



## Table of content

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<b>Table of content</b> .....	<b>3</b>
<b>Introduction</b> .....	<b>5</b>
FEVR .....	5
Justice and victims .....	5
Directive on the rights, support and protection of victims of crime.....	5
<b>Survey</b> .....	<b>7</b>
<b>Results and discussion</b> .....	<b>7</b>
Some remarks in advance .....	7
Preliminary question: Road traffic victims as 'victims of criminal offences'.....	8
Article 3 Right to understand and be understood .....	10
Article 4 Right to receive information from the first contact with a competent authority.....	13
Article 6 Right to receive information about their case.....	19
Article 8 Right to access victim support services .....	28
Article 16. Right to decision on compensation from the offender in the course of criminal proceedings .....	31
Article 21 Right to protection of privacy.....	35
<b>Conclusions</b> .....	<b>39</b>
<b>Appendix A: Members of FEVR</b> .....	<b>41</b>
<b>Appendix B: Overview of replies to FEVR questionnaire</b> .....	<b>42</b>
<b>Appendix C: Questionnaire</b> .....	<b>43</b>



## Introduction

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### FEVR

FEVR stands for the European Federation of Road Traffic Victims<sup>1</sup>. FEVR is a member of main council of the European Transport Safety Council (ETSC) and participates in the United Nations Road Safety Collaboration. FEVR has Consultant Status (Roster) at United Nations Economic Commission for Europe WP1 (Working Party for Road Safety).

#### FEVR's main aims are:

- to offer support and help to road crash victims by providing free emotional, practical and juridical assistance mainly through member associations;
- to contribute to road safety by highlighting road danger and the causes of crashes in order to influence institutions and authorities towards implementing and enforcing road safety measures far more effectively.

FEVR believes that a more appropriate legal response would serve as a deterrent and thus contribute to the reduction of deaths and injuries in road crashes. FEVR wants to see lessons learnt from tragedies, so that they are not repeated.

FEVR and its member organisations highlight road danger and road safety issues from the victims' perspective, and from the post-crash stage, advocating for institutions and authorities to implement and enforce those road safety measures which research found to be most effective.

### Justice and victims

Besides its work to prevent road crashes, FEVR is concerned about the quality of post-crash responses.

Research has shown that denial of road victims' needs is likely to cause psychological harm to them. A serious response to road death and injury and decent treatment of road victims are seen by FEVR as road victims' fundamental rights. This must include accurate information, trauma care, rehabilitation, an appropriate legal response, as well as funding for organizations providing support to victims.

As an advocacy organisation for road crash victims, FEVR wants to see an end to the discrimination endured by them when compared to other victims of crime, and wants to see laws that deter and are consistently applied.

### Directive on the rights, support and protection of victims of crime

Since the entry into force of the Lisbon Treaty in 2009 and the guidelines towards a European Area of Freedom, Security and Justice, like the Stockholm Programme envisages, protection of victims of any crime in the EU has been on the top of the EU's agenda.

In 2012, the European Parliament and the Council agreed on the terms of a Directive (Directive 2012/29/EU) on the rights, support and protection of victims of crime, as part of a legislative package which aims at strengthening the rights of victims in the EU and which also includes a proposal for a Regulation on mutual recognition of protection measures in civil matters and a communication on strengthening victims' rights in the EU.

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<sup>1</sup> In French: Fédération Européenne des Victimes de la Route.

## Content of Directive 2012/29/EU

In the common guidelines (EU 2011/0129 COD) about this Directive, consideration 9 on page 6 gives a clear view on the purpose of the Directive:

*“Crime is a wrong against society as well as a violation of the individual rights of victims. As such, victims of crime should be recognized and treated in a respectful, sensitive and professional manner without discrimination. In all contacts with a competent authority operating within the context of criminal proceedings, and any service coming into contact with victims, such as victim support or restorative justice services, the personal situation and immediate needs, age, gender, possible disability and maturity of victims of crime should be taken into account while fully respecting their physical, mental and moral integrity. Victims of crime should be protected from secondary and repeat victimization, from intimidation and from retaliation, should receive appropriate support to facilitate their recovery and should be provided with sufficient access to justice”.*

This EU directive establishes minimum rights for victims of crime and is part of a horizontal package of measures establishing basic rights regardless of the member state, the crime or the victim.

The directive states that there are twelve types of information the victim has the right to receive, among them: info on financial compensation, their role in proceedings, info on the possibility of mediation.

Finally, the Directive offers new possibilities for the rights of victims in cross border cases.

Article 2 (1) defines victims as:

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

## Implementation of the Directive

Directive 2012/29/EU applies to all victims of crime. Therefore, if and to the extent that road crashes qualify as “criminal offences” under criminal law in the member state, the road traffic victim will benefit from all the rights in the Directive, if it is implemented.

The EU Member States have until 16 November 2015 to transpose and implement the directive in their national legislation. The Directive is fully binding legislation. Member States face infringement procedures in case of non or incorrect application of the Directive.

## Survey

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FEVR investigated the progress of the implementation of the Directive by EU Member States a few months before the deadline from the viewpoint of road traffic victims. At the request of FEVR, a questionnaire was developed by Francis Herbert (OVK-PEVR), Koen Van Wonterghem (OVK-PEVR), Gerdine Westland (Rondpunt), Bernard De Wit (OVK-PEVR), Frank Hutsebaut (KU Leuven), and Jeanot Mersch (FEVR President).

A survey was sent to all FEVR member organisations in 17 EU countries<sup>2</sup>. In total, the questionnaire was completed by 15 member organisations of FEVR and their network.

## Results and discussion

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### Some remarks in advance

1. The survey is about detecting how road traffic victims themselves experience the implementation of the Directive in their country, conform the approach of FEVR.
2. Obviously the answers reflected in this document express the experience of road traffic victims as to the situation in their country. This experience may not correspond to the official view of the authorities in the member state concerned.
3. In this report the term 'victims' also includes the relatives of victims.
4. The interpretation of the data submitted was complicated by following elements:
  - a strong variation in exhaustiveness between the completed questionnaires;
  - contradicting answers, e.g. if 'Yes' was ticked but the further information suggests a 'No' or 'Undetermined'. In these cases the meaning of the accompanying information was decisive. If needed the Yes/No/Undetermined-answer was adapted;
  - the complexity of some questions: a number of questions contained multiple components, this made it sometimes difficult to know to which component the answer was referring (especially when the answer was 'No' without further information);
  - the scope of some questions, a comment made by several respondents.
5. Preliminary results were presented at a FEVR conference on 25<sup>th</sup> September 2015 in Brussels. Participants shared information and experiences. These elements are incorporated in this report.
6. The members of the working group preparing the questionnaire, selected the six most important articles of the Directive from a victims point of view.
7. The research was done during the summer of 2015, a few months before the Directive has to be implemented in the Member States. Some of them might have taken additional measures to meet the requirements of this Directive in the last few months.

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<sup>2</sup> Two associations of FEVR are not European: Turkey and Lebanon.

