



Safe reporting of crime for victims and witnesses with irregular migration status in the United States and Europe

RESEARCH HIGHLIGHTS AND LEARNINGS FOR THE EU VICTIMS STRATEGY

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The ‘safe reporting project’¹ is a project of the University of Oxford’s Centre on Migration, Policy and Society (COMPAS) that explored law, policy and practices governing the reporting of crime by victims and witnesses with irregular migration status in the United States (US) and four European countries, namely Belgium (BE), Italy (IT), Spain (ES) and the Netherlands (NL). The project ultimately aims to: provide authoritative evidence on and analysis of policies and best-practices enabling and encouraging safe reporting in Europe and the USA; assess the legal and political replicability of best practices and policies across different countries; and facilitate knowledge-exchange between European and US policymakers regarding the opportunities for replicating best practices across different national and local settings.

This document was prepared to follow up conversations between the researchers of the safe reporting project, representatives of the European Commission (DG JUST and DG HOME), Victims Support Europe (VSE) and the Platform for International Cooperation on Undocumented Migrants (PICUM) on how ‘safe reporting’ measures could be mainstreamed in the drafting and implementation of the upcoming strategy of the European Union (EU)’s Victims Strategy 2020-2024.

- The first part of this document summarises the most relevant findings of the research.
- The second part, dives into specific learnings for the EU Victims Strategy.

Any finding mentioned in this document refers to research extensively presented in the five country reports² produced in the project, and the reader is redirected to these reports for additional information and references.

¹ ‘Safe reporting of crime for victims and witnesses of crime with irregular migration status in Europe and the United States’. For more information see: www.compas.ox.ac.uk/project/safe-reporting-of-crime-for-victims-and-witnesses-with-irregular-migration-status-in-the-usa-and-europe.

² Delvino N. (2019), Safe reporting of crime for victims and witnesses with irregular migration status in the United States, COMPAS: Oxford; González Beilfuss M. (2019), Safe reporting of crime for migrants with irregular status in Spain, COMPAS: Oxford; Taverriti S. B. (2019), Safe reporting of crime for victims and witnesses with irregular migration status in Italy, COMPAS: Oxford; Timmerman R., Leerkes A., & Staring R. (2019), Safe reporting of crime for migrants with irregular status in the Netherlands, COMPAS: Oxford; Van Den Durpel A. (2019), Safe reporting of crime for migrants with irregular status in Belgium, COMPAS: Oxford. All the reports are

1. HIGHLIGHTS FROM THE RESEARCH OF THE ‘SAFE REPORTING PROJECT’

Victims and witnesses of crime with irregular migration status are reluctant to report crime: the crossed analyses of the laws regulating the criminal and immigration law enforcement structures and crime reporting procedures in the scrutinised countries showed that in most situations irregular migrants face a real risk of disclosing their irregular status and of being removed as a consequence of reporting crime. Only in exceptional situations, this risk is mitigated by specific governmental measures. Indeed, qualitative analysis with civil society representatives and law enforcement officials in both Europe and the USA corroborated the longstanding research finding³ that irregular migrants are generally reluctant to contact the police and face a number of challenges when wishing to report crime. The fear of disclosing an irregular status (or losing residency rights for victims with a dependent residence permit tied to the perpetrator) and, as a consequence, being removed often constitutes the main challenge to come forward for many migrant victims. Further barriers include the lack of knowledge of the national language and of the legal system in country where they live, social isolation, cultural and psychological barriers, general mistrust in law enforcement authorities, lack of resources to engage in criminal proceedings, and fear of the immigration consequences for the perpetrators who are also family members.

