

Abbozz ta' Liġi msejjah

Att biex jipprovdi għad-drittijiet, appoġġ u l-protezzjoni ta' vittmi, u biex jipprovdi għal kull haġa konnessa ma' jew incidental għal dan.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareġ b'liġi dan li ġej:-

Taqsim I - Dwar Vittmi tal-Kriminalità

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2014 dwar Vittmi tal-Kriminalità. Titolu fil-qosor.

2. F'dan l-Att, sakemm ir-rabta tal-kliem ma teħtieġx Tifsir. xort'oħra:

"gustizzja riparatriċi" tfisser kwalunkwe proċess li permezz tiegħu l-vittma u l-awtur tar-reat jistgħu, jekk jagħtu kunsens b'mod liberu, jippartecipaw b'mod attiv fir-riżoluzzjoni ta' kwistjonijiet li joħorgu mir-reat permezz tal-għajnuna ta' parti terza imparzjali;

"membri tal-familja" tfisser wieħed mill-konjuġi, il-persuna li qed tgħix mal-vittma f'relazżjoni intima, f'dar kongunta u impenjata fuq bażi stabbli u kontinwa, il-qraba diretti, l-aħwa, u d-dipendenti tal-vittma;

"Ministeru" tfisser il-Ministeru responsabbli għall-ħarsien ta' vittmi tal-kriminalità.

"Ministru" tfisser il-Ministru responsabbli għall-ħarsien ta' vittmi tal-kriminalità;

"vittma" tfisser:

C 766

(a) persuna fiżika li garrbet hsara, inkluż dannu fiżiku, mentali jew emozzjonali jew telf finanzjarju, li kien direttament ikkawżat minn reat kriminali;

(b) membru tal-familja ta' persuna li l-mewt tagħha kienet ikkawżata direttament minn reat kriminali u li jkun soffra hsara b'riżultat tal-mewt ta' dik il-persuna.

Id-dritt li wiehed jifhem u jinftehem.

3. (1) Fir-relazzjonijiet ma' xi awtorità kompetenti fil-kuntest ta' proċedimenti kriminali, il-komunikazzjonijiet kollha bejn l-imsemmija awtorità u xi vittma jingħataw b'lingwa sempliċi u aċċessibbli, bil-fomm jew bil-miktub. Tali komunikazzjonijiet għandhom iqisu l-karatteristiċi personali tal-vittma inkluż kwalunkwe dizabbiltà li tista' taffettwa l-abbiltà biex tifhem jew tinftiehem.

(2) Sakemm dan ma jmurx kontra l-interessi tal-vittma jew sakemm ma jigix ippreġudikat il-proċess tal-proċedimenti, vittma tista' tiġi akkumpanjata minn persuna li tagħzel hi fl-ewwel kuntatt ma' awtorità kompetenti, fejn, minhabba fl-impatt tar-reat kriminali, il-vittma tkun teħtieġ l-għajnuna biex tifhem jew tinftiehem.

Dritt li tingħata informazzjoni mill-awtorità kompetenti.

4. L-informazzjoni li ġejja għandha tingħata lil vittma, mingħajr dewmien mhux neċessarju u kif jkun applikabbli, mill-ewwel kuntatt tagħha ma' awtorità kompetenti biex tkun tista' tingħata aċċess għad-drittijiet li ġejjin stipulati fid-Direttiva 2012/29/UE tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Ottubru 2012 li tistabbilixxi *standards* minimi fir-rigward tad-drittijiet, l-appoġġ u l-protezzjoni tal-vittmi tal-kriminalità, u li tissostitwixxi d-Deċiżjoni Qafas tal-Kunsill 2001/220/ĠAI:

(a) it-tip ta' appoġġ li jista' jinkiseb u minn min, inkluż, fejn rilevanti, informazzjoni bażika dwar l-aċċess għall-appoġġ mediku, kwalunkwe appoġġ ta' speċjalista, inkluż appoġġ psikoloġiku, u akkomodazzjoni alternattiva;

(b) il-proċeduri dwar kif isir ilment fir-rigward ta' reat u r-rwol tal-vittma b'rabta ma' proċeduri bħal dawn;

(ċ) kif u taht liema kundizzjonijiet il-vittma tista' tikseb protezzjoni, inklużi miżuri ta' protezzjoni;

(d) kif u taht liema kundizzjonijiet il-vittma tista' tikesb aċċess għal parir legali, għajnuna legali jew kwalunkwe tip ieħor ta' parir;

(e) kif u taht liema kundizzjonijiet il-vittma tista' tikseb aċċess għall-kumpens;

(f) kif u taht liema kundizzjonijiet il-vittma hija intitolata għall-interpretazzjoni u t-traduzzjoni;

(g) jekk il-vittma tkun residenti fi Stat Membru apparti minn dak li fih ikun twettaq ir-reat, kull miżura, proċedura jew arrangament speċjali, li huma disponibbli sabiex jiproteġu l-interessi tagħha f'Malta;

(h) il-proċeduri disponibbli biex jitressqu lmenti meta d-drittijiet tal-vittma ma jiġux rispettati mill-awtorità kompetenti li topera fil-kuntest ta' proċedimenti kriminali;

(i) id-dettalji ta' kuntatt għall-komunikazzjonijiet dwar il-każ tal-vittma;

(j) is-servizzi ta' ġustizzja riparatriċi disponibbli;

(k) kif u taht liema kundizzjonijiet tista' tiġi rimborzata għal spejjeż imġarrba b'riżultat tal-partecipazzjoni tal-vittma fil-proċedimenti kriminali.

