

# GOOD PRACTICES FOR PROTECTING VICTIMS

inside and outside the criminal process

*Strengthening the position of victims of crimes  
within the European criminal justice systems*

**BOOKLET N. 7**  
**JULY 2014 – OCTOBER 2014**

Monitoring and updating of the Research Project

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*[www.protectingvictims.eu](http://www.protectingvictims.eu)*



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***Dr. Mathieu Jacquelin***

*Maitre de conférences* in Criminal Law and Criminal Procedure

*This is our seventh booklet, focused on the final conference of the project that will be held in Milan next 9 and 10 October.*

*We are nearing the end of our research project that will officially terminate with the last conference in Milan and a final scientific volume on the topic.*

*We would like to reiterate you that the official end of our two years-project does not mean that we will stop working on the protection of victims within the criminal process.*

*Our website, [www.protectingvictims.eu](http://www.protectingvictims.eu), will stay online for many years in the future, our goal is to make it the reference point for all the operators and the scholars interested in the topic.*

*We would love to keep in contact with you all, and you are invited to write us at [info@protectingvictims.eu](mailto:info@protectingvictims.eu).*

## SUMMARY

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*Crime is a wrong against society as well as a violation of the individual rights of victims.*

*La criminalité est un dommage infligé à la société et une violation des droits individuels des victimes.*

*Un reato è non solo un torto alla società, ma anche una violazione dei diritti individuali delle vittime.*

*El delito constituye un injusto contra la sociedad y una violación de los derechos individuales de las víctimas.*

**Recital §9 of Directive 2012/29/EU**

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**VITTIME DI REATO E GIUSTIZIA PENALE**  
**STANDARD EUROPEI E BUONE PRATICHE NAZIONALI**

*CRIME VICTIMS AND CRIMINAL JUSTICE*  
*EUROPEAN STANDARD AND NATIONAL GOOD PRACTICES*

**UNIVERSITA' DEGLI STUDI DI MILANO**  
*UNIVERSITY OF MILAN*

**Sala Napoleonica – via Sant'Antonio n. 12**

**GIOVEDÌ 9 - VENERDÌ 10 OTTOBRE 2014**

*THURSDAY 9 - FRIDAY 10 OCTOBER 2014*

**Giovedì 9 Ottobre 2014**

*Thursday 9 October 2014*

9.00: RegISTRAZIONI  
*Registrations*

9.20: Saluti introduttivi  
*Introduction*

**Saluti istituzionali del Comune di Milano**

*Institutional introduction made by the Municipality of Milan*

**Gianluca Vago**, Rettore dell'Università degli Studi di Milano

*Rector of the University of Milan*

**Emilio Dolcini**, Direttore del Dipartimento di Scienze Giuridiche "Cesare Beccaria"

*Director of the Department Cesare Beccaria*

**Giovanni Canzio**, Presidente della Corte d'Appello di Milano

*President of the Court of Appeal of Milan*

**Luca Lupária**, Coordinatore scientifico del progetto *Good practices for protecting victims inside and outside the criminal process*

*Director of the research project Good practices for protecting victims inside and outside the criminal process*

**PRIMA SESSIONE**

*FIRST SESSION*

**LO STATUTO SOVRANAZIONALE DELLA VITTIMA  
NEL PROCESSO PENALE**

*THE SUPRANATIONAL STATUTE OF THE VICTIM  
WITHIN THE CRIMINAL PROCEEDINGS*

Chairman: **Prof. Luca Lupária** (Università degli Studi di Milano)

10.15: **Silvia Allegrezza** (Université de Luxembourg)

*Esigenze di protezione e poteri delle vittime di reato dopo la Direttiva n. 29/12 UE*

Protection needs and powers of crimes victims after Directive 2012/29/EU

10.45: **Raphaële Parizot** (Université de Poitiers – ARPE)

*Diritto dell'Unione e ruolo della vittima sulla scena penale*

EU right and victim's position on the crime scenario

11.15: **Teresa Armenta Deu** (Universidad de Girona)

*La vittima nel processo penale tra modelli europei ed esperienze dell'America latina*

The victim within the criminal proceedings: European models and Latin America experiences

11.45: Focus: *La Corte penale internazionale quale "laboratorio" per la tutela della vittima*

The International criminal court: a 'laboratory' for victim's protection

**Chantal Meloni** (Università degli Studi di Milano)

**Paolina Massidda** (Office of Public Counsel for Victims - Corte penale internazionale)

**Tiziana Palumbo** (Victims and Witnesses Unit - Corte penale internazionale)

13.00: Dibattito e chiusura della sessione

Debate and closure of the session

SECONDA SESSIONE

SECOND SESSION

**VITTIME VULNERABILI E "VIOLENZA DI GENERE": QUALI SCENARI?**  
VULNERABLE VICTIMS AND GENDER-BASED VIOLENCE: POSSIBLE SCENARIOS