Reluctance to report crime translates into irregular migrants’ vulnerability to victimisation and underreporting of crime: criminals consciously target irregular migrants relying on their fears of contacting the authorities and using the threat of deportation to discourage crime reporting and perpetuate repeat victimisation. Victims on a dependent migratory status are equally threatened to be deprived of their residency rights if they report crime perpetrated by individuals to whom their residence permit is tied to. Other conditions increasing the chances of victimisation for irregular migrants include, among others, belonging to an ethnic minority, social isolation, and living in degraded areas. It was found that victimisation occurs not only in relation to crimes for which some forms of protection traditionally exist in legislation (including labour exploitation, trafficking and domestic violence), but that irregular migrants are exposed to all manner of crime. Interviews with police officials and NGOs revealed that irregular migrants tend to fall victim to, in particular, thefts, sexual abuses (including rape), violent assaults, robberies, mugging, fraud (both immigration and general fraud), blackmailing, stalking and petty crime. However, as irregular migrants may be reluctant to report, little information is known about crimes for which no safe reporting mechanisms exist, inevitably suggesting a great risk in crime underreporting.

Some safe reporting mechanisms exist, showing both that access to crime reporting for irregular migrants is a concern for policy makers, and that solutions can be found in law: ‘safe reporting’ has been – in each country to different extents – a concern for national policymakers. Indeed, the

available at: www.compas.ox.ac.uk/project/safe-reporting-of-crime-for-victims-and-witnesses-with-irregular-migration-status-in-the-usa-and-europe.

³ See, *inter alia*, FRA(2014), Victims of crime in the EU: The extent and nature of support for victims, Vienna, Austria: FRA; PICUM(2015), Guide to the EU Victims’ Directive: Advancing Access to Protection, Services and Justice for Undocumented Migrants, Brussels, BE: PICUM.R. G. CAPUANO, (2010) Immigrants as Victims of Ordinary Crime in Caserta and Naples: An Exploratory Study, Ph. D. Thesis in Criminology, p. 13; Kittrie, O.F. (2006), Federalism, deportation, and crime victims afraid to call the police, Iowa Law Review, 91(5), 1449-1508; Reina A. S., Lohman B. J., & Maldonado M. M. (2014), ‘He said they’d deport me’: Factors influencing domestic violence help-seeking practices among Latina immigrants, in Journal of Interpersonal Violence, 29, 593–615; Messing J. T., Becerra D., Ward-Lasher A., & Androff D. K. (2015), Latinas’ perceptions of law enforcement: Fear of deportation, crime reporting, and trust in the system, in Affilix Journal of Women and Social Work, 30, 328–340; Gleeson S. (2010), Labor rights for all? The role of undocumented immigrant status for worker claims making, in Law & Social Inquiry, 35, 561–602

national legislations of all the scrutinised countries provide for some form of 'safe reporting' mechanisms, including:

- Different forms of 'relief from immigration enforcement' which national legislation grants to victims of certain crimes who meet certain requirements. These measures normally operate through the issuance of special visas or residence permits or through the suspension of immigration enforcement proceedings for qualifying victims. However, such measures generally operate in isolated cases and as exceptions to the ordinary rules which otherwise would not shield victims from detection and expulsion. The main examples of special visas for crime victims include (among others) the 'U and T visas' in the United States, and the Italian residence permits 'for social protection reasons' for victims of criminal organisations. As for the suspension of immigration enforcement proceedings, the main examples found included the automatic suspension of immigration enforcement proceedings for migrants reporting domestic violence and trafficking in Spain, and the 'reflection periods' granted to victims of trafficking in Belgium and (also for certain other crimes) the Netherlands.
- 'Firewalls': measures that strictly separate immigration enforcement activities from public service provision, criminal justice or labour law enforcement, to ensure that irregular migrants are not discouraged from accessing essential services and/or reporting crime. A national firewall policy was only found in one European country out of four (the Netherlands). The Dutch '*free in, free out*' is an official national policy instructing police officers not to investigate the identity of migrants who report a crime and don't have documentation to identify themselves. The policy allows victims and witnesses with irregular status to report a crime and be guaranteed that they will be able to leave police stations freely without being arrested or held in custody, but it does not provide victims reporting crime with any residency rights or benefits, beyond those already available under Dutch law for certain victims of crime. There exist no formal procedures for follow-up or investigation, and after reporting a crime the irregular migrant remains subject to removal at any time on grounds of their status if they come into contact with the authorities at a later date.

