is not suitable for large groups because it requires a **lot of space** and if there are many people, they will be seated at a **great distance** from each other.



## In-person classroom training session (5)

### The Circle Layout

All participants are seated **facing each other** and the trainer does not occupy a particular space within the circle.

- + Functional for group work and discussion
- Does not allow the display of whiteboard or slides

This type of arrangement also requires the presence of a **small audience**. It is the mode that allows **group activities** to take place following the teacher's lecture.



## In-person classroom training session (6)

### Equipment and materials

To use the toolkit, you need a **projector and a screen**, and it is recommended to have a **wifi connection** in the classroom to access the Internet and use the materials on the online platform.

There is no provision for the distribution of **printed material**, however, the trainer may decide to print out slides or distribute other supplementary material useful for carrying out the training. It is recommended to avoid unnecessary printing due to green policies.

### \* **Real-time training** can also take place **online**

The organisational steps for setting up the classroom include the provision of technical equipment to enable video lectures and the participation of trainees.



## How to facilitate classroom training session (1)

### USEFUL TIPS

- When organizing a training, make sure that everyone has been informed about the **place and time**.
- It is advisable to invite people at least 15 minutes before the start of the meeting to ensure the **punctuality** of the event.
- **Prepare the room and the materials** to be used (signature sheets, pens, papers, presentations, etc.) in advance.
- Check the functioning of the technical equipment (video, audio, etc.) and make sure you have spare devices available.



## How to facilitate classroom training session (2)

### Welcome and introduction

The **first part of the meeting** will be dedicated to **greetings and presentation of the agenda**. Practical information on the training space and timetable may also be provided.

### Assessment of expectations

To encourage participation and create a positive classroom climate, an **icebreaking activity** is recommended. This is intended both to introduce the participants but also to identify their expectations of the training.



**Brainstorming activities** are the ideal way to achieve this and can also be realised through the creation of word clouds or real-time polls.





## How to facilitate classroom training session (3)

### Presentation of the training programme

It is important that participants understand the **course structure** and how to use the **online platform**.

→ A **Power Point presentation** of the table of contents could be the best way to illustrate the course.

### Training activity

The time has come to deal specifically with the **content of the training**. In the scheduled time, it will be possible to address a topic of the module by making use of the slides provided in the toolkit and using the additional material.



## How to facilitate classroom training session (4)

### Workshop activities

Involving the class in a **hands-on activity** is the best way to ensure participation and to check the actual understanding of the topics.

It is possible to use one of the “Practical scenario” presented in the modules to test the participants through **group work**.

The **exercises** contained within the digital platform are also an ideal way to highlight the main points of the lesson and effectively present how it works.



## How to facilitate classroom training session (5)

### Close the meeting

Keep some time for **questions** and a **final discussion** among the participants.

### Evaluate the experience

To evaluate the effectiveness of the training and the participants' learning, prepare an anonymous **satisfaction questionnaire** to be submitted at the end of the training or afterwards (on paper or online).



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**Part III – Train the Trainer Toolkit**
**TOPIC 4: How to Organise a PRESERVE Training Event**

<b>Introduction</b>	<p>The contents of the training package are designed and structured in a <b>flexible manner</b> to meet the training needs and organisational requirements of different realities.</p> <p>Each module is aimed at a <b>specific category of users</b> and the sequence of topics is designed to cover the proposed themes in a logical and complete manner [see topic 3 of this module]. However, the structure of the programme and the organisation of the topics allow <b>free use</b> by recipients and trainers.</p> <p>Trainers may use more or less advanced material depending on the <b>level of competence of the audience</b> and include topics within the different modules without affecting the success of the training.</p>
<b>How to plan a training session</b>	<p>An effective training experience requires <b>analysis and planning</b></p> <p>Taking inspiration from the <b>ADDIE model*</b>, it is possible to identify <b>5 essential moments</b> for the realisation of a useful training event that meets the needs of participants</p> <p style="padding-left: 40px;">* ADDIE is a learning model used by instructional designers and training developers to create effective learning experiences.</p> <p style="padding-left: 40px;">The acronym stands for: Analysis; Design; Development; Implementation; Evaluation</p> <p><b>1. Preliminary analysis of training recipients</b></p> <p>It is important to know the characteristics of the participants and their training needs. The toolkit materials are subdivided according to target group profiles but within each category needs may differ, and <b>it is important for the trainers to know who they are addressing.</b></p> <p>A few questions you can ask yourself and to your recipients during the analysis phase are:</p> <p>Who is my audience and what are they like? Why are they participating to the training? What is their desired outcome of this learning experience? What does my audience already know?</p> <p><b>2. Establishing learning objective analysis and planning</b></p> <p>Knowing the participants makes it possible to select and establish which specific objectives one wants to achieve through the training, also according to the</p>