5. (1) Meta jsir lment minn vittma skont l-artikolu 546 tal-Kodiċi Kriminali, il-Pulizija Eżekuttiva għandha tibgħat lill-vittma rikonoxximent bil-miktub tal-ilment tagħha, li jiddikjara l-elementi bażiċi tar-reat kriminali kkonċernat.

Dritt tal-vittmi
meta jagħmlu
ilment.
Kap. 9.

(2) Vittma li tixtieq tagħmel ilment fir-rigward ta' reat kriminali u li ma tifhimx jew ma titkellimx bil-Malti jew bl-Ingliż għandha d-dritt li tagħmel l-ilment b'lingwa li tifhem jew billi tirċievi l-għajnuna lingwistika neċessarja ta' interpretu.

(3) Vittma li ma tifhimx jew ma titkellimx bil-Malti jew bl-Ingliż għandha, jekk titlob hekk, tirċievi traduzzjoni mingħajr hlas għal lingwa li tifhem, tal-konferma bil-miktub tal-ilment imsemmi fis-subartikolu (1).

6. (1) Vittma għandha tiġi notifikata mingħajr dewmien żejjed bid-dritt tagħha li tirċievi l-informazzjoni li ġejja dwar il-proċedimenti kriminali mibdija bħala riżultat tal-ilment magħmul minnha u li, fuq talba tagħha, tirċievi informazzjoni dwar:

Dritt li tingħata
informazzjoni
dwar il-każ
tagħha.

(a) kwalunkwe deċiżjoni li ma titkomplix jew li tintemm investigazzjoni jew li l-awtur tal-ksur ma jiġix mixli;

(b) il-ħin u l-post tal-proċess, u n-natura tal-akkużi kontra l-awtur tal-ksur;

(ċ) kwalunkwe sentenza finali fi proċess;

(d) informazzjoni li tippermetti lill-vittma li tkun mgħarrfa bis- sitwazzjoni tal-proċedimenti kriminali, sakemm f'kazijiet eċċezzjonali tali notifika ma taffettwax hażin it-trattament tal-każ:

Iżda fiċ-ċirkostanzi msemmija fil-paragrafi (a) u (c) u hlief fil-każ ta' deċiżjoni ta' ġuri jew fejn dan ikun projbit bil-liġi, l-informazzjoni għandha tinkludi raġunijiet jew sommarju ta' raġunijiet għad-deċiżjoni inkwistjoni:

Kap. 9. Iżda ukoll ma jkunx meħtieġ li tingħata dik l-informazzjoni fil-każijiet fejn il-vittma, bħala l-parti li għarrbet hsara, tkun giet notifikata bl-avviż tal-ewwel smiġh jew ikollha l-istatus ta' parti fil-proċedimenti kif previst fl-artikolu 410(4) u (5) tal-Kodiċi Kriminali.

(2) Vittma għandha tingħata l-oppportunità li tiġi notifikata, mingħajr dewmien mhux meħtieġ, meta l-persuna miżmuma f'kustodja, mixlija jew ikkundannata għal reati kriminali li jikkonċernaw dik il-vittma tinheles jew tkun ħarbet mid-detenzjoni, u dwar kwalunkwe miżura relevanti maħruġa għall-protezzjoni tagħha f'każ ta' rilaxx jew ħarba tal-awtur tal-ksur.

(3) Vittma għandha, fuq talba, tingħata l-informazzjoni prevista fis-subartikolu (2) tal-inqas f'kazijiet fejn hemm periklu jew riskju identifikat ta' hsara lilha, sakemm ma jkunx hemm riskju identifikat ta' hsara għall-awtur tal-ksur li jirriżulta min-notifika.

Dritt għall-interpretazzjoni u għat-traduzzjoni.

7. (1) Meta l-parti li għarrbet hsara ma tifhimx il-lingwa li biha jsiru l-proċedimenti kriminali jew kull xhieda li tingħata, dawk il-proċedimenti jew xhieda għandhom jiġu interpretati lilha jew mill-qorti jew minn interpretu taħt ġurament.

(2) Parti li għarrbet hsara li ma tifhimx jew li ma titkellimx il-lingwa tal-qorti għandha, fuq talba, tingħata t-traduzzjonijiet ta' informazzjoni essenzjali għall-eżerċizzju tad-drittijiet tagħha fil-proċedimenti kriminali, f'lingwa li tifhem, bla ħlas, sakemm din l-informazzjoni tkun disponibbli għall-parti li għarrbet hsara.

(3) It-traduzzjonijiet tal-informazzjoni msemmija fis-subartikolu (2) għandha tinkludi tal-anqas kwalunkwe deċiżjoni li permezz tagħha jintemmu l-proċedimenti kriminali, u fuq talba tal-parti li għarrbet hsara, ir-raġunijiet jew sommarju tar-raġunijiet għal deċiżjoni bħal din, hlief fil-każ ta' deċiżjoni ta' ġuri.