European law partially addresses the lack of safe reporting mechanisms, but does not offer comprehensive solutions: the challenges migrant victims face to report crime are also acknowledged by European legislation, which recognises the need to issue 'reflection periods' and temporary residence permits for victims of human trafficking (Directive 2004/81) and, in exceptional situations, victims of labour exploitation (Directive 2008/115/EC). Council of Europe legislation requires state parties to grant residence permits for victims of domestic violence on dependent visas (the 'Istanbul Convention'). These instruments, however, only apply to exceptional and specific situations or kinds of crime. Moreover, while some Member States make a wider use of some of these instruments (e.g. Italy), others make little to no use of them. The most encompassing EU instrument applying to all victims of any kind of crime, including those with irregular status, is the **EU Victims' Directive** (Directive 2012/29/EU) which establishes minimum standards on the rights, support and protection of victims of crime, explicitly extending these rights to all victims without discrimination with respect to residence status (Art. 1). However, the directive does not go further and importantly does not address the conditions of residence of victims: it requires Member States to "take the necessary measures" to ensure that the rights set out in the Directive are not made conditional on the victim's residence status (Recital 10), but does not specify what such measures are. However, the safe reporting project found that only in one Member State (out of the four analysed) had the Victims Directive led to a policy change aimed at making the rights set out in the Directive not conditional on

residence status, namely the Netherlands where the ‘free in, free out’ policy was adopted in implementation of this directive.

Existing safe reporting mechanisms only operate in exceptional and limited situations and/or suffer from limited and uneven implementation: while legislators have acknowledged the vulnerability of irregular migrants through creating certain possibilities to report crime, the existing safe reporting mechanisms generally do not ensure encompassing solutions, but only limited opportunities that exclusively apply for certain crimes and in certain legal and practical conditions. This is particularly true for the different forms of relief from immigration enforcement and less so for the Dutch firewall policy, which applies to any kind of crime. In addition, the study found that all existing mechanisms suffer from limited and patchy implementation and high levels of discretion.

The main limitations of existing safe reporting mechanisms include the following:

- **The limited scope of application of existing mechanisms leaves out many victims from any possibility of reporting crime safely:** while the Dutch firewall policy applies generally to all forms of crimes, the majority of existing mechanisms of relief from immigration enforcement only apply to a handful of crime types, mainly related to human trafficking, exploitation and domestic violence. These mechanisms therefore do not offer a comprehensive solution and leave victims of any non-qualifying crime without options to report the crime safely. In Belgium, for instance, such mechanisms (the ‘victim procedure’ and the ‘victim status’) are limited only to situations of trafficking and smuggling with aggravating circumstances. An exception and an example of best-practice is offered by the US U Visa, which can be granted to victims of a relatively comprehensive and flexible list of qualifying crimes *and* similar criminal activities.⁴ The U visa was by far the most expansive identified measure, having allowed in the last decade at least 85,000 victims to report crime and obtain relief from immigration enforcement. In Europe, a promising practice is offered by the Italian ‘residence permits for social protection reasons’ whose scope of application also extends to a relatively extensive list of crimes,⁵ but its scope is limited only to cases where the crime was perpetrated by a criminal organisation, thus leaving out victims of individual offenders.
- **The activation of safe reporting mechanisms is generally left to the will and discretion of law enforcement authorities, leading to high levels of uncertainty for victims and depriving them of ownership and power over their decision to report crime:** the activation of almost all the identified measures of relief from immigration enforcement – including protective visas, suspension of enforcement procedures and ‘reflection periods’ – depends on a positive action of a law enforcement actor, such as a police officer or a public prosecutor, leaving little to no space for the initiative of victims or their lawyers. This is, for instance, the case of the Italian residence permits for reasons of social protection that must be requested by public prosecutors, or the Dutch residence schemes for victims of trafficking, domestic violence or honour-related violence. This leads to high levels of uncertainty for migrant victims who have no guarantees that, if they eventually decide to report, their case will be even considered to qualify for relief from