## Preliminary question: Road traffic victims as 'victims of criminal offences'

The DG Justice Guidance Document exposes that “whether the Directive will define as a “victim” a person who has been a victim of specific conducts depends on whether such acts are criminalised and prosecutable under national law”(p. 7) with a specific reference to road traffic offences under footnote 9. Who is a victim is determined by national law. Most Member States are currently finalising legislation in order to implement the Directive. Some Member States have not yet taken action. Road traffic victims are victims under the Directive if under the applicable national law road traffic offences are indeed criminalised.

**Under Art. 2 (1) a of Directive 2012/29/EU a victim is defined as:**

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

Therefor a preliminary question of the survey looked into the degree in which the Member States indeed criminalised road traffic offences in their legislation. In most Member States injuring or causing death by risky behaviour is a criminal offence, but replies in the survey give various views.

All 15 respondents answered the preliminary question.

Table 1 shows that in half of the responding countries (7 countries) road victims are considered as victims of a criminal offence. In 7 countries road victims believe that this is only the case in certain conditions find this unclear. In 3 countries traffic road victims think that the national law does not at all consider road victims as victims of a criminal offence.

*Table 1: Are road victims considered as victims of a criminal offence?*

Yes	Partially / Undetermined	No	No answer
Belgium France Luxemburg Portugal Romania Scotland England and Wales	Bulgaria Greece Ireland The Netherlands Slovenia Spain	Germany Italy	Greece Ireland
<b>46,7% (7/15)</b>	<b>40,0% (6/15)</b>	<b>13,3% (2/15)</b>	

In Bulgaria and Slovenia only road traffic victims who experienced a crash with major consequences are considered as victims of crime. Greece and Ireland did not answer this question. In Spain there was a change in the law, but in the opposite way: traffic road victims have a more uncertain position than before. In The Netherlands, it is not clear, as victims have to claim damages in civil court.

In Germany the law has not yet been transformed in this way and at this moment it is still unclear what the law will be like. In Italy, only the victims of intentional crimes are considered victims of crime. In England and Wales the Ministry of Justice has revised its definition of victim of crime. As of 16 November 2015, victims of all criminal offences, which includes motoring offences, qualify as a victim of crime. Previously the definition was limited to victims of a subset of criminal offences.

### *Additional information*

- Justice is an important issue for victims. In addition, victims also need recognition and respect of their feelings.
- Criminal offences need to be properly investigated. The new Directive will improve things but much depends on the competence of the police and the coroner to investigate the crash.
- At the conference of 25<sup>th</sup> September 2015, attendees stressed a serious problem that is not addressed in the questionnaire, namely the very long judicial proceedings in many countries. For instance, Greek respondents mentioned that proceedings can take up to eight years and that punishments are light. One should not underestimate how stressful this is for victims. Moreover, this problem has also economic repercussions for society. Slowing down the proceedings is mainly in favour of the offender and his insurance.

### **Summary preliminary question**

Although in most Member States road traffic victims are considered as victims of a criminal offence, road traffic themselves do not always experience this as such. Only in 6 countries are road traffic victims fully aware of this.

### **Recommendations**

- Efforts are needed to convince the Member States:
  - 1° that road traffic offences should always be criminalised when they result in people being injured or killed and
  - 2° that, to the largest extent possible, any act or failure to act which causes the injury of death to another person should be criminalised in order to offer the victim of such act the protection envisaged by the Directive."
- In many Member States extra efforts to communicate unambiguously about the legal status of road traffic victims are needed.
- Road victim associations furthermore ask to include also the families of severely injured victims, they should have the same rights as the bereaved families.

## Article 3 Right to understand and be understood

### Article 3

1. Member States shall take appropriate measures to assist victims 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, including where information is provided by that authority.
2. Member States shall ensure that communications with victims are given in simple and accessible language, orally or in writing. Such communications shall take into account the personal characteristics of the victim including any disability which may affect the ability to understand or to be understood.
3. Unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced, Member States shall allow victims to be accompanied by a person of their choice in the first contact with a competent authority where, due to the impact of the crime, the victim requires assistance to understand or to be understood.

For each of the three paragraphs of Article 3 a specific question was formulated.

### Results

14 FEVR members provided information about the implementation of Article 3 in their Member State.

#### *Question 1*

The first question about the implementation of Article 3 is about understanding the information provided by authorities from the first contact after the road crash.

Half of the respondents stated that they had understood the information provided by authorities (police, public prosecutor's office, judicial assistants, court officials) from the first contact after the road crash. For 3 respondents it was unclear and for 4 there was no clear information for road traffic victims (Table 2).

In England and Wales, only bereaved get information nationally produced (guide), whilst the information provided to the injured will vary by police force. In Scotland, road traffic victims get basic information after the road crash and in fatal road crashes a police family liaison officer gives bereaved a copy of a booklet. In Spain provision of information after the crash is different from case to case. The situation is worst in Italy, as Italian law provides mandatory information to the offender, but not to the road traffic victims.

#### Additional information

Respondents from Luxemburg made the remark that the understanding and comprehension of victims in shock after a road crash is limited, which clearly is a very valid general remark.



Table 2: Article 3 – Question 1

Did you understand, from the first contact after the road crash, the information provided by authorities (such as the police, the public prosecutor’s office, the judicial assistants and officials in court)?

Yes	Undetermined	No	No information
Bulgaria France Greece Ireland Romania Scotland Slovenia	Luxemburg Spain England and Wales	Belgium Germany Italy The Netherlands	Portugal
<b>50,0% (7/14)</b>	<b>21,4% (3/14)</b>	<b>28,6% (4/14)</b>	

### Question 2

The second question focused on the road traffic victims’ opinion concerning the efforts made by authorities to provide information to victims.

Victims from Rumania and Slovenia are the only ones who express entirely positive views about the way they feel about the efforts of authorities in general to provide information.

6 countries were quite positive with very specific comments and another 6 were not positive at all (Table 3).

Points of criticism in the second group were: no generalised procedures (different from case to case, not all authorities, not always applied, not all police departments) or not customised (not adapted to personal circumstances).

In Scotland, voluntary agencies provide one-to-one contact if a victim or family has the strength to phone and request the information. This does not seem to correspond to the pro-active assistance referred to by the DG Justice Guidance Document, p. 12.

Table 3: Article 3 – Question 2

Opinions about the efforts of these authorities in general: do they provide simple and accessible information to road traffic victims and/or their relatives, taking into account personal characteristics, including disabilities if necessary?

Positive	Positive with some remarks	Negative	No information
Rumania Slovenia	Bulgaria Germany Greece Ireland The Netherlands Scotland England and Wales	Belgium France Italy Luxemburg Spain	Portugal
<b>14,3% (2/14)</b>	<b>50% (6/14)</b>	<b>35,7% (5/14)</b>	

#### Additional information

- Scottish victims pointed out that it is not enough to provide information to victims and their families because they are very vulnerable at that moment and might be unable to read or access information in their grief. This is a general concern.
- Providing information depends on the competence of the police and the coroner who investigate the crash. For instance, sometimes parents are kept uninformed because these authorities fear that this will jeopardise the inquest. An additional problem is that victims don't know where to complain about a poor investigation.

