Assessing the Effectiveness and Implementability of the Proposed Amendment to the EU Victims' Rights Directive

D5.2. Draft Amendment

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Executive Summary

The proposed amendment to Directive 2012/29/EU is a significant and timely reform that shifts the EU victim protection framework from formal rights towards practical implementation. It directly addresses persistent shortcomings identified by the European Commission, the Fundamental Rights Agency (FRA), and practitioners, particularly regarding child victims, who continue to face barriers to justice, fragmented support services, repeated victimisation, and inadequate participation in proceedings.

The proposal introduces important advances, including strengthened information rights, early individual assessments, an EU-wide victim helpline (116 006), improved access to support services independent of criminal proceedings, enhanced multidisciplinary coordination, and state-fronted compensation mechanisms. These measures substantially improve compliance with Articles 24 and 47 of the Charter of Fundamental Rights by making victims' rights more accessible, practical, and enforceable.

However, several critical gaps remain that may undermine the Directive's effectiveness and lead to continued disparities across Member States.

Key Recommendations

1. Guarantee Independent Representation for Child Victims:

The Directive should require the mandatory appointment of an independent representative (guardian ad litem) whenever a conflict of interest exists between the child and their legal guardians, particularly in cases involving intra-family violence, abuse, exploitation, or neglect. Representation should begin at the earliest stage and extend across criminal, family, and child protection proceedings.

2. Establish Child Victims as Active Rights-Holders:

To fulfil Article 47 of the Charter, child victims should be granted meaningful procedural standing, including the right to challenge non-prosecution decisions, access information, participate in proceedings, and influence protective measures. Children should no longer be treated solely as witnesses but as autonomous rights-holders.

3. Make Barnahus-Based Multidisciplinary Support a Binding Requirement:

Article 26a should move beyond general coordination obligations and require operational multidisciplinary systems based on the Barnahus model. This should include joint case management, designated case coordinators, common protocols, shared risk assessments, and integrated decision-making processes to prevent secondary victimisation and institutional fragmentation.

4. Introduce Mandatory Specialised Training:

The effectiveness of all procedural safeguards depends on professional competence. The Directive should establish binding requirements for continuous, specialised, trauma-informed training for judges, prosecutors, police officers, child protection professionals, and victim support staff. Individual assessments under Article 22 should be explicitly linked to these training obligations.

5. Strengthen Child-Specific Compensation Safeguards:

State-fronted compensation is a major improvement but should be accompanied by safeguards tailored to children, including court-supervised protected accounts, independent fiduciary oversight, and compensation levels that are fair, appropriate, and responsive to the child's developmental and socio-economic circumstances.

6. Ensure Cross-Border Continuity of Protection:

Child victims should not lose protection when moving between Member States. The Directive should establish an automatic mutual-recognition mechanism—such as a European Victim Passport—to ensure uninterrupted protection orders, support services, compensation rights, and trauma-informed care across borders.

7. Improve Monitoring and Accountability:

The amendment should require harmonised, child-specific data collection and annual reporting on outcome indicators, including access to multidisciplinary services, number of interviews conducted, compensation timelines, and implementation of protective measures. This is essential for effective monitoring by the European Commission and FRA.

Conclusion

The amendment represents a major step toward a genuinely child-centred and trauma-informed European justice system. Nevertheless, without binding provisions on independent representation, multidisciplinary support structures, specialised training, procedural standing, and monitoring, significant implementation gaps will remain. The final Directive should therefore move from encouraging good practice to establishing enforceable obligations that guarantee equivalent protection for all child victims across the European Union, irrespective of their Member State of residence. Such reforms are necessary to transform victims' rights from legal entitlements into effective and lived realities.

1. Introduction

The proposed amendment to **Directive 2012/29/EU** represents a substantive development in the European Union's legal framework on victim protection, aiming to address persistent deficiencies identified in implementation and especially affecting vulnerable groups, notably child victims. While the Directive established minimum standards on the rights, support, and protection of victims of crime, evaluations by the European Commission and the European Union Agency for Fundamental Rights have consistently demonstrated gaps in its practical application, particularly with regard to vulnerable victims, including children.

The reform needs to be read in conjunction with binding and non-binding EU instruments, notably Articles 7 (respect for private and family life), 24 (rights of the child), and 47 (right to an effective remedy and to a fair trial) of the Charter of Fundamental Rights of the European Union, which guarantee respect for private life, the rights of the child, and the right to an effective remedy and fair trial. It is further embedded within the EU Strategy on the Rights of the Child (2021-2024) and the EU Strategy on Victims' Rights (2020–2025), both of which emphasize the need for child-friendly justice systems and effective access to rights.

Despite this normative framework, approximately 2.5 million children are involved in judicial proceedings annually across the EU, often within systems that remain structurally adult-oriented. [1] Empirical evidence demonstrates that child victims face barriers including insufficient access to specialized support, lack of adapted information, and repeated exposure to traumatic procedures. These shortcomings raise concerns regarding compliance with the principle of effectiveness *(effet utile)* in EU law, as rights formally recognized are not always realized in practice.

This assessment evaluates the amendment's practical applicability, legal coherence, and implement ability, with particular focus on child victims, while identifying structural limitations that may affect its effectiveness across Member States.

While we support the objectives of the 2023 Proposal, we add the following recommendations to ensure the amendment achieves its goal of making victims' rights practical and effective. To ensure full legal coherence with Articles 24 and 47 of the Charter, the final Directive has to be further strengthened with regards to:

- Clarify and strengthen the obligation to ensure the mandatory appointment of an independent representative *(guardian ad litem)* at all cases involving child victims where a conflict of interest is identified;

[1] CHILD Handbook, (2026), pg.1.

- Translate the existing coordination obligations (including Article 26a) into binding obligations for the creation of multidisciplinary, child-friendly "one-stop-shop" facilities, based on the Barnahus model;
- Introduce explicit and binding provisions on mandatory, continuous, and specialized training, which remain insufficiently specified in the current text;
- ensure that the newly introduced state compensation mechanisms are accompanied by child-specific financial safeguards and are fair and adequate;
- mandate formalized multidisciplinary coordination mechanisms, including interagency protocols and joint case management systems;
- guarantee a minimum level of procedural standing for victims, ensuring effective participation in proceedings across all Member States.

These measures are essential to bridging the gap between formal rights and their effective realization in practice.

2. Practical applicability and usability

A central innovation of the proposed amendment to Directive 2012/29/EU Victims' Rights Directive lies in its shift from *predominantly declaratory provisions to operational mechanisms designed to ensure effective access to rights in practice*. This development is legally significant in light of Article 47 of the Charter of Fundamental Rights of the European Union, which requires that *rights guaranteed under EU law be practical and effective* rather than theoretical. It also reinforces Article 24 of the Charter, which establishes that the best interests of the child must be a primary consideration in all actions relating to children.

In this context, the amendment introduces a set of concrete measures aimed at strengthening the protection and support framework for victims, with particular relevance for child victims, who face heightened barriers in accessing justice systems.