⁴ Including rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude slave trade kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury. In addition, ‘similar activities’ (i.e. criminal offenses in which the nature and elements of the offenses are substantially similar to the statutorily-enumerated list of criminal activities) can also be considered as qualifying crimes, as well as the attempt, conspiracy, or solicitation to commit any of the above-mentioned crimes; 8 U.S. Code of Federal Regulations (CFR) § 214.1

⁵ Including sexual exploitation and human trafficking; modern slavery; crimes related to child prostitution; child pornography; tourist initiatives aimed at exploiting child pornography; illegal labour intermediation and labour exploitation; sexual abuse; gang rape; sexual activities with a minor; crimes of aggravated theft and robbery; crimes involving weapons; crimes concerning narcotic drugs; mafia-type organising aimed at committing other crimes; and domestic abuse and stalking. See Art. 18, Italian Consolidated Law on Immigration.

immigration enforcement. This also means that protective measures are generally used in relation to criminal activity already known by the police, rather than incentivising victims of unreported crimes to come forward; and that relief from immigration enforcement is mostly used as a tool of law enforcement, rather than as a protection tool. Once again, the US offers a notable alternative mechanism with the U and T visas (the latter for victims of trafficking), where victims can independently apply to immigration authorities for a protection visa without having to rely solely on the will and discretion of police officers. In order to make sure that the opinion of law enforcement officials is not disregarded, these visas still require the involvement of law enforcement officials, as victims – in order to progress with the procedure – must request a certification from law enforcement officials attesting the victim’s helpfulness and cooperation in the detection, investigation, prosecution, conviction, or sentencing of the crime. The system thus allows the empowerment of victims vis-à-vis their decision on whether to report a crime and cooperate with law enforcement, by providing them with ownership over the procedure, and an expectation that their case will be considered for relief from immigration enforcement. The procedure thus allows the emergence of criminal activity not previously known by the police; and incentivises the creation of a network of lawyers and civil society organisations assisting victims in reporting crime. Another notable alternative is offered by the Italian legislation allowing the request for the issuance of a residence permit for social protection reasons to be submitted by the social services departments of local authorities, which in theory allows migrants to reach out to such services and ask them to apply for a permit on their behalf.

- **High levels of discretion – matched with lack of training – of law enforcement actors in the use of existing safe reporting mechanisms lead to a situation of “geographic roulette” where victims will access safe reporting only in certain police stations and not in others:** besides their limitations in law, the existing safe reporting mechanisms also suffer from limited and uneven implementation. This in most cases is related to the lack of proper training of law enforcement officers responsible for the activation and implementation of such mechanisms. A generalised lack of training was found to be an issue in all the countries involved in the study and in relation to all safe reporting mechanisms, including relief from immigration enforcement and the Dutch firewall policy. The lack of training proves particularly problematic in view of the high levels of discretion left to officials over the decision to activate a safe reporting mechanism; a general lack of oversight over these decisions; and the lack of possibilities for victims to apply for protective measures or appeal against law enforcement officials’ decisions. Even where the law establishes that a safe reporting mechanism should apply automatically after a crime report is made (as in the cases of the free in, free out policy in the Netherlands, or the suspension of immigration enforcement procedures against victims of domestic violence in Spain), police officers retain a high degree of discretion in deciding if the crime or the situation reported falls within the scope of the policy, with little to no scrutiny over their decisions. A “police culture” that tends to prioritise the vision of people with irregular migration status as law offenders, rather than victims, constitutes a further barrier to the implementation of safe reporting. Within this context, the lack of proper and comprehensive training of all police officials proves detrimental to the effective implementation of safe reporting mechanisms. It fosters a lack of uniformity in practice, where police in different locations (or even different police officers – in the same precinct) adopt different approaches, creating a ‘geographic roulette’ of crime reporting outcomes for victims with irregular status. Eventually, this significantly impacts on the trust that irregular migrants need to develop to come forward as victims of crime.