	<p>needs of the organizer</p> <p>Question to answer to: Are there some problems we can solve?</p> <p><b>3. Planning the training content</b></p> <p>The content of the training will be selected and determined from the carried-out analysis</p> <p>Question to answer to: What are the best tools to deliver information needed by my audience?</p> <p><b>4. Organising the training – online or offline</b></p> <p>Timetable, mode and venue or virtual space will be arranged according to the needs of participants and organiser and depending on logistical and organisational availabilities.</p> <p><b>5. Holding the training</b></p> <p>Realizing the training according to the plan but also allowing flexibility for last-minute changes according to the groups' needs.</p> <p><b>6. Evaluating the training</b></p> <p>Establishing the effectiveness of the training intervention allows the trainer and the training provider to become aware of weaknesses and strengths and to take the necessary measures for improvement.</p> <p>We will see in detail what each of this step may be in the last part of the presentation.</p>
<p><b>Duration of the programme</b></p>	<p>The total duration of the programme for each main target group (legal professionals, front line workers and stakeholders) is approximately <b>16 hours</b>, comprising <b>lecture</b> and <b>individual study</b>.</p> <p>Approximately <b>6 hours of face-to-face contact</b> and <b>10 hours of individual preparation and follow-up activities</b> are planned.</p> <p>This timeframe was determined on the basis of the needs identified during the assessment phase. Although a widespread desire for training and further education was noted on the part of the target groups, at the same time there was a marked <b>difficulty in finding the necessary time to devote to training</b>.</p> <p>The proposed content was therefore selected and structured in such a way as to comprehensively cover the topics without, however, requiring too heavy a time commitment.</p>
<p><b>Training format</b></p>	<p>To reflect the needs for flexibility and adaptability of the toolkit, training can be</p>

	<p>delivered in <b>different formats</b>:</p> <ul style="list-style-type: none"> <li>▪ <b>Classroom training</b>, instructor-lead learning in real time;</li> <li>▪ <b>Online training</b>, in which users independently go through the training process;</li> <li>▪ <b>Blended training</b> combining traditional classroom methods and autonomous training.</li> </ul> <p>Each format has advantages and disadvantages that must be considered when preparing to use the training.</p> <p>The format we propose is a <b>blended training</b> in which <b>classroom teaching</b> is aimed at providing the general framework of the course and the essential notions related to the topics that will then be addressed and deepened independently by the participants through the <b>online platform</b>.</p> <p>As highlighted in chapter 3.5 of the eBook [see Part III Topic 1 – Main Activities]</p> <p><i>“In almost all of the countries where research was conducted, the intended audience of the trainings, and lawyers, in particular, stated that <b>they were too busy</b> [...]. While the intended audience might, in principle, be interested in finding out more about the EU anti-racism legal framework, in practice, they might be reluctant to participate because of their <b>overloaded schedule</b>. This is something that should be considered when planning the trainings. Possible solutions include <b>offering the option of attending only parts of the training or supplementing the training itself with continuous digital access to training materials that could be accessed at a time that is more convenient for each individual trainee</b>”</i></p> <p>For all these reasons we opted for a Blended version of the training.</p>
<p><b>In-person Classroom Training Session</b></p>	<p>The choice of the right place and seating arrangement in the classroom is important to achieve the desired learning outcomes and must reflect the adopted <b>teaching technique</b>.</p> <p>All these classroom seating arrangements have their <b>pros &amp; cons</b>.</p> <p>The ideal solution would be to have a large space in which <b>furniture and chairs can be easily moved</b>, so that different arrangements can be used at different times during the meeting.</p> <p>For the initial phase of the lecture a classic arrangement is useful, for discussion a U-shaped arrangement and the circle for group work.</p> <p>* <b>Real-time training</b> can also take place <b>online</b>, in which case the organisational steps for setting up the classroom include the provision of technological equipment to enable video lectures and the participation of trainees.</p>



