

# VOCIARE

CROATIA

NATIONAL REPORT



**Victims of Crime  
Implementation Analysis  
of Rights in Europe**



**VOCIARE**  
Victims of Crime  
Implementation Analysis  
of Rights in Europe

promotor



**Victim Support  
Europe**

manager partner



**APAV**  
Apoio à Vitima



This project is funded by  
the Justice Programme  
of the European Union

## AUTHORS

MATEA ANIĆ (LEGAL ADVISER)

ANJA FRANKIĆ (PSYCHOSOCIAL COUNSELLOR)

### DISCLAIMER

All views expressed in the present report are those of the authors and not of the European Commission.

Most findings of the report are based on the research conducted by national researchers, between June 2018 and March 2019, and any inaccuracies in the interpretation of national results lays with the authors of the present report only. Additional support research, in particular regarding international experiences, was conducted by the authors of the present report.

The findings compiled in the present report represent, to the best of authors' abilities, the current situation of the practical implementation of the EU Victims' Rights Directive. Given its scope and ambition, authors are aware that some elements may be inaccurate or out of date. However, it was still important to offer the first overall picture, even if incomplete, of the practical implementation of the Directive, to inform future work of Victim Support Europe, its members and the policy initiatives at the EU and national level. Future efforts will be plan to improve the findings and provide a more detailed analysis of key rights defined in the Directive.

## TABLE OF CONTENTS

|  |    |
|--|----|
| EXECUTIVE SUMMARY  | 5  |
| INTRODUCTION   | 9  |
| BASIC OVERVIEW OF THE LEGAL FRAMEWORK  | 11 |
| EVALUATION OF PRACTICAL IMPLEMENTATION   | 13 |
| ARTICLE 2 - Definitions  | 13 |
| ARTICLE 3 - Right to understand and be understood  | 15 |
| ARTICLE 4 - Right to receive information from the first contact with the competent authority           | 17 |
| ARTICLE 5 - Rights of victim when making a complaint   | 19 |
| ARTICLE 6 - Right to receive information about their case  | 20 |
| ARTICLE 7 - Right to interpretation and translation  | 22 |
| ARTICLE 8 - Right to access victim support services  | 24 |
| ARTICLE 9 - Support from victim support services   | 29 |
| ARTICLE 10 - Right to be heard   | 32 |
| ARTICLE 11 - Rights in the event of a decision not to prosecute  | 34 |
| ARTICLE 12 - Right to safeguards in the context of restorative justice services                        | 37 |
| ARTICLE 13 - Right to legal aid  | 39 |
| ARTICLE 14 - Right to reimbursement of expenses  | 42 |
| ARTICLE 15 - Right to the return of property   | 44 |
| ARTICLE 16 - Right to decision on compensation from the offender in the course of criminal proceedings | 45 |
| ARTICLE 17 - Rights of victims resident in another member state  | 48 |
| ARTICLE 18 - Right to protection   | 51 |
| ARTICLE 19 - Right to avoid contact between victim and offender  | 53 |
| ARTICLE 20 - Right to protection of victims during criminal investigations                             | 55 |
| ARTICLE 21 - Right to protection of privacy  | 57 |
| ARTICLE 22 - Individual assessment of victims to identify specific protection needs                    | 59 |

|  |    |
|--|----|
| ARTICLE 23 - Right to protection of victims with specific protection needs during criminal proceedings | 62 |
| ARTICLE 24 - Right to protection of child victims during criminal proceedings                          | 65 |
| ARTICLE 25 - Training of practitioners   | 68 |
| ARTICLE 26 - Cooperation and coordination of services  | 70 |
| GOOD PRACTICES   | 73 |
| GAPS, CHALLENGES, AND RECOMMENDATIONS  | 75 |
| CONCLUSION   | 81 |
| REFERENCES   | 82 |
| Appendix 1 – Contact list of interviewed professionals   | 84 |

## EXECUTIVE SUMMARY

In July 2017, the Croatian Parliament passed amendments to the Criminal Procedure Act implementing the provisions of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 on the establishment of minimum standards for the rights, assistance and protection of criminal offence.

Since changes in Croatian legislative system and its long-term effects were made quite recently the assessing of the practical implementation of the Directive 2012/29/EU for the development of this report was complex and challenging.

The most important changes to the rights of victims of crime are contained in **Chapter V of Criminal Procedure Act Novelty 70/17** (further in text CPA Amendment 70/17) *Victims, Defendants, Private Prosecutors*, which in Art. 43<sup>1</sup>, along with already established rights of victims of criminal offences, adds the other rights standardized by the Directive.

It is of the utmost importance to point out that, in addition to the already recognized vulnerable categories of victims, such as children, victims of the criminal offence against sexual freedom and the victims of trafficking, victims in relation to which special protection needs have been established are included in Article 44 of CPA Amendment 70/17. The law provides them with special rights, in terms of an assignee or an adviser at the expense of budgetary resources, measures of protection of personal life and integrity, special ways of examinations by applying protective measures of re-traumatization through avoidance of multiple examinations, use of video links, examination by a person of the same sex or by psychologist, and exclusion of the public.

An individual assessment of the victim is the most recent novelty of the CPA Amendment 70/17, prescribed by Art. 43. a which obliges investigative bodies to conduct an individual assessment of the victim. The assessment must be made in cooperation with the bodies, organizations or institutions for the assistance and support of victims of crime. Its purpose is to determine whether there is a need to apply special protection measures and, if so, what specific protection measures should be applied (a special way of examination, use of communication technologies to avoid visual contact with the perpetrator and other measures prescribed by law). The adequate individual assessment of the victim takes into special account the personal characteristics as well as the nature of the criminal offence and the circumstances of the perpetration of the criminal offence. Therefore, as mandated by the Directive, victims of terrorism, organized crime, human

<sup>1</sup> Article 43° of Criminal Procedure Act Amendment 70/17 from July 2017 contains listed rights of victims that will be seen later through report

trafficking, gender-based violence, violence in close relationships, sexual violence and sexual exploitation or hate crime, disabled victims are especially considered.

During the desk research and after analysis of conducted survey and interviews we detected common gaps and challenges within the national system in regard to the implementation of the Directive and, therefore, to the protection of victims.

Due to the recent changes to CPA where the difference between victim and injured party was established, there is still some vagueness for natural persons<sup>2</sup> about the difference between these two statuses. According to a research conducted by an CSO in Croatia<sup>3</sup> in only 37 cases participants opted for the right to participate in court proceedings as an injured party although from the moment of the criminal report 141 victims could request the same, indicating a possible defective definition of this role in the criminal procedure, but also the need for a better clarification of the rights acquired.

It has been come to our attention that there is a lack of translators and interpreters specialized in providing services of translation and interoperation to victims. This is mostly due to the lack of funds to guarantee that qualified professionals aid people who do not speak the national language. This compromises the exercise of right to translation and interpretation what can affect other rights set out in Directive.

Concept of restorative justice is almost non-existent in Croatian system. There is some progress in regards of mediation, but is widely not used in criminal proceedings, except in example of The Association for Out of Court Settlements and mediation in criminal proceedings<sup>4</sup> which has been operating since 2003 with the aim of promoting mediation / out of court settlements (mediation between victims and perpetrators) in resolving conflicts resulting from the perpetration of juvenile and juvenile offence, and thus by expanding the idea of restorative justice. Still its outcomes are not nearly enough.

On 31st October 2017 came into force Regulation on the implementing an individual victim's assessment<sup>5</sup> based on CPA Amendment 70/17 Article 43a. The regulations, as a delegated legislation, did not meet the necessary measures of specification of the provisions provided by the CPA Amendment 70/17<sup>6</sup> and as such remained imprecise and subject to different interpretations of the institutions that will implement it.

<sup>2</sup> In [jurisprudence](#), a natural person is a person (in legal meaning, i.e., one who has its own [legal personality](#)) that is an [individual human being](#), as opposed to a [legal person](#), which may be a private (i.e., [business entity](#) or [non-governmental organization](#)) or public (i.e., [government](#)) organization

<sup>3</sup> Project "Rights, Support, Protection and Compensation of Victims of Crime" by Documenta- centre for dealing with past, Victim and Witness Association, Centre for peace and non- violence and White Circle Croatia" co-funded by European Commission Justice Programme. Results of research can be found on following link: <https://www.documenta.hr/hr/publikacije.html>

<sup>4</sup> More can be found on : <http://www.uisn.hr/>

<sup>5</sup> Text can be found on : [https://narodnenovine.nn.hr/clanci/sluzbeni/2017\\_10\\_106\\_2426.html](https://narodnenovine.nn.hr/clanci/sluzbeni/2017_10_106_2426.html)

<sup>6</sup> Article 43a of Criminal Procedure Act Amendment 70/17 first introduced individual assessment needs of victims

Law on financial compensation for victims of criminal offence which was adopted in 2008, entered into force on 1 July 2013, on the day of the Republic of Croatia's accession to the European Union<sup>7</sup>. The state gives compensation not because it is responsible, but because it is solidary and because it is fair. The Directive stipulated not only that the state must have a system of compensation, but also that it must have the state bodies involved in the process, as well as an obligation to inform the victim about these rights. The fact is that in this aspect, expectations that existed when the Directive was adopted were not fulfilled in the European Union, and the injured parties point out the complexity of the procedure, long duration, language barriers, legal aid shortcomings and the problems of financial compensation system.

Despite all above listed problems and gaps, we need to emphasize great improvement in development of victim and witness support system, although it has its faults and difficulties. In the Republic of Croatia there is a so-called a mixed support system for victims and witnesses of offence. The main coordinating body for the support system is the Department for victim and witness support, as one of the organizational units of the Ministry of Justice of the Republic of Croatia. The Department was established in 2006. In addition to the influence of the European Union, one of the most important roles in developing the support system had the United Nations Development Program UNDP Office in 2007<sup>8</sup>. Croatia started with the analysis of the support system and in the same year launched the project "Assistance to the development of witness support system and victims of criminal offence in the Republic of Croatia". The project was realized in cooperation with the Ministry of Justice of the Republic of Croatia and the Supreme Court of the Republic of Croatia, and the Vukovar Association for victim and witness support. The project resulted in the establishment of four Victims and Witness Support Departments (hereinafter: the Departments) at the County Courts in 2008, namely: the County Court in Zagreb, the Vukovar County Court, the Osijek County Court and the Zadar County Court, and the dissemination of support was continued with the opening of three more units in 2011, at the Split County Court, the Rijeka County Court and Sisak County Court, within the second phase of the project "Strengthening Victims' and Witness Support System". Significant difference and improvements were achieved by the beginning of 2018 when a three-year project financed by the Ministry of Justice of the Republic of Croatia started with the implementation of a partnership network of civil society organizations to provide support to victims and witnesses in counties where there were no victim and witnesses support departments.

The present national report, completed within the context of project VOCIARE, was extremely useful to assess the practical implementation of the Victims' Directive in Croatia, to formalize good practices and see where gaps and challenges are found. As stated above and through the whole report, several gaps were found, but we can attribute that to the fact that Croatia still has

<sup>7</sup> Text can be found on: <https://www.zakon.hr/z/252/Zakon-o-nov%C4%8Danoj-naknadi-%C5%BErtvama-kaznenih-djela>

<sup>8</sup> National strategy for development of victim and witness support in Republic of Croatia for period of 2016. to 2020- [https://narodne-novine.nn.hr/clanci/sluzbeni/2015\\_07\\_75\\_1437.html](https://narodne-novine.nn.hr/clanci/sluzbeni/2015_07_75_1437.html)

a very young victim and witness support system and changes to implement the Directive were made recently. For the promotion of victims' rights, it is important to keep insisting on changes, particularly change in public perception when it comes to prevention of violence and victim's stigma. Also, there is great importance of training of professionals, from both governmental institutions and professionals that work in civil sector, because without proper communication and collectiveness in working with victim's we cannot talk about improving system for those in need.

## INTRODUCTION

The present national report for Croatia aims at assessing the practical implementation of the Victims' Directive in the context of project VOCIARE - Victims of Crime Implementation Analysis of Rights in Europe. The project is co-funded by the Justice Programme of the European Union and aims to:

- To improve the implementation of EU Directive 2012/29/EU (The Victims' Rights Directive);
- To assess the implementation of the Victims Directive in all participating Member States;
- To develop measurable standards (indicators) for specific articles of the Directive;
- To identify good practices in the implementation of the Victims Directive to support the development of recommendations for changes at national level.

For this purpose, a special methodology was created. The first stage of the national research was desk research that included research of legal and policy instruments, literature and existing studies, opinions, discussions and other sources related to victims' rights. The second stage comprised the dissemination of a national online survey, developed by the project management team, which consists of closed-ended questions and was directed at organizations and practitioners having contact with victims (police, prosecutors, judges and court staff, policy makers and victim support organizations). The final stage of the research was the conduction of interviews among victim support workers, law enforcement, justice practitioners and policy officials, in order to complement the information collected in the two previous stages.

At stage two and three for Croatian national research, White Circle of Croatia encountered some challenges since our request for authorization to the Ministry of Justice to conduct surveys and interviews did not get positive answer for three months from Ministry of Justice. Despite all our efforts, as well as efforts of the project coordinators and promoters, Victim Support Europe and the Portuguese Association for Victim Support (APAV), respectively, we only received an answer on 7th of August 2018. Since the final deadline for submission of the national report was 15th of August 2018, it was - impossible for the research team to conduct research according with the pre-established methodology in correct manner. The late response from the Ministry of Justice resulted on the fact that we could not send survey and/or conduct interviews with court officials like judges, professionals from Departments from Victims and Witness Support and officials from Police - professionals and institutions that did not want to participate without previous support and authorization from the Ministry of Justice.

Despite all the stated above, we received positive feedback from Public prosecution offices, civil society organizations, centers for social services and other professionals in victim and witness support system.

Through the whole report you can find a detailed analysis of the Croatian system regarding victim protection, not only in legislative manner, but also with opinions and notions from professionals that work in that same system. For this purpose, a detailed analysis of the implementation of each article of the Directive 2012/29/EU is presented. Special attention should be given to the section on gaps and challenges from which all of us can learn and see how the system can be improved.

## BASIC OVERVIEW OF THE LEGAL FRAMEWORK

In July 2017, the Croatian Parliament passed amendments to the Criminal Procedure Act/ 08, implementing the provisions of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 on the establishment of minimum standards for the rights, assistance and protection of criminal offence along with Directive 2013/48/ EU of the European Parliament and of the Council of the 22 October 2013 on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings, and on the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty, Directive 2014/42/EU of the European Parliament and of the Council of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union, Directive 2014/62/EU of the European Parliament and of the Council of 15 May 2014 on the protection of the euro and other currencies against counterfeiting by criminal law, and replacing Council Framework Decision 2000/383/JHA.

Since the Criminal Procedure Act first introduced the term “victim”, in 2008, its definition has gradually changed. CPA Amendment 70/17 defined victim as “a person who has suffered physical and mental consequences, property damage or substantial violation of the fundamental rights and freedoms that are the direct consequence of the criminal offence”. A spouse, a common-law partner, a life partner or an informal life partner and a descendant, and if there are none, ancestor, brother and sister of those persons whose death was directly caused by a criminal offence and the person for whom legal obligation of support existed, are also considered victims of criminal offence. The definition is aligned with Directive 2012/29 / EU. The amendment excludes legal entities from the victim’s definition and introduces the distinction between “indirect” and “direct” victims of the criminal offence. CPA Amendment 70/17 has separated the role of the victim from the role of the injured party. According to CPA Amendment 70/17, it can be concluded that an individual in the role of a victim is suffering the consequences of the criminal offence and has the status of a victim irrespective of whether or not the criminal offence is reported. Its status does not depend on an active statement as such, while on the other hand, the individual receives the status of the by a clear statement before the competent authority in the foreseen legal deadlines.

The most important changes to the rights of victims of crime that followed the adoption of the Directive are contained in **Chapter V Victims, Defendants, Private Prosecutors of CPA Amendment 70/17**, in which Art. 43 , added to the already established rights of victims other rights standardized by the Directive.



It is of the utmost importance to point out that, in addition to the vulnerable categories of victims already recognized previously to the adoption of the Directive, such as children, victims of the criminal offence against sexual freedom and the victims of trafficking, other victims in relation to which special protection needs have been established are now included (Article 44)<sup>9</sup>. The law provides these victims with special rights, for example, the attribution of an assignee or an adviser at the expense of budgetary resources, measures of protection of personal life and integrity, special ways of examinations like avoidance of multiple examinations, use of video links, examination by a person of the same sex or by psychologist, and exclusion of the public.