- **Migrants’ generalised lack of awareness of their rights to report crime is detrimental to the effectiveness of any safe reporting mechanisms:** making sure that migrants are aware of their opportunities to report a crime safely is a necessary premise for the effectiveness of any measure aimed at encouraging crime reporting. However, all the country reports found that migrants generally lack awareness of the opportunities to report crime offered to them by national legislation or local practices.

Local authorities and civil society can play a key role in ensuring migrant victims of crime access safe reporting: the safe reporting project found that municipal and other local authorities can play a fundamental role in facilitating access to safe crime reporting for victims with irregular status. In the US, local authorities can go as far as setting up independent local “firewall” or “non-cooperation” policies (namely in those cities generally known as “sanctuary cities”). In Belgium, Italy, Spain and the Netherlands, formal firewall policies require an agreement from national authorities, as is the case for the ‘free in, free out’ policy initially adopted in Amsterdam.

Nevertheless, cities in all these countries can implement a number of other initiatives supporting irregular migrants’ access to crime reporting and protection and facilitating their interactions with police authorities on the local territory. These initiatives include the following:

- **Local initiatives specifically supporting the issuance of protective visas or residence permits:** national legislation on the issuance of protective visas or residence permits at times adopt a multi-agency approach where authorities at local level are requested to issue relevant documentation or offer services to victims in order for the protective measure to be activated. Cities in the US or Italy, for instance, have created facilitated procedures, specific partnerships with local police officials, or dedicated programmes to boost their capacity to support the issuance of protective visas in their territories.
- **Local provision of legal counselling for migrant victims of crime:** several cities across Europe and North-America have set up or funded programmes for the legal counselling of migrants that also cover issues related to crime reporting. In some cases, these programmes specifically target victims of crime, as for example, the San Francisco city-funded Immigration Center for Women and Children or – beyond the countries of focus of the safe reporting project – in Montréal (Canada), where the city has set up a municipal desk for migrant victims of crime.
- **Local shelters for victims escaping violence:** the city of Utrecht and (beyond the countries of focus of the project) the Swedish cities of Stockholm and Gothenburg have been supporting shelters specifically aimed at hosting irregular migrant victims in need of escaping a situation of exploitation and violence and with no alternative accommodation.
- **Local outreach and awareness raising campaigns targeting migrant victims of crime:** certain local authorities and law enforcement agencies have invested in outreach to migrant communities regarding ‘safe reporting’ mechanisms. Campaigns and other awareness raising initiatives can be led by public authorities independently or in partnership with NGOs.
- **Local initiatives of training for local law enforcement officials:** certain local authorities and law enforcement agencies have invested in the training of local law enforcement bodies regarding ‘safe reporting’ mechanisms.
- **Local initiatives and pilot projects applying local firewalls in partnership or under the agreement of national authorities:** where local authorities cannot independently set up a local firewall policy, they have been requesting the agreement of relevant national authorities to set up pilot firewall initiatives. For instance, the Dutch ‘free in, free out’ firewall policy was initially adopted as a local project designed by the local police station of Amsterdam Zuid-Oost in partnership with the Ministry of Justice and the municipality. The project was designed and requested by the local

authorities concerned by the poor interactions between the local police and the migrant communities, and was extended as a national policy only after the pilot proved successful in Amsterdam.

Multi-agency initiatives and partnerships between local authorities, law enforcement bodies and civil society organisations can prove crucial in facilitating access to safe reporting mechanisms: in all the countries of focus, it has been found that multi-agency partnerships can play a crucial role to improve migrant victims' access to crime reporting. Such partnerships proved key to determining the success of local initiatives, including partnerships to support the activation of safe reporting mechanisms and accompany victims and law enforcement officials in the relevant procedures; provide legal counselling; carry out outreach and awareness raising campaigns in migrant communities; provide shelters to migrant victims; as well as ensure the success of the firewall policies initiated in cities like Amsterdam, New York and San Francisco.