#### *Question 3*

The third question about Article 3 was: 'Are road traffic victims and/or their relatives in your country allowed to be accompanied by a person of their choice in their contact with authorities?'

All 14 respondents that completed this question answered in the affirmative. However, in England and Wales this is limited to the bereaved family members, it is not the case for (relatives of) injured victims. Spain and Scotland made the remark that in practice this depends on the legal authorities. In Ireland the Garda family liaison officer is very limited in information that he/she can provide in that situation.

#### **Summary Article 3**

- Respondents were univocally positive about the possibility to be accompanied by a person of choice when in contact with authorities.
- About the other aspects of this Article respondents were less positive. Only two respondents were content with the efforts of the authorities to provide simple and accessible information to road traffic victims and their families and less than half of the respondents valued the clarity of the information provided by them.

#### **Recommendations**

State authorities could spend more efforts to provide simple and accessible information to victims. Especially, more attention is needed for the clarity of this information. Moreover the vulnerability and personal characteristics of the victims, such as disabilities, should be taken into account. Not only would this strengthen the victims in their legal rights, it would also contribute to their feelings of recognition and support.

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

### Article 4

- 1) Member States shall ensure that victims are offered the following information, without unnecessary delay, from their first contact with a competent authority in order to enable them to access the rights set out in this Directive:
  - (a) the type of support they can obtain and from whom, including, where relevant, basic information about access to medical support, any specialist support, including psychological support, and alternative accommodation;
  - (b) the procedures for making complaints with regard to a criminal offence and their role in connection with such procedures;
  - (c) how and under what conditions they can obtain protection, including protection measures;
  - (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.
- 2) The extent or detail of information referred to in paragraph 1 may vary depending on the specific needs and personal circumstances of the victim and the type or nature of the crime. Additional details may also be provided at later stages depending on the needs of the victim and the relevance, at each stage of proceedings, of such details.

In order to collect information about the implementation of Article 4, the 8 following topics were surveyed in this questionnaire:

1. Do the authorities communicate immediately to road traffic victims about how they can ensure their rights?
2. Does this communication occur spontaneously or has the victim to take the initiative and request it?
3. Do road traffic victims get informed about how and where to make a complaint, about the criminal procedure and about the way and conditions to receive compensation?
4. Do road traffic victims receive information about legal advice and translation?
5. Do road traffic victims get information about restorative justice services?
6. Do road traffic victims receive information about the possibilities of reimbursement for the expenses incurred as a result of their participation in the criminal proceedings?
7. Are there special measures for the providing of information to non-resident victims?
8. Are specific needs and personal circumstances of the road traffic victims taken into account?

## Results

All respondents provided information about the implementation of Article 4 in their country.

### Question 1

This question contained multiple components. This complicated the interpretation of the answers, because it was not clear to which component the answer was referring, especially when the answer was 'No' without further information.

Two thirds of the respondents stated that they do not as from the first contact with a competent authority receive all the necessary information about ways to ensure their rights during the judicial procedure (Table 4). For instance, respondents from the Netherlands noted that some victims had to ask for information six times before receiving it.

Table 4: Article 4 – Question 1

*Do road traffic victims and/or their relatives as from the first contact receive,, all the necessary information about the way to ensure their rights during the judicial procedure from the authorities ?*

Yes	Undetermined	No	No information
Greece Portugal Rumania	England and Wales Spain	Belgium Bulgaria France Germany Italy Ireland Luxemburg The Netherlands Scotland Slovenia	
<b>20,0% (3/15)</b>	<b>13,3% (2/15)</b>	<b>66,7% (10/15)</b>	

### Additional information

The Directive states that this right to be informed exists as from the first contact regardless of whatever further steps will or will not be taken, e.g. even if there is no prosecution. This implies that the right to be informed starts from the moment of the crash. It also means that the victim does not have to go to the police in order to be considered as a victim.

### Question 2

Only in Bulgaria, victims receive this information spontaneously from the authorities. According to two third of the respondents victims must take the initiative themselves to gain this information (Table 5).

In Belgium, it depends on the personal attitude of authorities. In Rumania and in Spain it depends on the professionalism of the investigator; in England and Wales receiving information spontaneously from the authorities is limited to the bereaved.

Table 5: Article 4 – Question 2

Do they receive this information spontaneously from the authorities (which one: police, public prosecutor, insurance?) or do they have to take the initiative themselves (where)?

Yes	Undetermined	No	No information
Bulgaria	Belgium France Rumania Spain England and Wales	Germany Greece Ireland Italy Luxemburg The Netherlands Portugal Scotland Slovenia	
<b>6,7% (1/15)</b>	<b>33,3% (5/15)</b>	<b>60,0% (9/15)</b>	

### Question 3

Respondents from 5 countries declared that road traffic victims receive information about making a complaint and the ways and conditions to receive compensation, in 3 countries this is not the case at all and in 7 countries this is only partially true (Table 6).

Respondents in Luxemburg, The Netherlands and Scotland, report that victims have to ask for this kind of information. In Belgium this depends on personal engagement of authorities.

Irish respondents stated that in Ireland, if a victim takes a civil claim to the Garda ombudsman, this will even hamper his/her efforts to get information regarding the investigation.

Table 6: Article 4 – Question 3

Do the road traffic victims and/or their relatives receive information about how and where to make a complaint, about the criminal procedure and the position of the victim within this procedure and about the way and the conditions to receive compensation?

Yes	Undetermined / Partially	No	No information
Greece Luxemburg Rumania Portugal Spain	Belgium Bulgaria France The Netherlands Scotland Slovenia England and Wales	Germany Ireland Italy	
<b>33,3% (5/15)</b>	<b>46,7 (7/15)</b>	<b>20,0% (3/15)</b>	

### Question 4

More than half of the respondents stated that victims do not at all receive information about legal advice, legal aid or other sorts of advice, about if and how they can receive interpretation and translation of the information and during procedure. In The Netherlands, victims receive this information if they ask for it. In England and Wales, standard information is only provided to the bereaved whilst what the injured are told will vary by police force and in Slovenia victims are dependent on their lawyers for this. Only in Bulgaria, Greece and Portugal road traffic victims receive this information spontaneously (Table 7).

Table 7: Article 4 – Question 4

Do road traffic victims and/or their relatives receive information about legal advice, legal aid or other sorts of advice, if and how they can receive interpretation and translation of the information and during procedure?

Yes	Undetermined	No	No information
Bulgaria Greece Portugal	The Netherlands Slovenia England and Wales	Belgium France Germany Italy Ireland Luxemburg Rumania Scotland Spain	
<b>20,0% (3/15)</b>	<b>20,0% (3/15)</b>	<b>60,0% (9/15)</b>	

### Question 5

The majority of the respondents stated that victims do not receive information about how and where to make complaints when their rights are not respected by the authorities and about available restorative justice services.

In Scotland there is no formal procedure for restorative justice service and in Ireland there is even no such service available according to the respondents.

Respondents from Italy stress that this is a very serious matter in their country because victims are often also victims of abuse and without this information they are not able to defend themselves properly (Table 8).

Table 8: Article 4 – Question 5

Do road traffic victims and/or their relatives receive information about how and where to make complaints when their rights are not respected by the authorities and about available restorative justice services?

