

ENSURE VICTIM'S AND SURVIVOR'S RIGHT TO COMPENSATION

ECLAG Memo 6 on the proposed Child Sexual Abuse Directive

October 2024

ECLAG welcomes and supports the [EC proposed recast of Directive 2011/93/EU of February 2024 on Sexual Abuse and Exploitation of Children](#). ECLAG supports the **introduction of a victim's right to compensation but call for important additions** :

1. Include a definition of survivors and extend the right to compensation to all persons who experienced child sexual violence, irrespective of their legal status

Research indicates that **most individuals who experience sexual violence** as children do not seek justice through formal legal channels due to numerous barriers related to this crime, leaving them **outside the current definition of 'victims'** under the Victims' Rights Directive.

It is therefore crucial to **include a definition of survivors and recognize their need for support, assistance, and compensation**. Including a definition of 'survivor' in the Directive would pave the way for proper recognition and access to support services for all those who have experienced childhood sexual violence, regardless of their legal status.¹ Current negotiations around the proposed CSA Regulation might lead to the inclusion of "survivors" in the work of the EU Centre. The adoption of a definition of survivor in the 2011 Directive will therefore ensure harmonisation between the different EU legislations on child sexual abuse.

Accordingly, **ECLAG urges to include a definition of survivors while also extending the right to compensation to all persons who experienced child sexual violence**, irrespective of their legal status.

→ [See our amendments to Articles 21, 23, 24 and 25.](#)

2. Extend the time period for compensation

The Directive should ensure that the proposed periods of time take into consideration the **unique characteristics of child sexual exploitation and abuse and align with objective evidence on delayed reporting**.² Recent evidence shows that due to obstacles to reporting and trauma response, [the average age of disclosure for survivors is 52 years](#). The most recent research conducted by Child USA shows that [the majority of victims who disclosed their abuse did first after age 50](#). At least 30% of victims never disclose at all. **Many factors influence the timing of disclosure, most of which are not related to the severity of the abuse itself**. There is a clear need for extending the time limits for

¹ According to various sources definition of a survivor of child sexual violence could be: "a person who has experienced sexual violence as a child, irrespective of their legal status and their recognition as a victim of a crime by a legal system."

² See ECLAG Memo on Statute of Limitation for further analysis on the unique characteristics of these crimes.

claiming compensation, as survivors often require considerable time to overcome the barriers that prevent them from coming forward.

Furthermore, [the risk of recidivism for child sex abusers does not significantly decrease with time](#), reinforcing the necessity of ensuring that survivors have continued access to support and the ability to seek compensation whenever they are ready to come forward. Extending these time limits is essential to provide survivors with the justice, recognition, and financial assistance they need.

Accordingly, we recommend extending the compensation time period **to 35 years from the date the victim has reached 18 years old**, to ensure to victims and survivors an effective access to compensation for any damage suffered.

→ [See our amendments to Articles 16 and 23.](#)

3. Ensure survivors' right to civil compensation distinct is from criminal compensation and can be claimed to liable institutions

The Directive should ensure that **victims and survivors can claim compensation from civil proceedings regardless of their willingness/ ability to participate in criminal proceedings.**

Some survivors may be unwilling to press criminal charges against their perpetrator, especially in cases of intra-family abuse. Therefore, victims and survivors should retain the right to compensation to cover the significant economic costs of the abuse. Member states shall ensure that survivors have a range of legal choices when deciding how they want to deal with the trauma they have suffered.

In addition, it is not uncommon in historical child sexual abuse cases that survivors cannot initiate criminal proceedings against their perpetrator because they have died, is unfit to stand trial or other similar legal reasons. However when the sexual abuse has happened within an institution that works with children (ie: school, social services, sports clubs or religious communities), survivors should be able to claim compensation from this institution if culpable negligence is proven. Without such a legal option, survivors will only be able to get compensation from national compensation schemes, shifting the cost of the abuse to the taxpayer. **Holding responsible institutions to account** will reallocate the financial impact of the abuse from survivors, their families and the taxpayer to the organisations that have enabled the abuse. It will also establish an economic incentive to ensure that such institutions implement the safeguarding legal duties described in other articles of the directive.

Accordingly, we recommend strengthening survivors' right to civil compensation by guaranteeing the right to **compensation from civil proceedings, in absence of criminal proceedings**, ensuring effective access to compensation for any damages suffered.

→ [See our amendments to Article 23.](#)

4. Adopt victim-sensitive compensation procedures

It is crucial that victims are not required to take proactive steps to receive their awarded compensation; instead, **the responsibility should rest with the State** to ensure timely payment.³ To address this, the revised Directive should explicitly include **clear, victim-friendly procedural rules that require Member States to implement systems designed to support victims throughout the compensation process.** These systems should aim to minimise the administrative burden on victims, ensuring that they do not face additional stress or delays in receiving the financial compensation they deserve.⁴

The proposal currently lacks detailed procedures for claiming compensation in a manner sensitive to victims' needs. It is crucial to explore further solutions, such as State enforcement of payments through mechanisms like State-paid bailiffs or access to offenders' salaries. Measures should also be put in place to protect victims when seeking payments. By incorporating these provisions, the Directive can help create a more compassionate and efficient process that truly prioritises the well-being of victims.

→ [See our amendments to Article 23.](#)

³ [Victim Support Europe, Victims of Crime Model Provisions Paper, 2023.](#)

⁴ Victim Support Europe, [Combating child sexual abuse - Review of EU rules, 2024.](#)