

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 2011/220/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 Armed Forces (Service Courts Rules) (Amendment) Rules 2015 implement the Directive. This note does not deal with aspects of the Directive to which these rules are not directly relevant.

Article	Details of Article	Implementation – Details
<u>3. Right to understand and to be understood</u>	1) Member States shall take appropriate measures to assist victims to understand and to be understood from the first contact and during any further necessary interaction they have with a competent authority in the context of criminal proceedings, including where information is provided by that authority.	New rule 29A of the Armed Forces (Summary Appeal Court) Rules 2009, 22A of the Armed Forces (Court Martial) Rules 2009 and 21A of the Armed Forces (Service Civilian Court) Rules 2009 inserted by rules 4,10 and 15 of the Armed Forces (Service Courts Rules) (Amendment) Rules 2015.
<u>7. Right to interpretation and translation</u>	1. Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, upon request, with interpretation in accordance with their role in the relevant criminal justice system in criminal proceedings, free of charge, at least during any interviews or questioning of the victim during criminal proceedings before investigative and judicial authorities, including during police questioning, and interpretation for their active participation in court hearings and any necessary interim hearings.	New rule 29A of the Armed Forces (Summary Appeal Court) Rules 2009, rule 22A of the Armed Forces (Court Martial) Rules 2009 and rule 21A of the Armed Forces (Service Civilian Court) Rules 2009 inserted by rules 4,10 and 15 of the Armed Forces (Service Courts Rules) (Amendment) Rules 2015.
	3. Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings concerned are provided, in accordance with their role in the relevant criminal justice system in criminal proceedings, upon request, with translations of information essential to the exercise of their rights in criminal proceedings in a language that they	New rule 29A of the Armed Forces (Summary Appeal Court) Rules 2009, rule 22A of the Armed Forces (Court Martial) Rules 2009 and rule 21A of the Armed Forces (Service Civilian Court) Rules 2009 inserted by rules 4,10 and 15 of the Armed Forces (Service Courts Rules) (Amendment) Rules 2015.

	<p>understand, free of charge, to the extent that such information is made available to the victims. Translations of such information shall include at least any decision ending the criminal proceedings related to the criminal offence suffered by the victim, and upon the victim's request, reasons or a brief summary of reasons for such decision, except in the case of a jury decision or a decision where the reasons are confidential in which cases the reasons are not provided as a matter of national law.</p>	
<p><u>10. Right to be heard</u></p>	<p>1. Member States shall ensure that victims may be heard during criminal proceedings and may provide evidence. Where a child victim is to be heard, due account shall be taken of the child's age and maturity.</p>	<p>New rule 86(2)(i) of the Armed Forces (Summary Appeal Court) Rules 2009, rule 114(2)(h) of the Armed Forces (Court Martial) Rules 2009 and rule 96(2)(g) of the Armed Forces (Service Civilian Court) Rules 2009 inserted by rules 7,12 and 17 of the Armed Forces (Service Courts Rules) (Amendment) Rules 2015.</p>
<p><u>23. Right to protection of victims with specific protection needs during criminal proceedings</u></p>	<p>3. The following measures shall be available for victims with specific protection needs identified in accordance with Article 22(1) during court proceedings:</p> <p>(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;</p> <p>(b) measures to ensure that the victim may be heard in the courtroom without being present, in particular through the use of appropriate communication technology;</p> <p>(d) measures allowing a hearing to take place without the presence of the public.</p>	<p>New rules 74G, 74I and 74J of the Armed Forces (Summary Appeal Court) Rules 2009, inserted by rule 6 of the Armed Forces (Service Courts Rules) (Amendment) Rules 2015.</p>
<p><u>24. Right to protection of child victims during criminal proceedings</u></p>	<p>1. In addition to the measures provided for in Article 23, Member States shall ensure that where the victim is a <u>child</u>:</p> <p>(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;</p> <p>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.</p>	<p>New rule 74J of the Armed Forces (Summary Appeal Court) Rules 2009 inserted by rule 6 of the Armed Forces (Service Courts Rules) (Amendment) Rules 2015.</p>

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.