

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

ŠÁRKA DUŠKOVÁ (LEGAL ADVISOR)

ALEXANDRA DUBOVÁ (LEGAL ADVISOR)

ADAM MÁČAJ (LEGAL ADVISOR)

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 Given its scope and ambition, authors are aware that some elements may be inaccurate or out of date.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	8
BASIC OVERVIEW OF THE LEGAL FRAMEWORK	10
EVALUATION OF PRACTICAL IMPLEMENTATION	12
ARTICLE 2 - Definitions	12
ARTICLE 3 - Right to understand and be understood	15
ARTICLE 4 - Right to receive information from the first contact with the competent authority	18
ARTICLE 5 - Rights of victim when making a complaint	21
ARTICLE 6 - Right to receive information about their case	23
ARTICLE 7 - Right to interpretation and translation	25
ARTICLE 8 - Right to access victim support services	28
ARTICLE 9 - Support from victim support services	31
ARTICLE 10 - Right to be heard	33
ARTICLE 11 - Rights in the event of a decision not to prosecute	35
ARTICLE 12 - Right to safeguards in the context of restorative justice services	38
ARTICLE 13 - Right to legal aid	40
ARTICLE 14 - Right to reimbursement of expenses	43
ARTICLE 15 - Right to the return of property	45
ARTICLE 16 - Right to decision on compensation from the offender in the course of criminal proceedings	46
ARTICLE 17 - Rights of victims resident in another member state	48
ARTICLE 18 - Right to protection	50
ARTICLE 19 - Right to avoid contact between victim and offender	52
ARTICLE 20 - Right to protection of victims during criminal investigations	54
ARTICLE 21 - Right to protection of privacy	56
ARTICLE 22 - Individual assessment of victims to identify specific protection needs	58

ARTICLE 23 - Right to protection of victims with specific protection needs during criminal proceedings	60
ARTICLE 24 - Right to protection of child victims during criminal proceedings	63
ARTICLE 25 - Training of practitioners	65
ARTICLE 26 - Cooperation and coordination of services	68
GOOD PRACTICES	71
GAPS, CHALLENGES, AND RECOMMENDATIONS	72
CONCLUSION	74
REFERENCES	76
Appendix 1 – Contact list of interviewed professionals	79

EXECUTIVE SUMMARY

The EU Victim’s Directive (Directive no. 2012/29/EU, hereinafter also “the Directive”) establishes a common European standard of minimum rights of victims of crimes in member states. It was adopted in October 2012 and the deadline for its implementation expired on 16 November 2015. Despite the previous efforts of the European Union to help strengthen the rights of victims of crime, prior to the adoption of the Victims Directive, the victim support systems of the member states varied greatly in the level of protection and rights they ensured for victims, as well as in the approach they chose. The manner of implementation of the Victims Directive is therefore different in the member states. The aim of this research is to map the implementation of the Victims Directive in Slovakia, from the legislative, policy as well as practical perspective.

Slovakia has adopted a comprehensive system of victim protection only recently. The law on victims (Act No. 274/2017 Coll. on Victims of Crimes, hereinafter also the “Victims Act”) was adopted on 12 October 2017 and came into effect on 1 January 2018. The experience with the new law is therefore very recent and this is reflected in the information gathered from the stakeholders and professionals during the research.

The **Victims Act** is a general law adopted for the purposes of transposition of the Victims Directive and establishes a comprehensive framework of rights for victims of crime, which mostly corresponds to the Directive’s requirements. The Victims Act establishes two categories of victims; the victims of crime in general and the victims with specific protection needs. The definition of victim corresponds to the one set out in the Directive and in some aspects goes beyond the Directive, covering also potential victims and victims of acts not classified as criminal due to lack of age or will of the perpetrator. However, the relationship between the definition of victim and the injured party in the Code of Criminal Procedure (hereinafter, the “CCP”) is unclear which may cause confusion in practice. The victims with specific protection needs include children, elderly persons, persons with disabilities and victims of particular crimes who are exposed to a higher risk of secondary victimization.

Generally, the Victims Act is structured so as to correspond to the provisions of the Victims Directive, but yet it omits to implement certain rights set out in the Directive; among them is the right to be accompanied by a person of choice, or the obligation to adapt the material conditions of the public facilities so as to enable the victim to avoid the contact with the offender. The victims’ protection is complemented, in particular, by the CCP where several rights set out in the Directive are guaranteed to the injured parties in the criminal proceedings.

Slovakia has not yet established a generic state-run network of **victim support services**, although such step is underway by the Ministry of the Interior. There is, however, an existing network of private-run support services, which receive limited state support. There are a number of victim support services focusing on the victims of domestic violence, but the number of services, their accessibility as well as the state support provided to them was said to be insufficient by the experts interviewed during the research. The existing services are also not very visible, and the directory run by the Ministry of Justice is not particularly comprehensive.¹ At the same time, the non-governmental organizations offering the victim support services have run several interesting and successful public awareness campaigns related to victims' rights.

Another major shortcoming identified during research is the assessment of specific victims' needs by the authorities which is often either insufficient or completely lacking.

Slovakia has, in general, a well-functioning system of **free legal aid** run by the Centre for Legal Aid. However, the system has not been adjusted since the adoption of the Victims Act to correspond to the needs of the victims of crime. The Centre for Legal Aid lacks the competence to provide legal assistance to victims in the criminal proceedings and can only assist victims in the compensation proceedings before the civil courts. Victims can be appointed a representative within the criminal proceedings under a different scheme and conditions. This duality is incomprehensive and as a consequence, the victims do not have adequate access to free legal aid outside the criminal proceedings or at their early stage.

Slovakia has adopted the definition of the victim according to the requirements of the Directive, but the law does not clarify the relationship between the position of the victim and the injured party in the criminal proceedings and some of the rights, required by the Directive, are only insured for the injured party in the criminal proceedings.

At the same time, Slovakia established a specific category of a victim with specific protection needs, who are entitled to higher protection. There is, however, no common tool, methodology or objective procedure to **assess the specific protection needs of victims** and no authority is assigned for this task of individual assessment.

One of the main problems, pointed out by most interviewed professionals, was the problem of provision of **adequate, comprehensible, practical and up-to-date information** to the victims. The Victims Act presumes provision of all information as required by the Directive, but these are usually provided only in writing through standardized leaflets, regardless of the needs (both communication and protection) of the victims. The information is not available in language mutations or in an easy-to-read format.

¹ The Directory is available online at: <https://www.justice.gov.sk/Stranky/Registre/Zoznamy-vedene-MS-SR/Register-pomoc-obetiam-zoznam.aspx>

In practice, also the system of recovering of **damages and reimbursement of the costs of criminal proceedings from the offender** is problematic. Even if the victim achieves an enforceable court decision for such reimbursement, the lack of funds on part of the offender may render such judgment unenforceable. This may pose a serious financial barrier for an active participation in the criminal proceedings for many victims, notably if they are not eligible for free legal aid and victim support services.

Lastly, the system of **training for professionals** was assessed as insufficient. Although some training is available, it is rather superficial and not regularly provided to all professionals who work with victims. Specific in-depth training is not available and many professionals, including the probation and mediation officers, have not been trained in victims' rights at all. Some of the identified gaps may be addressed by a project on victims' rights currently implemented by the Ministry of the Interior, in the course of which training of professionals shall be conducted. This project called "*Improving the access of victims of crimes to services and creating contact points for victims*"² (implemented in 2017-2021) should also establish a network of **contact points and coordinators for victims of crimes** in different parts of the country to improve access of victims to information. At the same time, the project should develop methodological guidance and training for professionals working with victims.

Due to late adoption of the legislation fully implementing the Directive, which entered into force in 1 January 2018, the system of victims' protection in Slovakia is at the beginning of its practical implementation. It is therefore too early to assess whether the legislation and policy measures effectively protect the victims' rights set out in the Directive. So far, the visibility and awareness of victims' rights among professionals as well as the broader public is very low and public awareness campaigns, as well as training, will be required to tackle this issue. An integrated approach of assessment of victims' needs by the public authorities should also be developed, keeping in mind the important role of the non-governmental organizations in victims' support system. Lastly, these measures should go hand in hand with the development of sufficiently comprehensible and easily accessible information-sharing platforms to victims of crimes, both in relation to their rights and the available support services.

² See the information about the project online at: <https://www.minv.sk/?projekt-obete-trestnych-cinov-sluzby>

INTRODUCTION

The purpose of this national report is to assess the practical implementation of the victims' rights as enshrined in the EU Victim's Directive (Directive no. 2012/29/EU, hereinafter also referred to as "the Directive"), in Slovakia. It was drafted within the project VOciare - Victims of Crime Implementation Analysis of Rights in Europe by Forum for Human Rights, an international human rights non-governmental organization.

Apart from assessing the implementation of the Victims' Directive, the aim of the research was to identify the potential gaps and challenges of the implementation and formulate recommendations. These were supplemented by identified instances of good practices. The report assesses the enjoyment of rights of victims mainly from the practical perspective; the analysis of relevant legal provisions and policies is therefore complemented with interviews of professionals in the area of victims' protection and the dissemination of a survey among such professionals. As the Victims Act in Slovakia was only adopted at the beginning of the year 2018, this research covers from a large part the period before the adoption of the Act, and therefore the practical experience of the respondents may be based on the system before the adoption of the law.

The research methodology follows three basic steps: 1) desk research assessing the implementation of the Directive and already available research outcomes; 2) survey aimed at gathering experience from practice, and 3) interviews with professionals directed at better understanding of current developments and filling in the missing qualitative information regarding practice.

The desk research is a first step in the analysis. It explores the relevant legislation, regulations, instructions, policies, and statistics available in primary sources and secondary sources, such as academic commentaries, articles, publications or research reports.

Information gathered this way was then complemented with the knowledge gained from the survey and interviews conducted. For the purposes of conducting the survey and interviews, the relevant stakeholders in the country were identified. These include the state authorities (the police, prosecution, courts, healthcare institutions, relevant departments at the relevant ministries, the probation and mediation service), the victim support services (notably the non-governmental organizations) and the independent professionals, such as lawyers and academics. Those were contacted with a request to participate in the survey.

Many of the professionals, who were contacted to answer the survey, responded with a request to share more in-depth information, which they were not able to share via the survey. Subsequently, those professionals were requested to participate in an interview. Six interviews were conducted with professionals with different backgrounds: a private-run victim support service, a politician, a probation and mediation officer and three lawyers.

Through these three research tools, it was possible to analyse the implementation of the Directive, as well as the extent of victim's access to their rights in practice.

The report is structured according to each Directive's Article and contains information from legislative and policy analysis, analysis of other sources, as well as information gathered through the survey and interviews. These sources enabled the researches to identify challenges and gaps in the victims' protection in Slovakia, both in theory and in practice. Lastly, a list of good practices, although not particularly extensive due to the recent implementation of the Directive, was identified, in order to suggest possible measures to implement victims' rights in other countries of the European Union.

BASIC OVERVIEW OF THE LEGAL FRAMEWORK

The Victims' Directive was adopted on 25 October 2012 by the European Parliament and the Council and the deadline for transposition into national law expired on 16 November 2015. Only some provisions of the Victims' Directive have been transposed into the Slovak legal order by that deadline. On 13 November 2015, the Parliament adopted the **Act No. 397/2015 Coll.** which has amended certain provisions of the CCP with regard to the **rights of injured parties in the criminal proceedings**.³ However, the works on the full implementation of the Victims' Directive took another two years and the Directive has been fully transposed into the Slovak legal order only on 12 October 2017 by the adoption of the **Act No. 274/2017 Coll. on Victims of Crimes** (hereinafter "Victims Act").

The Victims Act came into effect on **1 January 2018**. It has been prepared by the Ministry of Justice assisted by the working group composed of state authorities (including the Ministry of Interior, Ministry of Labour, Social Affairs and Family, Ministry of Health, Ministry of Finance, General Prosecution), university experts and civil society representatives. The objective was to regulate the rights of the victims of crimes and the obligations of different actors in one comprehensive legal norm.⁴

The Victims Act is divided into five parts. The *first* part contains the general provisions including the definitions and the basic principles applicable to the entire act. The notions such as "the victim of crime" and "the secondary victimisation" were introduced in Slovak legal order for the first time.⁵ The *second* part includes the rights of victims, in particular, the right to information and corresponding obligations of the authorities and other subjects towards victims; the right to seek and receive professional assistance, including legal assistance and specialized assistance; the right to protection against secondary and repeated victimisation; and the right to financial compensation. The *third* part is dedicated to the compensatory mechanism for victims of crimes, which was previously regulated by a separate Act No. 215/2006 Coll. on Compensation of Victims of Violent Crimes. The latter legal norm has thereby been repealed. The *fourth* part regulates the rules of the accreditation conditions for the victim support organisations, the supervisory mechanism, the register of the victim support organisation and the possibility to apply for a financial support from the state. The financial support scheme for the victim support organisation is regulated by a separate legal norm, namely the Act No. 302/2016 Coll. on Provision of Grants in

³ The amendment came into force on 1 January 2016.

⁴ Explanatory report to the Act on Victims of Crime, 15. 8. 2017.

⁵ The victims of crimes were (and continue to be) called „the injured parties“ in the criminal proceedings.

the Competence of the Ministry of Justice. The *final* part includes the concluding and transitional provisions.