Yes	Undetermined	No	No information
Greece Luxemburg Portugal	Slovenia England and Wales	Belgium Bulgaria France Germany Italy Ireland The Netherlands Rumania Scotland Spain	
<b>20,0% (3/15)</b>	<b>13,3% (2/15)</b>	<b>67,7% (10/15)</b>	

### Question 6

Half of the respondents pointed out that in their country road traffic victims and/or their relatives do not receive information about the possibilities about reimbursement for the expenses of criminal proceedings. The other half of the respondents answered that in their country road traffic victims receive this kind of information, except for Ireland (Table 9). In England and Wales, this information is included in the Victims' Code and the Victims' Commissioner has done much work to improve the complaints system.

Table 9: Article 4 – Question 6

Do road traffic victims and/or their relatives receive information about the possibilities about reimbursement for the expenses incurred as a result of their participation in the criminal proceedings?

Yes	Undetermined	No	No information
Bulgaria Greece Portugal Rumania Scotland	Ireland England and Wales	Belgium France Germany Italy Luxemburg The Netherlands Slovenia Spain	
<b>33,3% (5/15)</b>	<b>13,3% (2/15)</b>	<b>53,3% (8/15)</b>	

### Question 7

Only respondents of Greece confirmed that there are special measures in their country about the way information is transmitted when the victim is a resident in another member state than where the road crash happened. Half of the other respondents denied the existence of such measures and the other half responded ambiguously (Table 10). In England and Wales, the Foreign Commonwealth Office produces a guide for bereaved families on deaths abroad.

Table 10: Article 4 – Question 7

Are there special measures about the way information is transmitted when the victim is a resident in another member state than where the road crash happened?

Yes	Undetermined	No	No information
Greece	Belgium Bulgaria Ireland The Netherlands Portugal Spain England and Wales	France Germany Italy Luxemburg Rumania Scotland Slovenia	
<b>6,3% (1/15)</b>	<b>46,7% (7/15)</b>	<b>46,7% (7/15)</b>	

### Question 8

Again, only respondents from Greece confirmed that the authorities in their country take into account the specific needs and personal circumstances of the victims (e.g. the problems with the insurance). 8 respondents answered that this depends on the institution or situation and 5 respondents said that this is not the case (Table 11).

Table 11: Article 4 – Question 8

Do the authorities in your country take into account the specific needs and personal circumstances of the victims of road crashes and/or their relatives (for example the problems with the insurance)?

Yes	Undetermined	No	No information
Greece	Belgium Germany Ireland Italy Portugal Slovenia Spain England and Wales	Bulgaria France The Netherlands Luxemburg Rumania	Scotland
<b>7,1 % (1/14)</b>	<b>57,1% (8/14)</b>	<b>35,7% (5/14)</b>	

### Summary Article 4

- At least half of the respondents stated that victims do not receive all the necessary information about how to ensure their rights during the judicial procedure from their authorities immediately after being victim (Q1), about legal advice, legal aid or other sorts of advice, about if and how they can receive interpretation and translation of the information and during the procedure (Q4), about how and where to make complaints when their rights are not respected by the authorities and about available restorative justice services (Q5), about the possibilities about reimbursement for the expenses of criminal proceedings (Q6).
- A majority of the respondents pointed out that victims only receive partial or no information at all about making a complaint and the ways and conditions to receive compensation (Q3).
- According to most respondents, in their country victims have to ask for or search information they need to ensure their rights during judicial procedure (Q2).
- Only respondents of Greece confirmed that there are special measures in their country about the way information is transmitted when the victim is a resident in another member state than where the road crash happened (Q7) and that the authorities take into account the specific needs and personal circumstances of the road traffic victims and/or their relatives (Q8).
- Victims are seldom informed in a pro-active way or a way adapted to their personal characteristics.

### Recommendations

- The distribution of all sorts of useful information to victims can be improved in most countries. Moreover, informing victims should occur automatically and pro-actively; they should not have to look themselves for information.
- Since the understanding and comprehension of victims in shock is limited, any information provided should be clear and simple.  
Furthermore, it is necessary to take into account that victims are very vulnerable after the road crash; they might be unable to read or access information in their grief. Therefore, it is not enough just to provide information.



## Article 6 Right to receive information about their case

### Article 6

1. Member States shall ensure that victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by the victim and that, upon request, they receive such information:
  - (a) any decision not to proceed with or to end an investigation or not to prosecute the offender;
  - (b) the time and place of the trial, and the nature of the charges against the offender.
2. Member States shall ensure that, in accordance with their role in the relevant criminal justice system, victims are notified without unnecessary delay of their right to receive the following information about the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by them and that, upon request, they receive such information:
  - (a) any final judgment in a trial;
  - (b) information enabling the victim to know about the state of the criminal proceedings, unless in exceptional cases the proper handling of the case may be adversely affected by such notification.
3. Information provided for under paragraph 1(a) and paragraph 2(a) shall include reasons or a brief summary of reasons for the decision concerned, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.
4. The wish of victims as to whether or not to receive information shall bind the competent authority, unless that information must be provided due to the entitlement of the victim to active participation in the criminal proceedings.
5. Member States shall allow victims to modify their wish at any moment, and shall take such modification into account.
6. Member States shall ensure that victims are offered the opportunity to be notified, without unnecessary delay, when the person remanded in custody, prosecuted or sentenced for criminal offences concerning them is released from or has escaped detention. Furthermore, Member States shall ensure that victims are informed of any relevant measures issued for their protection in case of release or escape of the offender.
7. Victims shall, upon request, receive the information provided for in paragraph 5 at least in cases where there is a danger or an identified risk of harm to them, unless there is an identified risk of harm to the offender which would result from the notification.

14 respondents provided information about the implementation of Article 6. Several questions about Article 6 are complex, containing several components. This hinders the interpretation of the collected information. For instance, if a question contains 5 components, the answer to this question is affirmative only if it covers all 5 components. But if not, it is impossible to determine which components, if not all, were not true.

### *Question 6a - 1*

5 respondents stated that the competent authorities in their country provide victims with contact details they need request to request information about their case. 4 respondents stated that this is not the case in their country. The 5 remaining reports were undetermined: the provision of updated contact details very much varies depending on the kind of authority, desired information or victim (Table 12).

Table 12: Article 6a – Question 1

Do the competent authorities (police, public prosecutor’s office, tribunal or court registrar) provide road traffic victims and/or their relatives with all necessary updated contact details through which they can request the desired information (cf. Recital 29)?

Yes	Undetermined	No	No information
Germany Greece Italy Scotland Spain	Bulgaria France Luxemburg Portugal England and Wales	Belgium Ireland Rumania Slovenia	The Netherlands
<b>35,7% (5/14)</b>	<b>35,7% (5/14)</b>	<b>28,6% (4/14)</b>	

### Question 6a – 2

Only in 3 countries did respondents confirm that victims are informed rapidly on their right to receive information about any decision not to proceed to an investigation, about any decision not to prosecute the offender, about the time of the trial, about the place of the trial and about the nature of the charges against the offender.

The other respondents were divided on this matter: 6 of them answered in the negative (Table 13).