First, the establishment of an EU victim helpline (116 006) constitutes a significant step toward ensuring accessible, low-threshold support. By requiring Member States to provide free, confidential, and easily reachable services offering emotional support, information, and referrals, the amendment addresses well-documented barriers faced by child victims, including lack of awareness, fear of authorities, and dependence on intermediaries. For children, who may be unable or unwilling to engage directly with formal justice mechanisms, such services are essential to enabling early access to protection and assistance.

To ensure practical accessibility for child victims, digital reporting mechanisms should be complemented by safeguards addressing risks of exclusion, including situations where children lack private access to devices or are under the control of an abusive guardian.

Second, the strengthening of information rights under Articles 3–6 enhances compliance with the principle that victims must be able to understand and effectively exercise their rights. The requirement that information be provided from the first contact with competent authorities, in a language and format adapted to the victim, is particularly relevant for children. Empirical evidence, including findings from the European Union Agency for Fundamental Rights, indicates that child victims frequently do not receive information in a manner suited to their developmental level, limiting their participation and undermining procedural fairness. The amendment directly addresses this gap by reinforcing obligations related to clarity, accessibility, and timeliness of information.

The Current "one-size-fits-all" information packets often fail to address child victims needs, as noted by the EU Agency for Fundamental Rights (FRA, 2024). By reinforcing the obligation to provide information from the first contact in a format adapted to the child's developmental stage, the amendment moves from theoretical rights to practical

accessibility.[2] *Age-appropriate* issue, must mean more than just simple language—it should include multimodal formats (visual aids, digital tools) that respect the child's cognitive capacity.[3]

Third, the enhanced provisions on individual assessments under Article 22 strengthen the preventive dimension of victim protection. By requiring early identification of specific protection needs, including those arising from age and vulnerability, the amendment aligns with evidence demonstrating that child victims are at particular risk of secondary and repeat victimization. Early and systematic assessments enable the implementation of tailored protective measures, such as avoiding direct contact with the offender or adapting interview techniques, thereby giving practical effect to Articles 18 and 23 of the Directive on protection.

The explicit presumption that all children have particular protection needs (Art. 22 "individual assessment") shifts the burden of proof from the child to the State. The effectiveness of these assessments relies on the competency of the assessor. While the amendment strengthens individual assessments under Article 22, it does not sufficiently ensure their quality and consistency in practice. The effectiveness of these assessments depends on the competence of the professionals conducting them. The Directive should therefore be further strengthened by explicitly linking Article 22 to specialized training requirements, ensuring that assessments are conducted using trauma-informed approaches rather than reduced to formalistic exercises and bureaucratic "check-the-box" exercises.[4]

While the revision correctly moves the individual assessment to the "first contact" (Article 22), we recommend that Article 22 to be explicitly linked to the mandatory training requirements in Article 25 to ensure assessments are trauma-informed and not merely bureaucratic exercises.

Importantly, the amendment also reinforces the principle that access to support services must not be conditional on participation in criminal proceedings. This is of particular significance for child victims, who may be reluctant or unable to engage in formal procedures. Ensuring a mandatory access to psychological support, counselling, and child protection

[2] **European Parliament Research Service (EPRS) (2025).** *Child-friendly justice: Ensuring the rights and protection of child victims in the EU system.* Briefing paper, Brussels. The analysis asserts that universal child protection can only be achieved when forensic, medical, and psychological interventions are legally fused into a singular, child-adapted procedural environment.
[3] Only 30% of child victims living in the European Union receive information tailored specifically to their needs (Zagoura, P., 'The revision of the Victims' Rights Directive: a new opportunity for a child-friendly approach to child victims', The Art of Crime, 15/2025).
[4] The Directive grants Member States an overly large margin of maneuver, meaning that the core components of individual risk assessments are entirely left to fragmented domestic procedures (Zagoura, P., 'The revision of the Victims' Rights Directive: a new opportunity for a child-friendly approach to child victims', The Art of Crime, 15/2025).

services independently of procedural status reflects a child-centred approach consistent with Article 24 of the Charter and with broader EU policy commitments.

The amendment further strengthens child-specific protection by explicitly recognising that child victims are presumed to have particular protection needs. This presumption operationalizes the *"best interests of the child"* principle and requires Member States to provide age-appropriate, trauma-informed support and procedural safeguards. Such measures are essential to ensuring compliance with EU fundamental rights standards and to mitigating the risk of secondary victimization.

To ensure "legal coherence," the Directive should mandate that in cases of conflict of interest (e.g., intra-family violence), the child is provided with an independent legal representative or guardian *ad litem* immediately, separate from their parents.

A core element underpinning the effectiveness of the proposed *measures is the shift from passive cooperation to active multidisciplinary coordination*. This approach is consistent with Recital 57 of the Directive, which highlights the necessity of cooperation between competent authorities, and is further supported by the EU Strategy on Victims' Rights (2020–2025). Evidence consistently shows that fragmented institutional responses—where law enforcement, judicial, medical, and social services operate in silos— directly undermine the protection of child victims. Such fragmentation leads to critical gaps in support, conflicting procedural requirements, and the re-traumatization of the child through repetitive and inconsistent questioning.

While the amendment introduces strengthened coordination mechanisms through Article 26a, *there is a significant risk that these provisions will remain declaratory rather than operational*. To achieve "*practical applicability*," the Directive must move beyond encouraging physical infrastructure and mandate functional integration. The Barnahus model is not merely a "child-friendly building"; its success lies in the coordinated response system it facilitates.

To ensure a truly effective multidisciplinary response, the Amendment should explicitly incorporate the following functional requirements:

- **Joint Case Management**: Coordination should be operationalized through unified case management systems where information is shared in real-time across agencies. This prevents the "information vacuum" that occurs when a child is moved from a police station to a hospital or social service center, ensuring that every professional involved is operating on a single, holistic strategy for the child's recovery and justice. (Article 26a)

- **The "Case Coordinator" as a Functional Requirement**: Effective protection requires a designated Case Coordinator with the institutional authority to harmonize the legal, medical, and psychological tracks. This role ensures that the child's therapeutic needs are balanced with investigative requirements, preventing the "shuttling" of the child between disjointed authorities. (Article 9a)

- **Evidence-Based Operational Protocols**: Functional coordination must be governed by binding inter-agency protocols. These protocols should mandate that the forensic interview serves as the primary evidence for all parties (judicial, police, and social), thereby eliminating the need for repeated questioning and ensuring that the criminal investigation is functionally linked to the child's welfare. (Recital 57)

- **Decision-Making Convergence**: The Amendment should emphasize that multidisciplinary coordination requires collaborative decision-making. Professionals from different domains must not only work "together" but must be enabled to reach a consensus on the best interests of the child, ensuring that the judicial outcome and the child's social reintegration are viewed as a single, integrated objective.

Ultimately, mandating coordination without defining these functional parameters—such as shared data systems, joint protocols, and clinical leadership—will leave children trapped in a "sterile" bureaucratic cycle. To fulfill the Directive's promise of preventing secondary victimization, the focus must shift from the location of services to the seamless functionality of the multidisciplinary response.