The long-awaited adoption of the Victims Act has been welcomed by the professionals working with victims and it contains many useful mechanisms of victims' protection. However, its preparation has been belated and hasty, and the final result is somewhat unfinished. The experts deplore notably the lack of informed public debate before the adoption of the law and a limited participation of experts and professional in the preparation of the act. There are several lines of critique of the new law. First of all, the new legal regulation has introduced the new notion of "the victims of crimes" without conclusively solving its relation to the already existing term of "the injured party" used in the CCP. The result is confusing not only for the victims but also for the state authorities and organisations working with victims. Secondly, a number of rights of victims of crimes and obligations of authorities towards them continue to be regulated by the CCP and other legal norms. Thus, the objective to regulate the victims' rights in one comprehensive legal norm has not been fully met. Thirdly, the adoption of the law was not accompanied by a country-wide information campaign and no specialized training or methodological support was provided neither to public authorities nor to the professionals working with victims. Therefore, the implementation of the new law in practice is rather slow and inconsistent and the involved actors struggle with the understanding of the new legal institutes and procedures introduced by the law.

As mentioned above, a number of rights of the victims of crimes continue to be regulated by the CCP. These include the rights of victim when lodging a criminal complaint, the right to interpretation and translation, the right to claim damages from the offender, the right to have an accompanying person present during the proceedings, the right to file a complaint against the decision not to prosecute, the right to participate in the hearing, the right during the witness testimony as well as the possibility of settlement.

The criminal procedure is divided into several stages; the pre-trial stage consisting of investigative phase prior to the initiation of criminal prosecution and the preparatory proceedings; and the trial stage. Some measures and rights in the investigative and pre-trial stage are set in the **Act No. 171/1993 Coll. on the Police Corps**.

Further rights of the victims, such as a possibility to seek preliminary order to leave the common household as a protective measure, are regulated in the **Act No. 150/2015 Coll. Code of Civil Procedure**. The activities of the probation and mediation officers are regulated by the **Act No. 500/2003 Coll. on Probation and Mediation Officers**. The obligations of authorities and other bodies towards the minor victims are regulated in the **Act No. 305/2005 Coll. on Social and Legal Protection of Children and Social Guardianship** and the **Act No. 36/2005 on Family**. The provisions of supplementary social services for victims of crimes is provided in the **Act No. 448/2008 Coll. on Social Services**.

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.

The term "victim" is defined in Art. 2(1)(b) of the Victims Act in a manner uniform to the definition set forth in the Directive. A "victim" is defined as a natural person who *has suffered* or *ought to suffer* physical injury, economic, moral or other loss, or whose rights or freedoms protected by law have been violated or endangered by the criminal act. The definition of victim in the Victims Act goes beyond the definition in the Directive as it includes victims that *ought* to be harmed by the criminal act, therefore granting potential victims rights under the Victims Act.

In line with the Directive, family members of a person whose death was caused by a criminal offence and who have suffered harm as a result of that person's death are also considered "victims" under the Victims Act. The law includes among "family members" the relatives in the direct line, adoptive parents and adoptive children, siblings, spouses, and persons living with the deceased person in a joint household at the time of death, as well as persons dependent on the deceased person. If more than one person falls under the above definition, all are considered victims under the Victims Act. However, if a family member caused death to him/her relative by committing a criminal act, he/she would be excluded from the definition of a victim.

It is not clear from the Victims Act, nor from the Explanatory report to it, whether the same-sex couples would be considered "family members" of the deceased person. In the absence of practical experience with the application of the new law, it can only be assumed that the same-sex partner, who lived in a joined household with the deceased person at the time of him/her death would, fall within the definition of the victim. Such interpretation is supported by the interpretation of a similar provision in the Civil Code concerning persons living in a joint household and their inheritance rights.⁶ Similarly, a status of undocumented migrant or residence in other EU member-state is not a condition excluding a person from the definition of a victim under the Victims Act.

Under the Art. 3(1) of the Victims Act, any person who claims to be a victim falls under the scope of the Victims Act until proven otherwise regardless of whether the perpetrator was identified, prosecuted or convicted. Rights conferred upon the victims by the Victims Act are to be guaranteed without discrimination on grounds of sex, religion or belief, race, nationality or ethnicity, health, age, sexual orientation, marital status, colour, language, political or other opinions, national or social origin, wealth or other status.

The Victims Act includes under the definition of the victim also victims of *acts not classified as criminal*, i.e. those committed by children under the age of criminal responsibility (14 years old in Slovakia) or persons not criminally responsible for their acts due to the lack of will (e.g. persons of unsound mind). In this aspect, the definition of victim in the Victims Act also goes beyond the definition adopted in the Directive.

The Victims Act in Art. 2(1)(c) defines the *victims with specific protection needs*. These are children (under 18 years), elderly persons (older than 75 years) and persons with disabilities. If the age of a child cannot be determined, the presumption of minority applies until proven otherwise. Persons with disabilities are defined in accordance with the UN Convention in the Rights of Persons with Disabilities. In addition, victims of the following crimes are automatically considered to have specific protection needs: the crime of human trafficking, the crime of abusing a close or entrusted person, crimes perpetrated by an organised group, crimes against human dignity, crimes of terrorism and domestic violence. Furthermore, victims of crimes perpetrated by violence or a threat of violence on the ground of sex, sexual orientation, nationality, racial or ethnic background or religion or belief are also considered to have specific protection needs. Finally, victims of other than above-enumerated crimes would also fall under the definition of victims with specific protection needs if they are exposed to higher risk of repeated victimization identified on the basis of an individual assessment of the victim, his/her personal characteristics, relation to or dependence on the perpetrator, nature and the circumstances of the criminal act. Victims with specific protection needs enjoy particular rights under the Victims Act.⁷

⁶ See Section 474 of the Civil Code in Fekete, I. Civil Code. Commentary. Part 1. Eurokodex, 2015.

⁷ See further the commentary on Article 23.

The Victims Act also separately defines *victims of violent crimes* as victims who suffered physical harm as a result of intentionally committed violent crime (or their relatives if the victim died as a result of a violent crime), and victims who suffered moral harm as a result of the following crimes: the crime of human trafficking, rape, sexual violence or sexual abuse.

Victims may participate in the criminal proceedings as persons reporting the crime, injured parties (*poškodení*) or witnesses. These are defined separately in the CCP. The definition of the “injured party” in the criminal proceedings is in certain aspects *narrower* than the definition of victim under the Victims Act. Under Art. 46(1) of the CCP, an **injured party** is a person who suffered physical injury, economic, moral or other harm or whose rights and freedoms protected by law were violated or endangered. Thus, this definition excludes potential victims, family members (as defined in the Victims Act) and victims of crimes not considered criminal acts due to lack of age or will of the perpetrator that are otherwise covered by the definition of victim in the Victims Act.

The CCP does not recognise the term “victim” but grants several rights set out in the Victims Directive to the “injured parties” (e.g. the right to be accompanied by a trusted person, the right to information about the conduct of the criminal proceedings). As a consequence, in Slovakia, certain categories of victims not falling under the definition of injured party do not enjoy certain rights recognised under the Victims Directive. It is interesting that despite not recognising the term victim, the CCP uses it with reference to the Victims Act in several newly amended provisions, i.e. those regulating the testimony of victims with specific protection needs (Art. 134(4)(5), or measures to avoid visual contact with the perpetrator during the court hearing (Art. 262a). The relationship between the terms “victim” and the “injured party” is, however, not clarified in neither of the two laws and certain rights guaranteed by the Directive are only conferred upon injured parties in the criminal proceedings.

Legal persons are excluded from the standing of victims under the Victims Act. They may, however, become parties to the criminal proceedings as injured parties under the CCP. In this aspect, the definition of the injured party is broader than that of the victim.

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.

Under the Art. 3(4) of the Victims Act, the police, prosecution, courts and the victim support organizations are obliged to inform victims about their rights in a plain language, understandable for the victim. They also have to pay due regard to the communication barriers stemming from disability, language barrier, or the limited ability of the victim to express himself/herself.

Obligations under the abovementioned Art. 3 are listed as “general principles of victim protection and support”. The specific legal obligation is accordingly reinforced in Art. 4(1) of the Victims Act, headed as the “right to information”. The said provision similarly requires the access to information to be provided in a manner understandable for the victim, in writing and orally.

According to the general principle set out in Art. 2(21) of the CCP, the authorities are obliged to enable the injured parties to fully exercise their rights during the criminal proceedings and they should be duly instructed about their rights in an appropriate and comprehensible manner. The authorities shall conduct criminal proceedings with a necessary respect towards the injured party. They shall take into consideration the personal situation and immediate needs of the injured party, him/her age, gender, disability and maturity, and respect him/her physical, mental and moral integrity. This principle is to be applied without prejudice to the Victims Act.

According to the information gathered during the research and provided in the interviews, these provisions pose problems when applied in practice.⁸ The practical application of these provisions has been described as lacking uniformity on part of the authorities. The interviewed experts are not aware of **any specific measures** taken since the transposition of the Directive to ensure that victims are informed about their rights in a comprehensive way.

According to the majority of the respondents of the survey, the measures available to practitioners to recognize the individual communication needs of the victims are rather insufficient. Although in some cases regular inquiries to ensure that the victim understands the information are conducted, this is done on a case-by-case basis rather than based on a systematic assessment. The communication with children is usually recognized as requiring a specific approach and often such approach is applied. However, most respondents did not have sufficient experience and expertise in interaction with victims with specific communication needs, such as persons with disabilities.

It is not uncommon that police authorities working with victims with special protections needs are not trained in communicating with them and fail to properly modify the form of their communication depending on the individual needs of the victim. The information is commonly provided through **standardized information leaflets** (up to 2 pages long, often in fine print or very small letters, often merely quoting the relevant provisions of the CCP). Some experts have noted that the leaflets are **obsolete** and do not reflect the legislative amendments, which makes them useless in practice.⁹ The authorities are properly circumspect of the legislative obligations mostly only if the victim's representative is present, requiring the representatives to accompany victims, e. g. when filing a criminal complaint.¹⁰

The police officers often do not take into consideration the situation the victims were through, are motivated only to investigate the crime and do not provide proper assistance to the victims affected. Accordingly, the process of pressing charges and providing information to the police and other authorities often leads to secondary victimization that is inevitable given the manner of communication the victims face from the police officers.¹¹ Some experts, therefore, noticed that victims are afraid to communicate with the police and voluntarily choose not to file the criminal complaints. Some stated that the situation with the provision of information is so bad, that the victims are virtually uninformed of their rights.¹²

8 Interviews nos. 1 and 4.

9 Interviews nos. 2 and 6.

10 Interview no. 2.

11 Interview nos. 2 and 4.

12 Interviews nos. 1 and 2.

Additionally, victims, in general, are **not entitled to be accompanied** by a person of their choice under the new legislation. Such right is limited only to injured parties under Art. 48a of the CCP and can be accordingly enforced only when criminal proceedings are underway. Although the practical result of this distinction was not commented on by the interviewed experts, it is possible that certain victims do not benefit from the said right when first coming into contact with the authorities, still outside the criminal proceedings. In particular, this right is not guaranteed to the family members, potential victims, and victims of non-criminal acts, which are excluded from the definition of injured parties. According to the respondents of the survey, the victims are often not accompanied and the request to have an accompanying person present is denied by the authorities, which justify the denial usually by the alleged necessity to protect interests of the victims themselves.

Some information is available to the victims online, mostly on the websites of state authorities. It, however, consists usually of the verbatim quotes of statutory provisions and is not accessible in foreign languages. Most of the information online is provided through complicated legalistic language and in a manner not tailored to suit the victims who lack legal knowledge or who may have different communication needs. Concise and more accessible information is occasionally provided by NGOs and victim support organizations on their websites. Pages of police and other state authorities coming into contact with the victims are generally used rather for public relations campaigns or requesting assistance from the general public, instead of providing information valuable to the victims.

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.

Victims have the right to receive information pertinent to the proceedings, in a plain and intelligible language (Art. 4(1) of the Victims Act). The information to be provided is set forth in Art. 4(2) of the Victims Act and includes:

- the steps required to file a criminal complaint;
- the rights and duties of the victim as an injured party under the Code of Criminal Procedure (see above);
- the information about the victim support services, their contact information and the forms of services that may be provided;
- the information about the possibility to receive necessary medical assistance;
- the information about the legal aid;
- the conditions of protection in cases threatening life, health, or significant damage to property;
- the right to interpretation and translation;

- the information about the measures that could be requested to protect the interests of the victim who is a resident of other EU Member State;
- the remedies in case of infringement of victim's rights during the criminal proceedings by the authorities;
- the contact information of a person authorized to communicate with the victim about the procedure concerning him/her;
- the procedure regarding the application for compensation of damages during the criminal proceedings;
- the mediation procedures available in the criminal proceedings;
- the possibility and the condition of reimbursement of the costs of proceedings to the injured party in criminal proceedings.

Police officers must provide this information at the first contact with the victim. When providing the information, the police officer must take into account the age, mental and intellectual capacity, physical and mental health of the victim, and the crime that harmed the victim (Art. 4(2) of the Victims Act).

Prosecutor is also obliged to provide the victim with the above-mentioned set of information if the victim had not been provided with them beforehand (Art. 4(3) of the Victims Act). Upon request, the police officers and the prosecutor should assist the victim to contact the victim support organizations (Art. 4(4) of the Victims Act). The healthcare providers should also give the victim the contact details of the victim support organizations (Art. 4(6) of the Victims Act).

