



Mobile Technologies applied to protect victims of a crime within the EU Area of Justice: RightsApp for e-Justice

D2.1 Report on key sources for the project

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ACRONYMS LIST:

CVAO:	Crime Victims Assistance Office
ICVS:	International Crime Victim Survey
RD:	Royal Decree
OL:	Organic Law
VCS:	Victim of Crime Statute

EXECUTIVE SUMMARY

The main purpose of this document is to collect legal key sources at European, national and regional level; existing information providers such as the European e-Justice portal; victimization statistics; Crime Victims Assistance Offices and; state-of-the-art literature in English and Spanish.

The document lists all relevant sources identified. However, the list is not exhaustive and it could be modified as the project moves forward. In addition, this deliverable will act as input for the next tasks scheduled in work package 2 aimed at designing a decision tree, a questionnaire and the standardization of the questionnaire. All of these parts are outcomes of work package 2 and they will be part of the RightsApp mobile application.

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1 INTRODUCTION

The European strategy on the Area of Security, Freedom and Justice, was to ensure that the EU citizens' rights are protected sufficiently even when they are in a different Member State than their own. In this scenario, every year at the EU 30 million of crimes –excluding minor offences—are reported to the police at the EU¹. Thus, when an EU citizen faces a criminal proceeding as victim four main problems arise: i) lack of awareness regarding EU and national legal framework; ii) lack of harmonization, although EU sets up common rules, legal frameworks varies from one Member State to another); iii) lack of legal background from citizens causes difficulties to understand their rights; and iv) different language than your own, especially if you are abroad.

Although at a national level English is the most widely spoken foreign language in the 19 of the 25 Member States where it is not an official language², there are dramatic differences among Member States. The Netherlands (90%), Malta (89%), Denmark (86%) and Sweden (86%) are particularly likely to speak English as a foreign language. On the other hand, Italy (34%), Portugal (27%) and Spain (22%) report lower English skills. Therefore, comprehension of these factsheets by citizens from Members States that report lower English skills could be quite challenging, decreasing the rate of use and awareness of EU citizens' rights within these Member States, especially when they are abroad.

According to Directive 2012/29/EU, Member States shall ensure that victims are recognised and treated in a respectful, sensitive, tailored, professional and non-discriminatory manner, including with respect to their residence status. However, not all Member States provide translation to victims who need it, not all member states ensure that all victims are identified if they are vulnerable, among other issues. In summary, rights of victims of crime are not sufficiently protected. Besides, most details of the legal framework are determined by national laws, increasing fragmentation and defenceless of relevant rights such as rights to protection and rights of victims resident in another Member State, violating the right to access to justice by citizens with no legal background.

Against this background, the main contribution in this project is the design and piloting of a tool that can provide concrete, case-based assistance to the victim of a crime. In this project mobile technologies are used to empower the citizen as the holder of the right to access justice. Moreover, the assistance and information provided is not generic, such as the one that can be found in the existing solutions, but relevant to the specific case in which the citizen is involved. Thus, find relevant sources regarding EU citizens' rights when they fall victims of a crime in a Member State becomes a key activity. Specifically, these sources will include:

- Legislation at European, national—Spanish legal framework—and regional level—relevant regional legislation where the RightsApp pilot will be carried out.
- Existing information providers such as e-Justice portal factsheets and reports, among others.
- State-of-the-art literature at European and national level.
- Victimization surveys

Therefore, the main target of this document is to find out relevant sources that will be considered during the project lifespan. These sources will be the main input for task 2.3 and task 2.4 that consist of building a decision tree map (taxonomy with concepts and their relationships) and the design and standardization of the questionnaire that will be implemented in the RightsApp mobile applications.

The document is organized as follows: Section 2 addresses the European legislation focused on victims of crime rights; Section 3 lists Spanish legal framework relevant for the RightsApp project; Section **Error! Reference source not found.** collects the current information providers regarding European citizens' rights when they fall victims of a crime; Section 5 gathers different victimization surveys that could be

¹ Available at: http://ec.europa.eu/justice/criminal/victims/index_en.htm

² Eurobarometer. (2012) Special Eurobarometer 386. Europeans and their Languages. June 2012. Available at: https://data.europa.eu/euodp/en/data/dataset/S1049_77_1_EBS386

relevant for the project since they state the most frequent committed crimes; Section 6 is about the state-of-the-art literature that could be relevant for the project ; finally, Section 7 points out some conclusions.