**An individual assessment** of the victim is the most recent novelty of the CPA 70/17 prescribed by art. 43.a which obliges investigative bodies to conduct an individual assessment of the victim in cooperation with the bodies, organizations or institutions for the assistance and support of victims of crime, before the victim's examination, in order to determine whether there is a need to apply special protection measures and what specific protection measures should be applied (a special ways of examination, use of communication technologies to avoid visual contact with the perpetrator and other measures prescribed by law). offence<sup>10</sup>.

By introducing the concept of victim into criminal law, the Republic of Croatia has shown its willingness to take on the positive practice of European countries that have recognized the importance of active participation of victims in the criminal proceedings. At the same time, additional rights and protection mechanisms are recognized, and need for a sensible approach to victims is not forgotten in order to avoid secondary victimization.

<sup>9</sup> Ibid.

<sup>10</sup> Regulation on implementing an individual victim assessment ( Official gazette 106/17)

## EVALUATION OF PRACTICAL IMPLEMENTATION

### ARTICLE 2 - DEFINITIONS

*For the purposes of the Directive a 'victim' is a natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence or a family members (the spouse, the person who is living with the victim in a committed intimate relationship, in a joint household and on a stable and continuous basis, the relatives in direct line, the siblings and the dependants of the victim) of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death.*

After CPA/08 first introduced the term "victim", its definition gradually changed. Currently, the CPA Amendment 70/17 defines it as "a physical person who has suffered physical and mental consequences, property damage or substantial violation of fundamental rights and freedoms that are the direct consequence of a criminal offence". The victim of a criminal offence is considered both a spouse and a common law partner, a life partner or an informal life partner and a descendant. If there are no before listed, indirect victim can be ancestor, the brother and sister of those persons whose death was directly caused by the criminal offence and the person victim was obliged to support under the law.

The current definition of victim in Croatia excludes legal entities and introduces the distinction between "indirect" and "direct" victims of the criminal offence. Immediate victims are those directly affected by the consequences of a criminal offence and indirect victims are the members of the family of the deceased victim of the criminal offence. As a direct consequence of the new definition of victim, in Article 202, paragraph 12 of the CPA/08, the amendment defined the notion of the injured party as a victim of a criminal offence but also as a **legal person** against

whom the criminal offence was committed and who is involved in the criminal proceedings as an injured party. As Directive 2012/29/EU does not interfere with the choice of national legal arrangements in relation to the victim's participation in the procedure, the CPA Amendment 70/17 disaggregated the role of victim from the role of the injured party. The injured party is the potential participant in criminal proceedings, who may also be a victim of a criminal offence. The victim refers exclusively to a physical entity to whom certain rights should be guaranteed but to whom no role is assigned in the criminal proceedings. Therefore, victims are not equal in rights as an injured party. It was necessary to intervene in several provisions of the new Amendment of CPA 70/17. The terms are not identical and cannot be considered in the "broader" manner. Help can be found in the Recommendation of Directive 2012/29 / EC, which leaves the possibility of a twofold participation of the victim in criminal proceedings, to respond more to the wishes and needs of the victim, with the aim of preventing secondary victimization, which could occur if the victim were obliged to actively participate in criminal proceedings. A person who is a victim of an offence may opt to participate actively in the proceedings and declare himself/herself as an injured party, but if he/she is a victim and does not want to be involved in the proceedings as an active participant, he/she may decide not to participate as an injured party.<sup>11</sup>

The recommendation of victim support services is to choose the role of the injured party, since the rights of the injured party does not need to be consumed and do not represent the obligation if victim does not want to use it.<sup>12</sup>

<sup>11</sup> <http://www.iusinfo.hr/DailyContent/Topical.aspx?id=33363>

<sup>12</sup> Position and Rights of Victims of Criminal Offences in Republic of Croatia, Split: Documenta- Centre for dealing with past, Centre for peace, non- violence and human rights, White Circle of Croatia and Association for victim and witness support

## ARTICLE 3 - RIGHT TO UNDERSTAND AND BE UNDERSTOOD

*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. Communications with victims should be provided in simple and accessible language, orally or in writing. Such communications shall take into account the personal characteristics of the victim, including (but not limited to) any disability. Victims should, in principle, be allowed to be accompanied by a person of their choice in the first contact.*

When reporting a criminal offence, police officers and public prosecutors are obliged to provide victims with information about their rights, verbally and through the delivery of written information. The authorities of the Republic of Croatia inform the victims through the Notification on the Rights of Victims of Crime, which presents the rights of victims in written form and which is handed out to victims during the first contact (usually when submitting a criminal offence) in twenty languages. The positive side is that the written format is better suited for informing victims, because of the trauma, and in that sense, verbal form of information would not be effective. There is a question of how to provide information to victims who have not reported a criminal offence and question of victim with disabilities because there is a need for specialized experts that are able to communicate with especially vulnerable victims.<sup>13</sup>

This is not only a question of translation/interpretation for those who do not understand language, but of all of those who have different kinds of problems with understanding and communicating. According to our survey most of our respondents answered positively when it comes to giving information's for persons with disabilities. There are, however, some problems noted in our practice - which survey answers confirm - that there is still no wide notion of person of interest, since this is a novelty in our criminal system and victims are still not adequately acquaint with this possibility. As a positive practice in police treatment with the victim of a criminal offence against sexual freedom and human trafficking, we highlight the realization of the right of a

<sup>13</sup> Ibid.



person of trust to be present during the interviews with the police, as well as the fact that there are now 60 rooms in Croatia especially equipped and adapted for conversations with children. Furthermore, specialized training for police officers was conducted so that they do not contribute to secondary victimization, either by posing inadequate and irrelevant questions, or posing them in an inappropriate manner which can be offensive to the victim.<sup>14</sup>

## ARTICLE 4 - RIGHT TO RECEIVE INFORMATION FROM THE FIRST CONTACT WITH THE COMPETENT AUTHORITY

*Member States shall ensure that victims are offered, without unnecessary delay, from their first contact with a competent authority, information about the type of support the victims can obtain and from whom; the procedures for making a formal complaint; how and under what conditions they can obtain protection, access legal advice and legal aid; access to compensation; entitlement to interpretation and translation; special measures if they are resident in another Member State; contact details for communications about their case; available restorative justice services; how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed.*

The very formulation of Article 4 of Directive 2012/29/EU (right to receive information) shows that the burden of proactively search for information is to be transferred from the victim and rests in the competent authorities.

In the Republic of Croatia, police officers have a major role in the process of informing victims. When victims report a criminal offence, they are obliged to provide them with information about their rights, verbally and through the delivery of written information about victims' rights. As mentioned above, authorities inform victims through the Notification on the Rights of Victims of Crime offence. This, only guarantees that information is provided to victims who do report a crime. Precisely because some victims do not submit criminal complaints, it is necessary to be innovative in finding communication channels and ways of information.

Since the adoption of Instruction of November 11, 2014 of the Police Directorate, all Police administrations are obliged to provide victims with information about their rights, as well as with contact details of victim and witness support services at the County Courts, phone number of the National Call Center for Victims of Criminal Offence and phone numbers of state administration bodies and Civil Society Organizations (CSOs) which are dealing with the support and protection of victims in the specific County. Besides the police, the Public Prosecutors Office of the Republic

<sup>14</sup> Position and Rights of Victims of Criminal Offences in Republic of Croatia, Split: Documenta- Centre for dealing with past, Centre for peace, non- violence and human rights, White Circle of Croatia and Association for victim and witness support

of Croatia is obliged to acquaint victims with their rights. With mandatory guidance from July 9, 2014, the Public Prosecutors Office of the Republic of Croatia obliges all County and Municipal Public Prosecutors to conduct a treatment adequate for victims especially in providing information about the work of the Victim and Witness Support Department, referring victims to them, as well as to the National Call Center for Victims of Criminal Offence.

Decision on the adoption of the National Strategy for the Development of Victim and Witness Support System in the Republic of Croatia for the Period 2016-2020<sup>15</sup> (in further text National Strategy) is not fully implemented in practice, especially when it comes to referring to existing support services. The problem is already occurring when informing about available support services, especially about psychological support because it is not available in the entire territory of the Republic of Croatia. The right to any other type of advice could be related to a victim's right to a counsellor, which is not defined by law. The recommendations of the European Commission clearly state that "the right to advice" should be interpreted broader than usual because it does not apply only to legal advice, but it may also relate to financial advice and advice in the field of insurance. The counsellor could be a professional which provides help (for example, a psychologist) if such advice is needed for the victim of a criminal offence. Directive 2012/29/EU states that the victim should also be informed of the ways of obtaining compensation for damages, which the legal system of a Member State envisages. In the Republic of Croatia, this includes information on submitting property claim and information on the Law on financial compensation for victims of criminal offences.

In practice, there is a lack of clear formulations, which makes extremely important to linguistically adjust the brochures<sup>16</sup> on the rights of victims to the average citizen, who most likely do not have the necessary legal knowledge in criminal procedural law.<sup>17</sup>

Additionally, better coordination between competent state bodies is needed to ensure standardization of information provided to victims and to link the victim's right to information, in accordance with Directive 2012/29/EU, which stipulates the obligation of training of employees in the system of support for crime victims. Training is needed to educate officials of all competent bodies on sensitized and offence multidisciplinary approach in dealing with victims to fully and clearly inform them of their rights, while preventing secondary victimization and traumatization.

---

15

16

17 It is important to note that besides formal notification for victims of crime done by Police and Public Prosecutors officers most of informational brochures are done by CSO's as part of their program activities. However, there are no specialized brochures for people with disabilities. Moreover, the formal legal language can be difficult to understand to those who do not have formal legal education and background.

## ARTICLE 5 - RIGHTS OF VICTIM WHEN MAKING A COMPLAINT

*Member States shall ensure that victims receive written acknowledgement of their formal complaint. Where they do not understand or speak the language of the competent authority, they should be enabled to make the complaint in a language that they understand or by receiving the necessary linguistic assistance. The acknowledgement should be translated free of charge where the victim doesn't speak the language.*

Article 5 of the Directive establishes victims' right to receive a written acknowledgement of the criminal complaint. According to our survey, victims usually receive this acknowledgment of their formal complaint. In what concerns victims who do not understand and/or speak the language of the competent authority, it was concluded that they have the right to file a formal complaint in their native language with the help of translator/interpreter, free of charge.

Our interviewee no. 1 stated that there can be problems with translation from and to some languages that are not widely used in Croatia, for example Dutch or Turkish.

Moreover, interviewee no. 2 stated that, in practice, there are not many problems when victims present a formal complaint, except in cases where they do not understand the rights explained to them due to the intellectual disabilities. In these cases, they must have legal representative who guarantees their rights and makes sure that they understand what the complaint is, what it means and what the consequences are.

## ARTICLE 6 - RIGHT TO RECEIVE INFORMATION ABOUT THEIR CASE

*Member States shall ensure that victims are notified without unnecessary delay of their right to receive information related to criminal proceedings: any decision not to proceed with or to end an investigation or not to prosecute the offender; the time and place of the trial, and the nature of the charges against the offender; of any final judgement in a trial and of information about the state of the criminal proceedings, in accordance with their role in the criminal justice system; about the reason which led to the above mentioned decisions; notification in case the person remanded in custody, prosecuted or sentenced concerning the victim is released from or has escaped detention.*

Article 6 of the Directive was transposed into the Croatian CPA Amendment 70/17 and it is directly related to the above-mentioned difference between victim and injured party. Based on Article 43. Paragraph 1) of CPA Amendment 70/17, among other listed rights, victims of criminal offence have the right to:

1. submit a proposal for prosecution and a private lawsuit in accordance with the provisions of the Criminal Code, to participate in the criminal proceedings as an injured person, to be informed of the dismissal of the criminal report (Article 206, paragraph 3 of CPA/08), **and about the decision of the public prosecutor not to prosecute** and right to take over criminal prosecution instead of a public prosecutor
2. the right to a **public prosecutor's notice of the actions taken on his/her application** and filing a complaint with a senior public prosecutor
3. the right **to be informed on his/her request** without delay with regard to the **termination of detention<sup>18</sup> or investigative prison<sup>19</sup>, the escape of the defendant and the release of**

<sup>18</sup> Detention is police custody, temporary maintenance of person suspected of crime until some further decision

<sup>19</sup> Investigative prison is the most important measure of ensuring the presence of the defendant. It is particularly sensitive because it is determined before the validation of someone's guilt, which is contrary to the presumption of the defendant's innocence. The investigative prison must be terminated as soon as the circumstances change due to which it is determined.

**prisoners from imprisonment and the measures taken to protect the victim,**

4. the right to **be informed on his/her request of any decision terminating the criminal proceedings**

If the victim chooses to participate in criminal proceedings as an injured party, he/she, according to Article 6 of Directive, has, in addition to other rights that belong to victims, the right (Article 51 paragraph 1)<sup>20</sup>:

1. to **inspect the case file** in accordance with Article 184, paragraph 2 of CPA<sup>21</sup>,
2. to **request a public prosecutor's notice** of actions taken on his/her application (Article 206a of CPA/08) and file a complaint with a Senior Public Prosecutor (Article 206.b of CPA/08)
3. to be **informed about the outcome** of the criminal proceedings

According to our interviewee no.2, in cases when detention or investigative prison is being terminated and upon the victim's request, the Department for Victim and Witness Support at County Courts, based on territorial jurisdiction, notifies the Police that, then, Police notifies victims, usually first by a phone call and always with a written notification. When prison sentence is being terminated or it is executed then the penitentiary institution notifies the Department for Victims and Witness Support at County Courts, again based on territorial jurisdiction, and when a form with victim's data is filled out, the County Courts Department notifies central Department for Victim and Witness Support at Ministry of Justice and they, finally, inform the victim. There are sometimes cases when the victim does not want to be informed about release of perpetrator from detention, investigative prison or penitentiary and that wish is taken into consideration.<sup>22</sup>

In regards of any other decision made in investigative phase or in criminal proceeding victim always gets written notification with all the details that involve his/her case and its status.

<sup>20</sup> Criminal Procedure Act/08

<sup>21</sup> Ibid.

<sup>22</sup> Example from the practices is person who is victims of robbery from unknown perpetrator. Victims in question does not want to be notified when perpetrators is released from prison. In this case it is possible to accept victim wish.

## ARTICLE 7 – RIGHT TO INTERPRETATION AND TRANSLATION

*Member States shall ensure that victims who do not understand or speak the language of the criminal proceedings are provided, upon request, with interpretation at least during any interviews or questioning and with translation of information essential to the exercise of their rights in criminal proceedings in accordance with their role. Victims may challenge a decision not to provide interpretation or translation.*

To ensure the rights of the injured party who does not speak or understand the language in which the proceedings are conducted, translation into a language that he/she understands is essential for the exercise of his/her procedural rights. The same is true for the right to verbally translate his/her hearing or examination as a witness and when the translation is necessary for the active participation of the injured party in the hearing. This novelty in application and practice requires the provision of additional material resources for the provision of interpretation and translation services by court interpreters and official translators.

An injured party who does not speak or does not understand the language in which the proceedings are conducted has the right to request a written translation into his/her language on burden of state budget, for the purpose of exercising the rights of the injured party in the criminal proceedings, and in particular the decisions terminating the criminal proceedings, including an explanation or summary of the reasoning of that decision, except in cases where no explanation is given in accordance with CPA/08. Exceptionally, the injured party will be provided with verbal translation of the mentioned data if that does not prevent injured party from exercising his/her procedural rights. The injured party has the right to submit a reasoned request for a document or other written evidence considered to be relevant to be translated into the language he/she understands. The body conducting the proceedings, if it accepts the claim of the injured party, will provide the translation of the entire document or other written evidence, or only those parts that are essential to enable the injured party to participate actively in the proceedings. The decision-taking body shall determine the oral or written translation into the language that the injured person understands, considering that oral translation does not jeopardize the exercise of his/her procedural rights. Against a decision rejecting oral or written translation of the injured

party has the right to appeal. For the injured party, the decision-taking body shall provide verbal translation upon his/her request during his/her hearing or examination as a witness and when translation is necessary for the active participation of the injured party at the hearing.