Realism in victim protection requires more than just 'co-location'; it demands functional unification. We urge the EU to strengthen Article 9 & Article 26a by mandating Joint Case Management protocols and the appointment of Lead Case Coordinators, ensuring that multidisciplinary support is a synchronized operational reality rather than a series of fragmented administrative tasks.

A critical gap in the current amendment concerns the absence of a clear and binding obligation regarding the training of professionals. While the Directive strengthens several procedural safeguards, their effectiveness is contingent upon the competencies of those responsible for their implementation. Evidence consistently demonstrates that the quality of interaction between child victims and first responders—particularly police officers, prosecutors, and judges—has a direct impact on both the child's well-being and the quality of evidence obtained. The Directive should therefore be strengthened to require mandatory, continuous, and specialized training for all professionals in contact with child victims, including trauma-informed approaches, child development, communication techniques, identification of vulnerability indicators, and risks associated with digital environments.[5]

[5] **Vervaet, F., et. al., (2026).** *CHILD: Towards a child-friendly justice — Guide for Professionals*, pp. 47–52, 133. The CHILD Handbook demonstrates that an interviewer's understanding of the neurobiology of trauma is directly linked to the reliability of the evidence obtained and the mitigation of secondary

To ensure compliance with Articles 24 and 47 of the Charter, the amendment should introduce a clear and binding obligation requiring Member States to provide mandatory, continuous, and specialised training for all professionals involved in victim-related procedures. Such training should include, at a minimum, trauma-informed approaches, child development and communication, identification of vulnerability indicators, and risks associated with digital environments.

Without harmonized training requirements, there is a substantial risk that key safeguards—such as individual assessments under Article 22—will be applied inconsistently or reduced to formalistic exercises, thereby undermining the Directive's effectiveness.

Procedural rights remain fragmented without professional competence. We urge the European Union to transition from encouraging training to mandating specialized, continuous, and trauma-informed certification for all judicial and law enforcement personnel. Without binding training requirements, the Directive's core safeguards—particularly individual assessments—risk becoming formalistic exercises that fail to protect the child or secure the quality of evidence.

Overall, the amendment demonstrates a clear alignment between legal obligations and empirical evidence regarding the needs of child victims. By embedding operational mechanisms, strengthening procedural safeguards, and promoting coordinated service delivery, it significantly enhances the potential for effective implementation of victims' rights.

However, important gaps remain in ensuring the consistent and effective implementation of these measures across Member States. In particular, the absence of binding provisions on specialised training, the lack of operationalization of coordination mechanisms, and the insufficient clarity regarding procedural standing and independent representation risk limiting the Directive's effectiveness in practice. Addressing these gaps is essential to ensure that the rights guaranteed under EU law are not only formally recognized but effectively realized.

trauma. It argues that cross-sectoral, mandatory training is an essential prerequisite to turn abstract procedural safeguards into predictable, safe justice environments for minors.

3. Legal Coherence & Systemic Integration

The proposed amendment to Directive 2012/29/EU needs to be assessed not as an isolated reform, but as an integral component of the broader *EU acquis*. In this context, the amendment reinforces the Directive's function as *a lex generalis*, establishing a horizontal baseline of rights applicable across all categories of crime. This Role is essential to ensuring minimum harmonization combined with functional consistency, enabling sector-specific instruments—such as those addressing child sexual abuse (2011/93/EU) and human trafficking (2011/36/EU)—to operate within a coherent framework. This objective is closely linked to the principles of effectiveness (*effet utile*) and sincere cooperation under Article 4(3) TEU, which require Member States not only to transpose EU law formally but to ensure its practical and effective application, particularly where fundamental rights are engaged.

Legal coherence must be viewed as systemic integration across legal, institutional, and procedural levels. In line with the CHILD Handbook,[6] *coherence should be operationalized through integrated systems that combine legal, psychological, and social responses, rather than relying solely on formal alignment between directives.* This requires Member States not only to legislate but to operate upon child-centered, developmentally appropriate practices into all procedural stages, ensuring that rights are consistently applied across criminal justice, child protection, and support services. To achieve this systemic integration, the amendment should explicitly require that child-specific safeguards—such as trauma-informed procedures and multidisciplinary support—apply uniformly across all relevant EU instruments, regardless of the type of offense.

Legal coherence must be operationalized by embedding child-centered practices across all procedural stages, ensuring that the Victims' Rights Directive functions as a robust *lex generalis* that guarantees uniform, multidisciplinary protection regardless of the specific category of offense.

[6] **Vervaet, F., et. al., (2026).** *CHILD: Towards a child-friendly justice — Guide for Professionals: Forensic Interviewing and the Protection of Minors Victims of Violence in Criminal Proceedings*, pp. 11–13, 132–133. This Handbook establishes an operational blueprint for transposing EU rights into multi-agency practices. Chapters 1 and 5 demonstrate that legal safeguards remain ineffective without a cross-sectoral framework fusing judicial, medical, and trauma-informed psychological interventions into a single, continuous system of care. Available at: www.childfriendlyjustice.eu.

3.1 Procedural Standing and the Right to an Effective Remedy

A central issue affecting legal coherence concerns the procedural standing of victims within national justice systems. Article 47 of the Charter of Fundamental Rights of the European Union guarantees the right to an effective remedy, which presupposes that individuals have sufficient procedural capacity to assert and defend their rights. For child victims, this requirement is closely linked to Article 24 of the Charter, which mandates that the best interests of the child be a primary consideration in all proceedings affecting them.

In practice, however, many Member States continue to treat child victims primarily as witnesses rather than as autonomous rights-holders. This "witness status" limits their procedural agency, often excluding them from key procedural rights such as challenging decisions not to prosecute or actively participating in proceedings beyond evidentiary functions, accessing case information, or influencing protective measures. Such limitations create a structural inconsistency with EU fundamental rights standards and undermine the Directive's objectives ensuring meaningful participation.

While the amendment's strengthening of Article 6 (the right to information) and Article 12 (the right to be heard) is significant, achieving true legal coherence requires that these provisions to be interpreted as a conferring substantive procedural standing. National procedural rules must be applied in light of the Charter to ensure children are enabled to participate meaningfully in proceedings, with their views given due weight in accordance with their age and maturity, rather than being confined to a passive evidentiary role. Evidence from the ***CHILD Handbook***[7] demonstrates that such participation is not only a legal imperative but also a critical protective factor that reduces anxiety and increases trust in judicial institutions. Conversely, exclusion from decision-making processes may exacerbate trauma and undermine procedural fairness, necessitating the integration of participation rights into actual procedural practice rather than mere formal recognition.