The sources contained in this document will be updated during the project lifespan. There is a possibility that some new relevant sources for the project arise. For this reason, the deliverable contains a revision log table. When relevant updates occur, the revision log table will reflect the update, the date of the new revision and the author.

2 EUROPEAN LEGISLATION

This Section addresses the European legislation regarding EU citizens' rights when they fall victim of a crime. Therefore, Table 1 lists relevant legislation at European level, including the EU Charter of Fundamental Rights and Directives which cover the same subject on this matter. In addition, a guide elaborated by DG-Justice aiding on the transposition of the Directive 2012/29/EU is included. This guide could be relevant for the project since its main goal is to facilitate the search process among national legislations. RightsApp pilot will be carried out in Spain, therefore, Spanish legal framework is particularly considered, however for a future extension it could be relevant.

European legislation and related documents		
Type	Name and link	Relevance
Charter	EU Charter of Fundamental Rights	<p>In 2010, the European Commission adopted a strategy to monitor and ensure the effective implementation of the rights and freedoms enshrined in the charter. The strategy has 3 main objectives:</p> <ul style="list-style-type: none"> • to guarantee that the rights and principles of the charter are correctly taken into account at every step of the legislative process • to improve EU citizens' understanding of fundamental rights protection within the EU • to monitor the progress of the charter's application through annual reports. <p>Specifically, Article 47 is focused on the right to a fair trial. Everyone whose rights and freedoms are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article.</p> <p>Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented.</p> <p>Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.</p>
Directive	Directive 2012/29/EU	<p>This Directive establishes minimum standards on the rights, support and protection of victims of crime, ensuring that persons who have fallen victims of crimes are recognised, treated with respect and receive proper protection, support and access to justice. This Directive also introduces the Victim Support Services as a vital service to enable victims of crime to have effective access to justice and to ensure that they can claim their rights.</p>

Guide	DG-Justice guide for the transposition of Directive 2012/29/EU in every Member State	This guide highlights the most important aspects of the Directive 2012/29/EU and the guidance for the transposition should facilitate the search process among national legislations (in the project the Spanish legal framework is considered, however for a future extension it could be relevant).
Directive	Directive 2011/36/EU	Directive on combating and preventing trafficking in human beings and protecting its victims. EU legislation further establishes protection and support for victims of trafficking in human beings, thus, it could be relevant for the project.
Directive	Directive 2011/92/EU	Directive on combating the sexual abuse and sexual exploitation of children and child pornography. EU legislation further establishes protection and support for victims of sexual abuse and sexual exploitation of children, thus, it could be relevant for the project.
Directive	Directive 2004/80/EC	Directive on compensation to crime victims. This Directive is related to compensation to crime victims and it provides that persons can apply for state compensation when they have fallen victims to crime abroad, and receive assistance to do so.
Directive	Directive 2011/99/EU	Directive on supporting crime victims EU-wide. The European Protection Order (EPO) sets up a mechanism allowing for the recognition of protection orders issued as a criminal law measure between Member States.
Regulation	Regulation (EU) No 606/2013 of 12th June	Regulation on mutual recognition of protection measures in civil matters.

Table 1. European legislation and related documents

3 SPANISH LEGAL FRAMEWORK

This Section collects all the relevant legal sources concerning the Spanish legal framework. Act 4/15 of 27th of April develops the Spanish Victim of Crime Statute (VCS) and, specifically, Art. 1 states that it applies to all victims of a crime committed in Spain, independently from: nationality, age and legal residence. Therefore, it is applicable to victims of a crime in Spain, even if the victim nationality is from another Member State. Table 2 lists all the relevant legal sources from the Spanish legal framework regarding victims of a crime, including rights for special protected groups of victims such as victims of terrorism, violence against women and underage victims.