Regarding practical implementation of the Article in question, we need to emphasize that **a list of court interpreters exists**, but there are no specialized professionals that only work with translations for injured parties in criminal proceedings. Also, there is a problem with **lack of funds** to guarantee that qualified interpreters and translators aid people who do not speak the national language. This constitutes an obstacle to access justice in courts. Additionally, **the payment granted to these professionals is reportedly inadequate**.

The lack of specialized, organized, and well-established **interpretation/translation services is**, pointed out by most professionals working within the criminal justice system as big problem. Especially in a time where the number of immigrants and tourists, particularly in city areas, is increasing.

The question is that even in the cases where it is possible to arrange interpretation/translation services, this would only be guaranteed during inquiries at police stations or in court hearings and not, for example, during medical examinations, in hospitals or forensic medical offices, which comprise places and situations in which it may be crucial for the victim to understand and be understood.

Interviewee no. 1 emphasizes that there has never been (to its knowledge) specialized training or education for investigative and judicial bodies that is concentrated on communication with victims/injured party with help of interpreter/translator. In regards of victim there is always oral translation when victim/injured party does not understand language of the proceedings and after oral statement competent authorities make written statement where needs to be noted if victim/injured party refused translator/interpreter because he/she understood everything. According to Interviewee no. 1 there is no special provision that regulate specialization of translators/interpreters that work with victims/injured parties and there is no higher body that will regulate the quality of translation/interpretation. There is also always problem of financial resources and budget cuts.



## ARTICLE 8 - RIGHT TO ACCESS VICTIM SUPPORT SERVICES

*Member States shall ensure that victims have access to confidential victim support services, free of charge, before, during and for an appropriate time after criminal proceedings. Member States shall facilitate the referral of victims, by the competent authority that received the complaint to victim support services. Member States shall take measures to establish specialist support services in addition to, or as an integrated part of, general victim support services. Member States shall ensure that access to any victim support service is not dependent on a victim making a formal complaint with regard to a criminal offence to a competent authority.*

Article 8. of the Directive is transposed to CPA Amendment 70/17 article 43. paragraph 1) (1,2). According to this, a victim of a criminal offence has the right to access victim support services, both governmental and non-governmental institutions. The services to assist victims of the criminal offence and the right to effective psychological and other professional assistance, as well as support from bodies, organizations or institutions for assistance to victims of criminal offences in accordance with the law. **Support services** for victims of criminal offences **are either general or specialized.**

Victim Support Services in the Republic of Croatia are mainly provided by civil society organizations. **Civil society organizations play a significant role** and have largely taken significant steps in organizing systematic assistance and victim support both during and after the Croatian War of Independence. Some organizations have more than 20 years of experience in dealing with victims, have in-depth expertise, have access to local and international issues, and have developed a methodology of work. Significant contribution of CSOs is expressed in work with victims of war, sexual and family violence, victims of trafficking, as well as child victims. Moreover, these organizations establish and maintain shelters for victims of domestic violence, especially women and their children.

As part of its activities, the Ministry for Demography, Family, Youth and Social Policy, through its three-year tender, provides financial support for seven shelters for victims of family violence

run by CSOs in the areas of the City of Zagreb, Karlovac, Istarska, Primorsko-goranska, Sisačko-Moslovačka and Brodsko-Posavska counties. For additional financial support these shelters also participate in project funding of local and regional government in accordance with the adopted plans.

In addition to the shelters funded in way explained above, the Ministry for Demography, Family, Youth and Social Policy has continuously secured the right to accommodate victims of domestic violence through contracts, and in this sense finances the accommodation of victims of domestic violence in 10 shelters in the Osječko-baranjska, Vukovarsko-Srijemska, Primorsko-Goranska Zadarske, Splitsko-dalmatinske, Šibensko-Kninske, Varaždinske, Međimurske, Bjelovarsko-Bilogorske and Zagreb County.

In addition to financial support for the work of shelters for victims of domestic violence, **state bodies**, in accordance with their scope of work, through **funding for projects and programs of CSOs**, also financially support counselling centres for victims of domestic violence, including the work of SOS helpline for victims of violence in crisis situations. At the same time, financial support is provided for projects activities of prevention of peer violence and as result, victims are provided with help via face to face, online and phone counselling. There is also a possibility of communication via electronic mail and information on rights and procedures is widely available on the web pages of CSOs. Apart from providing direct assistance and support to victims, civil society organizations also make a great contribution to improving legislation, policy development and public awareness of victims' issues. Besides the funding from state bodies, CSOs gather funding for their work through project activities funded by European Union's (EU) institutions and grants, various foundations, local communities. One of the main problems facing CSOs implies the funding gap and the sustainability issue.

In Croatia, despite numerous changes, **there is still a lack of several services** needed to work with victims of violence. Most CSOs focused on providing **victim assistance and support are concentrated in Zagreb, and others in some bigger cities like Osijek, Rijeka and Split.** In smaller places there are sporadically established organizations dealing with victim assistance and depending on the project activities of larger organizations that occasionally implement some program in these areas.

**Support and assistance to victims and witnesses in the courts are provided by the Departments of the County Courts** in Zagreb, Vukovar, Osijek, Zadar, Split, Sisak and Rijeka, and the purpose of the Department is to ease the stressful situation of witnessing and staying in court. The Victims and Witness Support Departments fall under the jurisdiction of the Ministry of Justice of the Republic of Croatia, and have started with their work in 2008. They have the authority to provide emotional support to victims before, during and after the testimony in court, to provide practical information on the rights of victims, witnesses and members of their families, and are responsible



for the standardization of treatment with victims and witnesses, as well as selection, education and co-ordination of volunteer work support.

With the purpose of expanding victim and witness support systems, the Ministry of Justice has decided to finance the establishment of the Network of support for victims and witnesses in 13 counties where there are no Victim and Witness Support Departments. CSOs included in the "Support and Cooperation Network for Victims and Witnesses of Criminal Offence" (further in text Network) program will be selected through a public call for a period of three years, i.e. from 1.1.2018. until 31.12.2020. The Coordinator of "the Network is the Women's Room - Centre for Sexual Rights which comprises 10 partner CSOs that carry out their activities in 13 these selected counties. The main task of the organizations belonging to the Network will be to provide the victims with professional psychological, health and economic help and encourage and strengthen the victims with the goal of reintegrating them into the community.

The support for victims and witnesses in Croatia is divided into primary support, psychological and legal aid and physical protection.

#### **Primary support includes:**

1. Information support: consists in providing basic information about victim's rights, information on what will happen in the process in a procedural sense, information where the victim or witness can receive psychological, legal and other support, considering the availability of information and the language of victims and witnesses
2. Emotional support: more specifically in the context of support in communication with judicial institutions, seeking to mitigate the intensity of emotions affecting bodily functions and cognitive abilities, and facilitating testimony, decision-making and functioning.
3. Logistical support: organizing the necessary accommodation at the location where the procedure is to be carried out, organizing travel and other activities to be provided for the victims/witnesses, assistance with the collection of legally recognized expenses, assistance with financial assistance provided for by law and other forms of assistance
4. Institutional support: coordination with other organizations, within and outside the system, which can respond to the needs of victims and witnesses,
5. Basic assessment of the needs of victims and witnesses: to provide the necessary assistance, support and protection measures, and referral to other institutions.

#### **Psychological and legal aid**

Depending on the needs of victims and witnesses, competent state or CSOs oversee possible psychological treatment or specific provision of legal assistance. There is a fundamental difference between the activities of CSOs and the aforementioned Victims and Witness Support Offices Departments which as such are not authorized to provide legal aid or to provide expert psychological, psychiatric and/or psychotherapeutic assistance. On the other hand, CSOs are employing experts from the different field like human rights, psychology, social work, educational rehabilitation that are licensed to provide these forms of assistance. To provide free primary legal aid - covering general legal information, legal advice, making submissions to public law bodies, the European Court of Human Rights and international organizations in accordance with international treaties and rules on the work of these bodies, representation in proceedings before public law bodies and legal aid in an out-of-court settlement of the dispute, - **CSOs needs to be licensed from the Ministry of Justice and registered within the Register of Legal Aid Providers of the Republic of Croatia.** As far as secondary legal aid is concerned, it includes legal advice, compilation of submissions in the process of protection of workers' rights in front of an employer, filing of submissions in court proceedings, representation in court proceedings, legal aid in a peaceful settlement of disputes and exemption from payment of court proceedings costs. Pursuant to the Law on Free Legal Aid (OG 143/13), there are special conditions for obtaining the right to legal aid, which is the responsibility of the State Administration Office in the counties, which creates the problem of a large number of beneficiaries who remain without legal assistance and legal representative.

In general the problem arises when referring victims to non-governmental organizations, in Croatia there is still a closed mentality that prevents the victim in seeking help.

There are numerous non-governmental organizations helping victims, by providing legal and psychosocial assistance and support. Victims often address the organization first, seek legal assistance and support.

Non-governmental organizations provide personal assistance, more personal and close contact with victims than the one they receive in state support system, victims often express their dissatisfaction with state institutions in Croatia, and therefore seek help from non-governmental organizations.

**Specialist services** providing support or direct assistance to victims (for example; housing in safe houses, psychological and legal aid in centre for victims of sexual violence) are an important part of the victim support system, especially in parts of the Republic of Croatia where no general support services have been established. It is therefore important to strengthen and develop cooperation and mutual referral to these services by state bodies and institutions. There should

be incentives for the transfer of knowledge and skills between the civil and public sector and their networking (for example, through the establishment of working cross-sectorial teams and periodic coordination meetings).

The problem of cooperation between civil society organizations and state institutions is also communication. There is a relatively low percentage of communication between the different bodies to share information about the victim support services. It is a worrying fact that only a small part of victims support providers requests and receives feedback on the status of the victim after providing support. It is necessary to take into account that the evidence of the support provided is extremely important because it allows for further monitoring of the quality of the support provided, also indicating the disadvantages and benefits of providing support for the entire system.

## ARTICLE 9 - SUPPORT FROM VICTIM SUPPORT SERVICES

*Victim support services shall, as a minimum, provide: a) information, advice and support relevant to the rights of victims; b) information about or direct referral to any relevant specialist support services in place; c) emotional and psychological support; d) advice relating to financial and practical issues arising from the crimes; e) advice relating to the risk and prevention of secondary and repeat victimisation, of intimidation and of retaliation. Specialist support services shall develop and provide: a) shelters or any other appropriate interim accommodation for victims; b) targeted and integrated support for victims with specific needs such as victims of sexual violence, victims of gender-based violence and victims of violence in close relationships.*

The article 9. of the Directive is partly transmitted to CPA Amendment 70/17 to article 43. Paragraph 1. in the National Strategy, and in the recently adopted Protocol on procedure in case of sexual violence (2018.).<sup>23</sup>

The support system includes the following categories of victims and witnesses:

1. child victims and witnesses,
2. victims of trafficking
3. victims and witnesses of war crimes
4. victims and witnesses of criminal offence against sexual freedom
5. victims and witnesses of criminal offence with elements of violence
6. victims of hate crime, victims and witnesses of other punishable offence
7. victims and witnesses in the protection program

<sup>23</sup> <https://ravnopravnost.gov.hr/UserDocImages/dokumenti/Protokol%20o%20postupanju%20u%20slu%C4%8Daju%20seksualnog%20nasilja.pdf>

In the Republic of Croatia, long-term assistance and support to victims are provided by specialists, CSOs, as well as public institutions established by cities or counties. Despite of systematic efforts in this area, victims of violence in Croatia still do not have enough places where they can look for help.

CSOs have opened the first autonomous shelters and counselling centers for women victims of violence, providing free legal and psychological assistance to victims and were the founding entities of the National Call Centre for Witnesses and Victims of Criminal Offence.

The Women's room Association provided statistics on the status of services for victims of violence in Croatia, as well as the recommendation of the European Council on the needs of support services. The recommendation of the European Council for sheltering victims of violence is that for every 10,000 people there should be 1054 places in shelters for women victims of violence and their children.

In Croatia, CSOs have, in total, 12 shelters and public institutions run 7 shelters. The total number of places is around 400, and still more than 700 places are missing. Specifically, in Split-Dalmatian county there is only one association that provides beds for women and children victims of domestic violence. It has a capacity of nine beds, of which four are for women and five for children. Split-Dalmatian County is the largest county in Croatia and, considering that, statistics shows that domestic violence is increasing, this capacity is insufficient.

Of the total number of shelters run by CSOs, one is destined to victims of sexual violence while the recommendations of the European Council is are eleven, considering the number of 200 000 victims.

Additionally, there are 22 legal counselling centers within the CSOs, while the European Council recommends at least 46.<sup>24</sup> As a special value, according to the EC recommendations the standards emphasize confidentiality, respect for the victim and victim's experience, acting in accordance with the culture of believing, protection and security, not just in terms of physical protection, but also in terms of social security or social inclusion. Servicing should be available 24 hours a day, 7 days a week, 365 days a year, or whenever victims are in need.

The largest number of organizations points out women in general as the primary target group. The next target group are children (including children of women victims of violence), and young (general or specific groups as young risk behavior, learning problems, growing up).

Among the offered forms of assistance provided by CSOs, the most common is telephone counselling and counselling in the organization's premises, providing victim support in crisis,

<sup>24</sup> [http://www.zenskasoba.hr/docs/OCD\\_i\\_kljucni\\_akteri.pdf](http://www.zenskasoba.hr/docs/OCD_i_kljucni_akteri.pdf)

psychological counselling, psychotherapy, legal counselling, representation of victims in the state institutions and support to victims in court proceedings. Additionally, some CSO also develop other tasks such as organizing help groups, accompaniment of victims to court and writing suits, appeals and other legal documents, temporary accommodation for victims of violence, medical counselling and legal representation of victims. Some of the organizations also provide specific forms of assistance, such as counselling by electronic mail or online counselling, humanitarian aid, assistance to victims in finding work or assistance with children in kindergartens.

CSOs are largely focused on providing emotional and psychological support. The advantages that distinguish CSOs from state institutions are the atmosphere of support, security and trust, protection of personal data of victims, and the possibility to provide emergency response or case intervention. Empowering victims to return to their environment and establishing stability in their lives. The priority of CSO is warm and human access to victims, vulnerability to the needs of victims and empathy, and commitment to every client regardless of overload business. Also, empowerment of victims is one of the main goals of CSOs and state institutions, primarily through active personal participation in the process of getting help and support. In Republic of Croatia more than 20 CSOs that work with victims of violence, providing emotional and psychological assistance and support. At the area of Split-Dalmatian county there are two but considering to number of victims it is insufficient.

## ARTICLE 10 - RIGHT TO BE HEARD

*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.*

The right to be heard as prescribed by Directive 2012/29/EU is transposed into Croatian law in CPA Amendment 70/17 mainly in Article 43. paragraph 1 (5). Here, it is stated that victims have the right to be heard without unnecessary delay after submitting formal complaint to police and/or the public prosecutor. Moreover, further hearings must be conducted only to the extent that they are strictly needed for criminal proceedings.

Again, here the Amendment distinction between victim and injured party is important because if the victim chooses to act as injured party in criminal proceedings, he/she has a more active role. According to CPA Amendment 70/17 Article 51. Paragraph 1 injured party has, amongst other rights;

1. file a motion for the enforcement of property claims and provisional security measures
2. alert to the facts and suggest evidence
3. attend the evidentiary hearing (special part of pre-trial, investigative phase)
4. to attend the hearings and participate in the trial phase and present the final speech
5. to inspect the case file in accordance with Article 184, paragraph 2 CPA,<sup>25</sup>
6. request a Public Prosecutor's notice of actions taken on his application (Article 206a of CPA) and file a complaint with Senior Public Prosecutor ( Article 206. of CPA)
7. file an appeal
8. request a return in the prior state

Right to be heard in criminal proceedings is also related to Article 51.a if CPA Amendment 70/17. According to this Article, an injured party who does not speak or does not understand the language in which the proceedings are conducted, other than the rights referred to in Article

<sup>25</sup> <https://www.zakon.hr/z/174/Zakon-o-kaznenom-postupku>

8, paragraph 3 of this Act<sup>26</sup>, shall have the right to request written translation into the language that he/she understands on the burden of court budget. Additionally, he/she shall have the right to submit a reasoned request for a relevant document or other written evidence to be translated into the language he/she understands. If oral or written translation is rejected, the injured party has the right to appeal. The injured party in question shall be provided with verbal translation, upon his/her request, during his/her hearing or examination as a witness and when translation is necessary for the active participation of the injured party at the hearing.