To bridge the gap between formal recognition and procedural practice, the amendment must move toward a more robust model of procedural agency. This necessitates a formal revision of Article 12 to explicitly grant child victims an "autonomous party status," ensuring their right to challenge non-prosecution decisions and influence protective measures independently of their evidentiary functions. Furthermore, meaningful participation must be mandated through the provision of age-appropriate information and the requirement that children be enabled—either directly or through specialized independent representation—to contest decisions affecting their rights. By establishing a minimum standard for active procedural agency, including access to case files and the right to be heard at all key stages, the Directive can prevent children from remaining passive actors. Without such substantive guarantees,

[7] **Vervaet, F., et. al., (2026).** *CHILD: Towards a child-friendly justice — Guide for Professionals: Forensic Interviewing and the Protection of Minors Victims of Violence in Criminal Proceedings* (Edition 05/026), pp. 11–12. Available at: www.childfriendlyjustice.eu.

the structural risks to procedural fairness and the quality of evidence will persist, ultimately undermining the transformative promise of the 2023 reform.

To satisfy the requirements of Article 47 of the Charter, the EU must transition from a 'witness-centric' model to one that grants child victims autonomous party status, ensuring their views carry substantive legal weight and providing them with the procedural agency to challenge decisions independently of their evidentiary role.

3.2 Compensation and Financial Protection (Article 16). Fair and Appropriate Compensation

The proposed strengthening of compensation mechanisms under Article 16, introducing state-fronted compensation mechanisms, represents a significant development in ensuring effective access to financial redress and justice for victims. By positioning the State as the primary guarantor of compensation, the amendment addresses structural barriers faced by victims, particularly in cases where offenders lack the means to provide restitution.

For child victims, this reform is especially relevant. Empirical evidence from the European Union Agency for Fundamental Rights and Victim Support Europe Report (Benevict Report, 2024) demonstrates that in cases of intra-family violence, trafficking, or exploitation, compensation from the offender is frequently unattainable in practice due to insolvency, dependency relationships, or ongoing coercion. The introduction of state-guaranteed compensation therefore constitutes a critical measure for ensuring compliance with the principle of effectiveness (*effet utile*) and aligns with the objectives set out in the EU Strategy on Victims' Rights (2020–2025), which emphasizes timely and accessible compensation as a core component of victim support. The European Union Agency for Fundamental Rights Report (FRA, 2024) highlights that, for child victims of domestic abuse, seeking compensation directly from a parent is often functionally impossible. In practice, children may be discouraged or coerced into waiving claims in order to preserve household stability, particularly where compensation would derive from shared family resources. These findings were instrumental in the mid-term evaluation of the EU Strategy on Victims' Rights (2020–2025), which concluded that the State must assume primary responsibility for compensation in order to break cycles of dependency and ensure effective access to justice.

Additional empirical evidence further demonstrates that reliance on offender-based compensation mechanisms can result in procedural re-traumatisation. The Victims of Crime Implementation Analysis of Rights in Europe study (VOCIARE, 2024) shows that enforcement proceedings against offenders—particularly in trafficking cases—can expose victims to renewed contact, intimidation, and psychological harm. Across the EU, fewer than 5% of child victims of trafficking are estimated to receive full compensation directly from offenders. In such contexts, requiring victims to pursue enforcement against perpetrators is not only ineffective but incompatible with the Directive's objective of preventing secondary victimization.

The introduction of state compensation mechanisms under Article 16 represents a significant legislative shift toward *an "obligation to act first" model*, recently formalized in the political agreements on the revised Directive. By positioning the State as the primary guarantor of financial redress, the amendment addresses the systemic failure of offender-based restitution, ensuring that victims receive compensation promptly following a judicial decision. This model strengthens compliance with the principle of effectiveness (effet utile) and aligns with the EU Strategy on Victims' Rights by removing the burden of enforcement from the victim and transferring the responsibility for recovery to the State. Such a transition is particularly vital in mitigating the risk of secondary victimization, as it eliminates the need for direct, often adversarial, enforcement proceedings against perpetrators—a process that empirical evidence suggests frequently leads to re-traumatization and intimidation.

However, for this mechanism to fulfill its protective function for minors, legal coherence requires that compensation be explicitly adapted to the developmental and legal status of the child. In accordance with Articles 3 and 19 of the United Nations Convention on the Rights of the Child and Council of Europe guidance on child-friendly justice, compensation awarded to minors must be fair, adequate and accompanied by robust, independent financial safeguards. Evidence from national practices indicates that without specific protections, funds may be accessed or controlled by guardians whose interests conflict with those of the child, particularly in cases of intra-family violence. To prevent such conflicts of interest, the state based mechanism must go beyond the mere delivery of funds and mandate the institutionalization of protective arrangements. State Compensations needs to be **fair** respecting the actual needs of the child, and **appropriate** adjusted to its development state its and its socio economic condition.

To ensure that redress is used exclusively in the child's best interests, the amendment should explicitly mandate the use of court-supervised protected accounts and the appointment of independent fiduciaries or trustees. These safeguards must be supported by periodic judicial reviews of fund management to ensure continued financial protection throughout the victim's minority. By embedding these child-specific financial safeguards directly into Article 16, the Directive can ensure that the move toward state-guaranteed compensation provides not only rapid financial redress but also a secure foundation for the child's long-term recovery and well-being, free from the risks of domestic exploitation or fiduciary mismanagement.

Staten compensation must be fair, appropriate, and supported by independent financial safeguards, such as court-supervised accounts, to ensure that redress serves the child's recovery rather than becoming subject to the conflicting interests of guardians in domestic violence cases.

3.3 Horizontal Alignment with Sectorial Directives

The amendment must function coherently within the broader legislative framework governing victim protection, acting as a *lex generalis* that complements and reinforces sector-specific instruments. Ensuring horizontal alignment is particularly important in areas where multiple directives apply concurrently, including Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children, Directive 2011/36/EU on trafficking in human beings, and Directive 2012/29/EU on Victims' rights. In practice, child victims frequently fall within the scope of several instruments simultaneously, making consistency of standard essential for legal certainty and effective protection.

A key structural challenge lies in the persistence of divergent legal definitions and thresholds across instruments. Variations in concepts such as "vulnerability" or "special protection needs" risk generating inconsistent procedural outcomes. For example, while the Victims' Rights Directive establishes a general framework based on individual assessment, sectoral instruments often introduce offence-specific safeguards that may not be uniformly triggered. This fragmentation can result in unequal level of protection depending on the legal classification of the offence rather than the actual needs of the child.

From the perspective of legal coherence and the principle of effectiveness (*effet utile*), child-specific safeguards must therefore operate as cross-cutting guarantees, applicable irrespective of the applicable legal instrument. These should include, at a minimum:

- the systematic avoidance of direct contact between the child and the offender, including through the use of separate waiting areas and remote testimony;
- the limitation of the number of interviews and the use of audio-visual recording to prevent repeated questioning;
- the application of child-sensitive and trauma-informed interviewing techniques by trained professionals;
- guaranteed access to specialised, free-of-charge support services, including psychological care and legal assistance.

Importantly, the level of protection should not vary depending on whether the offence occurs in a physical or digital environment. Evidence from the European Union Agency for Fundamental Rights indicates that children exposed to online sexual abuse or exploitation face comparable levels of trauma and vulnerability as those subjected to offline abuse. Legal frameworks must therefore ensure functional equivalence of safeguards, regardless of the modality of the offence.