National legislation –Spanish legal framework		
Type	Name and link	Relevance
General Law		
Act	Act 4/15 of 27th of April on Spanish Victim of Crime Statute	This act is relevant since it develops the Spanish VCS. It considers a complete catalogue of rights to the victims of crime, regardless of a complaint have been made. Moreover, this act states an extended regulation regarding the Crime Victims Assistance Offices (CVAO).
Royal Decree	RD 1109/2015 of 11th December on Spanish Victim of Crime Statute and Crime Victims Assistance offices	This RD is relevant for the project since it develops Act 4/15 of 27 th of April on Spanish Victim of Crime Statute and regulates the CVAO.
Organic Law	Organic Law 19/1994 of 23rd of December on witness protection in criminal proceedings	This OL is relevant for the RightsApp project since it regulates witness protection in criminal proceedings
Royal Decree	RD 199/2006 of 17th of February on norms to ease the access to public aids in a cross-border context that transposes Directive 2004/80/EC	This RD regulates the public aids of crime victims in a cross-border context.
Victims of violent crimes and against of sexual freedom		
Act	Act 35/1995 of 11th of December on assistance to violent crime victims and against sexual freedom	This Act is relevant for the project since it regulates the assistance to violent crime victims and against sexual freedom. This Act also takes into account two specific groups of victims that will be specially considered in the RightsApp mobile application design.
Royal Decree	RD 738/1997 of 23rd of May on assistance to violent crime victims and against sexual freedom	This RD is relevant for the project since it develops Act 35/1995 of 11 th of December on assistance to violent crime victims and against sexual freedom. Therefore, this RD contains rights that could be considered as relevant for the RightsApp mobile application design, specifically for the questionnaire design and its parametrization.
Victims of terrorism		

Act	Act 29/2011 of 22nd of September on recognition and protection of terrorism victims	This Act states a special protection for the victims of terrorism. This is relevant for the project since it sets special rights to a specific group of victims.
Royal Decree	RD 671/2013 of 6th of September on recognition and protection of terrorism victims	This RD develops Act 29/2011 for the protection of victims of terrorism. The rights stated in this RD will be relevant for the project since it develops specific rights for the victims of terrorism.
Victims of violence against women		
Organic Law	Organic Law 1/2004 of 28th of December on protection measures against violence against women	This OL states a special protection for the victims of violence against women. This is relevant for the project since it sets special rights to a specific group of victims.
Act (Regional)	Act 5/2008 of 24th of April on women right to eradicate violence against women	This Act considers women right to eradicate violence against women. This is relevant for the project since it sets special rights to a specific group of victims.
Underage victims		
Organic Law	Organic Law 1/1996 of 15th of January on underage legal protection	This OL considers underage legal rights. This is relevant for the project since it sets special rights to a specific group of victims.
Free legal aid		
Act	Act 1/1996 of 10th of January on free legal aid modified by Royal Decree 3/2013	This Act considers rights of victims of crime regarding free legal aid. This is relevant for the project since it sets the conditions for the access to free legal aid.
Decree (Regional)	Decree 252/1996 of 5th of July on the recognition of the right and aid of lawyer's actuaciones	This regional Decree extends the rights of victims of crime regarding free legal aid stated in Act 1/1996 of 10 th of January. This is relevant for the project since it is in force in the region that the project pilot will be carried out.
Organic Law	Organic Law 4/2000 of 11th of January on rights and freedoms for foreigners in Spain and their social integration	This OL considers foreigner citizens' rights and freedoms regarding free legal aid and social integration. This is relevant for the project since it sets rights and freedoms to a specific group of victims: foreigners citizens in Spain. Specifically, Art. 22 will be relevant for the project activities.

Table 2. National legislation (Spanish legal framework).

4 AVAILABLE INFORMATION RELATED TO EU CITIZENS' RIGHTS

This Section collects the currently available information regarding European citizens' rights when they fall victims. The RightsApp project will also include relevant existing sources apart from legislation to design the questionnaire and its standardization. Therefore, Section 4.1 gathers information from the European e-Justice Portal³ and Section 4.2 points out relevant reports, Eurobarometers, among other key sources for the RightsApp project development.