Kap. 9. (4) Bla hsara għad-dispożizzjonijiet tal-artikoli 410(4) sa (6), 414(1) u 421(1) tal-Kodiċi Kriminali, parti li għarrbet hsara li hi intitolata għall-informazzjoni dwar il-ħin u l-post tal-proċess,

f'konformità mal-artikolu 6(1)(b), u li ma tifhimx il-lingwa tal-qorti għandha, fuq talba, tingħata traduzzjoni tal-informazzjoni li hi intitolati għaliha.

(5) Parti li għarrbet hsara tista' tressaq talba rragunata biex id-dokument jitqies bħala essenzjali minkejja li ma jkunx hemm hteġa li jiġu tradotti siltiet minn dokumenti essenzjali li mhumiex rilevanti biex il-parti li għarrbet hsara tkun tista' tipparteċipa b'mod attiv fil-proċedimenti kriminali.

(6) Minkejja d-dispożizzjonijiet tas-subartikoli (1) u (2), traduzzjoni bil-fomm jew sommarju bil-fomm ta' dokumenti essenzjali jistgħu jingħataw minflok traduzzjoni bil-miktub bil-kondizzjoni li tali traduzzjoni jew sommarju bil-fomm ma jippreġudikawx kemm ikunu ġusti l-proċedimenti.

(7) Il-qorti għandha tivvaluta jekk vittma għandhiex bżonn ta' interpretazzjoni jew traduzzjoni kif previst fis-subartikoli (1) u (2).

8. Il-parti li għarrbet hsara għandha tiġi notifikata mill-Pulizija Eżekuttiva mingħajr dewmien mhux meħtieġ dwar kwalunkwe deċiżjoni li permezz tagħha l-awtur tal-ksur ma jkunx ser jiġi mixli. Tali notifika għandha mill-anqas ikun fiha r-raġunijiet li fuqhom tkun ittiehdet id-deċiżjoni li ma jinbdewx il-proċedimenti:

Drittijiet f'każ li tittiehed deċiżjoni li permezz tagħha l-awtur ma jiġix mixli.

Iżda l-iżvelar ta' dik l-informazzjoni m'għandux imur kontra l-ordni pubbliku jew id-dritt pubbliku intern ta' Malta jew jekk l-għanijiet tal-ġustizzja jiġu ppreġudikati jekk kellu jsir dak l-iżvelar.

9. Għandhom jiġu eżerċitati miżuri ta' ġustizzja riparatriċi previsti fl-Att dwar il-Ġustizzja Riparatriċi jew f'kull liġi oħra, bla hsara għall-kundizzjonijiet li ġejjin:

Miżuri dwar ġustizzja riparatriċi. Kap. 516.

(a) is-servizzi ta' ġustizzja riparatriċi jintużaw biss jekk ikunu fl-interess tal-vittma, soġġetti għal kwalunkwe konsiderazzjoni ta' sigurtà, u jkunu bbażati fuq il-kunsens liberu u infurmat tal-vittma, li jista' jiġi rtirat fi kwalunkwe hin;

(b) qabel ma taqbel li tipparteċipa fil-proċess ta' ġustizzja riparatriċi, il-vittma tingħata informazzjoni shiħa u imparzjali dwar dak il-proċess u l-eżiti potenzjali kif ukoll informazzjoni dwar il-proċeduri ta' sorveljanza tal-implimentazzjoni ta' kwalunkwe ftehim;

(ċ) l-awtur tal-ksur ikun irrikonoxxa l-fatti bażiċi tal-kawża;

(d) kwalunkwe ftehim jintlaħaq b'mod volontarju u

jista' jitqies fi kwalunkwe proċediment kriminali ulterjuri;

(e) diskussjonijiet fi proċessi ta' ġustizzja riparatriċi li ma jitwettqux fil-pubbliku huma kunfidenzjali u għalhekk ma jiġux żvelati, hlief bil-ftehim tal-partijiet jew kif meħtieġ mill-igi nazzjonali minhabba f'interess pubbliku iktar importanti.

Dritt għal
għajjnuna legali.

Kap. 9.

10. Meta l-parti li garrbet hsara, li tkun giet notifikata dwar l-ewwel smiġh jew għandha l-istatus ta' parti fil-proċedimenti kif previst fl-artikolu 410(4) u (5) tal-Kodiċi Kriminali, jew fil-każijiet fejn il-prosekuzzjoni tar-reat tiddependi mill-kwerela tal-parti li garrbet hsara, tixtieq tagħmel użu mill-benefiċċju tal-għajjnuna legali, għandhom jgħoddu d-dispożizzjonijiet tal-artikolu 570 tal-Kodiċi Kriminali, *mutatis mutandis*:

Iżda, għall-finijiet ta' dawk il-proċedimenti, kull referenza f'dawk id-dispożizzjonijiet għall-akkużat għandha tinftiehem bhala referenza għall-parti li garrbet hsara.

Drittijiet ta'
vittmi ta' reati
kriminali
mwettqa fi Stat
Membru ieħor.
Kap. 9.