In this context, the amendment's emphasis on multidisciplinary coordination, including the introduction of structured cooperation mechanisms under provisions such as Article 26a, serves a critical integrative function. However, for such coordination to effectively ensure horizontal alignment, it must be operationalized through binding and structured mechanisms. Evidence from practice, including models promoted by Victim Support Europe and the Barnahus approach, demonstrates that effective coordination requires:

- formalized interagency protocols defining roles and responsibilities;
- formalized protocols for sensitive data sharing / management ensuring the child's safety maximization
- joint case management systems allowing controlled information-sharing between services;
- designated case coordinators to ensure continuity and avoid fragmentation;
- common standards for risk and needs assessment across sectors.

Without these operational elements, coordination risks remaining declaratory, leading to continued fragmentation between criminal justice, health, and child protection systems.

Furthermore, horizontal alignment must extend to procedural guarantees across legal domains, including the interaction between criminal proceedings, family law, and child protection interventions. Inconsistent standards between these areas—particularly regarding contact with the alleged offender or custody arrangements—can undermine protective measures introduced under the Directive. Legal coherence therefore requires that safeguards established in criminal proceedings are recognized and upheld across parallel proceedings.

The amendment's alignment with the EU Strategy on the Rights of the Child reinforces the importance of integrated child protection systems as a structural requirement for effective implementation. However, to fully achieve this objective, the Directive should move beyond encouraging coordination and establish clearer obligations ensuring that Member States develop institutionalized, multidisciplinary frameworks capable of delivering consistent and child-centred protection across all relevant legal contexts.

To ensure consistent protection, the amendment should establish that core child-specific safeguards—such as limiting interviews, avoiding contact with offenders, and ensuring access to specialised support—apply as cross-cutting obligations across all relevant legal instruments and proceedings. In line with the CHILD Handbook[8], these safeguards must be implemented through coordinated, multidisciplinary systems involving law enforcement,

[8] **Vervaet, F., et. al., (2026).** *CHILD: Towards a child-friendly justice — Guide for Professionals*, pp. 130–134. Chapter 5 demonstrates that multi-agency protocols, combined with shared, cross-sectoral standards for needs assessments, are vital to preventing structural fragmentation between judicial authorities and health ecosystems, guaranteeing a uniform protection baseline for minors regardless of the underlying legal classification of the crime.

judicial authorities, healthcare, and child protection services. This requires binding interagency protocols, shared risk assessment standards, and coordinated case management, ensuring that the level of protection does not depend on the legal classification of the offence, or the institutional pathway followed.

To ensure that the Victims Rights Directive functions effectively as a *'lex generalis'* the amendment should explicitly state that the child-specific safeguards (presumption of vulnerability in Article 22) have to take precedence across all sectoral instruments to prevent protection gaps based on the type of offense.

3.4 Conflict of Interest and Independent Representation

A further dimension of systemic integration concerns the intersection between criminal proceedings, family law, and child protection systems, particularly in situations involving conflicts of interest between the child and their legal representatives. In a significant number of cases—especially those involving intra-family violence, sexual violence, or neglect—parents or guardians may be directly implicated in the offence or otherwise unable to act in the child's best interests. This structural conflict is well documented in EU practice and represents a critical gap in the effective realization of child victims' rights.

Systematic integration of legal domains is essential to ensure that protection measures in criminal proceedings are not undermined by parallel family law decisions. Member States should ensure that where a conflict of interest exists between the child and the holders of parental responsibility, independent representation is mandatory and spans all relevant proceedings to ensure continuity of protection.

In such circumstances, the effectiveness of the Directive depends on the availability of independent legal representation, commonly in the form of a guardian *ad litem* or an equivalent mechanism. While the Directive recognizes the possibility of such representation, legal coherence with Article 24 of the Charter of Fundamental Rights of the European Union—which requires that the child's best interests be a primary consideration—and with the EU Strategy on the Rights of the Child necessitates that this safeguard be treated as mandatory where a conflict of interest arises, rather than discretionary.

Proposal for Article 24: Member States shall ensure that [...] the best interests of the child shall be a primary consideration and shall be operationally guaranteed through the mandatory appointment of an independent representative (guardian *ad litem*) in cases where a conflict of interest is identified or where the holders of parental responsibility are implicated in the offence.

Comparative evidence from Member States indicates that the absence of automatic appointment mechanisms leads to inconsistent protection outcomes, with children in similar situations receiving different levels of representation depending on national procedural rules. Guidance from the European Union Agency for Fundamental Rights further highlights that delays in appointing an independent representative can undermine the child's ability to participate effectively in proceedings and to access protective measures at an early stage.

The requirement for independent representation is particularly critical in the context of individual assessments under Article 22, where key decisions are made regarding protection measures, participation rights, and access to support services. These assessments often rely on information provided by parents or guardians; where a conflict of interest exists, this creates a significant risk that the child's situation is misrepresented or minimized. The involvement of an independent representative ensures that the child's views, experiences, and best interests are accurately and independently reflected in decision-making processes.

Proposal for Article 22: Member States shall ensure that victims receive a timely and individual assessment… In the case of child victims, this assessment must be conducted with the participation of an independent representative where a conflict of interest exists, to ensure that the child's views and experiences are accurately reflected without external influence or coercion.

From an operational perspective, effective implementation requires that Member States need to establish:

- clear legal triggers for the mandatory appointment of an independent representative (e.g., allegations against a parent, indicators of coercion or dependency, or divergence between the child's views and those of the guardian);
- immediate appointment procedures, ensuring representation from the earliest stage of proceedings, including during first contact and initial assessment;
- defined powers and responsibilities, including the right to access case files, participate in hearings, request protective measures, and challenge procedural decisions;
- specialized training requirements, ensuring that representatives possess expertise in child rights, trauma-informed practice, and child communication.

The need for independent representation also reflects the broader requirement for consistency across legal domains. In practice, protective measures adopted in criminal proceedings may be undermined by parallel family law decisions (e.g., custody or visitation arrangements) if the child's interests are not independently represented. Legal coherence therefore requires that independent representation extends, where necessary, across all proceedings affecting the child, ensuring continuity and consistency of protection.

Evidence from EU-funded research, including the CHILD Handbook (Vervaet et al., 2026, pp. 11–12, 131), demonstrates that children's ability to exercise their rights effectively is closely linked to the presence of a trusted and independent adult acting in their interests. Such representation not only enhances procedural fairness but also reduces anxiety, supports informed participation, and mitigates the risk of secondary victimization.

Ultimately, legal coherence in this area requires more than the formal availability of representation; it demands that procedural frameworks are designed to ensure that independent representation is systematically and effectively provided whenever the child's interests are at risk. Without such guarantees, the Directive's child-centred objectives cannot be fully realized, and the principle of the best interests of the child risks remaining declaration rather than operational.

The amendment should introduce a mandatory and automatic mechanism for the appointment of an independent representative *(guardian ad litem)* in all cases where a conflict of interest between the child and their legal guardians is identified. Consistent with the CHILD Handbook,[9] effective child participation and protection depend on the presence of a trained, independent adult who can represent the child's views, safeguard their interests, and ensure that decisions are not influenced by coercion or dependency. This representation must be ensured from the earliest stage of proceedings and extend across criminal, family, and child protection processes to guarantee continuity and consistency of protection.