4.1 European e-Justice Portal

The European e-Justice Portal provides a set of static factsheets written in English from most of the European countries. These factsheets consist of a FAQs repository focused on the main topics that could arise when a citizen fall victim of a crime. Table 3 collects factsheets corresponding to the Spanish legal framework—Spain is the pilot location—since they are an example of the information that is currently provided to European citizens.

e-Justice portal: Rights of victims of crime in criminal proceedings - Spain		
Type	Name and link	Relevance
Factsheet	My rights during the investigation of a crime	This factsheet contains a static FAQ repository. The different scenarios are discussed in short, however, it could be relevant since it is an example of how the information is currently provided.
Factsheet	My rights during the trial	This factsheet contains a static FAQ repository. The different scenarios are discussed in short, however, it could be relevant since it is an example of how the information is currently provided.
Factsheet	My rights after the (first) trial	This factsheet contains a static FAQ repository. The different scenarios are discussed in short, however, it could be relevant since it is an example of how the information is currently provided.
Factsheet	Help and support for victims of crime	This factsheet contains different institutions that could be able to help a citizen then he/she falls victim of a crime. It could be relevant for the project since it points out different institutions: Ministry of Justice, Office of Crime Victims Assistance in Barcelona (Spain), two associations of terrorism victims and the National Association of Victims of Violent Crimes. Although the factsheet includes contact details (most of them the web page), a close address to the victim's geographical situation could help to improve the assistance.

Table 3. Existing information provided by the e-Justice portal under section "Rights of victims of crime in criminal proceedings" within the Spanish section.

³ European e-Justice Portal: <https://e-justice.europa.eu/home.do?action=home&plang=en>

4.2 Reports and Eurobarometers

Table 4 lists reports and Eurobarometers containing relevant information for the RightsApp project at European and national levels.

Reports		
Type	Name and link	Relevance
European Report	Fundamental Rights Report 2017	<p>This report issued by the European Union Agency for Fundamental Rights (FRA) includes a report on:</p> <ul style="list-style-type: none"> • Access to justice including rights of crime victims • Protecting procedural rights in criminal proceedings • Violence against women and domestic violence • FRA opinions <p>This report is relevant for the project since it states the current situation regarding rights of crime victims.</p>
European Report	EU Citizenship Report 2017	<p>This report contains relevant information for the project regarding:</p> <ul style="list-style-type: none"> • Informing and assisting EU citizens on the move • Simplifying travel, living and working across the EU for citizens • Increasing opportunities for students, trainees, teachers and other workers • Further simplifying living and travelling in the EU <p>All of these topics are related to European citizens' rights when they are abroad and are victim of a crime.</p>
Eurobarometer	Eurobarometer. (2016) Standard Eurobarometer 86. European Citizenship. December 2016	This Eurobarometer states the awareness regarding the EU citizens' rights.

Table 4. Reports, Eurobarometers and other relevant information for the RightsApp project.

5 VICTIMIZATION STATISTICS AND CRIME VICTIMS ASSISTANCE OFFICES

Table 5 links three different surveys of victimization at European, national and regional level. The RightsApp pilot will be carried out in Barcelona, therefore, the regional survey included contains data from this city.

Surveys		
Scope	Name and link	Relevance
European	European Sourcebook of Crime and Criminal Justice Statistics	This report contains police, prosecution and victimization statistics.
National	Encuesta a víctimas en España (Survey to victims in Spain)	Results of victimization in Spain until 2009 following the International Crime Victim Survey (ICVS)
Regional	Datos sobre victimización en Barcelona (Victimization data in Barcelona)	This survey presents victimization data from 1983 to 2017.

Table 5. Surveys about victimization that are relevant to the RightsApp project.

Table 6 lists repositories and link to national and regional CVAO. This list could be relevant for the project since some of this information will be included in the RightsApp application in order to assist the victim.

Crime Victims Assistance Offices		
Scope	Group of victims	Name and link
National (Spain)	General	Contact and location of every CVAO in Spain
National (Spain)	Terrorism	List of terrorism CVAO in Spain
National (Spain)	Underage	Policy of actuation with underage victims of crime
Regional (Catalonia)	General	CVAO data sorted by their specialization
Regional (Catalonia)	General	Repository of CVAO in Catalonia with contact details

Table 6. Crime Victims Assistance Offices.