When a child is a victim of a criminal offence, it is assumed that there is a need for enforcement special protection measures, as it will be further analyzed under the section on Article 24. In these cases, the Court, the Public Prosecution Office, the Investigator and the Police, are obliged to work with particular care, bearing in mind the child's age, personality and other circumstances, avoiding adverse consequences for the child's upbringing and development. When dealing with a child victim, the competent authorities have to consider primarily best interest of the child. If the age of the victim is not known, it will be assumed that it is a child if the victim does not have eighteen years. Unless otherwise provided by a special law, the **examination of a child who has not reached the age of fourteen** as a witness shall be conducted by the investigating judge. The examination will be carried out by an expert person, without the presence of a judge and other parties, through an audio-video device. This examination is carried out with the assistance of a psychologist, a pedagogue or other expert person and - unless it is contrary to interest of the proceedings or the child - a parent or guardian is also present. The parties pose the questions that they want to ask the child - witness to the expert handling the audio-video device, upon the approval of the judge. The interrogation will be recorded, and the recording will be sealed and attached to the case's record. The child can be re-examined only in exceptional circumstances and only in the manner described. Unless otherwise provided for by a special law, an **examination of a child between fourteen and eighteen years old** shall be conducted by the investigating judge. In these cases, when examining a child, especially if the child is the victim, it will always be assessed (by the investigating judge, with the help of an expert) whether the interrogation would adversely affect the child's mental state. Depending on the circumstances and taking into account of the protection of the child, the questioning may be carried out as if child victim is under 14 years old.

Witnesses who, due to their age, health or disability, cannot move to the courtroom may be examined in their apartment or other area in which they reside. These witnesses can also be examined through audio-video devices handled by an expert. If the state of witness requires, the examination will be conducted so that the parties can ask questions without being present in the room where the witness is. The questioning will be recorded with an audio-video recording device if necessary, and the recording will be sealed and connected to the record.

<sup>26</sup> Parties and other participants in the proceedings have the right to use their language, including the deaf and deafblind sign language. If the action in the proceedings is not carried out in the language spoken and understood by the participant, the oral translation or translation or interpretation of the deaf and deafblind language will be ensured. In the record will be noted that statement of participants was given. The right to verbal translation or translation or interpretation of the sign language of deaf and deafblind persons will be taught before the first examination.



## ARTICLE 11 - RIGHTS IN THE EVENT OF A DECISION NOT TO PROSECUTE

*Member States shall ensure that victims, in accordance with their role in the relevant criminal justice system, have the right to review of a decision not to prosecute. Where the role of the victim will be established only after a decision to prosecute the offender has been taken, Member States shall ensure that at least the victims of serious crimes have the right to a review of a decision not to prosecute. Member States also need to ensure that victims are notified of their right to receive, and that they receive sufficient information to decide whether to request a review.*

Article 11 of the Directive was transposed into CPA Amendment 70/17 in Article 43 Paragraph 1) (8) where it is established that victims have the right to submit a proposal for prosecution and a private lawsuit in accordance with the provisions of the Criminal Code; **the right to participate in the criminal proceedings as a prosecutor**; to be informed of the dismissal of the criminal charge (Article 206, paragraph 3 CPA/08), and criminal prosecution; and the right to take criminal prosecution instead of a public prosecutor. Also, in the same Article, Paragraph (1) 9) and 11), CPA Amendment 70/17 prescribes that victims have the right to a public prosecutor's notice of the actions taken on his/her complaint (Article 206a of CPA/08) and filing a complaint with a senior prosecutor (Article 206.b of this Act) and the right to be informed, upon his/her request, of any decision terminating the criminal proceedings.

When the Public Prosecutor determines that there is no basis for prosecution of a criminal offence for which criminal proceedings are initiated *ex officio*, or when he/she finds that there is no basis for prosecution against any of the persons reported, he/she is obliged to, within eight days, notify the victim and instruct that he/she can prosecute him/herself. The Court has the same obligation if it has issued a decision to suspend proceedings because of the dismissal from public prosecutor. In these situations, the victim has the right to take over or continue the prosecution in within **eight days** from the receipt of the notification from Public Prosecutor or Court, depending of the case.

If the public prosecutor dropped the charges, the victim may, while taking over the prosecution, remain within the same indictment. If the victim files a new indictment it will be decided about

confirmation of the new indictment according to CPA. In practice, this means that the victim needs to start from the beginning when he/she takes over the prosecution. A victim who is not aware that a public prosecutor had failed to prosecute or has decided to quit the persecution may make his/her statement before the competent court to continue proceedings within three months from the date on which the decision to suspend the proceedings was passed, i.e. or six months from the date the public prosecutor dismissed the application.

When the Public Prosecutor or Court informs a victim that he/she may take over or continue with persecution, he/she will also provide him/her with instructions on what action he/she can take to exercise that right and will provide access to the file for that purpose. If the victim dies in the course of the proceedings, his/her spouse, extramarital partner, life partner or informal partner, descendants and, if they do not exist, the predecessor, siblings and the person who under the law victim was obliged to support can, in deadline of three months from the date of victim's death, give a statement to take over or continue prosecution. When a Public Prosecutor decides to drop the charges at the court hearing, **the injured party** has the duty to immediately state whether he/she will continue the prosecution. If the injured party does not come to the court hearing and was duly summoned, or injured party was not reached due to the failure to issue a court order to change the address or residence, it is considered that he/she does not wish to continue the persecution.

The President of the Council or the single Judge shall allow the return to previous stage to the injured party who was not duly summoned or was duly summoned but, for justifiable reasons, could not be present at the hearing on which a judgment was pronounced to dismiss the indictment because the public prosecutor decided to drop the charges the injured party, within eight days of the receipt of the judgment, files a claim for reinstatement and if in that request he/she declares that he/she will continue the prosecution. In that case, a new hearing will be adjudicated, and the verdict passed based on the new hearing will terminate the prior judgment. If the duly summoned injured party does not come to a new hearing, the previous verdict remains in force.

When victim does not take over or continue persecution within the statutory deadline or if the victim who has taken over the role of the injured party as a prosecutor does not come to the hearing, even though he/she has been duly summoned or could not have been summoned for not notifying court change of address or residence, it is considered that he/she has given up on persecution.

Victim who has taken over the criminal prosecution does not come to the hearing to which he/she has been duly summoned, he/she shall act in accordance with Article 63, it will be considered that he/she decided to not prosecute.



A victim who has taken part of injured party as prosecutor has the same rights as a Public Prosecutor, except for the rights that Public Prosecutor has as a state body. In the proceedings conducted at the request of the victim who has taken on the criminal prosecution, the Public Prosecutor, until the end of the hearing, has the right to take over the prosecution and represent the prosecution.

## ARTICLE 12 - RIGHT TO SAFEGUARDS IN THE CONTEXT OF RESTORATIVE JUSTICE SERVICES

*Member States shall take measures to safeguard the victim from secondary and repeat victimisation, from intimidation and from retaliation, to be applied when providing any restorative justice services. Member States shall facilitate the referral of cases, as appropriate to restorative justice services.*

The concept of restorative justice is almost non-existent in the Croatian criminal justice system. There is some progress with regard to mediation in other areas of law, but it is widely not used in criminal proceedings.

The Association for Out of Court Settlements<sup>27</sup> has been operating since 2003 with the aim of promoting mediation/out of court settlements (mediation between victims and perpetrators), in resolving conflicts resulting from the perpetration of juvenile offence, and thus by expanding the idea of restorative justice. The association consists of professional social pedagogues, social workers, psychologists who, in their daily work, deal with the subject of youth in conflict with the law, and on mediation through out-of-court settlements.

According to Misdemeanor Act (OG 107/07, 39/13, 157/13, 110/15, 70/17)<sup>28</sup> and Criminal Code (OG 125/11, 144/12, 56/15, 61/15, 101/17)<sup>29</sup> there is measure called Psychosocial treatment for perpetrator of violence. This is carried out, after a court judgment determining it, in specialized institutions by specialized experts. This is a protective measure, implemented only in cases of domestic violence, pronounced by the Court in accordance with the Act on Protection from Domestic Violence (OG 70/17)<sup>30</sup> and the Criminal Code. Psychosocial treatment deals with the assumption of responsibility for perpetrators behavior, attitudes, beliefs, thoughts, feelings, and needs of those perpetrators are referring to better understand and understand themselves and their behavior. Measure can be implemented through individual or group treatment. Essentially, the purpose of the measure is to change the behavior of a person who has been assessed as inappropriate and threatening to the family member. Goal of the treatments is not changing

<sup>27</sup> <http://www.uisn.hr/>

<sup>28</sup> <https://www.zakon.hr/z/52/Prekr%C5%A1ajni-zakon>

<sup>29</sup> <https://zakon.hr/z/98/Kazneni-zakon>

<sup>30</sup> <https://www.zakon.hr/z/81/Zakon-o-za%C5%A1titi-od-nasilja-u-obitelji>

personality, but to creating the assumptions to change perpetrators chosen patterns of behavior, learn from mistakes and create a safer environment for perpetrator and his/her family<sup>31</sup>.

However, this is not enough because idea of restorative justice still hasn't come to full life in our national system.

## ARTICLE 13 - RIGHT TO LEGAL AID

*Member States shall ensure that victims have access to legal aid, where they have the status of parties to criminal proceedings.*

Article 13. Paragraph 1 (2) which states that the victim has the right to effective psychological and other professional assistance and support of bodies, organizations or institutions for assistance to victims of crimes in accordance with the law. This professional support can be provided by civil society organizations, general practitioners, victims' and witness support departments on courts, centers for social welfare, polyclinics, hospitals and other healthcare institution. Also, in Article 43. Paragraph 2) says that victims of criminal offence punishable by imprisonment of more than five years, if he/she she is suffering the more profound consequences of a criminal offence, has the right to the expert assistance of an adviser/counsellor on the burden of budgeting when submitting property claims.

In practice here emerges problem regarding the victim's right to a **counsellor** which derives from the fact that the law does not define who exactly does has this role. There is no consistent practice and there are two main interpretations that have been reported to be:

1. Counsellor- Attorney
2. An Advisor may be anyone, including attorneys, civil society representatives, psychologists<sup>32</sup>

In other words, in accordance with Directive 2012/29/EU, and in trying to acknowledge the wishes and needs of the victim, the counsellor should be a person "who can give advice to the victim and whose advice he/she wants/ needs. The above mentioned interpretations were made during the training sessions for professionals in June and July held by the Victim Support Association and witnesses, in cooperation with the Judicial Academy and the Office of the Ombudsman of the Republic of Croatia, as part of the project "Rights, Support, Protection and Compensation of Victims of Criminal Offence", financed by the European Commission, which took place in Zagreb, Split and Vukovar, 2017.<sup>33</sup>

<sup>32</sup> Position and Rights of Victims of Criminal Offences in Republic of Croatia, Split: Documenta- Centre for dealing with past, Centre for peace, non- violence and human rights, White Circle of Croatia and Association for victim and witness support

<sup>33</sup> Position and Rights of Victims of Criminal Offences in Republic of Croatia, Split: Documenta- Centre for dealing with past, Centre for peace, non- violence and human rights, White Circle of Croatia and Association for victim and witness support

<sup>31</sup> More detailed explanation on: <https://www.bijelikrug-hrvatske.hr/psihosocijalni-tretman/>

The right of a child victim of crime is regulated by the CPA Amendment 70/17 Article 44. In paragraph 1 it is said that child victim has right to an assignee at the expense of budgetary funds. It can be achieved by asking the police, investigators, Public Prosecutor and/or judge, depending on the stage of proceedings. The same right victims of criminal offence against sexual freedom and victim of human trafficking, based on Article 44. Paragraph 2.).

If the victim declares as an injured party in the criminal proceedings, he/she also acquires the above mentioned right to an assignee (Article 51. Paragraph 1) (3) but on his/her own expenses, not at the expense of budget resources (except if he/she is a victim of crime against sexual freedoms and human trafficking or a child who is a victim).

In general, right to free legal aid in Croatia is prescribed in the Free Legal Aid Act (143/13)<sup>34</sup> which regulates the purpose, beneficiaries and types of free legal aid, legal aid providers, conditions, procedures for obtaining legal aid, cross-border legal aid, financing of legal aid and supervision over the implementation of this Act.

Free legal aid is divided into two stages: primary legal aid and secondary legal aid. Primary legal aid includes:

1. general legal information
2. legal advice
3. submitting submissions to the public law bodies, the European Court of Human Rights and international organizations in accordance with international treaties and rules on the work of these bodies
4. representation in proceedings before public law bodies
5. legal assistance in an out-of-court settlement of the dispute.<sup>35</sup>

Primary legal aid can be provided in every legal matter:

1. if the applicant alone does not have sufficient knowledge and ability to make his or her own right
2. if the applicant does not receive legal aid on the basis of special regulations
3. if the present claim filed is not manifestly ill - founded and
4. if the applicant's material circumstances are such that the payment of professional legal aid could endanger the maintenance of the applicant and the members of the household.<sup>36</sup>

<sup>34</sup> <https://zakon.hr/z/286/Zakon-o-besplatnoj-pravnoj-pomo%C4%87i>

<sup>35</sup> Ibid.

<sup>36</sup> <https://zakon.hr/z/286/Zakon-o-besplatnoj-pravnoj-pomo%C4%87i>

The procedure for obtaining primary legal aid shall be initiated by direct contact with the primary legal aid provider (offices, licensed associations and legal clinics).

Secondary legal aid is provided by lawyers and it includes:

1. legal advice
2. the filing of complaints in the process of protecting the rights of the worker before the employer
3. filing of submissions in court proceeding
4. representation in court proceedings
5. legal aid in a peaceful resolution of the dispute
6. exemption from payment of court costs
7. exemption from payment of court fees<sup>37</sup>

Secondary legal aid is much more restricted than primary legal aid because the beneficiary needs to require approval from the State Administration Office of his/her county. Secondary legal aid may be granted if victims' property status meets the following conditions:

1. total incomes if victim and incomes of victim's household members do not exceed the amount of the budget base per month per household member (3,326.00 HRK= 447.01297 EUR)
2. that the total value of victim property owned and owned by victim's household members does not exceed the amount of 60 budget bases (199,560.00 HRK=26820.77817 EUR).

Individual applicants are granted secondary legal assistance without establishing a material status:

1. child in the process of exercising the right to alimony
2. a victim of a criminal offence of violence in the proceedings for the purpose of exercising the right to compensation for the damage caused by the commission of the offence,
3. to the beneficiary of the household maintenance assistance in regard to special regulations from the social welfare system
4. the person who is beneficiary under the Law on the Rights of Croatian Homeland War Veterans and their Family Members and the Law on the Protection of Military and Civilian Disabled In War

<sup>37</sup> Ibid.

## ARTICLE 14 - RIGHT TO REIMBURSEMENT OF EXPENSES

*Member States shall afford victims who participate in criminal proceedings, the possibility of reimbursement of expenses incurred as a result of their active participation in criminal proceedings, in accordance with their role in the relevant criminal justice system.*

CPA/08 states that the costs of criminal proceedings are to be regarded as expenditures from the commencement of the criminal proceedings until its completion, expenses for the evidentiary proceedings before the commencement of the criminal proceedings and the costs of providing legal aid. Criminal proceeding costs include (in regards of a victim/ injured party):

1. costs for **witnesses**, expert witnesses, interpreters/ translators and other experts, costs of technical recording (audio and video), cost of inquiry, costs of copying or recording a file or part of a filer
2. the reward and necessary expenditures of the defense attorneys, the necessary expenses of **the private prosecutor and the injured party as the plaintiff** and their legal representatives, and the reward and necessary expenditures of their empowered persons,
3. the indemnity expenses of the **injured party** and his/her legal representative and the reward and necessary expenses of his/her deputy.

The costs of criminal proceedings referred above shall be paid out of the proceeds of the proceeding body and shall be reimbursed later from the persons who are required to compensate them, other than those that occurred as part of criminal proceedings in the bodies financed by the State budget.

**The injured party, a witness, injured party as a prosecutor and private prosecutor** regardless of the outcome of the criminal proceedings, shall bear the costs of coming to court if, for example, they do not appear when summoned and afterwards are compelled to be present, delaying the inquiry or hearing and other costs of the proceedings that they have incurred with their guilt and proportionate portion of the lump sum.