Shifting child-centric safeguards from mere recommendations to binding obligations is not just an operational preference but a legal necessity under EU law. Article 24 of the EU Charter of Fundamental Rights explicitly mandates that the child's best interests must be a primary consideration in all actions taken by public authorities. Leaving these protections to the discretion of Member States directly contradicts the EU Strategy on the Rights of the Child, which demands uniform and high-level protection across the Union.

It is imperative that the appointment of a *guardian ad litem* is made a non-discretionary, mandatory requirement in Article 24 whenever the alleged perpetrator is a holder of parental responsibility or a close family member.

[9] **Vervaet, F., et. al., (2026).** *CHILD: Towards a child-friendly justice — Guide for Professionals: Forensic Interviewing and the Protection of Minors Victims of Violence in Criminal Proceedings*, pp. 11–12, 131. This Handbook outlines that independent representation is an essential procedural safeguard under the "Best Interests of the Child" principle. It demonstrates that a trusted, non-conflicted adult support figure is a vital buffer that prevents judicial alienation, actively lowers the child's trauma baseline, and secures reliable testimony. Available at: www.childfriendlyjustice.eu.

3.5. Monitoring, Enforcement, and Data Collection

The effectiveness of the proposed amendment depends not only on the clarity of legal obligations but also on the existence of robust monitoring and enforcement mechanisms. Experience with the implementation of Directive 2012/29/EU demonstrates that, in the absence of systematic oversight, significant disparities may persist across Member States despite formal transposition.

In this context, the role of the European Commission in monitoring compliance is of pivotal importance, particularly through the use of infringement procedures and periodic implementation reports. This function should be complemented by the work of the European Union Agency for Fundamental Rights, which provides empirical data and comparative analysis on victims' rights.

To strengthen implementation, the amendment needs to require Member States to establish harmonized data collection systems, including disaggregated data on child victims, access to support services, number of interviews conducted, and time required to access compensation. The development of common indicators would enable comparative assessment and support evidence-based policy adjustments.

Without such mechanisms, the risk remains that the Directive's provisions will be applied unevenly, undermining both legal certainty and the principle of effectiveness (*effet utile*).

The amendment should require Member States to implement structured monitoring systems based on harmonised indicators reflecting the child's experience within proceedings, including the number of interviews conducted, access to specialised support, and timeliness of protective measures. In line with CHILD Handbook[10] recommendations, data collection should be child-specific, disaggregated, and focused on outcomes rather than formal compliance. This information should support continuous evaluation and enable the European Commission and the European Union Agency for Fundamental Rights to assess whether child victims' rights are effectively realized in practice.

We strongly suggest the inclusion of a binding obligation for Member States to report annually on 'child-specific outcome indicators', such as the average time to receive compensation and the percentage of children provided with Barnahus-style multidisciplinary support.

[10] **Vervaet, F., et. al., (2026).** *CHILD: Towards a child-friendly justice — Guide for Professionals: Forensic Interviewing and the Protection of Minors Victims of Violence in Criminal Proceedings*, pp. 11–13, 133. This Handbook demonstrates that monitoring systems must evaluate qualitative child-centric outcomes—such as minimizing investigative friction and ensuring fast, multi-agency therapeutic response times—rather than mere formal transposition metrics, to secure the *effet utile* of Union rights. Available at: www.childfriendlyjustice.eu.

3.6. Cross-Border Protection and Continuity of Rights

An additional dimension of legal coherence concerns the cross-border application of victims' rights within the European Union, specifically regarding highly vulnerable child victims of violence and sexual violence. Children who have suffered physical abuse, sexual exploitation, or severe domestic trauma may relocate between Member States during or after criminal proceedings due to family restructuring, witness protection protocols, or migration. In these high-stakes scenarios, the effectiveness of the Directive depends entirely on the seamless, uninterrupted continuity of protective measures and specialized care across jurisdictions.[11]

While mutual recognition instruments such as the European Protection Order (EPO) under Directive 2011/99/EU and Regulation (EU) No 606/2013 exist to extend safety measures across borders, they are deeply unsuited to the delicate timelines required for child protection[12]. The existing EPO framework requires a proactive application by the victim's legal guardian and a slow, bureaucratic "translation" of the order into the receiving state's legal system. For a child fleeing an abuser or sex trafficker, these administrative delays create dangerous safety vacuums. Furthermore, the EPO's narrow scope only addresses physical restraining measures; it completely fails to protect the broader, multi-disciplinary needs of a child recovering from sexual violence.

The amendment must therefore ensure that child-specific victim status, tailored protection orders, and specialized support services are automatically recognized and maintained across Member States, moving beyond the adult-centric limitations of the existing EPO framework[13]. In line with the CHILD Handbook and the globally recognized Barnahus (Children's House) model—which advocates for a single, coordinated, and child-friendly space for medical, psychological, and judicial care[14]—cross-border mechanisms must guarantee the proactive, authority-to-authority transfer of sensitive case information. This

[11] **European Institute for Gender Equality (EIGE) & Eurojust (2025).** *The European Protection Order: Overview for victim support services and judicial practitioners.* Joint Technical Report, Vilnius/The Hague. The report exposes deep structural amnesia regarding the EPO across national judiciaries and underlines that children at risk require independent, friction-free cross-border tracking tools that current mechanisms cannot provide.
[12] **European Commission**, *Report from the Commission to the European Parliament and the Council on the implementation of Directive 2011/99/EU on the European Protection Order*, COM (2020) 187 final. This official audit explicitly highlights the chronic underutilization of the EPO due to its heavy reliance on the victim to initiate complex cross-border transfers.
[13] **Council of the European Union**, *Revised Victims' Rights Directive (VRD)*, formally adopted following co-legislative agreements. The revised directive mandates significantly elevated cross-border protections and specialized procedural safeguards for vulnerable children and victims of sexual violence.
[14] **Council of Europe & European Commission**, *Joint Guidance on Exploring Transnational Child Protection Cases in Europe: Advancing the Role of Barnahus*, CBSS/Child Circle Framework. This guidance establishes that system fragmentation across borders violates the "one-stop-shop" principle necessary for child trauma recovery.

includes ensuring absolute continuity of specialized trauma-informed psychological care and access to state compensation without forcing the child to restart legal or medical procedures.

To bridge these operational gaps and prevent severe secondary victimization, the Directive must establish a "European Victim Passport" or a similar automated mutual recognition mechanism. Operating as a comprehensive, child-centric digital counterpart to the EPO, this mechanism would ensure that a child's protective shield and their therapeutic care plan instantly follow them across borders. By mandating immediate provisional recognition of foreign safety orders and specialized healthcare entitlements, this tool removes the necessity for repetitive, highly traumatizing investigative interviews and secondary forensic re-assessments by the receiving state[15]. Without these operational guarantees, the exercise of free movement will continue to expose child survivors of sexual violence to renewed trauma, legal vacuums, and severe protection gaps that are fundamentally incompatible with the Union's commitment to the best interests of the child.