The victim support organizations must provide the victim with information concerning specialized support services and their scope and form, as well as the extent of support provided free of charge. In case the organization does not provide a required specialized service, it shall refer the victim to other victim support organization. Additionally, the victim support organizations should provide information concerning the rights guaranteed by the Victims Act, including the right of compensation for violent crimes, the rights of victims that are injured parties in the criminal proceedings, and financial or practical matters that may arise after the crime (Art. 4(5) of the Victims Act). According to the interviewed experts, this information and support is essential to the realization of the victims' rights.¹³

From the information available, the victims are notified of the statutorily required information through **standardized information leaflets** in a complicated language mostly quoting statutory

¹³ Interviews nos. 1, 2 and 4.

provisions. Individual assessment of communication needs of a victim is rarely conducted. Often, the authorities do not ensure whether the victim properly understood the information. All of the information is provided simultaneously, irrespective of their relevance to the individual needs of the victim. Often the authorities do not reproduce the information orally at all and just ensure that the victim read the leaflet without providing them the information in a more understandable manner.¹⁴ The victims have sign the information sheet to confirm they were notified of their rights. Some of the information is provided on the request of the victim, other types of information are provided automatically.

According to Art. 49 of the CCP, the authorities are obliged to instruct the injured party about her rights under this law and enable him/her the full exercise thereof.

¹⁴ Interviews nos. 2 and 4.

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.

The procedure of making of a complaint is not implemented in the Victims Act, but it is regulated in the relevant provisions of the CCP. According to Art. 196(1), the criminal complaint may be filed with a police officer or a prosecutor. The filing **authority must issue a written confirmation** of such complaint. This shall contain the time and date of making the complaint, the designation of authority that received the complaint, and the **basic facts of the complaint filed**, in order to properly establish the facts that are to be further investigated. The police is also obliged to investigate the matter *ex officio* and take into account facts and evidence not submitted by either of the parties (Art. 2(10) CCP).

The right to interpretation and translation or similar arrangements for persons making a complaint are not regulated in the Victims Act. Art. 2(20) of the CCP nevertheless establishes the right to interpretation and translation, if the person concerned declares he/she does not understand the language of the procedure or the authorities on their own initiative determine so (Art. 28(2) of the CCP Procedure). The provisions regulating the right to translation or interpretation set forth in Art. 28 of the CCP, however, provide specific obligations to translate only certain specific documents, such as the witness testimony or its minutes, indictment, judgment etc. There is accordingly no specific provision in the legislation which would guarantee the right to file a criminal complaint in a foreign language.

Any individual, not only victim, may file a criminal complaint. However, Art. 2(20) of the CCP establishes the right to interpretation and translation only for certain categories of persons involved in the criminal proceedings, including *inter alia* the injured parties. As described above, the definition of the injured party is narrower than that of the victim, which may result in certain

victims being left without the right to seek interpretation or translation throughout the course of the proceedings.

Nevertheless, in practice, the authorities are obliged to ensure translation of criminal complaint filed in writing, or interpretation of criminal complaint filed orally.¹⁵ The interviewed experts said that the filing of a complaint usually does not pose any practical problems as regards proceedings in a foreign language. The survey confirmed this information, according to the respondents, victims are often able to file a criminal complaint in their own language, through a linguistic assistance. The interviewed experts also said that the authorities have usually issued a confirmation of receipt of the criminal complaint on their own motion, although in several cases, they made so only upon request of the victim.¹⁶ Also according to the experience of the respondents of the survey the victims generally receive a written acknowledgment.

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.

The right of victims to receive information about their case is enshrined in the Victims Act only in a general manner in Art. 4(1), which states that the victim has the right to receive information about the proceedings pertinent to the matter he/she was a victim of. The provision, however, cannot be interpreted as a general clause bestowing the right to any information to the victim, as it is restricted to the information set forth in the Victims Act, the substance of which is described above in part related to Art. 4 of the Directive. Under the Victims Act, the right to information is therefore considerably limited in scope.

The victims participating in the criminal proceedings as injured parties have the right to request information about the progress in the criminal prosecution at any stage of the criminal proceedings (Art. 46(1) of the CCP). The authorities should provide the injured parties with contact information where he/she can request the information. The authorities may refuse to provide the information only in cases where the provision of such information may frustrate the purpose of the criminal proceedings. According to the interviewed expert, victims are almost always informed properly about the conduct of the criminal proceedings and steps taken by the authorities, and this does not generally depend on their request or role in the proceedings.¹⁷

¹⁵ See the information available at the portal of the European Union. Online at: <https://e-justice.europa.eu/content_rights_of_victims_of_crime_in_criminal_proceedings-171-SK-sk.do?clang=sk&idSubpage=1&member=1>

¹⁶ Interview no. 6.

¹⁷ Interview no. 2.

The injured party has also the right to inspect the case file and make copies thereof (Art. 69(1) of the CCP).

Additionally, certain decisions issued in the criminal proceedings shall be served on the injured party, such as e.g. a decision referring the matter to the misdemeanour or disciplinary proceedings or filing of the indictment with the relevant court. There is no right to be notified of the decisions or developments in the criminal proceedings without undue delay in the CCP. According to Art. 46(7) of the CCP, an injured party may waive him/her procedural rights, including the right to be notified about the decisions issued in various stages of the proceedings.

Regarding the trial procedure, the injured party must be notified about the main court hearing of the case. The notification takes place in a manner similar to serving of a summons upon the defendant, place and time of the hearing is therefore likely to be included. As regards the final judgment, it has to be pronounced at a public hearing, which the injured party may attend (Art. 171(1) CCP). Moreover, the judgment has to be served on the injured party, if it lodged a claim for damages during the criminal proceedings, even if the party was present at its pronouncement (Art. 173(1) CCP).

Under Art. 46(8) of the CCP, the injured party may receive information concerning the perpetrator's release or escape from detention or prison or other facilities where perpetrators may be deprived of liberty. However, to be informed of such events, the injured party has to first request such information. The injured party may also withdraw the request to be informed, and the investigating bodies are thereafter not obliged to provide the information concerned (Art. 46(9) CCP). The police, the prosecution or the court have to inform the victim on their own motion only if the release may put the injured party at risk (Art. 46(9) CCP). The interviewed experts noted that the **victims usually have to request the information** in practice to be notified.¹⁸ Also according to the survey, victims are generally notified upon their request, and in most situations, they are also informed about their right to be notified.

¹⁸ Interview no. 2.

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.

The Victims Act does not contain the right of victims to interpretation and translation. Such right is provided only in the CCP to the injured parties and witnesses as defined by this act who declare that they do not understand the language of the proceedings (Art. 2(20)). Because the definition of the "victim" in the Victims Act is broader than the definition of the "injured party" in the CCP (see part under Art. 2 above), **certain categories of victims may be excluded from the right to interpretation and translation.**

The victims not included in the definition of the "injured party" are potential victims, relatives or dependants of victims who died as a consequence of a crime and victims of acts committed by persons without criminal responsibility (children, persons of unsound mind). As mentioned above, the Victims Act does not expressly guarantee these victims right to interpretation and translation.

However, they should benefit from the general provisions of the Victims Act, notably that all rights of victims shall be applied without discrimination based on, *inter alia*, language (Art. 3(2)) and when communicating with the victim the authorities shall take into account, *inter alia*, the language abilities of the victim (Art. 3(4)). In addition, the information shall be provided to the victim in a manner understandable to her/him (Art. 4(1)). Also, according to the Victims Act, the authorities shall inform the victim, *inter alia*, about her/his right to interpretation and translation (Art. 4(1)(f)). But it is unclear whether the victims not falling under the definition of the injured party would, in reality, be provided with interpretation or translation based on these general provisions of the Victims Act.

As mentioned above, the injured parties and witnesses who declared that they do not understand or speak the language of the proceedings have the right to interpretation and translation (Art. 2(20), 28 and 29 of the CCP). The same rights apply to persons suspected or charged with a criminal offence.

The authorities shall appoint an interpreter or a translator also in the case when *it is necessary* to interpret the content of a testimony or translate the minutes of a testimony or another document (Art. 28(1)(4)). This provision may also apply to persons not falling under the category of injured parties or witnesses.

There is no possibility to refuse translation or interpretation if this “would unreasonably prolong the proceedings” (Art. 7(8) of the Directive). But this may fall under the necessity assessment mentioned above (Art. 28(1) of the CCP).

Also, in cases where a person declares that she/he understands the language of the proceedings, but the authorities find out that her/his language abilities are insufficient, they shall appoint her/him an interpreter to be able to ascertain her/his rights (Art. 28(2) of the CCP).

In practice, the relevant authority – police, prosecution or court – issues a **decision** by which a translator or an interpreter is appointed.

The injured party has a right to **translation of the following documents**: the judgment, the criminal order (which is a type of judgment issued in summary proceedings), the decision on appeal, the decision to conditionally suspend criminal prosecution and notification of the court hearing. If a person reporting the crime is also an injured person, she/he has a right to translation of the written confirmation of acceptance of the criminal complaint, on request (Art. 28(6)).

On request of the injured person, the relevant authority may decide to translate another document, if considered necessary to assert her/his rights in the criminal proceedings. In case of refusal of such request, the authority issues a decision. The injured party can challenge such a decision by way of a **complaint** (Art. 28(7) of the CCP).

Instead of a written translation, it is possible to provide an **oral translation** of the document or its relevant part, if this will not affect the fairness of the proceedings. This shall be notified in the minutes to make clear whether the whole or a part of the document had been orally translated (Art. 28(7) of the CCP). When a document or its relevant part was orally translated to the injured party, she/he loses the right request a written translation (see the preceding paragraph). The injured person can also waive the right to translation if properly instructed (*ibid.*).

When a person chooses a language for which there is no interpreter registered in the list of registered interpreters, or if a matter is urgent and the registered interpreters cannot be reached,

the authorities may appoint a **non-registered interpreter** (Art. 28(3) of the CCP). In exceptional cases, the interpreter may be the same person as the persons taking minutes (Art. 28 (1) of the CCP).

If the fairness of the procedure does not require the physical presence of an interpreter and no interpreter for the language chosen by the person can be found, it is possible, in well-founded cases, to secure interpretation via **technical equipment** for image and sound transmission (e.g. a video conference) (Art. 28(8) of the CCP).

The register of translators and interpreters is kept by the Ministry of Justice and is available online.¹⁹ There are 1,270 registered translators and 856 registered interpreters from 36 (mostly European) languages. The number of registered translators and interpreters from exotic languages is very low (e.g. 2 interpreters from Urdu, 3 from Persian, 7 from Chinese, 1 from Albanese). There are 14 registered interpreters from sign language.

The registration procedure, necessary qualifications, rights and obligations as well as the remuneration and costs of translators and interpreters is regulated by the Act on Experts, Interpreters and Translators (No. 382/2004 Coll., as amended).

According to the information provided by the respondents of the survey, interpretation and translation is generally provided and is financially covered by the state. However, there is a **problem with the availability of qualified interpreters** and in some cases, the **victims are not provided interpretation or translation due to an assumption that they understand the language** of proceedings well enough.

According to the expert working in an association providing legal assistance to asylum seekers and migrants, the approach of the police authorities depends very much on the personal attitude of the police officer on duty. They have very good as well as very bad experiences. In one simple criminal case (theft of a mobile phone), the police officer was unwilling to accept the criminal complaint from a foreigner. After certain persuasion, he claimed that he would have to appoint an interpreter to accept the criminal complaint. When apparently this was unsuccessful, he appointed the lawyer accompanying the victim as an interpreter and accepted the criminal complaint. In another more serious case (hate-motivated verbal and physical attacks) the interviewed lawyer had a much better experience. The police authorities were polite and respectful. There were no problems with appointing an interpreter. The interviewed experts did not have experience with the translation of official documents to victims.²⁰

¹⁹ Register of Registered Interpreters is available online at: <<https://obcan.justice.sk/infosud-registre/-/isu-registre/zoznam/tlmocnik>>

Register of Registered Translators is available online at: <<https://obcan.justice.sk/infosud-registre/-/isu-registre/zoznam/prekladatel>>

²⁰ Interview no. 6 and interview no. 2.

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.

The Victims Act distinguishes **general** and **specialized** victim support services. The former is defined as provision and proper explanation of information regarding the victims' rights, legal assistance, psychological help and consultancy regarding prevention of secondary victimization. The latter, provided only to the victims with specific protection needs (Art. 5(2) of the Victims Act), comprises the provision of general professional assistance; psychological crisis intervention; evaluation of risk to life and health; and social services in a facility providing emergency shelter and specialized social assistance if life and health of the victim is immediately in danger (Art. 5(3) (4)). In accordance with the Directive, the victim has the right to access victim support services regardless of presentation of a formal criminal complaint or her/his active participation in the criminal proceedings (Art. 5(6) of the Victims Act).

The distinction between the victims and victims with specific protection needs is not only in the extent of services they have the right to receive but also to their costs and duration. The victims with specific protection needs have a right to victim support services free of charge for 90 days and only in reasoned cases and, on request, this support may continue during the entire criminal proceedings and for an appropriate time after (Art. 6(3) of the Victims Act). With regard to victims not falling into the category of the victims with specific protection needs, the provided services can be **paid** or **free of charge** (Art. 6(2) of the Victims Act). This depends on whether the service provider got a subsidy from the State or not. If yes, the victim has the right to victim support services free of charge for 90 days but only if the seriousness of the crime requires it. Only in

reasoned cases, this support may continue after the lapse of 90 days. If the service provider did not get a subsidy, only the first consultation is free of charge, the rest of the services are paid (*Ibid.*).