The private prosecutor and the injured party as a prosecutor are obliged to reimburse the costs of criminal proceedings, necessary expenses of the defendant and necessary expenses and his defense attorney's remuneration if the proceedings are completed by a verdict by which the defendant is acquitted, or by the verdict by which the charge is dismissed by a decision to suspend the proceedings. If the proceedings have been suspended due to a lawsuit or criminal prosecution, the defendant and the private prosecutor or the injured party as a prosecutor may agree on their mutual costs. If the proceedings have been suspended due to abandonment of lawsuit or criminal prosecution, the defendant and the private prosecutor or the injured party as a prosecutor may agree on their mutual costs. If there are multiple private prosecutors or injured parties as plaintiffs, the costs will be shared by all.

According to Interviewee no.1 all cost that come from criminal proceedings for victims should be reimbursed within deadline of 3 months after they occurred. They should be paid immediately when the main hearing is over. Final deadline for victims to as for reimbursement of costs is 10 years.

## ARTICLE 15 - RIGHT TO THE RETURN OF PROPERTY

*Member States shall ensure that recoverable property which is seized in the course of criminal proceedings is returned to victims without delay, unless required for the purposes of criminal proceedings.*

According to Article 189 of the CPA/08 items of higher value found during the criminal proceedings or temporarily seized shall be returned to the owner as soon as it is established that there are no grounds for their confiscation. If the item is susceptible to failure or its maintenance is subject to considerable costs, it may be sold earlier, and the money given to the previous owner.

If the owner does not take over the items or money from the sold item, within the deadline set by the decision-making body of the case, items or money shall enter the State budget.

Minor items shall be returned to the owner if he/she so requests within one year after the final termination of the criminal proceedings. If the owner does not request the return or a refund within that time, the items will be surrendered to the Criminal History Museum or destroyed.

If the owner is not known, the items or money mentioned in the previous paragraphs shall be returned to the holder/possessor. If objects are of higher value and earlier owner is not known, the body conducting the procedure will describe the object on the bulletin board and on the website of that body. The ad will invite the owner to report within three months of the announcement of the ad because the object will otherwise be sold. The money received by selling will enter the State budget.

## ARTICLE 16 - RIGHT TO DECISION ON COMPENSATION FROM THE OFFENDER IN THE COURSE OF CRIMINAL PROCEEDINGS

*Member States shall ensure that, in the course of criminal proceedings, victims are entitled to obtain a decision on compensation by the offender, within a reasonable time, except where national law provides for such a decision to be made in other legal proceedings.*

The victim of a violent crime committed with intent can receive financial compensation from the budget funds. Compensation can be granted, according to the Law of financial compensation for victims of criminal offence (NN 80/08 and 27/11):

1. if the victim is a citizen of the Republic of Croatia, or a citizen of an EU Member State or is domiciled on its territory
2. if a victim has suffered grievous bodily harm or his/her health has deteriorated as a result of the crime
3. if a crime is reported to or filed by the police or the public prosecutor's office within six months from the date of commission of the crime, regardless of whether the offender is known or not
4. If a victim submitted a written application on an official form and supplied necessary documentation (the form is available in every police station, public prosecutor's office, municipal and county courts, as well as in electronic form on the official website of the Ministry of Justice, Ministry of Interior, the Public Prosecutor's Office of the Republic of Croatia, and municipal and county courts.) This application needs to be submitted within six months from the date of the committal of the crime. It may be submitted later if the victim for was not able to submit the application within the previously mentioned deadlines for justified reasons, and no later than three months from the date the justified reasons ended. An application may not be filed once three years have lapsed from the crime commission date.



If a victim is a minor or person without ability, and her legal representative did not file a claim within the deadline, deadline of 6 months starts from the day when a person turns 18, or from the day when after the coming of age of the victim the criminal proceeding starts, or from the day when the person is reinstated with the ability. According to this Law, immediate and indirect victim are entitled to compensation. Immediate victim is a person who has suffered grievous bodily harm or his/her health has deteriorated as a result of the crime. Indirect victim is a married couple, a child, parent, foster child, adoptive parent, stepmother, stepfather, stepson and a person who lived with an immediate victim in a same-sex community. Indirect victim is also the grandfather, grandmother and grandson, if one of them is immediate victim, in case when they had a permanent community of life, while grandmother and grandfather were replacing parents<sup>38</sup>

After a decision-making process, the Committee on Compensation to Crime Victims shall take a decision on the merits and the amount of compensation no later than 60 days from receipt of the full and complete application. Payment of fees shall be made within 30 days after the victim received a decision ordering payment of compensation. The committee meets every 2 months and, if necessary, more frequently. If the applicant does not receive an answer within 60 days, there is the right to write a rush note about which he/she must receive an answer within 8 days. If the applicant does not receive an answer, only administrative litigation can be initiated. No appeal is allowed against the decision of the Committee, but a victim can initiate administrative litigation (each party pays his/her own fees regardless of the outcome of the procedure) If the victim is a child, his/her parents or other legal representatives can submit the application on his/her behalf. If the victim is a minor and his/her legal representative has not submitted the application within the deadline, the six-month period begins to run from the day the person reaches the age of 18 or the day when criminal proceedings have been initiated upon the victim's full age.

The victim can submit the application regardless of the criminal proceedings and even when the perpetrator is unknown. Also, financial compensation can be claimed from the perpetrator through:

1. the property claims during the criminal proceedings
2. private lawsuit

The property claim:

A person who has suffered damage as the consequence of the crime has the right to require **financial compensation from the perpetrator**. When damage comes from criminal offences committed by a responsible person of a legal person in representation of that legal person, the victim has the right to require financial compensation from the legal person. The property claim

<sup>38</sup> Anić, Božić Mihanović, Havelka, Kastratović, Đokić Jović, M., M., M., V., J. (2018), Handbook for victims of crime. Zagreb: Documenta- Centre for dealing with past, Association for Victims and Witness Support

allows the injured party to realize his/her civil claim, based on the fact that he/she has been subjected to a crime, in criminal proceedings against the defendant. Damages can be material and non-material. Material damage is caused by destruction or breakage to property or the violation of property rights. Non-material damage exists in the case of the violation of non-property rights (for physical pain, mental pain, fear...).

In addition to the above-described right to financial compensation, all victims of crime may initiate civil proceedings for compensation for damage caused by a criminal offence against legally convicted perpetrators, and if they are signatories of different contracts with insurance companies and based on the insurance policy, e.g. life insurance, property insurance. In case victims have insurance, it can cover part of the damage, if special conditions for insurance against theft and robbery are met. A victim of crime may file a claim for compensation, claiming a financial compensation for the suffered material and non-material damage. Time limit for filing this lawsuit is 3 years from the day when the injured party learned of the damage and of the person who caused the damage (e.g. after completing the treatment of the injuries suffered, because at that moment the injured party learns about the extent of the damage). Anyway, that claim will be out of the date in five years from the occurrence of the damage. When the damage is caused by a crime, and for the criminal prosecution, a longer term of statute of limitations is envisaged, the claim for damages compensation to the responsible person will be out of date, when the time specified in the statute of limitations of criminal prosecution is expired.

## ARTICLE 17 – RIGHTS OF VICTIMS RESIDENT IN ANOTHER MEMBER STATE

*Member States shall ensure that authorities can take appropriate measures to minimise the difficulties faced where the victim is a resident of a Member State other than that where the criminal offence was committed. The authorities of the Member State where the criminal offence was committed shall be in a position: a) to take a statement immediately after the complaint is made to the competent authority; b) to have recourse to video conferencing and telephone conference calls for the purpose of hearing victims who are resident abroad.*

*Member States shall ensure that victims of a criminal offence committed in Member States other than that where they reside may make a complaint to the competent authorities of the Member State of residence, if they are unable to do so in the Member State where the criminal offence was committed or, in the event of a serious offence, as determined by national law of that Member State, if they do not wish to do so.*

*Member States shall ensure that the competent authority to which the victim makes a complaint transmits it without delay to the competent authority of the Member State in which the criminal offence was committed, if the competence to institute the proceedings has not been exercised by the Member State in which the complaint was made.*

According to the Directive, competent authorities in the Republic of Croatia who come into direct contact with victims from abroad need to provide information on victims' rights and support services.

In Croatia, timely provision of information to victims is ensured by the Police Directorate, which has drawn up information materials on the rights of victims in a number of foreign languages, which police officers' hand over victims to contact.

According to our interviewee no. **1 videoconference and telephone conference is used in practice** as a mean to interrogate victims and/or witnesses but not enough. There are many problems with technical difficulties like different working hours and lack of financial funding. Although there is video link in county courts in Croatia, these tools are **lacking in public prosecutors offices, municipality court and police stations.**

In regards of **compensation for cross border victims** there are two types of cross-border cases: domestic and foreign. A domestic cross-border case exists when a foreign citizen becomes a victim of a crime in the territory of the Republic of Croatia. The Committee on compensation to Crime decides about the application in that case. A foreign cross-border case exists when a Croatian citizen or a person residing in the Republic of Croatia becomes a victim of a crime in the territory of an EU Member State. These people send their applications to The Ministry of Justice of the Republic of Croatia. The Ministry of Justice is obliged to submit the application to the competent body of the State where the offence was committed. That body will decide about the application. Pursuant to the Crime Compensation Act (NN 80/08, 27/11) the right to compensation also includes nationals of EU Member States or persons residing in a Member State. Information on the right to compensation is available in English on the website of the Ministry of Justice, the Ministry of the Interior and other judicial bodies, as well as the English language application form.

The Ministry of Justice or the Department for Victim and Witnesses support, among other tasks, has professional duties to monitor the application of international documents in matters of victim and witness support and to organize and provide support to witnesses from abroad who testify to the Republic of Croatia, as well as domestic witnesses invited to testify abroad. Special emphasis is placed on providing support to victims and witnesses of war crimes and access to court and police protection. The National Call Center for Victims of Criminal Offence and Victims of Violence provides information on the rights and the ways in which they can be achieved in English and provides victims with contacts of organizations and institutions that can provide professional assistance.

The rights of victims of criminal offence, along with the rights of suspects and defendants, are one of the topics of the area of criminal justice in the European Union, which is covered by the portal of the non-governmental organizations JUSTICIA European Rights Network.<sup>39</sup> JUSTICIA is made up of 19 organizations from 17 EU Member States, including the Croatian Legal Center. The portal address is <http://www.ejusticia.net/> and the portal language is English. The portal is

<sup>39</sup> <http://ejusticia.net/index.php/victimrights>

conceived as the primary source for material and information on the criminal justice system in the European Union. The purpose of the portal is to facilitate access to a wide range of materials, including EU legislation, information materials, research findings and relevant court practice to citizens, victims of criminal offences, persons suspected or accused of commission of criminal offence, lawyers, researchers, policy makers and other interested parties. With regard to victims of criminal acts, the portal contains information on the Directive and other sources of the rights of victims of criminal offence in the European Union. In addition, information on future judicial reform in the post-Stockholm period is available, including official documents of the European Union and Member States, relevant reports and JUSTICIA views.

## ARTICLE 18 - RIGHT TO PROTECTION

*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.*

In the Republic of Croatia, the article 18. of the Directive is partly transposed into the CPA Amendments 70/17 to the Articles 43. and 44.

The article is regulated by the **Regulation on implementing an individual victim assessment (OG 106/17)**. According to it:

1. The individual victim protection needs assessment process consists of determining whether there is a need to apply special protection measures and, if any, what specific protection measures need to be implemented to further protect the victim and thus reduce the risk from its further trauma or re-victimization.
2. When the victim is a child is it assumed there is a need to apply special protection measures.

There are **difficulties** in enforcement of this article of the Directive in the Republic of Croatia.

According to the statements of the Interviewee no. 1. protection measures that are being implemented to avoid secondary and repeated victimization, intimidation and retaliation are not always the result of an individual assessment. **Measures of protection are sometimes implemented without an individual assessment**, and everything depends on the person working on the case. The Interviewee no. 1. pointed that there is no significant protection from secondary victimization and that system of life long support of victims did not come to life. Interviewee no. 2 confirmed the fact that there are no measures that will protect victims of family members from secondary and repeated victimization.

According to the National Strategy, it is planned that all bodies involved in the proceedings should consider the interests of the victims and deal with them so that prosecuting the perpetrator does not cause additional anxiety to the victim, leading to secondary victimization and re-traumatization. Protection of secondary victimization is just as important as protection from the original unlawful offence.

In addition, according to the National Strategy, the police provides physical protection in legally anticipated cases in accordance with the provisions of the Police law and powers and the Rules on the manner of police officers.

Support includes the organization of psychological and legal aid to physical protection in high-risk cases, that depends of the category of victims and witnesses, and a concrete assessment of needs.

## ARTICLE 19 - RIGHT TO AVOID CONTACT BETWEEN VICTIM AND OFFENDER

*(1) Member States shall establish the necessary conditions to enable avoidance of contact between victims and their family members, where necessary, and the offender within premises where criminal proceedings are conducted, unless the criminal proceedings require such contact.*

*(2) Member States shall ensure that new court premises have separate waiting areas for victims.*

In the Republic of Croatia, **article 19. of the Directive is not transposed in total.** It is included partially in Article 44. point (5.), of CPA Amendment 70/17 to the, by which a child victim, victims of sexual violence and victims of human trafficking can demand to be interrogated by the audio-video link.

According to the statements on the issue of identifying problems that arise with the assurance of the right to avoid contact between the victim and the perpetrator Interviewee no. 1 points out that the perpetrator can be divided from the victim while the victim gives a statement, but the victim's statement is read in front of defendant later during the process. **There is no real protection for the victims, except for the children.** In the pre-trial phase interrogation is separated and, thus, contact between victim and the perpetrator can be avoided. However, during the court process, contact is inevitable. The statement of Interviewee no. 2 is in accordance with the Interviewee no. 1 and adds that the waiting rooms in courts are separated. The victim can demand to avoid the contact. The authorities always try to comply the victim request as far as possible, even if there are no separated entrance or bathrooms in the court for the victim and perpetrator.

Relying on the online survey results, it can be concluded that there are no separated waiting rooms for victims and the perpetrators. The survey results also confirm that there are no separated entrances to the interrogation rooms, no separate entrances in courtrooms and building and that there are no distant toilets either.

The conclusion based on the interviews and the survey is that the article 19. of the Directive in the Republic of Croatia is not implemented in practice as it should be. There are no separated entrances to the courts, so the victim and the perpetrator can confront at any time. Even when there are separated interrogation rooms and the interrogations are mostly held at different times, the victims and the perpetrators will eventually meet at the court trial. Considering it can be the case of serious criminal offence, the victim is not appropriately protected, the contact with the perpetrator could affect the victim emotionally and psychically. Protection system is the most elaborated for the child victims, who are the most protected victim category.

## ARTICLE 20 - RIGHT TO PROTECTION OF VICTIMS DURING CRIMINAL INVESTIGATIONS

*Member States shall ensure that during criminal investigations: a) interviews of victims are conducted without unjustified delay; b) the number of interviews of victims is kept to a minimum and interviews are carried out only where strictly necessary for the purposes of the criminal investigation; c) victims may be accompanied by their legal representative and a person of their choice; d) medical examinations are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings.*

In the Republic of Croatia, the article 20. of the Directive is transposed into CPA Amendment 70/17 to the articles 43., 43.a, and 44.

According to the article 43. of the CPA, paragraphs 3.), 4.), 5.), 6.), 7.); victim has:

3. The right to protection from intimidation and retaliation;
4. The right to protection of dignity during the examination of the victim as a witness;
5. The right to be heard without unjustified delay after the filing of the criminal report and that further hearings are conducted only to the extent necessary for the purpose of the criminal proceedings;
6. The right to be accompanied by a person of trust when taking the actions in which they participate;
7. The right to medical treatment to a victim is undertaken to the smallest extent and only where strictly necessary for the purposes of criminal proceedings.

According to Interviewee no. 1 there are no difficulties in ensuring that interrogation occurs expeditiously after reporting the crime, difficulties can happen only to the interrogators, but rarely to the victims.