2. OPPORTUNITIES FOR IMPROVEMENT AND REFORM UNDER THE EU VICTIMS STRATEGY

On the basis of these findings, a number of opportunities for the improvement of existing mechanisms and reform on safe reporting' for irregular migrant victims of crime may be identified in relation to the adoption of the upcoming Strategy on Victims of Crime of the European Union.

According to initial plans, this strategy will be structured on five priorities: (1) Empowering victims of crime; (2) Strengthening cooperation and coordination at EU and national level to break the silos; (3) Improving protection and support of the most vulnerable victims (such as victims of hate crimes, child victims, and victims of gender-based violence); (4) Facilitating victims' access to compensation; and (5) Working on the international dimension of victims' rights, including addressing the specific challenges faced by victims from non-EU countries who are victimized in Europe.

The findings of the safe reporting project suggest that in order to improve access to crime reporting for victims with irregular status in Europe, consistent with the Victims' Directive, the strategy should ensure that irregular migrant victims are addressed across all these priority areas, but also promote specific activities on empowerment of this specific group.

To achieve these goals, the EU might need to stimulate a better implementation of existing instruments, promote initiatives for legislative action or reform at EU and national level, and raise the awareness of society (in all its components) of victims' rights. The findings of the safe reporting project suggest that all these actions are needed to improve victims with irregular status' access to crime reporting and effective enjoyment of their rights recognised by the EU Victims Directive.

a) Improving the implementation of existing instruments:

The safe reporting project shed light on the existence of several measures, at EU, national and local level, aimed at facilitating safe interactions between migrant victims and law enforcement authorities, mainly under the form of relief from immigration enforcement or firewalls. The findings suggest that in order to improve access and address patchy implementation, the EU victims' strategy could focus on:

- **Evaluating Member States' implementation of the Victims' Directive with respect to their explicit obligation to ensure application without discrimination of any kind, including based on residence status**, taking into account the existence of specific measures and whether implementation of these measures makes effective the rights of the directive for victims with irregular or dependent status.
- **Clarifying through official, updated and specific guidance to member states how proper implementation of the Directive may be achieved for victims with insecure status** (as set out further below) **and those measures and practices that are incompatible with the Directive**. The Guidance in addition could clarify for Member States why it is important to include this group, including for effective crime prevention and detection.
- **Promoting best-practices among Member States** on the implementation of safe reporting mechanisms, and the rights of victims with irregular or dependent status under the Victims'

Directive. The safe reporting project has identified several best-practices, at the national and local levels (including from jurisdictions outside of Europe) that could form the initial knowledge base to inform learning exchanges among Member States. **In particular, the strategy could promote:**

- **The adoption of firewall practices on the model of the Dutch “free in, free out” policy:** as the only identified example of an encompassing firewall policy adopted with the specific aim of ensuring the implementation of the Victims Directive among the four European countries studied, this policy offers to all Member States a unique replicable model (if implemented effectively) for ensuring safe reporting outcomes and, accordingly, the rights enshrined in the directive without discrimination based on residence status.
- **An expanded use and improved implementation of existing mechanisms for relief from immigration enforcement:** the possibilities given by EU and national legislations to relieve certain victims of crime from immigration enforcement are often under-used and implemented to a varying extent in different member states. The strategy could promote learning among member states on the best-practices and implementation, including the special residence permits for social protection reasons and domestic violence in Italy, or the suspension of immigration enforcement against migrants reporting domestic violence in Spain. Identified best-practices from jurisdictions outside of the EU, such as the US U and T visas, could also inform the practice of EU Member States.
- **Evaluating Member States’ implementation of the instruments of relief from immigration enforcement provided by EU law,** such as the reflection periods and residence permits issued to third-country nationals under Directive 2004/81/EC and Directive 2008/115/EC (Art. 13).
- **Promoting and investing in training of law enforcement and other officials in charge of activating and implementing existing safe reporting mechanisms:** all of the safe reporting mechanisms identified by the safe reporting project, including measures of relief from immigration enforcement and the Dutch firewall policy suffer from limited and geographically inconsistent (and in some cases contradictory) implementation due to a generalised lack of training of law enforcement and other officials responsible for the activation for such mechanisms. The strategy could focus on promoting and funding training activities for police officers, public prosecutors, other officials and civil society organisations interacting with them on the proper implementation of existing mechanisms and best-practices. Best-practices identified by the safe reporting project include training activities organised in partnership with local authorities and academic or civil society experts.
- **Supporting and promoting multi-agency local initiatives and partnerships between law enforcement authorities, local authorities and civil society. Investing in local pilot projects:** multi-agency initiatives have a great potential to improve access to protection and reporting of crime for migrant victims locally. Partnerships between law enforcement with local authorities and civil society can prove key in view of the latter’s direct contact with migrant communities, as well migrants’ trust towards such organisations. “Local hubs” or “municipal desks” for migrant victims managed in partnership by local authorities, civil society and legal experts can play a key intermediation role between migrant victims and local police bodies through formal partnerships and memoranda of understanding. Partnerships could aim at improving access to existing mechanisms, offer a safe space to collect information on crime against migrants, provide services, shelters and legal counselling, and eventually help increase reporting of crime. Civil society and local authorities can also develop training sessions for local officials, as well as outreach to

