

Transposition Note for the 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 the victims of crime and replacing Council Framework Decision 2001/220/JHA

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 Decisions 2001/220/JHA must be implemented by 16 November 2015. This transposition note has been prepared for the United Kingdom Parliament to set out the respects in which the Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) (Amendment) (No. 2) Order 2015 implement the Directive. This note does not deal with aspects of the Directive to which this Order is not directly relevant.

Article	Details of Article	Implementation – Details
<u>18. Right to protection.</u>	Without prejudice to the rights of the defence, Member States shall ensure that measures are available to protect victims and their family members from secondary and repeat victimisation, from intimidation and from retaliation, including against the risk of emotional or psychological harm, and to protect the dignity of victims during questioning and when testifying. When necessary, such measures shall also include procedures established under national law for the physical protection of victims and their family members.	Articles 5 and 6 of the 2009 Order as amended by the Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) (Amendment) (No. 2) Order 2015 apply modified protection of witnesses from cross-examination provisions from the 1999 Act to the Summary Appeal Court.
<u>21. Right to protection of privacy</u>	1. Member States shall ensure that competent authorities may take during the criminal proceedings appropriate measures to protect the privacy, including personal characteristics of the victim taken into account in the individual assessment provided for under Article 22, and images of victims and of their family members. Furthermore, Member States shall ensure that competent authorities may take all lawful measures to prevent public dissemination of any information that could lead to the identification of a child victim.	Article 13 of the 2009 Order as amended by the Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) (Amendment) (No. 2) Order 2015 applies modified reporting restrictions provisions from the 1999 Act to the Summary Appeal Court.
<u>23. Right to protection of victims with specific protection needs during criminal proceedings</u>	3. The following measures shall be available for victims with specific protection needs identified in accordance with Article 22(1) during court proceedings: (a) measures to avoid visual contact between victims and offenders including during the giving of evidence, by appropriate means including the use of communication technology; (b) measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of	Article 3 of the 2009 Order as amended by the Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) (Amendment) (No. 2) Order 2015 applies modified special measures provisions from the 1999 Act to the Summary Appeal Court.

	appropriate communication technology; (d) measures allowing a hearing to take place without the presence of the public.	
<u>24. Right to protection of child victims during criminal proceedings</u>	1. In addition to the measures provided for in Article 23, Member States shall ensure that where the victim is a <u>child</u> : (a) in criminal investigations, all interviews with the child victim may be audio visually recorded and such recorded interviews may be used as evidence in criminal proceedings; The procedural rules for the audiovisual recordings referred to in point (a) of the first subparagraph and the use thereof shall be determined by national law.	Article 3 of the 2009 Order as amended by the Youth Justice and Criminal Evidence Act 1999 (Application to Service Courts) (Amendment) (No. 2) Order 2015 applies modified special measures provisions, including video recorded evidence in chief provisions, from the 1999 Act to the Summary Appeal Court.

Scrutiny History of Directive 2012/29/EU of the European Parliament and of the Council

Scrutiny History

Directive 2012/29/EU of the European Parliament and of the Council of 23 October 2012 establishing minimum standards on the rights, support and protection of victims of crime and replacing Council Framework Decisions 2011/220/JHA (“the Directive”).

On 24 April 2012 the then Secretary of State for Justice (Kenneth Clarke QC) wrote to the scrutiny committee of both Houses to provide an update on the negotiations of the Directive. On 18 May the Commons committee requested a debate ahead of its agreement at the Justice and Home Affairs Council. Given the timetabling constraints, Lord McNally wrote to the Committee on 20 May, requesting that the Committee waive their Parliamentary Scrutiny Reserve to allow the Government to agree to the Roadmap and offered a debate on the Commission’s victim’s roadmap package as a whole. The Committee responded on 24 May, agreeing to this approach.

On 2 June 2012 an Explanatory Memorandum on the proposal for the Directive was submitted to the scrutiny committees of both Houses. The Lords Committee responded on 14 June clearing the proposal from scrutiny.

A debate was held in the Commons on 11 July and the question was put to and agreed to with regards to opting into the Directive.

On 5 September 2012 a Written Ministerial Statement was issued in the Lords and the Commons confirming the Government’s decision to opt-in to the Directive.

On 23 November 2012 the Secretary of State (Chris Grayling) wrote to the parliamentary scrutiny committees in both Houses notifying them that the Directive was published into the Official Journal on 14 November 2012.