11. (1) Vittma ta' reat kriminali mwettqa fi Stat Membru ieħor u li tkun tgħix f'Malta, jekk ma tkunx tista' tagħmel ilment f'dak l-Istat Membru, tista' tagħmel l-ilment skont l-artikolu 546 tal-Kodiċi Kriminali.

(2) Ilment ipprezentat taht dan l-artikolu għandu jintbagħat mingħajr dewmien mill-Pulizija Eżekuttiva lill-awtorità kompetenti tal-Istat Membru fejn ikun seħħ ir-reat kriminali, sakemm il-proċedimenti ma jkunux inbdew mill-Pulizija Eżekuttiva.

Valutazzjoni u
assistenza għal
vittmi ta' reat.

12. Il-Ministeru jew kwalunkwe entità jew aġenzija oħra li l-Ministru jista' jahtar għall-iskop, għandu, jipprovdi għal:

(a) l-valutazzjoni individwali u f'waqtha ta' vittmi li jkunu garrbu hsara minn reati gravi, inklużi reati mwettqa bi preġudizzju jew raġuni diskriminatorja li jistgħu, b'mod partikolari, jkunu marbuta mal-karatteristiċi personali tagħhom, u vittmi li r-relazzjoni tagħhom ma' u d-dipendenza tagħhom fuq l-awtur ta' reat tagħmilhom partikolarment vulnerabbli bhal ma huma:

- (i) minorenni;
- (ii) vittmi ta' terroriżmu;
- (iii) vittmi ta' kriminalità organizzata;
- (iv) vittmi ta' traffikar tal-bnedmin;

- (v) vittmi ta' vjolenza abbażi tas-sessi;
- (vi) vittmi ta' vjolenza f'relazzjoni mill-qrib;
- (vii) vittmi ta' vjolenza sesswali;
- (viii) vittmi ta' sfruttament jew reati ta' mibgħeda;

u

- (ix) vittmi b'diżabbiltà;

(b) servizzi ta' appoġġ għall-vittmi li għandhom, bħala minimu, jipprovdu:

(i) informazzjoni, pariri u appoġġ rilevanti għad-drittijiet tal-vittmi inkluż dwar aċċess għal skemi nazzjonali ta' kumpens għal hsara kriminali, u fuq ir-rwol tagħhom fil-proċeduri kriminali inkluż il-preparazzjoni għall-attenzenza fil-kawża;

(ii) informazzjoni dwar jew referenza diretta għal kwalunkwe servizzi rilevanti ta' appoġġ speċjalizzati fis-sehħ;

(iii) appoġġ emozzjonali u, fejn disponibbli, psikoloġiku;

(iv) parir marbut ma' kwistjonijiet finanzjarji u prattiċi li jirriżultaw mill-kriminalità;

(v) sakemm ma jkunx provdut mod ieħor minn servizzi pubbliċi jew privati oħra, parir relatat mar-riskju u l-prevenzjoni ta' vittimizazzjoni sekondarja u ripetuta, ta' intimidazzjoni u ta' ritaljazzjoni.

13. Servizzi ta' appoġġ għall-vittmi pprovdu taħt l-artikolu 12 għandhom, fil-valutazzjoni tal-bżonnijiet speċifiċi ta' vittmi li sofrew dannu konsiderevoli minħabba s-severità tar-reat u skont il-ħtigiet tagħhom, jipprovdu dan is-servizz b'mod kunfidenzjali u mingħajr hlas. Għandu jkun id-dmir ta' kwalunkwe servizz nominat sabiex jiġi provdut appoġġ għall-vittmi sabiex jaġixxi fl-interessi tal-vittmi qabel, matul u għal żmien xieraq wara l-proċeduri kriminali:

Servizzi ta' appoġġ.

Iżda l-membri tal-familja għandu jkollhom aċċess għal servizzi ta' appoġġ għall-vittmi skont il-ħtigiet tagħhom u l-grad ta' dannu soffert bħala riżultat tar-reat kriminali mwettaq kontra l-vittma.

(2) Malli tirċievi ilment minn persuna li l-imsemmija persuna

hija vittma ta' reat, kwalunkwe awtorità għandha, malli ssir konxja ta' dan il-fatt u mingħajr ebda dewmien żejjed, tirreferi l-vittma għal servizzi ta' appoġġ għall-vittmi.

(3) Fejn ikun meħtieġ, servizzi ta' appoġġ għall-vittmi għandhom jinkludu servizzi ta' appoġġ speċjalizzati mingħajr hlas u kunfidenzjali u xejn m'għandu jipprekludi organizzazzjonijiet ta' appoġġ għall-vittmi sabiex jirrikorru lejn entitajiet eżistenti speċjalizzati li jipprovdu appoġġ speċjalizzat bħal. Il-vittmi għandu jkollhom aċċess għal servizzi bħal dawn skont il-ħtiġiet speċifiċi tagħhom u l-membri tal-familja għandu jkollhom aċċess skont il-ħtiġiet speċifiċi tagħhom u l-grad ta' dannu soffert bħala riżultat tar-reat kriminali mwettaq kontra l-vittma.