Chairman: **Prof. Giulio Illuminati** (Università degli Studi di Bologna)

14.30: **Hervé Belluta** (Università degli Studi di Brescia)

*La tutela "dal processo" e "nel processo" del soggetto vulnerabile tra Italia ed Europa*  
Protection from the proceedings and inside the proceedings of the vulnerable subject between Italy and Europe

15.00: **Marta Rodriguez de Assis Machado** (Escola de Direito São Paulo, Fundação Getulio Vargas)

*La violenza sulle donne nella normativa processuale brasiliana e sudamericana*  
Gender violence within the procedural laws in Brazil and Latin America

15.30: **Carmen Requejo Conde** (Universidad de Sevilla)

*La parabola evolutiva delle norme contro la violenza di genere in Spagna*  
The evolution of the legal framework on gender-based violence in Spain

16.00: **Sabrina Delattre** (Université Paris 1 Panthéon-Sorbonne)

*La protezione della vittima minore d'età nel processo penale francese*  
Underage victims' protection within the French criminal proceedings  
(See her abstract at page 10).

16.30: Focus: *Il sistema penale sostanziale alla prova della vittima vulnerabile*

Substantial laws and vulnerable victims

**Marco Scoletta** (Università degli Studi di Milano)

**Antonia Monge Fernandez** (Universidad de Sevilla)

**Matteo Caputo** (Università Cattolica di Milano)

**Cristian Barilli** (Procura della Repubblica di Milano)

18.30: Dibattito e chiusura della prima giornata di lavori

Debate and end of the first day of works

Venerdì 10 Ottobre 2014  
Friday 10 October 2014

TERZA SESSIONE  
THIRD SESSION

VITTIMA E PROCESSO PENALE:  
STANDARD EUROPEI, RISPOSTE NAZIONALI  
E QUADRO COMPARATIVO  
VICTIM AND CRIMINAL PROCEEDINGS:  
EUROPEAN STANDARD, NATIONAL ANSWERS  
AND COMPARATIVE REMARKS

9.15: Inizio lavori  
*Starting*

Chairman: **Prof.ssa Novella Galantini** (Università degli Studi di Milano)

09.30: **Michele Caianiello** (Università degli Studi di Bologna)  
*La "via italiana" alla giustizia riparativa nella cornice europea*  
European indications on restorative justice: the Italian solutions

10.15: **Mathieu Jacquelin** (Université Paris 1 Panthéon-Sorbonne – ARPE)  
*I diritti delle vittime all'informazione nell'ordinamento francese: un esempio virtuoso?*  
Right to information for victims within the French judicial system: a virtuous example?

11.00: **Juan Burgos Ladrón de Guevara** (Universidad de Sevilla)  
*La "tavola delle garanzie" per la vittima nel progetto di riforma del processo penale spagnolo*  
The 'table of guarantees' for the victim within the project for a reform of the Spanish criminal proceedings

11.45: **Daniel Pastor** (Universidad de Buenos Aires)  
*La vittima e i delicati equilibri del processo penale: una riflessione comparata*  
The victim within the delicate equilibrium of the criminal proceedings: comparative remarks

12.30: Dibattito e chiusura della sessione  
*Debate and end of the session*



QUARTA SESSIONE

FOURTH SESSION

ALLA RICERCA DI BUONE PRATICHE  
PER UNA TUTELA EFFETTIVA DELLE VITTIME

LOOKING FOR GOOD PRACTICES  
FOR AN EFFECTIVE VICTIMS' PROTECTION

Chairman: **Prof. Luca Marafioti** (Università degli Studi di Roma Tre)

14.30: **Joe Anne Wemmers** (Université de Montréal)

*Buone prassi e sapere extragiuridico nella protezione della vittima. La prospettiva canadese*

Good practices and extra-judicial reality within the victims' protection. The Canadian perspective

15.10: **Antonio Balsamo** (Presidente della Corte di assise di Caltanissetta)

*La tutela della vittima nel dibattimento: tra diritti difensivi, canoni probatori e poteri del giudice*

Victims protection during the trial phase: defensive right, evidence rules and Judge's powers

15.50: Focus: *Modelli di intervento e buone prassi: l'esperienza della magistratura italiana*

Possible solutions and good practices: the experience of the Italian Judicial Authorities

**Giuseppe Cernuto** (Tribunale di Milano – SSM di Milano)

**Fabrizio D'Arcangelo** (GIP presso il Tribunale di Milano)

**Valentina Manuali** (Procura della Repubblica di Perugia)

**Sandra Recchione** (Suprema Corte di Cassazione)

17.20: Presentazione delle linee guida concordate tra Procura della Repubblica, Ordine forense e Comune di Milano per ridurre il danno da reati informatici e tutelare le vittime

Presentation of the guide-lines agreed between the Public Prosecutor Office at the Court of Milan, the Bar of Milan and the Municipality of Milan in order to reduce the damages that come from the cyber-crimes and to better protect victims.