However, **victims are often subjects of multiple hearings**, at least three times in one procedure. First, the interrogation takes place at the police station, secondly at the Public Prosecution office (that is all pre-trial phase) and, finally, at the court during the procedure. Number of the interrogation can only be multiplied, not reduced. The interrogation depends on the difficulty of the case, meaning, it can be repeated. There are no special measures put into place regarding the numbers of interviews, it depends on the case.

Victims of criminal offence in general have the right to be accompanied to the person of trust during the procedure. According to CPA, Article 202.Paragraph 2) (38), a trusted person is a legal representative or other legally capable person of the choice of authorized person (victims), unless proposed or called as a witness.<sup>40</sup> According to the Interviewee no. 1 said that the attendance of person of trust can be rejected by the legal representative only if that person is being interrogated as a witness.

Person of trust is there to give emotional and psychological support to the victim. Person of trust should not interfere in a case in any matter.

40 <https://www.zakon.hr/z/174/Zakon-o-kaznenom-postupku>

## ARTICLE 21 - RIGHT TO PROTECTION OF PRIVACY

*Member States shall ensure that competent authorities may take during the criminal proceedings appropriate measures to protect the privacy of the victim. 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.*

In the Republic of Croatia, Article 21. of the Directive is transposed into CPA Amendments 145/13, 70/17, Article 186. - paragraphs 1.), 2.), 3.), 4.), 5.), 6) -, on the collection, use and protection of personal data for the purpose of criminal proceedings.

Based on individual victim assessments, appropriate privacy measures are taken, including protection of personal characteristics and victim data. This is confirmed by the online survey results which indicate that, in Croatia, usually authorities take necessary, appropriate and legal measures to protect victims' privacy.

According to the Law on the protection of personal data (OG 103/03, 118/06, 41/08, 130/11, 106/12)<sup>41</sup>, Article 8., data processed in criminal or misdemeanour proceedings fall into a special category of personal data. Such data may only be used under the control of the competent authorities.<sup>42</sup>

Special protective measures are defined when children are the victims. In such cases, the child has the right to deny to answer questions that are not related to the criminal offence and relate strictly to personal life, confidentiality of personal data and testimony without the presence of the public.

In addition, a major role in the protection of personal data of victims of crime belongs to the media. According to the Directive, media should undertake self-regulatory measures to protect the victim's personal data, but according to the online survey results, the media generally do not take self-regulatory measures.

41 <https://www.zakon.hr/z/220/Zakon-o-za%C5%A1titi-osobnih-podataka>

42 Ibid.

The obligation to protect the victim's identity is even more important when the victim is child. Although the protection of the child's privacy must also be a responsibility of the media, according to a report by the Ombudsperson for Children, children are often portrayed in the media in a sensational manner, especially when reporting on the events in which they are involved as victims, perpetrators or witnesses of criminal offence. Unnecessary family circumstances, health information and inappropriate estimates of character or behaviour are also revealed. There is often irresponsible attitude between journalists and editors, according to the obligation to protect the identity of the child. Without thinking of the negative consequences of media exposure, the name, surname and child image are also published.<sup>43</sup>

According to these examples, it is evident that the media do not always take self-regulatory measures to protect the privacy of victims and that, therefore, victims' right to privacy in the course of criminal proceedings is not being fully respected.

<sup>43</sup> <http://www.problemiuponasanju.info/files/download/filename/23/Dijete%20u%20pravosudnom%20postupku.pdf> - Child victim in judicial procedure – Application of European convention on a child rights achieving, Report of Ombudswomen for children in Republic of Croatia

## ARTICLE 22 - INDIVIDUAL ASSESSMENT OF VICTIMS TO IDENTIFY SPECIFIC PROTECTION NEEDS

*Member States shall ensure that victims receive a timely and individual assessment to identify specific protection needs due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation.*

In the Republic of Croatia article 22. of the Directive is transposed to CPA Amendment 70/17 to the Article 43.a.

An individual assessment of a victim of a criminal offence is a process of determining whether there is a need of a victim for procedural safeguards in criminal proceedings, and which measures should be taken to prevent secondary victimization (this may be a precautionary measure of restraining order or a special way of interrogation to avoid contact of victims with the perpetrators).

According to the Article 43. a)., before the interrogation of the victim, the **investigating body shall conduct an individual assessment of the victim**, in collaboration with the bodies, organizations or institutions for the assistance and support for the victims of criminal offence. The individual assessment involves establishing the existence of a benefit for the application of special protection measures in relation to the victim, and if so, which specific measures should be applied. If victim is a child, it will be assumed that there is a need for applying the specific measures of the protection.

While conducting the individual assessment, special attention is paid to victims who have suffered significant damage due to the gravity of the criminal offence, to the victims of the criminal offence committed because of the personal features of the victim, and to the victims with the personal relationship with the perpetrator which makes the victim particularly vulnerable.

An individual assessment of the victim adequately includes victims of terrorism, organized crime, human trafficking, gender-based violence, violence in close relations, gender violence and sexual exploitation or hate crime and the victim with the disability.

It is carried out with the participation of the victim and considering victims wishes, including the wish not to use special protection measures prescribed by law.

The Regulation on implementing an individual victim assessment prescribes the conditions and method of conducting an individual assessment of victims of crime, the mandatory contents covered by the assessment and the data on which the needs assessment is based. The **victim's needs assessment is carried out by all bodies of the pre-court and court proceedings** (police officers, public prosecutors and judges) that come into contact with the victim, starting from the inquest, until the final completion of the criminal proceedings.

**Individual characteristics** considered at the individual assessment include personal vulnerability; the age of the victim, possible pregnancy or recent birth, disability, communication difficulties (speech, reading or writing), health status, alcohol or narcotic addiction, PTSD, fear, the connection of the victim with the perpetrator of crime - close relations, economic dependence, as well as the features of the criminal offence and the way of its execution (particularly unreasonable or cruel way).

**Special protection measures** of victims include, in addition to procedural protection measures (for example, a special way of examination, the use of communication technologies in order to avoid visual contact with the perpetrator, the exclusion of the public from the hearing, the examination by a person of the same sex and, if possible, the examination being carried out by the same person in the case of re-examination, escort by a person of trust, the protection of the confidentiality of personal data), enabling conversation with a counsellor at the expense of budgetary resources, as well as other measures envisaged by law.

The regulations, as a delegated legislation, did not sufficiently cover the provisions of the CPA and thus, these remain imprecise and subject to different interpretations of the institutions that will implement it. It is thus **not specified who are the persons authorized within each of the aforementioned bodies to carry out an individual assessment**, what are the needed professional qualifications of these persons, whether those persons will undergo special education to be trained in the proper assessment of victims, whether those persons are acting individually or within teams, whether there are always the same persons within the body of the criminal procedure responsible for conducting the individual assessment, or individual assessment is conducted by the officials who randomly come into contact with the victim? These are extremely important issues for effective implementation of victim individual assessment.

An additional shortcoming of the regulations is that they prescribe the conditions and the method of conducting an individual assessment of victims of criminal offences, thus **neglecting the victims of misdemeanour offences**. The tendency of European legislation is to equalize victims of criminal and misdemeanour offence, so that victims of misdemeanours would not be in a disadvantaged position. We emphasize that in Croatia, the majority of the violence taking place in close relationships is being processed within the misdemeanour procedures, and that is restricting the application of the Regulations, such as this, which only regard criminal offence and

greatly limit the rights of many victims. We also point out that all standards for the protection of the rights and interests of victims guaranteed by the Directive in criminal proceedings are, in principle, equally applicable to criminal and misdemeanour proceedings in the Croatian legal system.

In addition, the Regulations state that each body of a criminal proceeding, which is conducting a victim's examination, is required to carry out an individual assessment of victim's needs and to make a conclusion on the needs assessment carried out, as well as on the specific protection measures established. In doing so, the conclusion of a previously conducted victim needs assessment will be considered. Therefore, it can be concluded that **the victim will again go through the examination /assessment by all criminal prosecution bodies** (police officers, public prosecutors and judges), experiencing secondary victimization and trauma, which is not in accordance with the purposes of Directive 2012/29/EU. Furthermore, it also begs the question how to proceed if the opinions on individual assessment differ from body to body, i.e. which opinion will be considered as relevant?

Finally, CSOs are marginally involved in the individual assessment process, even though their findings can be used by criminal prosecution bodies which are conducting victim investigations, wherein the person/official is left with too much freedom in an individual assessment, while ignoring victim's opinions or needs.

Generally, we consider that the Regulations are insufficiently detailed, which does not fulfil the role of the Regulations as such. Namely, Regulations are used in order to elaborate the general legal provisions in detail, which is not the case in the abovementioned Regulations. With such Regulations, the form is completed, but not the purpose for which the Regulations are made.

During the public consultation on the draft of the Regulations, The White Circle of Croatia sent proposals for improvement, none of which was adopted, and it seems that they have not even been considered.

## ARTICLE 23 - RIGHT TO PROTECTION OF VICTIMS WITH SPECIFIC PROTECTION NEEDS DURING CRIMINAL PROCEEDINGS

*(1) Member States shall ensure that victims with specific protection needs may benefit from the measures. A special measure envisaged following the individual assessment shall not be made available if operational or practical constraints make this impossible, or where there is an urgent need to interview the victim and failure to do so could harm the victim or another person or could prejudice the course of the proceedings.*

*(2) During criminal investigations, Member States shall ensure that victims with specific protection needs who benefit from special measures identified as a result of an individual assessment, may benefit from the following measures: a) interviews with the victim being carried out in premises designed or adapted for that purpose; b) interviews with the victim being carried out by or through professionals trained for that purpose; c) all interviews with the victim being conducted by the same persons; d) all interviews with victims of sexual violence, gender-based violence or violence in close relationships being conducted by a person of the same sex as the victim, if the victim so wishes.*

*(3) During court proceedings, victims with special protection needs shall also have the following measures available: a) measures to avoid visual contact between victims and offenders; b) measures to ensure that the victim may be heard in the courtroom without being present; c) measures to avoid unnecessary questioning concerning the victim's private life not related to the criminal offence; d) measures allowing a hearing to take place without the presence of the public.*

In the Republic of Croatia, the article 23. of the Directive is transposed into CPA Amendment 70/17 to the Articles 43. and 44., which relate to the application of special protection measures as a result of the individual assessment.

As mentioned in the previous section of this report, an assessment of needs is carried out with the participation of the victim, considering victim's wishes, including the desire not to use special protection measures. Along with protection measures which belong to all victims, the victims to whom specific measures are established also have additional rights:

1. The **right to speak to counsellor one day before the hearing**, for the cost of budget resources.

This right victim can be requested at the Police, to the investigator, the judge and the State Attorney's office (this depends on the phase of the investigation).

The counsellor can be a lawyer for the victims, an expert from the Public Prosecutors office or the court, expert assistant, social pedagogues or social workers.

2. The right to be interrogated in the police station or the Public Prosecutors office by a person of the same sex as the victim and having the same person interrogate the victim in case of repeated interrogation.

According to the online survey results, the practice of interrogations being carried out by the same person is being provided often. The same is true for the interrogation of the victim by a person of the same sex. So, in the practice this right is also being respected, victims are being interrogated by the person of the same sex, which is especially important for the victims of sexual violence, or the child victims, because in that way the victims can develop trust and be more open during the conversation. Also, this can be victim's request and needs to be respected.

3. The right to deny the answer to questions that are not related to the criminal offence and are referred to personal life of the victim.

This right is mostly related with victim's sexual life, the number of earlier sexual partners, especially if the criminal offence is related to sexual offence as rape or other sexual offence. The survey showed that this right is being respected during the interrogations. This is important because in that way victims are being respected. Indeed, the interrogation should be focused only on the offence, and the person who is conducting the interrogation should not let their own attitude or prejudices towards the subject interfere in their professional activity.

4. The right to demand to be interrogated through the audio-video device.

This right can be provided by **submitting the application to the Public Prosecution office, investigator or to the court**. According to the online survey results, in the Republic of Croatia this right is being provided usually, to the victim's demand.

5. The right to require the public to be excluded from the hearing.

This right can be provided by **submitting a request to the court**. According to the survey results this right is provided usually when the victim requests. This right is particularly applicable to children. In practice, the media can be the most serious defender of the interest of justice on behalf of the public. However, by their reporting of some procedures, that is often sensationalist, superficial and incomplete, or unilaterally intoned, often with no understanding for the victims, can create misconceptions and so create the wrong public opinion.<sup>44</sup>

The presence of the media can, in various ways, affect the behaviour of individual participants in the proceedings - from judges, parties, their representatives to witnesses and experts, as well as to the public.

## ARTICLE 24 - RIGHT TO PROTECTION OF CHILD VICTIMS DURING CRIMINAL PROCEEDINGS

*Member States shall ensure that where the victim is a child: a) in criminal investigations, all interviews with the child victim may be audio visually recorded; b) in criminal investigations, and proceedings, competent authorities appoint a special representative for child victims where the holders of parental responsibility are precluded from representing the child victim as a result of a conflict of interest between them and the child victim, or where the child victim is unaccompanied or separated from the family; c) where the child victim has the right to a lawyer, he or she has the right to legal advice and representation, in his or her own name, in proceedings where there is, or there could be, a conflict of interest between the child victim and the holders of parental responsibility.*

In the Republic of Croatia, the article 24. of the Directive is transposed into CPA Amendments 70/17 Article 43, Paragraph 1), and Article 44., Paragraph 1.), 2.), 3).

A child as a victim of a criminal offence has, in addition to other rights, the right to:

1. A representative at the expense of the budgetary resources
2. Privacy of personal information
3. Exclusion of the public

Child victims belong to the special category of the victims and as a victim of criminal offence children have the special rights and their treatment is specialized according to the needs.

The Ombudsperson for children, in her Report for 2017, states that the largest number of complaints received during the last year were the slowness of the procedures, the implementation of mild penalties, the treatment of a child in a process and the violation of the child's privacy, especially in the court proceedings in the area of domestic and criminal law.<sup>45</sup>

<sup>45</sup> Anić, Božić Mihanović, Havelka, Kastratović, Đokić Jović, M., M., M., V., J. (2018), Handbook for victims of crime. Zagreb: Documenta- Centre for dealing with past, Association for Victims and Witness Support

<sup>44</sup> Retrieved from: [https://hrcak.srce.hr/index.php?show=clanak&id\\_clanak\\_jezik=39335](https://hrcak.srce.hr/index.php?show=clanak&id_clanak_jezik=39335)



In cases of interrogation of children victims of domestic violence, official bodies dealing with domestic violence are obliged to examine the child by applying the provisions on special methods of child testing. The court, Public Prosecution office and the police are obliged to treat the child victim particularly considerably, keeping in mind age, personality and other circumstances to avoid harmful consequences for the upbringing and development of the child. If the child is a victim of domestic violence, and the child interests are contrary to the interests of the parents, official body shall name a special guardian for the child. Special guardian is authorized to make all statements and to undertake all actions authorized by the victim.

The Social Welfare Centre, and/or other professionals participate in various proceedings involving the hearing of children and juveniles in the court or the police.

Police often conducts hearing of children in the centres premises, where the child is already familiar with the environment and skilled workers. **A professional worker, a psychologist or a social worker** is actively **involved in the hearing**, and may subsequently, based on previous knowledge, explain some of the child's reactions, statements and attitudes. Social Welfare Centre employees are also invited to attend the hearing of the child and in court proceedings, and sometimes it is required that the conversation with the child witness be carried out by an expert worker of the centre, who in writing informs the court and is subsequently summoned to the hearing.

The police conducts the hearing of a child if the it finds that parents, as legal representatives, are not available or refuse to respond to a police call and if they are reported as perpetrators of violence. Informational interviews are then conducted (when parents are unavailable), criminal investigation (when parents are unavailable or suspect) and misdemeanour treatment (when their parents are unavailable or suspect).

Special protection and assistance should be provided for the most vulnerable children, such as migrant children, refugees and asylum seekers, unaccompanied children, disabled children, homeless, children without adequate parental care and children belonging to national minorities. The physical, mental and moral integrity of every child must be fully respected.

Since the first contact with the judicial process, which is the criminal record itself, the child has the right to timely, complete and understandable information. Information must provide information on available services (medical, psychological, social and other services) as well as information on the availability of legal or other counselling or support in the sense of a pardon in court, compensation for damages and financial support.<sup>46</sup>

A child victim or witness has the right to express their own views, opinions and beliefs in their own words and have the right to contribute to the decisions affecting their life.