(4) L-aċċess għal kwalunkwe servizz ta' appoġġ għall-vittmi kif provdut taht dan l-Att m'għandux jiddependi jekk il-vittma tagħmilx ilment formali lil awtorità kompetenti fir-rigward ta' reat kriminali.

Assistenza,
appoġġ u
protezzjoni ta'
vittmi li huma
minorenni.
Kap. 12.

14. (1) Meta vittma tiġi identifikata bħala minorenni u jitqies li jeżisti konflitt bejn l-interessi tad-detenturi tar-responsabbiltà ta' ġenitur u l-interessi tal-minorenni, għandu jinhatar tutur skont il-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili biex jirrappreżenta u jaġixxi fl-aħjar interessi tal-minorenni.

(2) Meta jitqies li jeżisti konflitt bejn l-interessi tad-detenturi tar-responsabbiltà ta' ġenitur u l-interessi tal-minorenni, il-qorti għandha *ex officio* jew fuq talba tal-prosekuzzjoni jew wara rikors minn xi persuna, tahtar avukat għall-għajjnuna legali biex jirrappreżenta l-interessi tal-minorenni u għandhom jgħoddu d-dispożizzjonijiet tal-artikolu 10:

Izda jista' jinhatar ukoll avukat għall-għajjnuna legali jekk il-qorti jidhrilha li dan ikun fl-aħjar interess tal-minorenni.

Taqsimha II - Dwar Vittmi ta' Traffikar tal-Bnedmin

Assistenza u
appoġġ.
Kap. 9.

15. (1) Vittma ta' reat ta' traffikar tal-bnedmin kif imfisser fl-artikoli 248A sa 248F, it-tnejn inkluzi, tal-Kodiċi Kriminali, malli tiġi identifikata bħala tali, ikollha dritt li tirċievi assistenza u appoġġ qabel, waqt u għal perjodu xieraq ta' żmien wara t-temm ta' proċedimenti kriminali sabiex tkun tista' teżerċita d-drittijiet elenkati fid-Direttiva u fid-Deciżjoni Qafas:

Izda dik l-assistenza u dak l-appoġġ ma għandhomx ikunu kondizzjonali fuq il-volontà tal-vittma li tikkoopera fl-investigazzjoni jew fil-proċedimenti kriminali.

(2) Għall-finijiet ta' dan l-artikolu:

(a) id-Deċiżjoni Qafas tfisser id-Deċiżjoni Qafas tal-Kunsill 2001/220/ĠAI tal-15 ta' Marzu 2001 dwar id-drittijiet tal-vittmi fil-proċeduri kriminali;

(b) id-Direttiva 2011/36/UE tal-Parlament Ewropew u tal-Kunsill tal-5 ta' April 2011 dwar il-prevenzjoni u l-ġlieda kontra t-traffikar tal-bnedmin u l-protezzjoni tal-vittmi tiegħu, u li tissostitwixxi d-Deċiżjoni Qafas tal-Kunsill 2002/629/ĠAI.

(3) Il-miżuri ta' assistenza u appoġġ imsemmija f'dan l-artikolu għandhom jiġu provduti fuq bażi konsenswali u infurmata, u għandhom jinkludu ta' mill-inqas livelli ta' ħajja li jistgħu jiggarrantixxu l-ghajxien tal-vittmi permezz ta' miżuri bħalma huma l-forniment ta' akkomodazzjoni xierqa u sikura u assistenza materjali, kif ukoll kura medika meħtieġa inkluża assistenza psikoloġika, konsulenza u informazzjoni, u servizzi ta' traduzzjoni u interpretazzjoni fejn ikun xieraq:

Izda l-informazzjoni għandha tkopri, fejn ikun rilevanti, informazzjoni dwar perijodu ta' riflessjoni u rkupru skont id-Direttiva 2004/81/KE, u informazzjoni dwar il-possibbiltà li tingħata protezzjoni internazzjonali skont id-Direttiva tal-Kunsill 2004/83/KE tad-29 ta' April 2004 dwar livelli stabbiliti minimi għall-kwalifika u l-istatus ta' ċittadini nazzjonali ta' pajjiżi terzi jew persuni mingħajr stat bħala rifuġjati jew bħala persuni li mod ieħor jeħtieġu protezzjoni internazzjonali u l-kontenut tal-protezzjoni mogħtija u d-Direttiva tal-Kunsill 2005/85/KE tal-1 ta' Diċembru 2005 dwar *standards* minimi għal proċeduri fl-Istati Membri għall-ghoti u l-irtirar tal-istatus ta' rifuġjat jew skont strumenti internazzjonali oħra jew regoli nazzjonali simili oħrajn.

16. (1) Bla ħsara għad-dispożizzjonijiet tal-artikolu 10, vittma tat-traffikar tal-bnedmin ikollha aċċess, mingħajr dewmien, għal konsulenza legali. Protezzjoni ta' vittmi.