The Directive must establish a 'European Victim Passport' or similar mutual recognition mechanism to ensure that protection orders and support entitlements for child victims follow the child across borders without the need for repetitive and traumatizing re-assessments.[16]

[15] **European Parliament**, *Resolution on the rights of the child and the prevention of secondary victimization in criminal proceedings*, see also the EU Strategy on Victims' Rights, emphasizing that forcing a child survivor to repeat statements or undergo duplicate forensic exams upon crossing a border constitutes systemic institutional trauma.

[16] **Zagoura, P. (2025).** *The revision of the Victims' Rights Directive: a new opportunity for a child-friendly approach to child victims.* The Art of Crime, Issue 15. This study evaluates the structural shortcomings identified during the mid-term assessment of the EU Strategy on Victims' Rights (2020–2025), specifically pointing to the fragmentation of cross-border judicial cooperation and the systemic barriers child victims encounter when attempting to port protection and financial redress mechanisms across Member State jurisdictions.

4. Realism and Implementability

4.1 Proportionality and Member State Starting Positions

The European Commission explicitly recognizes that the effectiveness of the proposed reform is closely linked to the heterogeneous "starting positions" of Member States. In line with the *principle of proportionality*, the proposal is designed to accommodate this diversity by offering a degree of flexibility in implementation pathways. This allows national systems to adapt the measures in accordance with their respective legal traditions, administrative capacities, and available financial and institutional resources.

The accompanying impact assessment reflects this calibrated approach by presenting, for each policy objective, three alternative regulatory options ranging from minimal intervention to more demanding regulatory frameworks. This tiered structure is intended to ensure that the proposed measures remain both targeted and practically feasible across different national contexts. Nevertheless, external evaluative evidence, particularly the "CHILD Handbook" analysis, raises concerns regarding the distributive effects of certain high-cost obligations. In particular, mechanisms such as state-fronted compensation may generate a disproportionate administrative and fiscal burden in Member States where victim support infrastructures are less developed or remain in early stages of institutional consolidation. This asymmetry in capacity may therefore affect uniform implementation and lead to variable levels of effectiveness across the Union.

To mitigate these risks of asymmetric implementation, the Directive must be accompanied by delegated acts that define minimum technical and administrative standards for 'state-fronted' mechanisms. Without a common framework for the cross-border recovery of assets from offenders, Article 16 risks shifting from a 'state-fronted' model to a purely 'state-funded' one. This would create a fiscal deterrent for Member States with lower budgetary capacity, ultimately undermining the objective of ensuring comparable levels of protection for victims across the Union.

Allowing key procedural rights to remain dependent on non-binding language (such as 'encouraging' rather than 'requiring' the establishment of Barnahus-style infrastructures) introduces a severe risk of legal fragmentation. This will inevitably create a two-tiered system of victim protection within the Internal Market, where a child's access to justice and psychological recovery depends entirely on their geographical location rather than their status as an EU citizen.

4.2 Economic Feasibility and Long-Term Value

From an economic perspective, the amendment introduces a set of initial investment requirements, particularly in relation to institutional restructuring, capacity building, and procedural alignment. However, the Commission justifies these short-term costs by emphasizing the anticipated long-term efficiency gains and broader socio-economic benefits associated with the reform.

A key efficiency mechanism lies in the consolidation of compensation procedures within criminal proceedings under Article 16. By centralizing these processes, the reform seeks to reduce reliance on separate civil litigation pathways, thereby alleviating procedural duplication and contributing to a more streamlined and efficient judicial system. This integration is expected to enhance procedural coherence while reducing the administrative burden on courts.

In addition, the reform advances a preventative and rehabilitative rationale, particularly through provisions mandating timely psychological and psychosocial support under Article 9. Empirical evidence suggests that victims who receive early and sustained support demonstrate improved reintegration outcomes, including faster re-entry into social and professional life. This, in turn, may reduce long-term dependency on public healthcare systems and associated welfare expenditures, thereby generating indirect fiscal savings over time.

Despite these projected benefits, implementation risks remain significant. Feedback on the draft indicates that, within fragmented or decentralized administrative environments, the level of inter-institutional coordination required to realize these efficiencies may pose substantial operational challenges. Without effective coordination mechanisms, the anticipated gains in efficiency and social reintegration may therefore be unevenly realized.

A critical barrier to this operational coherence is the current disconnection between Article 26a (Coordination Protocols) and Article 25 (Training). Implementability is fundamentally hindered if the protocols for multidisciplinary coordination are not backed by mandatory, cross-sectoral training curricula. Realism requires that law enforcement, health, and judicial personnel are not only mandated to 'coordinate' but are professionally equipped with the shared trauma-informed communication skills necessary to make such coordination functional rather than merely formalistic.

When assessing the economic implementability of these measures, the Commission must adopt a 'Cost of Non-Europe' perspective. The upfront financial investment required to build multidisciplinary infrastructures and provide state-fronted compensation is substantially lower than the long-term socio-economic costs of secondary victimization, which include prolonged mental health services, educational disruption, and lost future economic productivity for child victims.

4.3 Phased Digitalisation and Infrastructure Readiness

The proposal adopts a deliberately phased approach to digital transformation, reflecting a realistic assessment of varying levels of technological readiness among Member States. It distinguishes between general procedural reforms, which can be implemented within a standard two-year transposition period, and more complex digital infrastructure requirements, which necessitate an extended timeframe.

In this context, Article 26b, which concerns electronic communication systems, digital access to case files, digital reporting mechanisms, potential data collection systems and in cases data management and data sharing electronic protocollas may be subject to a four-year implementation window. This extended deadline acknowledges the technical complexity, security requirements, and infrastructural investment needed to develop interoperable and secure digital reporting / management systems across jurisdictions.

Conversely, certain elements of the reform are identified as comparatively low-barrier interventions. The establishment and reinforcement of a harmonised EU-wide victim support helpline (116 006), for instance, is largely built upon existing national and cross-border infrastructures, rendering it one of the more immediately operational components of the proposal. This differentiated timeline reflects an effort to balance ambition with operational feasibility across varying levels of digital maturity.

The realism of the digital reforms under Article 26b is inextricably linked to the monitoring obligations established in Article 28. For the digitalization phase to be successful, national systems must be designed from the outset to generate the disaggregated, child-specific data required for EU-level oversight. If digital infrastructures are built without integrated data-collection capacities, the Commission's ability to assess the 'technical implementation' (as mandated by Article 1 of the Amendment) will be compromised, leading to a transparency gap in the enforcement of victims' rights.

4.4 Multi-Agency Coordination (The Barnahus Principle)

The most structurally ambitious dimension of the proposal relates to Article 9a, which introduces a multi-agency, integrated model for child victim support. This approach is conceptually aligned with the Barnahus model, which emphasizes coordinated, child-centred services delivered through interlinked institutional cooperation.