From the outset, it is problematic that the specialized victim support is guaranteed only to victims with specific protection needs. Secondly, the provision of shelter is conditioned by the immediate danger to life and health. Thirdly, only the victims with specific protection needs have the right to be provided victim support services after the end of the criminal proceedings. Fourthly, the provision of services to victims, who have not been identified as having specific protection needs, free of charge is conditioned by the seriousness of the crime. Lastly, the legislative setting of the provision of victim support services is by itself quite complex.

There is no single state victim support service nor an entity providing support services for victims in the whole country. However, a network of **contact points for victims of crime** should be introduced by the Ministry of the Interior in the following years. The contact points should territorially cover all Slovakia, and the service should be provided by specifically trained professionals - **coordinators for victims of crime** and their assistants. As a part of the project intended to be implemented during the years 2017-2021, a specific **workplace for needs analysis and support for the victims**, as well as a system of **methodological governance** of the contact points and coordinators, will be created.²¹

The support services are provided by a **network of local non-governmental organisations and charities** and few municipalities providing emergency shelter services. The providers of victim support services are registered in the **Register** of victim support services, available on the website of the Ministry of Justice.²²

There is currently 50 registered service providers. As to the territorial availability, there are 7 for Banská Bystrica Region, 5 for Bratislava Region, 11 for Košice Region, 5 for Nitra Region, 3 for Prešov Region, 3 for Trenčín Region, 7 for Nitra Region and 9 for Žilina Region.

The Ministry's online register does not contain the opening hours of the support facilities but contains the phone number, email address and website of the support facility. In most cases, but not always, the opening hours can be found on these websites. Some facilities run a helpline where the victims can call and seek information.²³

As to the target groups, most of the registered organisations (27) provide assistance only to

²¹ See the information about the project online at: <https://www.minv.sk/?projekt-obete-trestnych-cinov-sluzby>

²² The register is available online at: <https://www.justice.gov.sk/Stranky/Registre/Zoznamy-vedene-MS-SR/Register-pomoc-obetiam-zoznam.aspx>

²³ E.g. Aliancia žien Slovenska, see <https://alianciazien.wordpress.com/kontakt/> (last access 22 July 2018).

victims of domestic violence. Only 4 registered organisations provide support to children, 1 to people with disabilities, 2 to victims of human trafficking and none to persons older than 75 years old. As to the type of provided services, most of the registered organisations provide emergency shelter.

The Victims Act regulates the accreditation procedure for the providers who are interested in getting State subsidies. The conditions for accreditation involve second-degree university diploma from the relevant area of at minimum one person working for the organisation, several years of practice, clear criminal record, suitable premises, insurance, among others. (Art. 24). So far, only 3 organisations obtained such accreditation. This is important to take into account because victims can obtain services free of charge only from providers who got the State subsidy.

As to **referral**, under the Victims Act, the police officer or prosecutor is obliged to provide the victim information about the entities providing victim support services during the first contact with the victim (Art. 4(2) of the Victims Act). The provider of health services has the same obligation (Art. 4(6) of the Victims Act). The police officer or prosecutor also have the obligation to assist the victim to contact the entities providing victim support services upon request (Art. 4(4) of the Victims Act). In the experience of the interviewees, the referral does not really work very well, as the authorities are not well aware of the available services and also, there are not enough victim support services available in Slovakia. The situation is slightly better with referral to services providing support to victims of domestic violence and to shelters.²⁴ It was stated that one of the reasons for this situation is that the public's knowledge about the victim support services and their visibility is rather low and the situation is slightly better in relation to victims of domestic violence, as several campaigns have been implemented in relation to this topic.²⁵

In contrast with the experience of the interviewees, the respondents of the survey generally stated that the victims are usually (always or often) referred to the relevant services. The situation regarding the quality of the provided service (i.e. the extent to which the service meets the needs of the victim) was however not evaluated very positively. It is likely that the accessibility and costs of the services may be a problem for certain groups of victims.

²⁴ Interviews nos. 2 and 3.

²⁵ Interviews nos. 1 and 2.

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 extent of victim support services is set out in Art. 5(3) of the Victims Act regulating general victim support services and Art. 5(4) regulating specialized victim support services.

The general victim support services are:

- Provision and proper explanation of information regarding the victims' rights to the extent regulated by law,
- Legal assistance to assert rights under the Victims Act,
- Legal assistance to assert rights in the criminal proceedings,
- Psychological help, and
- Consultancy regarding prevention of secondary victimization.

The specialized victim support services are:

- Provision of general professional assistance,

- Psychological crisis intervention,
- Evaluation of risk to life and health,
- Provision of social services in a facility providing emergency shelter and specialized social assistance, if life and health of the victim is immediately in danger.

In general, victim support services are provided only if it is justified by the **seriousness** of the crime (Art. 6(2) of the Victims Act).

As mentioned under the previous provision, the services are provided by various bodies, mainly non-governmental organisations, and charities. These are registered in the Register of victim support services run by the Ministry of Justice.

After the adoption of the Victims Act, several provisions of the CCP have been amended. It now includes a special provision on a psychologist who is to be appointed in cases set out by the law (e.g. if a victim with specific protection needs or a child is heard) and who has the right to claim costs (Art. 30a).

As to the specialized victim support services regulated by Art. 9(3) of the Directive (emergency shelter and target and integrated support to victims with specific needs), the Victims Act guarantees provision of these services free of charge only for 90 days. Only in reasoned cases can this assistance continue during the entire criminal proceedings and for a reasonable time after (Art. 6(4) of the Victims Act). From the Register of victim support services, it is obvious that most of the registered organisations provide services of emergency shelter generally to victims of domestic violence (mostly women).

According to the respondents of the survey, victims almost always receive the information about the relevant service, advice and support and rather often, they receive information about the direct referral to existing specialized support services, emotional and psychological support, advice relating to financial and practical issues associated with the criminal offence and relating to the risk and prevention of secondary and repeated victimisation, intimidation and retaliation.

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 has not been transposed into the Victims Act and remained regulated only in the CCP. Consequently, only victims falling under the definition of "injured party" benefit from the rights set out below.²⁶ At the same time, the victim usually participates in the proceedings as a witness.

The injured party has, *inter alia*, the right to adduce evidence and to comment on it, the right to attend the court hearing, the right to a final speech and the right to file remedies to the extent of her/his claim for compensation for damage (Art. 46(1) of the CCP). She/he further has the right to make concrete proposals with the view to concluding settlement or agreement with the perpetrator (Art. 46(6) CCP). According to the respondents of the survey, victims are generally able to provide evidence during the criminal proceedings and this right is not limited in certain phases of the proceedings or by the role of the victim in the proceedings (except for the necessity to qualify as the injured party).

Children have the right to express their opinion on all matters affecting them. They have the right to be heard in all proceedings which concerns them. Their opinion should be taken into account, having regard to their age and maturity (Art. 43(1) of the Family Act). In contrast to the civil procedural rules, where the rights of the child to express the opinion and to be heard are expressly regulated (Art. 38 of the Code of Civil Non-Contestation Procedure, Act no. 161/2015 Coll., as amended), the CCP has no such provision. However, the general provision from the Family Act state above should be adhered to.

Children who are injured parties in the criminal proceedings are represented in principle by their legal representatives. In cases of crimes perpetrated by close or entrusted person, minor victims are appointed a guardian, preferably a state authority, and the child is also appointed a representative from the organisations providing victim support services under the Victims Act (Art. 48(2) of the CCP).

²⁶ See the definition in commentary on Art. 2 above.

Victims can also be heard as witnesses (Art. 131 et seq. of the CCP). Vulnerable witnesses have the right to be heard in a sensible manner and if possible to the extent that there will be no need to repeat the testimony in further proceedings. The testimony is to be video-recorded. The authorities should secure that the questioning is done by the same person throughout the investigation. A psychologist or expert should be present during the testimony whose role is to contribute to the correct manner of questioning (Art. 134(4) of the CCP). The victims are usually heard in the relevant criminal proceedings, although sometimes their testimony is mocked or belittled.²⁷

Children enjoy particular protection during questioning. If a child is heard as a witness about circumstances which may harm her/his mental or moral development, the questioning should be particularly sensitive and lead in a manner that there will be no need to repeat it in further proceedings. A psychologist or an expert should be present, as well as the representative of social services. A parent or a teacher may be present if their presence may contribute to the correct course of questioning. The authorities should consult the manner of questioning with the psychologist or the expert, and if necessary with the social services, parent or teacher beforehand in order to prevent secondary victimisation (Art. 135(1) of the CCP).

Rights of vulnerable witnesses and children, in particular, are reflected also when testifying during the trial. If a vulnerable witness needs to provide testimony before the court, the presiding judge shall hear her/him in a way that she/he will not need to visually confront the accused, in particular, technical equipment shall be used (Art.262(a) of the CCP). If children younger than 15 years are heard before the court, the presiding judge may decide to lead the questioning instead of the parties (Art. 261(4) of the CCP). According to the respondents of the survey, the age and maturity of the children are generally taken into due account during their questioning, but the measures to assess the maturity of the age in order to accommodate the questioning are rather insufficient.

The injured parties have also a right to be accompanied by a person of their trust during all parts of the criminal proceedings (Art. 48a of the CCP). The role of this person is to provide support, in particular, psychological support.

²⁷ Interview no. 2.

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.

The right to review a decision not to prosecute is regulated by the CCP. The decision not to prosecute may be issued at various stages of the criminal proceedings.

At the investigative phase, the police officer or the prosecutor may decide not to start the criminal proceedings but to refer the matter to disciplinary or misdemeanour proceedings or simply reject the criminal complaint (Art. 197(1) of the CCP). In such cases the person who reported the crime and the injured person has the right to receive such decision and also the **right to file a complaint** against it within **3 days** from its notification (Art. 197 (3), 187(1) of the CCP). Such complaint is examined by the prosecutor within 30 days and the result is notified to the complaining party.

Even **after the criminal investigation** was opened, the police officer or the prosecutor may still refer the matter to the disciplinary or misdemeanour proceedings (Art. 241(1)(2) of the CCP). Such decision shall be again delivered to the person who reported the crime and the injured person who have a right to file a complaint against it (Art. 214 (4) of the CCP).

Furthermore, the authorities may discontinue the criminal proceedings for a number of reasons set out in Art. 215 (1-3) of the CCP. The injured party can in principle file a complaint against it, with two exceptions: when a settlement had been concluded and when the prosecution is discontinued on account of the significant contribution of the perpetrator to investigate the crimes of corruption, organised crimes, etc. The injured party may also file a complaint against the decision to conditionally suspend criminal prosecution (Art. 216 (5) of the CCP).

In the trial phase, the injured party has no right to file a complaint if the court decided to refer the case to the misdemeanour or disciplinary proceedings (Art. 280 of the CCP). On the other hand, the injured party may file a complaint against the decision of the court to discontinue or conditionally discontinue criminal prosecution (Art. 281(5) and 282(4) of the CCP).

The authorities have the **obligation to inform** the victim of her/his rights, including the right to challenge a decision not to prosecute. According to the Victims Act, the police officer or prosecutor are obliged to inform the victims about their rights when filing a criminal complaint and about their rights as the injured party in the criminal proceedings (Art. 4(2)(a) of the CCP). Such instructions shall be provided in a manner appropriate to the age, maturity, health condition, including the psychological condition of the victim and considering the nature of the crime. Likewise, the entities providing victim support services have the obligation to provide the victim information regarding these rights to the injured party in the criminal proceedings (Art. 4(5)(c) of the CCP). In addition, the above-mentioned decisions shall include an **instruction about the available remedy** (Art. 176(1)(e) of the CCP). Therefore, the victims should, in theory, receive sufficient information about their right to challenge a decision not to prosecute.

With regard to victims who do not understand the language of the proceedings, the access to information about the remedy seems more complicated. The above-mentioned decisions not to prosecute are not listed among the decisions that must be translated to the injured party (with the exception of the decision to conditionally suspend the criminal prosecution - Art. 28(6) of the CCP). The authorities may decide to translate to the injured party other relevant documents if it is considered necessary to assert their rights (Art. 28(7) of the CCP). This is, however, discretionary, and the victim not understanding the language of the proceedings and not receiving any legal or other help, is left at mercy of the authorities that issued the impugned decision.

Because the criminal proceedings are highly formal, not all victims may have the ability to file a complaint in a correct manner without additional help. In such cases, the victim may, in theory, turn to the victim support services which include legal assistance in connection with asserting rights of the victim as injured party and witness in the criminal proceedings (Art. 5(3)(c) of the CCP). However, these services are provided free of charge only to a limited extent.²⁸ Free legal aid is provided by the state-funded Centre for Legal Aid but only if the victim claimed compensation for damage in the criminal or civil proceedings (Art. 7). Also, the **time limit** to file a complaint seeking review of a decision not to prosecute is **only 3 days**, which is a very short time to find legal or other assistance to file the complaint. Therefore, arguably, the possibilities of victims without additional support to file for review are rather limited.

The **data** on a number of complaints lodged by the injured parties and the manner of their resolution is **not available**. Only limited data could be found through publicly accessible sources.

²⁸ See the commentary on Art. 8 above.