The other 5 were undetermined for different reasons. Respondents for Spain and Bulgaria specified for which components the information is provided and for which not. In England and Wales, this information is included in the Victims’ Code. In Portugal a very recent change in the law grants victims the right to receive this information but at their request . It is therefore too soon to determine if victims experience any benefit from this legal change.

Table 13: Article 6a – Question 2

Are road traffic victims and/or their relatives rapidly informed on their right to receive information about any decision not to proceed to an investigation, about any decision not to prosecute the offender, about the time of the trial, about the place of the trial and about the nature of the charges against the offender?

Yes	Undetermined	No	No information
Greece Portugal Scotland	Bulgaria France Slovenia Spain England and Wales	Belgium Germany Ireland Italy Luxemburg Romania	The Netherlands
<b>21,4% (3/14)</b>	<b>35,7% (5/14)</b>	<b>42,9% (6/14)</b>	

### Question 6a - 3

Half of the respondents confirmed that victims can easily file a request to obtain the above information. 3 respondents stated that this was not the case in their countries. The others were undetermined (Tables 14a).

The second part of question 3 informed how the request is to be submitted, if an oral request is sufficient and if any adapted forms are proposed. Respondents for France and Portugal stated that an oral request is sufficient. In Bulgaria, Greece, Luxemburg, Romania, Belgium and Spain, this information can be obtained by a written request (Table 14b).

Table 14a: Article 6a – Question 3

Is it easy for road traffic victims and/or their relatives to file a request to obtain the above information?

Yes	Undetermined	No	No information
Belgium Bulgaria Greece Luxemburg Portugal Romania Scotland	France Ireland Spain England and Wales	Germany Italy Slovenia	The Netherlands
<b>50,0% (7/14)</b>	<b>28,6% (4/14)</b>	<b>21,4% (3/14)</b>	

Table 14b: Article 6a - Question 3, part II

How is the request to be submitted? Is an oral request sufficient? Are any adapted forms proposed?

Bulgaria	If they are private plaintiffs they receive all information during the trial. In most of the case they can write a request to the court to obtain the information. <i>Comment: again confusion about the scope of the question</i>
Greece	Formal request through lawyer or court official preferable
Ireland	Trying to get any information is very difficult for families. You will be advised where the case stands. E.g. with the DPP, file being prepared for DPP, no prosecution – but getting any detail of evidence gathered is most difficult. What you do get, which is very limited, can be costly.
Luxemburg	Letter
England and Wales	Bereaved families and those injured where dangerous driving is alleged have the right to review either the police or the CPS charging decision. But not the vast majority of those injured by driving offences
Rumania	No special forms, all requests are made in written, explaining what they want.
Scotland	Requests as in Q2 can be made by phone, e-mail or by letter. Crown Office have issued the following statement: “As a victim of crime in Scotland, you, have the right to a review of a decision by us not to prosecute, made on or after 1 July 2015. You should if possible apply for a review within one month of the date you are informed of our decision not to prosecute. Generally you would be told of the review decision within 20 working days.” Section 4 of the Victims and Witnesses (Scotland) Act 2014 comes into force on 1 July 2015. This section introduces the right of a victim to seek a review of a decision by a prosecutor not to prosecute the case in which they are a victim. Again information on Crown Office website together with form to be completed requesting a review of a charge.
Belgium	Written
Italy	Normally the public prosecutor will not accept to talk directly with the victim. Anyhow, because of the regime of secrecy of the investigation, you cannot get news, even through the lawyer.
France	Only oral request - Rely on NGO’s
Portugal	Oral request is sufficient (art. 11, 7 Act 130/2015 4 September 2015).
Spain	There are forms to ask for police report. In the court they only inform the lawyers, but the victim can go to the prosecutor / road safety public prosecutor but they don't know that it exists.
Slovenia	Usually victims gather information from lawyers, friends or other victims of traffic road crashes.

### Question 6a - 4

The provision of information varies strongly between countries. In Bulgaria, Greece, The Netherlands and France, victims can request this information in writing. In Scotland and Romania they can ask the information by e-mail, phone and letter (Table 15). Respondents for Italy and Ireland complained that the information is provided very late, close to the investigation or trial. In Belgium there is no uniformity. In England and Wales, this is included in the Victims' Code.

Table 15: Article 6a – Question 4

Is the information provided when requested? How rapidly? Under what form? Orally, in writing, by electronic communication?

Yes	Undetermined	No	No information
Belgium Bulgaria Greece The Netherlands Romania	France Ireland Portugal Slovenia England and Wales	Germany Italy Scotland Spain	Luxemburg
<b>35,7% (5/14)</b>	<b>35,7% (5/14)</b>	<b>28,6% (4/14)</b>	

### Question 6a - 5

6 of 14 respondents found the quality of the information provided satisfactory. Italian respondents were happy with the quality of the information but complained about the fact that information is provided too late, which makes it very difficult to file an opposition. In Ireland and Belgium the reasoning justifying the decisions often is brief and not very informative (Table 16).

Except for Greece, respondents stated that it is not possible to discuss and review information in their country. In Spain, this is only possible if the victims go to the prosecutor for road safety together with their lawyer.

Table 16: Article 6a – Question 5

Is the information provided satisfactory as to its content: are any reasons given for the decision not to proceed with the investigation, to end it or not to prosecute the offender? Are these reasons given in extensive form or as a 'summary'? Is there an opportunity to discuss and comment?

Yes	Undetermined	No	No information
Bulgaria Greece Ireland Luxemburg Portugal Romania	France Italy Spain England and Wales	Belgium Germany Scotland Slovenia	The Netherlands
<b>42,9% (6/14)</b>	<b>28,6% (4/14)</b>	<b>28,6% (4/14)</b>	

### Question 6b - 1

Only 3 respondents of 14 stated that victims are informed rapidly on their right to receive information about any final judgement and the state of criminal proceedings (Table 17).

In Slovenia this is only the case for the victims themselves, not for their relatives. In Ireland this is not clear, since the family liaison officer is in charge to keep families up to date on their own request. In the UK only bereaved are rapidly informed. In Belgium and Portugal victims have to request this information.

Additional information

In most countries reported, victims complain about the length of proceedings.

Table 17: Article 6b – Question 1

Are road traffic victims and/or their relatives rapidly informed on their right to receive information about any final judgement and the state of criminal proceedings?

Yes	Undetermined	No	No information
Luxemburg Rumania Scotland	Bulgaria France Ireland England and Wales Slovenia	Belgium Germany Greece Italy Portugal Spain	The Netherlands
<b>21,4% (3/14)</b>	<b>35,7% (5/14)</b>	<b>42,9% (6/14)</b>	

### Question 6b - 2

Half of the respondents confirm that it is easy for victims to file a request to obtain the above information. In Ireland this information is easily obtained but only if there is a prosecution. In Spain and in Slovenia victims have to submit a written request. In England and Wales there are differences between police forces. Only in Germany and Italy it is difficult for victims to file a request to obtain this information (Table 18).

Table 18: Article 6b – Question 2

Is it easy for road traffic victims and/or their relatives to file a request to obtain the above information? How is it submitted? Is an oral request sufficient? Are any adapted forms proposed?