	<p>If you want to make the online training experience similar to the face-to-face one, you need to ensure a good level of student participation and involvement. To this end, it is necessary to choose a <b>video-conference software</b> that allows a high level of interaction allowing participants to speak aloud, share the screen, type in questions, indicate that they have a question to ask, vote in polls, etc.</p> <p>Online training has the advantage of enabling the participation of people who are far away and thus the <b>involvement of large groups</b>. However, the presence of many people can make it <b>difficult to manage the lesson</b> and not ensure sufficient interaction between participants.</p>
<p><b>How to Facilitate the Classroom Training Session</b></p>	<p>The meeting will be an <b>introductory session</b> in which some topics considered of particular relevance will be covered and the toolkit and its use will be explained.</p> <p>We propose a <b>possible subdivision</b> of the meeting into <b>7 different moments</b>:</p> <ol style="list-style-type: none"> <li>1. Welcome and introduction [15 min]</li> <li>2. Assessment of expectations [30 min]</li> </ol> <p>Here are some free applications that can be used for the icebreaking activities: <a href="https://wordart.com/">https://wordart.com/</a>; <a href="https://www.mentimeter.com/">https://www.mentimeter.com/</a></p> <ol style="list-style-type: none"> <li>3. Presentation of the training programme [30 min]</li> <li>4. Training activity [3 hours]</li> <li>5. Workshop activities [1 hour]</li> <li>6. Questions and Final Debate [15 min]</li> <li>7. Evaluation [15 min]</li> </ol> <p>For the creation of the evaluation questionnaire, we suggest using a Google form <a href="https://docs.google.com/forms">https://docs.google.com/forms</a></p>

<p><b>References and Further readings</b></p>	<p>Reece, I., and Walker, S. (2007). <i>Teaching, Training &amp; Learning: A practical guide</i>. 6th ed. Sunderland: Business Education Publishers.</p> <p>Banyard, P. &amp; Underwood, J. (2008). Understanding the learning space. <i>eLearning Papers</i>, Nº. 9, 2008.</p> <p>Thai et al. (2020). Face-to-face, blended, flipped, or online learning environment? Impact on learning performance and student cognitions. <i>Journal of Computer Assisted Learning</i>, volume 36, issue 3, 397-411.</p> <p>Cserti, R. (2018, November 12). <i>Train The Trainer Course – A complete design guide (With Examples)</i>. <a href="https://www.sessionlab.com/blog/train-the-">https://www.sessionlab.com/blog/train-the-</a></p>
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	<p><a href="#">trainer/#how-to-design-a-learning-experience-day-2</a></p> <p>20 Bedford way. (n.d.). <i>How to Organise Training Events &amp; Increase Engagement</i>. <a href="https://20bedfordway.com/news/organising-training-events/">https://20bedfordway.com/news/organising-training-events/</a></p> <p>Jordan, A. (n.d.). <i>Formazione blended: Cos'è e come implementarla in azienda</i>. <a href="https://www.docebo.com/learning-network/blog/cose-la-formazione-blended-e-come-implementarla-in-azienda-2/">https://www.docebo.com/learning-network/blog/cose-la-formazione-blended-e-come-implementarla-in-azienda-2/</a></p> <p>Parrish, C. (2019, July 26). <i>6 Steps for Planning an Effective Team Training Event</i>. <a href="https://learn.g2.com/planning-a-team-training-event">https://learn.g2.com/planning-a-team-training-event</a></p> <p>Morse, G. (n.d.), <i>Train the trainer</i>. <a href="https://www.academia.edu/32723274/Train_the_Trainer">https://www.academia.edu/32723274/Train_the_Trainer</a></p>
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<p><b>Questions for the audience</b></p>	<p>Proper planning of training is crucial to the success of the event. Think about your potential audience and try to answer each of these questions:</p> <ul style="list-style-type: none"> <li>• What are the goals of the training?</li> <li>• What are the topics I need to focus on?</li> <li>• Who are the participants?</li> <li>• How many people will participate?</li> <li>• What is their level of experience/knowledge of each topic?</li> <li>• How long will the training event last?</li> <li>• When and where will the session take place?</li> <li>• Do I have appropriate logistical support (room, equipment, visuals)?</li> </ul>
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