6 STATE-OF-THE-ART LITERATURE

This section consists of two tables. Table 7 shows relevant literature regarding victims of a crime rights in English and Table 8 lists relevant articles and different literature regarding victims of a crime rights in Spanish. The list is not exhaustive, these table could change as the RightsApp project moves forward.

State-of-the-art literature in English
Hans-Jürgen Kerner (2015) Establishing new minimum standards on the rights, support and protection of victims of crime (Directive 2012/29/EU): a promising step also for the further development of restorative justice initiatives and institutions in Europe, <i>Restorative Justice</i> , 1:3, 430-437, DOI: 10.5235/20504721.1.3.430
Buczma, S.R. ERA Forum (2013) 14: 235. https://doi.org/10.1007/s12027-013-0305-0
RAFARACI, T. (2015) New Perspectives for the Protection of the Victims in the EU. In: Ruggeri S. (eds) <i>Human Rights in European Criminal Law</i> . Springer, Cham. DOI: https://doi.org/10.1007/978-3-319-12042-3_11
Katrien Lauwaert (2015) Restorative justice in the 2012 EU Victims Directive: a right to quality service, but no right to equal access for victims of crime, <i>Restorative Justice</i> , 1:3, 414-425, DOI: 10.5235/20504721.1.3.414
Jan van Dijk (2015) Victim-centred restorative justice, <i>Restorative Justice</i> , 1:3, 426-429, DOI: 10.5235/20504721.1.3.426
Theo Gavrielides (2015) The Victims' Directive and What Victims Want From Restorative Justice, <i>Victims & Offenders</i> , 12:1, 21-42, DOI: 10.1080/15564886.2014.982778
Allegrezza, S. (2015), "Victims Statute within the Directive 2012/29/EU" <i>Victims and criminal justice. European standards and National Practices</i> Luparia, Luca, Wolters Kluwer 3-20

Table 7. State-of-the-art literature in English

State-of-the-art literature in Spanish
MONTSERRAT DE HOYOS SANCHO, "Principales avances en derechos, garantías y protección de víctimas (1)", <i>Diario La Ley</i> , ISSN 1989-6913, Nº 8955, 2017
ANGEL LUIS TOMASELLI ROJAS, "El estatuto de la víctima y el letrado de la administración de justicia: garantía informativa, deber de comunicación y recursos", en <i>Diario La Ley</i> , ISSN 1989-6913, Nº 8908, 2017.
NATALIA PÉREZ RIVAS, "Evolución histórica del estatuto jurídico de la víctima: especial referencia al derecho español", en <i>Revista General de Derecho Procesal</i> , ISSN-e 1696-9642, Nº. 41, 2017
NATALIA PÉREZ RIVAS, "Normas mínimas de los derechos básicos de las víctimas de delitos en Europa", en <i>Revista de Derecho de la Universidad de Montevideo</i> , 2016.
CAROLINA GALA DURÁN, "Función pública. Los derechos de las víctimas de violencia de género en el marco de las entidades locales", en <i>La administración práctica: enciclopedia de administración municipal</i> , ISSN 0210-2781, Nº. 2, 2017, págs. 69-76
NATALIA PÉREZ RIVAS, "El derecho de la víctima a ser informada en el sistema penal español", en <i>Revista penal</i> , ISSN 1138-9168, Nº 39, 2017, págs. 154-173
NATALIA PÉREZ RIVAS, "El modelo europeo de estatuto de la víctima", en <i>Dikaion: revista de actualidad jurídica</i> , ISSN-e 0120-8942, Vol. 26, Nº. 2, 2017, págs.256-282
MARÍA ANGELES GUTIÉRREZ ZARZA (COORD.), "Los retos del espacio de Libertad, Seguridad y Justicia