According to the statistics of the General Prosecution, in 2017 the injured parties lodged 35 complaints against the decisions of the authorities issued in the pre-trial stage of the criminal proceedings with the General Prosecution (these may include also other decisions besides the decisions not to prosecute). This number is consistent with previous years and significantly lower than complaints lodged by persons charged with a criminal offence (392).²⁹

²⁹ General Prosecution of the Slovak Republic, Yearbook 2017, p. 56, available at: <<https://www.genpro.gov.sk/statistiky/statisticky-prehľad-trestnej-a-netrestnej-cinnosti-za-rok-2017-39b2.html>>

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 core legal institute of restorative justice regulated in the CCP is the **settlement** (Art. 220 et seq.). The basic conditions for reaching a settlement are the following:

- The criminal offence involved is punishable by a maximum five years prison term;
- The injured party and the persons charged with criminal offence both agree with the settlement and;
- The person charged with criminal offence declared that she/he had committed the offence, settled or otherwise removed the damage caused by the offence, and paid a financial amount to the account for protection and support of victims of crimes and this amount is not manifestly disproportionate to the offence committed.

It is not possible to settle the case if a person died as a consequence of the criminal offence. The settlement is also excluded in certain types of criminal offences (e.g. corruption).

The settlement has to be approved by the **prosecutor**. The prosecutor should, if necessary, hear the injured party and the person charged with the criminal offence about the manner and circumstances of reaching the settlement and make sure that the settlement was reached voluntarily and that the parties agree with it. Both parties shall be **instructed** about their rights and the nature of the settlement (Art. 221).

The **probation and mediation officers** should create conditions to reach the settlement and perform such activities that would lead to an agreement between the injured party and the person charged with the criminal offence on compensation or removal of damage caused by the criminal offence (Art. 3(1)(b)(c) of the Act on Probation and Mediation Officers, no. 500/2003 Coll., as amended).

The probation officers can act on the motion of the prosecutor but also on their own motion if contacted by the injured party or the perpetrator. In the latter case, the mediation officer must inform the prosecuting authorities and an approval of the court or the prosecutor is also necessary to perform mediation services (Art. 3(2) of the Act on Probation and Mediation Officers). The prosecuting authorities shall inform the mediation officer about cases suitable for mediation; in particular, cases involving juvenile perpetrators, in a manner that mediation can be used before charges are brought (Art. 3(4) of the Act on Probation and Mediation Officers).

There are **no separate provisions on safeguards** against secondary and repeated victimisation, intimidation, and retaliation (compare Art. 12(1) of the Directive) in the CCP, nor the Act on Probation and Mediation Officers contains such safeguards. No major amendments to the above-described procedure of reaching a settlement were made to implement the Directive. The newest information on mediation available on the website of the Ministry of Justice is from 2009.³⁰ According to the information provided by a probation and mediation officer, mediation is not very often used in Slovakia and generally, the probation and mediation officers do not work often with victims of crime. No training has yet been provided to the officers either on victims' rights generally or specifically on the prevention of secondary and repeat victimization, intimidation, and retaliation.³¹

According to the lawyer working with migrants and asylum seekers, in one case (hate-motivated verbal attack) the victim was willing to conclude a settlement with the perpetrator, but this was not possible because he was a recidivist. The victim was very afraid to face the perpetrator before the court. This did not (yet) happened as the indictment was refused by the judge and an appeal is pending. There is no protection of victims who wish not to confront the perpetrators in these types of crimes.³²

³⁰ Information about mediation is available (in Slovak) online at: <https://esmo.gov.sk/web/esmo/domov/-/journal_content/56/10454/11168>

³¹ Interview no. 3.

³² Interview no. 6.

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.

The right to legal aid has been transposed into Art. 7 of the Victims Act. Under this provision, legal aid means the provision of legal information and legal representation to the victim in **criminal as well as civil proceedings**. The representation in the civil proceedings is limited to cases, in which the victim claimed damage in the criminal proceedings but was referred with her/his claim to the civil proceedings, which is very common practice in Slovakia.³³

Legal aid to victims may be provided by three entities: the Centre for Legal Aid, victim support services organisations and attorneys.

The **Centre for Legal Aid** was created pursuant to the Act on the Provision of Legal Aid for People in Material Need (no. 327/2005 Coll., as amended) as a state budgetary organization under the Ministry of Justice. It has the competence to provide free legal aid and representation of persons in financial need in various types of civil and certain administrative proceedings. However, it does not have the competence to represent persons in the criminal proceedings. Hence, victims of crimes can obtain representation from the Centre only in civil proceedings on damage. The Centre had this competence and represented the victims in the civil proceedings before the Victims Act entered into force.

To assess free legal aid, the victim has to submit an application in writing or orally in one of the offices of the Centre. The Centre has a very good territorial coverage. Upon receiving the application, the Centre assesses three conditions: whether the person is in financial need (current income less than ca. 320 euro), whether the dispute is not obviously unsuccessful and whether the value of the dispute exceeds the minimum wage set by the law (currently 480 euro). The lawyer of the Centre can also offer preliminary legal consultation.

Legal aid is provided either by lawyers of the Centre or, if necessary for certain type of the proceedings, the Centre may appoint an attorney. The Centre generally works quite well, but it is too early to assess how it works towards victims (since the Victims Act is effective only since the

beginning of 2018). The difficulty is that the Centre cannot represent the victims in the criminal proceedings and therefore the access of victims to legal aid in criminal proceedings is limited to the two options below.

In practice, victims who turn to the Centre with a request for representation in the criminal proceedings receive only a first consultation with a lawyer where they are given basic information about their rights under the Victims Act and in the criminal proceedings, how to proceed, how to calculate the damage, among other information. The first consultations are informal, and the Centre does not examine the financial situation of the victim. During such consultation, therefore, the Centre can also provide the victim with legal information relating to victims' rights.³⁴

As to the **entities providing victim support**, they can provide legal aid under Art. 5(3)(b)(c) of the Victims Act, either to assist the victim to assert her/his rights under the Victims Act or to assert their rights as injured party or witness in the criminal proceedings. The victim support services, including legal aid, can be provided free of charge only to the limited extent (first 90 days, if the provider got a subsidy from the State). Otherwise, the services are paid.³⁵ Also, in order to obtain accreditation to assist victims who are injured parties or witnesses in the criminal proceedings, the organisation must employ an attorney (Art. 24(3) of the Victims Act). The employee of the organisation providing victim support services can be representative of the injured party in the criminal proceedings (Art. 53(1) of the CCP).

The **attorneys** provide legal aid under the Act on Advocacy (no. 586/2003 Coll., as amended). The attorney may provide legal services for reduced remuneration or free of charge considering the personal or financial circumstances of the client or if there is another specific reason (Art. 24(4) of the Act on Advocacy). There are 5,277 attorneys registered with the Slovak Bar Association. The search engine of the Slovak Bar Association enables to search for the attorney according to the location, language skills, and specialization.³⁶ However, the specialization areas do not include the representation of the victims of crimes, only the general area of "criminal law". Therefore, it may be difficult for a victim to find an attorney who in fact specializes in representing victims of crimes.

The injured party in the criminal proceedings who claimed compensation of damage and have insufficient income to cover the expenses of legal representation may be appointed an **attorney free of charge**, if the authorities find it necessary to protect the interest of the injured party (Art. 47(6) of the CCP). The injured party must prove insufficient income. The decision to appoint a free of charge attorney to injured parties is discretionary and based on a necessity test.

³⁴ Interview no. 5.

³⁵ See further the commentary on Art. 8 above.

³⁶ The register of attorneys is available online at <<https://www.sak.sk/blox/cms/sk/sak/adv/vyhľadanie>>

³³ Interview no. 5.

Furthermore, **child victims** of crimes committed by close and entrusted persons (most commonly victims of domestic violence) are obligatory appointed representative from the entities providing child support services who should represent their interests in the criminal proceedings (in addition to the child protection social services) (Art. 48(2) of the CCP).

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.

The right to reimbursement of expenses has not been implemented into the Victims Act. It is, to a certain extent, regulated in the CCP.

Victims may participate in the criminal proceeding as a person reporting a criminal offence, witness or injured party.

Persons reporting criminal offence have no right to reimbursement of expenses under the current legislation.

Witnesses have a right to reimbursement of necessarily incurred expenses and lost income for work or other provable lost income. They have to claim it within 3 days after the testimony and they shall be instructed thereof (Art. 140(1) of the CCP).

The State does not bear the costs of injured parties in the criminal proceedings (Art. 553(1) of the CCP). The injured party has the right to be reimbursed of expenses from the **offender**, but only if and after she/he had been convicted and the court acknowledges at least in part her/his claim for damages (Art. 557(1) of the CCP). As for the extent of the reimbursed costs, the provision speaks of "the costs necessary to effectively assert the claim (for damages) in the criminal proceedings, including the costs of representation." Considering the circumstances of the case, the court may decide about an obligation of the convicted person to reimburse the injured party the expenses in full or in part even if the claim for damages had been rejected (Art. 557(2) of the CCP).

In practice, this is problematic. The injured party has to bear the costs of proceedings for the entire criminal proceedings and only under certain limited conditions there is a possibility to claim free legal aid (see under Art. 13 of the Directive above). In most of the cases, criminal courts decide only about the guilt and punishment of the perpetrator and refer the injured party with their claim for damages for civil proceedings, thus creating further costs for the victims. Lastly, it is extremely difficult to enforce the reimbursement of expenses from the offender, who may serve a prison sentence, does not have or hides the money to cover the expenses.

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.

The CCP does not specifically regulate the time-limit to return the property seized during the criminal proceedings. The authorities shall return such property if it is "*no longer needed for further proceedings*" (Art. 97(1) of the CCP). According to the legal commentary, the objective of this provision is to secure that the property seized during the criminal proceedings stays with the authorities only for the necessary period of time and the ownership rights are not unreasonably restricted. The property should be returned "*immediately*" after it was found out that it is no longer necessary for further proceedings.³⁷

There is no information or data about the sensitivity of the authorities when returning the property. It always depends on the individual approach of police, prosecution or court officers.³⁸

³⁷ Čentés, J. Code of Criminal Proceedings. Commentary. Eurokodex, 2017, p. 310.

³⁸ Interview no. 2.

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 injured party has a right to claim compensation for damages caused by the criminal act from the offender and can ask the court to oblige the offender if there is a conviction judgment to pay the damage (Art. 46(1)(3) CCP). Such claim must be reasoned, quantified and lodged before the end of investigation at the latest. In practice, this may be problematic if the injured party has no legal assistance, as the quantification of damage may be complex.

The decision to award compensation for damage should be adopted, in principle, as a part of the judgment by which the offender was convicted (Art. 287(1) of the CCP). However, the court has the possibility not to decide on the damages and **refer the injured party with the claim to the civil proceedings**, if there is insufficient evidence to decide on the damage and further evidence taking would unnecessarily prolong the criminal proceedings (Art. 288(1)) of the CCP). This provision is widely used in practice and most of the injured parties find themselves, after the criminal proceedings, before a civil court where the proceedings may take several months if not years.³⁹ The **average length** of criminal proceedings was 4.6 months and of civil proceeding was 20.8 months in 2017.⁴⁰

It is to be noted, however, that the criminal court is obliged to decide upon the claim for damages in cases where the amount of damage is a part of the criminal act described in the judgment or if compensation of non-pecuniary damage was claimed for intentional violent criminal offence (Art. 287(1)) of the CCP). If the compensation for damage has already been granted in civil or other proceedings, the injured party cannot claim it again in the criminal proceedings (Art. 46(4)).

³⁹ Interview no. 5.

⁴⁰ Ministry of Justice of the Slovak Republic, Average Length of the Proceedings – Overview for years 2004-2017, available online at: <https://www.justice.gov.sk/Stranky/Sudy/Statistika-priemerna-dlzka-konania.aspx>

As mentioned under the commentary on the previous provision, the main problem is that the victims may not be able to **enforce** the decision on the damages from the offender. This may happen for various reasons, the most obvious of which is the lack of funds of the offender. The law provides for a possibility to request the court in the course of the criminal proceedings to temporarily seize the property of the offender if there is a reasonable suspicion that the offender might frustrate the future payment of compensation (Art. 50 of the CCP).

The Victims Act also sets out the **compensation scheme for victims of violent criminal offences** who suffered harm on health (Art. 10 et seq. of the Victims Act). These victims are entitled to claim compensation of damage from the State in separate proceedings. The claim must be made with the Ministry of Justice within one year after the final judgment by which the offender was convicted or the judgment on damages if the victim was referred to the civil proceedings. The maximum amount of compensation is 24,000 euro.⁴¹ The victim is obliged to return the funds that she/he had obtained directly from the offender within five years after having received the compensation from the Ministry.

⁴¹ The maximum amount is calculated as 50 times of minimal wage which was 480 euro in 2018 (Art. 13 of the Victims Act).

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.

In general, victims residing in another Member State should enjoy the same rights as national citizens. The Victims Act includes a non-discrimination clause (Art. 3 (2)). When the victim files a criminal complaint and declares that he/she does not understand the language of the proceedings, the authorities should in principle appoint him/her an interpreter (Art. 28(1) of the CCP). The victim residing in another Member State who suffered harm as a result of the crime

committed in Slovak territory can also ask for compensation through the authorities of his/her residence. Such claim will be dealt with by the Slovak authorities and the victim will be notified about the receipt of the request and estimated time of its processing (Art. 19 of the Victims Act).