Yes	Undetermined	No	No information
Belgium France Greece Luxemburg Portugal Romania Scotland	Bulgaria Ireland Slovenia Spain England and Wales	Germany Italy	The Netherlands
<b>50,0% (7/14)</b>	<b>35,7% (5/14)</b>	<b>14,3% (2/14)</b>	

### Question 6b - 3

8 of 14 respondents stated that information is provided when requested. Only in Germany and in Spain this is not the case. In the other countries the situation is less clear. In Portugal this should now be ok under the new law but the Portuguese respondents made the remark that it still has to be assessed yet (Table 19). In England and Wales it depends on the police force. In Ireland, there have been situations where families were not informed, particularly for minor road traffic offences.



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Table 19: Article 6b – Question 3

Is the information provided when requested? How rapidly? Is the information provided satisfactory as to its content?

Yes	Undetermined	No	No information
Belgium Bulgaria Greece Italy Luxemburg Portugal Romania Scotland	France Ireland Slovenia England and Wales	Germany Spain	The Netherlands
<b>57,1% (8/14)</b>	<b>28,6% (4/14)</b>	<b>14,3% (2/14)</b>	

### Question 6b - 4

Also this question contains different components, which is reflected in the answers of the respondents: several comments were beside the point.

In 5 countries, respondents reported that victims are notified about decisions to end proceedings. In 5 other countries, this is not the case.

In England and Wales, only bereaved are informed about this kind of decisions, not the injured (this law will be modified in the near future). Also in Slovenia the victim has to have a defined status to be informed about the decision to end proceedings. In Scotland, any reasons would be delivered orally (Table 20).

Table 20: Article 6b – Question 4

Paragraph 3 of Article 6 imposes an obligation to provide reasons or a brief summary of reasons of the decision to end proceedings (i.e. not to proceed with or to end investigations or not to prosecute the offender). What is the situation in your country with regard to this type of decision: Is it always and rapidly notified to the road traffic victim and/or his relatives? If so, are any reasons given and is it exposed whether and how such decision can be appealed against?

Yes	Undetermined	No	No information
Bulgaria France Greece Luxemburg Romania	Portugal Scotland Slovenia England and Wales	Belgium Germany Ireland Italy Spain	The Netherlands
<b>35,7% (5/14)</b>	<b>28,6% (4/14)</b>	<b>35,7% (5/14)</b>	

### Question 6c - 1

Half of the respondents stated that victims are not informed that they may, at any moment, modify their wish to be or not to be kept informed. In 5 countries they are informed about this (Table 21).

Table 21: Article 6c – Question 1

Are road traffic victims and/or their relatives informed that they may, at any moment, modify their wish to be or not to be kept informed?

Yes	Undetermined	No	No information
Belgium Greece Luxemburg Portugal Scotland	Ireland England and Wales	Bulgaria France Germany Italy Rumania Slovenia Spain	The Netherlands
<b>35,7% (5/14)</b>	<b>14,3% (2/14)</b>	<b>50,0% (7/14)</b>	

### Question 6c - 2

The majority of the respondents noted that in their country victims are not given the opportunity to be notified quickly when the person remanded in custody, prosecuted or sentenced for criminal offences concerning them is released from or has escaped detention.

In England and Wales, this information is included in the Victims' Code. In Scotland, bereaved families can subscribe to be informed in these situations. In Ireland, one has to make a request for that. In Spain the new law will foresee this, but also only for bereaved.

Only in Greece, Luxemburg and Portugal victims can ask to be notified when the person in custody, prosecuted or sentenced for criminal offences concerning them is released from detention or has escaped (Table 22).

Table 22: Article 6c – Question 2

Are road traffic victims and/or their relatives offered the opportunity to be notified without the unnecessary delay when the person remanded in custody, prosecuted or sentenced for criminal offences concerning them is released from or has escaped detention?

Yes	Undetermined	No	No information
Greece Luxemburg Portugal	Ireland Scotland England and Wales	Belgium Bulgaria France Germany Italy Romania Slovenia Spain	The Netherlands
<b>21,4% (3/14)</b>	<b>21,4% (3/14)</b>	<b>57,1% (8/14)</b>	



## Summary Article 6

- Several questions about Article 6 are complex, containing several components. This hinders the interpretation of the collected information.
- If asked about their authorities providing victims information on request (Q6a4) or contact details needed to request information about their case, experiences of respondents varied strongly (Q6a1).
- The majority of the respondents criticized their authorities for:
  - not providing the victim information about their right to receive all kinds of information about their case (e.g. decision not to proceed to an investigation or not to prosecute the offender, time and place of the trial, nature of the charges against the offender) (Q6a2)
  - not informing victims rapidly about aspects of their case (e.g. any final judgement, the state of criminal proceedings) (Q6b1),
  - not notifying victims quickly when the person who is prosecuted or sentenced for criminal offences concerning them is released from or has escaped detention (Q6c2);
  - the lack of quality of the information provided (Q6a5);
  - the fact that it is not possible to discuss and review information (Q6a5).;
  - the fact that victims are not informed that they may, at any moment, modify their wish to be or not to be kept informed (Q6c1).
- On the other hand, a majority of the respondents confirmed that:
  - information is provided when requested (Q6b3);
  - victims can easily file a (mostly written) request to obtain the above information (Q6a3);
  - it is easy for road traffic victims and/or their relatives to file a request to obtain the above information (Q6b2).

Thus, although it is relatively easy for victims to get information at their own request, often they don't receive information that might be useful for them automatically.

## Recommendations

- In a majority of the countries discussed in this chapter more attention is needed to guarantee the rights of victims to receive information about their case.
- Victims should get all relevant information, about their rights and about all aspects of their case.
- Victims should be informed rapidly, without any delay, in a pro-active way tailored to their characteristics and specific needs.
- Further, more attention is needed for the quality of the provided information, and victims should have the possibility to discuss and review information.

## Article 8 Right to access victim support services

### Content of Article 8

1. Member States shall ensure that victims, in accordance with their needs, have access to confidential victim support services, free of charge, acting in the interests of the victims before, during and for an appropriate time after criminal proceedings. Family members shall have access to victim support services in accordance with their needs and the degree of harm suffered as a result of the criminal offence committed against the victim.
2. Member States shall facilitate the referral of victims, by the competent authority that received the complaint and by other relevant entities, to victim support services.
3. Member States shall take measures to establish free of charge and confidential specialist support services in addition to, or as an integrated part of, general victim support services, or to enable victim support organizations to call on existing specialized entities providing such specialist support. Victims, in accordance with their specific needs, shall have access to such services and family members shall have access in accordance with their specific needs and the degree of harm suffered as a result of the criminal offence committed against the victim.
4. Victim support services and any specialist support services may be set up as public or non-governmental organizations and may be organized on a professional or voluntary basis.
5. 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 formulates one of the core rights in the Directive.

### Results

14 countries provided information about the implementation of Article 8.

#### Question 1

Two thirds of the respondents confirm that in their country victims have access to support services; in many cases these services are provided by the respondent's organisation. In Greece these services have a limited capacity and in Scotland there is a long waiting list.