17.40: Proposte di buone prassi e risultati della ricerca internazionale  
Proposals of good practices and results of the research project

(Luca Lupária, Raphaële Parizot, Silvia Allegrezza, Juan Burgos Ladrón de Guevara, Martina Cagossi)

18.30: Chiusura dei lavori - End of the Conference

Sabrina Delattre, PhD student, Université de Paris 1 Panthéon-Sorbonne  
[delattresabrina@hotmail.com](mailto:delattresabrina@hotmail.com)

## Summary of the presentation

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### 1. Introduction

### 2. Areas where France is a good student

#### 2.1. French provisions in compliance with the Directive

#### 2.2. French provisions even more protective than the Directive's "minimum standards"

### 3. Areas where the implementation of the Directive calls for reforms/changes

#### 3.1. The restricted scope of the French legal framework

#### 3.2. Toward an overall child friendly judicial procedure?

### 4. Conclusion: Good practices

## French legal framework: key milestones

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Ordonnance n° 45-174 du 2 février 1945 relative à l'enfance délinquante, Ordonnance n° 58-1301 du 23 décembre 1958 relative à la protection de l'enfance et de l'adolescence en danger : the foundations of the French legal framework regarding children.

**Loi n° 90-548 du 2 juillet 1990 autorisant la ratification de la convention relative aux droits de l'enfant:** ratification in France of the International New York Convention on the Rights of the Child (New-York 26<sup>th</sup> of January, 1990)

Article 375 Code civil, as modified by: loi n°2007-293 du 5 mars 2007 «réformant la protection de l'enfance» : *"If the health, security or morality of a not emancipated minor are at risk, or if the conditions of his education, his physical, emotional, mental and social development are severely compromised, measures of educational assistance may be judicially ordered"*: this article triggers the competence of the judiciary (civil and criminal law), which must collaborate with various administrative bodies.

Loi n° 2000-196 du 6 mars 2000 «instituant un Défenseur des enfants»: creation of an Ombudsman for children's rights, who then has been attached to the now sole Ombudsman for the citizens' rights created in 2008 and who took office in 2011. (Loi constitutionnelle n°2008-724 du 23 juillet 2008 « de modernisation des institutions de la V<sup>ème</sup> République ». This unique Ombudsman has a constitutional status.

## COMING SOON...

WE INFORM YOU THAT WE ARE FINALIZING IN THESE WEEKS THE PUBLICATION OF TWO FINAL MANUALS - ONE WRITTEN IN ENGLISH AND ONE WRITTEN IN ITALIAN - THAT WILL BE PUBLISHED BY THE INTERNATIONAL EDITOR WOLTERS KLUWER AND THE ITALIAN ONE CEDAM.

THESE MANUALS WILL CONTAIN IMPORTANT PAPERS WRITTEN BY THE VARIOUS MEMBER OF THE RESEARCH UNITS AND OTHER EMINENT EXPERT ON THE TOPIC OF VICTIM'S PROTECTION.

IS IMPORTANT TO UNDERLINE HOW THE ENTIRE MANUALS DESCRIBE EXAMPLE OF GOOD PRACTICES THAT CAN BE EXTENDED TO ALL THE EU MEMBER STATES. SPECIFICALLY, IN THE FINAL PART OF THE TWO BOOKS, WE HAVE SUMMARIZED THE GOOD PRACTICES WE HAVE COLLECTED DURING THESE TWO YEARS OF RESEARCH.

WE HOPE THAT THESE TWO MANUALS WILL BE THE WORTHY END OF OUR EXTREMELY FULFILLING WORK.

Università degli Studi di Milano



Università degli Studi di Bologna



Universidad de Sevilla



ARPE



## AGENDA

### *Last Conference of the Research Project*



THURSDAY 9 OCTOBER 2014  
AND FRIDAY 10<sup>TH</sup> OCTOBER 2014

UNIVERSITÀ DEGLI STUDI DI MILANO  
SALA NAPOLEONICA

For more information about the Conference and the registration procedures,  
please visit our website

[www.protectingvictims.eu](http://www.protectingvictims.eu) or contact us at [info@protectingvictims.eu](mailto:info@protectingvictims.eu)