According to the CCP, a person with a permanent residence in Slovakia who has been harmed by the criminal offence in another Member State, can file a criminal complaint in Slovakia provided that he/she could not file the complaint in the Member State where the criminal offence had been committed, or if it was a serious crime (a more serious form of the criminal offence), in cases he/she did not want to file the criminal complaint in that state (Art. 196 (3) of the CCP). The prosecutor should transfer the complaint to the competent authority of the Member State where the crime had been committed **without undue delays** (Art. 196(4) of the CCP).

According to the respondents of the survey, the victims residing in another Member State are generally able to file the criminal complaint in Slovakia and mostly, they are not treated differently from the victims, who are nationals. At the same time, the respondents of the survey state that the police do not have sufficient means to conduct an interview of a victim, who is resident abroad. At the same time, Slovakia has established cooperation in police matters with a number of states, which should help facilitate the conduct of an interview.⁴²

⁴² For further information regarding bilateral cooperation between states in police matters see commentary on Article 26.

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.

Article 18 of the Directive, concerning the victims' right to protection, was transposed especially into Art. 8 of the Victims Act and provisions of the CCP regulating interview of witnesses. Namely, Art. 8(1) of the Victims Act provides for a general right to be protected against secondary victimisation.

Further, as regards the interview of the victim, under Article 134(4) of the CCP, if the criminal justice authority interviews a victim with specific protection needs under Art. 2(1)(c) of the Victims Act, the interview must be conducted in a thoughtful manner and in a way to prevent its repeat. The interview shall be conducted using the audio-visual technical devices. Moreover, the criminal justice authorities are under an obligation to ensure that the interview in the pre-trial stage of the proceedings is conducted by the same person if it does not impair the course of the proceedings. In addition, the criminal justice authority should take on a psychologist or an expert for the interview.

Under Article 134(5) of the CCP, if a witness has specific protection needs in accordance with the Art. 2(1)(c) of the Victims Act, and if the situation concerns specific offences, namely an offence against the human dignity, an offence of human trafficking or an offence of abuse, the interview in the pre-trial stage is conducted by an officer of the same gender as the victim, unless there are serious reasons indicating this is not possible. The reasons must be recorded in the minutes of the interview.

Police officers, prosecutors, court staff and others are very much used to take measures to avoid the contact between the victim and the aggressor and that these measures, for example, taking the victim outside by the back door of the building or through the garage, are a part of

their daily routine.⁴³ Respondents of the survey however also predominantly stated that victims rarely receive adequate protection from intimidation and from retaliation and risk of emotional or psychological harm.

Prior to the transposition of the Directive, the Slovak criminal legal framework already formulated restrictive measures which could have been applied especially in a context of violence, typically **domestic violence cases**. These measures can be divided into three groups. Criminal justice measures, applicable after the criminal proceeding is opened and a person charged, preventive measures under the Police Act and the preliminary measure under the Code of Civil Procedure.

Considering the **criminal justice measures**, under the Art. 82(1) of the CCP a judge can impose on the accused person specific obligations, including a prohibition of contact, in any form, with a concrete person, or a prohibition to enter or stay at specific premises. Among other measures, an obligation to periodically appear before the competent authority (usually the police station in his/her area of residence), a suspension of professional activity or an obligation to deposit a certain sum of money as a compensation for a victim, can be also imposed. Moreover, the court can rule on this matter in the pre-trial detention.

Further, regarding **preventive measures**, under Section 27a of the Police Act, a police officer can banish from an apartment or a family house a person who, considering the circumstances of the case, can be expected to endanger life, health, and freedom or commit a serious offence against human dignity. The banishment is accompanied by a prohibition to enter in these premises for 10 days since the banishment. This period is extended if there is a request to issue a preliminary measure by a civil court under Article 325(2) of the Code of Civil Procedure, and until the court decides. Under this provision of the Code of Civil Procedure, a civil court can temporarily ban a certain person from entering into an apartment or a family house, or other premises where a victim of violence, or a victim whose physical and mental integrity was endangered, lives or works.

⁴³ Interview no. 6.

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 Slovakia, Article 19 (1) of the Directive is transposed into the CCP and relates therefore to the victims in the position of the injured party or in the position of a witness. Namely, two provisions govern the situation when the contact between the victim and offender should be avoided. Both provisions, however, concern rules in the trial stage of the proceedings. Under Article 262 of the CCP, the president of the chamber shall make appropriate accommodations to ensure safety of a witness in a situation when there is a risk that a witness will not say the truth in front of an indicted person, or if there is a risk of harm to the witness's health, risk of death or other serious reasons. Especially, the president of the chamber can classify the identity of the witness, or exclude the offender, her/his close persons and the public from the part of the hearing during which the interview takes place. After the interview, the indicted person can return to the hearing room and must be informed about the content of the statements, can express his/ her views, without necessarily meeting the witness and can also ask the question through the president of the chamber.

Moreover, under Article 262a of the CCP, if the witness is a victim with specific protection needs within the meaning of the Victims Act, the president of the chamber has an obligation to interview the witness in such a manner as to prevent visual contact between the victim and the offender, especially by using the audio-visual technical devices, including sound devices.

Provisions of Article 19(2) of the Directive have not been fully implemented. The Victims Act provides in Article 8(2), in a general manner, that criminal justice authorities and courts use specifically adapted official rooms. However, the law also stipulates that this is implemented only if it is possible. The respondents of the survey confirmed that this is rather problematic

in practice, as separate waiting rooms or entrances for offenders and victims do not exist. The professionals often take adequate steps to protect the victim from the unwanted contact even in these circumstances, e.g. by scheduling the interviews for different times.⁴⁴ At the same time however, the survey showed that the respondents are not well aware of this practice.

⁴⁴ See the commentary on Article 18 above.

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.

The general legal framework governing interviews of witnesses under Articles 134 and 135 of the CCP provides, in conjunction with Article 2(7) of the CCP, for an obligation to conduct the interview without delays. However, the law does not provide specifically that in case of victims who are considered to have specific protection needs. Their statement should be collected by the authorities as soon as possible after the commission of the crime. According to survey results, the interviews are usually conducted without unjustified delay.

Under the Article 2(1)(c) of the Victims Act, the interview must be conducted in a thoughtful manner and in a way to prevent its repeat. This does not, however, according to the respondents of the survey, work very effectively in practice. The interviewees also confirmed to us that, although the interviews are rarely unnecessarily repeated, they are often not conducted in a particularly sensitive and thoughtful manner.⁴⁵

In relation to the presence of a legal representative, the new provision of Article 48a of the CCP provides for a right of an injured party to be accompanied by an entrusted person. Under Article 48a of the CCP, the entrusted person can be any natural person with full legal capacity who has been chosen by the injured party. The entrusted person provides adequate support, especially of the psychological kind. He/she cannot intervene in the course of the criminal proceedings but can be, at the same moment, a legal representative of the injured party. On the other hand, a judge, a state prosecutor, an accused or his defence counsel, a witness, an expert or an interpreter cannot

⁴⁵ Interviews no. 2 and 3.

act as an entrusted person in the proceedings in which they have above mentioned specific positions.

Under Article 48(4) of the CCP, an entrusted person can be excluded from a particular procedural action, however only if his/her presence would negatively affect the course of the proceedings. In any case, an injured party can choose another entrusted person, unless the action cannot be repeated or suspended, or it is necessary to finalise the action. According to the survey, the victims are usually able to be accompanied by a person of their choice, however, an interviewee stated that the victims are not very often aware of this possibility.⁴⁶

Further, under Article 8(3) of the Victims Act, a medical examination can be ordered only in a necessary extent and only if it is necessary for the purposes of the criminal proceedings. The law does not formulate the strictly necessary test, neither it provides expressly that it should not be repeated.

⁴⁶ Interview no. 2.

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.

The protection of privacy of victims of crimes is regulated primarily in the CCP, according to which the authorities **cannot** publish personal data of **injured parties** and **children**. In addition, the authorities should be careful not to publish protected personal data and private information, concerning, in particular, the family life, home, and correspondence (Art. 6(2) of the CCP). For this purpose, the authorities may refuse to provide information to the public (Art. 6(4) of the CCP).

Witnesses also enjoy certain protection. During providing witness testimony, the authorities should not infringe the privacy of the witness without undue reason, in particular when questioning a witness suffering from an illness or a witness affected by the crime against human dignity (Art. 132 (2) of the CCP). The steps to protect the privacy of victims are however not very often taken by the authorities, not even in relation to the child victims, as revealed by the respondents of the survey.

The judge may exclude public from an oral hearing of the case, *inter alia*, in cases when there is “an important interest” on the side of the injured parties, their close persons or witnesses (Art. 149 (3) of the CCP). These persons may file a motion to have the public excluded. The public can be excluded only in respect of some parts of the hearing.

In addition, the Victims Act provides protection against secondary victimisation, including the activity of the **media**. The media should, according to the explanatory report, treat victims with respect and prevent secondary victimisation.⁴⁷ According to their **Ethical codex**, the journalists should treat victims and witnesses of crimes and tragedies with increased sensitivity and responsibility. Children should be used as a source of information only exceptionally and with particular care. A journalist is obliged to protect children’s privacy and interests and to not abuse their trust.⁴⁸

⁴⁷ Explanatory Report to the Victims Act, Art. 3, p. 11.

⁴⁸ Ethical Codex of the Slovak Syndicate of Journalists, (Art. V (4),(5),(6)).

The Press Act (no. 167/2008 Coll., as amended) provides for a single remedy in case a privacy of a person has been infringed. In such case, the person affected has a right to respond. Otherwise, he/she may file a lawsuit for the protection of personality with civil courts under Art. 11 et seq. of the Civil Code and seek damages. This may be lengthy and ineffective.

In addition, broadcasting and television media are supervised by the Broadcasting Council. They shall not broadcast anything which, by virtue of its content and the means by which it is processed, interferes with human dignity and the fundamental rights and freedoms of others (Art. 19(1)(a) of the Broadcasting Act, no. 308/2000 Coll., as amended). The Broadcasting Council may impose a fine if that provision is breached.

In general, the authorities respect their obligation not to disclose personal data of victims to the public. Media, however, often investigates on their own and it is not uncommon that pictures or video record appear on TV or in the press after the crime has attracted public attention. Legal remedies against such infringements are not immediately effective, as the court proceedings are slow and costly.

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.

The Victims Act (Article 2 (1) c) qualifies the victims with specific protection needs as children, elderly people (older than 75 years) and people with disabilities. If the age of a child cannot be determined, there is a presumption of minority until proven otherwise. Persons with disabilities are defined in accordance with the UN Convention on the Rights of Persons with Disabilities.

In addition, victims of the following crimes are automatically considered to have specific protection needs: crime of human trafficking, crime of abusing a close or entrusted person, crimes perpetrated by an organised group, crimes against human dignity, crimes of terrorism and domestic violence. Victims of crimes perpetrated by violence or a threat of violence on the ground of sex, sexual orientation, nationality, racial or ethnic background or religion are also considered to have specific needs.

There is an open clause for victims other than those enumerated above, who may be considered as having specific protection needs based on an individual assessment. The factors assessed are the personal character of the victim, her relation to or dependence on the perpetrator, the type, nature, and circumstances of the crime.

The authorities and organisations providing victim support services are obliged to make an individual assessment of the victim in order to determine whether he/she may have specific protection needs. They are to regard the seriousness of the crime (Art. 3(7) of the Victims Act).

It is good, on the one hand, that some victims are considered automatically to have specific protection needs, but for others, the assessment of their specific needs may be complex in practice and may depend on the knowledge, attitude, and training of individual persons with whom the victim comes into contact. In contrast with the requirements of the *DG Justice Guidance Document related to the transposition and implementation of the Victims Directive*, there is no tool, methodology or objective procedures (criteria/template/questionnaire) as to how to assess the

specific protection needs of victims and no assignment of the relevant authority responsible for the individual assessment. According to the respondents of the survey, the assessment of protection needs does not happen on a systematic level. At the same time, the respondents agreed that generally, some kind of risk and threat assessment is conducted.

As to the second step, the Victims Act and the CCP contain several accommodations to victims with specific protection needs, most connected with the prevention against secondary victimisation.⁴⁹

⁴⁹ See the commentary on Art. 20 above.

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.

There is very little practical experience with this provision since the Victims Act entered into force only as of January 2018. However, the Victims Act and the CCP have been designed to meet the specific protection needs of vulnerable victims.

As regards to inquiries, if the criminal justice authority interviews a victim with specific protection needs, the interview must be conducted in a thoughtful manner and as regards its content, in a way to prevent its repetition. The interview shall be conducted using the audio-visual technical devices. Moreover, the criminal justice authorities are under an obligation to ensure that the interview in the pre-trial stage of the proceedings is conducted by the same person if it does not impair the course of the proceedings. In addition, the criminal justice authority brings a psychologist or an expert for the interview (Art. 134 (4) of the CCP).

If victims of the specific offences, namely an offence against the human dignity, an offence of human trafficking or an offence of abuse, the interview in the pre-trial stage is conducted by an officer of the same gender as the victim, unless there are serious reasons which must be however recorded in the minutes from the interview (Art. 134 (5) of the CCP). According to the respondents of the survey, this provision is only sometimes implemented in practice. The victims with specific protection needs are however generally interviewed quite often by professionals trained for that purpose and usually the same person conducts the interviews if it is necessary to repeat them.