(2) Meta l-vittma ma jkollhiex riżorsi finanzjarji suffiċjenti biex thallas għal dik il-konsulenza, dan is-servizz għandu jingħata mingħajr ħlas mill-avukat għall-ghajnuna legali

17. (1) Avukat maħtur għall-interessi ta' minorenni skont ir-Regolamenti dwar Il-Qorti Ċivili (Sezzjoni tal-Familja), Il-Prim' Awla tal-Qorti Ċivili u Il-Qorti tal-Maġistrati (Għawdex) (Ġurisdizzjoni Superjuri) (Sezzjoni tal-Familja) għandu jassisti lil u jirrappreżenta l-interessi ta' minorenni li jkun vittma ta' traffikar tal-bnedmin. Minorenni li jkunu vittmi ta' traffikar tal-bnedmin. L.S. 12.20

(2) F'kazijiet fejn l-età tal-persuna ma tkunx ċerta, u jkun hemm raġunijiet għaliex wiehed jemmen li l-persuna hi minorenni, dik il-persuna għanda titqies bħala minorenni u għandha tircievi

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assistenza, appoġġ u protezzjoni immedjati skont l-artikolu 18.

Minorenni
mhux
akkumpanjati li
jkunu vittmi.
Kap. 285.

18. (1) Meta l-vittma ta' traffikar tal-bnedmin tkun minorenni mhux akkumpanjata, għandu jinhareġ ordni għall-harsien skont l-Att dwar Tfal u Żgħażaġh (Ordnijiet għall-Harsien) sabiex jiġi żgurat li l-minorenni jingħata l-assistenza, il-protezzjoni u l-appoġġ kollu skont id-Direttiva.

(2) Għall-finijiet ta' dan l-artikolu "id-Direttiva" għandu jkollha l-istess tifsira kif mogħtija taħt l-artikolu 15.

Taqsimha III - Regolamenti

Regolamenti.

19. Il-Ministru jista' -

(a) permezz ta' regolamenti jippreskrivi, bla ħsara għad-dispożizzjonijiet ta' dan l-Att, dwar kull haġa li tista' tiġi preskritta taħt dan l-Att; u

(b) jagħmel regolamenti b'mod generali sabiex jingħata effett sħiħ għal dan l-Att.

Għanijiet u Raġunijiet

L-għan ta' dan l-Abbozz ta' Ligi hu biex jiġu trasposti d-dispożizzjonijiet tad-Direttiva 2012/29/UE tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Ottubru 2012 li tistabbilixxi *standards* minimi fir-rigward tad-drittijiet, l-appoġġ u l-protezzjoni tal-vittmi tal-kriminalità, u li tissostitwixxi d-Deċiżjoni Qafas tal-Kunsill 2001/220/ĠAI, l-imsemmija Deċiżjoni Qafas tal-Kunsill 2001/220/ĠAI, u d-Direttiva 2011/36/UE tal-Parlament Ewropew u tal-Kunsill tal-5 ta' April 2011 dwar il-prevenzjoni u l-ġlieda kontra t-traffikar tal-bnedmin u l-protezzjoni tal-vittmi tiegħu, u li tissostitwixxi d-Deċiżjoni Qafas tal-Kunsill 2002/629/ĠAI.

**A Bill
entitled**

AN ACT to make provision for the rights, support and protection of victims, and for matters connected therewith or incidental thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

Part I - Of Victims of Crime

1. The short title of this Act is the Victims of Crime Act, Short title.
2014.

2. In this Act, unless the context otherwise requires: Interpretation.

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

"Minister" means the Minister responsible for the welfare of victims of crime;

"Ministry" means the Ministry responsible for the welfare of victims of crime.

"restorative justice" means any process whereby the victim and the offender are enabled, if they freely consent, to participate actively in the resolution of matters arising from the criminal offence through the help of an impartial third party;

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"victim" means:

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

(b) 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.

Right to understand and to be understood.

3. (1) In relations with any competent authority in the context of criminal proceedings, all communications between the said authority and any victim shall be conducted 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.

(2) Unless contrary to the interests of the victim or unless the course of proceedings would be prejudiced, a victim may be accompanied by a person of his 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.

Right to receive information from a competent authority.

4. The following information shall be offered to an injured party, without unnecessary delay and as may be applicable, from his first contact with a competent authority in order to enable him to access the following rights set out in Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA:

(a) the type of support which can be obtained 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 the victim's role in connection with such procedures;

(c) how and under what conditions the victim can obtain protection, including protection measures;

(d) how and under what conditions the victim can access legal advice, legal aid and any other sort of advice;

(e) how and under what conditions the victim can access compensation;

(f) how and under what conditions the victim is entitled to interpretation and translation;

(g) if the victim is 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 his interests in Malta;

(h) the available procedures for making complaints where the victim's rights are not respected by the competent authority operating within the context of criminal proceedings;

(i) the contact details for communications about the victim's case;

(j) the available restorative justice services;

(k) how and under what conditions expenses incurred as a result of the victim's participation in the criminal proceedings can be reimbursed.

5. (1) Where a complaint is made by the victim in terms of article 546 of the Criminal Code, the Executive Police shall deliver to the victim a written acknowledgment of his complaint stating the basic elements of the criminal offence concerned.

Right of victims when complaint is made.
Cap. 9.

(2) It shall be lawful for a victim, who requests to make a complaint with regard to a criminal offence and who does not understand or speak Maltese or English, to make the complaint in a language that he understands or by receiving the necessary linguistic assistance of an interpreter.