In Italy support services are only for victims of intentional crimes and no public funding is provided for supporting road traffic victims. But the respondent's organization (AIFVS) has set up a support services for these victims. In Spain some NGOs provide support services, but not in every city (Table 23).

Table 23: Article 8 – Question 1

*In your country, do road traffic victims and/or their relatives have access to support services and if so, are those free of charge and confidential?*

Yes	Undetermined	No	No information
Belgium Bulgaria Greece Ireland Luxemburg Portugal Romania Scotland Slovenia	Italy England and Wales Spain	France Germany	The Netherlands
<b>64,3% (9/14)</b>	<b>21,4% (3/14)</b>	<b>14,3% (2/14)</b>	

### Question 2

In an overwhelming majority of the countries (11 out of 14) special support services for victims are organised by NGO's, mostly the ones that filled in the questionnaire. Some are run by volunteers, some by professionals and some by both. In 3 of them, next to these there are also services run by a public organisation. Only in Belgium and in Germany are these services exclusively organised by public organisations (Table 24). As respondents of Scotland answered that there are no specific support services for victims and bereaved families of road crashes, they were omitted from Table 24. In England and Wales, the MOJ<sup>3</sup> funds a national helpline for victims of road crashes.

Table 24: Article 8 – Question 2

*If a special support service for road traffic victims and/or their relatives exists, is it a public or a nongovernmental organization and is it lead by professionals or voluntary people?*

Public organization	NGO	Both	No information
Belgium Germany	Bulgaria Greece Ireland Italy Luxemburg Portugal Romania England and Wales	France Slovenia Spain	The Netherlands Scotland
<b>15,4% (2/13)</b>	<b>61,5% (8/13)</b>	<b>23,1% (3/13)</b>	

### Question 3

Half of the respondents stated that in their country victims do not automatically receive useful information about support services. The rest of the respondents' answers, except the Spanish, were still mitigated on this question. In the cases where there exists material containing this information (flyers, booklets), it is seldom provided automatically. In some countries this depends on the region, the police force, and even the type of victim<sup>4</sup> (Table 25).

Table 25: Article 8 – Question 3

*Do road traffic victims and/or their relatives automatically obtain the information where to find support services, with contact details?*

Yes	Undetermined	No	No information
Spain	Greece Luxemburg Portugal Scotland England and Wales	Belgium Bulgaria France Germany Ireland Italy Romania Slovenia	The Netherlands
<b>7,1% (1/14)</b>	<b>35,7% (5/14)</b>	<b>50,0% (7/14)</b>	

<sup>3</sup> MOJ stands for Ministry of Justice.

<sup>4</sup> In the England and Wales, bereaved families have more rights and are better assisted after the road crash.

## Summary Article 8

- It is encouraging that a majority of the respondents confirms that in their country victims have access to support services (Q1). In most countries special support services for victims are organised by NGOs. Some are run by volunteers, some by professionals and some by both (Q2).
- Half of the respondents stated that in their country victims do not automatically receive useful information about support services and the rest of them, except the Spanish, were not entirely positive about this (Q3).

## Recommendations

- Existing organisations for road victims should be supported, since they meet a major need of road victims.
- It would be a huge improvement if victims would automatically get information about these organisations, as soon as possible after the crash. Coordination between services and/or regions on this is recommend to guarantee that victims receive this information in all situations and places.

## Article 16. Right to decision on compensation from the offender in the course of criminal proceedings

### Article 16

1. Member States shall ensure that, in the course of criminal proceedings, victims are entitled to obtain a decision on compensation by the offender, within a reasonable time, except where national law provides for such a decision to be made in other legal proceedings.
2. Member States shall promote measures to encourage offenders to provide adequate compensation to victims.

### Results

13 respondents provided information about the implementation of Article 16 in their country.

#### Question 1

In most countries (12 of 13), respondents confirmed the possibility for victims to obtain compensation through a civil procedure. In more than half of these countries it is also possible to get compensated through a criminal procedure (Table 26). We changed here the position of Italy and France, because we knew about the possibility of compensation in criminal and civil procedures. So this does not correspond with the viewpoint of the associations, which means that they are not informed about this possibilities.

Table 26: Article 16 – Question 1

*Is it possible in your country for road traffic victims and/or their relatives to obtain compensation from the person responsible for the road crash or his/her insurer in the course of the ‘criminal procedure’ or can such compensation only be obtained through a separate ‘civil’ procedure?*

Criminal procedure	Civil procedure	Criminal + civil procedure	No information
Bulgaria	Germany Greece Ireland Scotland England and Wales	Belgium Luxemburg Romania Slovenia Spain France Italy	The Netherlands Portugal
<b>7,6% (1/13)</b>	<b>38,5% (5/13)</b>	<b>53,8% (7/13)</b>	

#### Question 2

This question was about compensation obtained through **criminal procedure**. Because respondents of Germany, Greece, Ireland, Scotland and the UK specified in the previous question that compensation is only possible through a civil procedure, the answers of these respondents were excluded. In 5 of the 7 remaining countries the ‘reasonable time’ mentioned in the Directive of 25 October 2012 is not respected. Bulgaria apparently constitutes the exception (Table 27).

Table 27: Article 16 – Question 2

If it is possible in your country for road traffic victims and/or their relatives to obtain compensation in the course of the 'criminal procedure', is the 'reasonable time' mentioned in the Directive of 25-12-2012 respected?

Yes	Undetermined	No	No information / Not included
Bulgaria	Slovenia France	Belgium Italy Luxemburg Romania Spain	Germany Greece Ireland The Netherlands Portugal Scotland England and Wales
<b>14,3% (1/7)</b>	<b>28,6% (2/7)</b>	<b>71,4% (5/7)</b>	

### Question 3

As in the previous question, only the answers of the countries where victims can get compensated through criminal proceedings were processed.

Respondents of the 7 remaining countries confirmed that the moral damage - this is immaterial and/or nonphysical damage (e.g. grieving, psychological damage as a consequence of physical impairment...) - suffered by the victim is compensated (Table 28).

Table 28: Article 16 – Question 3

Is the 'moral damage' (= non-material and/or nonphysical damage: e.g. grieving, psychological damage as a consequence of physical impairment etc) suffered by the victim compensated?

Yes	Undetermined	No	No information / Not included
Belgium Bulgaria Italy Luxemburg Romania Slovenia Spain France			Germany Greece Ireland The Netherlands Portugal Scotland England and Wales
<b>100% (8/8)</b>	<b>0,0% (0/8)</b>	<b>0,0% (0/8)</b>	

### Question 4

As in the previous questions, only the answers of the countries where victims can get compensation through criminal proceedings were processed.

Concerning compensation for the moral damage suffered by the family or relatives of the victim, the situation is less univocal. In Bulgaria, Spain and Slovenia, it is only possible when the victim has died in the road crash. In the other 4 countries it is no dependent on the gravity of the consequences of the road crash (Table 29).

Table 29: Article 16 – Question 4

Is the moral damage suffered by the family or the relatives of the victim compensated?