As regard the contact and privacy, victims enjoy protection only during the trial phase of the proceedings. The president of the chamber shall make appropriate accommodations to ensure the safety of a witness in a situation when there is a risk that a witness will not say the truth in front of an indicted person, or if there is a risk of harm of the witness's health or death or other serious reasons. Especially, the president of the chamber can classify the identity of the witness, or exclude the offender, his close persons and public from the part of the hearing during which the interview takes place. After the interview, the indicted person can return to the hearing room and must be informed about the content of the statements, can express her/his views, without necessarily meeting the witness and can also ask questions through the president of the chamber (Art. 262 of the CCP).

Moreover, if the witness is a victim with specific protection needs within the meaning of the Victims Act, the president of the chamber has an obligation to interview the witness in such a manner as to prevent visual contact between the victim and the offender, especially by using the audio-visual technical devices, including sound devices under (Art. 262a of the CCP).

The president of the chamber may also exclude public from the hearing or from part of it if there is an important reason on the side of the injured party and witness (Art. 249 of the CCP)

According to the respondents of the survey, these measures are not very often implemented in practice and accordingly, the respondents do not have relevant information regarding their use.

During the preparation of the Victims Act, several authorities raised concerns about the practical constraints of implementing these measures and their impact on the defence rights of the accused.⁵⁰

50 Interview no. 6.

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.

Children are automatically presumed to have specific protection needs. In case the age of a child cannot be determined, he/ she is automatically considered to be a child until proven otherwise (presumption of the minority - Art. 2(1)(c)(1) of the Victims Act). The Victims Act contains the principle of the best interest of the child among its basic principles (Art. 3(8)). However, the CCP contains no such principle.

During the inquiries, children enjoy particular protection. If a child is heard as a witness about circumstances which may harm his/her mental or moral development, the questioning should be particularly sensitive and lead in a manner that there will be no need to repeat it in further proceedings. A psychologist or an expert should be present, as well as the representative of social services. A parent or a teacher may be present if they are able to contribute to the adequate course of questioning. The authorities should consult the manner of questioning with the psychologist or the expert, and if necessary with the social services, parent or teacher beforehand in order to prevent secondary victimisation (Art. 135(1) of the CCP).

Rights of children are guaranteed also when testifying during the trial. If vulnerable witnesses need to provide testimony before the court, the presiding judge shall hear them in a way that they will not need to visually confront the accused, in particular, technical equipment shall be

used (Art.262(a) of the CCP). The respondents of the survey stated that the use of the audio-visual recording of the child's testimony is rather common. If children younger than 15 years are heard before the court, the presiding judge may decide to lead the questioning instead of the parties (Art. 261(4) of the CCP).

Children who are injured parties are represented in principle by their **legal representatives** (usually, but not, necessarily the parents). Only in cases of crimes perpetrated by close or entrusted person, minor victims are appointed a **guardian**, preferably a state authority, and the child is also appointed a **representative** from the organisations providing victim support services under the Victims Act (Art. 48(2)).

In other cases, if there is a conflict of interest between the holders of parental responsibility, the civil court may appoint the child a **guardian** for the proceedings, who should represent the child's interests. The same happens if the child is unaccompanied or her/his parents are unable to represent him/her (Art. 31 of the Family Act, no. 36/2005 Coll., as amended). There is also a mechanism to resolve conflicts between parents regarding important matters related to their parental rights and responsibilities. In such cases, a parent may request the court to give approval to a certain act (Art. 35 of the Family Act). According to the respondents of the survey, the child is almost always appointed a special representative by the competent authorities in such cases.

As to the legal advice and representation, children cannot, by themselves, grant power of attorney, as they acquire the full legal capacity to do such acts and only acquire such capacity when becoming 18 years old (Art. 8(1) and Art. 26 of the Civil Code, no. 40/1964 Coll., as amended). Therefore, they have to be represented by their legal representatives (parents or a guardian) when granting power of attorney to a lawyer. This may prove difficult in practice if a child is mature enough to choose an attorney, but her/his parent or guardian disagree.

Children have the right to express their opinion on all matters affecting them. They have the right to be heard in all proceedings which concerns them. Their opinion should be taken into account, having regard to their age and maturity (Art. 43(1) of the Family Act). In contrast to the civil procedural rules, where the rights of the child to express the opinion and to be heard are expressly regulated (Art. 38 of the Code of Civil Non-Contestation Procedure, Act no. 161/2015 Coll., as amended), the CCP has no such provision. However, the general provision from the Family Act state above should be adhered to.

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.

The lack of training of authorities is repeatedly mentioned as one of the deficiencies of the current system.⁵¹ Despite the recommendations (by, *inter alia*, the DG Justice Guidance document related to the transposition and implementation of the Victims Directive), the Victims Act does not include provisions relating to systematic training of the professionals working with victims and no general strategy or policy on training is available.

However, according to the information obtained on request from the Department of Police Education and Professional Psychology, education relating to the rights of victims of crime is included in both the basic education of the members of the police force, as well as in further education modules.⁵² A complex module on the psychology of victims is included, for example,

⁵¹ Interviews no. 2 and 3.

⁵² Information about the Department are available online at: <http://www.minv.sk/?oddelenie-policajneho-vzdelavania-a-sluzobnej-psychologie>

in the module of basic education for the members of the criminal police in the subject entitled “Ethics and psychology of the police work”.⁵³ The module includes the basic information on communication with the victim with specific attention to victims of domestic violence and is supplemented by practical exercises.

According to the information provided upon request, the victims’ rights are also included in further specialized training of the police officers, but only as a part of different modules. As of yet, there is no specified module dedicated to the victims, and there is also no specific module based on inter-agency or interdisciplinary cooperation between the police officers, support services, prosecutors and other professionals. The respondents of the survey predominantly stated that they view the training of police officers on victims’ rights as insufficient.

In 2011-2012, a NGO Centrum Nádej implemented a project to train the police officers in identifying situations of domestic violence. 56 professionals, predominantly social workers, but also police officers, were trained as a part of the project.⁵⁴

The judges and prosecutors can undergo specialized, but voluntary, training, organized by the Judicial Academy. A number of trainings were organized in the past regarding the topic of victims’ rights. However, currently, no trainings regarding this topic are planned until the end of the year.⁵⁵ In 2014-2015, the Judicial Academy ran an extensive EU-supported project “Judiciary and Protection of Victims”, in the course of which 8 workshops were run and more than 360 participants were trained. The evaluation report of the project⁵⁶, as well as the e-book of all contributions at the workshops is available online in English.⁵⁷ The respondents of the survey, however, stated that, overall, also the training of judges and prosecutors is rather insufficient.

The Ministry of the Interior is also implementing a new project on victims’ rights (for 2017-2021) called “Improving the access of victims to services and creating contact points for victims”,⁵⁸ in the course of which a number of professionals, including police officers, will be trained to provide specialized support to victims.

53 The module’s curriculum is available online at: https://www.minv.sk/swift_data/source/miestna_statna_sprava/sos_pz_bratislava/skolsky_vzdelavaci_program/zmeny_v_svp_11_2013/KP_3m.pdf

54 See the 2012 Yearbook of Centrum Nádej. Online at: <https://centrumnadej.sk/wp-content/uploads/2017/06/Výročná-správa-2012.pdf>

55 See the planned trainings online at: <http://www.ja-sr.sk/seminare>

56 Slovak Judicial Academy. Project Judiciary and Protection of Victims. Final Report. Online at: http://www.ja-sr.sk/files/evaluation_report.pdf

57 Slovak Judicial Academy. Judiciary and protection of victims. Online at: http://www.ja-sr.sk/files/E-BOOK_Judiciary_and_protection_of_victims_EN.pdf

58 See the information about the project online at: <https://www.minv.sk/?projekt-obete-trestnych-cinov-sluzby>

The social workers, working in victim support services, also have available specialized further training, based on Article 84 of the Law on Social Services (law no. 448/2008 Coll.). Pomoc obetiam nasilia, an NGO, organized two conferences in 2017 on the rights of victims of crime.⁵⁹ The same organization provided a number of trainings for judges, prosecutors and social workers in the last three years.⁶⁰ According to the survey results, the training available to victim support workers is sufficient.

59 See online at: <http://pomocobetiam.sk>

60 See the Yearbooks of 2014, 2015 and 2016. Online at: <http://pomocobetiam.sk/vyročne-spravy/>

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.

The Victims Act does not transpose this Article of the Directive nor explicitly deals with the question of cooperation between Member States. The international cooperation of authorities in the criminal proceedings is governed by the CCP and mainly by the international and bilateral agreements on police cooperation. In general, cooperation within the Member States is usually organized through SIRENE⁶¹ network and its contact points.

Apart from this international cooperation, Slovakia has established an extensive bilateral cooperation in criminal matters with Poland, the Czech Republic, Hungary, and Austria, with common contact points at the border. General bilateral agreements are also concluded with Belgium, Austria, Bulgaria, Germany and Denmark and a number of specialized bilateral agreements are concluded especially with regard to organized crime and drug trafficking.⁶²

61 SIRENE stands for Supplementary Information Request at the National Entries. SIRENE is an European Union network, which facilitates information sharing and cooperation among member states in police matters. See further online at: <https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen-information-system/sirene-cooperation_en>

62 See the list of bilateral agreements online at: <<https://www.minv.sk/?medzinarodne-zmluvy>>

Slovakia is also a party to a number of multilateral agreements relating to the victims of crime and their protection. From the United Nations convention system, Slovakia is a party to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (since 1993) and its protocols; the International Convention for the Suppression of the White Slave Traffic (since 1993) and its protocols; International Convention for the Suppression of the Traffic in Women and Children (since 1993) and International Convention for the Suppression of the Traffic in Women of Full Age (since 1993).

From the Council of Europe system, Slovakia is a party to the European Convention on Mutual Assistance in Criminal Matters (since 1993), European Convention on the Compensation of Victims of Violent Crimes (since 2009), Council of Europe Convention on Action against Trafficking in Human Beings (since 2008), Convention on Cybercrime (since 2008) or the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (since 2016). Slovakia however still has not ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention).

The Slovak government has not been very active in promoting general victims' rights even after the introduction of the new law at the beginning of 2018. It was, however, running a long-term campaign about domestic violence between 2007 and 2008 under the Department of Gender Equality under the Ministry of Labour, Social and Family Affairs called "Stop the violence against women". The campaign website, run by the Department, is still active and provides information about laws, strategies, and developments in the area of victims' rights, as well as activities of the Coordination Centre for Gender-Based Violence, which provide support to those specific victims of crime.⁶³

Apart from the government activity, there were also a number of campaigns run by the non-governmental organizations. Already in 2008, the organization Pomoc obetiam násilia (*Victim Support Slovakia*) ran a campaign on victims' rights entitled "The victims do not have their pain inscribed on their forehead. Help us help."⁶⁴ Information about the campaign can also be found in a magazine regularly published by the organization and available online.⁶⁵ In 2015, Pomoc obetiam násilia ran two cycles of television documentaries at TA3 concerning victims of crime.⁶⁶ In 2017, the same organization organized a conference, with the support of the Minister of Justice and the Chair of the Parliament Committee on Human Rights and Minorities, called "Rights and needs of victims of crime", which aim was also to discuss the new Law on Victims of Crime.⁶⁷

63 The campaign website is available at: <<https://www.zastavmenasilie.gov.sk/>>

64 Information about the campaign is available online: <<https://domov.sme.sk/c/4218273/kampan-ma-pomoc-obetiam-trestnych-cinov.html#ixzz5IO5Hp0VY>>

65 Available online at: <http://pomocobetiam.sk/wp-content/uploads/2014/11/Spolu_2008_c3.pdf>

66 See the organizations Yearbook of 2015 online at: <<http://pomocobetiam.sk/wp-content/uploads/2016/08/Vyrocná-správa-PON-2015.pdf>>

67 Information about the campaign is available online at: <<http://pomocobetiam.sk/prava-a-potreby-obeti-trestnych-cinov/>>

In 2017, *Aliancia žien Slovenska* ran a campaign called “STEP UP”, whose aim was to support ratification of the Istanbul Convention by Slovakia.⁶⁸ In the same year, organization *Áno pre život* ran a campaign called “Domestic violence hurts everyone” about domestic violence, which aim was, among others, to inform the broader public about the rights of victims and the new Law on Victims of Crime.⁶⁹

⁶⁸ Information about the campaign is available at: <<https://alianciazien.wordpress.com/projekty/step-up-kampan/>>

⁶⁹ Information about the campaign is available at: <<http://anoprezivot.sk/2017/11/27/uspesna-kampan-domace-nasilie-ublizuje-vsetkym/>>

GOOD PRACTICES

The system of the protection of victims’ rights in Slovakia is very recent and it is therefore rather challenging to evaluate its practical functioning or to identify good practices. One of the obstacles is also a lack of information as to the steps already conducted or planned in the area of victims’ rights.

Children are automatically presumed to be victims with specific protection needs and in relation to that, they are entitled to specific protection. The interviews before the authorities must be conducted in a specifically sensitive manner and in a way to prevent its repeat. The interview should be conducted using the **audio-visual technical devices** and according to the experience of the interviewees, such devices are regularly used to conduct the interviews of children.

The **public awareness campaigns** ran predominantly by the non-governmental organizations (and unrelatedly to the adoption of the Victims Act), seem to be an example of good practice (see further commentary on Article 26). It appears that primarily in the area of domestic violence the campaigns have had a significant impact on the public awareness about this topic as well as on the authorities’ responsiveness to the victims’ needs.