(3) A victim who does not understand or speak Maltese or English shall, if he so requests, receive a translation into a language he understands, which translation shall be free of charge, of the written acknowledgement of the complaint referred to in sub-article (1).

6. (1) A victim shall be notified without unnecessary delay of his right to receive the following information about the criminal proceedings instituted as a result of the complaint made by him and upon request, the victim shall receive information on:

Right to receive information on the case.

(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;

(c) any final judgment in a trial;

(d) 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:

Provided that in the circumstances cited in paragraphs (a) and (c) and unless in the case of a verdict in a trial by jury or where prohibited by law, the information shall include reasons or a brief summary of reasons for the decision concerned:

Provided further that it shall not be necessary to furnish such information in cases where the victim, as injured party, has been served with the notice of first hearing or admitted into the proceedings as provided in article 410(4) and (5) of the Criminal Code.

Cap. 9.

(2) A victim shall be offered the opportunity to be notified, without unnecessary delay, when the person remanded in custody, prosecuted or sentenced for criminal offences concerning the said victim is released from or has escaped detention and of any relevant measures issued for his protection in case of release or escape of the offender.

(3) A victim shall, upon request, receive the information provided for in sub-article (2) at least in cases where there is a danger or an identified risk of harm to him, unless there is an identified risk of harm to the offender which would result from the notification.

Right to interpretation and translation.

7. (1) Where the injured party does not understand the language in which the criminal proceedings are conducted or any evidence is adduced, such proceedings or evidence shall be interpreted to him either by the court or by a sworn interpreter.

(2) An injured party who does not understand or speak the language of the court shall, upon request, be provided with translations of information essential to the exercise of his rights in the criminal proceedings in a language he understands, free of charge, to the extent that such information is made available to the injured party.

(3) Translations of the information cited in sub-article (2) shall include at least any decision ending the criminal proceedings, and upon the injured party's request, reasons or a brief summary of reasons for such decision, except in the case of a verdict in a trial by

jury.

(4) Saving the provisions of articles 410(4) to (6), 414(1) and 421(1) of the Criminal Code, an injured party who is entitled to information about the time and place of the trial in accordance with article 6(1)(b) and who does not understand the language of the court shall, upon request, be provided with a translation of the information to which he is entitled. Cap. 9.

(5) An injured party may submit a reasoned request to consider a document as essential although there shall be no requirement to translate passages of essential documents which are not relevant for the purpose of enabling the injured party to actively participate in the criminal proceedings.

(6) Notwithstanding the provisions of sub-articles (1) and (2), an oral translation or oral summary of essential documents may be provided instead of a written translation on condition that such oral translation or oral summary does not prejudice the fairness of the proceedings.

(7) The court shall assess whether victims need interpretation or translation as provided for under sub-articles (1) and (2).

8. The injured party shall be notified of any decision by the Executive Police not to institute proceedings against the offender without unnecessary delay. Such notification shall at least contain the reasons on which the decision not to institute proceedings was taken: Rights in decision not to prosecute.

Provided that the disclosure of such information would not be contrary to the public policy or the internal public law of Malta or if the ends of justice would be prejudiced if such disclosure is made.

9. Restorative justice measures provided for under the Restorative Justice Act or under any other law shall be exercised subject to the following conditions: Restorative justice measures. Cap. 516.

(a) the restorative justice services are used only if they are in the interest of the victim, subject to any safety considerations, and are based on the victim's free and informed consent, which may be withdrawn at any time;

(b) before agreeing to participate in the restorative justice process, the victim is provided with full and unbiased information about that process and the potential outcomes as well as information about the procedures for supervising the implementation of any agreement;

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(c) the offender has acknowledged the basic facts of the case;

(d) any agreement is arrived at voluntarily and may be taken into account in any further criminal proceedings;

(e) discussions in restorative justice processes that are not conducted in public are confidential and shall not be subsequently disclosed, except with the agreement of the parties or as may be required by law due to an overriding public interest.

Right to legal aid.

Cap. 9.

10. Where the injured party, who has been served with the notice of first hearing or admitted into the proceedings as provided in article 410(4) and (5) of the Criminal Code, or in cases where the prosecution lies with the injured party, wishes to avail himself of the benefit of legal aid, the provisions of article 570 of the Criminal Code shall *mutatis mutandis* apply:

Provided that, for the purpose of such proceedings, any reference in those provisions to the accused shall be construed as being a reference to the injured party.

Rights of victims of criminal offences committed in another Member State.
Cap. 9.

11. (1) A victim of a criminal offence committed in another Member State and who resides in Malta, if unable to file a complaint in that Member State, may file a complaint in terms of article 546 of the Criminal Code.

(2) A complaint filed under this article shall be transmitted by the Executive Police without unnecessary delay to the competent authority of the Member State in which the criminal offence was committed, unless proceedings would have been instituted by the Executive Police.

Assessment of and assistance to victims of crime.