<sup>46</sup> Child victim in a judicial procedure – Conference proceedings of Ombudswoman for children, Zagreb 2012.

Regardless of whether or not a child will be able to testify, the child must have the opportunity to express their personal views and concerns about issues related to the case, his/her involvement in the judicial proceedings, in particular certainty, their will to testify, testimony as well as any other the relevant issue that affects it. A child may not be required to testify in court proceedings against his/her will.

The child's right to privacy is one of the fundamental rights. Information related to child participation in the judicial process should be protected and measures taken to prevent the child from being exposed to the public. The identity of the child must not be revealed. It is not allowed to publish information, pictures, and descriptions of the child or information about their family. If there is a risk to the safety of a child victim, it is necessary to provide conditions to guarantee his/her safety, such as avoiding direct contact with the perpetrator, prohibition of approximation, detention of a perpetrator, child protection by the police.

Protection measures:

When a child is a victim of a criminal offence, it is assumed that there is a need to apply special protection measures and to determine which special protection measures should be applied (e.g., a special way of victim testing, use of communication technologies to avoid visual contact with a collector and other measures prescribed by law).

Witnesses and victims are examined by a juvenile justice judge at a probation hearing or a juvenile judge.

If the age of the victim is not known, it will be assumed that it is a minor. Exceptionally, a child victim of domestic violence who has reached the age of 16 can independently make statements and take action in the proceedings.

In the Republic of Croatia, there is the Juvenile Court competent to judge juvenile perpetrators of criminal offence. The provisions on the organization of the juvenile courts is in the Article 36. of the Law of juvenile (OG 84/11, 143/12, 148/13, 56/15) <sup>47</sup> courts according to which there are youth departments in the municipal and county courts. They are the basic organizational units of the Croatian juvenile justice system established within the ordinary courts of general jurisdiction as an integral part of the single judicial system of Croatia.

The juvenile judges in the municipal and county courts are appointed by the President of the Supreme Court of the Republic of Croatia from the order of judges at these courts upon the proposal of the presiding judge. The time for the appointment of judges is five years, but the numbers of mandates is not limited, so the same judge can be chosen for several times. In this way, it enables the longer performance of the same function, and in that manner better specialization of juvenile judges.

<sup>47</sup> <https://www.zakon.hr/z/180/Zakon-o-sudovima-za-mlade%C5%BE>

## ARTICLE 25 - TRAINING OF PRACTITIONERS

*Member States shall ensure that officials likely to come into contact with victims, such as police officers and court staff, receive both general and specialist training to a level appropriate to enable them to deal with victims in an impartial, respectful and professional manner.*

*Member States shall request that those responsible for the training of lawyers, judges and prosecutors involved in criminal proceedings make available both general and specialist training to increase awareness of the needs of victims.*

*Member States shall encourage initiatives enabling those providing victim support and restorative justice to receive adequate training and observe quality standards to ensure such services are provided in an impartial, respectful, and non-discriminatory manner.*

*Training shall aim to enable the practitioners to recognise victims and to treat them in a respectful, professional and non-discriminatory manner.*

*Training shall aim to enable the practitioners to recognise victims and to treat them in a respectful, professional and non-discriminatory manner.*

Article 25 of the Directive was not transposed in Croatian legislation in a direct way, but the obligation for training of practitioners such as police officers, judges, public prosecutors and victim/witness support specialist is noted in national documents such as *National strategy for the development of victim and witness support system in the Republic of Croatia for the period from 2016 to 2020* and *National strategy for protection from domestic violence for the period from 2017 to 2022*.

In the National strategy for the development of victim and witness support system in the Republic of Croatia for the period from 2016 to 2020. Chapter VII is dedicated to education of experts who encounter victims and witnesses. Here it is established that Police makes tremendous efforts to educate their officers to improve victim care and, together with the Ministry of Justice, participate in the development of support systems. **Education for police officers is continuously organized and conducted in the Police Academy** and the competent police administrations.

The **Judicial Academy carries out professional training programs for judicial officials and advisors in judicial bodies**. The training program includes basic branches of law, standards in the performance of the profession of judicial officials and skills development. In addition to standard workshops focusing on issues faced by most judiciary officials and advisors, the Judicial Academy also organizes specialized workshops focused on a highly specialized area of law. Educational activities are mostly conducted in the form of workshops with an interactive approach and emphasis on the active role of participants. A smaller number of activities are carried out in the form of round tables, seminars and conferences designed for a larger number of participants.

It is established, in the above-mentioned National Strategy, that in the forthcoming period, continuous training will be provided for all professionals who come into contact with victims and those involved in the process of providing support to victims and witnesses before, during and after court proceedings, but still for the last two and half years, a relevant Action Plan was not adopted. The Strategy contains a very comprehensive analysis and assessment of the situation, general objectives and measures, but does not contain clear deadlines for their implementation, stakeholders, nor the analysis of sustainability and assessment of the resources needed.

It is important to emphasize that all of **organized trainings and educations are dispersed, without any kind of concrete plan or strategy**. Also, to all the training of Judiciary academy, members of CSOs are not invited.

The Ministry of Justice, in the past two years undertook a risky practice of creating a Network of Departments for victim and witness support on County courts. CSO in those counties where not included in the Networks. This is incoherent with the fact that victim's support system in Croatia was first introduced and organized by CSO and now most of trainings and public awareness about victim and witness support issue are held by CSO's. Still there is no any kind of obligation for anyone to attend any kind of trainings or education, it is up to individual if he/she wants to educate and improve itself in this area of work.

Working with people who have survived the most difficult forms of violence requires specific knowledge and skills and, therefore, it is necessary to systematically and continuously work on strengthening the capacity in institutions and CSOs to improve the quality of support to victims and witnesses. Promoting the protection of children's rights in the judiciary system, especially the children of victims and witnesses, necessarily implies the education and specialization of judges, public prosecutions and other persons involved in the previous and criminal proceedings.

It is also necessary to regularly provide education on topics such as: rights and needs of victims, victim treatment, individual victim support needs and specific forms of protection, national and international standards and practices in dealing with victims, cross-border cooperation to provide support and realization the rights of victims.

## ARTICLE 26 - COOPERATION AND COORDINATION OF SERVICES

*Member States shall take appropriate action to facilitate cooperation between Member States to improve victims' access to the rights set in the Directive and such cooperation shall at least aim at: a) exchange of best practices; b) consultation in individual cases; c) assistance to European networks working on matters directly relevant to victims' rights.*

*Member States shall take appropriate action aimed at raising awareness of the rights set out in the directive, reducing the risk of victimisation, and minimizing the negative impact of crime and the risk of secondary and repeat victimisation, of intimidation and retaliation, in particular targeting groups at risk such as children, victims of gender-based violence and violence in close relationships.*

Article 26 is not transposed to CPA/ 08 in any form. Regardless of that fact, the Republic of Croatia is a party to multiple Conventions on human rights, protection of victims, children and other vulnerable groups of the population. Some examples of these Conventions are:

- Council of Europe:

- European Convention for the Protection of Human Rights and Fundamental Freedoms- Protocol to the Convention  
"Official Gazette" - International Treaties, Nos. 18/97, 6/99 and 8/99
- European Convention on Mutual Assistance in Criminal Matters- Additional protocol  
"Official Gazette" - International Treaties, No. 4/99  
- The Second Additional Protocol  
"Official Gazette" - International Treaties, No. 1/07
- European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment "Official Gazette" - International Treaties, No. 14/97  
- Protocol I and II -"Official Gazette" - International Treaties, No. 11/00

- Convention on Cybercrime  
"Official Gazette" - International Agreements, No. 9/02 and 4/04

- United Nations

- The Convention on the Rights of the Child  
"Official Gazette" - International Treaties, No. 12/93
- Convention on the Prevention and Punishment of the Crime of Genocide - act under the ordinal number 25  
"Official Gazette" - International Treaties, No. 12/93
- UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment - act under row number 32  
"Official Gazette" - International Treaties, No. 12/93
- International Convention on the Elimination of All Forms of Racial Discrimination - act under the ordinal number 27  
"Official Gazette" - International Treaties, No. 12/93

- Declarations

- Declaration on Fundamental Principles of Justice for Victims of Crime and Abuse of Power
- Declaration on the Protection of All Persons from Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment  
- The UN General Session of 9 December 1975<sup>48</sup>

With regard to **multilateral cooperation in victim support**, in Croatia, during the implementation of the **Joint Victim Assistance and Victim Support Program** of the United Nations Development Program (UNDP) and the Ministry of Justice: "Providing assistance in developing a witness and victim support system", a educational workshops series conceived of an elaborated model comprised of: 1) Legal Aspects - Victim Position in the criminal justice system, 2) the experiential aspects - the presentation of witness support and victim witnesses and the experiences of witness and victim work, 3) psychological aspects - the emotional state of witnesses and victims / treatment.

With regard to the professional-volunteer model, for which Croatia has opted to develop the victim and witness support system, great attention has been paid to educating the volunteer management support staff. During the implementation of a joint project on the establishment of victim support and witness system, training was also organized for representatives of CSOs. Since the establishment of court support departments, training for support staff and volunteers

<sup>48</sup> <https://pravosudje.gov.hr/pristup-informacijama-6341/ostale-informacije/zakoni-i-propisi-6354/medjunarodno-pravo-eu/6442>

has been ongoing, organized by the Ministry of Justice and in cooperation with civil society organizations. Supervision for departmental officers and volunteers is also ensured. As part of the project “Strengthening the Capacity of the Ministry of the Interior through the System of Prevention of Crime and Support to Victims of Crime and Arms Control Activities” in 2007., the Ministry of the Interior and the UNDP, in cooperation with the Ministry of Justice, organized and held two workshops with the aim of drafting recommendations and recommendations the treatment of victims of criminal offence and the initiation of victim assistance and support. Participants of the expert workshops were representatives of the Ministry of the Interior and the UNDP, representatives of the Ministry of Justice, the Public Prosecutors Office of the Republic of Croatia, courts and CSOs.

During 2013 and 2014, as a pilot project coordinated by the Women’s Room - the Sexual Rights Center and thanks to the cooperation between the City Office for Social Protection and People with Disabilities of the City of Zagreb, the Commission for the Protection against Domestic Violence of the City of Zagreb, the Ministry of Justice and Experts developed a program of education for experts working with criminal and misdemeanor cases of domestic violence.

In order to provide additional education for juvenile judges, public prosecutors for youth and expert associates of out-of-court jurisprudence, a joint project of the Ministry of Justice and the United Nations Children’s Fund, the Office for Croatia (UNICEF), entitled ‘Criminal justice for victims and witnesses’.

## GOOD PRACTICES

### Developing system for victim and witness support:

In the Republic of Croatia there is a so-called a **mixed support system for victims and witnesses of offence**. The main coordinating body for the support system is the **Department for victim and witness support**, as one of the organizational units of the **Ministry of Justice** of the Republic of Croatia. The Department was established in 2006. In addition to the influence of the European Union, the United Nations Development Program - UNDP Office - had one a very important in developing the support system.

Croatia started with the analysis of the support system and in 2007 year launched the **project “Assistance to the development of witness support system and victims of criminal offence in the Republic of Croatia”**. The project was realized in cooperation with the Ministry of Justice, the Supreme Court, and the Vukovar Association for victim and witness support. The project resulted in the establishment of **four Victims and Witness Support Departments** (hereinafter: the Departments) at the County Courts in 2008, namely, the County Court in Zagreb, the Vukovar County Court, the Osijek County Court and the Zadar County Court. Moreover, the dissemination of support was continued within the second phase of the project “Strengthening Victims’ and Witness Support System”, with the opening of three more units in 2011, at the Split County Court, the Rijeka County Court and Sisak County Court,

Significant improvements were achieved by the beginning of 2018 when a three-year project financed by the Ministry of Justice of the Republic of Croatia started being implemented. The three-year project **“Network of Support and Cooperation for Victims and Witnesses of Criminal Offence”** was created with the aim of **providing assistance and support to victims and witnesses of criminal offence in counties where there were no established victim and witness support departments**. The program will be implemented for a period of three years, i.e. from 1 January 2018 to 31 December 2020.

### Extension of victims’ rights/redefining the concept of victim

Pursuant to Article 2, paragraph 1 (a) of the Directive, Article 202, paragraph 11 of the CPA /08, establishes that a victim of a criminal offence is a natural person who has suffered physical and mental consequences, property damage or substantial violation of fundamental rights and freedoms which are the direct consequence of a criminal offence. This is how the new definition introduced the term „direct victims“. It prescribed that the victim is considered a married and extramarital partner, a life partner or informal partner and a descendant. And if victim does not



have a predecessor, the brother and sister of those whose death is directly caused by a criminal offence, and the person who is under the law was obliged to support, describing the notion of so-called “indirect victims”. The standardization and distinction between “direct” and “indirect” victims of a criminal offence is one of the requirements set out in the Directive, with a view to a clearer understanding of both groups of victims in judicial practice, especially in cases of, for example, a victim’s family, affected by the consequences of a criminal offence committed at the expense of the direct victim. Article 202, Paragraph 12 of the CPA /08 was also amended, introducing the novelty of the notion of the injured party as a victim of a criminal offence but also a legal person to whom the criminal offence was committed and who are involved in the criminal proceedings as a defendant.

Bearing in mind the fundamental distinction between the concept of victim and the injured party, and in particular the new definition of the injured party according to which the injured party is not only the victim of the criminal offence but also the legal person against whom the criminal offence has been committed, there is a “general” catalog of rights belonging to every victim, as well as some rights “belonging” to the legal person in criminal proceedings. The activity of the injured party is expressed through the use of procedural rights prescribed by the provisions of the CPA /08, for example, direct participation in the trial and during the evidentiary proceedings, the taking of criminal prosecution as a subsidiary prosecutor, the right to claim property claims etc. The victim, who may be the sole natural person, has the right to opt out of the criminal proceedings, having in mind his/her specific and often sensitive position. By the distinct definition of the concept of victim and injured party in the seventh novel, the need to interpret these terms in so far very young jurisprudence has been eliminated, which should lead to its certain alignment in future criminal proceedings.

### Individual assessment of the victim

One of the greatest uncertainties in the practical implementation of Directives 2012/29 / EU and VII. Amendment of the CPA / 17 is found in the Institute of Individual Assessment of Victim, which is introduced in Chapter 5 Article 43a. Prior to imposing an obligation to carry out an individual assessment of the victim’s needs, de facto the victim’s assessment was carried out, either institutionally or through the work of CSOs, but there was no uniform definition of the victim’s estimate and consequently the implementing regulation to further elaborate the obligation. The significance given to the individual victim’s assessment as an additional right through Directive 2012/29/EC has been imposed in the form of obligations to persons involved in the work of victims of criminal offence. Victims are assured of respect for their dignity and appreciation of the desire to estimate the level of protection required. Bearing in mind the fact that victims of CPA/08 did not even have been defined, this is great achievement that the Directive 2012/29/EU introduced an individual victim assessment related to the identification of special measures aimed at its protection. This is a logical response to the challenges the judicial bodies have encountered when applying for protective measures tailored to the victim’s profile, the intensity and type of criminal offence. Formalization of the implementation process will facilitate this assessment.

## GAPS, CHALLENGES, AND RECOMMENDATIONS

### Victim/injured party

According to the research conducted by Documenta, Association for Victim and Witness Support, the Centre for peace, non- violence and human rights and White Circle Croatia were part of the EC-funded project for period of 1st January 2017 until 30th June 2018<sup>49</sup>. There is still some vagueness for natural persons about difference between status of victim and status of injured party in criminal proceedings. In only 37 cases participants stated that opted for the right to participate in court proceedings as a defendant, although from the moment of the criminal report 141 victims could request the same, indicating a possible defective definition of this role in the criminal procedure, but also the need for a better-quality clarification of the rights acquired. This indicates to the below stated problem in communication with victims and great need in training and education for all those professionals working in victims and witness support system.