de la Unión Europea en el año 2016". Reunión anual ReDPE 2016, Madrid : Wolters Kluwer, 2017
MONTSERRAT DE HOYOS SANCHO (COORD.), "La víctima del delito y las últimas reformas procesales penales", Thomson Reuters-Aranzadi 2017
FRANCISCO JAVIER ZAMORA CABOT, "Acceso de las víctimas a la justicia y conductas en el extranjero: El Tribunal Supremo de los Estados Unidos da otra vuelta de tuerca en el caso OBB Personenverkehr v. Sachs, sobre inmunidad de jurisdicción", en Revista electrónica de estudios internacionales (REEI), ISSN-e 1697-5197, Nº. 31, 2016
NATALIA PÉREZ RIVAS, "Los derechos de la víctima en el sistema penal español", Tirant lo Blanch, 2017. ISBN 978-84-9143-550-1
PÉREZ RIVAS, Natalia, "Normas mínimas de los derechos básicos de las víctimas de delitos en Europa", pp. 89 y ss. en Revista de Derecho, disponible en: http://revistaderecho.um.edu.uy/wp-content/uploads/2017/03/Interior_UM_N30_v4.pdf
M. BERGER, "Regímenes nacionales de indemnización de las víctimas de delitos dolosos violentos que garantizan una indemnización justa y adecuada: TJ Gran Sala, S 11 Octubre 2016", La Ley Unión Europea, ISSN-e 2255-551X, número 42, 2016, 2 págs.
ANA ISABEL LUACES GUTIÉRREZ, "El derecho a la información en la Ley 4/2015, de 27 de abril, del Estatuto de la víctima del delito", en Nuevos horizontes del derecho procesal: libro-homenaje al Prof. Ernesto Pedraz Penalva / coord. por Mar Jimeno Bulnes, Julio Pérez Gil, 2016, ISBN 978-84-945146-0-9, págs. 709-723
CRISTINA RODRÍGUEZ ORGAZ (COORD.), ANA MARÍA ROMERO BURILLO (COORD.), "La protección de la víctima de violencia de género. Un estudio multidisciplinar tras diez años de la aprobación de la ley orgánica 1/2004", Thomson Reuters-Aranzadi, 2016.
MARÍA DEL MAR DAZA BONACHELA, "Victimología hoy, Derecho Víctima europeo y español y atención a las Víctimas De Delitos en España. Presentación y metodología", en EGUZKILORE Número 29. San Sebastián 2015. pp 243-274. Disponible en: https://www.ehu.eus/documents/1736829/5274977/12+Daza
BEGOÑA VIDAL FERNÁNDEZ, "Reparación de las víctimas del delito en la Unión Europea: tutela por el tribunal de justicia de la UE del derecho a la indemnización", en Revista de Estudios Europeos. Disponible en: http://www.ree-uva.es/images/numeros/66/2015-66-1-24-.pdf
ALICIA GONZÁLEZ NAVARRO, "El derecho de la víctima a ser asistida por intérprete en el proceso penal: un estudio comparado de las directivas 2010/64, 2012/29 y de los proyectos para su transposición al derecho español", en JUAN LUIS GÓMEZ COLOMER (Coord.) El proceso penal en la encrucijada: homenaje al Dr. César Crisóstomo Barrientos Pellecer 2015, ISBN 978-84-16356-06-5, págs.659-680
JOSEP MARIA TAMARIT SUMALLA (COORD.), CAROLINA VILLACAMPA ESTIARTE (COORD.), MERCEDES SERRANO MASIP(COORD.), El estatuto de las víctimas de delitos. Comentarios a la Ley 4/2015, Tirant lo Blanch, 2015.
MANUEL JOSÉ GARI RODRÍGUEZ, "El nuevo estatuto de las víctimas del delito en el proceso penal según la Directiva europea 2012/29/UE, de 25 de octubre, y su transposición al ordenamiento jurídico español", en Revista electrónica de ciencias penales y criminología 18-24. 2016.

Table 8. State-of-the-art literature in Spanish.

7 CONCLUSIONS

This deliverable is the main output of task 2.1: “Identify key sources”. The aim of this deliverable is to provide relevant legislation regarding EU citizens’ rights when they fall victims of a crime. This task includes legislation at European and national level (Spanish legal framework), existing information providers; victimization data; Crime Victims Assistance Offices and state-of-the-art literature as well.

Results have been presented in different tables that include a brief description of the relevance, name and/or description of the source; and a clickable link in order to ease the access to the source.

The relevance level of the sources collected at this stage could be modified according to the findings from next scheduled activities within the project and, as a result, the list of key sources will be updated.