Yes	Undetermined / Partially	No	No information / Not included
Belgium Italy Luxemburg Romania	Bulgaria Slovenia Spain		France Germany Greece Ireland The Netherlands Portugal Scotland England and Wales
<b>57,1% (4/7)</b>	<b>42,9% (3/7)</b>	<b>0,0% (0/7)</b>	

### Question 5

As in the previous questions, only the answers of the countries where victims can get compensation through criminal proceedings were processed.

Except for Slovenia, in all countries where victims can be compensated in the course of criminal proceedings there exist mechanisms to compensate the victims in case the person responsible for the road crash is lacking the means to compensate or is not insured (Table 30). This does not exclude that the same solution exists with regard to claims for compensation submitted through the civil procedure.

Table 30: Article 16 – Question 5

If the person responsible for the road crash is lacking the means to compensate or is not insured, are other mechanisms foreseen to compensate the victims and/or their relatives?

Yes	No	No information / Not included
Belgium Bulgaria Italy Romania Spain	Slovenia	France Germany Greece Ireland Luxemburg The Netherlands Portugal Scotland England and Wales
<b>83,3% (5/6)</b>	<b>16,7% (1/6)</b>	

## Summary Article 16

- Obtaining compensation through criminal proceedings is not a possibility in all Member States (half of the countries covered). In most other countries compensation can be claimed but exclusively through civil proceedings.
- Very often compensation through criminal procedure does not occur within 'reasonable time' as mentioned in the Directive
- In all countries moral damage suffered by the victim is compensated.
- This is different for moral damage suffered by the family or relatives of the victim. In 4 countries they also get compensated, but in the 3 other countries this is only the case when the victim has died in the road crash.

## Recommendations

- Member should pay more attention to realise compensation within a reasonable time.
- Furthermore, although this is not within the Directive, from the point of view of FEVR, the family of the severely injured should have the right to claim compensation for moral damage.



## Article 21 Right to protection of privacy

### Article 21

1. Member States shall ensure that competent authorities may take during the criminal proceedings appropriate measures to protect the privacy, including personal characteristics of the victim taken into account in the individual assessment provided for under Article 22, and images of victims and of their family members. Furthermore, Member States shall ensure that competent authorities may take all lawful measures to prevent public dissemination of any information that could lead to the identification of a child victim.
2. 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.

### Results

11 countries provided information about the transposition of Article 21.

#### Question 1

Almost three quarter of the respondents stated that in their country there is no body which monitors the privacy rights of victims with regard to the media. Such an institution only exists in Belgium, Germany and Greece (Table 31).

Table 31: Article 21 – Question 1

*Is there a body in your country which monitors the privacy rights of road traffic victims and/or their relatives with regard to the media?*

Yes	No	No information
Belgium Germany Greece	Bulgaria France Ireland Luxemburg Romania Scotland Slovenia Spain	Italy The Netherlands Portugal England and Wales
<b>27,3% (3/11)</b>	<b>72,3% (8/11)</b>	

#### Question 2

This question was mentioned for those countries where such a body exists. Given the number of respondents that nevertheless answered this question, it probably was not well understood. In Table 32, only the answers of respondents from Belgium, Germany and Greece were taken into account.

From these three countries, only the Greek body which monitors the privacy rights of victims with regard to the media is not easily accessible for this target group (Table 32).

Table 32: Article 21 – Question 2

If so, is this body easily accessible for road traffic victims and/or their relatives?

Yes	Undetermined	No	No information / Not included
Belgium Germany	Greece		Bulgaria France Italy Ireland The Netherlands Portugal Rumania Scotland Slovenia Spain England and Wales
<b>66,7% (2/3)</b>	<b>33,3% (1/3)</b>	<b>0,0% (0/3)</b>	

### Question 3

8 of 11 respondents stated that their government did not take any new or specific actions following the Directive in order to protect the rights to privacy, especially those of victims. Only in Ireland this will happen in the future, as the Irish government plans to implement the Directive in full. In Greece and in Scotland, the situation regarding this matter is not clear (Table 33).

Table 33: Article 21 – Question 3

Did your government take any new or specific actions following the Directive in order to protect the rights to privacy, especially those of road traffic victims and/or their relatives?

Yes	Undetermined	No	No information
Ireland	Greece Scotland	Belgium Bulgaria France Germany Luxemburg Romania Slovenia Spain	Italy The Netherlands Portugal England and Wales
<b>9,1% (1/11)</b>	<b>18,2% (2/11)</b>	<b>72,2% (8/11)</b>	

### Question 4

The situation concerning self-regulatory measures of the media is very different between the countries. According to 4 of 10 respondents, the media in their country have not taken self-regulatory measures in order to protect the privacy, personal integrity and personal data of victims. This is only the case in Belgium, Greece and Rumania. In Germany, Ireland and Scotland, this is uncertain (Table 34).

Table 34: Article 21 – Question 4

Have the media taken self-regulatory measures 'In order to protect the privacy, personal integrity and personal data' of road traffic victims and/or their relatives?

Yes	Undetermined	No	No information
Belgium Greece Romania	Germany Ireland Scotland	Bulgaria France Slovenia Spain	Italy The Netherlands Portugal England and Wales
<b>30,0% (3/10)</b>	<b>30,0% (3/10)</b>	<b>40,0% (4/10)</b>	

### Question 5

The final question of the survey was about the types of appeal citizens have regarding the protection of their privacy. The answers (see Table 35) are varying between countries. It is difficult to formulate conclusions based on this information.

Table 35: Article 21 – Question 5

Which various types of appeal does the citizen have in your country in this matter, among which the right to the protection of one's image (pictures)?<sup>5</sup>

Bulgaria	Reference to the right of privacy protected by the Constitution.
Greece	Compensation 'and other types of appeal'.
Ireland	Undetermined
Luxemburg	Conseil Supérieur de la Presse: not active.
Romania	Yes
Scotland	Theoretically if serious harm could be proven then there is the mechanism to take the matter to court, but I am unaware of this happens in road death cases.
Belgium	Civil Action is a possibility.
Spain	Example: Media, photograph - on the funeral - this is the case (?) -> what do you think about.
Slovenia	The general rules apply concerning the publications in the media. It is necessary to get consent by the victim, as long as it is not a public person (absolute or relative public). The victim may appeal to the court if his/hers rights have been violated.
Germany	Governmental authorities are in charge of ('Datenschutzbeauftragte' or courts).

<sup>5</sup> No information about Italy, The Netherlands, Portugal and England and Wales.

## Summary Article 21

- In most countries, there is still a lot of work to do to protect the privacy of road traffic victims.
- Except for 3 countries, there exist no bodies which monitor the privacy rights of victims with regard to the media (Q1).
- However, in 2 of the 3 countries where such body exists, it is easily accessible for victims (Q2).
- Most governments did not take any new or specific actions following the Directive in order to protect the rights to privacy of victims (Q3).
- The situation concerning self-regulatory measures taken by the media is very different between the countries (Q4).

## Recommendations

- It is recommended that countries with no monitoring body for the privacy of victims take steps to set up such a body.
- Furthermore, most Member States need to reflect on actions needed in order to protect the rights to privacy of victims, as the Directive dictates.