### Communication with victims and providing information

The Republic of Croatia informs the victims – during their first contact with authorities - through the Notification on the Rights of Victims of Crime, whose advantage is that it displays the written content of the rights. The positive side is that the written format is better suited for informing victims, because of the trauma that the victim experiences, and in that sense, verbal form of information would not be effective. There is a question of how to provide information to victims who have not reported a criminal offence and when information’s are provided who is providing them and in what way. According to the above-mentioned research conducted by Documenta, Association for Victim and Witness Support, Centre for peace, non- violence and human rights and White Circle Croatia among 174 participants 79 (53%) responded to the survey in a confirmative manner. Respondents who did not receive the instructions were 60 (40%), while 10 respondents (7%) responded with “I DO NOT KNOW”. 25 respondents did not answer this question. However, irrespective of the instruction received, a very important aspect of this problem is the level of understanding of the information and the rights that are set forth. Thus, out of the 79 respondents who received the instructions, 44 (56%) instructions could be clearly interpreted. For them, 25 (31%) of the instructions were unclear, while ten (13%) respondents said they were not sure whether the information contained in the instructions was clear. Within the number of 35 respondents whose instructions were unclear or unclear, only seven (7) received additional clarifications.

<sup>49</sup> More can be found on following: <https://www.documenta.hr/assets/files/publikacije/polozaj-i-prava-zrtava-kaznenih-djela-2017-web.pdf>



Thus, it is evident that for 44% of respondents in sample, the clarity of the information received through instructions is unclear or insufficiently clear and it would be necessary to consider additional ways of facilitating the understanding of the rights of victims. Of course, the psychophysical condition of the victim when receiving information and the fears and insecurity related to contact with the police or judicial bodies must be taken into account because they certainly contribute to a lesser understanding and observation of the rights set forth in the instructions. This can also be improved by additional sensitization and training of police and judicial officers, so that they are prepared and trained to offer further clarifications, which often go beyond the scope of strict information on the rights and imply placing it in the complex perspective of the victim.

### **Confirmation of the complaint**

From our practice as CSO, we noticed that, unless victim is represented by an attorney, victims are not aware that they can ask for the confirmation of the complaint filed or receive information about progress of its case. CSOs here have big impact since they educate and instruct victims on how to seek and from who they should seek confirmation. It is important to include CSOs even more in victim support system, especially in educations for general public.

### **Interpretation and translation services**

From this report, it is clear that there is a lack of translators and interpreters who are specialized in providing services of translation and interoperation to victims. There is also a lack of funds to guarantee that qualified professionals aid people who do not speak the national language. This compromises the exercise of many rights, such as the right to translation and interpretation, or when victim is person with disabilities there are not enough interpreters qualified enough to work with that kind of victim. We suggest specialization of translators and interpreters that would work with victims and witness of violence.

### **Access to victim's support services**

Although we mentioned developing system for victim and witness support as a good practice in Croatia this system has revealed some flaws. Out of 35 CSOs providing assistance and support to victims and witnesses, 10 are involved in the Network described in section Good practices, while the rest are in a grey area because they were omitted from the formal establishment of the network. The fact is that CSOs outside the Network are recognized in their actions because they are listed on the Victims' Rights Form provided by police officers and public prosecutors to victims, but this does not diminish the illogical nature of the system that continuously refused to take advantage of organizational, experiential and human potentials already in place in CSOs. Flexibility, simpler action, lower formalization, which does not diminish the quality of service in the eyes, should also be considered, along with a more beneficial psychological impact on users

who have lost faith in the judicial system, and have a greater sense of security within CSOs.

We need to point out that there are not enough needed services to work with victims. There is a lack of SOS phone for victims, lack of professional lawyers and attorneys for representation of victims, inadequate space for working with victims and inadequacy of working space for people with disabilities. At the same time, there is effective centralization of services, especially those that are specialized, for example, for children victims of violence, persons with disabilities or members of the LGBT community. One of the most significant examples is the absence of an institution like the Child Protection Centre of the City of Zagreb in other parts of the Republic of Croatia, which is overburdened with cases and number of users. The biggest gap about the providers of social services for victims and witnesses is in central Croatia like the area of Lika and Gorski Kotar.

### **Restorative justice**

The concept of restorative justice is almost non-existent in Croatian system. There is some progress in regards of mediation, but it is not used widely in criminal proceedings, except in the example of The Association for Out of Court Settlements which has been operating since 2003 with the aim of promoting mediation/out of court settlements (mediation between victims and perpetrators) in resolving conflicts resulting from the perpetration of juvenile and juvenile offence, and thus by expanding the idea of restorative justice. The association consists of professional social pedagogues, social workers, psychologists who, in their daily work, deal with the subject of youth in conflict with the law, and most often and directly work on mediation through out-of-court settlements. However, this is not enough because idea of restorative justice still has not come to full life in our national system and more effort should be put into spreading this idea in victims' support system.

### **Legal aid**

To benefit from the right to legal aid, according to Croatian national law the interested person needs to demonstrate that they are in a situation of economic insufficiency. The criteria provided by the national legal regime to assess such situation are very strict and therefore many citizens decide not to proceed with criminal accusations. As a result, the right to access to justice is restricted and not put into practice. There are problems with interpretation of CPA Amendments 70/17 Article 43. Paragraph 2.) which says that victim of criminal offence punishable by imprisonment of more than five years, if he or she is suffering the more profound consequences of a criminal, has the right to the expert assistance of **an adviser/counsellor** on the burden of budgeting. In practice, here, emerges the problem regarding the victim's right to a counsellor which derives from the fact that the law does not define who exactly has the role of counsellor.

There is no consistent practice and there are two main interpretations that have been reported to be:

1. Counsellor- Attorney
2. An Advisor may be anyone, including attorneys, civil society representatives, psychologists, social workers

In other words, in accordance with Directive 2012/29 / EU 2012/29 / EU, and in trying to acknowledge the wishes and needs of the victim, the counsellor should be a „who can give advice to the victim and whose advice she wants / needs.“ . There should be clear definition of these terms so that there is no confusion. These interpretations were made during the training sessions for professionals in June and July held by the Victim Support Association and witnesses, in cooperation with the Judicial Academy and the Office of the Ombudsman of the Republic of Croatia, as part of the project “Rights, Support, Protection and Compensation of Victims of Criminal Offence “Financed by the European Commission in Zagreb, Split and Vukovar, 2017. Also, funding required for providing primary legal aid is reportedly insufficient and there are no secure grants that provide some kind of certainty neither to victims and witness of violence nor CSOs that work in that area. There should be at least three-year period that is covered so that there is at least some minimal period of certainty.

#### **Protection of rights of victims and avoiding contact between perpetrator and victim/ Secondary victimization and traumatization**

In practice, this is almost impossible to achieve taking into consideration the system that is currently in place in Croatia. In most courtrooms, public prosecution offices and other governmental and civil institutions’ facilities, there are no separate waiting rooms, entrances into rooms, entrances into buildings or bathrooms and, during criminal proceedings, it is inevitable for victims to see their offender. The system of protection for victims after criminal offence is nonexistent and the idea of long-term victim protection and support did not come to life. This is big issue in our system and it requires systematic changes involving all stakeholder, but especially State itself due to the financial reasons.

#### **Individual assessment**

On 31st October the Regulations on implementing an individual victim’s assessment - based on CPA Amendment 70/17 Article 43a - came into force. The regulations, as a delegated legislation, did not specify sufficiently the provisions provided by the CPA which, as a result, remained imprecise and subject to different interpretations of the institutions that will implement it. It is not specified who are the persons authorized within each of the institutional bodies to carry out an individual assessment, what are the needed professional qualifications of these

persons, whether those persons will undergo special training, whether those persons are acting individually or within teams, whether the same persons within the body responsible for conducting the individual assessment will always be conducting the assessment, among others. These are extremely important issues for effective implementation of victim support. It is also important to note that the Regulations prescribe the conditions and the method of conducting an individual assessment of the needs of the victims of criminal offence, thus neglecting the victims of misdemeanor offence. We emphasize that in Croatian legislation, majority of the violence that is happening in close relationships is being processed within the misdemeanor procedure, and that restricting the application of the Regulations only to criminal offence would greatly limit the rights of a large number of victims. The Regulations state that each body of a criminal proceeding which is conducting a victim’s examination is required to carry out an individual assessment of victim’s needs and to make a conclusion on the needs assessment carried out, as well as on the specific protection measures established. In doing so, the conclusion of a previously conducted victim needs assessment will be considered. Therefore, it can be concluded that the victim will again go through the examination/assessment by all criminal prosecution bodies (police officers, public prosecutors and judges), experiencing secondary victimization and trauma, which is not in accordance with the purposes of Directive 2012/29/EU. Furthermore, it also begs the question how to proceed if the opinions on individual assessment differ from body to body, i.e. which opinion will be considered as relevant? Finally, we note that CSOs are marginally involved in the individual assessment process, even though their findings can be used by criminal prosecution bodies which are conducting victim investigations, wherein the person/official is left with too much freedom in an individual assessment, while ignoring victim’s opinions or needs. Generally, we consider the Regulations are insufficiently detailed, which does not fulfil the role of the Regulations as such. Namely, Regulations are used to elaborate the general legal provisions in detail, which is not the case in the abovementioned Regulations. With such Regulations, the form is completed, but not the purpose for which the Regulations are made.

#### **Right to be accompanied**

The victims’ right to be accompanied by a person of their choice is noted in CPA Amendment 70/17 Article 43. Paragraph 1) (6). However, in practice victims are not acquainted with this right in proper manner and in our practice, we even had situations when victims were denied of this possibility in governmental institutions. On this matter, victims should be allowed to be accompanied by a technical person or a trustworthy person and more should be done in area of education not only victims but also professionals, so that victims and other interested parties can fulfil their rights in every possible way. Again, there is need not only for education of general public but also for police officers, public prosecutors and judges in this area.

## Financial compensation for victims

Law on financial compensation for victims of criminal offence was adopted in 2008 and entered into force on 1 July 2013, on the day of the Republic of Croatia's accession to the European Union. The European Convention on the Compensation of Victims of Violent Crimes, which was the foundation for this law, is based on the theory of state solidarity with the victims and not the state's responsibility towards the victim. The state gives compensation not because it is responsible, but because it is solidary and because it is fair. Directive 2012/29/EU stipulated not only that the state must have a system of compensation, but also that it must have the state bodies involved in the process, as well as an obligation to inform the victim about these rights. The fact is that in this aspect, expectations that existed when the Directive was adopted were not fulfilled in the European Union, and the injured parties point out the complexity of the procedure, long duration, language barriers, legal aid shortcomings and the problems of financial compensation system.

## Training of professionals- establishing of better communication and coordination between CSO'S and governmental and public institutions

According to research conducted as part of a project co-funded by European Commission Justice Programme "Targeted and Early Assessment of Need and Support for Victims of Criminal Offence", implemented by the Croatian Legal Centre in partnership with the Ministry of Justice and the Office for Human Rights and Rights of national minorities of the Government. There is still lack of communication between CSOs and governmental and public bodies. Specialized services that provide support or direct assistance to victims (e.g., secure accommodation, psychological assistance, legal aid, etc.) are an important part of the victim support system. It is therefore extremely important to strengthen and develop cooperation and reciprocal referral to these services by state bodies and institutions. We consider there should be incentives for the transfer of knowledge and skills between civil and public sector, and their networking (e.g. through the establishment of operating working inter-sector teams and/or periodic coordination meetings). As far as the communication/coordination with the victim body is concerned, the research noted a relatively low trend of communication between different bodies to inform him about the victim's support. Particularly worrying is the fact that only a small part of the body request and receive feedback on the status of the victim after providing support. Records of the provided support is extremely important because it enables monitoring of the quality of support provided, it suggests the disadvantages and benefits of providing support for the entire system and is an inevitable aid in developing further support system strategies. Another problem is that there is no **mandatory** training for professionals, namely, police officers, prosecutors and lawyers, on issues related to victimology and victims' protection, communication and support needs. It is recommended that every professional contacting with victims of crimes should receive training, in extension and depth corresponding to the level of contact established with victims within the context of functions performed.

# CONCLUSION

The present national report, completed within the context of project VOCIARE, was extremely useful to assess the practical implementation of the Victims' Directive in Croatia. Through the disclosure of surveys and the fulfilment of interviews, both good practices and gaps have been identified.

The transposition of the Directive into national law came late and was not perfect, but despite of that fact, with strong work ethics and effort of professionals from both institutional organizations and CSOs some of these gaps listed in previous section are being dealt with.

In Croatia, it is important to note the best practice of inquiring child victims. There is increasing use of videoconference as a useful tool when victim is citizen of another member state of EU, which relieves the victim from travelling long distances and is, at least for victim, much less traumatic. Third, there are a lot more training for professionals working with victims, especially police officers and professionals working in county courts' Departments for victims and witness, which affects also on work of CSOs and improves public opinion on this matter. A big step forward was the list of victims' rights, established difference between victim and injured party and of course individual assessment of victim's needs.

Nevertheless, this research showed several of gaps, which mostly derive from good and well-meant ideas but poorly, executed. There are problems with the way individual assessment is being carried out, non-existent system of restorative justice, financial compensation, institutionalization of victim and witness support system, lack of funding for CSOs, repeated victimization and traumatization, access to free legal aid and even access to County Courts Departments for victim and witness support for those citizens that are from rural or island areas. It is important to emphasize all the rights from Directive that are transposed to Croatian CPA do not reflect to victims of misdemeanor and most of domestic violence offences goes under Misdemeanor Act and not Criminal Code.

# REFERENCES

## 1. LEGISLATION

Criminal Procedure Act

Criminal Code

Misdemeanor Code

Law on juvenile courts

Law on financial compensation for victims of criminal offences

Law on protection from domestic abuse

Regulation on implementing and individual victim Assessment

Law on protection of personal data of the Republic of Croatia

Law on free legal aid

Law on Court Areas and Headquarters

Protocol on procedure in case of sexual violence

National strategy for developing system for victim and witness support in Republic of Croatia in period of 2016. to 2020

## 2. LITERATURE

**Anić, Božić Mihanović, Havelka, Kastratović, Đokić Jović, M., M., M., V., J. (2018),** *Handbook for victims of crime. Zagreb: Documenta- Centre for dealing with past, Association for Victims and Witness Support*

*(2018.), Position and Rights of Victims of Criminal Offences in Republic of Croatia, Split: Documenta- Centre for dealing with past, Centre for peace, non- violence and human rights, White Circle of Croatia and Association for victim and witness support*

Mamula. Vukmanić, Zore, Stanić, Hojt. M., M., P., D., A., (2010.), *Civil Society Organizations which provide specialized services women victims of violence as key actors in the process democratization of society.* Zagreb: Women's room – Centre for sexual right

## 3. CASE-LAW

## 4. OTHER SOURCES OF INFORMATION

Child victim in judicial procedure – Application of European convention on a child rights achieving, Report of Ombudswomen for children in Republic of Croatia

<http://www.problemiuponasaju.info/files/download/filename/23/Dijete%20u%20pravosudnom%20postupku.pdf>

The principle of publicity in civil procedure- contribution to efforts to justify and reaffirm the institute, M. Dika (2008.)

[https://hrcak.srce.hr/index.php?show=clanak&id\\_clanak\\_jezik=39335](https://hrcak.srce.hr/index.php?show=clanak&id_clanak_jezik=39335)

Ministry of Justice, Croatian Legal Centre, Office for human and rights of national minorities, co-funded by EC Justice Programme - Project Targeted Early Needs Assessment and support

<http://www.hpc.hr/2018/02/14/projekt-unapredenje-sustava-podrske-iz-perspektive-zrtava-kaznenih-djela-victim-centered-approach-to-improving-support-services-vicatis/>

JUSTICIA European Rights Network

<http://eujusticia.net/index.php/victimsrights>

Association for out of court settlements and mediation in criminal proceedings

<http://eujusticia.net/index.php/victimsrights>

Victim considering VII. Amendment of CPA

<http://eujusticia.net/index.php/victimsrights>

Ministry of Justice, list of international treaties

<https://pravosudje.gov.hr/pristup-informacijama-6341/ostale-informacije/zakoni-i-propisi-6354/medjunarodno-pravo-eu/6442>

# APPENDIX 1 – CONTACT LIST OF INTERVIEWED PROFESSIONALS

| # | Name | Institution | E-mail | Phone # |
|---|------|-------------|--------|---------|
|   |      |             |        |         |
|   |      |             |        |         |
|   |      |             |        |         |
|   |      |             |        |         |
|   |      |             |        |         |



**VOCIARE**  
Victims of Crime  
Implementation Analysis  
of Rights in Europe



promotor



**Victim Support  
Europe**

manager partner



The European Commission disclaims any liability regarding the content of this document.

The responsibility for the accuracy of the information rests with its authors.



With Financial support from  
the Justice Programme  
of the European Union