migrant communities. Beyond the countries of focus of the project, a particularly innovative model was found in Montréal (Canada) where the local “*cellule d’intervention et de protection personnes immigrantes victimes d’actes criminels ou d’abus*” established a municipal desk managed by civil society legal experts to provide counselling and follow up on migrant victims, guide them through the process of reporting the crime to the police and mediate with the police on victims’ behalf. The strategy could focus on local pilot projects to test the initiatives’ effectiveness in increasing protection and crime reporting, as was the case for the Dutch ‘free in, free out’ policy, initially adopted as a local pilot project in Amsterdam and subsequently extended at national level.

b) Promoting legislative reform:

Even if implemented at their fullest potential, most existing safe reporting mechanisms leave out victims of most crimes who have irregular status, fostering a situation of uncertainty for victims who cannot predict the outcome of their decision to report crime. Moreover, existing safe reporting mechanisms do not empower victims, as they deprive them of any ownership over the procedures, but rather rely uniquely on the wide discretion of law enforcement actors with little transparency and no possibility for victims to have an oversight over law enforcement officials’ decisions. To address these shortfalls and build trust of victims over the procedures, legislative reforms are required. Accordingly, the EU victims’ strategy could **promote legislative reforms**:

- **Establishing and spelling out “the necessary measures” to ensure that the rights set out in the Victims Directive are not made conditional on the victim's residence status**
- **Adopting firewall mechanisms in national legislation**, building on the model of the “free in, free out” policy adopted in the Netherlands, but also learning from its limitations.
- **Expanding the scope of application of existing measures of relief from immigration enforcement**: special visas, residence permits and mechanisms of suspension of immigration enforcement should be extended to a comprehensive array of crimes and situations in order to offer encompassing solutions, become more visible to migrant communities, reduce uncertainties among victims, build trust and thus offer an incentive for victims to reach out to police authorities. The US U visa offers a model as the Italian visa for social protection, as they apply to a wider set of crimes.
- **Introducing safe reporting mechanisms that empower victims with irregular migration status by allowing them (or third parties on their behalf) to activate safe reporting instruments and take ownership over related procedures**: instruments allowing victims (or their legal counsellors) to initiate, and follow through, a safe reporting procedure can empower victims, provide them with a sense of ownership over the procedure, reduce uncertainties, and constitute a strong incentive for victims to come forward. It would allow the emergence of crimes not previously known by the authorities, as victims would be encouraged to cooperate with law enforcement in order to initiate the procedure. At the same time, these instruments would not deprive law enforcement of their prerogatives to assert and benefit from victims’ cooperation, if law enforcement certifications are required for the continuation of the procedure, rather than its initial activation. Victims should also be allowed to appeal the denial of law enforcement certifications, in order to provide oversight over the discretionary decisions of single officials. Such a procedure would foster the creation of a network of legal experts and civil society actors specialising in assisting migrant victims in requesting relief from immigration enforcement, and relatedly, reporting