12. The Ministry or any other entity or agency which the Minister may designate for the purpose, shall, make provision for:

(a) the timely and individual assessment of victims who suffered from severe crimes, including crimes committed with a bias or discriminatory motive which could in particular, be related to their particular characteristics, and victims whose relationship to and dependence on the offender make them particularly vulnerable such as:

(i) minors;

(ii) victims of terrorism;

- (iii) victims of organised crime;
 - (iv) victims of human trafficking;
 - (v) victims of gender-based violence;
 - (vi) victims of violence in a close relationship;
 - (vii) victims of sexual violence;
 - (viii) victims of exploitation or hate crime; and
 - (ix) victims with disabilities;
- (b) victim support services which shall, as a minimum, provide:
- (i) information, advice and support relevant to the rights of victims including on accessing national compensation schemes for criminal injuries, and on their role in criminal proceedings including preparation for attendance at the trial;
 - (ii) information about or direct referral to any relevant specialist support services in place;
 - (iii) emotional and, where available, psychological support;
 - (iv) advice relating to financial and practical issues arising from the crime;
 - (v) unless otherwise provided by other public or private services, advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation.

13. (1) Victim support services provided under article 12 shall, in assessing the specific needs of victims who have suffered considerable harm due to the severity of the crime and in accordance with their needs, provide such services in a confidential manner and free of charge. It shall be the duty of any service designated to provide victim support to act in the interests of the victims before, during and for an appropriate time after criminal proceedings:

Support services.

Provided that 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

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the victim.

(2) Upon receiving a complaint by a person that the said person is a victim of a crime, any authority shall, upon becoming aware of this fact and without any undue delay, refer the victim to victim support services.

(3) Where necessary, victim support services shall include free of charge and confidential specialist support services and nothing shall preclude victim support organisations to call on existing specialised entities providing such specialist support. Victims shall have access to such services in accordance with their specific needs 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) Access to any victim support service as provided under this Act shall not be dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority.

Assistance,
support and
protection to
victims who are
minors.
Cap. 12.

14. (1) Where a victim is identified as a minor and it is deemed that a conflict exists between the interests of the holders of parental responsibility and the interests of the minor, a tutor in terms of the Code of Organization and Civil Procedure shall be appointed to represent the minor and act in his best interests.

(2) Where it is deemed that a conflict exists between the interests of the holders of parental responsibility and the interests of the minor, the court shall *ex officio* or upon a request by the prosecution or upon application by any person, appoint an advocate for legal aid to represent the interests of the minor and the provisions of article 10 shall apply:

Provided that an advocate for legal aid may also be appointed if the court considers that this is in the best interest of the minor.

Part II - Of Victims of Trafficking in Persons

Assistance and
support.
Cap. 9.

15. (1) A victim of an offence of trafficking in persons as defined under articles 248A to 248F, both inclusive, of the Criminal Code, as soon as he is identified as such, shall be entitled to receive assistance and support before, during and for an appropriate period of time after the conclusion of criminal proceedings in order to enable him to exercise the rights set out in the Directive and Framework Decision:

Provided that such assistance and support shall not be

conditional on the victim's willingness to cooperate in the investigation or criminal proceedings.

(2) For purposes of this article:

(a) the Framework Decision shall mean the Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings;

(b) the Directive shall mean the Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

(3) The assistance and support measures referred to in this article shall be provided on a consensual and informed basis, and shall include at least standards of living capable of ensuring victims' subsistence through measures such as the provision of appropriate and safe accommodation and material assistance, as well as necessary medical treatment including psychological assistance, counselling and information, and translation and interpretation services where appropriate:

Provided that the information shall cover, where relevant, information on a reflection and recovery period pursuant to Directive 2004/81/EC, and information on the possibility of granting international protection pursuant to Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted and Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status or pursuant to other international instruments or other similar national rules.

16. (1) Without prejudice to the provisions of article 10, a victim of trafficking in persons shall, without delay, have access to legal advice. Protection of victims.

(2) Where the victim does not possess sufficient financial resources to afford such advice this service shall be afforded free of charge by the advocate for legal aid.

17. (1) An advocate appointed in the interests of a minor in terms of The Civil Court (Family Section), The First Hall of the Civil Court and The Court of Magistrates (Gozo) (Superior Jurisdiction) (Family Section) Regulations shall assist and represent the interests Minors victims of trafficking. S.L. 12.20

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of a minor who is a victim of trafficking in persons.

(2) In cases where the age of the person cannot be determined with certainty and there are reasons to believe that the person is a minor, that person shall be presumed to be a minor and shall be entitled to receive immediate access to assistance, support and protection in accordance with article 18.

Unaccompanied
victims who are
minors.
Cap. 285.

18. (1) Where a victim of trafficking in persons is an unaccompanied minor, a care order shall be issued in terms of the Children and Young Persons (Care Orders) Act to ensure that the minor is afforded all the assistance, protection and support in terms of the Directive.

(2) For purposes of this article "the Directive" shall have the same meaning assigned to it under article 15.

Part III - Regulations

Regulations.

19. The Minister may -

(a) by regulations prescribe, subject to the provisions of this Act, for any matter which may be prescribed under this Act; and

(b) make regulations generally for the purpose of giving full effect to this Act.

Objects and Reasons

The objects of this Bill are the transposition of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, the said Framework Decision 2001/220/JHA, and Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.