However, rather than mandating a uniform institutional design, the directive maintains a degree of structural flexibility. Member States are permitted to develop "integrated and coordinated" service models adapted to their national administrative frameworks, provided that these services ensure functional co-location or close inter-institutional collaboration. This flexibility is intended to enhance feasibility while preserving core standards of victim-centred care.

A further structural innovation lies in the redistribution of responsibilities among actors involved in victim support. The proposal allows for the delegation of certain informational and support functions to non-governmental organisations and specialised service providers, thereby reducing the operational burden on law enforcement agencies and promoting a more diversified and sustainable division of labor across the support ecosystem.

While the 'structural flexibility' regarding the Barnahus model is welcomed for the sake of realism, it carries the risk of diluting protection standards. To ensure that 'flexibility' does not become an excuse for inadequate institutional integration, the EU should provide a Common Benchmarking Tool for these multi-agency centers. This tool would ensure that 'coordinated services' under Article 9a are defined by functional integration (e.g., joint case management and forensic interviewing) rather than minimal administrative cooperation, thereby securing a high and equivalent standard of care for all children regardless of the Member State's administrative traditions.

5. Theoretical perspective: EU legal principles

5.1 The Principle of Effectiveness (*Effet Utile*) and Procedural Agency

The core theoretical justification for the 2023 Amendment is the principle of effectiveness, which dictates that rights granted by EU law must be practical and enforceable, not merely formalistic. While the amendment introduces stronger procedural rights—such as the reinforced right to be heard (Article 12) and improved information rights (Articles 4-6)—it remains critically dependent on national procedural law to define the "standing" of the victim.

Critique: From a theoretical standpoint, there is a persistent risk of creating "Rights without Remedies." If a child victim remains legally classified primarily as a witness rather than an autonomous rights-holder within national systems, the *effet utile* of Article 47 of the Charter (Right to an Effective Remedy) is compromised. The EU should move beyond establishing "minimum standards" and define a Common European Standing for Victims to ensure that procedural agency—including the right to challenge non-prosecution decisions—is not rendered illusory by restrictive national procedural traditions.

5.2 Proportionality vs. the Principle of Non-Discrimination

The Amendment attempts to balance the need for high-level protection (Article 82(2) TFEU) with the principle of proportionality. This has resulted in a "flexible" institutional approach, where Member States are encouraged, but not strictly mandated, to adopt specific models like Barnahus (Article 9a).

Critique: While this flexibility satisfies the principle of proportionality by respecting national administrative autonomy, it creates a theoretical tension with the Principle of Non-Discrimination (Article 21 of the Charter). By allowing for "coordinated" models that may lack functional integration, the EU risks institutionalizing a "two-tier" protection system. A child's access to a trauma-informed "one-stop-shop" should be a fundamental entitlement across the Union; allowing the quality of that care to fluctuate based on a Member State's "starting position" creates an unequal landscape of justice that contradicts the goal of a uniform European Area of Freedom, Security, and Justice.

5.3 Sincere Cooperation and Mutual Recognition

The Principle of Sincere Cooperation (Article 4(3) TEU) requires Member States to facilitate the achievement of the Union's tasks. In the context of victim protection, this should theoretically manifest as the seamless cross-border recognition of victim status and protection needs.

Critique: The current proposal is heavily focused on national inter-agency protocols (Article 26a) but lacks a robust theoretical framework for Automatic Mutual Recognition. If an individual assessment under Article 22 identifies a child as having specific protection needs in one Member State, that status should be effectively portable across the EU. The failure to include a "European Victim Status" recognition mechanism means the amendment remains a collection of national silos rather than a truly integrated EU legal regime.

5.4 The "Best Interests of the Child" as a Substantive Right

The Amendment frequently invokes Article 24 of the Charter. However, there is a theoretical gap between the invocation of the "Best Interests" principle and its operationalization as a substantive right.

Critique: The text often treats the "Best Interests of the Child" as a procedural checkbox rather than a substantive, superior legal principle that overrides administrative or fiscal concerns. To be theoretically consistent with the Charter, the language in the Amendment must move from "ensuring access to services" to a "Substantive Right to Specialized Care." Acknowledging the "Best Interests" as a primary consideration requires that the most effective models of protection (such as Barnahus) become the legal default, rather than a recommended option subject to national budgetary discretion.

6. Conclusion

The proposed amendment to Directive 2012/29/EU represents a decisive normative and operational shift in the European Union's approach to victims' rights. By moving from a predominantly declaratory framework toward one that mandates tangible access to justice, the Commission has correctly identified that the "implementation gap" is the primary barrier to the 2.5 million children involved in judicial proceedings annually. The amendment's emphasis on child victims reflects both empirical evidence and fundamental rights obligations under Articles 24 and 47 of the Charter.

By embedding mechanisms such as early individual assessments, multidisciplinary coordination, and state-fronted compensation, the reform creates a substantive foundation for a child-centered, trauma-informed justice system.

However, this transformative potential will not be realized automatically. Persistent structural challenges, most notably uneven national implementation, resource disparities, and fragmented institutional frameworks, pose significant risks to the uniform application of the Directive. The continued reliance on a directive as a legal instrument, while consistent with subsidiarity, leaves considerable discretion to Member States, potentially perpetuating divergences that undermine legal certainty and mutual trust.

From an advocacy perspective, the success of this amendment depends on moving beyond normative ambition toward operational guarantees. We therefore urge the co-legislators to ensure the following non-negotiable pillars:

- **Substantive Agency and Standing**: Child victims must transition from "passive witnesses" to "autonomous rights-holders." This requires mandatory independent representation (*Guardian ad litem*) and a common European standard for procedural standing that ensures the *effet utile* of Article 47 of the Charter is not diluted by restrictive national procedural laws.

- **Mandatory Operational Integration**: Coordination protocols (Article 26a) must not remain mere administrative exercises. We call for the replacement of the non-binding phrase "Member States are encouraged to provide" with the mandatory "Member States shall ensure the availability of dedicated, multidisciplinary "one-stop-shop" infrastructures (the Barnahus model)" backed by ring-fenced EU funding to ensure that integrated protection is a right, not a geographical privilege.

- **Professional Excellence and Accountability**: Specialized training (Article 25) must be elevated from a recommendation to a binding prerequisite. Without mandatory, trauma-informed training for all judicial and law enforcement personnel, the most advanced procedural safeguards will remain ineffective in practice.

- **Fiscally Sustainable Compensation**: State-fronted compensation (Article 16) must be supported by a robust European framework for offender asset recovery. This ensures that the state's obligation to act as the primary guarantor of financial redress is fiscally viable and independent of national budgetary constraints.

In conclusion, while the amendment constitutes a necessary advancement in EU victim protection law, it must be understood as a foundational step rather than a final solution. To fulfill its promise, it must be accompanied by sustained political commitment, targeted investment, and a clear prioritization of child rights over administrative convenience. Only through such an integrated, enforceable, and substantive approach can the EU ensure that the rights it guarantees are not merely proclaimed in Brussels, but effectively delivered to every child victim across all Member States. Justice for victims must be more than a policy objective; it must be a lived reality.