crime, as has occurred in US cities. It also stimulates the building of expertise among law enforcement officials responsible for responding to requests for relief from immigration enforcement. A model can be offered by the US U and T visas, which can be directly requested by victims to immigration authorities but require a certification from officials attesting the helpfulness of the victim with law enforcement. An alternative model is given by the Italian residence permits for social protection reasons, as they can be requested by the local social services departments on victims' behalf.

c) Raising the awareness of society (in all its components) of victims' rights

The safe reporting project found that irregular migrants' victimisation remains a largely unexplored phenomenon in Europe. There is likewise a limited awareness of the rights of irregular migrants who fall victim to crime. This lack of awareness is generalised, but also affects the individuals most closely concerned, including victims with irregular status, and the authorities in charge of taking in crime reports and activating safe reporting mechanisms. Similarly, there is limited knowledge on victimisation among researchers in Europe and civil society organisations that struggle in assisting migrants through crime reporting. Accordingly, the strategy could focus on:

- **Promoting and supporting national and local initiatives raising migrants' awareness of their rights as victims of crime:** all existing and potential safe reporting mechanisms are intrinsically ineffective if migrant victims are not aware of such instruments. Migrants' lack of legal awareness, as well as mistrust of authorities, could be addressed through outreach and awareness raising campaigns, at the national and local levels, and in partnership with community-based organisations and local authorities. The city of New York is a notable example: in 2018, the city has organised 681 "Know your rights" forums in events attended by the migrant communities, in partnership with community-based organisations, and with the participation of speakers from the local police department.
- **Supporting initiatives fostering a "culture change" among law enforcement officials to ensure victims with irregular status are treated as victims rather than offenders:** a law enforcement culture that traditionally considers irregular migrants first and foremost as law offenders rather than rights-holders significantly hinders the implementation of any safe reporting mechanisms. Even in countries with relatively more advanced safe reporting policies, as in the Netherlands, such policies suffer from limited implementation because of individual officials' mistrust towards or misunderstanding of the aims of the policy. In addition to training on existing safe reporting policies, the strategy could support training and informative sessions for law enforcement officials on migrant victims' rights and the rationales behind the need for victims to be treated as such irrespective of migration status, in a respectful, professional and non-discriminatory manner.
- **Fostering exchange amongst authorities in EU Member States (at the national, regional and city levels) and those from other jurisdictions** with a history of effective and positive engagement between law enforcement and immigrant communities. The safe reporting project showed that knowledge exchange between different EU countries (but also with jurisdictions outside the EU) has great potential to foster learning from the best-practices experienced in different countries and, potentially, their replication.
- **Integrating and investing in a research and learning exchange agenda that further investigates the victimisation of irregular migrants, crime underreporting, best-practices and the barriers to reporting:** the safe reporting project focused on the possibilities in law and practice of irregular

migrants to report crime and identified the many legal and practical to safe reporting, suggesting that crime against this group might be significantly underreported – and victims under-protected. It also revealed a significant knowledge gap in Europe on the crime that irregular migrants suffer and the related “dark figure of (unreported) crime”. Future research will have to further investigate the lived experiences of migrants who suffer crime in Europe but decide not to report it. Research could further investigate the kinds of crime that migrants suffer the most and suggest targeted solutions accordingly. It will have to compare crime underreporting in countries or localities with the more advanced safe reporting mechanisms and in countries or cities with least developed policies, in order to further assess the effectiveness of such mechanisms and practices. Research identifying and investigating promising practices that foster safe reporting in other European countries (such as France, Greece, Ireland and the UK, among others) would also be of great value, both in reinforcing the existence and importance of these policies to national and local authorities, and in providing useful examples of practice to inspire and guide initiatives elsewhere in Europe that reinforce the rights of victims, as guaranteed under EU law.