The establishment, prior to the adoption of the Victims Act, of the **Centre for Legal Aid**, appears to be another example of good practice. The Centre cannot represent the victims in the criminal proceedings, but usually provides the first consultation free of charge to all victims in relation to any legal issue and can represent the victims in civil proceedings on damage caused by the crime. The Centre has a very good territorial coverage and is generally accessible.

Although not yet implemented in practice, the Ministry of the Interior is about to develop a network of **contact points for victims of crime**, which should territorially cover all Slovakia, and in which support to victims will be provided by specifically trained professionals - **coordinators for victims of crime** and their assistants. As a part of the project intended to be implemented during the years 2017-2021, a specific **workplace for needs analysis and support for the victims**, as well as a system of **methodological governance** of the contact points and coordinators, will be created. Comprehensive training for victim support workers will also be implemented during the project.

The Slovak Judicial Academy also ran an extensive project in 2014-2015 aimed at **training of the prosecutors and judges** in the area of victims’ rights. The materials from the project, including expert articles on the topic, were published and are freely accessible online (see commentary on Article 25 above).

GAPS, CHALLENGES, AND RECOMMENDATIONS

The system of victims' protection in Slovakia seems to be rather underdeveloped at the moment, and there are therefore a number of gaps which were identified during the research, both in legislation and in practice.

From the perspective of legislation, the **definition of the victim** does not clarify the relationship with the definition of the injured party under the criminal procedure legislation, which may pose problems in practice and also excludes certain victims from enjoying rights guaranteed by the Directive.

Further, there is no tool, methodology or objective procedure to **assess the specific protection needs of victims** and no authority is assigned to perform this individual assessment. The outcome of the assessment of each authority may therefore differ, and significantly affect the rights of the victims.

The **right to be accompanied** by a person of choice as enshrined in the Slovak legislation also does not reflect the Victim Directive's requirements, as it is guaranteed only to the injured parties under Article 48a of the CCP and some victims, such as certain family members of the deceased victim, or the victims of an otherwise criminal act (i.e. an act which is not considered to be a crime only due to lack of *mens rea* of a perpetrator of an unsound mind), would not qualify for this right.

Although the existence of Centre for Legal Aid was identified as one of the examples of good practice, it must also be noted that in relation to the victims of crime, the **access to free legal aid is insufficient**. The victims can only receive free legal aid from the Centre in relation to the compensation proceedings before the civil courts. In relation to the competencies as set out in the Victims Act and other relevant legislation, the Centre can only provide preliminary consultation to victims concerning their rights but cannot represent them in the criminal proceedings.

Practically, the **absence of a general victim support network** in Slovakia seems to be a major obstacle. Although there are a number of non-governmental organizations which provide support services to victims, the majority of such organizations is concentrated on the victims of domestic violence. The network of organizations is not very extensive and the territorial coverage is not sufficient. Moreover, the research showed the **state support to these organizations is insufficient**. Creation of victim support contact points and coordinators, as planned by the Ministry of the Interior (see above), could potentially partly address this gap.

Provision of adequate, comprehensible, practical and up-to-date information also seems to be a problem in the Slovak system. There is no system of assessment of individual communication needs and the victims usually receive **standardized information leaflets** in legalistic language, sometimes even containing outdated information. The leaflets are not available in different languages or adapted to the needs of persons with different communication needs and comprehensive information is not available online. The same gap was identified with the availability of information about lawyers specialized in victims' protection. At the same time, the information about existing victim support services available online in the register is not very user-friendly and comprehensive⁷⁰ (see further the commentary on Articles 8 and 13).

In the context of restorative justice, notably with regard to the mediation, the legislation does not contain any safeguards against secondary and repeated victimisation, intimidation and retaliation. At the same time **restorative justice measures are not applied very often** and mediation, as the principal restorative justice measure, is used very rarely.

The victims also have a problematic access to **reimbursement of the costs of criminal proceedings and damages from the offender**. Only a victim, who qualifies as an injured party, has access to these, and only after the offender had been convicted. Often, even if convicted, the offender does not have sufficient funds to cover these expenses, and the resources are therefore not enforceable for the victim.

Both in the law and in practice, the **prevention of contact between the offender and the victim**, if the victim wishes so, seems problematic. There is no hard obligation to create separate hearing rooms, waiting rooms or entrances for the victims, and they do not virtually exist in practice. This is however sometimes overcome by appropriate scheduling of the hearings.

Lastly, it results from the research, that the **training** provided to the professionals, mainly the police officers, judges and prosecutors **is not sufficient**. Although the area of victims' rights is admittedly included in the general education of the police officers and the Slovak Judicial Academy conducted several seminars on the topic, there is lack of specialized in-depth training for professionals and the training is not comprehensive enough. This gap may also be addressed by the above-mentioned project by the Ministry of the Interior, in the course of which the training of professionals will be conducted.

⁷⁰ The register is available online at: <https://www.justice.gov.sk/Stranky/Registre/Zoznamy-vedene-MS-SR/Register-pomoc-obetiam-zoznam.aspx>

CONCLUSION

The report's aim was to evaluate the practical implementation of the Victim's Directive into the Slovak legal framework. The desk research was complemented by a survey and semi-structured interviews with identified professionals, in order to obtain both theoretical and practical perspective on the enjoyment of victims' rights in Slovakia.

Slovakia has a very recent system of victims' protection and only introduced the Victims Act at the beginning of this year. This has shown to be a considerable obstacle in assessment of the practical implementation of the Directive, as many of the procedures and tools established by the Victims Act have not been put fully into practice, or it was not possible to assess the experience with their practical use.

The Victims Act mostly corresponds with the requirements of the Directive, although the right to be accompanied by a person of choice is not properly implemented. The Victims Act establishes two categories of victims and the victims with specific protection needs are entitled to specific measures. There is however no established procedure to assess the specific protection needs and the assessment is rather arbitrary. Children are presumed to have specific protection needs and the application of specific measures, such as conducting interviews using audio-visual devices, happens in practice.

A large gap in provision of comprehensible and accurate information to the victim was identified during the research. The authorities are also not very efficient in ensuring the protection of victims against secondary or repeat victimization, as the prevention of contact between the offender and the victim, is not always ensured when necessary. This likely relates to the lack of overall awareness of the authorities about victims' rights and practical implementation of the measures, due to insufficient training provided for those professionals.

Slovakia is lacking a general victim support network and the services are provided mostly by non-governmental organizations, who do not obtain sufficient state support.

On the other hand, the non-governmental organizations providing support to victims seem to partly fill-in the gap left by the state authorities. They have been running a number of public awareness campaigns and their activities mainly in the areas of domestic violence seem to have had a significant impact on the public awareness about this topic as well as on the authorities' responsiveness to the victims' needs.

As noted above, the system of victims' protection in Slovakia is rather recent and many measures are therefore yet to be practically implemented. The Slovak Ministry of the Interior is about to implement a large-scale project on victim protection, during which **contact points for victims of crime** will be developed. The network should territorially cover all Slovakia and will be supervised by a specific **workplace for needs analysis and methodological governance**. Effective implementation of the project should extensively help target the most problematic aspects identified during the research.

REFERENCES

1. LEGISLATION

- a. Act No. 274/2017 Coll. on Victims of Crimes
- b. Act No. 301/2005 Coll. the CCP
- c. Act No. 171/1993 Coll. on the Police Corps
- d. Act No. 500/2003 Coll., on Probation and Mediation Officers
- e. Act No. 305/2005 Coll. on Social and Legal Protection of Children and Social Guardianship
- f. Act No. 36/2005 on Family
- g. Act No. 448/2008 Coll. on Social Services
- h. Act No. 215/2006 Coll. on Compensation of Victims of Violent Crimes
- i. Act No. 302/2016 Coll. on Provision of Grants in the Competence of the Ministry of Justice

2. LITERATURE

- a. Council of Europe (2008). Combating violence against women: minimum standards for support services.
- b. Čentěš, J. Code of Criminal Proceedings. Commentary. Eurokodex, 2017.
- c. DG Justice Guidance document related to the transposition and implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime.
- d. Ethical Codex of the Slovak Syndicate of Journalists
- e. European Parliamentary Research Service (2017). The Victims' Rights Directive 2012/29/EU. European Implementation Assessment.

- f. Explanatory report to the Act on Victims of Crime
- g. Fundamental Rights Agency (2014). Victim Support Services in the EU: An overview and assessment of victims' rights in practice. Slovakia.

3. Other sources of information

- a. Aliancia zien. Information about the Step up campaign. Online at: <<https://alianciazien.wordpress.com/projekty/step-up-kampan/>>
- b. Ano pre život. Úspešná kampaň domáce násilie ubližuje všetkým. Online at: <<http://anoprezivot.sk/2017/11/27/uspesna-kampan-domace-nasilie-ublizuje-vsetkym/>>
- c. Dennik SME. Kampaň má pomôcť obetiam trestných činov. 10. 12. 2008. Online at: <<https://domov.sme.sk/c/4218273/kampan-ma-pomoc-obetiam-trestnych-cinov.html#ixzz5IO5Hp0VY>>
- d. European Union. Information about victims' rights in Slovakia. Online at: <https://e-justice.europa.eu/content_rights_of_victims_of_crime_in_criminal_proceedings-171-SK-sk.do?clang=sk&idSubpage=1&member=1>
- e. General Prosecution of the Slovak Republic, Yearbook 2017. Available at: <https://www.genpro.gov.sk/statistiky/statisticky-prehľad-trestnej-a-netrestnej-cinnosti-za-rok-2017-39b2.html>
- f. Government of the Slovak Republic. Campaign "Zastavme násilie". Online at: <<https://www.zastavmenasilie.gov.sk/>>
- g. Ministry of Justice of the Slovak Republic. Information about mediation. Online at: <https://esmo.gov.sk/web/esmo/domov/-/journal_content/56/10454/11168>
- h. Ministry of Justice of the Slovak Republic, Average Length of the Proceedings – Overview for years 2004-2017, available online at: <<https://www.justice.gov.sk/Stranky/Sudy/Statistika-priemerna-dlžka-konania.aspx>>
- i. Ministry of the Interior of the Slovak Republic. Bilateral International Agreements. Online at: <<https://www.minv.sk/?medzinarodne-zmluvy>>
- j. Ministry of the Interior of the Slovak Republic. Curriculum of Police Education. Online at: https://www.minv.sk/swift_data/source/miestna_statna_sprava/sos_pz_bratislava/skolsky_vzdelavaci_program/zmeny_v_svp_11_2013/KP_3m.pdf
- k. Ministry of the Interior of the Slovak Republic. Department of Police Education. Online at: <<http://www.minv.sk/?oddelenie-policajneho-vzdelavania-a-sluzobnej-psychologie>>

- l. Pomoc obetiam. Časopis Spolu. Available online at: <http://pomocobetiam.sk/wp-content/uploads/2014/11/Spolu_2008_c3.pdf>
- m. Pomoc obetiam. Yearbook of 2015. Online at: <http://pomocobetiam.sk/wp-content/uploads/2016/08/Výročná-správa-PON-2015.pdf>
- n. Pomoc obetiam. Conference "Rights and needs of victims of crime". Online at: <<http://pomocobetiam.sk/prava-a-potreby-obeti-trestnych-cinov/>>
- o. Register of Attorneys. Online at: <<https://www.sak.sk/blox/cms/sk/sak/adv/vyhľadanie>>
- p. Register of Registered Interpreters. Online at: <<https://obcan.justice.sk/infosud-registre/-/isu-registre/zoznam/tlmocnik>>
- q. Register of Registered Translators. Online at: <<https://obcan.justice.sk/infosud-registre/-/isu-registre/zoznam/prekladatel>>
- r. Register of Victim Support Services. Online at: <<https://www.justice.gov.sk/Stranky/Registre/Zoznamy-vedene-MS-SR/Register-pomoc-obetiam-zoznam.aspx>>
- s. Slovak Judicial Academy. Project Judiciary and Protection of Victims. Final Report. Online at: http://www.ja-sr.sk/files/evaluation_report.pdf
- t. Slovak Judicial Academy. Judiciary and protection of victims. Online at: http://www.ja-sr.sk/files/E-BOOK_Judiciary_and_protection_of_victims_EN.pdf
- u. Slovak Judicial Academy. Available trainings. Online at: <<http://www.ja-sr.sk/seminare>>

APPENDIX 1 – CONTACT LIST OF INTERVIEWED PROFESSIONALS

#	Name	Institution	E-mail	Phone #
1	Agáta Križmová	Krízové centrum Bratislava	agata.krizmova@bratislava.sk	
2	Drahomíra Boháčiková	Žena v tiesni	judr.bohacikova@gmail.com	+421 911 346 374
3	Iveta Baranová	Probačná a mediačná služba	iveta.baranova@justice.sk	
4	Janka Šípošová	Pomoc obetiam násilia	janka.siposova@icloud.com	00421911 346 374
5	Martina Sukovská	Centrum právnej pomoci	martina.sukovska@centrumpravnejpomoci.sk	0042155 2420026
6	Zuzana Številová, Michaela Dojčiničová	Liga za ľudské práva	stevulova@hrl.sk, dojcinovicova@hrl.sk	



VOCIARE

Victims of Crime
Implementation Analysis
of Rights in Europe



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

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**